

THE *SIMON & SCHUSTER* RIGHTS GRAB

AUTHORS: SIMON & SCHUSTER WANTS TO RETAIN CONTROL OF YOUR BOOKS EVEN AFTER THEY ARE OUT OF PRINT.

Simon & Schuster's contract says that, even if it fails to sell a single copy of a book, "The Work shall not be deemed out of print as long as it is available in any U.S. trade edition, including electronic editions." This gives the publisher the ability to retain rights to a book for the entire length of the copyright, *even if the book is not in print and it remains "available" only through S&S's electronic database.* This is a stark departure from traditional contract practice, in which rights revert to the author if a book is out of print or its sales fall below a minimum level.

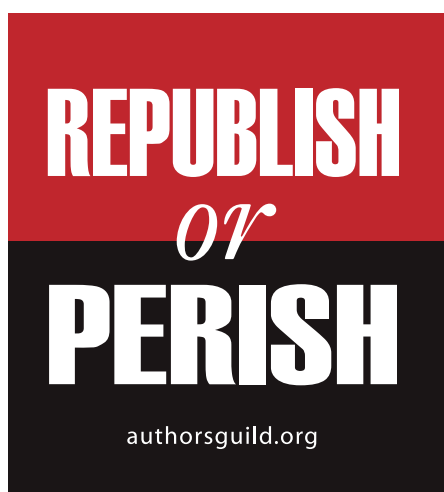
S&S IS STAKING A CLAIM TO YOUR COPYRIGHT. IT'S BAD FOR YOU, BAD FOR AGENTS, AND BAD FOR THE INDUSTRY.

S&S wants to retain the copyright so it can shake every penny from the "long tail" of the publishing industry – the incremental revenue publishers gain from occasional print-on-demand or e-book sales of works in their databases. That provides a little extra revenue for S&S – but what's in it for everyone else?

- The incremental income available to **Authors** from one-off sales of books deep on a publisher's backlist is dwarfed by the revenue a successful republishing can yield.
- **Publishers** of all sizes will miss out on potential republishing opportunities.
- **Booksellers** will miss out on the genuine second life of republished books. (Booksellers: How much money did you make selling print-on-demand books last year?)

WHAT S&S IS OFFERING AUTHORS IN LIEU OF CONTROL OF THEIR RIGHTS:

In its response to the author and agent communities, S&S offers only unbinding promises about hypothetical promotional activities in return for its appropriation of authors' traditional contractual rights. It goes on at length about its efforts to market backlist titles, including "regularly review[ing] inventory opportunities with all



our accounts" and engaging in the "distribution of online assets (cover, bios, synopses, chapters) and data feeds about basic information" on backlist titles to retailers. Whatever the merit of these efforts, they don't bear on an author's right to republish.

WHAT WE ARE DOING:

The Authors Guild Council (our board) authorized on May 30th an extraordinary expenditure to combat this extraordinary assault on your copyright, your property. We'll use these funds to:

- Place ads in general interest magazines to inform authors of Simon & Schuster's new contract practice.

- Distribute information to Simon & Schuster authors by mail and e-mail, informing them of Simon & Schuster's new policy on rights reversions and what it means for any future contracts they may want to enter.
- Organize in-person and telephone symposia on the new contract terms.
- Provide authors and agents with advice on how they can protect themselves.

WHAT AUTHORS CAN DO:

- Remember that signing a Simon & Schuster contract containing this clause means the publisher can claim you are wed to them. Your book will live and die at the pleasure of S&S.
- Ask your agent to explore other options. Other publishers are not seeking this irrevocable grant of rights.
- If you have a manuscript that may be auctioned, it's in your strong interest to have your agent exclude Simon & Schuster imprints unless they agree to use industry standard terms before the auction.
- Let us know if other major publishers follow suit. Any coordination among publishers on this matter has serious legal implications.

Now's the time to take this tiger by the Long Tail – to insure that all the parties in the book publishing industry benefit from changing technologies and market opportunities. This is not about S&S's ability to sell books using new technologies. They already have the rights – as they have for years in their standard contract – to take advantage of print-on-demand and e-book technologies. We encourage publishers to sell books in every permissible way.

Visit www.authorsguild.org for the latest updates.

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FOR ADDITIONAL INFORMATION**

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