SYMPOSIUM
Rights and Royalties in a Time of Digital Disruption
Correcting Harvard’s Robert Darnton
Remembering J. D. Salinger
Roy Blount: Are You Better Off Than You Were Four Years Ago?
LETTERS TO THE EDITOR

Amid all the discussion about digitizing and displaying out-of-print books under the proposed Google settlement, many authors and agents seem unaware that Google is already doing this with in-print books. Under the Google Books Partner Program, the Google Books website is displaying large amounts of copyrighted content of books with the permission of thousands of publishers, but without the go-ahead or even notification of most authors.

What appears to be a copyright issue is actually a contractual one, Guild attorney Anita Fore tells me. Authors’ contracts usually give publishers the right to allow publication of excerpts of books for promotional purposes. Clauses that were no doubt originally intended to allow a few quotations in advertisements, book reviews and the like, now permit something very different in the digital age. Allowing publication of small amounts of material in print media is a lot different from permitting a fifth or more of a book to be made available to millions of readers around the world.

The content of as much as 20 percent of three of my in-print books is viewable on Google Books. (Information on the settlement website about the program invites an even greater percentage—up to 100 percent. See FAQ no. 57.) No one knows if this promotes or undercuts sales of books or makes any difference at all. It probably differs from book to book. Whatever the case, authors should be notified by their publishers when a book is selected and have a say as to whether it should be included. Also, publishers are receiving revenue from advertisements placed alongside the digitized books. Are they passing any of it along to authors?

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ALONG PUBLISHERS ROW

BY CAMPBELL GEESLIN

Novelist Philip Roth, in The Guardian of London, predicted that in 25 years, the number of people reading Latin novels will be akin to the numbers now reading Latin poetry. Novels will be a curiosity, certainly not a profit center.

That observation is from an essay by Susan Dominius in The New York Times. She said, “This is painful gospel for anyone who reads Philip Roth, or other great writers, the way other people read religious texts—to make sense of the world, to be humbled or inspired by the power of language.”

In her essay, Dominius insisted that even without novels “people will keep making literary culture, just not at the same scale, or in the same hallways, or for a living.”

DRAMA: The Lincoln Center Theater opened the fall season with “What Once We Felt,” a new drama by Ann Marie Healy. It’s “about a novelist of the future whose book becomes the last to be printed on paper.”

The New York Times asked, “Grim parable? Macabre comedy? Naturalist drama? Given that subject matter, it could be any of the above, or a little of all three.” Let’s hope it’s an impossible fantasy.

TOO MUCH? Thomas Mallon’s new book is Yours Ever: People and Their Letters. In an interview in PW, Mallon said, “To me, the idea of e-books as the most popular format bothers me less than the possibility of a publishing world in which the editorial apparatus has collapsed. As the world of self-publishing proliferates, I just worry about so much stuff being out there that people don’t know how to find what’s good. That, I think, is the big challenge, more than the shifting technology itself. I suppose that immediately provokes charges of elitism from people. Well, so be it. I don’t want to live in a world where everything receives the same imprimatur as everything else. I don’t want to live in a world without editors.”

NOTED: The following quote is from Chamfort’s Maximes et Pensees, published in 1805. “Most of today’s
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Overheard

“There’s no such thing as originality anyway, just authenticity,” said Ms. Hegemann in a statement released by her publisher after the scandal broke.”


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About the Cover Artist
Kevin Sanchez Walsh is a freelance artist in New York City.
From the President

BY ROY BLount JR.

In 1921, when I took office as presid—no, that’s not right.
I mean to say that in 1921, after serving for six months in India as Private Secretary to His Honorable Sir Tukoji Rao III, a maharajah of some sort, E. M. Forster wrote: “I was not clear what I was to do, nor when I came away was I clear what I had done.”

In this my final column as president of the Guild, I have reason to feel somewhat the same way. In my first presidential column, four years ago, I declared my intention to regard the office as a ceremonial post, like the Maypole. Little did I imagine that the most notable ceremony of my tenure would be blind people in the street outside the Guild offices chanting:

We would get access sooner
If it weren’t for Roy Blount Jooner.

There was something sort of literary about that. We so seldom anymore, if ever we did, hear demonstrators chanting in the subjunctive mood. At the time, I was just glad that no part of my name rhymed with Satan.

In due time the Guild and the American Federation of the Blind became allies, in no small part because Paul Aiken, our executive director, interacted with the blind folks so directly and well that he and their dogs came to be on a first-name basis. I wish I could say the same for myself. I mean, of course Paul and I were on a first-name basis—I mean I never got to know the blind people or their seeing-eye dogs. Paul and his staff are the ones who do everything. I have been proud to work with them to the extent that I have, and happy to know that they were working without me when I was off doing something like writing for a living.

Ah. Speaking of which. If I were running for re-election, I would not be quick to ask, “Are you better off than you were four years ago?” Neither, to be sure, would anybody else— anywhere in the world—who was running for re-election, to anything, be likely to raise such a question. But it’s not just the economy that is pinching authors today, it is the re-mediation (maybe I’ll come up with a better term) of the written word.

Let me say to Martha Fay, my editor here at the Bulletin: I’m sorry not to have gotten this column in on time. One reason is that I don’t really feel like an author until what I’m writing is overdue. But another reason I’m late is that I keep holding off for something to happen. The court’s approval of the Google settlement maybe? I don’t know. Something final. One thing being Guild president has reinforced in me is an un-

Let me just say, without in any way equating the two of us, that I am envious of President Obama for getting a health plan done. For getting anything done.

happy tendency (my father rose from hard-scrabble to community-pillar in trying times, and then died young of the stress involved) to acknowledge the difficulty of getting anything done. On TV I watch talking heads going on and on about how obvious and simple and right is what needs to be done, and I know it is good that they put all that on the record, but they sound to me a little bit childish. Okay, childlike. Let me just say, without in any way equating the two of us, that I am envious of President Obama for getting a health plan done. For getting anything positive done. Telling the truth is a fine, courageous and unlikely thing. It is what good writers do. Getting things done takes longer.

The Guild during the last four years has been robustly pro-active in its efforts to get things done for authors. Before I came on board, in the Nick Taylor era, the Guild sued Google for scanning copyrighted books without permission. Then I did come on board, and the next thing I knew, untold complexities were ensuing. Oh, man. I learned that wordsmith is unblinkingly used, in big-money negotiation, as a verb. That was nowhere near the half of it. The interlocking and inter-conflicting interests of authors, Google, publishers, libraries, and smugly tenured academics... were, and are, complex. I come away almost willing to believe that lawyers deserve to make as much money as they do.

My own concerns, by no means academic, were to sustain the off-chance that an author of good books might make a living, and to ensure that books not be turned into a digital blogpuddle. I have weighed in on those issues’ behalf. And today—I told you I was waiting for something to happen—I received from the
Guild an iPad. I downloaded a couple of books onto it. Where: I’m not necessarily a Luddite old crank. I’ve never liked the Kindle, nor the way Amazon treats authors. Books downloaded onto the iPad feel like books.

But we’ll see. The price of preventing authors from being screwed by new forms of publication is eternal vigilance. I’ve learned to expect that the Guild will be duly vigilant. I hope the Google settlement is approved, but even if it isn’t, it has broken ground for the translation of books into a sustainable digital future.

Now I salute my friend and successor, Scott Turow, about whom I know these things:

- That he can sing better than I can. Which in itself is like saying that he smells better than a wet dog, but the truth is that Scott can function, in public, as a singer. I’ve seen it done.
- That he is not only an author but also a lawyer. So he doesn’t need to get rich off of this gig.
- That he is from a city (Chicago) whose most famous twentieth-century mayor once said the greatest book ever written was Robert's Rules of Order. To be sure, that same mayor once said, “The policeman is not there to create disorder. The policeman is there to preserve disorder.” But never mind that.

In closing, I feel I should pass on some wisdom. The bits that come to mind are this from Warren Buffett: “Never ask a barber whether you need a haircut.” This from Chico Marx: “Never shoot dice on a blanket.” And this from Edgar, in King Lear: “Ripeness is all. Come on.”

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To RIAA or Not to RIAA, That Was the Question

Adapted from an alert to Guild members on February 5, 2010. In our view, it’s best for everyone that out-of-print library books be made available through reasonable, market-based means to readers, students and scholars. Without a settlement, that won’t happen. It’s also best that authors have direct control of the scans that Google has made, with the power to compel Google to hide, display or remove those scans. Without a settlement, authors have no such control. Google’s scanning and use of authors’ books would continue until the lawsuit was finally resolved.

Some authors and authors’ groups have asked why we didn’t press the litigation through to the end. The answer, in part, is that copyright litigation is uncertain. Fair use law is complex. One could fill a good-sized law-school classroom with copyright professors who believe that Google’s scanning of your books is a fair use. We don’t agree with that view, but our opinion might not have prevailed. If we’d lost, it would then be open season on scanning of your out-of-print and in-print books. All one would need is a scanner and a friend with a little bit of technical knowledge to start displaying “snippets” at a science fiction, humor, Civil War, or Harry Potter website. All perfectly legal; all without obligation to authors to properly secure those scans. Nothing gets illegal file-sharing going quite so much as millions of unsecured digital works floating around the Internet.

We also could’ve won. That would’ve been sweet. But here’s the thing: copyright victories tend to be Pyrrhic in the digital age. Our settlement negotiations went on with full knowledge of what happened to the music industry. The RIAA (the Recording Industry Association of America) won victory after victory, defeating Napster and Grokster with ground-breaking legal rulings. The RIAA also went after countless individuals, chasing down infringement wherever they could track it down.

It didn’t work. The infringement just moved elsewhere, in unpredictable ways. Nothing seems to drive innovation among copyright pirates as much as a defeat in the courts. That innovation didn’t truly abate until Apple came along with its iPod/iTunes model, making music easily and legally available at a reasonable price. By then, the music industry was devastated.

All that couldn’t happen to the book publishing industry? Sure could. The technologies are out there.

The stakes are even higher for authors than they’ve been for musicians. The ace in the hole for musicians is that they’re not as dependent on copy-right as book authors are. Music is a performing art: people buy tickets to see musicians. Writing is decidedly not a performing art. Nearly all authors give away their performances, through book tours and readings, and are glad for any audience they can find. For most authors, markets created by copyright are all we’ve got.

Protecting authors’ interests has always been our top priority: in this case a timely harnessing of Google is the best way to do it.
Google & the Digital Future

Correcting Harvard’s
Robert Darnton

By Roy Blount Jr., President
Judy Blume, Vice President
Pat Cummings, Secretary
Peter Petre, Treasurer
Mary Pope Osborne, Nick Taylor,
Scott Turow, Former Presidents
Jennifer Egan, James Gleick, James Shapiro,
Sarah Vowell, Authors Guild Council

Over a span of twelve months, The New York Review of Books published two extended pieces and a lengthy “exchange” on the proposed Google settlement by Robert Darnton, Director of the University Library at Harvard. In response, members of the Authors Guild Council submitted the following letter to the Review, which ran in the February 25, 2010 issue in substantially shortened form.*

In his ongoing essays here about our lawsuit against Google, Robert Darnton has written with such passion and seeming authority that your readers might think he has accurately conveyed the facts of the settlement. [NYR, February 12, 2009, December 17, 2009; NYR, An Exchange, January 14, 2010] Alas, he has not. Please allow us to correct some fundamental errors.

• He states that the settlement “will make it possible for consumers to purchase access to millions of copyrighted books currently in print.”

It won’t. The settlement principally concerns the millions of out-of-print books, now available only in libraries and used-book stores. Books that are commercially available play only a minor role; in fact, the settlement provides that Google’s scans of these books may not be displayed at all—not a three-line snippet, not a twenty percent “preview,” and certainly not a full-length book—without the publisher’s express consent and the author’s approval. That will seldom be forthcoming, because manual scans of library books are no substitute for the pristine digital versions of in-

print books that most publishers have been producing for more than a decade. (Google, along with Amazon and others, already uses those digital versions to display book previews by arrangement with the publishers; that has nothing to do with the settlement.)

• This basic misunderstanding seems to motivate Mr. Darnton’s most sweeping warnings about the settlement, such as his conjecture that the settlement “looked likely to determine the digital future for all of us.”

On the contrary, out-of-print books are not destined to shape our digital future. Lost in the discussion is one cardinal fact: the current marketplace for these books is, by definition, nil. Until Google scanned them, no other company, institution, or government had shown any appetite for such an expensive adventure. The great promise of the settlement is to use these scans to create a resource and a new market that would otherwise not exist.

• Mr. Darnton raises the specter of censorship and, in response to a question from Anthony Lewis, justifies this by quoting from the settlement: “Google may, at its discretion, exclude particular Books from one or more Display Uses for editorial or non-editorial reasons.” He continues: “Google will notify the Book Rights Registry of any book it excludes. Notification of exclusion hardly serves as a substitute for inclusion.”

What he fails to mention is the key provision spelled out in the very next paragraph, negotiated by the Authors Guild and a group of academic libraries. If Google ever does refuse to include a book because of its content, it must deliver digital copies to the Book

Rights Registry, which is empowered to make them available to readers online. Neither we nor the libraries will ever stand for censorship.

• Mr. Darnton suggests almost in passing that the Authors Guild will receive money from the settlement: “Meanwhile, Google, the Authors Guild, and the Association of American Publishers would continue to draw income from the separate digital database . . . .”

Although the Authors Guild initiated the class-action suit against Google, we get not a penny from the settlement—not now, and not in the future. (Millions of

*That shorter letter and Mr. Darnton’s reply are accessible online at: http://web.cs.wpi.edu/~hofri/Readings/NYR-Darnton4.html
authors, however, may indeed start receiving unexpected checks in the mail as their out-of-print books, some of them long forgotten, come back to life.)

Mr. Darnton has put forward a variety of different scenarios for digitizing out-of-print books and sharing them with readers. Some have been more realistic than others; some have been admittedly Utopian. They tend to require acts of Congress.

The settlement with Google should not be weighed against these dreamy alternative futures. Right now, the settlement resolves a pressing legal dispute in a manner that will work a great good for readers, while protecting the rights of authors. Every college and university will have free access to a collection of English-language works matching or exceeding that of Mr. Darnton’s at Harvard. So will public libraries. Our lives online will be immeasurably enriched by ready access to this vast storehouse of out-of-print English-language works.

As members of the Authors Guild’s executive board, some of us were directly involved in the 30 months of negotiations with the publishers and Google. All of us were on the settlement’s non-disclosure agreement and kept apprised of developments. We all strongly support the settlement as being in the best interests of authors and readers.

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**Random House, HarperCollins Look to Lock in Low E-Book Royalty Rates: 5 Ways to Protect Yourself**

Adapted from an e-mail sent to Guild members on March 19, 2010.

Random House and HarperCollins are sending letters to authors and agents seeking amendments to contracts regarding e-book rights. These amendments should be treated with extreme care.

E-book royalty rates are low at the moment. Both publishers are trying to lock in e-book royalty rates at 25 percent of net receipts. As we’ve previously said, we believe this will prove to be a low-water mark for e-book royalties: “Authors and publishers have traditionally split the proceeds from book sales. Most sublicenses, for example, provide for a 50/50 split of proceeds, and the standard trade book royalty of 15 percent of the hardcover retail price, back in the days that industry standard was established, represented about 50 percent of the net proceeds of the sale of the book. We’re confident that the current practice of paying 25 percent of net on e-books will not, in the long run, prevail. Savvy agents are well aware of this. The only reason e-book royalty rates are so low right now is that so little attention has been paid to them: sales were simply too low to scrap over. That’s beginning to change.”

Here’s how to protect yourself:

1. **Get the absolute right to renegotiate.** If you accept these low royalty rates, don’t lock yourself in. Try to obtain the unconditional right to renegotiate the royalty rate after a period of, say, two years. At a bare minimum, you should have the right to renegotiate if industry standard royalty rates change or if the publisher’s standard royalty rate changes.

2. **Negotiate for a royalty floor.** Insist that your royalty amount (in terms of dollars and cents, not percentage points) for e-books will never fall below the royalty amount for the print edition of the work. This will keep e-book sales from eroding your royalties.

3. **Double-check your reversion of rights clause.** This is critical. If your reversion of rights clause doesn’t have sales thresholds in it, your publisher may argue that availability in any edition—regardless of the number of sales—means your book is “in print.” (We don’t agree with this interpretation of older contracts, but some publishers argue this with a straight face.) Take this opportunity to clarify your reversion of rights clause by inserting a minimum number of annual sales for a work to be deemed in print.

4. **Check your contract; you may control e-rights.** Some of these letters have gone to authors of books for which the author hasn’t granted the publisher electronic rights.

5. **If you can’t obtain adequate safeguards, you may want to bide your time.** The e-book market is still a small, developing market, with uncertain economics. Publishers and distributors are fighting major battles over business models. E-book publication isn’t a now or never proposition, and signing the contract amendment will prevent you from seeking e-book publication deals with other publishers.
Guild Launches WhoMovedMyBuyButton?

Authors have complained for years about Amazon.com’s exercise of the nuclear option in its disputes with publishers over pricing, the selective removal of “Add to Cart” buttons from displays of offending publishers’ books. In January, in the midst of a showdown with Macmillan over the publisher’s plan to move to “agency model pricing” for e-books—a subject we will address in detail in the Summer issue—Amazon used the nuclear option to block purchase of thousands of Macmillan titles. In response, the Guild launched whomovedmybuybutton.com, which provides authors with simple tools to track the status of their books on Amazon. We invite all authors to visit the site, which includes the history of Amazon’s overreaching we reprint here.

A Buy-Button Removal Chronology From WhoMovedMyBuyButton.com

2008

The Battle of Britain, Part One
The first reported use of the buy button weapon was in the United Kingdom. Early in 2008, Amazon removed the buy buttons from hundreds of Bloomsbury titles. Bloomsbury is a major British publisher, publishing authors such as William Boyd, Khaled Hosseini, and J.K. Rowling. Amazon and Bloomsbury resolved their differences on undisclosed terms, and the lights went back on for all of Bloomsbury’s books.

The Battle of Britain, Part Two
The second use of the buy button weapon in the U.K. that we know of came later that year, when one of the world’s largest publishers, Hachette Livre UK, took the hit. The publisher’s CEO, Tim Hely Hutchinson, wrote in a letter to authors, “Amazon seems each year to go from one publisher to another making increasing demands in order to achieve richer terms at our expense and sometimes at yours.”

He added, “If this continued, it would not be long before Amazon got virtually all of the revenue that is presently shared between author, publisher, retailer, printer and other parties.” Bestselling authors were affected, including Stephen King and James Patterson, along with hundreds of less commercially successful authors.

Striking a Blow for Vertical Integration, Part One
Amazon’s 2005 acquisition of BookSurge, an on-demand printing company, had apparently not brought as much business as Amazon had hoped. Amazon’s hold on the market for on-demand books is particularly tight. Amazon is the market: the overwhelming majority of U.S. sales of on-demand books are believed to go through Amazon. In early 2008, Amazon notified many print-on-demand publishers that if their printing wasn’t done by Amazon, buy buttons would disappear. The first to get hit that we know of was Author Solutions, which suffered a brief but total blackout of titles. Author Solutions got the point, and agreed to avail themselves of the pricey services of BookSurge. (Buy button removal knows no politics: Victor Navasky and the late William F. Buckley, Jr., both lost access to Amazon’s customers during the outage.)

Striking a Blow for Vertical Integration, Parts Two, Three and Four
Amazon reportedly removed buy buttons from Whiskey Creek Press, a small publisher that publishes in traditional print and on-demand, and PublishAmerica, an on-demand publisher. Booklocker, an e-book and on-demand publisher files an antitrust suit against Amazon over its BookSurge tactics.

2009

Battle of Britain Concludes, So Far As We Know
In April, we checked to see how things were going with Hachette UK. The lights were still out for apparently hundreds of Hachette titles at Amazon’s British website. It was impossible to buy one of Hachette’s wine guides at Amazon.co.uk., but there were plenty at Waterstone’s website. We also looked for Chris Manby’s “Seven Sunny Days.” No buy button—but there were 301 used copies available, starting at a couple pence. Chris has done nothing to offend Amazon that we know of: she’s merely another casualty of Amazon’s tactics.

Finally, on June 1, Hachette and Amazon come to undisclosed terms. All of Hachette’s authors can again reach Amazon’s customers.

Vertical Integration: A Setback
In August, Amazon loses a critical round in the Booklocker lawsuit in federal court in Bangor, Maine, as

Continued on page 59
What's Next for Authors

By Warren Adler

Submitted by Mr. Adler in response to the Symposium on E-Rights co-sponsored by the Authors Guild Foundation in January, an edited transcript of which appears in this issue.

The inevitable battle between e-book readers has begun. Unfortunately, the author, the creator of the raw material that will be the principal fuel for the e-book devices, is the least powerful voice in the battle. He is the stretcher-bearer, while the big guns around him boom, threaten and destroy.

As an author, I have been a pioneer in the e-book revolution. The earliest meeting I attended with people gathered to promote the vision of the future for the e-book was 10 years ago. Most were techies and start-up hopefuls. I was the only author in the room. Since then, many of these early e-book dreamers, bloodied and bruised, have opted out of the battle.

At a recent Authors Guild panel that included an e-book publisher who was a former top gun for a print publisher, an executive of a major traditional publishing company, an author and an agent, the e-book publisher hit the nail on the head. She told us that we are in the midst of a revolution.

With Apple having just planted its e-book flag, Amazon changing its pricing structure in response to publisher pressure, Sony refining its approach and numerous tech companies invading the e-book reader field, it should be apparent to everyone that the day of the printed book is kaput. Take a deep breath, gulp if you must, but that's the future. I have been arguing the point as an author for a decade. I have been pummeled and assailed by every counter argument conceived.

The window for the printed book is closing. Print publishers are losing their monopoly on content, distribution and marketing. The big box bookstores will slowly implode. The method of branding an author via the traditional media will disappear as print media disappear.

The big author brands so carefully constructed will fade away like old movie stars. Imagine what will happen in the textbook field? How would you like to be a backpack manufacturer?

What we will be left with will be millions of digitized books capable of being downloaded to numerous devices—most of them portable—then flacked and promoted on millions of websites, a cacophony of voices in a multitude of languages that will make the Tower of Babel seem like a lonely outpost on Mars.

As every publisher knows, the way an author gets real traction is by word of mouth, but that requires a starting point. A seed has to be planted. Someone has to tell someone. How will anyone be heard above the chatter?

And how will the author, the creator of content, fare? I am talking here about all types of books, from works of the imagination to instruction, opinion and analysis in every genre that imparts information and knowledge. Book to reader is essentially a one-on-one communication system. Author to reader. Mind to mind.

When I advised the people at Sony who were developing the first in the current generation of e-book readers, I urged them to create a dedicated reader with no distractions, no bells or whistles, no e-mail, no video, no phone, no texting, no music. I was basing my advice on a very personal view of reading. When I read a book I want to concentrate only on the author's work, his or her story, knowledge or instruction.

I think I lost that battle. The trend will be to create a kind of portable living room with every form of entertainment, communication and instruction available via a single device. This will, of course, make it harder for the author to reach his reader, who must navigate a galaxy of temptations competing for his attention. Like a fly fisherman, he must find the perfect fly to hook the trout.

At the Authors Guild panel discussion, I asked the panelists: With the monopolies of content, distribution and marketing disappearing, what can a publisher do for the author when the e-book revolution has transformed the traditional landscape?

The answers were, to be kind, less than satisfactory. The brutal fact is that the traditional publisher will have to join the e-book world fully if his business is to

Warren Adler is the author of The War of the Roses and Random Hearts, both adapted to major movies. His short story collection, "The Sunset Gang," was made into a PBS trilogy. He has published 27 other books, including most recently Funny Boys. His books have been translated into 25 languages. He is a pioneer in digital publishing and consults frequently on electronic issues. All his books have been converted to digital format.
It is true that the traditional publisher has the present advantage of knowing the reading marketplace. He has been tracking the literary consumer for ages. He is not to be counted out . . . yet. Unfortunately, he hasn’t been quick enough to arm himself for the revolution and his bottom line performance report card to his (mostly) corporate bosses does not suggest a promising future.

One possible result of all this chaos will be the empowerment of the author. As he sees publishers losing their ability to find an audience for his work, he will have to find a way to empower himself on the wild and woolly cyber battlefield. If he expects to make a living in the hazardous one-on-one communication system of the written word, he will have to find a way—or be forced to keep his day job.

How will an author find anyone to read his work? The answer, if there is an answer, will be found in cyberspaces, families of related websites that share interests and through which authors will gain an audience.

Indeed, authors of the future will probably have to create their own publishing vehicles, yet to be defined, to establish their readership. Perhaps they will ally themselves with other authors seeking like-minded readers. One can only speculate. That buzzing sound you hear is authors, traditional publishers, new e-book publishers, agents, proofreaders, artists and anyone who has been involved or who aspires to be involved in publishing trying to figure out what comes next.

For my part, I call for authors to mount the barricades. You are the shock troops of content. You will have to do for yourselves what others did for you before the revolution. All future monetary splits should favor the author first. It is time for you to take control of your own destiny.

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**The Twitter Wars**

It began with a long New Year’s Day piece by *New York Times* media critic David Carr on the manners, mores and probable staying power of Twitter. Carr touted Twitter’s “practical magic” when it comes to tracking down laptops or tacos, the crucial role it played for Iranian dissidents during demonstrations last fall, and its unrivaled power to distract: “There is always something more interesting on Twitter than whatever you happen to be working on.”

A few weeks later, *The New Yorker*’s George Packer fired a shot over Carr’s cellphone, admitting to never having tried Twitter and blasting Carr’s vision of round-the-clock connectedness as “the most frightening picture of the future that I’ve read thus far in the new decade.”

“Who doesn’t want to be taken out of the boredom or sameness or pain of the present at any given moment?” Packer asked. “That’s what drugs are for, and that’s why people become addicted to them. . . . Twitter is crack for media addicts. It scares me, not because I’m morally superior to it, but because . . . I’m afraid I’d end up letting my son go hungry.” Packer also confessed that he rode the Quiet Car while Amtrakting between New York and Washington, “with my phone off, laptop stowed, completely unreachable.”

A few days later, Nick Bilton, the *Times* Bits blogger, joined in, extolling Twitter’s incomparable social, commercial, political, journalistic, and scientific utility in a 3,005-character column titled “The Twitter Train Has Left the Station.” “Right now,” Bilton tooted, “an astronaut, floating 250 miles above the Earth, is using Twitter and conversing with people all over the globe, answering both mundane and scientific questions about living on a space station.” (Over-50 Tweeters reportedly went berserk at the news, terrified that Scott Carpenter was flying again.) Bilton concluded predictably by accusing the Quiet Car regular of Luddite tendencies. “I wonder if, 150 years ago, Mr. Packer would be riding the train at all, or if he would have stayed home, afraid to engage in an evolving society and demanding that the trains be stopped.”

The Tweet universe began lighting up like a Tinker Bell convention, peppering Packer with 140-character darts for having criticized Twitter without first trying it. In a final post titled “Neither Luddite nor Biltonite,” Packer countered that he hadn’t used crack either, but could comprehend the results, and characterized the fevered reaction to his column as an example of “techno worship . . . a triumphant and intolerant cult that doesn’t like to be asked questions.”
Writing for "the Best Readers There Are"

BY NICOLA SMITH

In the two weeks since it was announced that Katherine Paterson, who has twice been awarded the Newbery Medal and the National Book Award for children's literature, was taking on the role of ambassador for young people's literature, the world has beaten a path to her door. There have been numerous phone calls and interviews, and Paterson, who lives with her husband in an old red brick farmhouse in East Barre, Vt., fields them graciously. "I'm playing famous right now," she said dryly, sitting in a rocking chair in her living room.

For 35 years, Paterson has been one of the most prominent authors of children's literature in this country, perhaps best known for her books The Bridge to Terabithia, The Great Gilly Hopkins and Jacob Have I Loved. Last summer, she was asked whether she'd be interested in taking on the two-year post of ambassador, an appointment made by both the Library of Congress's Center for the Book and Every Child A Reader, an arm of the Children's Book Council, a nonprofit trade association.

"Do you know how old I am?" Paterson, 77, remembered saying, half-jokingly. With a frank, lively manner and a quick wit, Paterson is the kind of writer who'd seem to be a natural emissary to children and adolescent readers, who often view adults as inhabiting an alien and dogmatic universe.

Paterson succeeds Jon Scieszka, who wrote the irreverent The Stinky Cheese Man and Other Fairly Stupid Tales. Paterson's books are noted for their sensitivity to the plight of the outsider, to the rebel, to the child who feels herself to be misunderstood, for their humor, and for their deft, unsentimental treatment of fairly difficult topics such as death and loss, difference and tolerance. "I love to write about children because they ask the basic questions of life," Paterson said.

When Paterson first began to write novels, in the 1970s, she read the drafts to her four young children. If they stole the next chapter to read by themselves, she knew she was on the right track. But if they got up and wandered away while she was reading, she knew she had more work to do. Paterson's intended audience has always been children and young adults, but she is slightly puzzled by the segregation between books for children and books for adults, and the perception that children's books are on a lesser plane of achievement and importance than adult literature with a capital L.

"It's as though children weren't the best readers there are," she said. "They'll read a book over and over again. (And) if they're good books, they hold up," regardless of genre or the age group for which they're written. Authors like Charles Dickens, Rudyard Kipling, Frances Hodgson Burnett or Robert Louis Stevenson were read by everybody when their books were published, she pointed out; only later did publishers initiate the arbitrary division between adult and children's literature as a marketing tool.

As ambassador, Paterson is scheduled to travel throughout the country, and will make appearances at the National Book festival, Children's Book Week Gala, and the American Library Association in June, among other places. Her mission is to promote the causes of reading to children from an early age, and of continuing to read with and to them as they become adolescents. Reading scores, she said, have shown that ability seems to drop off at age nine, just when it's presumed that most children read on their own and no

Nicola Smith is a staff writer for the Valley News, a daily newspaper based in Lebanon, New Hampshire. © 2010 Valley News. Reprinted with permission.
longer need or want a parent to read to them. It could be a coincidence, but Paterson doesn’t think so.

There have been articles and studies decrying the dwindling percentage of people who read in America. Does Paterson think it’s a crisis? Yes, she does. “It’s not just children but adults who aren’t paying attention to it anymore,” she said. “They’re really worried about a movie star’s divorce, but not about children’s literature.”

She continued, “The reason I think it’s a crisis is that, unless people read, I don’t think they’re thinking deeply, either. If you’re going to have a democracy, you need thinking people... You have to work to read, it’s not a passive activity. (You read) both for information and pleasure and delights.”

If you don’t read and you don’t think about what you read, she said, your ability to see other people’s points of view is diminished, as is the ability to process complicated information or opinion. But there’s more to reading, of course, than pedagogy.

“The pleasure of being read to is part of what makes you want to read more,” she said. As a child, she said, “I was one of the fortunate people who was read to.” Paterson was born and spent her early years in rural China, where her parents were missionaries. She read an honor roll of authors who have written for children: A. A. Milne, Beatrix Potter, Kenneth Grahame, Frances Hodgson Burnett, Robert Lawson, Rachel Field, Kate Seredy and Marjorie Kinnan Rawlings. When the Japanese invaded China in 1937, the family returned to the U.S. Paterson was raised in North Carolina and Virginia, and still retains a warm tinge of a Southern accent.

She studied English and American literature at King College in Tennessee, and then pursued a religious education at graduate school in Richmond, Va., with the intent of becoming a missionary like her parents. A teacher in Richmond asked her if she’d ever thought of being a writer. “At the time I thought, I don’t want to add another mediocre writer to the world,” Paterson said, but the germ of the idea was planted. Later on, she said, she decided to try: “I like to write; I’ve got all these children; maybe I will,” she said.

Her first book, *The Sign of the Chrysanthemum*, about 12th-century Japan, was published in 1973. (Paterson lived and studied in Japan in the late 1950s. Since then she has written a strikingly wide range of novels about, among others, China, the rural South and rural Vermont, the Bread and Roses strike in Lawrence, Mass., the effects of the Vietnam war on a young boy, and most recently, in *The Day of the Pelican*, the story of a young girl from Kosovo who is relocated to Vermont after the 1999 Kosovo war.

Paterson and her husband, John Paterson, have been married since 1962 and moved to Vermont in 1986 when he became the pastor of a Presbyterian church in Barre. She said he is her first reader and editor, and greatest cheerleader. She likes living in the state because it values artists and writers, she said, and because there is no snobbery here about writing children’s literature as opposed to The Great American Novel.

She works upstairs in a small room, on a computer. She used to write out her books longhand but the pain in her hands was too great after so many years of putting pen to paper, and her doctor suggested she use a computer instead. “Did Jane Austen or Charles Dickens have carpal tunnel syndrome?” she asked idly.

Paterson has traveled all over the world to bring her books, and love of reading, to children. Her books have been published in Europe and Asia and Iran,

A teacher asked Paterson if she’d ever thought of being a writer.

“At the time I thought, I don’t want to add another mediocre writer to the world.”

where she is translated into Farsi. Her themes are universal, but for one small detail in *The Bridge to Terabithia*, which she related with much amusement.

On a tour to Australia, she met with a group of children who had read the book and were quizzing her about it closely. Finally, one little boy raised his hand, looking puzzled. “Please, Miss, what is a Twinkie?” he said. ✦
Remembering Salinger

BY CHARLES KOCHMAN

“Here’s a song to those who are gone,
with never a reason why
And a toast of the wine at the end of the line
And a toll of the bell for the next one to die.”

—Phil Ochs, “A Toast to Those Who Are Gone,” 1963

A framed photograph of J. D. Salinger hangs over my desk at work. Taped near the door is a copy of a typewritten letter signed by him to a teacher named Madeline dated May 12, 1991, the original of which I bought off a reputable dealer on eBay (an indulgence others questioned but one I’ve never regretted). And on the windowsill adjacent to my computer, all four of his books sit side by side, their dog-eared maroon, white, and yellow spines the only constant in every office I’ve had since I started my publishing career back in 1985.

Salinger died on Wednesday, January 27, at 91. For 34 of those years he’s been not just my favorite writer, but a symbol. He ceased publishing on June 19, 1965, when his last short story appeared in The New Yorker. Salinger opted out of being a public figure, and for most of his life he walked the walk of self-sufficiency.

Salinger was not private like, say, Woody Allen, who claims “privacy,” only if you wanted you can see him every Monday night at the Carlyle Hotel, or most nights at Elaine’s seated at his usual corner table. Salinger’s privacy was unlike that of Thomas Pynchon or B. Traven, who maintained privacy but nonetheless continued to write for publication.

Despite his scant, quantifiable output, Salinger’s writing changed the way I thought. The way I wrote. And when I was in high school, unsure of who or what I would be when I grew up, he pointed me in a direction incongruous to the Brooklyn neighborhood where I lived.

I’ve reread The Catcher in the Rye every Christmas break since, and it’s like revisiting an old friend. Reading the book each year is the manifestation of how Salinger describes the Museum of Natural History: “The best thing, though, in that museum was that everything stayed right where it was. Nobody’d move. Nobody’d be different. The only thing that would be different would be you.” Few things in life are more comforting to me than that concept.

In college I wrote my thesis on Salinger: The Glass Family as Composite Novel. Heady stuff. I’ve taught creative writing using the short story “A Perfect Day for Bananafish.” I maintain you want to be a writer, it’s not enough to read that story. You have to type it. You have to physically replicate his words and punctuation, assimilating Salinger’s sentence structure and language before you can even begin to think about doing the same with your own.

When we designed the cover of the first Diary of a Wimpy Kid book in 2007, the color was chosen to evoke the Bantam paperback edition of The Catcher in the Rye. Its maroon background and yellow type was a subliminal signal that the lineage of Greg Heffley could be found in Holden Caulfield: Greg doesn’t like being
bullied or picked on but he bullies and picks on his best friend Rowley and his little brother Manny. He doesn’t like his brother Rodrick for being manipulative, but unlike his calculating brother, Greg manipulates without realizing he’s doing it. He’s Holden’s blood brother in phonyness. Their stories are both told in first-person, and their voices articulate the same dissatisfaction of adolescence. Jeff Kinney’s opening, “First of all, let me get something straight: This is a journal, not a diary,” evokes Salinger’s “If you really want to hear about it, the first thing you’ll probably want to know is where I was born, and what my lousy childhood was like, and how my parents were occupied and all before they had me, and all that David Copperfield kind of crap, but I don’t feel like going into it, if you want to know the truth.”

No eight-year-old reader was ever supposed to make the connection. I doubt Jeff was even conscious of the comparison when he wrote it. But it’s all part of the DNA of his story, a quality and a tone shared by just about everything written on the subject of adolescence published after Salinger cast his antihero out onto the cold streets of a New York City winter in 1951.

Charles Kochman is executive editor of Abrams ComicArts, and editor of the No. 1 New York Times best-selling series Diary of a Wimpy Kid by Jeff Kinney. A graduate of Brooklyn College and former editor at DC Comics, MAD Magazine, Bantam Books and Putnam, Kochman is a member of the National Cartoonists Society and the board of advisers for the Museum of Comic and Cartoon Art.

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**The Effects of Reading Novels: A Cautionary Tale, Circa 1910**

Our layout and design expert, Sue Livingston, forwarded us this story, which her neighbor, Rebecca Lallier, discovered while clearing out her late grandmother’s effects and thought would be of interest.

It was written by Lallier’s great-grandmother c. 1910, when she was about 12. The author went on to lead a most respectable life, continuing to read all the while.

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**Authors Guild Bulletin** 14  Spring 2010
CONTRACTS Q&A

BY MARK L. LEVINE

Q. My publisher reverted rights to me for my nonfiction book when all its printed copies had been sold, withholding only rights in France and Japan. The U.S. edition is still for sale on eBay and some other online sites. I asked my publisher when the French and Japanese rights revert to me and await an answer because I want to republish the book myself.

A. If your publisher reverted all rights to you except for the French and Japanese rights and you have not licensed those reverted rights to anyone else, you can go ahead and publish your own English-language edition. Before doing so, however, make sure that any permissions you may have received to publish copyrighted work of others in your book were not limited to your original publisher’s edition. If so, you will likely have to get those permissions again for your edition.

That English-language editions are still being sold on eBay and other sites does not prevent you from issuing your own edition since the books being resold are presumably copies that were originally published by your American publisher. Of course, if those books were published by a company to which your publisher licensed reprint rights and the book is still in print under that license, then you likely could not publish your own edition. That would depend on the terms of that license. However, since you say that all rights reverted to you except for the French and Japanese rights, I assume that is not the case.

Q. Before I signed my contract two years ago, my editor told me that the publisher would send me on a five-city tour and spend at least $15,000 on advertising my book. The book is about to be published, but the publisher is saying it has no obligation to do that and points to a section in my contract that says decisions about promoting and marketing the book are “in the publisher’s discretion.” Is it obligated to send me on the tour and spend the $15,000 on advertising?

A. Legally or morally?

From a legal viewpoint, the conversation with your editor is irrelevant, and it would be no different if your editor had sent you a letter or e-mail saying the same thing.

A long-established rule of evidence, the “parol evidence rule,” prohibits prior documents and prior oral agreements from being used in court to contradict matters covered unambiguously in a signed contract. Under the rule, a contract’s meaning is to be construed from within its “four corners.” The signed contract is treated as subsuming and superseding all prior agreements, fulfilling the rule’s purpose of providing certainty and finality to negotiations and the parties’ decisions.

The rule is difficult to circumvent. There are a few exceptions, but courts do not often find them applicable. The most potent is “fraud in the inducement”—the claim that you were induced to sign the contract by trickery or fraud, an exception rarely applicable in publishing contracts.

Many contracts make the parol evidence rule explicit with language like “This Agreement constitutes the entire agreement between the parties,” sometimes followed by “and supersedes any and all previous agreements and understandings, oral or written.” But even if a contract doesn’t have that language, the parol evidence rule still applies.

If your editor made a commitment to you during contract negotiations that you consider important and are relying on, be sure that its substance is included in the contract. If it’s in writing—a memo, letter or e-mail—you have two choices. You can either incorporate what it says somewhere in your contract, preferably in the same section that deals with the topic, or change the so-called “integration” clause to “This Agreement and the letter (memorandum, e-mail) dated [date] from [name of person who wrote it] to Author (Agent) constitute the entire agreement between the parties.”

If the topic is advertising, promotion or touring commitments, your publisher will likely prefer the latter, vague reference. For whatever reason, most publishers who are willing to make specific commitments in these areas (albeit only to select authors) are loath to put those specifics in a contract but are amenable to putting them in a separate letter. So long as it is very clear from the contract’s text what document is referred to, a reference to the document that mentions nothing about its contents will suffice for your purposes. This approach presumably also enables the publisher, if that is its goal, to continue to say “We never put such provisions in our contracts.” If your


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LEGAL WATCH

Derivatives Overruled

Pearson v. Nugroho,
U.S. District Court, Southern District of New York

In 2008, Pearson Education and Cengage Learning sued Henry Nugroho, an online retailer, for selling electronic copies of manuals that provided answers to questions posed in 130 textbooks published by Pearson and 57 textbooks published by Cengage. Pearson and Cengage had published their own solutions manuals, but because the manuals had never been registered, Pearson and Cengage were unable to assert direct copyright infringement. Instead, Pearson and Cengage argued that the manuals sold by Nugroho infringed derivative works of the textbooks themselves.

On October 27, 2009, Magistrate Judge Andrew J. Peck granted the publishers’ motion for summary judgment, explaining that the owner of a copyright not only has rights to the registered work, but also the right to “prepare derivative works based on the copyrighted work,” adding that a derivative work can “be complementary to, or fulfill a different function from the original.” Judge Peck cited Pasticia v. Behr and Addison-Wesley Publ’g Co. v. Brown, previous cases from the Southern and Eastern districts, respectively, that had found instruction manuals to be derivative works. As in those two cases, Peck explained, the instruction manuals sold by Nugroho complemented the plaintiffs’ copyrighted textbooks, had no independent economic value, and were meaningless without the textbooks themselves since the manuals’ sole purpose was to provide answers to questions in the textbooks. By appropriating a derivative market that the copyright owner had the right to develop, Nugroho’s online manuals infringed the publishers’ copyrights.

Judge Peck granted Pearson and Cengage statutory damages, which provide for a minimum of $750 for each of the works infringed, totaling $97,500 to Pearson and $42,750 to Cengage. As the court explained, since actual damages and lost profits can be difficult to prove, the Copyright Act gives copyright holders the option to receive statutory damages, which do not require the copyright holder to prove actual damages or harm.

Pearson and Cengage also requested a permanent injunction. The court explained that before an injunction is issued, the plaintiff must demonstrate: “(1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction.” Judge Peck found that the publishers satisfied all four factors of test: the publishers were presumed to suffer an irreparable injury from infringement; monetary damages were insufficient since Nugroho likely would not be able to satisfy the monetary judgment and did not indicate that he would stop infringing if no injunction was issued; the balance of hardships weighed in favor of the publishers, since Nugroho would forfeit only his ability to sell infringing solutions manuals while the publishers would lose sales of any future legitimate solutions manuals; and Nugroho did not show that an injunction would disserve the public interest. Accordingly, the court issued a permanent injunction preventing Nugroho from selling infringing manuals in the future.

—Katherine Kriegman
Legal Intern

Termination Blues

Penguin Group (USA), Inc. v.
Steinbeck et al. (Penguin I),
U.S. District Court, Southern District of New York

On December 2, 2009, Penguin prevailed in a summary judgment motion filed against John Steinbeck’s son, Thomas Steinbeck, and granddaughter, Blake Smyle. Penguin filed the motion to establish that Thomas and Blake were unqualified to terminate copyright grants made to Penguin in many of Steinbeck’s works, including The Pearl (1947). Penguin’s victory allows it to retain the terms of the copyright grants given to it in 1994 by Steinbeck’s widow, Elaine, for the duration of the copyrights, and prevents Thomas and Blake from renegotiating or terminating those grants. Under the termination provisions of the Copyright Act, authors or their widows and surviving children are generally able to revoke or renegotiate grants of copyright in their works after a certain amount of time. In its ruling, the Southern District followed the ruling of an earlier Steinbeck case in the Second Circuit and found that a renegotiation of the grant of copyright by Elaine Steinbeck extinguished the termination right for all other Steinbeck heirs.

The Steinbeck legal saga began in 1981, when Thomas and John Steinbeck IV (Blake’s father) sued
their stepmother, Elaine Steinbeck, over a 1974 agreement with McIntosh & Otis, John Steinbeck’s literary agent during his lifetime and since his death. The agreement gave Elaine 50 percent of royalties and Thomas and John 25 percent each on Steinbeck’s later works, including 
*
Cannery Row
(1945),

The Pearl
(1947),

East of Eden
(1952)

and

Travels with Charley
(1962).

Elaine and the Steinbeck sons reached a settlement in 1983. Under the terms of the settlement, the sons got the per capita, three-way royalty split they wanted while Elaine was given the sole power to “negotiate the exploitation and/or termination rights in the John Steinbeck works.” If Elaine exercised her termination power, the terminated interests would be distributed according to the Copyright Act, giving 50 percent to Elaine and 25 percent to each of Steinbeck’s sons.

Elaine never explicitly exercised her termination right, but in 1994, she entered into two agreements with Penguin for the publication of Steinbeck’s works. The first dealt with works published prior to 1940, including 
*
Cup of Gold
(1929),

Tortilla Flat
(1935),

Of Mice and Men
(1937) and

The Grapes of Wrath
(1939).

The second involved Steinbeck’s later works, mentioned above, and included Thomas as a party to the negotiations. The new agreements were meant to replace Penguin’s original 1938 agreement with John Steinbeck, and contained a “Termination of Previous Agreements” clause, which stated that the two agreements “cancel and supercede the previous agreements, as amended, for the works covered hereunder.” Elaine died in April 2003 and bequeathed her copyright interests to various heirs, specifically excluding Thomas Steinbeck and John Steinbeck IV. That bequest may help explain why she never explicitly exercised her termination right: if she had exercised it, the rights to the terminated works would be shared by her and the Steinbeck sons under the provisions of the Copyright Act. By renegotiating the contract, she was able to keep the rights solely in her hands.

In June 2004, Thomas and Blake sent notice to Penguin that, as the remaining statutory heirs of John Steinbeck, they were terminating any copyright grants made to Penguin before 1978 in the early works, including the grants made in 1938 by Steinbeck himself. The termination option is meant to give authors and their heirs an opportunity to recapture some of the additional value created by the longer copyright term created by the 1976 Copyright Act. In enacting the termination right, Congress recognized that authors often have little bargaining power when they first negotiate their rights, when the value of a work can be difficult to determine. The termination right gives authors the ability to realize the proven value of their work later in their careers despite an unfavorable initial grant of rights.

The portions of the Copyright Act that apply to termination of John Steinbeck’s works are 304(c) and (d), which deal with pre-1978 grants of rights. For such works, termination may generally be exercised either 56 or 75 years from the time the work was copyrighted. Termination may be exercised by the author, or, if the author dies before the termination time period, his widow and surviving children and/or grandchildren. If both a widow and children survive, as in John Steinbeck’s case, the widow owns one-half of the termination interest and the children own the other half among them. If a child dies, leaving a grandchild of the author, the grandchild inherits the shares of his or her parent. In response to concerns that publishers would try to force authors to sign away their termination right, Congress provided that the termination right may be exercised “notwithstanding any agreement to the contrary, including an agreement to make a will or to make a future grant.”

Accordingly, Thomas and Blake, believing that as the surviving heirs they were entitled to exercise a termination right, sent notice to Penguin of their intent to terminate Steinbeck’s grants of copyrights. Penguin brought suit, arguing that its renegotiation of rights

Legal Services Scorecard

From December 3, 2009 through March 12, 2010, the Authors Guild Legal Service Department handled 398 legal inquiries. Included were:

- 42 book contract reviews
- 8 agency contract reviews
- 18 reversion of rights inquiries
- 80 inquiries on copyright law, including infringement, registration, duration and fair use
- 7 inquiries regarding securing permissions and privacy releases
- 46 electronic rights inquiries
- 3 First Amendment inquiries
- 194 other inquiries (including literary estates, contract disputes, periodical and multi-media contracts, movie and television options, Internet piracy, liability insurance, finding an agent, and attorney referrals)

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CENSORSHIP WATCH

Google Takes a One-Two Punch. Remember when you were a kid and somebody told you that pasta was invented in China, and Marco Polo—who you discovered was a real person, not just a swimming pool game—was the guy who first brought it to Italy? Remember a few years later, when somebody told you that pasta didn’t originate in China and Marco Polo had nothing to do with bringing it to Italy? And remember after that, when somebody told you, Not so fast, maybe Chinese pasta is the forebear of Italian pasta (even though some other people swear pasta was introduced into the Italian diet by Arab soldiers)? By then the Internet had been invented, so you could go online, scroll through the available information and decide for yourself, right?

What does that recap have to do with censorship? Well, some perplexing things have happened to Google in China recently, and another perplexing thing just happened to Google in Italy. In both cases, the free-flow of information on the Internet, the ability to jump on line and read or watch or hear whatever someone has decided to post for others to debate, is at issue. Should content on the Internet be policed? If so, who should do the policing? Users? Providers? Advertisers? Why should any of them have the right? After all, everyone thinks they have good taste and good judgment, but most people—except for you—are wrong.

What about the state? The first reaction of many Americans would be “Absolutely not.” Our Congress, however, did enact the Digital Millennium Copyright Act, which shelters Internet service providers like Google and Yahoo from liability for content posted at their websites. US courts are however empowered to hold users accountable for libelous and invasive content they post at websites. What about a website that provides content? If a wedding party dance video never sees the light of day on YouTube because a provider pulls the material on account of the couple’s failure to obtain permission to use the song, would the world be a worse place? What if YouTube refused to allow the uploading of videos showing attacks against Uighurs in China, or government protests by Italian dissidents for fear of criminal prosecution? Is that better or worse, and who says?

This Happened to Google in China. In January, after years of cooperating with Chinese authorities by blocking display of results for terms like “Tiananmen Square massacre” or “Dalai Lama” on Google.cn, its Chinese subsidiary, Google announced that it would no longer censor search results in China and threatened to pack up and leave the country. By March, the company did just that. At least as far as search services are concerned. (For now, Google maintains a research and development and sale presence in China.)

Google.cn users are now redirected to Google.com .hk, a Hong Kong-based site which offers searches in simplified Chinese. Although Hong Kong is a part of China, the “one country, two systems” structure of governance means that Internet users in Hong Kong are not subject to the restrictions imposed on mainland China users. However, shortly after the shut down, one technology expert reported that some searches on hot-button topics were, in fact, blocked on Google.com.hk. In an official announcement, Google said “We very much hope that the Chinese government respects our decision, though we are well aware that it could at any time block access to our services.” The company has created a webpage summarizing service availability in mainland China that it has promised to update daily: www.google.com/prc/report.html#hl=en

When Google launched its Chinese website in 2006 and agreed to self-censor, it justified the decision with the argument that providing greater access to information in China would outweigh the harm that might be ultimately caused by the censorship. Despite criticism from free expression groups such as Reporters Without Borders, the chance to win a foothold in the vast Chinese market seemed to trump any corporate worries about bad publicity—until last December, when the company discovered that Google.cn had been attacked by cyber spies. The attacks focused on the Gmail accounts of human rights activists in China, presumably with the purpose of discovering with whom and about what they were corresponding. Gmail is reportedly popular with protestors in China because the email accounts feature added encryption and its servers are hosted overseas. Many believe the hackers acted with the knowlde and probably the approval of the Chinese government, but as we went to press Google had neither confirmed this nor named any suspects. What Google has said is that the hackers achieved only very limited success, obtaining account information but not contents from the emails of two activists.

Initially Google announced plans to dismantle the Internet “firewall” that blocked controversial search results from Chinese users. The firewall was briefly opened following Google’s January announcement, Continued on page 33
E-Rights + E-Markets = E-Turmoil?

An especially well-timed panel discussion on e-rights co-sponsored by the Authors Guild Foundation and the Association of Authors' Representatives drew an overflow audience to New York's Scandinavia House the evening of January 19. The discussion fell midway between the annual Consumer Electronics Show in Las Vegas, which showcased a raft of new electronic reading devices, and—following close on the heels of Apple's long anticipated rollout of its tablet, the iPad—the highly public standoff between Macmillan and Amazon over e-book pricing. The winner of that round, Macmillan CEO John Sargent, joined panelists Jane Friedman, CEO and cofounder of Open Road Integrated Media, agent Ira Silverberg, of Sterling Lord Literistic, and Susan Cheever, author of 14 books of fiction and nonfiction, to discuss the future of publishing in an electronic age. Michael Cader, founder of Publishers Lunch and Publishers Marketplace.com, moderated the discussion.

MICHAEL CADER: I'm going to clarify our intentions a little bit here.

Everyone on this panel tonight is here because they recognize the importance of meaningful, open conversation among authors, agents and publishers about the business contours of book publishing in the midst of this unpredictable digital transition. I'm sure that is why you're here as well.

While we may not always agree, we're here to discuss rather than to argue with each other. This is not a tea party; this is not a health insurance meeting. We're all ultimately on the same side of getting authors' works to readers, and preserving an ecosystem that makes that possible. That said, we should also bear in mind that this is a public forum; even though most of us are industry folks, not all of us are. This is a public discussion. Our participants are going to try to be as candid as possible, but there are going to be some instances in which business and legal restrictions will lead them to give less perhaps than we all desire and we're going to try to be as respectful of that as we can.

I'm going to introduce the panel briefly. I'm a big believer that people turn out in big numbers for panels like this because they know the folks, they respect them, they want to hear from them. So instead of giving the full-length volume description of people's many accomplishments, we're just going to quickly introduce Jane Friedman, cofounder and head of Open Road, latest step in a long and distinguished book publishing career; next to her is John Sargent, CEO of Macmillan; next to John is Susan Cheever, award-winning author of 14 books, most recently Desire, Where Sex Meets Addiction, and next to Susan is Ira Silverberg, of Sterling Lord Literistic.

I have a feeling at the beginning of this conversation that John Sargent is going to be fielding a minimum of at least 20 percent of the net questions, and I'd like someone to please monitor this. John, that means you get the honor of the first question. Apparently you've asserted a position on electronic rights and royalties and the overall economics of the book business that hasn't won a lot of fans in the agent-author community, so I'd like to let you start us off by explaining more about where you're coming from and what you're trying to achieve in the proposals that you've made.

JOHN SARGENT: Thank you, Michael, for that surprise first question. The proposal we made—which went out initially in a contract we sent out to a few agents to get their initial response—was later published in The New York Times. Essentially what we did was try to determine what the correct percentage of net proceeds would be on the electronic side of the business. We took our P&L out and we said, okay, what is the net proceed sales we currently pay out as a percent of sales? What is our royalty? And if you add together all the royalty expenses, mass market paper-
"Do you foresee a combination that would make it possible to pay different royalties for different types of books at different points in their lives, as you do on the print side?"

—Michael Cader

back, trade paperback, high discount, premium sale, everything all in, it turns out we pay authors 18 percent. I said okay, under 20, I’ll round it up, 20 percent—literally that simple. We batted it around. We heard that some people were at 25, some people were at 20, we thought, well, 20 is right for our house, for the publishing we do. Mathematically that is the correct number for us and so we rolled it out, and I’m delighted to say everyone said, Oh that’s a fantastic idea.

We got a whole bunch of feedback I would say—pretty much within a couple of hours. Okay—it was less than satisfactory in the minds of many in the agent community. So what we’ve been doing since is gathering up the information that people have been so frank with us about, and if you’re asking where are we now on the percentage royalty, we haven’t officially changed our stance, which is 20 percent, but we understand that the marketplace as we understand it is now at 25 percent and so we are flexible in our royalties as we go forward. Did that answer the question?

CADER: Does that mean you’re going up to 25?

SARGENT: That means we will discuss it in every case—in every case we will discuss going up and we reserve the right to issue a sort of 1.1 draft to another few agents which will hopefully not end up in The New York Times.

AUDIENCE: It’ll end up in The Wall Street Journal.

SARGENT: At the end of the day, it’s an evolving marketplace. I can tell you there have been substantial changes since that exchange, which actually makes me believe that if you look at some of the reporting that’s being done around the agency model—if you look at the percentage splits in the Google agreement, it actually makes the 20 percent look better, not worse, as far as the proceeds to the author. So I’m still not sure that isn’t the right number. But what I do know is we’re not at the end game yet and we don’t know what the right number is. So we’re going to have to be flexible until the right number becomes clear to us.

CADER: In trying to determine the right number, it sounds like you made a decision that you wanted a single number rather than a number that applied to different editions of the book and different parts of its life. Do you foresee a combination that would make it possible to pay different royalties for different types of books at different points in their lives, as you do on the print side?

SARGENT: The problem is, it isn’t actually a different product on the electronic side. It’s a different age but it’s not a different product, and the way royalty rates were established historically depended on the format of a book and the cost structure and discount structures of that book. You don’t have that in this case. What I can tell you is I do not know at this point what the right answer is going to be. I think we’re in a state of constant flux and we’ve got to try to understand where the business is going, and make the best deals possible given our business perspective and yours on the other side of the table. I don’t think we’re at the end point yet. We have to realize it’s going to change over the next four or five years.

CADER: Given the spontaneous feedback that you received from your colleagues and partners, did you wind up actually implementing the new schedule, or have you postponed it? And have you found it inhibits your ability to do business in certain respects?

SARGENT: No, it hasn’t inhibited our ability to do business. In fact, we haven’t negotiated a single contract yet, but we have had discussions with several agencies on pending projects, so it seems that we’re coming to an agreement.

CADER: Ira, do you want to offer a take on this? The agent’s perspective?
IRA SILVERBERG: I have many things to say. Because we’re at an Authors Guild event, I need to go down a certain path. I look at this room and see a lot of authors who are at different places in their career, and what strikes me is how essentially unfair it is to be taking an average based on a print book and applying it to a new format and then telling people, “Well, depending on how good your representation is or how

“The way royalty rates were established historically depended on the format of a book and the cost structure and discount structures of that book. You don’t have that in this case.”

—John Sargent

much power your representation brings to the negotiating process, we’ll be flexible, and perhaps, as this moves along, we’ll change it again.” It feels like a little bit of corporate doublespeak to me. I work in an agency where I’m sure we could go in and demand the 25 percent and that’s great. But I’m also looking at the people who may not have that clout. At a time when we’re reinventing the business, for lack of a better term—we’re in a very, very big transition—is it not the moment to think about playing it a little straighter?

SARGENT: This is no different than it’s always been. If a very big author comes to us with a very powerful agent, they don’t get the exact same deal that an author coming in off the street with a first novel gets. Never have. What we are trying to do is go through a negotiation process first with a major agency. We have been through this already with folks at the Authors Guild. They are working very hard to represent what you would call the un-agented authors, and I think we’re making progress. I think by the end of the process we’ll come up with something pretty straightforward that I believe you will not think is doublespeak. But it’s a process and I’m not going to do it piecemeal, you know; I’m not going to change the royalty rate today, change something else tomorrow, we’re going to do it as a whole.

SILVERBERG: So, let’s get to backlist for a moment. I’m specifically interested in those books that are a lit-
tle bit more forgotten and which I assume you’re digitizing and will make available as e-books and maybe print on demand? I don’t know if that’s part of what you’re planning.

SARGENT: Well, at the end of the day if you have an electronic file and you pay for the conversion there’s no reason not to.

SILVERBERG: So those books—which I would imagine, if they sell, are a pure profit center insofar as it’s deep backlist—whether written off the unearned advance or not—

SARGENT: Or not. It doesn’t matter.

SILVERBERG: To me there’s a really significant difference in backlist and front list when it comes to conversion to e-book. It feels to me that when a book is out of print—essentially out of print is out of stock—and being brought back, a larger share should be going to the author because the expenses you have are lower. The marketing expenses are lower, there’s absolutely no print, paper and binding. We’re assuming all of that was written off years ago and that’s why I’m trying to understand the rationale, in that there are fewer costs involved in making this product.

JANE FRIEDMAN: If we’re talking about backlist, let’s go to the beginning and see whether the publishers have the rights for the deep backlist. Before we discuss royalties, one has to know who has the rights, and

“It feels to me that when a book is out of print—essentially out of print is out of stock—and being brought back, a larger share should be going to the author because the expenses you have are lower.”

—Ira Silverberg

I think that would be of interest to an awful lot of people in the room and to Open Road. I think that the most important thing is to resolve that first.

I want to say something about what John said about writing a new contract and all the issues that come up. It takes forever to write a new contract and to get it passed through everybody’s hands, and I say
that with great knowledge because I was at Random House in 1994, when a new contract was written that included reference to e-rights.

But I think that the issue we have today goes back to something you said about us being in transition. I don’t think we’re in transition. I think we have to face the fact that we are in a revolution. It’s not an evolution, which is what I have been calling it all along. This is a revolution. I have been a publisher for forty years. I have spent my career at two places and I feel very strongly about all the books that have come out during those forty years. All of us in this room love the publishing industry, I assume, and all of us chose the publishing industry because we believe in bringing

“We believe in the deep backlist—that authors deserve to come back to life, and we would like to bring some of those authors back to life.”

—Jane Friedman

the words of authors to the public. And I think we now have to look at where we are headed with what we are doing as a publishing community.

Susan Cheever said when we walked in, “Let’s not talk about, you know, ten points here and ten points there, let’s talk about where this industry is going.” And if this industry is going where I think it is going, it’s not that there won’t be books. Of course there will be books—books represent civilization. Hardcover books will exist, paperback books will exist, as they should, but we are entering a digital revolution that if we don’t embrace we’re going to be in real trouble.

CADER: Jane, since you’ve raised the question of how we are going to resolve this problem of electronic rights, particularly on these legacy titles, what pathway do you see to resolution? Is it going to take litigation? Is there anything absent litigation or the admission of parties who might litigate saying, “We’re not going to litigate” that will make this clear? You’re in the hot seat, so how’s it looking from where you sit? Do you expect to go to court soon?

FRIEDMAN: I would like very much not to go to court. I would very much like to have a friendly resolution. I think that interpretation of contractual language is something I am not able to assess. I’m not a lawyer, but there are lots of lawyers who are going to be involved in this before there is a potential litigation. I wish I had the answer. I don’t. If someone has the answer in this audience I’d love them to tell us because this is the core of it all. But we’re talking about deep backlist only: we’re not talking about front list, not talking about books from about 1992 or 1994, when it was clear these rights were written into a contract, so I have to say, I think we’re wasting a lot of time on this.

I think that this has been the major thing that has been in the papers about Open Road Media and that is not the major focus of Open Road Media. We believe in the deep backlist—that authors deserve to come back to life, and we would like to bring some of those authors back to life. Many of those authors I worked with, many of them I didn’t, but my children are not reading some of the books that I read and that I think they should be reading. We’re a specialty company. There will be other companies like us that will specialize in the marketing of backlist and I just think that we’re wasting precious time by not having some of the books available that should be available.

SUSAN CEEVER: These are very interesting conversations—who owns our e-rights, how much we’re going to get paid for our e-rights—but it seems to me that these things are going to be settled in court and through negotiation. We have excellent agents; we have lawyers. Some of these things have already been settled in court, so now it’s going to be litigated about whether those settlements actually stand.

What I think we should be looking at is what Jane is talking about. We’re in the middle of a whirlwind. It’s like the invention of the printing press. Nothing like this has happened for centuries. It’s an amazing time to be a writer and a publisher and an agent, and I’m wondering, is this going to change the way we write? Is this going to change the way we read? As a writer, all I care about is my audience. Is this going to change my relationship with my audience? If I know that what I write is going to be digitized and available chapter by chapter, am I going to start writing chapter by chapter? And those are the things that I think will keep us a little ahead of this breaking wave. I think if we get mired in “Is it 20 percent or 25 percent?” we’re lost.

SARGENT: That’s a noble spirit. I’m going to think on that one for a minute. It’s an excellent point and it raises a whole set of secondary questions. As you know, publishers increasingly look for authors to bring an audience with them, so publishers can help exploit it. At the same time, it also implies that what authors are looking for from their publishers, more
than extra points or specialty discounts or rights provisions, is an audience.

CHEEVER: Absolutely.

SARGENT: So you’re left with two parties who each want the other one to bring to the table the thing that they want the most.

CHEEVER: Well, we do bring that. It’s a good relationship between an author and a publisher because we do each have something the other wants. But this is one of the big questions: Will we authors be able to go directly to our audience without needing a publisher the way we do now? There are a lot of big questions we don’t have the answers to but which we need to be looking at.

SARGENT: Can I try that one?

CHEEVER: Sure, since you’re not my publisher.

SARGENT: I think the question is, “Is there a need for a publisher in the electronic market?” If you start with backlist, the very deep backlist which is orphaned or not represented—which is covered pretty much now in the Google class action settlement, where there’s rates set up pre-mid ’80s/post-mid ’80s different splits. All the rest is actually contract law. All of us have different contracts, so you know what isn’t an issue for me might be an issue for HarperCollins, what is an issue for Random House might not be an issue for Penguin. It’s all in the interpretation of the individual contract, and thus it has to be.

So that isn’t actually an industry issue. It’s a publisher by publisher, large to small backlist issue as far as who has the rights. I think if you look across the publishing community, and I can speak for us particularly, this has been a very good relationship. We have not exploited rights on electronic works that we have the rights to unless the authors have been happy to do that.

We’ve done it. If it’s a question of the rights we ask the author, “Are you happy to go, here’s the deal, please tell us,” and they say, “Yeah, fine, please exploit it,” and we do. If they say don’t exploit it, we don’t.

FRIEDMAN: Are you talking front list or backlist?

SARGENT: I’m talking backlist and in this case front list as well. Almost across the board we have had authors who have said, I don’t want my front list electronic rights available day-and-date. We haven’t made them available day-and-date and it’s not been—at least for us—an antagonistic process. Have we had some friction points? Absolutely. But you look across a vast swath of 23,000 books and there are very few where this has been a source of conflict. So I don’t think there’s a ton of contention there and I think there is great value. When I look at what my day is now comprised of—the complexity of publishing a book in the new world—if you want to go straight to Amazon and get it on the Kindle, fine. That’s actually pretty easy and you get a nice big cut, but Kindle is going to be one of hopefully eight or nine major players and the platform complexities and DRM [digital rights management] complexities are enormous.

Delivering this stuff in the right way to all the platforms simultaneously is actually a relatively complicated thing and so is marketing it. If you consider that every author goes directly to Amazon, okay, it looks good, now I get a bigger cut. But you have thousands and thousands and thousands of books coming out and Amazon doesn’t actually market them; it gives them a page and that’s that. So I don’t actually see that shift as, You don’t need the publisher anymore.

FRIEDMAN: I’m not sure that’s exactly what Susan meant. I think the most important thing today is having the direct relationship between the author and the reader, and that does not mean disintermediating the publisher. The publisher has certain roles that are significant and I think that all publishers should continue being publishers. But I have to say that the thing that

“This is one of the big questions:
Will we authors be able to go directly to our audience without needing a publisher the way we do now?”

—Susan Cheever
bothered me most about the Jonathan Galassi piece in The New York Times [January 2, 2010] was calling Open Road a distributor. We are not a distributor. We are a publisher, and I want to go on record saying that.

But I think that for all the years in traditional publishing, the most important thing for us was word of mouth. You’ll all agree to that I’m sure. We’d get a front-page book review and you’d get on the Today show and you could do all this kind of marketing. But if you didn’t have word of mouth your book didn’t sell. Today we feel that the author is not bringing his or her platform; it’s publishers marketing authors directly to the consumer that I think is the most important.

Part of the issue today is that the consumer has such a short attention span. We have to look to the generation of consumers coming up. We’re not talking necessarily about a lot of people in this room; we’re going a little bit younger—it’s all right; I’m including myself in that. These young people are used to multi-

ple screens, multitasking, and boy, if they want a book, they want it when they want it, how they want it and on whatever device they have with them.

CHEEVER: Are you saying that the publisher is going to create the word of mouth? It sounds to me as if those are two different things—in other words, what a publisher can do for my book is one thing and word of mouth is another thing.

FRIEDMAN: I’m saying that the publisher as a publisher should be marketing to increase that word of mouth. I’m saying it is not so much that the author has to bring a platform as that the publisher has to create that platform.

CHEEVER: Can I just clarify what I was saying about “Do you need publishers?”

FRIEDMAN: Yes.

CHEEVER: That statement was meant to broaden the conversation so that it isn’t each of us in our little trench in a lather about it—and by the way I have the best trench because it’s the author that creates the thing that all this fuss is about. But I think that instead of us all being in our little trenches, it would be nice if we could look at what’s happening around us, which is huge and far greater than a couple of points. Is it going to change the way we read? Is it going to change the way we write?

SILVERBERG: It will, Susan. I’ll give you a great example. Little, Brown is taking David Foster Wallace’s Infinite Jest and working with a software company that is putting it up on iTunes, and you will be able to click through to the book’s massive footnotes. The reading experience will actually change. His estate authorized it. As someone who knows that book, this brings it to the next place. It becomes alive again.

I think authors will have to work with their publishers to figure out what makes sense for their readers. There is something we’re all talking about called the Vook, which is adding all sorts of components, audio and video, to the experience. From author to author to author I see that happening and I hope publishers come into the next frontier with it because if they don’t I think those of us who represent writers will look to new entrepreneurs to do those things. It’s not enough to just digitize a file but important to try to understand the audience a little bit better. Not that my job is to defend publishers, but I also think marketing—this vague term that we throw around—gets to issues of working with retailers and promoting things in ways that an individual would have a harder time doing, because they don’t have the volume.

To get back to what Jane was saying about the av-
verage age in the room, I think that you’ll be seeing our children, our students, our colleagues, doing new and interesting things and that’s why people like me get hung up on numbers.

Because I do think that this world will evolve and change and those of us who look after writers want to make sure they are getting a fair piece of that. As I said, there’s no paper, so we’re looking at: If cost X is taken out, how do we compensate? And if the author’s actually bringing new components to this process and engaging in more activities with publishers, how do we make sure that is compensated?

In the near future, people will be able to see books, read books, experience books in a number of ways the traditional publishing industry has not talked about. The excitement they’ve talked about, the numbers we agents have talked about, and I’m delighted that you’ve made this part of the conversation, because I think what we began with were some very basic ideas and this may be the departure point for how Macmillan and Open Road will get us to the next place. I looked at your boilerplate over the weekend, John, and I thought, Someone there is forward thinking. Suddenly multimedia is a part of this contract and it wasn’t before. So I wonder where you see this field going as it affects writers and what those possibilities might be?

SARGENT: There’s a wide disparity in the industry about what’s happening now. You hear a lot about price point and protecting the value of human life and property and all that. We’re all playing this very complicated game of chess with people whom we can’t legally speak to. We’re trying to get the best end result, which is to protect for the publisher/author half of the equation the biggest piece of the pie we can. Some of the things we do might look irrational to you, might even look stupid; they’re means to an end, they’re not meant to be for anything more than short-term positioning in this game. Probably in the next six months the hand we’ve been dealt will be played out, and how much we keep on the author/publisher side of the equation will be determined. Rights and price points for future electronic versions of books as they exist today and as they exist tomorrow—the basic foundations of that will be set in the next six months.

So what do we do when we look forward? I’m different from a lot of my colleagues around town in that I actually don’t think reading a novel and pausing in the middle to see a three-minute piece of video is compelling. First of all, a book is based on your imagination. You’re supposed to make up what the character looks like; you’re not supposed to see it.

SILVERBERG: But for a yoga book?

SARGENT: Exactly. For DIY, cookbooks, things like that—absolutely. A piece of video shows you how to do something. There are certain ways to go for it, including making it as handsome as you can. A lot of it has to do with the social networking aspect. How do you connect the author with their audience more directly, as you were saying, Jane, other than to establish relationships? There’s a lot to be done in that area. I’m hoping desperately that we don’t end up with the equivalent of USA Today versus The New York Times, where all we’re reading is 100-page novels. But you see it happening already, the shortening of the book. I don’t think novels are going to be sold by the chapter effectively but I think reference and nonfiction will, ab-

“In the near future, people will be able to see books, read books, experience books in a number of ways the traditional publishing industry has not talked about.”

—Ira Silverberg

olutely. Sell it by the chapter if you think you can. Kids’ books are entirely different. There’ll be a lot more multimedia aspects. To be honest with you, the greatest creative force we work with is the authors, so we are counting on the authors to come up with all kinds of new cool things to do with the written language that we will support.

CHEEVER: I think what you’re going to hear from the authors is that they want to get paid. But I have a question. In a book, say, about the Civil War, which certainly could be bought by chapter—you just want the chapter on Fredericksburg, okay—will we start writing that way, and if we do, will we start having contracts by chapter?

SARGENT: No. What you will do, with our encouragement, is, you will try to write nonfiction, you will try to write in blocks, chapters. For reference material, to market it effectively and to maximize the impact for us and for you, there is going to be an urge to say you’re writing a Civil War book and you’re covering this battle and this battle, and hey, it’d be quite useful if we could put those two battles into two chapter chunks, tag them as XML [an electronic format for making text interactive] and be able to deliver them
separately. One of the reasons the Macmillan contract is going to net proceeds as opposed to list prices is it’s a lot easier to sell pages on a net proceeds contract. So that is a preview of the world we’re coming into.

FRIEDMAN: I just want to say one thing and Susan knows me well enough to know I’ll be short. The thing is this: We are at the most exciting time in publishing in all the years that I remember. Instead of us talking doom and gloom—I am out of the mainstream at this point but I think when I was involved in the mainstream I also said it—“Let’s think positively.” We don’t know what writers are going to write; when you ask how you’re going to write, we don’t know. What we do know is that people are going to read differently. And what we also know is that the author is the brand; the author is the person we are bringing to the public. I think this is so important.

Vook is a unique kind of opportunity. It may not be for everything, but we believe very strongly that on the marketing side it is essential to use videos and to use the social communities to market the author’s work, to bring the consumer back to the e-book itself. My partner is an award-winning movie producer and we’ve got a movie eye on all of the projects we’re working on. That’s terrific, but that’s from a marketing side. We’re not looking to disrupt the process. I think that’s something else. But if publishers want to deal with disrupting the process for nonfiction and do-it-yourself and DIY, then that’s great.

But I just want to say we should all be rejoicing. We are entering a period of, I think, such brightness for authors. You can write what you want to write in whatever way you want to write it, in the reasonable hope that you as a published author, and other authors who are not as yet published, will find the right kind of publisher to publish that book.

CHEEVER: If I had my deep backlist with John, say, and either I didn’t like the way you were planning to publish me or felt that you were ignoring things—you know, eleven novels ago—or say I’m an author without an agent, my agent died three years ago . . .

SARGENT: Okay, there are some folks in the room . . .

CHEEVER: We spend our lives essentially, other than nights like this, in isolation. That’s what we do. We tell ourselves stories. If I don’t like what you did, can I say, you know what, this isn’t working, you’re not publishing, you know my first four novels aren’t out there, I’m going to Jane at Open Road.

SARGENT: The answer is probably no different than it has always been in publishing. If you are adamantly opposed to us publishing the book, we go to the contract to see who has the right to that work. If we have the rights to the work, we become more obstinate, you become angrier with us, and eventually you probably rupture the agreement we have and leave to go to someone else. Do you take your backlist with you? Well that’s a long and weighty thing. It depends on how much money we’re making on the backlist, how much the new publisher is willing to pay you, and how we split that. But that’s no different than how it’s always been.

We haven’t had that issue. We’ve had a few people we’ve disagreed with, but we have honored the author’s wishes. If they want out of the Google settlement they opt out of the Google settlement. In the future, when we pay an author an advance, we are going to expect to exploit that. So if digital becomes 30 percent of the business and the author all of a sudden says, you know, I don’t want to do the digital, and you’ve already paid an advance for the digital, audio, world rights, whatever we did, we need to exploit that. When digital was not a significant business, we were more flexible than we will be able to be when it’s a big chunk of the business. But it’ll be reflected in the advance. I’ve got to say, over the years, publishers have been pretty good at spreading the wealth back into the author community—perhaps not equitably and evenly, but as soon as we get a little money we bid like hell against each other and spend a lot, so I don’t actually see that changing, unfortunately, from our side of the table.

FRIEDMAN: The real issue is how much are electronic rights worth, and nobody knows that yet. We all got very excited ten years ago when the Rocket Book came out and we thought we were all going to have a big business in digital; nothing happened there. We now think this is for real, but nobody knows what it’s worth. The number of devices coming out is mind-boggling. My partner was at the consumer electronics show and actually quite surprised that other publishers were not represented on the floor. As somebody from Huffington Post blogged, Where were the publishers? Where were the content providers? Well, we were there, and I assume other publishers were there, but we didn’t see any in the e-book section. The thing is, with all of these devices coming, how do we know what the audience size is? We don’t. How big can it be? We think it can be enormous, and we think in our case and like all the traditional publishers, we want to share that in some way with the author. It just depends on what we think the different splits should be.

SARGENT: Right now we spend an awful lot of money to publish a book. With electronic, we don’t print the book, but all the other costs are the same.
We’re operating with a foot in each world. We won’t be able to get rid of a warehouse for the foreseeable future, so we have overheads in both worlds as well. We have to build the digital overhead now—server farms, databases, electricity, air-conditioning. There’s a tremendous amount of expense to set the system up compared to the revenue that’s coming in. We do college textbooks as well as trade books. Last year we spent $10 million, roughly speaking, on digital infrastructure. That’s more than our entire digital revenue was last year.

So at this moment, are the publishers making money because they’re not printing books? No, we’re not. Might we be in the future? Sure. We might—if we can keep the current ratios of what we get for the intellectual property in place. But I think it’s pretty clear that that economic picture has shifted. The perceived value of an e-book to an e-book customer today is somewhere between $9.99 and $12.99, and maybe lower. That is something that gives us concern—the amount of money coming into the system for all of us. How we break it up between us is another issue.

SILVERBERG: I feel I really need to address the digitization issue. It’s part of your business to digitize, but I think the issues around print are real for writers, in that there is a unit cost involved in making a book. I want to work in collaboration with traditional publishers and new publishers, and I want to do what’s right for my clients. But publishers can get a little defensive about “how much money I spent digitizing those books.”

SARGENT: It’s not actually digitizing at all. That’s 200 bucks a book, but the money you save on a paperback is a dollar a book, right? So you do save something. But the revenue coming in when the consumer price drops, shrinks more than that.

SILVERBERG: Here’s what I think sits on top of a lot of these particular business issues, and I don’t know if any of you have a good answer. I’m in a position of being able to talk—not for attribution—to a lot of people on both sides of the fence. And what I hear a lot, particularly recently, is that the underpinning of trust among partners in making all this happen is eroding.

FRIEDMAN: Between agents and publishers?

SILVERBERG: Between agents and publishers in particular, which I think refers back to authors, who want to know whom to trust in this process. The bad news for most authors is, your advance is going downward. That’s not a trust issue; that’s an economic livelihood issue, because that’s where the business is now. So if your advance is going to go down, you want to see if you’re going to earn more money from everything else or from the things that you wrote previously. Otherwise you need a different job. But I hear from publishers who feel as if they have to be going from agency to agency explaining the economics of the business and presenting spreadsheets to let agents know why their cost structures are the way they are and how they view this. At the same time, I hear from agents who feel locked up, because most of them would like to keep legacy rights with a legacy publisher whether they’re there by contract or not, but they feel the constant threat of lawsuit. The inability to make a free set of choices about what looks like the best decision for their client under the law as we currently interpret and know it is logjamming them.

The third element is that some of our retail partners are extremely aggressive and have a different idea of how this all might unfold.

CHEEVER: What we really need to be doing, as Jane
says, is be excited about this. Writers need to be thinking more about readers, and publishers need to be thinking about different ways of publishing, and agents need to be thinking. Wow, there are all kinds of new things to negotiate on behalf of my writer, but you know, when you have change people go to the mattresses.

FRIEDMAN: And when you have an industry that is in flux, when you see that traditional retailers are complaining about their sales, when you look at your bottom line, and when most of the legacy publishers have a very significant EBITDA [Earnings Before Interest, Taxes, Depreciation and Amortization] to protect.

John, you’re a legacy publisher. I was a legacy publisher. It is what it is. Sorry you don’t like being called a legacy publisher. I’ll change the word legacy to traditional.

SARGENT: No, that sells us a little short.

FRIEDMAN: Why? You have a long legacy and you have a great big backlist to protect.

SARGENT: Well, I can disagree with you. Our large retailers have been making a business of doing “own brand” publishing for quite some time now. They all do it, so the agents going out to Seattle [Amazon headquarters] is not a troubling experience at all. I don’t disagree that we are at loggerheads, the agent community and the publishing community. I think we each are trying to protect certain aspects. We see things differently. But I have yet to have an argument with the boilerplate that we set. I did not have unpleasant conversations, I have not had any conversations that I feel are antagonistic; no pounding the table. We’ve been having discussions in many cases point by point, to try to find a way we can come to an agreement on what a contract will look like—as we did with audio rights. The difference now is I write a letter to ten agents and it appears in The New York Times. In the old days I’d write a letter to ten agents and ten agents wrote back to me. That is the difference and that is causing this huge upheaval.

SILVERBERG: I sort of disagree. In Seattle there were no sweet nothings whispered. A dozen of us were brought out there to answer the question, Why don’t we have electronic rights on your clients’ books? And it was a very simple answer, which is, We don’t have an agreement, we’re not there yet, we’re sitting on everything and we are in process. It was the first time agents were actually put on the spot. So the triangulated thing is new for many of us. I think almost everyone in that room agreed we would love to work with you on new books, to get those books out. There were a lot of opinions about that, but many of us will not sign those amendments until we are assured that the splits are appropriate for our clients. We’re really angry about our clients’ brand new books being priced at $9.99 and the community of publishers not protesting themselves, not that we’ve heard.

SARGENT: Let me interrupt for a minute. There is a law in the United States—we [publishers] can’t talk to each other—that’s called a horizontal monopoly. We can’t talk with our retailers—that’s called a vertical monopoly. We are not allowed to discuss the $9.95. We are doing everything we can to try to protect the value of our intellectual property, but that’s about all I’m allowed to say.

FRIEDMAN: The only thing I will say to that is for time immemorial we had a suggested retail price on books, so there is no way a publisher can demand a retailer to put a price on a book.

SILVERBERG: But a publisher cannot make as many

“I’m in a position of being able to talk—not for attribution—to a lot of people on both sides of the fence. And what I hear a lot . . . is that the underpinning of trust [between agents and publishers] in making all this happen is eroding.”

—Ira Silverberg
titles available. I mean it’s interesting how the burden seems to have been shifted.

CADER: That’s what’s happening now, right?
SILVERBERG: That’s a point very well taken.
CADER: We’ve got a question from the audience.

AUDIENCE: I’d like to know what the function of publishers will be in the future. No overhead, the agents will no longer—sorry, Ira—have a monopoly on the doorway, but also there will be no monopoly on distribution; the retail establishment will disappear as time goes on. Don’t expect to have 800 stores like Barnes & Noble. What will your function really be? What will you do to market millions and millions of books? There will be over a million books digitized in the next year or so. New devices will probably make that number go into the twenty, the thirty millions within three or four years. As publishers, what can you really do for us as authors?

SARGENT: That’s a good question. I think there’s a lot we can do, and actually, the more clutter is out there, the more we actually do for you. A view you may disagree with, but if you have a world where there are no barriers to entry to publishing a book, which is what you are talking about—I as an author can put my book up directly, I can go through my cousin who’s doing it, I can go directly to Amazon—there’s this huge amount of what some of the technology guys call signal vs. noise, right? We’re in a world full of noise and all we want is a signal. What should I read next on my Kindle or my computer? It’s the same as it has always been.

If you go into Barnes & Noble, there are a hundred thousand books in there. How are you deciding what to read? Well, someone has generated enough interest in that book to get some word of mouth going. There’s a review of it; there’s something. It’s the same thing it’s always been, but what’s happened is, the way we will connect is changing. Our job function as publishers has always been to look at a vast supply of manuscripts and figure out which ones are salable or worthy. You take that combination of commercial and literary and put together a publishing list, and you go to the world and you say, We believe this is the list of books you should be reading. In the old world we did that through advertising, reviews, publicity, word of mouth. In the new world, we’re going to use a lot of different mechanisms that are actually quite difficult and complex to use. Right, it is not that easy to get viral. You know you can get viral marketing on YouTube, it’s great: You can have eight million people looking at your video, and you can sell six books from it. There is a ton of expertise that’s going to go into these things as they evolve, but they’re nowhere near there yet.

The way you get social communities to actually pull the trigger and buy is unknown at this point. There’s a ton of experimentation. We’re doing it; all the industries are doing it. We will slowly find out what works and what doesn’t and we will take your writing, we will put it out there, we’ll manage the distribution of it efficiently, we’ll protect the copyright, put DRM on it—or not if we are in a DRM-free world—but we will corral the revenue that is to come. We will get people to read your work, we’ll take that revenue, we’ll split it with you, just the way it is today. Different method.

"I don’t disagree that we are at loggerheads . . . . We see things differently.
But I have yet to have an argument with the boilerplate that we set. . . . I have not had any conversations that I feel are antagonistic; no pounding the table."

—John Sargent

CHEEVER: The goal for a writer, at least for me, is not to get the book published; it’s to get people to read it. It’s becoming easier and easier to get a book published; the question is how can I get it in the hands of the people whose lives it will change, which is my ambition of course. What I hope publishers will continue to do, and what they have done in the past, is to help me with that endeavor, and I think that will be, if anything, more important.

FRIEDMAN: That’s exactly right. It is going to be more and more important to cut through the clutter. What John said is absolutely true. We’ve been cutting through the clutter forever, but now there’s even more clutter because there are so many people publishing their own books. We haven’t even touched on the self-publishers and the fact that last year there were more titles self-published than were produced by traditional publishers.

You have to cut through the clutter. So it’s all going to be about marketing. There’s going to be a tremendous amount of experimentation. We’re going to have
to be smarter than we’ve ever been; we’re going to have to listen to people who know more than we know. We’re going to have to be very much a part of that universe. Reviews don’t exist to any great degree anymore. We still have some, but now the blogosphere is so cluttered that now sometimes a blog will bring a book to the right attention and sometimes it won’t. What we’re really talking about is that the publisher’s role is going to be more and more how to help the author reach the reader in whatever way is possible.

SARGENT: What we’ve done is we’ve taken the books that sell the most, and we’ve converted them first, and we’re working our way down. So the books that we’ll do this year will be deep backlist books and I’ll be dead honest with you. We’re not going to market those at all because we’ll be working on the front list books and the bigger backlist books. As we put them out there, we’re going to make them available to the search engines, we’re going to “search optimize” them, so that when someone types in words that are in the book, they will pop up first. So we will get eyeballs to them not through human intervention but through technology. By the words that we put in the marketing materials when we describe the book, we will search-engine optimize them. That’ll get traffic, but then they’ll have to sell themselves because there are so many of them and we need to concentrate on the books we’re publishing today and the active backlist.

FRIEDMAN: Okay, so can I say what I would hope—after I apologize for legacy publishing—is that we will fill that void of deep backlist. That’s what we’re hoping for. I want to work with traditional publishers, as we are ready to market deep backlist. Because, as John says, there’s only so much that a publisher can handle when it has to market the front list. So companies like mine will come up—and mine is certainly not going to be the only one to appear—but companies like mine will take that deep backlist and do more than the search optimization, and, we hope, sell more e-books and also more print copies of the books if they are still available.

SILVERBERG: Jane, have you been working collaboratively with traditional publishers or has it all been combative?

FRIEDMAN: No, it’s not been combative at all. There’s a lot of misunderstanding about what we’re doing, but we have a marketing partnership with Kensington, because we know that niche titles sell very, very well. We’ll be launching five authors and about sixty titles from the Kensington list in March. That’s the kind of partnership I would love to have with all the imprints at Macmillan. We are talking with Grove. We have also just signed a contract with a company that I cannot name yet but which is a traditional publisher, to do their e-marketing. I would like nothing more than to be able to sell more copies of print books along with our e-editions with the traditional publishers.

CADER: Jane, in those Open Road-to-publisher relationships, is the cost of marketing 50 percent of receipts or is it a different economic structure?

FRIEDMAN: We have a 50/50 partnership with the publishers, and though we have some costs that have

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—Susan Cheever

...to come off the top, we don’t have the same costs as the traditional publishers have.

AUDIENCE: As far as writing and being paid month by month, chapter by chapter—Charles Dickens wrote that way. My question is, What trades are actually taking place now? What are folks actually paying for e-book royalties?

SARGENT: At present, when we buy a print version we buy volume rights, we also buy electronic rights and thus it has been for us, I don’t know, since the late ’80s? Fifteen percent of gross as of contracts we signed last year, 15 percent or less.

AUDIENCE: Fifteen percent?

SARGENT: Fifteen percent of list, like a hardback.

AUDIENCE: Not of proceeds, but of list?

SARGENT: I will break it down for you. Ten percent of the first copies, 12.5, 15 on hardcovers, 8 percent and 10 percent on paperbacks. The two are different you know—there are mass market contracts that end because the advance isn’t going to earn out, there’s a higher paperback royalty, there’s royalties all over the
map, but those are the generally accepted ones so across our whole list, it’s hard to say, because some years we sell more paperbacks and some years we sell more hardcovers . . .

AUDIENCE: But the e-book royalty is based on the royalties paid on the hardcover books?

SARGENT: The royalty is based on the list price of the electronic book.

SILVERBERG: But that’s history. I mean now.

SARGENT: That’s history that ends this month, and now we’re going to change to a net proceeds model instead of the list price on the book, because as you can see if you read Jeff’s column today [media reporter Jeff Trachtenberg in The Wall Street Journal], there’s lots of activity around what the retailer/publisher splits are going to be in the future. If you look at the Google agreement, it’s not a 50/50 split.

AUDIENCE: I’m not sure I care about the split. I care about the actual numbers, and right now I’m not even convinced that trades are taking place. I’ve got a real problem. I’m going to have to negotiate with a publisher to set a rate on my e-book sales. E-book royalties are now bigger than hardcover royalties, so it’s important.

SARGENT: I can tell you what the market rate is because I had some recent experience with it. The market rate, as I perceive it to be from ten or twelve agents who were direct with me, is 25 percent of net proceeds. That’s what they tell me. I don’t know. I can’t talk to my fellow publishers because it’s illegal. I can talk to agents, though, and the agents tell me I am low and the net is 25 percent.

AUDIENCE: Thank you. You have given me a number I can work with.

CADER: To that point there’s an AAR question that they wanted me to ask. Publishers use net when they often mean gross. When you say net proceeds do you mean gross proceeds? And if so, why doesn’t it say gross proceeds?

SARGENT: This goes way back to returns, the net sales being gross sales minus returns. So we often call the proceeds coming into the publisher “net.” This is 25 percent of the revenue we receive. Is that more clarifying? We use the word net for a bunch of stuff.
AUDIENCE: Would you explain the percentages used for college textbooks?

SARGENT: Absolutely. College textbooks are sold at a net price as opposed to a list price and a discount. So when we go to Barnes & Noble, we sell college textbooks for $82.50. We don’t sell it for a discount. It’s a net price, so for the royalty structure, there’s not a higher price to base it off of; generally speaking, it’s based on net proceeds.

AUDIENCE: I have a book for kids about writing and I’m thinking, Wouldn’t it be great if there were some way to link to a thesaurus? How could the possibilities of e-books be exploited and do you see the publisher’s role and the agent’s role as helping the writer find those pieces to infuse into the work as it’s being created or afterwards? Do you see yourselves as leaders in creating these wonderful new things for adult readers, and in my case, for kids readers?

SARGENT: The philosophical answer is, of course, we see ourselves as a creative team working with you guys across the board. And of course we will help bring all our experience to bear for each individual writer and help in any way we can. In reality we will have a very uneven editorial staff across the whole industry. We will have some editors who work with you directly, who are highly knowledgeable on this, and who will help you enormously. Some are highly professional and know a ton about multimedia. We will have other editors who are not as knowledgeable and will not help you as much. Our marketing people will help you as well, because they’re really savvy in this. But can I sit here and say that every author is going to get a good look at all the various ways that multimedia can be brought into their work? I’d like to promise it to you but it’s a stretch.

AUDIENCE: But I was also asking, Do you see yourself as leading?

SARGENT: We see ourselves as leading, absolutely.

AUDIENCE: I suspect that the publisher’s role and the significant contractual terms will become clearer when the digital format supersedes the print format. What business and cultural factors need to be in place for that transition to take place?

SARGENT: That’s what’s happening now. We’re probably at 4 percent next year. If we’re on the same growth pattern, we get up to 7 or 8 percent next year. It’s still a very interesting piece of the business, probably the fastest growing piece of the business, but it is not where we’re making our money now. We are trying as fast as we can to set up our new retail distribution relationships in this world, and our infrastructure in this world, and our ability to market in this world. To be honest with you, I think we’re doing a pretty good job. We are changing very, very fast. We set contracts in place today with the business terms we see, as best we can, but that has always been the case when brand new things come up.

Like CD-ROMs a while ago—what are the rights for a CD-ROM when you have an artist doing one thing and a writer doing another? We’ve only got a couple years to figure out how big the pie is, and how we split it.

FRIEDMAN: I have to say I don’t think it’s going to take a couple of years and I think we’re going to have to figure out the split before then because we’re going to have some very impatient authors.

AUDIENCE: What do you need to see in place to accelerate that?

SARGENT: Right now we don’t have a basic business model in place. We have the Google Settlement, which is an agency model. We have Kindle, which is a retail model, and we have a whole bunch of other players. So I do a deal as best I can with each of you, contract by contract. Here’s the way I view it; you have your view of it. We get a contract signed; we publish a book. Three years from now, when it’s 30 percent, 40 percent or whatever, I can’t say that those terms won’t change. Because for all I know, the retail price of a book is going to be $4.99 and the splits are going to be 90/10.

There’s no way to know where we’re going. A lot of it will have to do with piracy and what a consumer is going to spend for a book. And the consumer has not spoken yet. That is clear. The Kindle has a small exposure, but the consumer will at the end of the day do what they do—which is if they can’t get it at what they perceive to be a fair market price, they’ll probably steal it. So what we have to do is walk the tightrope very carefully so we can avoid what happened to music, and protect the intellectual property at a price point that is as high as possible. That’s the game.

FRIEDMAN: That’s why I think that our turning away any sale by not having e-books available is a mistake. Because the consumer is very fickle. If the consumer can’t buy a book at that moment, then the consumer may buy another book, or not buy a book at all. I’ve spent my career—and I know my colleagues here have too—saying we need every consumer we can get. We need everyone to buy a book and anyone who wants to buy a book should be able to get it at that moment.

CADER: At any price?
Censorship Watch

Continued from page 18

then plugged again while the company considered its future in China. Google engaged in months of talks with the Chinese government, seeking to discover a way to go forward without censoring its search engine, but both sides remained silent on the details of those discussions. Li Yizhong, China’s minister of industry and information technology, ominously warned that Google’s non-compliance with the Internet filter laws would lead to dire consequences. As reported in The New York Times, Mr. Li said, “[I]f you want to do something that disobeys Chinese law and regulations, you are unfriendly, you are irresponsible and you will have to bear the consequences.”

Google’s decision to end its compliance with the free speech restrictions demanded by the Chinese government is grounded, in part, on the background of its co-founder Sergey Brin. Brin told The New York Times that his childhood experience of living under totalitarian rule in the Soviet Union until the age of six influenced the company’s ultimate decision to pack up shop in China. “[That childhood memory of censorship] has definitely shaped my views, and some of my company’s views,” Brin said.

This Happened to Google in Italy. In February, an Italian judge convicted Google’s chief privacy counsel, Peter Fleischer, senior vice president and chief legal officer David Drummond, and George Reyes, former chief financial officer, on criminal charges of invasion of privacy. None of the three Google executives were present in court, where a six months jail sentence was pronounced. And although the sentences were immediately suspended and the decision is subject to appeal, the judgment raises serious concerns about the free flow of information on Italian websites.

Criminal charges were brought by Italian prosecu- tors in 2008 when it was decided, after a two year investigation, that Google had not moved quickly enough to take down a 2006 video featuring a gang of teenagers bullying an autistic boy. The video was viewable on the Google Video website for two months, until Google was contacted by the Italian police upon receiving a complaint from a Down syndrome support group, Vivi Down. Although the video was removed within hours of the complaint, the Google executives were charged with defamation and invasion of the boy’s privacy. Under Italian law, executives may be held liable for a company’s criminal behavior. Judge Oscar Magi cleared the defamation case but convicted on the invasion of privacy charges.

The defense argued that a conviction on the invasion of privacy charges would violate an EU directive that shelters Internet service providers from liability for content posted by users, much as the U.S. Digital Millennium Copyright Act does. The prosecution alleged that Google’s level of interaction with content means that the company should be considered a content provider, not merely a service provider, and should not be entitled to safe harbor under the EU directive.

If the judgment holds, it could mean that, in order to avoid future liability, Google would have to actively monitor content posted to all its websites in Italy, an impossible task the company’s executives argue. Google says that users upload 20 hours of video to its sites every minute. Free expression advocates also fear that the obligation to engage in more hands-on monitoring at Google’s Italian websites would lead to greater restrictions not only on video uploads but to other content, such as blog posts and forum posts as well, because of the great volume of material users display at the websites. In the interests of corporate efficiency, it could be easier for Google to simply do away with such venues than to keep a close watch over them in order to stay out of jail.

—Anita Fore
Along Publishers Row
Continued from page 2

books have an air of having been written in one day from books read the night before.”

THE HARD PART: Ron Hansen’s latest novel is *Exiles*. He is an ordained deacon in the Catholic Church. His novels, *Atticus* and *Mariette in Ecstasy*, were bestsellers.

He told *The Writer* that “the hardest part of fiction writing, for me, is introducing characters.”

He said he learned how it should be done from William H. Gass. “While other writers may have been content to describe Marcel Proust as sickly, here is Gass: ‘At his birth, not everyone expected Marcel Proust to live, and, indeed, with what was to be characteristic perverseness, the little fellow grew as sturdily as if weakness were the purpose of the plant.’ A lot of work gets done in that one wry, economical sentence.”

ON DISPLAY: Four quilts inspired by children’s books are on exhibit at the Strong National Museum of Play in Rochester, N.Y., from January 15 to April 5. The quilts were made by Muriel Feldshuh of Brooklyn.

Feldshuh wrote the Guild: “There are 126 illustrators and authors who contributed to my project. Several of the authors who contributed quotations are Newbery Award winners. Many of the illustrators are Caldecott award winners. It has been a fun project for me.”

Among those who provided illustrations or quotations and were listed by the quilt maker are Kevin Hawkes, Wendell Minor, Petra Mathers, Jane Yolen, Chris Raschka and Kate DiCamillo.

Last fall, two of the quilts were shown at the National Center for Children’s Illustrated Literature in Abilene, Texas.

ALL MALE: In its November 2 issue, *PW* compiled a list of the year’s 10 best fiction and nonfiction books. *The Guardian* reported that there were no books by female writers on the list, and the ranking was drawing protests. Cate Marvin, a founder of Women in Letters and Literary Arts, was quoted: “The absence made me nearly speechless.”

Louisa Ermelino of *PW* commented: “We ignored gender and genre and who had the buzz.” Then she added, “It disturbed us when we were done that our list was all male.”

SO THERE: In Oscar Wilde’s preface to his novel, *The Picture of Dorian Gray*, the author wrote: “There is no such thing as a moral or an immoral book. Books are well written, or badly written. That is all.”

RERUN: Old prose can turn up in surprising places. Jay Farrar and Benjamin Gibbard are singer-songwriters who produced an album entitled *One Fast Move or I’m Gone: Music From Kerouac’s Big Sur*. Some of the songs on the album grew out of a documentary film with a similar title. The lyrics came from Jack Kerouac’s writing, set to music.

NUMBER ONE: During one week in October, Jeff Kinney’s *Diary of a Wimpy Kid* was the best-selling book in the U.S. *PW* reported that it sold more than Dan Brown or any other author. Kinney’s fourth in the series, *Dog Days*, had a four million copy first printing. More than 21 million Wimpy Kid books are in print.

UNAFRAID: A *Newsweek* reporter told Maurice Sendak that some parents complained that the movie version of *Where the Wild Things Are* was too frightening for small children. The movie is rated PG. Sendak, who is one of the film’s producers, said that he would “not tolerate” parental concerns about the movie being too scary. He said, “I would tell them to go to hell.”

How about just sending them to an island peopled by monsters?

THEME: Suicide is one theme in Pat Conroy’s novel *South of Broad*. The author told *USA Today* that he has six siblings. He said, “Of the seven of us, five have been suicidal at one time or another. The other two just won’t admit it.”

This novel also has a father who is affectionate and gentle, unlike other Conroy fictional fathers. The author said, “I always needed one, so I created one.”

OH: In 1914, the poet Amy Lowell generalized, “All books are either dreams or swords.”

TESTING: Moving Picture Books are available on DVD, as a download on iTunes, or for iPhone. They are available in English or Spanish with the text highlighted as it is read. Titles include “I Know an Old Lady Who Swallowed a Fly” and eight Sesame Street books.

Researchers at the University of Tennessee are using Moving Picture Books to study digital engagement and its influence on learning to read. Ryan Willis, spokesman for Moving Picture Books, said that the books are “a new and effective way of engaging children to read.” Children can use the program at home, in the car or on their parents’ mobile devices.

SUMMING UP: When *The New York Times* staff book reviewers selected their 10 favorite books for 2009, wrote reviewer Janet Maslin, “none of us had read everything. . . . Of the tens of thousands of books published each year, the daily *Times* reviews only about 250.”

Maslin generalized about the year: “There are fewer towering histories and biographies than usual. There’s more attention to a subject
of newly urgent interest: finance. And if it’s been a disappointing year for certain major novelists, it has also brought a couple of unexpected, career-capping accomplishments from fiction writers in the mainstream.”

HOW TO: Hilaire Belloc, a French-born British essayist, poet and critic noted for his Roman Catholic faith, died at the age of 82 in 1953. He wrote: “The end of writing is the production in the reader’s mind of a certain image and a certain emotion. And the means toward that end are the use of words in any particular language. And the complete use of the medium is the choosing of the right words and putting them into the right order.”

SOLD: Cormac McCarthy attended the premiere of the movie version of The Road in Manhattan. The book has more than 3.5 million copies in print.

McCarthy’s Olivetti manual typewriter sold at auction for $254,500. It had been used to write all his novels. The money will go to the Santa Fe Institute, a nonprofit scientific research organization.

Glenn Horowitz, a rare-book dealer who handled the auction for McCarthy, told The New York Times, “When I grasped that some of the most complex, almost otherworldly fiction of the postwar era was composed on such a simple, functional, frail-looking machine, it conferred a sort of talismanic quality to Cormac’s typewriter. It’s as if Mount Rushmore was carved with a Swiss Army knife.”

McCarthy is not planning to switch to a computer. A friend has bought him the same model Olivetti as a replacement, for less than $20.

DEFINITION: In 1962, the late historian Daniel J. Boorstin wrote: “Best-sellerism is the star system of the book world. A ‘bestseller’ is a celebrity among books. It is a book known primarily (sometimes exclusively) for its well-known-ness.”

HOW SHE DIED: Jane Austen died at the age of 41 in 1817. Biographers have speculated that she probably died of Addison’s disease or lymphoma. Now, The Guardian has reported that Katherine G. White has written an article for Medical Humanities magazine saying that Austen probably died of tuberculosis caught from cattle. “The recurrent fever, bilious attacks and rheumatic pains described by Austen,” White wrote, suggests that, “disseminated tuberculosis affecting the joints and liver—probably of bovine origin—would offer a simpler explanation.”

WHY HE DID IT: British funny man P. G. Wodehouse wrote, “I haven’t any violent feelings about anything, I just love writing. What really makes me happy is to get a really good plot for a novel and then sit back and write it.” The quote is from P. G. Wodehouse: A Biography by Frances Donaldson, published in 1982.

CHRISTMAS TALE: Charles Dickens wrote A Christmas Carol because he needed money. It was written in six weeks, and the manuscript is in the Morgan Library and Museum in Manhattan. The New York Times ran a photo of a page that is a fascinating chaos of changes, corrections, additions and deletions, scribble, scribble, scribble. Few if any writers will leave such relics in these days of the computer.

The book was not a great success at first. The 6,000 copies, printed in time for Christmas, sold out, but they had hand-colored drawings by John Leech, a leading illustrator, and the project was a financial fiasco.

CHRISTIE’S ART: P. D. James’s latest is Talking About Detective Fiction.

In an interview with PW, she was asked why Agatha Christie was so popular. “The great virtue of Agatha Christie,” said James, “was that she was a supreme puzzler. I don’t think she was a superb writer as far as style is concerned. Nearly always, her murders would not have worked in real life. But she was extremely clever at providing a mystery and puzzling us. It’s as if she’s placing her cards face down and we think, ‘Yes, that’s the one,’ and when she turns them up, we’re always wrong.”

GENRES EXPLAINED: John Banville has won the Booker Prize. He also writes crime novels under the name Benjamin Black.

Banville said he manages to write 100 hard-fought words a day. Black manages to write several thousand.

Stuart Evers, who writes a Books Blog for The Guardian, commented: “The intimation was quite clear. Black’s sentences simply weren’t as important. . . . At its best, crime writing offers unique insights into society, psychology, and human behavior. It can be both engaging and literate; compelling and well-written. It can be innovative and surprising. What it can’t be, it seems, is feted in the same way as literary fiction. The most a crime writer can hope for is to be told . . . that their novels ‘almost transcend the genre.’ Faint praise indeed.”

HOMEWORK: Jude Deveraux has had 37 bestsellers. The latest is Lavender Morning. PW said that she still considers writing an ideal profession.

She said, “You get to stay home, and you can work all day or skip a day. I love looking at a blank sheet of paper and thinking that I can fill it up with anything I want to write.”

NEW VILLAIN: Patricia Cornwell’s new bestseller is Scarpetta Factor.
She told The Australian Courier Mail: "In the 1990s, we had the luxury to be afraid of the Ted Bundys. Now the monsters are everywhere. Most of us are more afraid of the economy than we are of serial killers."

**CUTTING CLASS:** Malcolm Gladwell, author of What the Dog Saw, told Time magazine, "Aspiring journalists should stop going to journalism programs and go to some other kind of grad school. If I was studying today, I would go get a master’s in statistics, and maybe do a bunch of accounting courses and then write from that perspective. I think that’s the way to survive. The role of the general reporter is diminishing. Journalism has to get smarter."

**TRADE OFF:** On tour for his book Open, Andre Agassi has had signings that sold more than 1,000 copies in New York City, Toronto and Miami. The tennis star also brought out buyers in Los Angeles, London, Paris, Berlin and Amsterdam. With all that signing he must had traded his tennis elbow for writer’s cramp.

PW quoted him as telling his collaborator, J. R. Moehringer. "You’ve given me something I’ve never had before. You’ve given me an ‘A.’ " In November, there were 425,000 copies of Open in print.

**LIBRARY DIES:** Despite author Ray Bradbury’s help, the H. P. Wright Library in Ventura, Calif., closed on the last day of November. The problem: no money. This closing was postponed last April when Bradbury headed a fund-raiser. At that time, he said, "Libraries raised me. I don’t believe in colleges and universities. I believe in libraries, because most students don’t have any money. When I graduated from high school, it was during the Depression and we had no money. I couldn’t go to college, so I went to the library three days a week for ten years."

**BAD IS TOUGH TOO:** Aldous Huxley observed: "A bad book is as much a labor to write as a good one; it comes as sincerely from the author’s soul."

**IMPORTED:** Some U.S. readers were so impatient for the third novel, The Girl Who Kicked the Hornet’s Nest, in a trilogy by the late Swedish author Stieg Larsson, that booksellers were selling hundreds of copies published in Great Britain. It will be several months before an American edition is available.

The book sells on Amazon in Britain for about $14.75. Dealers in the U.S. were charging as much as $45.

**SEX PRIZE:** The Literary Review’s annual prize for bad sex in fiction went to Jonathan Littell’s The Kindly Ones, which won the Prix Goncourt when it was published in Paris. Competition came from Philip Roth, John Banville and Amos Oz.

The winning passage, according to The New York Times, begins with the hero putting his lover in a guillotine-like contraption and ends with the sensation of his own head being "emptied like a spoon scraping the inside of a soft-boiled egg."

**DECLINE:** Researchers at the University of Toronto published a paper entitled "Vocabulary Changes in Agatha Christie’s Mysteries as an Indication of Dementia." It shows that Christie’s lexicon decreased with age, and the vague words she used and the phrases she repeated increased. Her last novel, Elephants Can Remember, showed a "staggering drop in vocabulary"—31 percent—when compared with Destination Unknown, a novel she wrote 18 years earlier.

Christie was a good subject for such a study because she wrote her first novel at the age of 28 and her last when she was 82. The researchers plan to study the work of P. D. James, a still healthy writer who has continued to publish into her 80s.

**HIS LAST:** The late Michael Crichton’s latest, Pirate Latitudes (a manuscript found after his death) is a bestseller, with 900,000 copies in print in December. Steven Spielberg has bought movie rights.

Crichton’s books have sold 150 million copies, and 13 have been made into movies, PW said.

**MEMOIRS:** In a review of Memoir: A History by Ben Yagoda in The New York Times Book Review, Judith Shulevitz asks for answers to the following questions about a memoir: "Does it matter if a memoir is true or false, as long as it entertains us? What does the fact that it undeniably does matter tell us about what we, as readers, want and expect from writers of memoir and autobiography? And why do we love these books as much as we do?"

Shulevitz then sums up Yagoda’s book as a "tour of the current memoir craze starts with the many permutations of pet memoirs—first dogs, then cats, then owls and parrots, then sequels of same. He ambles past Holocaust memoirs, child abuse memoirs, sexual abuse memoirs, and incest, drug addiction, celebrity, spirituality, eating and parenting memoirs; pauses to contemplate the odd species of ‘investigative’ memoir (written by or for someone who must supplement memory with research); notes with surprise the fake Holocaust memoir; and stops in amazement before the strangest hybrid of them all: O. J. Simpson's If I Did It, a memoir in the conditional mood."

**MAKING MONSTERS:** An associate director at Quirk Books, Jason Rekulak, told PW, "After the success of Pride and Prejudice and Zombies, I’d hoped to ‘monsterize’ Jane Austen’s entire oeuvre, but now other publishers are beating me to the punch."
So next summer we’ll be turning our attention to a new author—and another classic romance that’s taught in myriad classrooms yearly. I’ve received hundreds of suggestions for future matchups—among my favorite titles are A Farewell to Arms and Legs and I Know Why the Caged Zombie Sings, but unfortunately neither of those original source works are in the public domain.”

A TO Z: In 1982, the first printing of Sue Grafton’s A Is for Alibi was 7,500 copies. With each sequel that number has grown, until it’s in the hundreds of thousands. Her latest, U Is for Undercover, hit No. 1 on the bestseller lists.

Grafton told USA Today that her heroine, Kinsey Millhone is “my un-lived life. She has a fearless quality to her that adds some excitement to my life.”

The most frequently asked question that Grafton gets from fans is what will she do once she reaches Z. Her answer, People magazine said, was “a very long nap—and then I’ll party.”

In a long interview in Writer’s Digest, Grafton said: “I read other writers and I think, she does it the easy way, or he does it. It couldn’t be hard for him, for her. And I just think it’s good for people to know it’s always hard, at least for me, partly because I’ve never figured out how to do it quicker. I’m slow and I’m meticulous, and that’s just my nature. I don’t know how I’ll get through the next five books, but I’m not going to worry about it. I’m like Scarlett O’Hara. I’ll just worry about that tomorrow.”

COLD BUT HOT: Sherrilyn Kenyon’s Born of Ice was a No. 1 bestselling paperback. Her Born of Fire was a No. 1 paperback in November and it has 500,000 copies in print.

PW said her next book will be volume two in the Dark-Hunter Manga series, due out in March.

HIGH FLYING: Suzanne Collins had two children’s fiction bestsellers in December. The Hunger Games was No. 1 and Catching Fire was No. 2.

The third and final book in the fantasy trilogy will be published in August. PW said the title was to be announced.

TOURING VIA VIDEO: More and more publishers are putting their authors on Skype, a live video talk and interview, because it is cheaper than sending a writer on tour.

Libba Bray, author of A Sweet Far Thing, told an interviewer on YouTube how intimate it felt to invite readers into her home on Skype.

Andrew Clements, author of Extra Credit, told PW, “As much as I love and believe in face-to-face contact, it is challenging if I’m going to keep writing. I have to make a choice: Am I going to be a writer or a public speaker?”

Brian O’Dea, author of High, said that Skype was a way for authors to take promotion into their own hands. “Books come out every day, and you get pushed away rather quickly,” He said. “Publishers don’t have the time or the money to promote them.”

READER WRECKED: Eric Puchner’s first novel is Model Home. He is a Pushcart Prize winner and a former Wallace Stegner Fellow. He told PW that the best reading he’d had of his novel came from a friend who e-mailed him that the book had left her absolutely wrecked.

Puchner said, “That’s certainly what I hope for. That’s what I love and want and crave from novels myself.” Then he said of his own book, “I don’t think the novel is utterly despairing. I want the reader to be emotionally wrecked, but to also wish there was a sequel and want to read more about the [fictional] Zillers.”

RELIEF: Laurell K. Hamilton’s bestselling hardback is Divine Misde-meanors. It’s the eighth novel in a series.

Hamilton told PW that she thought up her main character, Meredith Gentry, “so that my muse and I could have a break from writing the Anita Blake series. I’d written five Anita books in a row and was starting to have job anxiety dreams about her life instead of mine. Merry was created to give me a different voice, a different world to visit. I guess she’s like a second child that you have so the first one won’t be an only.”

MERRY SALES: Last year’s Christmas phenomenon was The Elf on the Shelf by Carol Aebersold and Chanda Bell. The hardback package includes an elf doll.

The package was first self-published in 2005. In 2009 it became No. 1 on BarnesandNoble.com and sold well on Borders.com and Amazon as well. PW said the company expected sales to reach $7 million in 2009.

MIND READER: Shadowlands, by Alyson Noel, is the third title in a children’s series. The earlier novels were Evermore and Blue Moon. The main character is Ever, 16, who has the ability to see people’s auras and read their thoughts. Dark Flame, the next in the series, is due out in July. The series has almost two million copies in print, according to PW.

A spin-off is planned for the fall. It will star Riley, Ever’s younger sister.

RETURNING: In April, the series The Baby-Sitters Club will be reissued in slightly updated revisions. The originals, published from 1986 through 2000, included 213 titles in 176 million copies. Ann M. Martin, who wrote the first and then more than 60 of the titles, is publishing a new prequel, The Summer Before.

Julie Peterson, mother of two in Mechanicsburg, Pa., told The New
York Times, “As a mom, I am thrilled that my daughter wants to read all of The Baby-Sitters Club books because I don’t have to worry about anything inappropriate happening in the stories.”

Reviving a popular series from the past worked well when the Goosebumps series was brought back in 2008. The dozen books in the HorrorLand series have now got 3.5 million copies in print.

DUSTY: George Orwell, author of the classic Nineteen Eighty-four, is quoted in Writer’s Digest: “Books give off more and nastier dust than any other class of objects yet invented, and the top of a book is the place where every bluebottle [fly] prefers to die.”

LOWBROW: Lauren Kate is author of The Betrayal of Natalie Hargrove and Fallen, the first two books in a four-book series for children.

Kate has a degree in creative writing from Emory and a master’s from the University of California at Davis. She told PW that people in creative writing programs consider themselves a bit too “highbrow” for what she writes. She said, “Nobody knew how to workshop my smutty teen romances.”

STILL GOING: John Graves is the author of a Texas classic, Goodbye to a River. He was interviewed via email by Steve Davis for The Key- stone, a publication of Texas State University.

He was asked if he still wrote every day, and he replied, “At a rather beat-up eighty-nine years of age I am doing very little real writing. This doesn’t bother me much, for I feel that my main literary work has already been done, for better or worse.

“But I do peck away at a keyboard each day, recording memories of past friends and events that have touched me during a lifetime which has stretched out beyond what I ever thought it would. Perhaps behind this pecking there is a mild hope that one or another of the jottings might lead to something worth printing, as indeed one passage from 2006 did, turning into a magazine piece and then into a little book entitled My Dogs and Guns.”

“I can’t stop adding to and subtracting from and otherwise changing a text until I’m forced to let go of it, and even after publication I find words or passages that I wish I had altered.”

SCI-FI FAITH: Connie Willis’s latest is Blackout, a time-travel tale. She’s written science fiction for more than 30 years.

Willis told PW, “Science fiction is an amazing literature: plot elements that you think would be completely worn out by now keep changing into surprising new forms. I have great faith in the future of books—no matter what form they may take—and of science fiction.”

In another PW article, Willis explained that Blackout was just half of a much larger book. The rest of it, under the title All Clear, will be published in November.

Willis said, “Blackout/All-Clear was one book that grew, sort of like the Blob. Books should never be too fat to read in bed or take up all the memory in a Kindle, so my publisher split it up. I hope the wait between the two books will whet people’s appetites rather than just annoy the heck out of them.”

NO LAW: Steve Berry writes bestselling thrillers with titles like The Paris Vendetta and The Romanov Prophecy. He told Writer’s Digest, “I was a lawyer, but I didn’t want to write about the law. I like conspiracies, secrets, history, international settings, action and adventure, so that’s what I wrote.”

He added, “My books are both research intensive and dependent. That usually means two to three hundred sources per novel. The hard part comes in deciding what to use and what to discard. Unfortunately, there’s no formula. It’s a matter of practice, practice, practice, and it’s something I struggle with every day.”

FADING SEX: Katie Roiphe, author of Uncommon Arrangements: Seven Marriages, wrote an essay for The New York Times Book Review about how the treatment of sex in literary fiction has changed. A chart illustrating her point described the sex scenes in Philip Roth and John Updike novels as “outrageous behavior.” Saul Bellow’s and Norman Mailer’s scenes were credited with “more sex.” As we shift into the present tense we get Jonathan Franzen who includes “sex.” Michael Chabon and David Foster Wallace are described as having “some sex,” and Dave Eggers is labeled “cuddling.”

Roiphe’s comment: “Even the young male writers who, in the scope of their ambition, would appear to be the heirs apparent have repudiated the aggressive virility of their predecessors.”

But she concludes: “Why don’t we look at these older writers, who want to defeat death with sex, with the same fondness as we do the inventors of the first, failed airplanes, who stood on the tarmac with their unwieldy, impossible machines, and looked up at the sky?”

NEW READERS: At the Consumer Electronics Show in Las Vegas in January, it became clear that Amazon’s Kindle was finally going to have some competition.

The new wave of slender touchscreen tablets and electronic reading devices includes the Alex, the Que proReader and the iDealPadUI Hybrid.

The New York Times reported that, “Some of these gadgets allow peo-
ple to read for long periods of time without eye strain and without killing the batteries.”

A few weeks later, after months of anticipatory commentary, Apple unveiled its own sleek version of a tablet reader, the half-inch-thick iPad, which looked a lot like an overgrown iPhone and goes on sale in early April. The iPad adds color to the e-reader experience but skipped the keyboard, requiring users to use a complex new vocabulary of finger gestures to control it. Was this an unannounced gift from Steve Jobs to middle-age readers hoping to stave off senility by learning new tricks?

SOME GIFT: One thousand signed copies of a special hardcover edition of Dan Brown’s Lost Symbol are on sale at the Water Street Bookstore in Exeter, N.H. The price is $1,500 per copy.

The New York Times Book Review said that Brown told a reporter, “I wanted to give something special to my local fans and my hometown bookstore.”

FEELING THE NEED: Zadie Smith’s new book is Changing My Mind, a collection of essays. She was interviewed on National Public Radio, where she admitted that she doesn’t write every day. “I wish I did more than anything, and I wish I had the compulsion. But in my defense, I think that novels should feel very necessary to the people who write them. I just realized quite early on that I’m not going to be the type who can write a novel every two years. I think you need to feel an urgency about the act. Otherwise, when you read it, you feel no urgency, either. So I don’t write unless I really feel I need to, and that’s a luxury.”

FREE: Rebecca Stead’s novel When You Reach Me won the Newbery Medal “for the most outstanding contribution to children’s literature.”

Stead, 42 and the mother of two sons, lives on Manhattan’s Upper West Side. She told The New York Times that she loved writing for children. “I think they are open in a way that older people are not. And so it gives me this feeling of freedom and it really . . . helps me on a creative level to think and to imagine a child audience.”

Stead worked previously as a public defender. She said that some ideas for her novel came from a newspaper article about a car accident that caused a man to suffer a loss of memory. Stead said, “Sometimes when you’re in an open frame of mind, a story like that can suggest something completely different and impossible.

“I became very interested in the idea of trying to create a puzzle.”

THE WALKER: Prolific Stephen King is quoted in Writer’s Digest: “For me, writing is like walking through a desert and all at once, poking up through the hardpan, I see the top of a chimney. I know there’s a house under there, and I’m pretty sure I can dig it up if I want. That’s how I feel. It’s like the stories are already there. What they pay me for is the leap of faith that says: ‘If I sit down and do this, everything will come out okay.’”

STOLEN: There were nine million illegal downloads of copyrighted books in the last months of 2009, according to Attributor, a company that tracks pirated digital books. Freakonomics, by Steven D. Levitt and Stephen J. Dubner, was downloaded 1,082 times. Angels and Demons, by Dan Brown, was downloaded 7,951 times.

The potential loss to the publishing industry could be as high as $3 billion, according to The New York Times article, though Mike Shatzkin, a book industry consultant, said that many people who download an e-book illegally would never have bought it in the first place. He also pointed out that Attributor “is automatically suspect because they make a living helping publishers fight piracy.” But even if the haul was inflated by half, that’s still a lot of books authors didn’t get paid for.

YA SURPRISE: Anthony Horowitz came from Britain to the U.S. to promote Crocodile Tears, his eighth Alex Rider adventure. Horowitz plans to write two more novels about the teenage spy. He told Children’s Bookshelf, “I always thought it was a series, but the success of the books to a certain extent took me by surprise.”

More than 10 million Alex Rider books have been sold.

GRUFF: A New York Times obituary for agent Knox Burger, who died in January at the age of 87, included a quotation from a 1999 guide to literary agents. Burger was described as “a lean, bald, craggy-faced man with a game leg, which he assists with a cane, an expression usually either amused or sardonic, a gruff manner that can sometimes seem downright brusque, and a reputation as one of the truly upright men in the business.”

Some of Burger’s clients were John D. MacDonald (the Travis McGee mysteries), Martin Cruz Smith (Gorky Park), Donald E. Westlake, Lawrence Block and Kurt Vonnegut.

Smith said of Burger, “What made him such a great agent is that he was a great editor to begin with. He really knew when you could do better.”

A BOOK IS BORN: Neil Gaiman’s The Graveyard Book won the 2009 Newbery Medal. In a profile in The New Yorker, Dana Goodyear told how the book came to be, before the author moved to the U.S. from England:

“Gaiman began thinking about The Graveyard Book in East Grin-
stead, when he and Mary were first married. Mike was a toddler, and liked to ride a tricycle, but their apartment building was narrow and full of staircases, so Gaiman would take him to the graveyard across the street, where he could ride freely. As he sat there, watching his son cheerfully pedaling among the headstones, it occurred to him to write a book about a child reared by ghosts. After he finished the book . . . Gaiman made a nine-city tour, and at each stop read a chapter (there are eight, but one is double length). The readings were videotaped, and Gaiman posted them to his blog. Every time the book dipped on the bestseller list, he tweeted a reminder to his followers that they could hear him read The Graveyard Book for free online, and, he says, sales of the print edition spiked.”

A SPONGE? Gore Vidal is quoted in Writer’s Digest: “The real writer learns nothing from life. He’s more like an oyster or a sponge.”

BIG BIO: Kitty Kelley, described in The New York Times as “known for her often unflattering, dishy and best-selling celebrity biographies,” has written Oprah: A Biography. It will be published in April. The publisher said Kelley had conducted 850 interviews for the book and Kelley told the AP that she was “full of admiration for [Oprah’s] accomplishments and fascinated by her complexity.” The first printing will be a half million copies.

Kelley has written biographies of Frank Sinatra, Nancy Reagan and the Bush family.

HUNGRY: An anonymous quote from the American Booksellers Association: “You know how it is in the kids’ book world: It’s just bunny eat bunny.”

THE ARC: Lisa Shearin’s The Trouble with Demons is a bestseller.

In Memoriam
Louise Armstrong
Marcella Arnow
Anthony Arthur
Marjory Bassett
James Beck
Ralph Cantafio
Cathy Crimmins
David Herbert Donald
Paul Eddy
Robert Frey
David L. Goodrich
Lee Grimes
Shelly Gross
Robert Gutman
Marjorie Kemper
Alfred Kern
Ari Kiev
Lion Koppman
William J. Lederer
Valerie J. Naso
Paul Nathan
Gary D. Omohundro
Evan H. Rhodes
Dorothy Rich
Karen A. Tucker
William Tuohy
Lois Wyse

Her next novel is Bewitched & Betrayed, out in April.

Shearin told The Writer: “To build a story arc that will support the weight of a book, I’ve found I need the following: Secrets are discovered and revealed. Problems are encountered and overcome. Characters learn and grow. And all of this must happen over the course of the book, so I interweave the various elements until the story becomes seamless, comes to life, jumps off the page.”

TREND: Onstage to receive an honor at the annual Crime Thriller Awards in London, the writer Lynda La Plante (author of Above Suspicion and other mysteries) surprised the book business audience by saying, “Publishers, stop spending your millions on this tripe!” She was referring to “inane memoirs by TV celebrities.”

Sarah Lyall in The New York Times wrote, “These are not just the old-fashioned kind of celebrities. They . . . mean anyone who has ever been on television.” These include reality show contestants, reality show hosts, and guests and hosts on panel shows.

The trend may have begun with Katie Price, “a large-chested former topless model also known as Jordan.” She had a bestseller with her first autobiography, Being Jordan, in 2004. A reviewer in The Observer called it a book of “hallucinatory and compelling awfulness.” There have been two sequels, and Price’s first novel, Crystal, sold more copies than the six books on the Booker shortlist combined.

Philip Stone, an editor at Bookseller, told the Times that he couldn’t blame publishers “for wanting to sign up celebrities to sell books or blame retailers for stocking them. Publishers always say that the success of a celebrity memoir will bankroll books by debut authors. Whether that is true, I don’t know, but that’s what they say.”

SCENE SOURCE: Cathleen Schine is author of The Three Weissmans of Westport. She told PW: “I wanted to be a writer when I was a little girl, and I wrote terrible poetry. When I was home on vacation while in graduate school, I found a whole folder of it. It was so bad that I was afraid someone would pull it out of the trash, so I drove it to the city dump to get rid of it. Later I found my mother had saved another folder I’d missed—and felt the complete sewet of humiliation. I actually put a scene based on that in my novel The Love Letter.”

FIRST LINE: The Evolution of Calpur-
nia Tate by Jacqueline Kelley won a Newbery Honor. The first line of this bestseller came to her during an oppressive summer in her farmhouse south of Austin, Texas. She told PW: “I was lying there in the middle of the day wondering, How did people stand it a hundred years ago? And, immediately a whole family sprang to life.”

The first line: “By 1899, we had learned to tame the darkness, but not the Texas heat.”

TRIBUTE: The Elements of Style by William Strunk Jr. and E. B. White is only 100 pages, but it has inspired a book called Stylized: A Slightly Obsessive History of Strunk and White’s The Elements of Style by Mark Garvey that runs 240 pages.

Garvey explained, “This book about The Elements of Style is the story of the writers and editors who created it and the influences that shaped it—of Strunk’s own education and his stylistic models; of White’s devotion, like that of his hero Thoreau, to the ideals of simplicity and clarity, in life and on the page.”

SAMPLES: More than half of the best-selling books on the Kindle’s e-reader are free. Some are in the public domain like Jane Austen’s Pride and Prejudice, but many are by authors who try to write for a living.

“Giving people a sample is a great way to hook people and encourage them to buy more,” Suzanne Murphy of Scholastic told The New York Times. Free downloads of Suite Scarlett, a young-adult novel by Maureen Johnson, pushed the book to No. 3 on the Kindle bestseller list.

ADD MUSIC: Writers Digest asked several authors, “What rituals do you rely on to write?”

Evelyn Krieger wrote: “For writing key scenes in my novel, I first imagine the scene as a movie. I then select background music to go with this scene. I download the music to my iPod and continue the planning while listening. When I’m ready to write, I put on the music again. I find this creates the mood for the scene and brings the images to the forefront.”


With the help of coauthors, Patterson published nine hardcovers last year and will publish nine more in 2010. According to Forbes, Patterson has earned his publisher, Hachette, about $500 million over the last two years. He has, Forbes reported, a new 17-book contract that will earn him $150 million. Patterson told the Times that “he had already started 11 of the books and finished more than a few of them.”

At a recent signing in a New Jersey bookstore, a woman asked the author to sign a book for her grandmother, who had passed away a few days earlier. “We used to read your books together, and I want to put it in her casket with her,” she said.

FIVE READERS: Jesse Kellerman’s new novel is The Executor. The author is the son of best-selling writers Jonathan and Faye Kellerman.

PW asked the young Kellerman what he had learned from his parents.

He said, “The most important lesson my parents taught me is that writing is a job, one that requires discipline and commitment. Most of the time it’s a fun job, a wonderful job, but sometimes it isn’t, and those are the days that test you. Five people read my work before it’s ready for publication, and I solicit opinions from all of them: my wife, my agent, my editor and my parents.”

The Executor is his third novel.

HER IMAGINARY WORLD: Tracy Chevalier wrote Girl with a Pearl Earring, which sold four million copies. Her new novel is Remarkable Creatures. The Writer asked her why she wrote.

She said, “I guess I write to communicate my interior life to the world. And why I think I have something to communicate, I don’t know! As a kid I loved my imaginary world, and it seemed a natural progression to create worlds for other people.

ART IS LONG: Many writers have had trouble finishing their books. Plato rewrote the first sentence of The Republic 50 times. Ernest Hemingway rewrote the last page of A Farewell to Arms 39 times. Sinclair Lewis took 17 years to find an ending for Main Street, and Katherine Anne Porter worked on Ship of Fools for more than 20 years.

ADVICE: Don Marquis said, “If you want to get rich from writing, write the sort of thing that’s read by persons who move their lips when they’re reading to themselves.”

CALL OF THE WILD: Wells Tower is the author of Everything Ravaged, Everything Burned. He was quoted in The New York Times Book Review: “Mary Gordon once said that writing fiction is ‘disgusting work,’ by which I think she meant that it’s hard to peer very closely at the human interior without feeling a little sick. It’s that queasiness and not any grand Melvillian impulse that tends to lead my fiction outdoors. After a page or two in my characters’ troubled heads I usually need a break, so I describe some bushes, or I force a fish or a moose or a pigeon to amuse me for a while.”

A REAL STORY: Toni Morrison is quoted in Conversations with American Writers by Charles Ruas.

She told the author: “In coming
to writing I wrote the way I was trained, which was scholarly bombast, so that I had to rewrite a lot. Getting a style is about all there is to writing fiction, and I didn’t realize that I had a style until I wrote Song of Solomon. Yes, there’s a formality and repetition in it, and I like that risk. I like the danger in writing when you’re right on the edge when at any moment you can be maudlin, saccharine, grotesque, but somehow pull back from it—well, most of the time. I really want this emotional response, and I also want an intellectual response to the complex ideas there. My job is to do both at the same time, that’s what a real story is.”

SHIFT: Timothy Egan wrote in iCountry News: “Last Christmas Day, Amazon sold more e-books for its Kindle reader than regular books. A first. This happened just days after Laredo, Texas, a city of nearly a quarter-million people, shuttered its last standing bookstore, becoming the first metropolis of that size to be barren of books sold the old-fashioned way.

“Amazon’s triumph and Laredo’s loss are linked, many would say—the Web robo-seller crushing the quirky corner bookstore. And it can only get worse, the pessimists have it, with Apple moving aggressively into e-reading with an iBooks reader as part of its sexy and slender tablet.”

Is the traditional book “headed for that cultural compost pile of long-playing albums, Kodachrome film and boxy computers nicknamed Hal?”

“This raises two issues: what the loss of bookstores does to communities, and what the brave new publishing world will mean to authors and readers.”

BIG: According to The Literary Life and Other Curiosities, the world’s largest book is in Beinn Ruadh Ardentin, Scotland. It is a children’s story, The Little Red Elf, by William P. Wood, who also printed the book. It is seven feet two inches tall and ten feet across when open and is on display in a cave. Put that in your Kindle.

POETRY PAYS: D. A. Powell’s collection of poems, Chronic, was awarded the $100,000 Kingsley Tufts Award by Claremont Graduate University. The Kate Tufts Discovery Award of $10,000 went to Beth Bachmann for her collection, Temper. The awards ceremony was scheduled for April 22 at the Pasadena Museum of California Art.

ABOUT TIME: Don DeLillo’s new novel is Point Omega. According to The New York Times’ Charles McGrath, “DeLillo doesn’t teach or appear on panels or turn up at big literary gatherings, and he seldom gives interviews.”

The author of Underworld and White Noise has been writing shorter books. Point Omega is only 117 pages, and he admitted that “The last two or three novels are more philosophical, for better or worse, and more interested in the subject of time.” DeLillo is 73.

He said, “A writer changes as he gets older, but he still feels he’s writing with absolute naturalness when in fact that naturalness is not the same as what it was 15 years ago.” He added, “I guess I’m slightly aware that the last few books have been a little different, but I try not to think about that too much. I wouldn’t know how to talk about it.”

IN THE WORKS: Stephen P. Jobs was rumored to be in conversation with Walter Isaacson about an authorized biography. Several biographies about the Apple CEO have been published, but none has been authorized.

Isaacson, a former managing editor of Time magazine, has written best-selling biographies about Albert Einstein and Benjamin Franklin. His most recent book is American Sketches: Great Leaders, Creative Thinkers, and Heroes of a Hurricane.

‘REAL’ NOVELS: HCI Books is producing a new line called Vows. It combines memoir and romance, and the first books are due out in October. These novels will be based on “personal interviews with real couples whose love stories read like . . . romantic fiction.”

BOOK CAMPS: There are music camps and sports camps and now some bookstores are selling summer camps for kids that feature books and counselors who lead book discussions. One has a University of Texas professor who talks about Greek mythology.

DIGESTED: The TF Press is offering short, digital-only titles, called Elements and Shorts, for readers who want quick advice for $2.99 or less.

Titles mentioned by The New York Times include Reengineering the Rules of Management by James Champy, coauthor with Michael Hammer of Reengineering the Corporation, one of the biggest business bestsellers of the 1990s.

FT Press publisher Timothy C. Moore told the Times, “It’s a good idea to be able to provide people with shorter, more expedient, more time-sensitive” content. Two hundred and forty-two titles have been published so far, and there are plans to have 500 in the pipeline by the end of the year.

NEW MARKET: A graphic novel version of Twilight, the first volume in the vampire tales written by Stephenie Meyer, is being published with a first printing of 350,000. Forty-five million of the four Twi-
light books have been sold in the U.S. The author has written the dialogue.

Janet Evanovich has also written a graphic novel, which will continue her “Motor Mouth” series. The first printing is 100,000 copies.

The New York Times reported, “These are staggering runs for graphic novels. More typical is a run of 20,000 to 25,000.”

SUCCESS: David Grann’s bestseller, The Lost City of Z, was named a best book of the year by The Washington Post, San Francisco Chronicle, Boston Globe and Christian Science Monitor. PW said the book had “the relentless energy of a classic adventure tale.” A movie version, starring Brad Pitt, is due out later this year.

NEW KID: Zachary Mason’s first novel is entitled The Lost Books of the Odyssey. In addition to critical praise, Mason got a major interview in The New York Times. He is a computer scientist who lives in Mountain View, Calif. He is 35.

He told the Times, “I’ve been writing for many years, but just small stories or fragments of things that could become stories. I decided after a long time that if I was going to be serious about writing, I had to do a book. So I started looking through my notes, looking for things I thought were worth preserving, and some things jumped out at me. And so I sort of extracted them from my notebooks, and they seemed to imply a shape, and the shape was this book of themes and variations.”

Mason described himself as an avid reader of Jorge Luis Borges, Italo Calvino, Stanislaw Lem and William Gibson. He said that Greek and Norse mythology also interested him early on because of their “magic and wonder” and ability to address “things that are deeply and universally resonant.”

He is experimenting with a retelling of Ovid’s Metamorphoses. He said, “I feel like it is a good complement to The Odyssey. The Lost Books is a very rational and masculine book, and Ovid is all Eros and Thanatos. I hope they will form an interesting pair, and then I’ll really be done with the classics.”


He was asked by PW about how his diverse work background had informed his writing. He said, “I worked at a tobacco farm around where I lived in Kentucky and that reinforced the Protestant work ethic I already had. I learned to stick with something until exhaustion, and I tended to translate that sweat when I was trying to write a story. I’m extremely slow. I used to be faster. Now everything is a slow drip.”

Asked what he was working on, he said, “I’ve got this novel and it’s awful, so I’ve been trying to mess with it, and I’ve been trying to write some stories, and they’re awful, too.”

SOURCE BOOK: A diary from the mid-1800s, written by Francis Terry Leak, a wealthy plantation owner in Mississippi, is the source for many of the characters’ names in William Faulkner’s works.

The leather ledger may also have been the source for “incidents and details that populate his fictionalized Yoknapatawpha County.”

John Lowe, an English professor at Louisiana State University who is writing a book on Faulkner, told the The New York Times, “I think it’s one of the most sensational literary discoveries of recent decades.”

Sally Wolff-King, a scholar of Southern literary at Emory, discovered the connection between the author and the journal, and she said, “The diary and a number of family stories seem to have provided the philosophical and thematic power for some of his major works.”

DEATHS

Louis Auchincloss, 92, died January 26 in Manhattan. The attorney was the author of more than 60 books of fiction, biography and literary criticism. Among the titles: The Indifferent Children (1947), The Injustice Collectors (1950), The Rector of Justin (1964), A Writer’s Capital (1974) and East Side Story (2001).

Francisco Ayala, 103, died November 3 in Madrid. He was author of Death as a Way of Life (1964), Usurpers (1987) and Remembrances and Forgotten Things (2006).

Jack Block, 85, died January 13 in El Cerrito, Calif. The psychologist was coauthor of Lives Through Time (1971) and other books.


Mary Daly, 81, died January 5 in Gardner, Mass. She was the author of The Church and the Second Sex (1968), Beyond God the Father: Toward a Philosophy of Women’s Liberation (1972) and Feminist Interpretations of Mary Daly (2000).

Lionel Davidson, 87, died October 21 in London. He was the author of Night of Wenceslas (1961), Kolymsky Heights (1994) and several novels for young adults.

Sid Fleischman, 90, died March 17 in Santa Monica, Calif. The screenwriter and suspense novelist was also author of a Newbery Medal winner, The Whipping Boy (1982). Other titles are Mr. Mysterious and Company (1962), Humbug Mountain (1979) and The Dream Stealer (2009).

Dick Francis, 89, died February 14 in the Cayman Islands. He was the author of more than 40 mystery novels about horse racing, many of them bestsellers. His first was Dead Cert (1962). Other titles: Nerve (1964) and Under Orders (2006).


Lee Grimes died October 25 in Hamden, Ct. He was the author of The Eye of Shiva (1974), The Ax of Atlantis (1975), McIver’s Secret (1976), Fortune Cookie Castle (1990), and Dinosaur Nexus (1994), among other books.

Donald Harington, 73, died November 7 in Fayetteville, Ark. He was author of The Cherry Pit (1965), Lightning Bug (1970) and Some Other Place. The Right Place (1972).


Laura Chapman Hruska, 74, died January 9 in Manhattan. A founder of Soho Press and an editor there, Hruska was also author of three novels: A Change of Heart (1976), Legal Relations (1976) and Multiple Choice (1978).


Michael Kaufman, 71, died January 15 in Manhattan. He was author of Mad Dreams, Saving Graces: Poland: A Nation in Conspiracy (1989) and Soros: The Life and Times of a Messianic Billionaire (2003).

Ari Kiev, 75, died November 18 in Manhattan. He was the author of Transcultural Psychiatry (1972) and editor of the essays in Magic, Faith and Healing: Studies in Primitive Psychiatry Today (1964) and Psychiatry in the Communist World (1968).

William J. Lederer, 97, died December 5 in Baltimore. He was coauthor of The Ugly American (1959) and author of All the Ships at Sea (1950), Ensign O’Toole and Me (1955), A Nation of Sheep (1961) and Our Own Worst Enemy (1968).


Ralph McInerny, 80, died January 29 in Mishawaka, Indiana. A scholar who taught at Notre Dame, he was the author of the Father Dowling mysteries including Her Death of Cold (1977) and a second series under the pen name Monica Quill featuring a nun, Mary Teresa. Other books included an autobiography, I Alone Have Escaped to Tell You (2006).

Paul Nathan, 96, died December 12 in New York City. A columnist for Publishers Weekly for 51 years, he was the author of three mystery novels (he won an Edgar in 1981), nonfiction, short stories, articles and plays.

Robert B. Parker, 77, died January 18 in Cambridge, Mass. He was the author of more than 60 books: detective stories, Westerns and young-adult novels. Spenser was the name of Parker’s tough, enduring detective (an expert at one-liners) and Jesse Stone was a small-town chief of police. Sunny Randall was a female private eye.

Milorad Pavic, 80, died November 30 in Belgrade. He was author of Dictionary of the Khazars: A Lexicon Novel in 100,000 Words (1988) and Landscape Painted with Tea (1990).

Carlene Hatcher Polite, 77, died December 7 in Cheektowaga, N.Y. She taught writing at the State University at Buffalo and was the author of The Flagellants (1966) and Sister X and the Victims of Foul Play (1975).

H. C. Robbins Landon, 83, died November 20 at Rabastens, France. He was author of Handel and His World (1984), Five Centuries of Music in Venice (1991) and five books about Mozart.


Seymour B. Sarason, 91, died January 28 in Hamden, Conn. He was coauthor of Psychology in Community Settings (1966), and author of The Culture of the School and the Problem of Change (1971) and The Psychological Sense of Community: Prospects for a Community Psychology (1974).


Erich Segal, 72, died January 17 in London. He was the author of Love Story (1970), which sold tens of millions of copies, Oliver’s Story (1977) and The Class (1985), as well as the classical studies Roman Laughter (1968), and The Death of Comedy (2001).


William Tenn, 89, died February 7 in Pittsburgh. The early science fiction writer was best known for a short story, Brooklyn Project (1948).

Stephen Toulmin, 87, died December 4 in Los Angeles. He was the author of An Examination of the Place of Reason in Ethics (1950) and The Philosophy of Science: An Introduction (1953), and coauthor of The Fabric of the Heavens (1961), The Architecture of Matter (1962) and The Discovery of Time (1965).


Rachel Wetzsteon, 42, died December 28 in Manhattan. The poet was the author of The Other Stars (1994), Home and Away (1998) and Sakura Park (2006).

Norval Wood, 78, died December 23 in Roques, France. The architect was author of The Architecture Book (1976) and New York: A Physical History (1987). He was coauthor of the AIA Guide to New York City, the fifth edition of which is due out in June.


Margaret B. Young, 88, died December 5 in Denver. She was author of The First Book of American Negroes (1966), The Picture Life of Martin Luther King, Jr. (1968), Black American Leaders (1969) and The Picture Life of Thurgood Marshall (1971).

Howard Zinn, 87, died January 27 in Santa Monica, Calif. He was the author of A People’s History of the United States (1980), which has sold nearly two million copies. Other titles are Vietnam: The Logic of Withdrawal (1966), Disobedience and Democracy (1968) and a memoir to be published posthumously, You Can’t Be Neutral on a Moving Train. ✪
Among the nominees for the Hammett Prize are Jedediah Berry, The Manual of Detection: A Novel, and Walter Mosley, The Long Fall. Sponsored by the North American branch of the International Association of Crime Writers, the Hammett Prize honors a work of literary excellence in the field of crime by a U.S. or Canadian author. The winner will be announced during the tenth annual Bloody Words Conference in Toronto, in May.

The Society of Midland Authors held its annual awards banquet on May 12 in Chicago. Candace Fleming received the award for Children’s Nonfiction for The Lincolns: A Scrapbook Look at Abraham and Mary. Donna Seaman and Charlotte Herman were among the judges.

The editors of Traveler’s Tales Books announced the winners of the Fourth Annual Solas Awards for Best Travel Story of the Year. Tom Miller received the Gold prize in the Destination category, for his story, “A Border Rat.” He also received the Bronze prize for Travel Memoir for “Notes on an Andean Pilgrim.” Joshua Berman received an Honorable Mention for his story, “Baba’s Blessing.”

Winners of the 2009 New Mexico Book Awards, organized by the New Mexico Book Co-op, included Malka Drucker, Portraits of Jewish American Heroes, in the Juvenile Book category; Elizabeth Fackler, My Eyes Have a Cold Nose, in the Novel-Historical Fiction category; and Jay Udall, The Welcome Table, in the Poetry Book category.

The Mystery Writers of America will announce the winners of the 2010 Edgar Allan Poe Awards—“the Edgars”—on April 29 in New York City. The nominees include Kathleen George, The Odds, Novel; Sophie Littlefield, A Bad Day for Sorry, First Novel by an American Author; R. A. Scotti, Vanished Smile: The Mysterious Theft of Mona Lisa, Fact Crime; Joan Schenkar, The Talented Miss Highsmith: The Secret Life and Serious Art of Patricia Highsmith, Critical/Biographical. The Grand Master Award, recognizing lifetime achievement and consistent quality, and the highest honor bestowed by the MWA, will be awarded to Dorothy Gilman. The winner of the Simon & Schuster-Mary Higgins Clark Award will be announced the eve of the ceremony, at the MWA’s Agents & Editors Party. The nominees include Blaize Clement, Cat Sitter on a Hot Tin Roof, and Hallie Ephron, Never Tell a Lie.

The American Library Association announced the winners of its annual awards, which will be presented at the annual conference in Washington, D.C., in June. The winners include Walter Dean Myers, recipient of the first-ever Coretta Scott King-Virginia Hamilton Award for Lifetime Achievement; Charles and Emma: The Darwins’ Leap of Faith, by Deborah Heiligman, winner of the first-ever YALSA Excellence in Nonfiction Award and named a Printz Honor Book; Almost Astronauts: 13 Women Who Dared to Dream, by Tanya Lee Stone, winner of the Robert F. Sibert Medal for most distinguished informational book for children; and Stitches: A Memoir, by David Small, received an Alex Award for the 10 best adult books that appeal to teen audiences. Lois Lowry will receive the May Hill Arbuthnot Honor Lecture Award, in honor of an author, critic, librarian, historian or teacher of children’s literature, who then presents a lecture at a winning host site. Several Honor Books were also named: The Evolution of Calpurnia Tate, by Jacqueline Kelly, a Newbery Honor Book; Diego: Bigger Than Life, by Carmen T. Bernier-Grand (illustrated by David Diaz), a Belpre Illustrator Honor Book; Pearl and Wagner: One Funny Day, by Kate McMullan and illustrated by R. W. Alley, a Geisel Honor Book; and Moonshot: The Flight of Apollo 11, written and illustrated by Brian Floca, a Sibert Honor Book.

Ellery Akers (and Angelique Benicio, illus.) won the 2010 Mom’s Choice Award (Gold) in the Juvenile Books Self-Improvement Category for Sarah’s Waterfall: A Healing Story about Sexual Abuse. The book also won the 2009 Skipping Stones Magazine Award in the Teaching and Parenting Resources Category.

Beryl Lifield Benderly was named a Fellow of the American Association for the Advancement of Science, an honor that recognizes AAAS members whose efforts on behalf of science and its applications are scientifically or socially distinguished. The association chose Benderly for her outstanding science journalism and leadership in advancing and protecting the economic and creative rights of freelance science writers.

M. Ellen (Melon) Dash was named a “Power 25” winner for 2010 by the magazine Aquatics International, her second appearance on the list in five years.

Larry O. Dean was a semifinalist for the New Millennium Award for poetry, sponsored by the journal New Millennium Writings, and a semifinalist for this year’s Crab Orchard Review Series in Poetry, a competition for a poetry manuscript.
Joan Detz received the 2009 President’s Award, Communicator of the Year, from the National Association of Government Communicators.

Emil Draitser was awarded a New Jersey Council of the Arts Fellowship in Writing.

Blessing’s Bead, by Debby Dahl Edwardson, was a Junior Library Guild book selection for March, and was selected by the Notable Books for a Global Society committee of the International Reading Association. It received a starred review in Booklist and was on their top historical fiction list for April.

In Envy Country, a short story collection by Joan Frank, received the Richard Sullivan Prize for short fiction from the University of Notre Dame’s Creative Writing Program.

Bob Fussell’s Unbridled Cowboy received the 2009 Will Rogers Medallion award for nonfiction, for outstanding achievement in Western literature.

Joanne Greenberg has been appointed the Hennebach Scholar at the Colorado School of Mines, where she will teach anthropology.

Margaret Morganroth Gullette recently won the Daniel Singer Millennium Prize for her essay “The Contagion of Euphoria.” The prize is given for the best essay on the topic, “What gives you hope for a better world.” The essay was derived from her work-in-progress, There is a World Elsewhere. Gullette received $2,500 and spoke at the Left Forum in April in New York.

Secret of the Night Ponies, by Joan Hiatt Harlow, received the Gold Medal for Children’s Literature in the 2009 Florida State Book Awards, and was given a Parents’ Choice Recommended Seal.

Libby Hathorn received First Prize in the Society of Women Writers NSW Inc.’s 2009 Biennial Book Awards for Georgiana: Woman of Flowers. She also received two commendations, for Letters to a Princess and Fire Song.


Marthe Jocelyn received the Vicky Metcalf Award for Children’s Literature, sponsored by the Metcalf Foundation and administered by the Writers’ Trust of Canada. The prize, which awards $20,000 to the winner, honors the author of a body of work in children's literature that demonstrates the highest literary standards. It was announced at the 9th annual Writers’ Trust Awards in Toronto in November.

Two stories by the late Marjorie Kemper, an Authors Guild member until her death last November, were nominated for the Pushcart Prize. “Rayleen and R.L. Bury Their Luck” was nominated by The Sun Magazine, and “Discovered America” by Southwest Review.

Maxine Hong Kingston received a 2010 Barnes & Noble Writers for Writers Award, established by Poets & Writers to recognize authors who have given generously to other writers or to the broader literary community. The award was presented at the Poets & Writers’ 40th anniversary benefit dinner, in Celebration of Writers, on March 18 in New York City.

Jax Peters Lowell is the recipient of the Leeway Foundation’s 2009 Transformation Award honoring her work as a poet; the novel Mothers; and her bestselling books and activism on the subject of gluten intolerance. The award, given in recognition of female artists whose work promotes cultural change and social justice, carries a $15,000 honorarium.

Tom Miller has been chosen as a Road Scholar for 2010-2012 for the Arizona Humanities Council’s Speakers Bureau program. Road Scholars provide presentations at libraries, museums and other community venues through the state, and he will speak on “Thornton Wilder’s Arizona Days” and “U.S.-Mexico Border Literature,” among other topics.

The Fire, by Katherine Neville, received the Silver Nautilus Award for Visionary Fiction. The Nautilus Book Awards recognize books promoting spiritual growth, conscious living, and positive social change. The Fire was also a finalist for the Library of Virginia’s People’s Choice Award.

The Howell Book of Dogs, by Liz Palika, received a 2009 Maxwell Award from the Dog Writers Association of America and was nominated for a 2009 San Diego Book Award for best nonfiction reference book.

The Kid from Pittsburgh, by Marion Rosen, received the IRWIN Award (Industry Recognition of Writers in the News) for the most inspirational book of 2009 from the Book Publicists of Southern California.

Dating from the Inside Out, by Paulette Kouffman Sherman, was a finalist in the Conscious Living/Self-Help category of the Coalition of Visionary Resource’s Visionary Awards, presented at the International New Age Trade Show banquet on June 27 in Denver.

The American Academy of Arts and Letters presented Gerald Stern with the 2010 Award of Merit Medal for...
Poetry, a medal and prize of $10,000 given once every six years to an outstanding poet. The award was presented in May at the Academy’s annual Ceremonial in New York City.

Deanne Stillman’s Mustang: The Saga of the Wild Horse in the American West was named a “best book 08” by the Los Angeles Times and won a California Book Award silver medal for nonfiction. The new, updated edition of her book Twentynine Palms: A True Story of Murder, Marines, and the Mojave won a Foreword Magazine silver medal for true crime.

The Muse of the Revolution: The Secret Pen of Mercy Otis Warren and the Foundation of a Nation, by Nancy Rubin Stuart, received the 2009 Historic 1699 Winslow House Book Award for the best book published each year on early New England’s interaction with the wider Atlantic world. Stuart was also appointed director of the Cape Cod Writers Center Conference, which will be held in August in Centerville, Mass.

Up the Rouge! Paddling Detroit’s Hidden River by Joel Thurtell was named a Michigan Notable Book by the Library of Michigan. The list is an annual selection of 20 books reflecting Michigan’s diverse ethnic, historical, literary and cultural experience.

The Lucky Place, by Zu Vincent, is an Honor Book for the 2009 Paterson Prize, a 2008–2009 Pennsylvania School Librarian’s Top 40 Young Adult Book and a 2008 Kansas State Reader’s Circle Recommended Book.

Raven West was a winner in the 2009 National Novel Writing Month Contest, “NaNoWriMo,” sponsored by the Office of Letters and Light, a nonprofit organization. To win, participants must submit a 50,000-word novel composed within the month of November.

Gretchen Woelfle received the Once Upon a World Children’s Book Award in the Young Adult category for Jeannette Rankin: Political Pioneer. The award is given by the Simon Wiesenthal Center and Museum of Tolerance in Los Angeles for a book reflecting tolerance, diversity, human understanding and social justice. The biography also won the Children’s Literature Council of Southern California Award for Nonfiction and was chosen for the Amelia Bloomer Project List.

Ramsay Wood received an Honor in the 2009 Storytelling World Resource awards for Katila and Dimma: Fables of Friendship and Betrayal. The National Storytelling Network and Storytelling Magazine/Storytelling World sponsors the awards, which honor audiobooks.

Pamela Samuels Young will receive the 2010 Fiction Award for Buying Time from the Black Caucus of the American Library Association (BCALA). The award will be given at the American Library Association’s Conference in Washington, D.C., in June. ♦

BOOKS BY MEMBERS

Lorraine Adams: The Room and the Chair; Leonard M. Adkins: Images of America: Along Virginia’s Appalachian Trail; David A. Adler (and Michael S. Adler; Ronald Himler, illus.): A Picture Book of John and Abigail Adams; Arnold Adoff (and Kacy Cook, Eds.): Virginia Hamilton: Speeches, Essays, and Conversations; Sandra Alonzo (and Nathan Huang, illus.): Riding Invisible: An Adventure Journal; Elaine Marie Alphin: An Unspeakable Crime: The Prosecution and Persecution of Leo Frank; Gigi Amateau: A Certain Strain of Peculiarity; Piers Anthony: Climate of Change; Kathi Appelt (and Kelly Murphy, illus.): Brand-New Baby Blues; Peggy Archer (and Stephanie Buscema, illus.): Name That Dog!: Jeannine Atkin: Borrowed Names: Poems about Laura Ingalls Wilder, Madam C.J. Walker, Marie Curie, and Their Daughters; Keith Baker: LMNO Peas; Donna Ballman: The Writer’s Guide to the Courthouse: Let’s Quill All the Lawyers; Sandra Balzo: From the Grounds Up; Aileen G. Baron: Scorpion’s Bite; Gordon Basichis: The Guys Who Spied for China; Marion Dane Bauer (and Elizabeth Sayles, illus.): The Very Little Princess; Marion Dane Bauer (and Kristina Stephenson, illus.): Thank You for Me!; Hal Zina Bennett: Backland Graces: Four Novellas; Write Starts: Prompts, Quotes and Exercises to Jumpstart Your Creativity; Kelly Bennett (and Paul Meisel, illus.): Dad and Pop, an Ode to Fathers and Stepfathers; Kelly Bennett (and David Walker, illus.): Your Daddy Was Just Like You; Elizabeth Berg: The Last Time I Saw You; John Pratt Bingham: God and Dreams: Is There a Connection?; Betty G. Birney: Summer According to Humphrey: Humphrey the Hamster, #6; Peter Biskind: Star: How Warren Beatty Seduced America; Tom Bissell: Extra Lives: Why Video Games Matter; Win Blevins: Give Your Heart to the Hawks: Shadows in the Cave: Stone Song; Zadagi Red; Amy Bloom: Where the God of Love Hangs Out; Paulette Bogan: Lulu the Big Little Chick; Kathleen Long Bostrom: Making Space for the Spirit: 100 Ways to Nurture Your Soul; Daniel B. Botkin: Powering the Future: A Scientist’s Guide to Energy Independence; Fred Bowen (and Carles S. Pyle, illus.): No Easy Way: The Story of Ted Williams and the Last 400 Season; William Boyd: Ordin...
nary Thunderstorms; Katherine Briccetti: Blood Strangers; Orville Gilbert Brim: Look at Me!: The Fame Motive from Childhood to Death; Larry Dane Brinner: Birmingham Sunday; Stanley Burns: Deadly Intent: Crime & Punishment: Photographs from the Burns Archive; Newsbeat: Manipulated Photographs from the Burns Archive; Ophthalmology: A Photographic History 1845–1945: Selections from the Burns Archive; Carol Butler: Do Hummingbirds Hum?: Why Do Bees Buzz?

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Loln: The Finger; Jon Turk: The Raven’s Gift: A Scientist, a Shaman and Their Remarkable journey Through the Siberian Wild¬
erness; Glennette Tilley Turner (Ed.): Billy the Barber’s Mirror: An Untold Lincoln Story; The Amazing Adventures of Sea Captain Harry Dean;
Douglas Valentine: The Strength of the Pack: The Personalities, Politics and Espionage Intrigues that Shaped the DEA;
Jack Weatherford: The Secret History of the Mongol Queens; How the Daughters of Genghis Khan Rescued His Empire;
Katherine Weber: True Confections; Ellen Weiss (and Jerry Smith, illus.): The Taming of Lola: A Shrew Story; Ellen Weiss (and Mel Friedman; Marsha Winborn, illus.): Porky and Bess; Tim Wendel: High Heat: The Secret History of the Fastball and the Improvable search for the Fastest Pitcher of All Time;
Eugenia Lovett West: Overkill; Hilda White: Solange’s Boy; Robert K. Wilcox: The Truth About the Shroud of Turin; Frank Wildman: Change Your Age; Linda Williams: 5 Steps to a 5: AP Environmental Science; Vicki Oransky Wittenstein: Planet Hunter; Geoff Marcy and the Search for Other Earths; Stuart Woods: Kisses; Lucid Intervals; Herman Wouk: The Language God Talks: On Science and Religion; Shelly Wu: The Definitive Book of Chinese Astrology:

**BULLETIN BOARD**

**Awards and Fellowships**

The Christopher Isherwood Foundation offers fellowships of $4,000 to novelists to allow time for writing and/or research. For application requirements, visit isherwoodfoundation.org. Applications will be accepted between September 1 and September 30, 2010. James White, Christopher Isherwood Foundation, 1708 21st Avenue South, #301, Nashville, TN 37212. (251) 591-8982; james@isherwoodfoundation.org. The Foundation also awards two scholarly grants of $2,000 each for study of Isherwood materials at the Huntington. For information and application materials, please contact Robert C. Ritchie, W.M. Keck Foundation Director of Research, The Huntington, 1151 Oxford Road, San Marino, CA 91108. (626) 405-2100.

Applications are being accepted for the Alicia Patterson Foundation fellowships for U.S. citizens who are full-time print journalists, or to non-U.S. citizens who work full-time for U.S. print publications, either in America or abroad. The foundation will award five to seven $20,000 or $40,000 grants to cover travel and research costs; recipients must pay taxes on this income. Detailed guidelines and application forms are available at aliciapatterson.org/apply. Deadline: **October 1, 2010.** The Alicia Patterson Foundation, 1025 F Street NW, Suite 700, Washington, DC 20004. (202) 393-5995; info@aliciapatterson.org.

**Multiple Genres**

Starting September 1, 2010, PEN American Center will accept submissions for several awards in the categories of fiction, biography, drama, poetry, children’s and YA fiction, and translation: PEN/Robert Bingham Fellowship for Writers ($35,000), PEN/Jacqueline Bograd Weld Award for Biography ($10,000), Laura Pels Foundation Awards for Drama ($7,500), PEN/Voelcker Award for Poetry ($5,000), PEN/Phyllis Naylor Working Writer Fellowship ($5,000), PEN Award for Poetry in Translation ($3,000), PEN Translation Prize ($3,000), Translation Fund Grants ($2,000–$3,000), and the Beyond Margins Awards ($1,000). Deadlines vary. For more information, visit pen.org/page.php/prmlID/1351 or contact Nick Burd, Literary Awards Program Manager, at awards@pen.org or (212) 334-1660, x108.

The **Bellevue Literary Review** offers the Marica and Jan Vilecek Prize for Poetry, the Goldberg Prize for Fiction, and the Carter V. Cooper Memorial Prize for Nonfiction. Each award carries a cash prize of $1,000 and publication in the Spring 2011 issue. To enter, send unpublished prose of up to 5,000 words or up to three poems (maximum five pages) by **July 1, 2010.** Include an entry fee of $15 per submission; send $20 to receive a one-year subscription to the journal. Manuscripts must be submitted online at blr.med.nyu.edu/sub
missions/prize-guidelines. The fee may be paid online or by check to Bellevue Literary Review, Dept. of Medicine, Rm OBV-612, NYU School of Medicine, 550 First Avenue, New York, NY 10016. (212) 263-3973.

Truman State University Press awards The Chariton Review Short Fiction Prize, which carries a cash prize of $1,000 and publication in the spring issue. Three finalists will also be published and all entrants in the U.S. will receive a free copy of the spring issue. To enter, submit a previously unpublished story of up to 5,000 words and a $20 reading fee. Deadline: September 30, 2010. The Press also awards the T. S. Eliot Prize for Poetry for an unpublished book-length collection of poetry, offering $2,000 and publication under its standard royalty contract. All entrants will receive a copy of the winning book. To enter, send 60–100 pages of original poetry, with each poem beginning on a separate page, and a $25 reading fee. Include a table of contents and a list of acknowledgments for previously published individual poems, if applicable. Deadline: October 31, 2010. When entering either contest, include two title pages, one with the manuscript title and author’s contact information, and the other with only the manuscript title. Send manuscripts unbound and in file folders. Visit tspu.truman.edu/prizes.asp for full submission guidelines. The Chariton Review Short Fiction Prize or T. S. Eliot Prize for Poetry, Truman State University Press, 100 East Normal Avenue, Kirksville, MO 63501-4221.

Since 1971, the Gay, Lesbian, Bisexual, and Transgendered Round Table of the American Library Association has presented its annual Stonewall Book Awards to books of exceptional merit relating to the GLBT experience, published in the prior year. One fiction author and one nonfiction author will receive $1,000 each and a commemorative plaque. Recommendations for nomination may be made by a publisher or by an individual not affiliated with the publisher, but not by the author. To nominate a book, submit a short statement describing why the book is being recommended by October 1, 2010. Send recommendation by e-mail to James Simonis, Chair, at Simonis@lemoyne.edu. For more information, visit ala.org/ala/mgrps/rlts/glbrtt/stonewall/stonewallbook.cfm.

The Mississippi Review will accept applications for its annual fiction and poetry prizes between April 1 and October 1, 2010. Winners receive $1,000, and work by winners and finalists will make up the following winter’s print issue of the journal. To enter, send previously unpublished manuscripts of 1,000–5,000 words, or three poems totaling 10 pages or less, with a $15 entry fee per submission. Each entrant will receive a copy of the prize issue. Entries should have “MR Prize, author name, address, phone, e-mail and title of work on page one. Mississippi Review Prize 2011, 118 College Drive #5144, Hattiesburg, MS 30406-0001. (601) 266-4321; rief@mississippireview.com.

Cutthroat magazine will accept submissions for the Joy Harjo Poetry Award and the Rick DeMarinis Short Story Award between July 15 and October 15, 2010. First place in each genre is $1,250; second prize is $250; all winners will be published. All finalists will be acknowledged in Poets & Writers, Winning Writers and the AWP Chronicle, and considered for publication in Cutthroat. To enter, submit up to three poems (100-line limit for each) or one short story of up to 5,000 words. Author’s name must not appear on the manuscript; include a cover sheet with name and contact information, as well as genre and manuscript title. Visit cutthroatmag.com for full submission requirements. There is a $15 fee for each submission and entrants must include a SASE or be disqualified. Cutthroat Literary Awards (specify genre), PO Box 2414, Durango, CO 81302. (970) 903-7914; cutthroatmag@gmail.com.

Fiction Contests

The Boston Review will accept entries to the Aura Estrada Short Story Contest until October 1, 2010. The winner will receive $1,500 and publication in the journal. Stories should not exceed 4,000 words and must be previously unpublished. Manuscripts should be submitted with a cover note listing the author’s name, address and phone number; names should not appear on the stories themselves. Include a $20 entry fee ($30 for international submissions). Entrants will receive a one-year subscription to the Review. Short Story Contest, Boston Review, 35 Medford St., Suite 302, Somerville, MA 02143. bostonreview.net/about/contest.

Fiction Collective Two, or FC2, is sponsoring the Catherine Doctorow Innovative Fiction Prize, which awards $15,000 and publication by FC2, an imprint of the University of Alabama Press. Entrants must have published at least three books of fiction, and submissions may include a collection of short stories, one or more novellas, or a novel of any length. Translations and previously published novels and collections are not eligible. Entries should be consistent with FC2’s mission to publish “fiction considered by America’s largest publishers too challenging, innovative, or heterodox for the commercial milieu.” Visit fc2.org for submission guidelines. There is a reading fee of $25 and entries will be accepted between August 15 and November 1, 2010. FC2 Catherine Doctorow Inno-
vative Fiction Prize, University of Houston-Victoria, School of Arts and Sciences, 3007 N. Ben Wilson, Victoria, TX 77901-5731.

Reed Magazine, a journal of poetry and prose, presents its annual John Steinbeck Award for the Short Story, cosponsored with the Center for Steinbeck Studies at San Jose State University and the National Steinbeck Center. First prize receives $1,000 and publication in the magazine, and an excerpt may be published in the Salinas-based newspaper, The Californian. Runners-up will also be considered for publication. To enter, send an unpublished story of up to 6,000 words using the online system at reedmag.org. There is a $15 reading fee per submission. Deadline: November 1, 2010. Reed Magazine, SJSU English Department, One Washington Square, San Jose, CA 95192-0090. reed@email.sjsu.edu.

Nonfiction Contests

The Arts Club of Washington will award the 2011 Marfield Prize for Arts Writing and $11,000 to a nonfiction book about the arts that is accessible to a broad audience. Eligible books must be written in English and originally published in the United States in 2010. Publishers, agents or authors may submit books for consideration and there is no fee to enter. Three copies of the book, plus the required entry form, available online, should be submitted between July 1 and October 1, 2010. Galleys are acceptable for books scheduled to be published in the final two months of the year. The winning author is asked to attend an Award Dinner in Washington, DC, give a public reading, visit a DC public high school, and participate in interviews with the news media. For more information, visit artscubofwashington.org/cs/award.htm or contact Rebecca Campbell, Award Administrator, National Award for Arts Writing, The Arts Club of Washington, 2017 I Street NW, Washington, DC 20006-1804. (202) 331-7282, x15; award@artsclubofwashington.org.

Poetry and Drama Contests

The Creative Writing department at California State University, Fresno, holds the annual Philip Levine Prize in Poetry, which awards a $2,000 cash prize and publication and distribution by Florida-based Anhinga Press. To enter, send a manuscript of original poetry, not previously published in book form, of 48–80 pages, with no more than one poem per page. Do not include the poet’s name on the manuscript; send two title pages, one with the poet’s name and contact information and one with the manuscript title only. Include a $25 entry fee for each submission. Bind the manuscript with a binder clip; no staples. Deadline: September 30, 2010. Visit csufresno.edu/english/philip_levine/guidelines.shtml for detailed submission guidelines. Philip Levine Prize in Poetry, Department of English, Mail Stop PB98, 5245 North Backer Avenue, California State University—Fresno, Fresno, CA 93740. e-mail connieh@csufresno.edu.

Alice James Books will accept submissions for the Kinereh Genslers Awards for poetry until October 1, 2010. Winners receive $2,000 and publication, and serve a three-year term on the Alice James Books Editorial Board. Entrants must reside in New England, New York State or New Jersey, beginning no later than December 1, 2010. To enter, send manuscripts of 50–70 pages. Individual poems may have been previously published, but not the collection as a whole. Include a table of contents and list of acknowledgments for poems previously published. Poet’s name and contact information should appear on the title page. End one copy of the manuscript with two copies of the title page, and use a binder clip; no staples, folders, or printer-bound copies. The entry fee is $25; include a SASE, at least 6" x 9", with $2.50 postage attached, and Alice James Books will send a free book from their catalog. The press also offers the Beatrice Hawley Award for poetry with a deadline of December 1, 2010; visit alicejamesbooks.org for full submission guidelines for both awards. Alice James Books, Kinereh Genslers Awards, 238 Main Street, Farmington, ME 04938.

Submissions will be accepted for the Dorothy Sargent Rosenberg Poetry Prizes until October 16, 2010. Prizes ranging from $1,000 to as much as $25,000 will be awarded for the finest lyric poems celebrating the human spirit. The contest is open to all writers under the age of 40 on November 6, 2010. To enter, send one to three previously unpublished poems, each on a separate sheet, with only one poem, if any, exceeding 30 lines. Send two copies of each entry with poet’s name and contact information on each page of one copy only. Include a $10 entry fee and an index card with the information from the cover sheet, as well as the titles of all submitted poems. Visit dorothyprizes.org for full submission guidelines and details about the Dorothy Sargent Rosenberg Memorial Fund. Dorothy Sargent Rosenberg Poetry Prizes, PO Box 2306, Orinda, CA 94563.

The Hollis Summer Poetry Prize, sponsored by Ohio University Press, will award a cash prize of $1,000 and publication to a collection of original poems. To enter, send an unpublished manuscript of 60 to 95 pages, with the poet’s name and contact information on the title page. Include acknowledgments on a separate page and a $20 fee. Visit ohioswallow.com/poetry_

The Arch and Bruce Brown Foundation awards yearly grants of $1,000 to playwrights who submit full-length plays, screenplays, musicals or operas. All works submitted must present the gay and lesbian lifestyle in a positive manner and be based on, or inspired by, a historic person, culture, event, or work of art. Deadline: **November 30, 2010.** Visit aabbfoundation.org for guidelines. The Arch and Bruce Brown Foundation, 2500 North Palm Canyon Drive, #A4, Palm Springs, CA 92262.

Letters

**Continued from page 2**

It looks to me like Google is exploiting a loophole in regard to fair use of copyrighted material. It certainly is displaying far more copyrighted words and images than lawyers have ever permitted me to reproduce in print without permission of a copyright holder.

—Laurie Lisle
Sharon, CT

Anita Fore, Director of Legal Services, responds:

If your book is protected by copyright, and content from it is currently displayed on Google, that is because your publisher has given Google permission to upload content from your book to Google Book Search.

All major and many smaller publishers have entered into a relationship with Google known as the Partner Program. Through this program, the participating publishers authorize Google to display a percentage of text from certain in-print books at Google Books. We’ve been told that the terms of the Partner Program contract most publishers sign authorize display of up to 20 percent of the total number of pages. Some publishers allow only a 10 percent display. The program has been characterized as a promotional use that will bring eyeballs to your pages and drive up sales. But, in its current incarnation, it’s not a sales program. Google isn’t selling these books.

If your book features a “Limited Preview” designation, that means that although the entire book cannot be read, a certain amount of it can be viewed at Google, just as it can be, for example, at Amazon if your book is included in the Search Inside or Look Inside programs, or via comparable previews available at the Barnes & Noble and Powell’s websites, perhaps even at your publisher’s own website.

In the Partner Program, certain pages are “blacklisted” and a user may view only a certain percentage at any one time. Sometimes a publisher opts for a continuous preview of the permitted number of pages in a single chunk. Others choose an option that blocks a page or two after every few pages. The “What’s This?” option at the page preview site will list a page count for your book. If you slowly scroll through the book in its entirety, you can confirm that the number of pages available to be read amount to either 10 or 20 percent (depending on your publisher’s designation) of the total.

These displays are not by definition a “bad” thing. In fact, you might decide that the Partner Program does boost sales. If you decide it doesn’t, or for any other reason, feel it is not beneficial for your work, you should contact your publisher and tell them you don’t want your books displayed through the Partner Program. We have yet to hear from an author who has been refused by his publisher.

But don’t assume that your contract authorizes this kind of promotional display. Many contracts contain a promotions clause, but others don’t. As the Authors Guild has previously pointed out in connection with Amazon’s inside-the-book programs, whether the precise wording of a promotions clause permits this activity isn’t a black-and-white issue. The majority of such contracts do not include specific reference to Amazon, Google, or any other display format.

About FAQ 57: Remember, the Google Book Search settlement is a different animal from the Google Partner Program. Visit the official settlement website www.googlebookssettlement.com and view the Claims Notice so you’ll have a clear understanding of the settlement and what it covers.

The Google Book Search settlement involves Google’s scanning of books that were made available by certain public or academic libraries. These libraries were chosen by Google for the breadth of work contained in their collections. This means that many books are affected by the settlement, but not every book. The best way to determine whether your works have been scanned and/or whether they may be included in the settlement is to visit www.googlebookssettlement.com.

In Roy Blount Jr.’s recent letter “From the President” (AG Bulletin, Winter, 2010) he asks: “What is a book worth?” I found this a very interesting question, but as I read on I found I had to take Roy’s comments seriously. Reading between the lines, I concluded that he sounds a bit angry and his anger is directed at three categories, one of which is “People who are paid by
universities to teach occasional seminars and write books that not many people would want to buy anyway if they could help it.”

Roy’s apparent anger is further reflected by the comment: “To send one’s child to one of these universities costs (say) an author maybe $50,000 a year.” Because I found this so misleading, I decided to respond to Roy and say “I get your point”—but I think you are generalizing and overreaching more than a little bit.

First let me say that most university people who write books do so in addition to teaching four or five courses a semester and they do this on their own time. Yes, our books are poor sellers that most of the public could not or would not read under any conditions. We, by the way, are not paid by our universities to write these books, but article and book publishing might help with tenure or with a trifling pay raise. More important still, article and book publishing are important means to establishing an academic reputation. In academia, reputation can bring a little respect or possibly lead to a job at a more prestigious university.

In addition, I would like to say that not all universities are located in the northeast and most of them are not Ivy League schools. Some universities cost much less than $50,000 a year. My university (a branch of the University of Texas) costs little more than $4,000 per year, is not Ivy League, and is considered a “hard work university” with a student body made up of many minority students. Perhaps Roy’s greatest misunderstanding has to do with the reasons why academics write books as they are definitely not for financial gain. A simple point of information: unknown to the general public, most college professors do not publish. According to the Chronicle of Higher Education, less than 10 percent of professors publish serious works. Those that do publish might do so for employment reasons, but others do so because they are attempting to say something or to establish something that they feel is important and new.

I would like to use myself as an example. During the past 20 years I have written several books and the only book that has made any money was a university level textbook. In recent years the monographs that I have written were for the purpose of advancing a new concept in political science called “civism.” Currently, I am working on my third monograph on “civism” because I feel that this concept is relative to our troubled societies. (By the way, as a Professor Emeritus I receive no salary, but I do have parking privilege.) My first book on “civism” covered the entire range of western history and sold almost two hundred copies after five years in print. My second book on “civism” related to ancient Greece sold two hundred copies in three months. (No big deal but something seems to be stirring about this idea that I call “civism.”) My third book on “civism” is in the works at this time and it will take another four years to finish and then may sell poorly. What is a book worth, Roy Blount? More than you think or can even imagine, but not in commercial terms. For me it is worth a lifetime of effort and the rewards are almost all intrinsic.

—Thomas Dynneson
Odessa, TX

Publishing has changed a great deal in the last 50 years. Fifty years ago, I doubt if there were 5,000 writers submitting manuscripts to publishers and/or agents. Today, publishers claim to receive over 100,000 or more manuscripts a year. The same is true for agents. Everyone all over the country seems to feel the need to write a coming-of-age novel or a midlife memoir and they are all submitting manuscripts.

When a submission editor comes in on Monday morning, there are 500 queries on her e-mail and probably more than that on her desk. She has no hope of reading all of these queries and does not. An editor once told me it took more time than she had just to send quick rejections; she could not read them all, and she didn’t.

Agents and publishers have changed also. Forty percent of all hardback books are fiction written by women for women. Sixty percent of the paperbacks published are fiction written by women for women. Eighty-five percent of the literary agents are women. Eighty-five percent of the editors, assistant editors and submission editors are women and their favorite query is, “Two sisters who love each other are fighting over the same man in a no holds barred fight.” If you don’t believe me look at the samples of successful queries on agents websites.

Most men have given up on reading books. They lost the music market to teenagers and the film industry to children. The majority are watching sports and drinking beer. It is the only thing they have left.

To further confuse the publishing industry, self-publishing companies like Publish America and publishers of print on demand are making millions of dollars on self-published books. Amazon.com and Barnes & Noble are taking advantage of what is almost a new industry.

I think it is time for another step in the publishing industry before a manuscript advances to an agent or publisher—clearing houses or pre agents that all manuscripts must pass through to give literary agents and
publishers some relief. This way, an agent or publisher will have the time to give careful attention to all the submitted manuscripts. The rewards are, we may get better quality books and maybe men will start reading novels again. It could be a start.

—Mark R. Conte
Navarre, FL

Contracts Q&A

Continued from page 15

publisher is adamant that even that oblique reference is unacceptable, then make sure your understanding is clearly specified in a letter from the publisher to you that is dated the same date as the contract (not before!) and, preferably though not necessarily, is signed by the same person who is signing the contract.

Keep in mind that the parol evidence rule applies in a courtroom. It does not—and should not—stop you from telling the publisher what your editor said and hoping she is an honorable person who doesn’t hide behind legal rules of evidence. You will understandably have a better chance of success when the editor’s statement was in writing so the publisher can assure itself not only that you are telling the truth but, equally important, that there was no honest misunderstanding.

Q. A production company wants to option my novel and turn it into a movie. For several years now, my publisher has listed my book as “out of stock” and fulfills orders with individual paperback copies that it somehow prints. It seems unfair for the publisher to get 50 percent of what I’ll get for the movie rights, especially since they’ve done virtually nothing for the book for the last four years (it was published five years ago) and this option possibility came through contacts of mine. I’d like to obtain publishing rights immediately since what this publisher will give me if it signs the option agreement will be an insult.

A. There is very little you can do quickly that’s likely to have the result you want.

You could ask your publisher if it will revert the movie rights to you voluntarily. As my friends and I learned in law school albeit in a different context, “there’s no harm in asking.” Another possibility is to ask that the split be changed to 90/10 for deals you arrange but keep it at 50/50 for all others; it might be something your publisher would be amenable to.

Unfortunately, the best advice I can give you is for your next contract, not this one.

When granting movie or other performance rights, include a provision in your contract that requires the publisher to revert those rights to you upon your request if it has not licensed them within two or three years after your book was first published.

The same applies to all other rights typically or frequently withheld by authors who have agents, viz., translation rights, British Commonwealth rights, non-verbatim electronic rights and audio rights. Merchandising rights also fall within this category if the author granted them to the publisher. For translations, be sure to treat each language as a separate right for this purpose.

The time period for translation and Commonwealth rights is more typically three to five years from first publication; for audio rights it should be one year.

Sample contract language for this can be found at www.bookcontracts.com/sampleclauses.

Also note for your next contract that the typical subsidiary rights split for performing rights is 90 percent to the author and 10 percent to the publisher, not 50/50.

Whether printing individual copies of a book precludes an author from invoking a contract’s “out of print” provisions has been discussed in previous columns (Summer 2007 and Summer/Fall 2009 issues of the Bulletin). In any event, fighting that issue will not solve your problem quickly.

Incidentally, I don’t suggest offering to buy the movie rights back from your publisher. Not only because I doubt it would be worth your while—few film options involve big money and relatively few, big money or not, result in a movie being made—but because your publisher would have to be pretty dumb (or very naive) not to ask why you’re so eager to get the rights back.

Which raises the question—not necessarily a legal one but one you may wish to consider nonetheless—of whether you have or should have any qualms about asking your publisher to revert the rights voluntarily without disclosing the option offer.

E-mail questions to QandAColumn@authorsguild.org. Questions are often edited for readability or to make them more broadly applicable.

The answers in this column are general in nature only and may not include exceptions to a general rule or take into account related facts that may result in a different answer. You should consult a lawyer for information about a particular situation. No question submitted, or answer provided, creates an attorney-client relationship with the column’s author.
Legal Watch

Continued from page 17

with Elaine in 1994 made any termination right moot. Penguin argued that since the agreement replaced the 1938 grant of rights, there were no pre-1978 rights left to terminate. In 2008 the Second Circuit agreed and found that the language of the agreement between Elaine and Penguin relating to the early works clearly “terminated and superceded any prior copyright grants,” including the 1938 contract. There were, therefore, no pre-1978 grants in effect, and no termination rights for Thomas and Blake to exercise.

Thomas and Blake argued that the 1994 agreement was void, since it effectively waived the termination right for all heirs of John Steinbeck, going against the language of the Copyright Act that prevented the termination right from being waived by “agreements to the contrary.” The Second Circuit disagreed and found that the 1994 agreement was not an “agreement to the contrary,” because it did not eliminate the termination right, but rather exercised it. The court explained that the termination provision allows either renegotiation or termination, but not both, and Elaine’s renegotiation qualified as exercising the termination right. The court stated that “nothing in the statute suggests that an author or an author’s statutory heirs are entitled to more than one opportunity, between them, to use termination rights to enhance their bargaining power.”

The court stated that “nothing in the statute suggests that an author or . . . heirs are entitled to more than one opportunity, between them, to use termination rights to enhance their bargaining power.”
for additional time to conduct discovery to find more information to support this argument. Judge Daniels explained that even if the contracts were unfairly negotiated, the defendants had been aware of the terms of both agreements since 1994, and neither had objected for the last 15 years. Thomas was even a signatory to the later agreement at issue in this case. Additionally, under the 1974 settlement between Elaine and the Steinbeck sons, Elaine had an unrestricted right to negotiate whatever contract she wanted, even if it was less fair to the sons. The court explained that since Elaine had no duty to negotiate equal agreements, it was even less likely that a court could find that she conspired illegally with Penguin in negotiating the two contracts. The court denied Thomas and Blake's request for discovery.

The court concluded by admonishing the defendants for “seek[ing] to avoid and undermine previous rulings of the Second Circuit and the District Court,” stating that “Defendants’ motivation appears to be that after 15 years of receiving payments under the 1994 Later Works Agreement, they seek to continue to relitigate in an attempt to force greater payments. Defendants . . . cannot evade the terms of the contract they bargained for, or further delay finality by embarking on a fishing expedition for further discovery.”

Katherine Kriegman
—Legal Intern

Too Close for Comfort

Vickie Stewart v. Haywood Smith
Hall County State Court

Haywood Smith’s best-selling novel, The Red Hat Club, depicted five female friends who teamed up to take revenge on one of the women’s cheating husbands. One of Smith’s real life friends, Vickie Stewart, thought one of the characters was a little too familiar, however, and brought a libel claim as well as an invasion of privacy claim against Smith and her publisher, St. Martin’s Press. Stewart alleged that “Susu,” the character she believed was based on her, was defamatory because Susu participated in both drunken and sexual activities. Stewart further claimed that the character shared more than 30 distinct similarities with her, including similarities in upbringing, jobs (both were flight attendants), deaths of first husbands, and circumstances of divorce from second husbands. Stewart also claimed that the depiction of Susu revealed private matters involving Stewart’s childhood relationship with her parents, as well as the fact that Stewart underwent a facelift as an adult.

After much legal wrangling, the Georgia Court of Appeals allowed Stewart’s libel and public disclosure of embarrassing facts claims to proceed to a jury. At trial, Stewart’s attorneys called several of her friends, who confirmed that there were a number of recognizable similarities between Susu’s backstory and Stewart’s own life. However, the friends rejected the idea that the novel caused them to believe that Stewart was promiscuous or had alcohol-related issues. Stewart herself testified that she was hurt by the novel and felt compelled to bring suit to defend her reputation.

Expert witnesses for both sides were also called during the trial. Testifying on Stewart’s behalf, a psychologist told the court that Stewart suffered from lifelong depression (a fact that was not known to Smith) and that the publication of the book exacerbated the condition. Attorney Jonathan Kirsch also testified on behalf of Stewart, telling the court that any novel that even hints that it is inspired by the lives of real people and that its characters do “disreputable” things should be subject to careful vetting prior to publication. By failing to have her manuscript vetted, Kirsch believed Stewart failed to meet the regular standard of care required by the publishing industry.

Testifying on behalf of Smith was Daniel Menaker, former editor in chief at Random House, and Hugh Ruppersburg, a professor of English and associate dean at the University of Georgia. Both testified that Smith was reasonable in her belief that the novel would be read purely as fiction, and that similarities between fictitious characters and real people are commonplace in the literary world.

After the sides presented their case, the court charged the jury with instructions on how to evaluate the libel and invasion of privacy claims. The jury was told that to conclude that Smith libeled Stewart, they would have to find that The Red Hat Club contained false and defamatory statements “of and concerning” Stewart, that Smith was negligent by not exercising ordinary care in what she wrote about Stewart, and that Stewart was injured by Smith’s statements. Essentially, if the jury concluded that the Susu character could be identified as Stewart by people who knew her, the evidence presented was sufficient to support the libel claim.

Ultimately, the jury concluded that Stewart had proven the libel claim and awarded her $100,000 in damages. But they rejected both her invasion of privacy claim and her claim for attorney’s fees. According to Stewart’s attorneys, she is considering an appeal.

—Michael Gross
Staff Attorney
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The Authors Guild, the oldest and largest association of published authors in the United States, works to protect and promote the professional interests of its members. The Guild's forerunner, The Authors League of America, was founded in 1912. The Authors League now serves the joint interests of The Authors Guild and The Dramatists Guild.

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WMMBB?
Continued from page 8

Chief Judge John Woodcock denied Amazon’s motion to dismiss the lawsuit.

2010
Vertical Integration: A Settlement
On January 20, Amazon and Booklocker announce a settlement. Amazon agrees to pay $300,000 in attorneys’ fees and costs to Booklocker, but admits no wrongdoing.

The Big One
Amazon makes its first known use of its buy button weapon to use its heft in the physical book industry to exert control over a new format: e-books. Macmillan CEO John Sargent flies to Seattle to inform Amazon on January 28 that, beginning in March, it would offer Amazon access to a full range of e-book titles only if Amazon were willing to sell books on an “agency model.” Amazon doesn’t wait for March, and preemptively and comprehensively strikes back, removing buy buttons from nearly all Macmillan titles, not just from e-books, but from physical books, a far larger market. Although Amazon promises to “capitulate,” it takes a good week before that happens. ✩
Membership Application

Mr./Ms. ___________________________ Pseudonym(s) ___________________________
Address ___________________________________________________ City __________ State ____ Zip ______
Phone ( _____) _______________ Fax ( _____) _______________ E-mail ___________________________
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