'Harry Potter' among those missing from e-library

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FILE - In this 1967 file photo, J.R.R. Tolkien. author of "The Lord of the Rings" is shown. (AP Photo, file)

(AP) -- The latest J.R.R. Tolkien project lasted six years, more than half as long as the author needed to complete his "Lord of the Rings" trilogy.

Getting permission to release a book in electronic form can be as hard - or harder - than writing it.

"The Tolkien estate wanted to be absolutely confident that e-books were not something ephemeral," says David Brawn, publishing operations director at HarperCollins UK, which announced last week that the late

British author's work - among the world's most popular - would be available for downloads.

"We were finally able to convince the Tolkien estate that the e-book is a legitimate, widespread format."

Tolkien's addition to the e-club fills a major gap, and, with e-books the fastest (and virtually only) growing sector of publishing, other authors and their estates have softened. Former holdouts Tom Clancy and Danielle Steel have allowed their books to be digitized and John Grisham will reportedly do the same. Grove/Atlantic Inc., which has published William Burroughs, Samuel Beckett and Malcolm X, expects many of its older works to become available.

"We're getting less resistance every day," says Grove associate publisher Eric Price.

But you could still build a brilliant collection with the books that remain off-line. They include, most notably, the "Harry Potter" series, and countless other favorites: "Catcher in the Rye" and "Catch-22"; "Lolita" and "To Kill a Mockingbird"; "Atlas Shrugged" and "Things Fall Apart"; "The Outsiders" and "Fahrenheit 451."

No e-books are available from such living authors as Thomas Pynchon, Guenter Grass and Cynthia Ozick, or from the late Studs Terkel, Roberto Bolano and Saul Bellow. Only a handful, or less, have come out from Paul Bowles, Hunter S. Thompson and James Baldwin.

The reasons are legal, financial, technical and philosophical.

-The author or author's estate simply refuses, like J.K. Rowling, who has expressed a preference for books on paper and a wariness of technology. And don't expect to see "A Streetcar Named Desire" or any other

Tennessee Williams play on your e-reader.

"Right now, his estate is totally opposed to any kind of electronic licensing," said literary agent Georges Borchardt, who represents Williams' estate. "They just don't trust the technology."

-The book doesn't fit the e-book format. Because e-technology has had limited capacity to handle illustrations, paper - recycled paper - was needed to read Al Gore's "An Inconvenient Truth," the companion to the Academy-Award winning environmental documentary. Rodale Books hopes to release Gore's follow up, "Our Choice," as an electronic text when the traditional book comes out this fall.

-The author, or the author's representative, is holding out for more money. Agents complain that e-book royalty rates, commonly 25 percent of net receipts, are far too low and should be doubled, saying that digital texts cost virtually nothing to produce and distribute.

"Publishers get a huge profit, more on e-books than on anything else," says Timothy Knowlton, CEO of Curtis Brown Ltd., where authors include business writer Jim Collins (whose "Good to Great" is unavailable as an e-book) and religious scholar Karen Armstrong (whose recent work can be downloaded).

"From my perspective, that's patently unfair and it's going to backfire on the publishers who insist upon it."

Knowlton says that HarperCollins is among those giving 25 percent. Ana Maria Allessi, vice president and publisher of HarperMedia, a multimedia group at HarperCollins, did not confirm or deny the number, but said that the same rate has been offered since 2001.

"We feel it's the right royalty, one that allows for growth of the format

while still returning to authors a respectable amount of money," Allessi said.

-The author, or author's estate, is open to e-book rights, but still not convinced that the market is big enough to justify the expense and risk of digitizing a text. Arthur Klebanoff of RosettaBooks, an e-book publisher, remembers numerous attempts to get rights to "To Kill a Mockingbird" and other older classics, only to encounter skepticism about sales.

"Some of the biggest names are still waiting for the market to prove itself," Klebanoff said.

The digital red tape is especially thick for books issued before the Kindle/Sony Reader era. David Foster Wallace's "Infinite Jest," a cult favorite published in 1996 by Little, Brown and Company, is finally expected to come out as an e-book. Grove/Atlantic hopes to have an e-version of Burroughs' "Naked Lunch," released on paper in 1959, ready for the novel's 50th anniversary.

"We have to go through every single contract to see which ones have a clause that might pertain to electronic rights and which ones didn't," says Grove's Eric Price. "When you're going through thousands and thousands of contracts, it's a slow, slow process."

Sometimes, just finding out whether a book has e-rights is a complicated process. A handful of Jack Kerouac books can be downloaded, including "Dharma Bums," "Wake Up" and the original manuscript (the "Scroll" edition) of "On the Road," but not the edited version of "On the Road" that is known to millions.

The manager of Kerouac's literary estate, John Sampas, first said that "On the Road" was not available as an e-book, because the publisher

(Viking) had not asked permission. He then called back and said the book was available, but realized he may have been talking about the "Scroll." Sampas suggested contacting Viking, which said it does have rights to the popular edition, has plans to release it, but has not decided upon a date.

Authors, too, can be the last to know. Erica Jong said she "had no problem with e-books" and was surprised to learn that "Fear of Flying" wasn't available. Historian Douglas Brinkley considers himself an ink and paper man and said he hoped his work, which includes the best sellers "The Great Deluge" and "Tour of Duty," wasn't for sale electronically.

But it was.

"That's why I don't think about it," he said. "Personally, I'm smart enough to recognize the e-book trend and stubborn enough to resist it."

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