This time, the Potter parties won't fly

Warner Bros. rules anger bookstores

By David Mehegan, Globe Staff | July 14, 2007

Midnight launch parties at bookstores have become a tradition with Harry Potter novels. But with the approach of next Saturday's publication of "Harry Potter and the Deathly Hallows," the last book in the series, many of those throwing parties are being forced to revise their plans, including some intended to benefit charities.

The reason: Warner Bros. -- which controls the movies, merchandise, and all nonbook aspects of the Harry Potter brand -- is clamping down on the fun.

In the past few weeks, Warner's London legal office has sent e-mails to booksellers and party organizers around the country, warning them against unauthorized celebrating, under the threat of legal action. "[Your event] appears to fall outside our guidelines," said one e-mail. "Therefore, HARRY POTTER cannot be used as a theme for your event."

Warner Bros. says it's only trying to protect young Potter fans from inappropriate, non-family-friendly celebrating. But to many booksellers, it looks like an excessive effort to make sure no one benefits financially from its trademarks.

"It strikes everybody as heavy-handed," said Steve Fischer, executive director of the New England Independent Booksellers Association. "It seems to me they're missing the good-faith piece of what bookstores are trying to do, which is to sell a lot of copies of a children's book."

The rules for the parties come from both Warner and Scholastic Inc. Scholastic has limited rights to publish the books, and use the artwork in them, in the United States. Warner Bros., part of the Time-Warner empire, owns worldwide rights to the Harry Potter trademarks, including characters, themes, and incidents for use in movies, DVDs,
video games, and merchandise from clothing to mugs to toys.

Before they could receive their copies of "Harry Potter and the Deathly Hallows," booksellers had to sign a contract with Scholastic. Besides agreeing to keep the books secure until 12:01 a.m. Saturday, they had to agree to a list of guidelines, mainly focused on keeping them from straying beyond the publisher's rights. One item says, "Please ensure that you keep to our policy: that the book marketing campaign should be separate and distinct from the Warner Bros. film campaign and licensed merchandise programs" -- meaning neither images from the movies nor Harry Potter products can be used to promote the book.

It's the section about parties that has booksellers grumbling. Most of the points are uncontroversial -- parties must be decent and safe, nonpolitical, held no earlier or later than 24 hours from the release hour. Other conditions have taken some booksellers by surprise: "No fees are charged for admission or any activities at the event . . . no third parties are associated with the event in any way . . . the event is small-scale, local, non commercial, not-for-profit."

Some booksellers had planned to sell tickets to their events, mainly to cover the cost of keeping stores open until after midnight. And many events are being cosponsored or assisted by other stores and businesses -- all clearly third parties. Now some booksellers and community groups are having to revise their plans.

"We have to jump through 45 hoops in order to celebrate and sell their book," said Elizabeth Bluemle, owner of The Flying Pig Bookstore in Shelburne, Vt. "It feels frustrating to a lot of booksellers. The independents were the ones who discovered Harry Potter, who got it in the eyes of the national market."

In its e-mails to party organizers, Warner included its own list of conditions "to help us make certain that the HARRY POTTER trade mark and other protected materials are not misused." In one respect - - ticket sales -- Warner's rules are more lenient than publisher Scholastic's, and booksellers are trying to sort out the differences. Warner's rules allow a $5 maximum admission charge, and allow fund-raising for local charities. But they prohibit any sponsorship or participation by "commercial organizations or non-qualifying organizations," as well as profit-making by participating businesses.

Organizers of Mugglefest in Portland, Maine, allied with local bookseller Books Etc., built a theater set in an old warehouse and had planned a party with 25 local retailers participating, each selling their own goods. Several corporate sponsors had planned to contribute, and their contributions, along with the fees from the stores in the warehouse, were to be donated to a preschool program for Somali and Sudanese refugees. But then came the e-mail from London.

"We couldn't take money from anyone, which was the fund-raising part of this," said organizer Kirsten Cappy of Curious City, an events producer. "The other surprise was that no one else could profit, including local vendors. For example, the local comic-book store is the publisher on Diagon Alley [a street of wizardry shops in the novels], and a candy store is the Diagon candy store. We had to erase the fees for the retailers and ask them to make a voluntary donation. It means a lot less money for the school."

Last week Jennifer Saphier, an event producer running "Potterpalooza" in Brookline's Coolidge Corner, got an e-mail from
Warner Bros., objecting that the event was too big and too commercial. The event, a benefit for the Brookline Teen Center Fund, includes sponsorship and participation of 18 local businesses, including Brookline Booksmith. Saphier said the planning committee has discussed the e-mail, and she said the event will not defy the guidelines. She declined to specify the changes, if any.

A Warner Bros. statement, provided by spokeswoman Andrea Marozas, said the guidelines are intended "to help organizations run themed events in a way that avoids fans being exploited and helps everyone to enjoy the Harry Potter books, films, and events in the spirit in which they were created." Marozas declined to explain what Warner means by "exploited" but said the idea was to ensure that parties are family-centered. The statement does not mention protection of trademarks.

"We're grumbling, but what can we do?" said Allan Schmid, owner of Books Etc. and president of the booksellers association. "We don't want to be exposed to the long arm of Warner Bros."

Some booksellers did not want to complain on the record about the clampdown. Others are taking a "don't ask-don't tell" approach, assuming the corporations can't investigate every party in America. Still others are determined not to let the policing spoil the fun.

"We can't get depressed about it," said Betsey Detwiler, owner of Buttonwood Books & Toys in Cohasset. "We will have 100 kids and parents, and they'll have a great time. I told the staff to concentrate on that. The kids will go home happy, and read all night."

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