

## **Foreign Rights Management After the Deal: How to Make Sure You Get What They Promised**

Far too many times, I've heard experienced publishers, large and small, lament about foreign rights with comments like "We have to fight to get the advance. Then, once we get it, we never hear from the foreign publisher again. We never know what's going on. It's not worth it." I can't help but think to myself, "Whose fault is that? You're in a business. Don't you pay attention?" I wonder if they're as ready to ignore their receivables from Barnes & Noble, Ingram, and Baker & Taylor.

Here's an example. Recently I spoke with a client who mentioned that he had heard indirectly that one of his books—a title he had licensed about two years ago to a foreign publisher via a large and highly regarded rights agency in its country—was doing quite well. When I asked what royalties he had earned, he was embarrassed to say he didn't know. Now mind you, this is a book by a well-known author of many *New York Times* best-sellers, a book that itself had made the *Times* list.

Amazingly, the head of this well-established and successful publishing house hadn't even a clue about the royalties from this foreign rights transaction, or any others. I quickly sent an e-mail to the foreign agent, who in turn contacted the foreign publisher, who subsequently informed us that "Yes, the book is doing very well, and, oh, by the way, you have \$XX,XXX (five figures) due in royalties which we will wire immediately. Sorry about the oversight."

Despite the fact that organizing and managing foreign rights matters is not brain surgery, this is a fairly typical scenario. Can you avoid it and prosper? Yes, but because foreign rights relationships are complicated, you'll have to pay a good deal of attention to detail. Here are a few tips.

### **Step #1: Locate and Exercise Responsibility**

First, you must commit to making foreign rights sales a viable and profitable part of your publishing enterprise and therefore agree that they require a proactive and systematic approach. Someone within your organization must take full responsibility for managing foreign rights. Depending on the size of your publishing house, and/or the number of foreign rights transactions involved, one person may be able to handle management alone; maybe that person will need to delegate certain elements of the process to others. In any case, some one person must take full responsibility to ensure that foreign rights transactions are administered efficiently. That means many, many follow-ups at predetermined times as dictated by the terms of your license agreements with the foreign publishers and perhaps their agents.

### **Step #2: Organize the Documents**

Where License to Publish agreements are concerned, policing payments requires knowing when they are due and for what. Therefore, you have to gather all your foreign rights contracts, arrange them by title, and then, within title, by chronological order.

### **Step #3: Master the Terms**

Although it seems obvious that you must read your contracts, many publishers don't. More than that, you must understand what the various clauses in your agreements mean, especially the performance clauses to which the foreign publishers must adhere. Among many other important legal elements, a foreign rights contract will have clauses that clearly identify:

- a. The amount of the advance, when it must be paid, and the royalty percentages paid at varying sales levels
- b. The quantity of the first printing
- c. Requirements regarding copyright registration and approval of the copyright page of the foreign edition
- d. Sales and royalty reporting periods (which are usually semiannual but sometimes annual) for all revenue obtained by the foreign publisher from all qualifying sources
- e. Royalty payment due dates
- f. The time period in which the foreign edition must be published (usually between 12 and 18 months)
- g. The reasons that may cause automatic termination of the agreement.

### **Step #4: Chart Tasks**

The best and easiest way to ensure that all the necessary foreign rights work gets done is with a spreadsheet. Create a separate spreadsheet for each title you have a foreign rights licensing agreement about. Each horizontal line of the spreadsheet should list a foreign publisher with which you have agreements for that title. Each vertical column should list one of the "performances" that the foreign publisher must adhere to according to the contract. Enter both scheduled completion dates and actual completion dates. Then plan your follow-ups accordingly and don't stop them until you have confirmed completion of all performance elements of the contract. If you use an easy-to-maintain spreadsheet to enter data about your agreements, you should be able to manage your foreign rights deals for maximum revenue.

