

Full Length Research Paper

And the Oscar goes to . . . Global Cinema!!! Taking a Close-Up Look at the Business and Legal Challenges and Opportunities of International and U.S. Film Industries

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For over 120 years, the global cinema industry has been an important segment of the world economy which has had a significant impact on the economy and culture of countries. This article analyzes the world film industry, with a close up focused on the U.S. movie market, utilizing SWOT (Strengths, Weaknesses, Opportunities and Threats) as a strategic tool to consider the internal and external challenges and opportunities facing the film industry today including the remnants of the studio system and box office winners and flops. In addition to the methodical approach of SWOT analysis, the author, an attorney admitted to practice in the State of New York and licensed to appear before the U.S. Supreme Court, will highlight some of the legal issues facing the film industry today, particularly in the United States, such as corporate mergers and acquisitions of businesses to acquire their copyrighted content, patentable technological advances such as virtual reality, digital streaming and subscription services along with the problem of piracy.

Key words: World film industry, global cinema, business analysis, legal challenges.

INTRODUCTION

It only takes a quick glimpse at the 2018 Oscar Nominations for Leading Roles to notice the international Hollywood stars –Margot Robbie (Australian –*I, Tonya*), Sally Hawkins (British- *The Shape of Water*), Saoirse Ronan (Irish and American –*Lady Bird*) (3 of 5 female nominations) along with Daniel Kaluuya (Born in the UK to Ugandan immigrant parents- *Get Out*), Gary Oldman (British –*The Darkest Hour*), Daniel Day Lewis (British and Irish –*Phantom Thread*) and Christopher Plummer (Canadian –*All the Money in the World*) (4 out of 5 male nominees), as well as the international talent under

contract - Directors Christopher Nolan (British –*Dunkirk*) and Guillermo del Toro (Mexican-*The Shape of Water*). This continues a rich history. Throughout the over 120 years of film-making in the U.S., production companies have contracted with international actresses, actors and talent.

According to Price Waterhouse Cooper, the U.S. is the current global leader in filmed entertainment; however, “the next few years are set to see the US lose the dominant position that it has held in global box office revenue since the silent movie era began more than a

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century ago.” This is due to “(A) momentous shift in the global cinema market’s balance of economic power . . . now looming.” (PWC.com, 2018) According to the projections in PwC’s Global Entertainment and Media Outlook (2016-2020), China could overtake the US as the world’s biggest box-office market in revenue terms as early as late 2017. They also note some of the business changes in the industry, such as the continued downward trajectory of physical home video revenue as well as the adoption of digital technologies in theaters and streaming on viewers’ home and mobile devices.

The year 2016 was the most lucrative for the global film industry, with over \$11 billion in revenue (Boxofficemojo.com, 2018) thanks in large part to two Disney films – “Captain America: Civil War” and “Rogue One: Star Wars: The Force Awakens”. (The Hollywood Reporter, 2018 <http://www.hollywoodreporter.com/news/how-star-wars-will-change-846918>). Both films had international casts with actors coming from the United States - Captain America’s Chris Evans, Robert Downey Jr., and Scarlett Johansson, from England – Felicity Jones (*Rogue One*) and Paul Bettany (*Captain America*) as well as from Canada (Emily Van Camp –*Captain America*), Mexico Diego Luna – *Rogue One*), Hong Kong (Donnie Yee – *Rogue One*) and Romania (Sebastian Stan – *Captain America*). *Captain America* had a production budget of \$250 million (Boxofficemojo.com/movies, 2018) and *Rogue One* had a production budget of \$200 million (Marketwatch.com, 2018). *Star Wars: The Last Jedi* was the top film in 2017 and *Black Panther* in Marvel’s cinematic universe (distributed by Walt Disney Studios Motion Pictures) is making a strong showing in 2018 with \$700 million in gross income (Boxofficemojo.com, 2018). Perhaps the future of the movie industry is a “force that has awakened” since we can view international stars filmed in remote locations or even fictional locations in theaters, in 3D, through virtual reality or by streaming on our hand-held devices.

LITERATURE REVIEW

Today, the film industry is first and foremost a business, not just an art form. It is also a global business with an international history. “Cinema was “born” in 1895, and depending on the historian, it was created first either in France or in the United States.” (Kindem, 2000). In 1891, American Thomas Edison (with W.K.L. Dickson) patented the *kinetograph*. Two years later, he gave a public viewing of a short film through a peephole (*kinetoscope*). In 1895, in France, brothers Auguste and Louis Lumiere developed the *cinematographe*, which functioned as both a camera and a projector (Kindem, 2000). Edison’s invention of the kinetograph was not a simple “eureka” moment. Instead, the kinetograph (visual images) was based upon a series of inventions including

the *phonograph* (sounds), “. . . as Edison attempted to do for the eye what the photograph did for the ear, using a cylindrical device” (Kindem, 2000).

The business of the United States film industry began in 1896 when Edison projected films on a *vitascope* projector at Koster and Bial’s Music Hall (New York). (Kindem, 2000). Whereas kinetoscopes were viewed (and paid for) by only one viewer, typically at penny arcades, hotel lobbies, Summer amusement resorts and photography studios (Kindem, 2000), projected films could be viewed (and, most importantly *paid for!*) by a large audience.

Both the Lumieres and Edison showed their movies at vaudeville theaters, but they had different business plans.

The Lumieres provided vaudeville with a complete “act”, consisting of a projector, films, and operator, that could be booked for a chain’s entire schedule throughout the country from a central New York office. Edison, on the other hand, relied upon a “states’ rights” approach to set up franchises that leased projectors and sold films to vaudeville theaters on a state by state territorial basis. It was the Lumieres brothers’ marketing plan; however, that served as the eventual basis for the Edison, Biograph, and Vitagraph companies’ commercial theatrical film success in the United States prior to the advent of storefront movie theaters or nickelodeons, in the mid-1900’s (Kindem, 2000).

The first “nickelodeon,” which received its’ name because it charged the audience a nickel to watch “The Great Train Robbery” opened in 1905 in Pittsburgh (Kindem, 2000). At the Strand Theater in Manhattan in 1914, an audience member could watch a film which was accompanied by music from a large pipe organ or symphony orchestra (Squire, 2004).

In 1906 and 1907, the some of the concepts of economics, specifically supply and demand, started to materialize in the newly emerging cinema industry since “. . . the U.S. movie industry experienced an explosion in the *demand* (emphasis added) for movies” (Kindem, 2000). Fictional movie stories became popular and most films were created in Europe who then *supplied* them to the United States (Kindem, 2000).

Another economics term became associated with the movie business at this time –*monopoly*. A suit was brought by William Fox (later known as Twentieth Century –Fox) against the Motion Picture Patents Company (“MPPC”) otherwise known as the “Edison Trust”, alleging illegal restraint of trade and monopoly as prohibited by the Sherman Antitrust Act of 1890. The federal courts ruled that the MPPC was an illegal trust in violation of Section I of the Sherman Act and Section 3 of the Clayton Act of 1914 (Kindem, 2000). See U.S. v. Motion Picture Patents Co. (October 1, 1915).

In 1918, an appellate court dismissed the Patent Company’s appeal and ended the MPPC. (Wikipedia.org/wiki/Motion_Picture_Patents_Company). The initial decision was made by Judge Oliver B.

Dickinson of the United States District Court. (The New York Times Published: October 2, 1015). United States v. Motion Picture Patents Co. 225 Fed. 800 (E.D. PA 1915), appeal dismissed, 247 U.S. 524 (1918) (Whitman, 1938).

However, this case did not stop some business practices which had already begun in the film industry such as “. . . the initial establishment of a movie star system and studio system, feature length films, a migration of producers to southern California, alternative distribution practices, such as road shows (leasing theaters for specific showings) and block booking (selling several films in a package linked to a highly desirable movie), and the exhibition of feature films in movie palaces (Kindem, 2000). Some of these movie stars, such as Mary Pickford, Charlie Chaplin and Douglas Fairbanks were paid approximately \$1 million in 1919 (Kindem, 2000) (these stars, along with director D.W. Griffith, would later go on to form United Artists.) At that time, movies were created by group production units who shot scenes following a short outline. Thomas Ince came to California in 1911, and by 1915, he had established a standardized studio system in which managers developed a written plan for a film, . . . a producer organized the work, a scenario editor controlled the script, a director headed and supervised shooting, and an editor cut the film. As his production studio grew in size, Ince divided these and other production responsibilities among specialized areas and individuals. A pyramid of labor was established, and movie making became a modern corporate business (Kindem, 2000).

In essence, movie production was now being done in a similar manner to an assembly line in a factory. The film studios, including Paramount, Fox, MGM and Warner Brothers, controlled movie production, distribution and exhibition in the 1920's. During this lucrative time of cinema, the film attendance grew each year, as the studios built exotic grand movie palaces to escape to watch a new film (Squire, 2004). Movie businesses were listed on the New York Stock Exchange and their total capital investment was over \$1 billion in 1926. Switching from silent films to “talkies” with sound (a technological upheaval similar to the recent switch from analog to digital film presentations in movie theaters) cost more than \$500 million. Unfortunately, films with sound limited their release to countries which understood the same language. The Depression reduced box office receipts (Kindem, 2000). One way that theater owners created enticements for movie-goers was special promotions, such as Bank night and dish giveaways. On Bank Night, one winning ticket-holder could claim a cash prize if he or she could get to the stage in 60 seconds, which occasionally leads to chaos. Dish giveaways, which were offered at the Lyceum Theater on West 45th St. in NYC, among other places, were aimed at female movie patrons, and featured a new dish type to be given each week along with an admission ticket. It was a good idea in that it kept workers employed at a luxury business (like

China) and gave an incentive for budget conscious movie fans to pay for tickets; however, it did not always work out perfectly. Unfortunately, there is one report that a shipping snafu resulted in 5 weeks of the same gravy boat being given away. The disappointed women in the crowd started to throw the gravy boats at the theater owner!

(<http://beauxmondesdesigns.blogspot.com/2009/02/dish-night-at-movie-theaters.html>) (Dish giveaways continued. My mother got beautiful plates from a dish giveaway in 1959 at the Embassy Theater. The Embassy Theater was opened by Loew's in 1925 and was an upscale French salon style movie house that was unique because it was managed by the only female manager in the country who employed an all-female staff. The manager, Gloria Gould, was the granddaughter of the railroad tycoon Jay Gould. (NYC Scouting, 2018 <http://www.scoutingny.com/what-will-happen-to-times-squares-historic-embassy-movie-theater/>). The film industry bounced back in 1946, with the highest number of people going to movie theaters – 82,000,000 admissions a week (Kindem, 2000).

But then, the United States Supreme Court decided the U.S. v. Paramount Pictures Inc. 334 U.S. 131 (1948) case which found that there was illegal vertical integration, in which the supply chain (here – from the creation of the film to the exhibition of the movie in the studio's own theaters) was intended to restrain competition. In addition, the court held that a price-fixing conspiracy (for admission prices) existed (Supreme.justica/cases/federal/us/334/131/case.html).

Also, television had a negative impact on the film industry. Film studios fought against TV, for instance, by not allowing film actors to work for TV shows. But then, studios looked to differentiate themselves from TV. They created spectacular films like *Singin' in the Rain* (1952), *Oklahoma* (1955) and *Ben-Hur* (1959). They set up extra-large movie screens like *Cinerama* in 1952, which was six times the size of a regular screen (Squire, 2004). Between 1948 and 1954, drive-in theaters grew from 820 to 3799 (Kindem, 2000). They also created 3-D films. IMAX was first used in Canada in 1967 (Squire, 2004).

Blockbuster movies like *Jaws* and the *Godfather*, along with *Star Wars* which had special effects, cost more to produce (between the 1970's and 1990's, and the average film budget rose from \$15 million to over \$40 million); but if successful, were lucrative (Kindem, 2000: 326). More recently, movie budgets have multiplied ten-fold as set forth in Table 1, which shows that *Avatar* cost \$425 million but was a success and brought in \$2.7 billion in revenue. Last year's blockbuster, *Star Wars: The Last Jedi*, was not as profitable (Table 2), but still managed to make in excess of \$1.3 billion in worldwide ticket sales. The major film studios (Table 3) realized that they could supplement their ticket sales revenue with income generated by using product placement, like the Reese's Pieces candy showcased in Universal Picture's *ET*. Toys

Table 1. Biggest budgets.

S/N	Release Date	Movie	Production Budget	Domestic Gross	Worldwide Gross
1	12/18/2009	Avatar	\$425,000,000	\$760,507,625	\$2,783,918,982
2	5/20/2011	Pirates of the Caribbean: On Stranger Tides	\$410,600,000	\$241,063,875	\$1,045,663,875
3	5/1/2015	Avengers: Age of Ultron	\$330,600,000	\$459,005,868	\$1,408,218,722
4	12/18/2015	Star Wars Ep. VII: The Force Awakens	\$306,000,000	\$936,662,225	\$2,058,662,225
5	5/24/2007	Pirates of the Caribbean: At World's End	\$300,000,000	\$309,420,425	\$963,420,425
6	11/6/2015	Spectre	\$300,000,000	\$200,074,175	\$879,620,923
7	11/17/2017	Justice League	\$300,000,000	\$228,616,472	\$655,545,623
8	7/2/2013	The Lone Ranger	\$275,000,000	\$89,302,115	\$260,002,115
9	3/9/2012	John Carter	\$275,000,000	\$73,058,679	\$282,778,100
10	7/20/2012	The Dark Knight Rises	\$275,000,000	\$448,139,099	\$1,084,439,099

Source: The Numbers – Where Data and the Movie Business Meet (The Numbers, 2018).

Table 2. Yearly Box Office: 2017 worldwide grosses.

Rank	Title (click to view)	Studio*	Worldwide	Domestic / %	Overseas / %
1	Star Wars: The Last Jedi	BV	\$1,329.0	\$618.2 46.5%	\$710.7 53.5%
2	Beauty and the Beast (2017)	BV	\$1,263.5	\$504.0 39.9%	\$759.5 60.1%
3	The Fate of the Furious	Uni.	\$1,236.0	\$226.0 18.3%	\$1,010.0 81.7%
4	Despicable Me 3	Uni.	\$1,034.8	\$264.6 25.6%	\$770.2 74.4%
5	Jumanji: Welcome to the Jungle	Sony	\$906.7	\$379.7 41.9%	\$527.0 58.1%
6	Spider-Man: Homecoming	Sony	\$880.2	\$334.2 38.0%	\$546.0 62.0%
7	Wolf Warrior 2	HC	\$870.3	\$2.7 0.3%	\$867.6 99.7%
8	Guardians of the Galaxy Vol. 2	BV	\$863.8	\$389.8 45.1%	\$473.9 54.9%
9	Thor: Ragnarok	BV	\$853.5	\$314.6 36.9%	\$538.8 63.1%
10	Wonder Woman	WB	\$821.8	\$412.6 50.2%	\$409.3 49.8%

Gold highlight = now playing or recent movies.

Source: Box Office Mojo.

Table 3. Major film studios.

Current major Studios/Film Unit	Founded	US/Canada Market Share (%)
Walt Disney Studios/Pictures	1923	21.82
Warner Brothers/Pictures	1923	18.50
NBCUniversal /Universal Pictures	1912	14.98
21 st Century Fox/20 th Century Fox	1935	12.92
Sony Pictures/Columbia Pictures	1924	9.87
Paramount Pictures/Viacom/Nat'l Amusements	1912	4.82
Former majors included:		
Metro-Goldwyn-Mayer Pictures: 1924–1986		
United Artists: 1919–1982		
RKO Pictures: 1928–1960		

Source: Wikipedia.

and other movie merchandise could also add to movie income (Kindem, 2000).

Home viewing of films became possible with videocassettes, DVDs (Squire, 2004), pay cable, pay

satellite (Kindem, 2000) and video on demand (Squire, 2004). Movies are now available via streaming services over the internet (Moore, 2011) and can be watched on a variety of devices including hand-held screens, such as a

phone, tablet or laptop.

Research questions

- 1) What is the current status of the global cinema from a business and legal perspective?
- 2) What are the prospects for the U.S. film industry?

METHODOLOGY

SWOT analysis in research methodology has been utilized in this paper. This paper explores the Strengths, Weaknesses, Opportunities and Threats relative to the global cinema industry and more specifically, has also targeted the analysis of the U.S. film business. The Strengths and Weaknesses are viewed through the prism of the internal workings of the industry and the Opportunities and Threats are seen through the lens which shows the external view. (Research Methodology, 2018 <https://research-methodology.net/theory/strategy/swot-analysis/>).

RESULTS: BUSINESS AND LEGAL CHALLENGES (WEAKNESSES AND THREATS)

“. . . – most films lose money. Indeed, 80% do. . .

The fundamental reason for this phenomenon is simple. . . . Face it, the film industry is sexy, and people like sex. . . . The law of supply and demand (*emphasis added*) takes it from there” (Moore, 2011).

Business analysis

So the laws of supply and demand continue to play a starring role in the film business. At the beginning of the industry, in 1906 and 1907, the United States film producers could not keep up with demand (Kindem, p. 312), but in modern times, “. . . there is a wild oversupply of film productions – approximately 600 to 700 per year – while only 200 or so obtain even a decent release, permitting any return at all, much less a profit” (Moore, 2011).

Screenwriter David Mamet makes the following complaint about business analysis in the film industry: “Executives, coming now as they do primarily from the ranks of business people rather than show people, have never had the opportunity to learn to rely on their instincts. So the film business is currently plagued by audience research. What is wrong with audience research? It does not work. *If it worked, there would be no flops*” (Mamet, 2007).

Even a highly successful film can look like a “flop” after Hollywood Accounting. Comedian Art Buchwald sued for not being credited for having his ideas used in the 1988 film “Coming to America” which starred Eddie Murphy (imbd.com) (See Art Buchwald v. Paramount Pictures

Corp. Second Phase, No. C706083 (Cal. Superior Ct. Dec. 21, 1990)). Ultimately, Buchwald won the case but lost money since he won \$150,000 in net profits (or “backend” profits) but had legal costs of over \$500,000. As Professor Burr wrote, “Buchwald, Bernheim (his complainant), and their attorney found out that even when you win, you lose” (Burr, 2013). Luckily for Buchwald, his case was accepted on a contingency fee basis and he was only responsible for the trial costs. The legal fees were absorbed by Buchwald’s attorney, Pierce O’Donnell who was a partner in the distinguished law firm Kaye Scholer (Burr, 2013).

Producer-Director Gavin Polone stated in a Hollywood Reporter article entitled, “How Studios’ Phony Accounting Screws Everyone (Including Themselves)” (The Hollywood Reporter, 2018 <http://www.hollywoodreporter.com/news/gavin-polone-how-studios-phony-852075>), that he was asked “Why are people in your business so crooked?” (Polone, 2016). The reason it would appear that way is because

“. . . film companies are permitted or required to calculate net profits differently for different purposes. The four different purposes for which net profits are calculated are as follows:

- 1) Calculating earnings based upon “generally accepted accounting principles” (“GAAP”), which is used for reporting earnings to the SEC, shareholders, and lenders.
- 2) Calculating income and loss for tax purposes.
- 3) Calculating payments to profit participants, such as writers and actors.
- 4) Calculating cash available to make distributions to equity holders, such as shareholders, of the film company (Moore, 2011, p. 135).

Therefore, there is not one standard meaning for the term “net profits”. From a legal perspective, it is difficult, if not impossible, to have a ‘meeting of the minds’ between the contracting parties.

Gavin Polone also shines a light on some “shady” accounting practices in the movie business. Specifically, he mentions “mistakes”. Even if mistakes are made in favor of the movie studios, auditors swear to secrecy so that similarly situated talent will not be able to benefit from the “mistake.” Both sides, artist and studio, may have a difference of opinion in interpreting terms in the contract, such as the term “gross profits.” Another practice that is troubling to artists is “straight-lining” in which a batch of films, some winners and some losers, are lumped together and each are assigned a value as being part of the batch (Polone, 2016). In a way, it works like a mutual fund. Another potential problem is:

Subcontracting to sister companies: Whenever possible, studios have their affiliates function as vendors on their projects. Examples include renting out

Table 4. Worldwide most pirated films of 2017.

S/N	Movie
1	Wonder Woman
2	Spider-Man: Homecoming
3	Logan
4	The Mummy
5	Kong: Skull Island
6	The Boss Baby
7	The Fate of the Furious
8	Arrival
9	Ghost in the Shell
10	King Arthur: Legend of the Sword

Source: BestVPN.com based on statistics from Torrentfreak.com written by Rob McAllister December 29, 2017.

soundstages, offices or equipment for a movie; distributing a film in a foreign territory; or even selling a movie to a cable network in which the studio also owns in exchange for a piece of ad revenue. How does a filmmaker know if the studio is getting the best deal from an affiliate? There is rarely, if ever, a bidding process. And if it is a more complicated function where money is being spent and collected, how does one know if the sister company is accounting properly to the studio? (Polone, 2016).

Studios do not have to include the credit they may receive for foreign taxes paid by their corporate parent. Also, studios make artists wait to audit any questionable pay-outs. Artists typically have two years to request an audit. The studio can take 1 to 4 years to respond. They are probably hoping that the artist will simply give up their questioning over the years that follow (Polone, 2016).

Piracy

Studio personnel are not the only threat that artists may encounter; piracy is another. Law Professor Larry Lessig says “If ‘piracy’ means using the creative property of others without their permission – ‘if value, then right’ is true – then the history of the content industry is a history of piracy” (Lessig, 2004). According to Forbes writer, Karsten Strauss, “The pirates have outnumbered the watchdogs.” He states that viewers are watching pirated shows on free streaming websites (Table 4). “Indeed, there are real dollars being lost to piracy. An 11-employee Independent U.S. film distributor, Wolfe Video, has had its profits halved due to piracy and costs to mitigate damages from piracy, according to *The Wall Street Journal*” (Strauss, 2013 Forbes.com). In 2014, *The Wolf of Wall Street* was the most pirated film with over 30 million illegal downloads. Last year’s most pirated film was *Wonder Woman* (Table 4). Andrew Wallenstein of

Variety.com reports that the numbers of pirated films are rising this year, due in part, to markets like Brazil (Wallenstein, 2015).

The U.S. is believed to have lost \$8.94 billion in 2016 and is forecast to lose \$11.58 billion in 2022 due to piracy of online television and movies (Statista.com <https://www.statista.com/statistics/778342/global-online-tv-movie-revenue-loss-piracy-country/>).

Moral rights

Moral rights, which were first acknowledged in France and Germany, protect the right to integrity of copyrighted works, including the right of attribution (and to publish anonymously or under a pseudonym) as well as the right to prevent alteration, distortion or mutilation. Moral rights were included in the Berne Convention (1928). The United States signed this agreement in 1989 (Wikipedia.org). Although moral rights are separate from monetary rights, “Economic considerations are undoubtedly at the heart of Hollywood’s objections to moral rights” (Sundara and Mira, 2011).

Legal challenges

Movie studios continue to face legal challenges such as defamation lawsuits, copyright infringement, and privacy violations. Any protected trademarks need to be cleared before use in a film. Films have to be submitted to the Motion Picture Association of America (“MPAA”) for a rating; permission has to be gotten for the use of any music in a film, whether it is pre-recorded or specially commissioned for the film; errors and omissions (E&O) insurance to protect against any problems with the chain of title and violations of publicity and/or other rights has to be obtained; cast insurance has to be paid for in case cast members are hurt or ill; as well as workers’ compensation and liability insurance which must be paid for by the studio. The film creator also has to pay for a completion bond, which insures that the film is completed on time and on budget (Crabb, 2005). Then, the film owner makes arrangements for theatrical distribution, which is a tradition in the film industry that kicks off the distribution cycle (Crabb, 2005).

Also, there are rules and regulations set forth by the guilds that must be complied with: the Writers Guild of America (“WGA”), the Directors Guild of America (“DGA”), the Screen Actors Guild (“SAG”) and the International Alliance of Theatrical and Stage Employees (“IATSE”) which is the union for the below-the-line crew (Moore, 2011). “Below-the-line is a term derived from the top sheet of a budget (Motion Picture, Television, Commercial, Industrial, Student Film, Documentary). The ‘line’ in below-the-line is the one separating the Actors, Director, Producers, and Writers from the other crew.” (Wikipedia)

Table 5. Biggest money losers, based on absolute loss on worldwide earnings.

S/N	Release Date	Movie	Approx. Income	Approx. Expense	Profit
1	3/11/2011	Mars Needs Moms	\$26,587,016	\$170,166,000	-\$143,578,984
2	3/9/2012	John Carter	\$180,140,446	\$307,124,000	-\$126,983,554
3	7/2/2013	The Lone Ranger	\$176,788,903	\$301,886,000	-\$125,097,097
4	5/12/2017	King Arthur: Legend of the Sword	\$82,574,766	\$199,580,000	-\$117,005,234
5	9/30/2016	Deepwater Horizon	\$77,577,132	\$189,348,000	-\$111,770,868
6	1/13/2017	Monster Trucks	\$39,574,272	\$149,450,000	-\$109,875,728
7	3/1/2013	Jack the Giant Slayer	\$123,352,279	\$228,504,000	-\$105,151,721
8	12/17/2010	How Do You Know?	\$35,506,852	\$140,454,000	-\$104,947,148
9	12/25/2013	47 Ronin	\$92,796,208	\$189,988,000	-\$97,191,792
10	2/6/2015	Jupiter Ascending	\$109,620,286	\$206,582,000	-\$96,961,714

Source: The Numbers – Where Data and the Movie Business Meet.

Studios must make a business plan, and Disney has certainly done so. Studios can increase the talent pool by using a past star, “. . . if he or she is still generally recognized and valued by the public. By uniting an attractive concept, well-marketed, with a recognized name (although a face from the recent past), Disney has been able to generate considerable grosses. By obtaining options and multiyear agreements with these same actors, Disney has also ensured itself of a talent pool for the future at generally reasonable rates.” ((Squire, 2004). Disney “. . . focuses on popular culture and continually expands its reach to include not only theme parks but television networks, motion picture studios, music companies, radio stations, online entertainment, cruise lines, Broadway theater productions, publishing houses, and video game development studios.(Giroux and Pollock, 2010).

Disney’s current business plan includes more films from the lucrative Star Wars galaxy. The new Star Wars films include “Solo: A Star Wars Story” (Director: Ron Howard, Star: Alden Ehrenreich as the title character) which was released on May 25, 2018 at an approximate cost of \$300 million and brought in \$392 million worldwide (The Internet Data Movie Base, 2018<https://www.imdb.com/title/tt3778644/>) and “Star Wars: Episode IX” (Director: J.J. Abrams’ international cast is said to include: Lupita Nyong’o, Daisy Ridley, Adam Driver, Oscar Isaac and John Boyega) and is slated for release on December 20, 2019. These films are to be followed by a new Star Wars trilogy to be written and directed by Rian Johnson who had written and directed “Star Wars: The Last Jedi” which was released in 2017. (The Internet Data Movie Base, 2018 www.imdb.com). Interestingly, a Disney film is one that may add a surcharge when you can buy an AMC monthly Black, Yellow, Green, Red, Gold or Silver pass (AMC.com). In addition to monthly passes, another atypical movie ticket business plan is “. . . a startup called Atom Tickets (<https://www.atomtickets.com/>) that will let movie houses offer variable pricing. An app will enable











groups of moviegoers to buy tickets in bulk and get discounts on less-popular releases.” (Queenan, 2016). Some theater chains, such as Regal Theaters (“Regal Crown Club”) and AMC theaters (“AMC Stubs”) also offer rewards cards to patrons. (RegTheaters.com/AMC.com). One of the original movie subscription services, MoviePass, is facing severe financial difficulty. The subscription style services are popular with young audience members who have content delivered to them similarly by Netflix, Spotify and Amazon Prime. (Barnes, 2018). AMC just unveiled its AMC Stubs A-List where, upon joining, patrons can watch up to 3 movies every week in IMAX, Dolby Cinema (a premium cinema concept created by Dolby Laboratories that combines Dolby’s technologies including Dolby Vision and Dolby Atmos. (See www.dolby.com/us/en/index.html), and Real D 3D formats (Barnes, 2018). This business concept has even become available in Turkey where “Sinemia”, which began in 2015, offers tiered pricing packages and family plans to filmgoers (Barnes, 2018).

Whether in the United States or abroad, it is important for content creators to engage their fans, as Christopher Vollmer writes for Price Waterhouse Cooper:

Making businesses “fan”-centric requires functional transformation

An entertainment and media (E&M) offering today simply cannot thrive without the economic, social, and emotional power of fans. Devoted followers are as critical to feature films, video games, and sports teams as they are to *Mr. Robot*. Premium content is expensive, and getting more so. Distribution is a brutal battle for shelf space where only brands that are “most wanted” can hope to win. The steady march of digital technology has ushered in a direct-to-consumer environment characterized by greater choice and user control. There is simply too much competition for users to allow E&M businesses to survive on experiences that cater to casual “eyeballs” or infrequent users.

Table 6. Largest markets by box office.

Rank	Country	Box office revenue (billion US\$)	Year	Box office from national films ^[102]
N/A	World	39.92	2017 ^[103]	N/A
1	 United States	10.31	2016 ^[104]	88.8% (2015)
2	 China	8.59	2017 ^[105]	53.84% (2017) ^[105]
3	 Japan	2.16	2016 ^[101]	63.1% (2016) ^[101]
4	 India	2.06	2016 ^[106]	85% (2015)
5	 United Kingdom	1.87	2017 ^[107]	44.3% (2015)
6	 South Korea	1.57	2016 ^[104]	52.2% (2015)
7	 France	1.54	2016 ^[104]	33.7% (2015)
8	 Germany	1.17	2016 ^[104]	–
9	 Australia	0.92	2016 ^[104]	7.2% (2015)
10	 Mexico	0.87	2016 ^[104]	5.9% (2015)

Sources: Theatrical Market Statistics 2017 – MPAA largest markets by box office revenue; Wikipedia.

(<https://www.strategyand.pwc.com/trend/2017-entertainment-and-media-trends>).

BUSINESS AND LEGAL STRENGTH AND OPPORTUNITIES

Currently, the largest markets by box office are United States, China, and Japan (Table 6); and the countries with the largest number of film productions are India, Nigeria, and the United States. Other centers include Nepal, Pakistan, Hong Kong and in Europe the United Kingdom, France, Italy, Spain, and Germany are the countries that lead movie production (Wikipedia). The best ways for the movie studios to continue to prosper on a global basis (www.statista.com/topics/964/film) are to provide excellent *technology* and wonderfully creative *content*.

Technology

"If you build it, he will come" was a line in the film, *Field of Dreams*. The same is true of technology for the movie – watching audience. Movie audiences continue to enjoy the spectacle of traditional theaters, so long as IMAX and/or 3D technology is also available! Audience members appreciate luxurious seating and pulsating sound systems. There are even dine-in movie theaters. Movie goers look forward to a better experience in a traditional movie theater which is the best place to watch an action film like Star Wars.

Not everyone has the time to go to the theater. Streaming technology has enabled viewers to time shift programming and offers flexibility so that viewers can watch what they want, when they want, and where they want. Watching a film on the subway on your phone may

not be how the director intended for the viewer to watch the film, but now the viewer has easy access to the film and it makes the commute more enjoyable. Virtual reality seems to be the next big thing in film-making (and watching) since the viewer can see 360 degrees around the film environment and feels like they are literally in the middle of all of the action. The devices are made by HTC, PlayStation and Facebook-owned Oculus Rift. The Oculus Rift is expensive (\$1600) and requires a high end computer to work with it. At present, some of the virtual reality players are aimed at gamers, but film content is starting to be created for them as well. Time will tell whether people will cope with the slightly disorienting feeling that is associated with it and whether it will make us more globally connected or disconnected (CBS News, April 2, 2016). Perhaps that time has arrived! The Hollywood Reporter's Paul Bond tells us that Virtual Reality ("VR") is set to become a \$5 billion industry by 2021. Since film and TV revenue is expected to grow slowly in the next 5 years, Hollywood is focusing on VR for growth.

It is not far-fetched to envision consumers en masse strapping on goggles — made by such tech titans as Google, Sony and Samsung — to play video games or watch the latest incarnation of *Sharknado*, with the man-eaters swirling about their living rooms. "There's no iTunes for VR content now, but our forecast anticipates that sort of marketplace in about three years," says PwC partner Christopher Vollmer. Including VR in its annual Entertainment and Media Outlook forecast for the first time, PwC predicts a growth rate of 64% annually for the next five years, with VR becoming a \$5 billion industry in the U.S. by 2021. It will generate almost half as much as the box office, which will grow at a minuscule 1.2% to \$11.2 billion in that time frame (The Hollywood Reporter, 2018 <https://www.hollywoodreporter.com/news/virtual-reality-set-become-a-5-billion-industry-by-2021>).

Studio 21st Century Fox's FoxNext VR has created a VR short that promoted *War for Planet of the Apes*. It also produced *The Martian VR Experience* for users to virtually play Matt Damon's role. "VR will continue to develop and be adopted at an accelerated rate," predicts FoxNext VR Studio general manager Brendan Handler. "It gives filmmakers an endless canvas to tell stories and offers consumers what they have been craving: more immersive experiences." (The Hollywood Reporter, 2018 <https://www.hollywoodreporter.com/news/virtual-reality-set-become-a-5-billion-industry-by-2021>). How can studios start to monetize this new technology?

Fox Home Entertainment also is charging \$14.99 for VR versions of mainstream movies purchased through Facebook's Oculus Video, which allows fans to use their phones, coupled with Samsung Gear VR, to watch titles such as *Die Hard* and *Birdman* on giant, virtual movie screens in a 360° theater. And IMAX has introduced a model in which consumers sit in their own pods to watch shortform content in a cushy chair that moves and vibrates according to the "onscreen" action. At the IMAX VR Experience Centre in a stand-alone building in L.A., ticket buyers pay up to \$12 apiece to watch the first episode of *Raising a Rukus*, an animated series from The Virtual Reality Co., co-founded by *Maleficent* director Robert Stromberg (The Hollywood Reporter, 2018 <https://www.hollywoodreporter.com/news/virtual-reality-set-become-a-5-billion-industry-by-2021>).

Ridley Scott's RSA Films has launched RSA VR, a new division dedicated to the development and production of virtual reality, augmented reality and mixed media (The Hollywood Reporter, 2018 <https://www.hollywoodreporter.com/news/ridley-scotts-rsa-films-launches-virtual-reality-division-994629>).

Created by Oscar-winning director Alejandro G. Inarritu and cinematographer Emmanuel Lubezki, *Carne y Arena* (*Virtually Present, Physically Invisible*), the first VR film to screen at Cannes, re-creates the experience of immigrants crossing the Mexican border into the U.S. Viewers wander barefoot through a vast, dark space covered in sand and equipped with a backpack, VR headset and headphones, while virtual border guards swoop down to arrest them. (The Hollywood Reporter, 2018 <https://www.hollywoodreporter.com/news/alejandrog-inarritu-embraces-virtual-reality-but-dont-call-cinema-1006881>).

There is one more challenge for VR – we are used to sharing the movie-going experience. We laugh, gasp and cry together when we watch films in a theater.

One hang-up Hollywood must figure out is how to turn what is a solitary experience into a shared one, so users can still watch sports with their friends and go to theaters with hundreds of strangers while immersed in virtual reality. "That needs to be solved," admits Vollmer, "Right now, VR is for power users — the people who want to be first and second, not third or fourth. It is a dynamic space in the entertainment ecosystem, but it is very immature

"(<https://www.hollywoodreporter.com/news/virtual-reality-set-become-a-5-billion-industry-by-2021>).

The New York City Tribeca Film Festival (April 14-17, 2016) featured "Storyscapes", which includes installations and Virtual Reality (Tribecafilm.com/festival/storyscapes).

Content

Film festivals are a great place to discover outstanding content. Film festivals can showcase international talent and student talent. Since films can now be created digitally, the financial barrier of buying expensive film, which also had to be developed and shipped, is no longer an obstacle. Truly excellent films like the ones showcased in the Academy awards can go on to make even more money. The Oscar-winner "Spotlight" made \$1.77 million after winning the Best Picture Award. This was a 140% increase in ticket revenue (Alexander, 2016).

U.S. movie studios can also prosper if they create shows directly for international markets instead of considering them as an afterthought. This trend is starting with Sony Studio. Sony's television shows are being created for international markets directly, which is a highly lucrative market. "International sales have gone from 50% of a typical show's revenue to as much as 70% for dramas . . ." (Garrahan, 2016).

Another way to obtain content is through acquisitions and mergers. On July 27, 2018, in New York City, Walt Disney and 21st Century Fox's shareholders voted to approve a \$71.3 billion agreement under which Disney will obtain large parts of Fox, including the 20th Century Fox film and television studios, Fox's entertainment cable networks and its international assets under a "combination merger proposal" (Hollywood Reporter, 2018 <https://www.hollywoodreporter.com/news/disney-fox-shareholders-approve-713-billion-deal-1128343>). According to NASDAQ which tracks the Walt Disney Company (DIS) and 21st Century Fox (FOXA), this deal marks ". . . a massive shift in Hollywood's century-old studio system. It also indicates the direction of the overall entertainment media industry, as the studios that remain vie for market share in the digital age" (NASDAQ, 2018)

Are U.S. movie studios playing it too safe with their content? Consider the recent offering of films for 2018 – *Tomb Raider*, *Avengers Infinity War*, *Deadpool 2*, *Solo: A Star Wars Story*, *Ocean's 8*, *Incredibles 2*, *Jurassic World: Fallen Kingdom* and *Ant Man and the Wasp*. All are sequels or remakes of prior films. From a business standpoint, there is a guaranteed audience, namely, film-goers who bought tickets or viewers who bought DVDs or streamed the content, and who enjoyed the previous version or prequel. However, are we missing out on opportunities to showcase new ideas? Since China is gaining on the U.S. studio system (<https://www.pwc.com/gx/en/entertainment-media/pdf/>

Table 7. Most profitable movies, based on absolute profit on worldwide gross.

S/N	Release Date	Movie	Approx. Income	Approx. Expense	Profit
1	12/18/2009	Avatar	\$1,790,479,948	\$516,262,000	\$1,274,217,948
2	12/18/2015	Star Wars Ep. VII: The Force Awakens	\$1,216,568,534	\$381,704,000	\$834,864,534
3	11/18/2005	Harry Potter and the Goblet of Fire	\$996,535,390	\$208,064,000	\$788,471,390
4	11/22/2013	Frozen	\$1,026,020,441	\$245,904,000	\$780,116,441
5	5/4/2012	The Avengers	\$995,060,466	\$300,290,000	\$694,770,466
6	6/12/2015	Jurassic World	\$968,549,545	\$287,756,000	\$680,793,545
7	7/15/2011	Harry Potter and the Deathly Hallows: Part II	\$832,640,264	\$177,306,000	\$655,334,264
8	7/3/2013	Despicable Me 2	\$735,037,074	\$143,056,000	\$591,981,074
9	4/3/2015	Furious 7	\$831,290,000	\$245,576,000	\$585,714,000
10	7/7/2006	Pirates of the Caribbean: Dead Man's Chest	\$858,774,157	\$293,790,000	\$564,984,157

Source: The Numbers – Where Data and the Movie Business Meet.

Table 8. Most profitable movies, based on return on investment.

S/N	Release Date	Movie	Approx. Profit	Production Budget	Rol (%)
1	9/25/2009	Paranormal Activity	\$89,359,754	\$450,000	19,758
2	7/10/2015	The Gallows	\$6,941,723	\$100,000	6,842
3	1/6/2012	The Devil Inside	\$37,396,051	\$1,000,000	3,640
4	2/5/1953	Peter Pan	\$140,380,256	\$4,000,000	3,410
5	3/21/2014	God's Not Dead	\$36,289,525	\$1,150,000	3,056
6	6/16/1978	Grease	\$186,884,189	\$6,000,000	3,015
7	5/25/1977	Star Wars Ep. IV: A New Hope	\$324,975,371	\$11,000,000	2,854
8	10/20/2010	Paranormal Activity 2	\$77,144,539	\$3,000,000	2,471
9	1/1/1946	It's a Wonderful Life	\$74,545,020	\$3,180,000	2,244
10	4/1/2011	Insidious	\$35,034,616	\$1,500,000	2,236

Source: The Numbers – Where Data and the Movie Business Meet.

outlook-cinema-article-2016.pdf), perhaps, it is a good time to rethink the current business models in cinema production and distribution.

Conclusion

There is an old Hollywood joke that goes like this: "How do you net \$5 million in the film industry? Start with \$10 million" (Moore, 2011). To avoid this scenario, it may be wise to think of the film business as similar to a mutual fund. Risk of loss (Table 5) can be offset by other successful films (Table 7 for the most profitable movies, based on absolute profit on worldwide gross revenues and Table 8 for the most profitable movies, based on return on investment income), global productions and other streams of revenue, which again, can be international in nature, such as The Walt Disney Company's Disneyland Paris, Tokyo Disney Resort, Hong Kong Disneyland Resort, Shanghai Disney Resort and Disney Cruises.

"Today, the U.S. copyright system is a cornerstone of a vibrant creative economy that is unparalleled in the world

—adding over \$1 trillion to the national economy and nearly 5.4 million direct jobs in 2012 (IIPA Report, November, 2013) and making the United States a world leader in creativity, technological innovation and economic growth." (MPAA.org). The United States film industry is currently the most prosperous in the world (Wikipedia) and with continued technical innovation and creativity, it will continue to serve the country and the world with its wonderful entertainment.

"Now more than ever we need to talk to each other, to listen to each other and understand how we see the world, and cinema is the best medium for doing this." — Martin Scorsese.

CONFLICT OF INTERESTS

The author has not declared any conflict of interest.

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