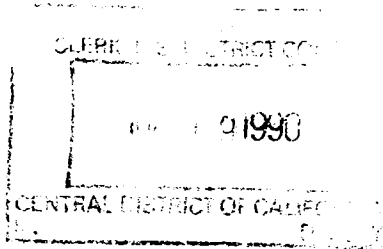


1 HOWARD J. PARKER  
2 PHILLIP H. WARREN  
3 PHILLIP R. MALONE  
4 JAMES E. FIGENSHAW  
5 MARC SIEGEL  
6 Antitrust Division  
7 U.S. Department of Justice  
8 450 Golden Gate Avenue  
9 Box 36046, 16th Floor  
10 San Francisco, California 94102  
11 Telephone: (415) 556-6300



7 ROBERT L. BROSIO  
8 United States Attorney  
9 JAN L. LUYMES  
10 Assistant United States Attorney  
11 Central District of California  
12 Telephone: (213) 894-6739

13 Attorneys for the United States

14 UNITED STATES DISTRICT COURT  
15 FOR THE CENTRAL DISTRICT OF CALIFORNIA

16 UNITED STATES OF AMERICA, )  
17 )  
18 Plaintiff, )  
19 v. )  
20 THE RANK ORGANISATION PLC; )  
21 RANK AMERICA INC.; and )  
22 FOX, INC., )  
23 Defendants. )

90 3795 UH/6 )  
Civil No. )  
**COMPLAINT** )  
**SUIT FOR PRELIMINARY** )  
**AND PERMANENT INJUNCTION** )  
**AGAINST ACQUISITION** )  
15 U.S.C. § 18 )  
ANTITRUST )  
*Filed: 7/19/90*

24 COMPLAINT

25 The United States of America, by its attorneys, acting under  
26 the direction of the Attorney General of the United States, brings  
27 this civil action to obtain equitable and other relief against the  
28 defendants named herein and complains and alleges as follows:

1 I.

2 JURISDICTION AND VENUE

3 1. This complaint is filed and this action is instituted  
4 under Section 15 of the Clayton Act, as amended, 15 U.S.C. § 25,  
5 to prevent and restrain the violation by the defendants, as  
6 hereinafter alleged, of Section 7 of the Clayton Act, as amended,  
7 15 U.S.C. § 18.

8 2. The Rank Organisation Plc, through subsidiaries,  
9 maintains offices, transacts business and is found within the  
10 Central District of California.

11 3. Rank America Inc. is found within the Central District of  
12 California.

13 4. Fox, Inc. is found within the Central District of  
14 California.

15 5. Venue is proper in the Central District of California  
16 under Section 12 of the Clayton Act, 15 U.S.C. § 22, and 28 U.S.C.  
17 § 1391(c) and (d).

18 II.

19 DEFINITIONS

20 6. "HHI" means the Herfindahl-Hirschman Index, a measure of  
21 market concentration calculated by squaring the market share of  
22 each firm competing in the market and then summing the resulting  
23 numbers. For example, for a market consisting of four firms with  
24 shares of 30, 30, 20, and 20 percent, the HHI is 2600 (30 squared  
25 + 30 squared + 20 squared + 20 squared = 2600). The HHI, which  
26 takes into account the relative size and distribution of the firms  
27 in a market, ranges from virtually zero to 10,000. The index  
28 approaches zero when a market is occupied by a large number of

1 firms of relatively equal size. The index increases as the number  
2 of firms in the market decreases and as the disparity in size  
3 between the leading firms and the remaining firms increases.

4 7. "Release prints" means multiple 35mm prints of feature  
5 motion pictures made for distribution to movie theaters for  
6 theatrical exhibition in the United States.

7 8. "Wide-release motion picture" means a motion picture for  
8 which over 800 35mm release prints are produced for exhibition in  
9 theaters in the United States. Motion pictures for which over 800  
10 release prints are produced for exhibition in the United States  
11 are nationally-distributed feature motion pictures.

12 III.

13 DEFENDANTS

14 9. The Rank Organisation Plc ("Rank") is made a defendant  
15 herein. Rank is a corporation organized and existing under the  
16 laws of England with headquarters in London, England. Rank's  
17 business activities include film, television, and recreation  
18 services. Rank owns Rank Film Laboratories Limited located in  
19 Denham, England and The Film House Group, Inc. ("Film House"),  
20 located in Toronto, Canada, both of which are engaged in the film  
21 processing business. Rank owns Rank America Inc.

22 10. Rank America Inc. ("Rank America") is made a defendant  
23 herein. Rank America is a corporation organized and existing  
24 under the laws of Delaware with headquarters in Atlanta, Georgia.

25 11. Fox, Inc. ("Fox") is made a defendant herein. Fox is a  
26 corporation organized and existing under the laws of Colorado.  
27 Fox owns and operates a motion picture studio, and, through its  
28

1 unincorporated division commonly known as Deluxe Laboratories  
2 ("Deluxe"), is engaged in the film processing business.

3 IV.

4 TRADE AND COMMERCE

5 12. Deluxe owns and operates a motion picture film laboratory  
6 in the Los Angeles area, which is the second largest laboratory in  
7 the United States. Film House, which is owned by Rank, owns and  
8 operates a motion picture film laboratory in Toronto, Canada,  
9 which is the largest in Canada. Rank Film Laboratories Limited  
10 owns and operates a motion picture film laboratory in Denham,  
11 England, which is the largest in the United Kingdom. Rank is  
12 building in the United Kingdom a state-of-the-art film processing  
13 laboratory which it expects to begin using in late 1991 or early  
14 1992.

15 13. Deluxe, Rank, and Technicolor, Inc. ("Technicolor") are  
16 the three largest motion picture film laboratories in North  
17 America. These laboratories offer many motion picture film  
18 processing services, including "front-end work" (the processing  
19 required during the filming of a motion picture), "post-production  
20 work" (the processing required after completion of filming while a  
21 final print is being created), and the production of release  
22 prints.

23 14. The service that accounts for the largest amount of  
24 commerce at Deluxe, Rank, and Technicolor is the production of  
25 release prints. These three laboratories are the largest  
26 suppliers of motion picture release prints in North America.

27 15. The principal customers for release prints are the major  
28 motion picture studios: Columbia/Tri-Star, Walt Disney, MGM/UA,

1 Orion, Paramount, Twentieth Century-Fox, Universal, and Warner  
2 Bros. Some of the major studios prefer to secure all of their  
3 film laboratory services from a single laboratory. Other studios  
4 are willing to split their purchase of front-end services and  
5 post-production services from their purchase of release prints.  
6 For example, in early 1990 Universal, while securing its front-end  
7 and post-production services from a film laboratory in the Los  
8 Angeles area, entered into a requirements contract to have most of  
9 its release prints for United States distribution produced at Film  
10 House in Toronto.

11 16. The studios have exacting service requirements when  
12 selecting a film laboratory for a contract to produce their  
13 release prints. Because final preparation of motion pictures for  
14 release printing often does not occur until shortly before  
15 national distribution and exhibition of the picture, the large  
16 numbers of release prints required for wide-release motion  
17 pictures often must be produced within a week to ten days. The  
18 studios also have exacting quality requirements for 35mm release  
19 prints for wide-release motion pictures. Failure to meet a  
20 studio's service and quality requirements can adversely affect  
21 distribution of the motion picture and the studio's reputation.

22 17. Studios will not use a film laboratory for the production  
23 of release prints for exhibition in the United States of  
24 wide-release motion pictures unless that laboratory has  
25 demonstrated that it can meet the studios' exacting service and  
26 quality requirements. Few film laboratories have the capacity and  
27 capability to timely produce quality release prints for a  
28 wide-release motion picture.

1 18. Wide-release motion pictures that are distributed by  
2 major studios usually require production of between 800 and 2,000,  
3 but sometimes as many as 2,500, release prints.

4 19. The production of release prints for wide-release motion  
5 pictures distributed in the United States (hereinafter  
6 "wide-release print market") constitutes a line of commerce and a  
7 relevant product market within the meaning of Section 7 of the  
8 Clayton Act. In 1989, total sales in the wide-release print  
9 market were more than \$140 million.

10 20. North America is the relevant geographic market within  
11 the meaning of Section 7 of the Clayton Act. Firms in the United  
12 States and Canada are competitive alternatives available for  
13 purchases of wide-release prints for distribution in the United  
14 States.

15 21. Rank, through Film House, and Deluxe are direct  
16 competitors in the North American wide-release print market.  
17 While most major motion picture studios have a preference for  
18 using Southern California-based laboratories for their film  
19 processing, Film House, located in Toronto, Canada, is a  
20 competitive alternative to those California laboratories. It  
21 currently provides wide-release prints under contract with  
22 Universal Pictures, and was a significant competitor in 1988 for a  
23 release print contract with Orion Pictures.

24 22. Only two other firms compete in the North American  
25 wide-release print market: Technicolor and Consolidated Film  
26 Industries ("CFI"). CFI has significant capacity for wide-release  
27 printing, but it has had very limited experience in doing  
28 wide-release printing. The wide-release print market is highly

1 concentrated and would become substantially more concentrated as a  
2 result of Rank's proposed acquisition of Deluxe.

3 23. Deluxe and Film House are the second and third largest  
4 firms in the North American wide-release print market. Film House  
5 currently produces release prints for one major studio. Deluxe  
6 currently produces release prints for three major studios,  
7 including its parent, Fox. Technicolor, currently the largest  
8 firm in the wide-release print market, provides release prints for  
9 the four remaining major motion picture studios.

10 24. Based on current capacity, Deluxe's and Film House's  
11 market shares are 25 percent and 17 percent, respectively. If  
12 Rank were allowed to acquire Deluxe, Rank's share of the market  
13 would increase to approximately 42 percent. Based on the  
14 production of wide-release prints for U.S. distribution in 1989,  
15 Deluxe's and Film House's market shares were 30 percent and 21  
16 percent, respectively. If Rank were allowed to acquire Deluxe,  
17 Rank's share of the market would increase to approximately 51  
18 percent.

19 25. At present, the HHI for current capacity for wide-release  
20 print production is 2972. The proposed acquisition would increase  
21 the HHI by 755 to 3727. The HHI for the production of  
22 wide-release prints for the 1989 wide-release print market was  
23 3323. The proposed acquisition would increase the HHI by 1251 to  
24 4574. As set forth in the Merger Guidelines, a market with a  
25 post-acquisition HHI above 1800 is highly concentrated.

26 26. In order to compete successfully in the wide-release  
27 print market, a film laboratory must, among other things, develop  
28 sufficient processing expertise and capacity and establish a

1 reputation for the capability to timely and reliably produce  
2 quality release prints for a wide-release motion picture. For  
3 these reasons, entry into the North American wide-release print  
4 market is difficult and time-consuming.

5 27. While Rank's location in Toronto causes it to be a less  
6 significant competitor than the Southern California laboratories,  
7 it is uniquely situated to expand into Southern California, and  
8 thus become even more significant in the North American market.  
9 Through its film laboratory in the United Kingdom, Rank has a  
10 proven reputation for quality and a demonstrated record of  
11 performance in supplying release prints of United States films for  
12 European distribution. Rank, through Film House, has the release  
13 print requirements contract for a major United States motion  
14 picture studio (Universal) and successfully has been supplying the  
15 bulk of the wide-release print requirements for this customer  
16 since 1986.

17 28. Rank is by far the largest film laboratory without a  
18 facility in the Los Angeles area, where more wide-release motion  
19 pictures are produced than anywhere else in the world. Rank has  
20 demonstrated an interest since 1985 in expanding into ownership  
21 and operation of a film laboratory in the Los Angeles area. Rank  
22 has studied construction of a new Southern California laboratory.  
23 Rank has attempted acquisitions, separately, of Technicolor,  
24 Deluxe, Metrocolor (now defunct), and CFI.

25 29. Rank regularly purchases substantial quantities of  
26 materials in interstate and foreign commerce and sells substantial  
27 quantities of processed film in interstate and foreign commerce.  
28 Deluxe regularly purchases substantial quantities of materials in



1 interstate commerce and sells substantial quantities of processed  
2 film in interstate commerce. Rank and Deluxe each are engaged in  
3 interstate or foreign commerce, and their activities substantially  
4 affect interstate or foreign commerce.

5 V.

6 VIOLATION ALLEGED

7 30. On March 9, 1990, Rank America and Fox entered into an  
8 agreement by which Rank America will acquire substantially all of  
9 the assets of Deluxe for approximately \$150 million. Rank has  
10 guaranteed the obligations of Rank America under the acquisition  
11 agreement. Rank and Fox plan consummation promptly after  
12 expiration of the applicable waiting periods.

13 31. The effect of the acquisition of Deluxe by Rank through  
14 Rank America may be substantially to lessen competition in the  
15 wide-release print market in violation of Section 7 of the Clayton  
16 Act, in the following ways, among others:

- 17 a. actual and potential competition between Rank and  
18 Deluxe in the North American wide-release print  
19 market will be eliminated; and  
20 b. competition generally in the North American  
21 wide-release print market may be substantially  
22 lessened.

23 PRAYER

24 WHEREFORE, plaintiff prays:

25 1. That pending final adjudication of the merits of this  
26 Complaint, a temporary restraining order and a preliminary  
27 injunction be issued against the defendants preventing and  
28 restraining each of them and all persons acting on their behalf

1 from taking any action, either directly or indirectly, in  
2 furtherance of the proposed acquisition of Deluxe;

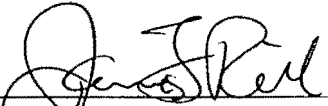
3 2. That the proposed acquisition of Deluxe by Rank through  
4 Rank America be adjudged to be in violation of Section 7 of the  
5 Clayton Act;

6 3. That the defendants be permanently enjoined from carrying  
7 out any agreement, understanding, or plan, the effect of which  
8 would be to combine the film laboratory businesses of Deluxe and  
9 Rank;

10 4. That the plaintiff have such other and further relief as  
11 the Court may deem just and proper; and

12 5. That plaintiff recover the costs of this action.

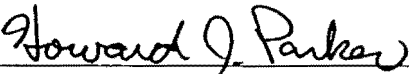
13  
14 Dated: July 18, 1990

15  
16   
17 JAMES F. RILL  
Assistant Attorney General

18  
19   
JUDY WHALLEY

20  
21 GARY R. SPRATLING

22 Attorneys  
23 Antitrust Division  
U.S. Department of Justice

24  
25   
26 HOWARD J. PARKER

27 PHILLIP H. WARREN  
28 PHILLIP R. MALONE  
JAMES E. FIGENSHAW  
MARC SIEGEL

Attorneys  
Antitrust Division  
U.S. Department of Justice  
450 Golden Gate Avenue  
Box 36046, 16th Floor  
San Francisco, CA 94102  
Telephone: (415) 556-6300

ROBERT L. BROSIO  
United States Attorney  
JAN. L. LUYMES  
Assistant United States Attorney  
Central District of California  
Telephone: (213) 894-6739