

6-1-2009

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Recommended Citation

Tedjasukmana, Justine, "The Way a Literary Agency Deals With Foreign Rights" (2009). *Master of Science in Publishing*. Paper 7.
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THE WAY A LITERARY AGENCY DEALS WITH FOREIGN RIGHTS

“Submitted in partial fulfillment of the requirements for the Master of Science in
Publishing degree at Pace University”

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Prof. Jane Kinney-Denning

June 22, 2009

I. Introduction

Throughout my life, I have traveled to 24 different countries on five continents. When I was not travelling, I read books – stories that took me to the urban landscape of Tokyo, street markets in Egypt, and boarding schools in England when in fact I was in my bedroom in Indonesia. These experiences made me realize that, although various countries have different cultures, people share similar interests. When I decided to pursue a career in book publishing, I was hoping to help others escape and discover the amazing experience of travelling through books. Translated books can be a medium to learn about other cultures and help to bridge cultural differences between people from different parts of the world.

I came a little closer to achieving this goal during the spring of 2009, when I interned at Sterling Lord Literistic, a full service literary agency in downtown New York City. A literary agency is an organization that represents writers and their works to publishers, especially the major ones like Hachette, Holtzbrinck, Bertelsman, Penguin, HarperCollins, and Simon and Schuster. Sterling Lord, who represents major literary icons as Jack Kerouac and Ken Kesey, founded Sterling Lord Literistic in 1952. In 1987, the agency merged with a firm owned by another agent, Peter Mason who rose to prominence representing writers like John Irving and Dee Brown. Major literary agencies like SLL have the legal right and responsibility to sell foreign and translation rights wherever a deal can be made. As with other subsidiary rights, advances and royalties earned from sales are split between the foreign publisher and the author, with the agency getting a fixed percentage of the sales (ranging from 6 to 20 percent when it comes to foreign rights sales) it negotiates on behalf of their clients. The best part of the internship

was learning more about foreign rights and international deals, something I was always interested in, but never learned a lot about in my classes at Pace University. My responsibilities as an intern included assisting the Foreign Rights Assistant with contract vetting, rights guide updating, and copy writing.

According to David Cole in his book *The Complete Guide to Book Marketing*, it has become increasingly common for agents to sell only North American rights for their books – holding back foreign rights to sell separately (141). Agents have found that foreign rights sales are profitable and can amount to a significant increase in their bottom lines. This is especially true with an agency that has a reputation for selling foreign and translation rights and has connections with industry people around the globe, like Sterling Lord Literistic. A big literary agency like SLL represents diverse titles from a wide range of genres and authors. Thus, it is more likely for the agency to have profitable foreign rights sales.

Big agencies normally have their own Foreign Rights Manager. The manager understands that selling foreign rights is extremely important and profitable in this era of globalization when people around the world share similar interests and are exposed to the same media platforms. Depending on how profitable the foreign rights sales are for the agency, it may conduct its foreign rights business in several different ways. This thesis examines how an agency can start selling foreign rights, how to negotiate a good deal and how an agency makes sure the authors and the agency receive the profits promised to them, and how the trends in selling foreign rights have shifted over time.

II. How an agency starts selling foreign rights

When an agency decides to represent a book and sell it to a local publisher, it can be assumed that the agency is certain that the book possesses certain qualities and that it has key selling points. The Foreign Rights Manager is more likely to pitch books to foreign editors if the sales of the original publications are profitable. However, because people from different cultures share vastly different interests, one cannot be certain that the book will be successful in countries outside the U.S. The Foreign Rights Manager understands the needs and interests of foreign buyers. Based on the understanding of cultural and political conditions of different countries, the manager predicts the sales value of a book.

The first thing to consider in selling foreign rights is whether the books have universal contents or not. General fictions usually have better chance of being acquired by foreign publishers. Some books, such as specific local history and Christian Midwestern themed novels, are appropriate only for the American regional markets. It is important to pitch a title to publishers from countries that will be most receptive to a particular book. For example, Germany and Japan do not want books about World War II written by an American author. Loretta Barrett, an agent and the owner of Loretta Barrett Books Inc., once in a General Interest Books class at Pace, told a story about how the book she represented, *Three Girls and Their Brother* by Theresa Rebeck, did not sell well in China because of the one child policy there.

That said even if the book covers a subject that applies to a wider audience, there are still other factors to consider. What will make it stand out in that particular market? Buyers abroad want books with unique angles - something that is not available yet in that

particular language. Foreign publishers also seek books that are easily translated and books with contents that are not likely to become obsolete quickly since translations take additional time and the book will be published months after its original pub date in the U.S. For example, books about time sensitive issue, like books covering the current Olympics, can be hard to pitch to foreign publishers at a time when the Olympics is months away. Page count is also important. A 200-page novel in modern American English can expand to more than 350 pages in Dutch or shrink to about 100 pages in most Asian languages.

Proactively Approaching Foreign Publishers

There are two ways in which Sterling Lord Literistic, as an agency, conducts its foreign rights business. It may work directly with a foreign publisher, or in markets that are more difficult, the agency will work exclusively with sub-agencies overseas. Working with sub-agents has its own benefits and disadvantages. On one hand, it is extremely important in difficult markets like Southeast Asia, Korea, and Taiwan to have someone on the ground who is familiar with the players and customs there and who is aware of the changing market conditions. However, the chance for a title to penetrate the market can loosen because the sub-agency might work with numerous U.S. agencies and publishers simultaneously. The U.S. agency can find contact information for both overseas editors and sub-agencies by proactively looking for contacts in various trade magazines or industry related books and approach these editors and sub-agents by sending pitches and advanced copies of the books.

The Independent Book Publishers Associations recommends that agents begin searching for foreign publishers' contact information by looking at the *International*

Literary Market Place (Erdmann 10). This is a directory, published by R.R. Bowker that can be accessed online on a limited or fee basis (about \$20 a week). Subscription for one year is \$399 and most big agencies opt for this option. It lists most of the world's publishers by country and within each listing, there is brief information about the publisher's interests as well as the names of editors and their contact information.

An experienced and large agency like Sterling Lord, however, already has a database of countries and publishers that it usually deals with. It also has established relationships with sub-agents who will sell the books we send to the overseas publishers (Sterling Lord Literistic). My responsibility as a foreign rights intern was to update this database. I monitored foreign trade magazines like *The Booksellers* – a UK version of *Publishers Weekly* – and made notes of which editor had changed houses in the UK, what kind of translation or foreign rights they recently acquired, and what the new bestsellers in the UK were. It is important for the Foreign Rights Manager to know what is selling in different countries so that s/he knows what books to pitch to them. For example, according to the January 2009 edition of *The Booksellers*, travel mysteries titles seem to be selling well. The agency used this opportunity to pitch travel mysteries titles it represented to the editors of houses that sold these kinds of books.

Whenever an agency has a title that has a possible foreign rights opportunity, the manager will ask me to write a cover letter pitching that title to the overseas editors and sub-agencies. It is important to keep the pitch clear and specific, to have a catchy first line, to use lists, and to sell the messages of the book. When writing for a foreign audience it is extremely important to highlight the message of the book that the particular

audience cares for. I tried to make the letter sound not too American. For example, this was a letter I worked on as an intern:

[Editor Address]

Dear [Editor]

In two out of three marriages, the women are expected to be responsible for childcare and domestic chores on top of working twenty to thirty-five hours a week. According to expert social analysis, [Author's name], the wife's newfound superiority can ruin her marriage as the husband become less of a partner and is given less respect.

[TITLE (Publisher, Fall 2009)] is her intelligent and exceptional response to this disturbing marital trend; it offers women an explanation of how she let her husband be an unequal partner and how she can work her way back to marital equality.

[TITLE] is a book for every wife who works long hours for her job and puts even more hours of work at home; who prepares dinner, researches and plans family vacations, helps children with their homework, and drops from exhaustion at the end of the day, while her husband watches the game. [The author's] book provides a rescue for these women as it reveals and explores:

- Six degrees of superiority: from being the multitasker to the decider
- Top 26 topics wives nag their husband about, from A to Z
- Four types of modern marriages, from Captain and Mates to Even-Stevens
- Top ten sex wishes of husbands and wives
- Four types of married sex, from old shoe to Hot sex
- Reasons why nonsuperior wives make better wives
- 21 ways to fix a superior wife marriage

Filled with personal stories and survey studies of wives and husbands from the United States, England, Australia, Turkey, Brazil, Thailand, Puerto Rico, and many other countries around the world, [TITLE] give women the tools they need to relinquish some control, reconnect with their husband, and have a happier marriage.

[Author] is the author of [Book 1] and [Book 2]. She is also contributor to *The New York Times* and has appeared on dozens of television show, including *The Oprah Winfrey Show* and *The View*.

Since the book pitched was a nonfiction book, I highlighted how the author interviewed people from a wide range of countries, this would help to show that the book has universal content. Since there was a statistic with only the U.S. population as a sample, I did not mention it in the cover letter. Typically, four or five different titles were pitched every week – for each, a letter was sent to 8 to 12 different countries.

Another way to approach foreign buyers proactively is by sending galleys and copies of books to Sterling Lord's sub-agents overseas. This is typically, but not necessarily, done after these sub agencies show some interest because of the letter sent to them and request a particular title. Costs can be deducted from the author's royalty later, but if the book is not acquired, the agency pays for shipping (or charges the author, there is no clear-cut rule here). The agency can send more than one copy of a title to each sub-agent. The reason is that one sub-agent might represent more than one market and thus need more than one copy to send to publishers within the markets s/he represents. For example, the Scandinavian sub-agent represents Sweden, Norway, Denmark, Finland, and Iceland, whereas the sub-agency in Spain might try to negotiate a translation right with both Catalan publisher and Spanish publisher.

Reactively Approaching Foreign Publishers

Another way to spark interest and find contact information for publishers overseas is by proceeding reactively, such as participating in book fairs that are best for selling foreign rights. Sterling Lord attends four major fairs every year: the Frankfurt

International Book Fair, the London Book Fair, BookExpo America, and the Bologna Children's Book Fair.

Before the Book Fairs, it is customary for the foreign rights department to do preliminary research of who is going to attend and then to set goals. The fairs are as much about building relationships and creating a buzz for books as they are about making deals. "Book Fairs are about face time," said Ed Victor, an established London literary agent. "You are thinking about building long-term relationships. It's all about trust," (Riding 9).

My main task before the London Book Fair was to look through the list of books the agency was going to try to sell and come up with a 3-5 minutes pitch for each. This was easier when the book was already published and had marketing copy already written by the publisher. However, because the agency tried to make the books as timely relevant as possible, most of the books do not have marketing copies yet. If the book is still a manuscript, it is important to note which U.S. publishers have showed interest. It can also work the other way around, in which the agency tries to sell foreign rights first and then use the interests in foreign rights to score a contract with a U.S. publisher. Other things to mention are whether a movie company has showed interest in the book's movie rights and how many languages the book has been translated into. The content of the book is usually secondary, especially if it is a fiction. It was my job to cut and paste what needed to be included in the pitch. It helped if someone inside the agency had prior knowledge about the buyers but since there are so many buyers from hundreds of countries, this was not always plausible. The main thing is to keep the pitch interesting and universally relevant for most markets. For example, this was one of the pitches I worked on before the London Book Fair:

A juvenile version of *Men in Black*, this debut middle-grade novel tells the story of Scrub, a young boy who dreads working at his eccentric grandmother's inn.....until he discovers that the place is actually an undercover operation for space aliens to vacation on Earth in disguise. Now our young hero must help keep grandma's secret safe from the town folks and its increasingly suspicious sheriff. Winner of the Marion Bauer Faculty Scholarship for best middle-grade story at the Vermont College of Fine Arts, this book will capture the interest of both boys and girls everywhere.

The phrase "juvenile version of *Men in Black*" was essential because that was a universally popular film and it would help the buyers understand the book.

Deals made during the book fairs are usually conducted inside the International Rights Center where publishers and agents hold intense meetings filled with pitches and offers. According to *the New York Times*, around 23,000 publishers from more than 100 countries attended the London Book Fair in 2007 and about 34,000 publishers from 100 countries came to the 2007 Frankfurt Book Fair (Riding 16, Rich 5).

Even though both U.S. publishers and agents are active foreign rights sellers, generally, according to an article from October 2007 edition of *The New York Times*, editors from the U.S. tend to bid on other hyped American and British titles than to look for new literature in the international center (Rich 5). "The U.S. is too isolated, too insular," said Horace Engdahl, the secretary of the Swedish Academy, the organization that awards the Nobel Prize. "They don't translate enough and don't participate in the big dialogue in literature," (8). The main reason is economic and the uncertainty of the success for translated work.

This is different with agencies. Ira Silverberg, an agent at Sterling Lord Literistic whose clients include Neil Strauss, Erica Kennedy, and Ishmael Beah, says that an agency has more freedom when it comes to buying rights. Editors from major houses

often have to follow the publishing agenda of the company and do not have the liberty to take a risk on a foreign writer unknown in the U.S. An agency, on the other hand, can sell the rights to small independent publishers who do not attend the international book fairs.

This point is true and is beneficial for the small presses according to David R. Godine, a small independent publisher from Boston. “When you look at how much is paid for a mediocre midlist author in the United States and how much you have to pay to get a world-class author who has been translated into 18 languages, it is ridiculous that more people don’t invest in buying great literature.” He also says in the same *New York Times* article that he had purchased the rights to a foreign book for as little as \$2,000 (14).

After the book fairs end, the Foreign Rights Manager and agents who have traveled to attend them usually come back with manuscripts they like to read and new contacts they made. My job, as an intern, was to update the database of foreign contracts using the business cards obtained through the fairs. I would then assist to send copies and pitches to these editors.

III. Responding to interest and how to get a good deal

After a foreign publisher expresses an interest in acquiring a book, it is time for the U.S. agency and the buyer to negotiate a deal that is fair for both sides. An agency that sells foreign rights must know the manner in which foreign deals are made. The main thing is for the agency to understand that the value it can demand from a book will vary, not just from book to book, but from country to country. Generally, royalties for books sold in Asia begin at 6 percent though for an established power country like Japan, it can be as high as 10 percent. Latin America starts at 8 percent, and Europe varies from 7 to 9 percent (Cole, p. 142). These are relatively low especially since for the books sold here,

the agency can get up to 15 percent. However, these numbers might change in the future when some regions gain more prominence in the market place.

Setting the Bottom Line

An experienced agency, like Sterling Lord Literistic, knows how to evaluate an offer and determine if it is fair and reasonable. The basic guideline is to multiply the number of copies set for the first printing by the estimated retail price to get the gross revenue. This is then multiplied by the royalty percentage to get a figure for the advance. For example, for a book acquired by a publisher in Indonesia with a first printing run of 5,000, with a retail price of Rp. 50, 000 (which is approximately \$5), the gross revenue would be \$25,000. Since the royalty percentage is 6 percent, a reasonable advance would be \$1,500 although in reality, the agent is likely to demand a number closer to \$3,500 because otherwise it will not be worth the effort of the agency to prepare a pitch and send copies to this region.

An experienced agency also knows what to negotiate for and what to leave to the buyer. Sterling Lord Literistic, for example, always uses its own boilerplate contract and not the one provided by the foreign buyers. This help the Foreign Rights Manager manage the numerous contracts because they will all be in the same format. One also must be specific about the language and territory granted. Spanish-language rights, for example, apply to many countries. If the agency sells a right to Spain, it will try to limit the scope to Spain instead of giving worldwide rights. This is so that the agency will not lose the opportunity to sell the same title to Central and South American buyers. Knowledge of geography and market potential is essential here. There are markets like China that can also be tricky. An agent strives to sell Chinese rights limited to mainland

China, because Hong Kong, even though is part of China, has higher literacy rate and if the agent can sell separate rights to a Hong Kong-based publisher, it will get more money. The agent also has to specify the language granted in the contract. Simply saying it will grant Chinese translation will not suffice because the Chinese publisher then can publish editions of the title with traditional Chinese characters, simplified Chinese characters, and pinyin (the romanization of Chinese Mandarin). If all Chinese language translations are sold to a publisher, the agent should expect more money.

Another issue that needs to be settled is the rights that the agency is granting. Some foreign publishers might ask serial, electronic, and other rights to be included. The value of the advance can go up for each of these. However, the granting of other rights depends upon the kind of contracts that exists between the buyer and the agency. There are two basic kinds of foreign rights contract: one that grants translation rights and one that licenses non U.S. English language edition. The former grants the rights to translate an English book to another language and the latter gives the rights for publishers outside the U.S. to publish their own edition of the book in English. The differences between the two will be discussed further later on in this paper.

The number of years granted for the rights is another major contract issue. Typically, it is 5 to 7 years before the rights are reverted back to the agency. This is done mostly for translated books and not for the English language editions, which follow a similar contract to the one between a U.S. agency and a U.S. publisher.

In addition to the points mentioned above, an agency usually demands that payments are made in U.S. dollars and in not any other currency because of the volatility of some currencies, sets the payment schedule, and asks for the rights to approve the final

translation (although this is seldom exercised due to the limited language ability). An experienced agency is also aware of foreign taxes – some countries might require companies to withhold for taxes anywhere from 5 to 20 percent of payment due to the agency. The accounting department at the agency normally takes care of this.

The bottom line when negotiating a foreign rights deal is to respect cultural differences, even when they seem trivial to the seller. The difficulty in communication, combined with the length of time it can take to complete a foreign contract (the contracts have to be sent via international post to retrieve the original signatures of both parties), can be frustrating. Each country has its own way of doing things. Sending a letter to a Japanese publisher on a paper that is slightly gray can be impolite. Bargaining in Thailand, Indonesia, China, and several other Asian countries is expected, but it can be insulting to some European publishers (Erdmann). An agency that deals in foreign markets must understand the cultures of the countries it is dealing with. This is why it helps to have sub-agencies, or intermediaries between the foreign publishers and the U.S. agencies, that can offer advices and guidelines.

Different Sets of Contracts

Foreign rights are not the same thing as translation rights although the two terms are often used simultaneously. A translation right is one form of foreign rights, the other one being the rights for non-U.S. English language editions. Although the way these two rights are sold is similar (through sending pitches to foreign editors and via book fairs), the contracts between the two are different.

The contract for translation rights is usually shorter than the contract for non-U.S. English language rights. The contract includes the name of the foreign publisher that

acquires the book, the sub-agent that represents the deal, and the name of the proprietor i.e., the author c/o his/her agent. It also includes the title of the work, the term of agreement, the period of time when the foreign publisher can publish the work, and the advance and royalty terms. It has several clauses covering translation agreements, such as translation warranties, specifying that the translation of the work shall be made completely, faithfully, and accurately and any alterations shall not be made in the work's title or text except by the proprietor's consent and sometimes, the name of the translator is included. The contract often specifies how many words in length the translation is going to be. This estimate allows the agency to make an estimation of retail price in that market.

The contract for the non-U.S. English edition is similar to a regular U.S. contract, in which the agency on behalf of the author, is granting the foreign publisher the copyright (not just a foreign right) to publish the book in a specific territory. In this case, there will be no clauses about translation warranties. Royalties negotiated are usually higher and resemble the U.S. royalty percentage more – typically, 15 percent.

Subsidiary rights such as dramatic rights, are never given to a foreign publisher. They are either held back for the agency to control or sold to the U.S. publisher. An example of titles that are sold to both U.S. publishers and UK publishers is the Lemony Snicket series, which are published by HarperCollins but are produced by Egmont in the UK. Sterling Lord Literistic is the agent for this series. This is a pretty successful series and three years after the series ended in 2006, the books still yield around 30 pages of royalty reports (with normal royalty reports for other titles being only one or two pages).

Perhaps the biggest difference between the two contracts is the length of time granted to the foreign publishers to publish the books. For translation rights, a foreign publisher has the right to publish the book for 5 to 7 years before the rights revert back to the publisher. For non-U.S. English editions, the foreign publisher holds the copyright and can publish the book until it goes out of print.

Co-editions

Co-editions refer to when two (or more) publishers share the cost of producing foreign rights editions in their respective languages. This is typically done with four color-illustrated books. The cost of producing this kind of book is high. To reduce the cost, several publishers combine their print-runs. The more books produced means that the unit cost of each will go down. These books are printed loose without the actual texts. They are then sent to each publisher who adds the translated texts using a blank plate scan. One thing that publishers must be aware of before deciding to do a co-edition is the language length. If the space provided is not enough for the translation to fit in, it will create a problem.

Although co-editions are more common with heavily illustrated books, some publishers are now creating co-editions for novels. Instead of sharing production costs, they are sharing translation costs. When acquiring a German medieval fantasy novel called *Mimus*, Macmillan and Australia's Allen & Unwin decided to share the translation costs (due to the novel's nearly 400-page length) and split the English territories (A&U would take Australia, New Zealand, and the UK while Macmillan would take North America and Canada). But, because of the cultural disparity between the two audiences,

these two publishers will do their own copyediting at a final manuscript stage (Thornton 4).

Although I have never seen a publishing co-edition arrangement where the two publishers share translation costs, it is plausible. For example, publishers from various Spanish-speaking South American countries could make this kind of agreement.

IV. Foreign Rights Management

The Foreign Rights Manager must take full responsibility to ensure that foreign rights transactions are administered effectively. This is important so that the agency will know when payments are due and when they are required to follow-up on late payment. Sterling Lord Literistic, for example, uses Bradbury and Phillips database to gather all details on foreign rights contracts. The information posted includes the title, the name of the author, the name of the foreign publisher and the sub agent, the date contract is sent and received, the amount of advance, the date the advance is due and received, the first print run, the royalty rate, royalty payment due dates, the publication date, and the date when the rights are reverted back to the agency. All of the important information from the contract is recorded in the database.

The information in this database is searchable by the author's last name, the title of the book, or by important keywords. Because most of the books are sold to more than just one country, the entry for a particular title carries information all the contracts made between the agency and the foreign publishers. As an intern, it was my job to update or enter new information to this database. There was a time when the termination dates for an author's titles were not in the database. This happened with Lois Duncan, who wrote *I Know What You Did Last Summer*, and whose book *Hotel for Dogs* was recently adapted

into a major movie. The agency thought that because of the movie’s success, the sales of her backlist books would increase again. Meanwhile, the foreign rights for her books were almost reverted back to the agency. My job was to read over all her contracts, which had to be pulled from the physical storage since the electronic version was hard to find, found the termination dates, and entered them to the database so the agency can anticipate to sell the rights again after they are reverted back.

As a result of that incident, SLL deemed it necessary to have the copy of each contract attached to the electronic entry. It was my job to find the electronic copy or scan the physical contract and then attach each to the database. This task took about 3 days in total because there were more than 200 contracts.

This spreadsheet below illustrates what information is available on each entry for a specific title:

Foreign Publisher	Sub Agent	Contract Sent/Received	Pub Date	Advanced Due/ Received	Royalty Due/ Received	Chase Date
French publisher Editor’s Name Contact info:	Agence Michelle Lapautre	2-10-06/ 3-04-06	Sept. 2007	Upon Signing contract/ 3-04-06	3-31-08/ 3-31-08	4-30-08
German publisher Editor’s Name Contact info:	Paul and Peter Fritz Literary Agency	2-13-06/ 3-08-06	Oct. 2007	Upon Signing contract/ 7-04-06	3-31-08/ 4-01-08	4-30-08

Japanese publisher	Tuttle-Mori Agency	2-13-06/ 4-16-06	April 2008	Upon signing contract/ 4-16-06	10-31-08/ 11-10-08	11-31-08
Editor's Name						
Contact info:						
Brazilian publisher	International Editors Co.	2-13-06/ 4-10-06	Oct 2007	Upon signing contract/ 4-20-06	3-31-08/ 3-31-08	4-30-08
Editor's Name						
Contact info:						
UK publisher	None	2-10-06/ 2-27-06	Aug. 2007	Upon signing contract/ 3-10-06	1-31-08/ 1-31-08	2-28-08
Editor's Name						
Contact info:						

Problems that might arise can be detected from the entry. For example, from the table above one can tell that there are cases of late advance (as in the case with the German publisher here) and late royalty payment (as in the case with Japanese and German publisher on this table). With late payments, the agency is usually quite flexible and allows a month before it decides to chase the foreign publisher down for the payment. The electronic database automatically sends a notification email to the Foreign Manager at the specific chase date so s/he is aware that payment is one month behind schedule. But even with a reminder, chasing for late payments is not always done by the agency. For example, some foreign publishers, with whom the agency has good working relationships, tend to make late payments, but because they never fail to deliver the payment, the agency chooses not to chase them unless the payment is unusually late.

Chasing After Late Payments

There are basic norms in when it comes to chasing late payments. Late payments occur frequently with certain foreign publishers, but at SLL, after reminders were sent, the publisher usually sent the payments. Once again, respecting cultural differences is the key and whenever one is unsure, it is best to contact the sub-agents and either relinquish the responsibility to them or ask questions. According to Lauren Wein, a former rights director at Grove/Atlantic, Americans are all about bureaucracy (Andriani 4). Publishers in many other countries however are far more lax and tend to deal with business problems in a more casual friendly way. For example, when sending a letter to most publishers in Asian countries and selected European countries (like Italy or Spain), it is best to begin the letter with friendly small talk then proceed to asking them about the late payment. It might be considered best to be straightforward and not waste other people time in the U.S., but other cultures prefer small chats to transition to more serious matters.

Violation of Translation Warranty

Other problems that might occur are usually related to the translation warranty clauses. This clause grants a specific publisher the right to publish the work in a specific language and prevents the translation from being altered from the original work. It means that the translator and the foreign publishers cannot omit parts of the books or add new chapters.

Because the whole point of selling foreign rights is for the author and the foreign publisher to profit from the sales of a particular title, it is the agent and the foreign publisher's nightmare when unauthorized translations steal a large share of the market. This happened in China when unauthorized translations of the actual Harry Potter books

came out before the authorized translation was available in the market. Unlike in some other countries, where the translation was published by illegitimate publishers, the unauthorized books in China were published under the imprint of major Chinese publishing houses. When the case was investigated, the publishers themselves claimed they have no knowledge of these books.

Wang Lili, an editor of the China Braille Publishing house, which published one of the many unauthorized book of the popular series called *Harry Potter and the Half-Blooded Relative Prince* (a title which resembled that of the genuine sixth book), said, “We published the book out of a very common incentive. Harry Potter was so popular that we wanted to enjoy the fruits of its widely accepted publicity in China.” The book sold for 150,000 copies and most buyers claimed they did not know it was not the authorized translation of the book. (French 10).

Unauthorized Harry Potter books in China are just one example of rampant piracy that occurs there. According to a *New York Times* article on August 2007 that discussed this topic, Christopher Literary Agency in London, which represents J.K. Rowling is investigating reports of piracy and preparing to take action through its local lawyer and Chinese publishers with the help of law enforcement officials in China.

For an author who is not such a global phenomenon however, dealing with unauthorized translations of his/her books can be much harder. Agents are trying to combat this problem, but in a market like China, where the publishing field is a mix between startling industriousness and blatant literary fraud and copyright violation, it is not always possible to take an action against the publishers. Often, an agency is helpless

in dealing with this unchartered territory and must let piracies be the problem between the authorized publisher and the local court.

Another violation of the translation warranty is alteration of content. The clause specifically says that “the translation of the work shall be made completely, faithfully, and accurately and any alterations shall not be made in the work’s title or text except by the proprietor’s consent.” However, when I interned at Gramedia Pustaka Utama in Jakarta, Indonesia, I encountered a case regarding Marjane Satrapi’s graphic novel, *Persepolis*. There was a small picture of the prophet Muhammad, probably no bigger than 0.6 inches, but in a Muslim country, it is considered a heresy to have a depiction of the prophet. The publisher tried to remove that picture from the book, but Satrapi’s agent did not agree because it was considered an alteration in text. As a result, 5,000 copies of the book remained in a warehouse and were about to be destroyed because the publisher was unable to sell them. In the end, the foreign rights contract was terminated. Mirna Yulistianti, an editor at Gramedia, told me that usually small alterations can be made on the texts and the U.S. agent would not even notice, but on this case it was made on a picture and it was easily detected. Most alterations done by this publisher are made due to local censorship.

Sterling Lord Literistic, like most agencies, requests copies of the translated works, but is not always able to check if the translations are faithful to the original text or not. Dealing with hundreds of countries means there are going to be some languages nobody at the agency are familiar with and checking for accuracy can be tedious and not worth the time.

V. New Trend in Foreign Rights

It used to be that American agents sold book rights mostly to Western European nations, but countries like China, Japan, Taiwan, Korea, Thailand, and Indonesia are now active rights-buyers (Tan 2). This is a huge territory with varying tastes for originals, translations, picture books, and YA titles, which means publishers and agents should start to focus on this region because it promises greater profit.

According to Solan Natsume, a senior agent at Tokyo-based Tuttle-Mori Agency, the sub-agency for the Japanese and the South East Asian market for Sterling Lord Literistic, publishers on this region are always looking for something that is popular in the Western world. Because of globalization, people, especially teenagers are subjected to similar media platforms, such as Hollywood movies and major corporations' advertisements. As a result, items that are in vogue in the U.S. and the rest of the Western world are usually quite popular in Asia too. For examples, juvenile titles like the Harry Potter series, the Lemony Snicket series, the Gossip Girl series, and Twilight series are as popular there as they are here. "Just as the longstanding fever sparked by Harry Potter ebbed, fiction for middle-grade girls became very popular. It seems that Asian languages publishers are standing by waiting for the next trend," said Natsume (4). Natsume also finds that Asian publishers are less likely to co-publish because the cost for printing is relatively low in this region. This increases the number of deals for a particular title. At the Japan Foreign-Rights Centre, now in its 25th year of existence, rights sales have been brisk with more than 700 deals conducted in 2008.

This phenomenon has also occurred in South Korea. Sue Yang, president of Eric Yang Agency, says that the Juvenile market has grown more than two and a half times, to

about \$743 million, in 2007 and is currently the book industry's top segment. The focus is mostly on YA books, both in bilingual edition (texts in the book are printed both in English and the local Asian language) for ages 9-14, and crossovers mostly targeting university students.

The purchase of YA books is increasing among the younger generations of Japanese, Korean, and Chinese communities. In fact according to Shanghai-based Luc Kwanten, executive director of Big Apple Tuttle-Mori, most YA books are now translated books and only few are originals, written by local authors (9).

This trend of acquiring translation rights become important as most Asian countries gain more power in the global marketplace and are able to offer higher advances to compete with other rights buyers. Since 2004, advances from these regions have increased from \$800 to \$1,500 on average. Kwanten says that, "given 3% inflation on books and the sales price for juvenile titles, a translated title needs to hit at least 30,000 copies to break even," (10).

Translated titles have better chance of selling more copies than books written by local authors, because they are supported by international marketing. News about popular books travels through online media and, if there is a movie based on a book in Hollywood, the publisher can be sure the market will respond well to that title. Although this can mean it will be harder for local authors to compete, Kang Hyun-joo, a copyright manager at Sakyajul publishing house in Korea, believes the trend for acquiring translation rights is a cause for optimism. "At Frankfurt 2005, understanding of Korean literature, culture, and arts was greatly improved. So [by having] Korea as the guest of

honor at Bologna 2009, [it will] further deepen the understanding and appreciation of Korean publications,” he said to *Publishers Weekly* (49).

Hopefully, the increase in the purchasing power of this region will lead to a better understanding of its culture. As agencies in the U.S. gain better grasp of these Asian countries’ interests and tastes, this might lead to U.S. agencies, not only acting as active sellers of rights, but also becoming active buyers of literature from this region. That way translation and foreign rights can truly connect people from different areas of the globe.

VI. Conclusion

The way foreign rights are dealt with and sold is constantly changing. In the end, there is no clear-cut way as to how the rights can be sold from one country to another. What I wrote in this paper does not represent how all agencies deal with foreign rights. It does, however, show the basic step-by-step procedures and guidelines, discuss the potential problems, and explore the trends in the industry.

As for what it is required to deal foreign rights and be involved in the process, it definitely requires a person to have a high degree of cultural awareness and open mindedness. Unlike selling other subsidiary rights where the market is generally limited to the same country where the book is published, dealing with foreign rights means exploring all of the market potential for a book. For someone who is interested in foreign rights, it helps to like research and to enjoy networking with people from other cultures. There is always a need to question one’s own assumptions, because cultivating cultural awareness takes time and it is better to err on the side of caution. Naturally, it requires that a person to be polite and respectful, but above all, it is important to study the countries the agency is dealing with. Embarrassing geography errors or a bad attitude

toward a culturally sensitive topic could easily prompt a publisher to pass the book an agency is representing.

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