



Dick Tracy Returns: The Importance of Specificity in Reversion Clauses

March 31, 2011 by Bob Tarantino

Reports about Warren Beatty's recent court victory in respect of the film and television rights to the *Dick Tracy* property offer a chance to reflect on the wording of reversion clauses. Grants or transfers of rights in entertainment properties are sometimes subject to a reversion clause which obliges the grantee to exploit the rights within a certain period of time or else the rights "revert" to the grantor.

In Beatty's case, though details are somewhat sparse, it appears that when he obtained the rights to the *Dick Tracy* property, his continued enjoyment of the rights was subject to a reversion clause: if Tracy failed to produce a new Tracy-based film or TV project by a certain deadline, the rights would revert to Tribune Co. (the owner of the underlying rights in the franchise). Beatty had produced the 1990 movie *Dick Tracy*, but Tribune evidently was interested in producing a new TV series. The most comprehensive coverage of the dispute between Beatty and Tribune is offered by Phil Rosenthal writing at the Chicago Tribune's Tower Ticker blog:

Beatty, who acquired rights to the character from Tribune Co.'s Tribune Media Services in 1985 and made the 1990 movie "Dick Tracy" starring himself and Madonna, filed suit in Los Angeles federal court in 2008 after Tribune Co.'s Tribune Media Services said those rights had reverted back to it. ...

Tribune Co. argued that Beatty was required to produce another Tracy television or movie project to retain the rights before a use-it-or-lose-it deadline TMS had established two years earlier. Beatty countered that, after his request to extend the rights to 2013 was denied, he had begun work on a "Tracy" special before the deadline.

Turner Classic Movies subsequently scheduled a half-hour movie chat between film critic Leonard Maltin and Tracy (as played by Beatty) discussing various portrayals of the comic detective for July 2009, but it's the special didn't run on the cable channel.

Judge Dean D. Pregerson of the Central District of California decided in Beatty's favour: Beatty's commencement of work on the half-hour movie was sufficient to meet the condition he had to satisfy in order to retain the rights. In short (although this is necessarily speculative without having the benefit of the contractual language or the court's reasons), it would appear that Beatty abided by the terms of the reversion clause, though interpreted strictly: the reversion clause obliged him to commence production on some kind of film/TV project within a certain time frame in order to retain the rights - he did so, and so retains the rights. Tribune's argument was presumably something along the lines of "to meet the condition, it couldn't just be a perfunctory production - it was supposed to be a *real* production - something with a big budget, something with stars, something that was intended to be theatrically released or broadcast on a major network or pay/subscription channel - not some rinky-dink 30 minute special which never even got aired".

The court was inclined to prefer Beatty's approach:



"(Tribune Co.) may be frustrated that (Beatty) has not used his rights to Dick Tracy for more profitable ends," Judge Pregerson wrote in his ruling, noting he saw nothing in the contract between the two requiring such a project to make money.

The upshot for practitioners? Reversion clauses should be drafted with precision: if the grantor of rights intends that only a "real" production will qualify to vest rights in the grantee, then the clause should expressly state a minimum budget amount that is required to be actually spent by a particular date - or require broadcast on particular outlets or theatrical release in a minimum number of theatres by a particular date or require that distribution/license agreement(s) worth a particular dollar amount (paid as a minimum guarantee) be entered into by a specific date. Other specific provisions can be envisioned, but the primary point to bear in mind is that contractual language needs to be as detailed as possible in order to ensure that performance by the parties can be measured against an express, identifiable standard.

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