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UNITED STATES DISTRICT COURT

11

FOR THE NORTHERN DISTRICT OF CALIFORNIA

12

13	UNITED STATES OF AMERICA,)	
)	
14	Plaintiff,)	Civil No. C-86-3057
)	
15	v.)	COMPLAINT FOR EQUITABLE
)	RELIEF FOR VIOLATIONS
16	SYUFY ENTERPRISES; and)	OF TITLE 15 U.S.C.
	RAYMOND J. SYUFY)	SECTIONS 2 AND 18
17)	
	Defendants.)	ANTITRUST
18	_____)	Filed: June 6, 1986

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COMPLAINT

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The United States of America, plaintiff, by its attorneys,
21 acting under the direction of the Attorney General of the
22 United States, brings this civil action against the defendants
23 named herein to obtain equitable relief and complains and
24 alleges as follows:

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1 I.

2 JURISDICTION AND VENUE

3 1. This complaint is filed and this action is instituted
4 under Section 4 of the Sherman Act (15 U.S.C. § 4) to prevent
5 and restrain the continuing violations by the defendants of
6 Section 2 of said Act (15 U.S.C. § 2), and under Section 15 of
7 the Clayton Act (15 U.S.C. § 25) to prevent and restrain the
8 continuing violation by the defendants of Section 7 of said Act
9 (15 U.S.C. § 18).

10 2. The defendants maintain offices, transact business and
11 are found in the Northern District of California.

12 II.

13 DEFENDANTS

14 3. Syufy Enterprises is hereby made a defendant. It is a
15 limited partnership organized and existing under the laws of
16 the State of California with its principal place of business at
17 150 Golden Gate Avenue, San Francisco, California. Defendant
18 Syufy Enterprises is a large regional motion picture theatre
19 circuit. In 1985, it operated a total of 33 indoor theatres
20 with 130 screens, and 23 drive-in theatres with 108 screens, in
21 California, Nevada, Utah, Arizona and New Mexico.

22 4. Raymond J. Syufy is hereby made a defendant. He is the
23 general partner of Syufy Enterprises. His office is located at
24 Syufy Enterprises' principal place of business in
25 San Francisco, California.

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1 III.

2 DEFINITIONS

3 5. As used herein, the term:

4 (a) "Person" means any individual, partnership, firm,
5 corporation, association, or other business or
6 legal entity;

7 (b) "Distributor" means any person who grants a
8 license to an exhibitor authorizing the exhibitor
9 to exhibit a motion picture in a theatre;

10 (c) "Exhibitor" means any person who owns, leases,
11 operates, or controls a motion picture theatre;

12 (d) "License" means the grant by a distributor to an
13 exhibitor of the right to exhibit a motion
14 picture in a theatre;

15 (e) "First-run exhibition" means the initial
16 theatrical exhibition, pursuant to license, of
17 motion pictures, other than pornographic or
18 foreign language motion pictures, and the
19 theatrical exhibition, pursuant to license, of
20 widely distributed and heavily promoted reissued
21 motion pictures;

22 (f) "Las Vegas" means the local geographic area in
23 and around Las Vegas, Nevada.

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IV.

TRADE AND COMMERCE

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3 6. The motion picture industry encompasses three
4 activities: production, distribution, and exhibition.
5 Producers make motion pictures and enter into agreements with
6 distributors to have their films distributed for exhibition.
7 Some distributors also produce motion pictures or, in other
8 instances, finance the work of independent producers.

9 7. First-run exhibition has long been recognized in the
10 motion picture industry as a separate and distinct business.
11 Distributors, exhibitors and movie-goers do not consider
12 subsequent-run or non-theatrical exhibition of motion pictures
13 to be good substitutes for first-run exhibition. First-run
14 exhibition constitutes a relevant product market for antitrust
15 purposes.

16 8. Exhibitors are awarded licenses for first-run
17 exhibition after submitting offers to a distributor in response
18 to competitive bid solicitations or after direct negotiations
19 with the distributor. Such offers specify, among other things,
20 financial terms (generally the payment to the distributor of a
21 percentage of the gross or net box-office receipts of the
22 exhibitor), specific play dates, and length of play time
23 (including the conditions under which the film will be held
24 over). Offers may also include a guarantee, which is a minimum
25 fee payable to the distributor regardless of the box-office

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1 success of the film, or an advance, which is an advance payment
2 to be applied against the film rental ultimately owed by the
3 exhibitor to the distributor under the terms of the license.

4 9. In licensing motion pictures for first-run exhibition
5 in a local area, a distributor considers the terms offered by
6 the various exhibitors and factors affecting the overall
7 grossing potential of each theatre. It awards a license to the
8 theatre or theatres that it expects will maximize its film
9 rentals.

10 10. In any local area, distributors consider only certain
11 theatres, due to their size, quality, location, management,
12 track record or other distinctive characteristics, to have
13 sufficient grossing potential to be suitable for first-run
14 exhibition. Exhibitors generally must operate such theatres,
15 referred to as "first-run theatres," in order to engage in
16 first-run exhibition. In licensing motion pictures for
17 first-run exhibition, distributors do not view other theatres
18 with lower overall grossing potential to be good substitutes
19 for first-run theatres.

20 11. Las Vegas is a geographically isolated area, and
21 distributors and movie-goers do not consider first-run
22 exhibition in areas outside of Las Vegas a good alternative to
23 first-run exhibition in Las Vegas. Las Vegas is a relevant
24 geographic market for antitrust purposes.

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1 screens); and Cragin Industries, an independent exhibitor,
2 operated the Red Rock Theatre (eleven indoor screens). The
3 other indoor theatres, the Mountain View, Huntridge and Cinema
4 Three, generally were not considered to be first-run theatres.

5 16. Also in 1980, Syufy Enterprises operated two drive-in
6 theatres in Las Vegas, the Desert Drive-In (five screens) and
7 the Las Vegas Drive-In (four screens), which were not
8 considered to be good substitutes for the indoor theatres
9 engaged in first-run exhibition.

10 17. In about January 1981, Syufy Enterprises opened a
11 six-screen indoor theatre, the Cinedome, which thereafter
12 engaged in first-run exhibition in Las Vegas. On December 6,
13 1982, Syufy Enterprises acquired the Parkway from Plitt
14 Theatres, Inc. On February 7, 1983, Syufy Enterprises acquired
15 the Fox Charleston and the Boulevard from Mann Theatres
16 Corporation of California. On October 16, 1984, Syufy
17 Enterprises acquired the Red Rock Theatre from Cragin
18 Industries.

19 18. In November 1985, Roberts Co., Inc., which already
20 operated the Mountain View and the Huntridge, opened a
21 six-screen indoor theatre, the Paradise, in Las Vegas.
22 Distributors and movie-goers generally do not consider Roberts'
23 theatres to be good substitutes for the first-run theatres
24 operated by Syufy Enterprises in Las Vegas.

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1 VI.

2 VIOLATIONS ALLEGED

3 19. Since at least 1982, the defendants have engaged in an
4 attempt to monopolize, and since at least October 1984, have
5 monopolized the aforesaid trade and commerce in first-run
6 exhibition in Las Vegas, in violation of Section 2 of the
7 Sherman Act.

8 20. Pursuant to and in effectuation of the aforesaid
9 attempt to monopolize and monopolization, the defendants, among
10 other things, have:

11 (a) Acquired competing first-run theatres in Las
12 Vegas;

13 (b) Threatened existing competitors with economic
14 harm to persuade them to discontinue first-run
15 exhibition in Las Vegas; and

16 (c) Threatened potential competitors with economic
17 harm to persuade them not to enter first-run
18 exhibition in Las Vegas.

19 21. The effect of the acquisition of the Red Rock Theatre
20 by the defendants in October 1984 has been and may be
21 substantially to lessen competition or tend to create a
22 monopoly in first-run exhibition in Las Vegas, in violation of
23 Section 7 of the Clayton Act.

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VIII.

PRAYER

WHEREFORE, the plaintiff prays:

1. That the Court adjudge and decree that the defendants have attempted to monopolize and have monopolized interstate trade and commerce in first-run exhibition in Las Vegas, in violation of Section 2 of the Sherman Act.

2. That the Court adjudge and decree that the acquisition of the Red Rock Theatre by the defendants is in violation of Section 7 of the Clayton Act.

3. That defendant Raymond J. Syufy, and defendant Syufy Enterprises, its successors, transferees, assignees, officers, directors, agents, and employees, and all persons acting or claiming to act on its behalf, each be enjoined from continuing the aforesaid attempt to monopolize and monopolization of first-run exhibition in Las Vegas, and that each be enjoined from engaging in or participating in practices, contracts, agreements, or understandings, or claiming any rights thereunder, having the purpose or effect of continuing, reviving, or renewing any of the aforesaid offenses or any offenses similar thereto.

4. That defendant Syufy Enterprises be required to divest itself of so many of its theatres and so much of its assets as may be necessary to restore effective competition in first-run exhibition in Las Vegas.

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1 5. That defendant Raymond J. Syufy, and defendant Syufy
2 Enterprises, its successors, transferees, assignees, officers,
3 directors, agents and employees, and all persons acting or claiming
4 to act on its behalf, each be enjoined for 10 years from acquiring
5 any motion picture theatre, group of theatres or person that owns
6 or controls any theatre or theatres, in Las Vegas, without the
7 prior written consent of the United States, or, if such consent is
8 refused, without approval by the Court after an affirmative showing
9 by said defendant that the effect of any such acquisition will not
10 be substantially to lessen competition or tend to create a monopoly
11 in first-run exhibition in Las Vegas.

12 6. That defendant Raymond J. Syufy, and defendant Syufy
13 Enterprises, its successors, transferees, assignees, officers,
14 directors, agents and employees, and all persons acting or claiming
15 to act on its behalf, each be enjoined for 10 years from acquiring
16 any motion picture theatre, group of theatres or person that owns
17 or controls any theatre or theatres, outside of Las Vegas, without
18 notifying the United States 30 days prior to the closing of such an
19 acquisition, unless the United States consents in writing to
20 shorter notice.

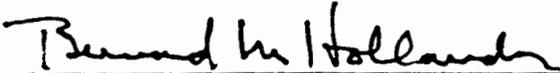
21 7. That the plaintiff have such other and further relief as
22 the nature of the case may require and as the Court may deem
23 just and proper to dissipate the effects of the violations alleged
24 herein and to restore effective competition in first-run exhibition
25 in Las Vegas.

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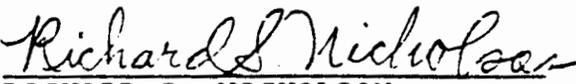
1 8. That the plaintiff recover the costs of this action.

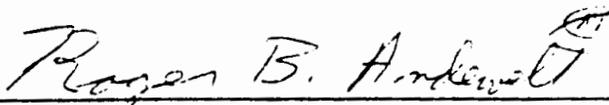
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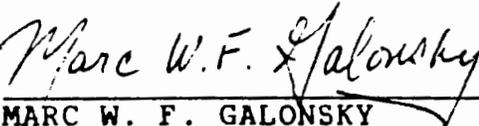
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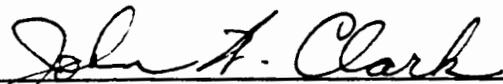
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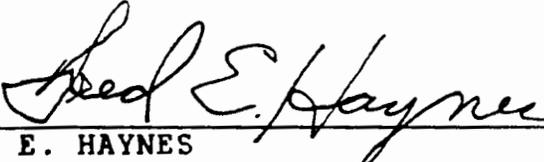

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