

U. S. vs. FOX WEST COAST THEATRES, ET AL.
IN THE DISTRICT COURT OF THE UNITED STATES FOR
THE SOUTHERN DISTRICT OF CALIFORNIA, CENTRAL
DIVISION.

In Equity No. Y-38-H

UNITED STATES OF AMERICA, PETITIONER,

VS.

FOX WEST COAST THEATRES, FOX FILM CORPORATION,
Metro-Goldwyn-Mayer Distributing Corporation, Para-
mount Publix Corporation, United Artists Corporation,
Vitagraph Inc. and First National Pictures Distributing
Corporation, defendants.

FINAL DECREE

United States of America filed its petition herein on November 16, 1932, and each of the defendants having duly appeared by their respective counsel, the United States of America by Samuel W. McNabb, United States Attorney for the Southern District of California, Central Division, moved the Court for an injunction as prayed in the petition and each of the defendants consented to the entry of this decree without contest and before any testimony whatever had been taken.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that:

I. The term "affiliated exhibitors" as used herein shall include persons, firms, partnerships or corporations which are engaged in the exhibition of motion pictures at theatres which are owned, operated or controlled directly or indirectly by any producer or distributor of motion pictures.

II. The term "unaffiliated exhibitors" as used herein shall include persons, firms, partnerships or corporations which are engaged in the exhibition of motion pictures at theatres which are not owned, operated or controlled directly or indirectly by any producer or distributor of motion pictures.

III. The Court has jurisdiction of the subject-matter hereof and of all persons and parties hereto and the petition states a cause of action against the defendants under the Act of Congress of July 2, 1890, commonly known as the Sherman Anti-Trust Act.

IV. The conspiracy to restrain and to monopolize interstate trade and commerce in motion-picture films alleged in the petition herein is hereby declared illegal and in violation of said Act of Congress of July 2, 1890, commonly known as the Sherman Anti-Trust Act.

V. The defendants and each of them, their respective officers, directors, agents, servants, employees and all persons acting or claiming to act on behalf of them or any of them be and they hereby are perpetually enjoined and restrained from carrying out directly or indirectly by any means whatsoever the conspiracy alleged in the petition herein and from entering into or carrying out directly or indirectly any other conspiracy of like character or effect.

VI. The defendants and any two or more of them, their respective officers, directors, agents, servants, employees and all persons acting or claiming to act on behalf of any two or more of them be enjoined from preparing, publishing, adopting, enforcing or attempting to enforce any uniform plan, system or schedule of zoning, clearance or protection:

1. (a) WHEREBY first-run theatres, owned, operated or controlled by defendant theatres company, which under the terms of such plan, system or schedule, receive certain additional periods of protection over competing second-run theatres, over and above the minimum clearance granted to said first-run theatres, as such (the length of which said additional periods of protection were originally determined by the prices charged for admission to said second-run theatres) are thereafter permitted to reduce the said admission prices of said first-run theatres to the point where the difference between the admission prices charged by said first-run theatres and said second-run

theatres is less than that upon which said additional periods of protection were computed, without at the same time reasonably shortening the said additional periods of protection received by said first-run theatres as aforesaid; or (b) whereby second-run theatres and/or subsequent run theatres, owned, operated or controlled by unaffiliated exhibitors which are subject to additional periods of protection over and above the minimum clearance granted to said first-run theatres, as such, are unable to decrease the said additional periods of protection by increasing their own admission prices and thereby decreasing the difference between the admission prices charged by said first-run theatres and that charged by said second-run theatres at the time that said additional periods of protection were computed.

2. (a) WHEREBY suburban first-run theatres owned, operated, or controlled by defendant theatres company receive certain periods of protection over competing second-run theatres, the length of which is determined substantially by the evening admission prices charged by said theatres; and at the same time subsequent run downtown theatres are subjected to periods of protection, the length of which is determined substantially by an average of the matinee and evening prices charged by said theatres; and (b) whereby the periods of protection granted to such of the said downtown subsequent run theatres as are owned, operated, or controlled by defendant theatres company are in fact determined upon a basis of the evening admission prices alone, while at the same time the periods of protection granted to such of the said downtown subsequent run theatres as are owned, operated, or controlled by unaffiliated exhibitors are in fact determined upon a basis of averaging the matinee and evening admission prices charged by said theatres.

3. WHEREBY the periods of protection applicable to theatres located immediately outside of the city limits of Los Angeles and owned, operated, or controlled by defendant theatres company are determined without regard to

any price admission basis applicable to theatres within the city limits of Los Angeles, while at the same time the periods of protection applicable to theatres located immediately outside of the city limits of Los Angeles and owned, operated, or controlled by unaffiliated exhibitors are determined upon a price admission basis applicable to theatres located within the city limits of Los Angeles.

VII. The defendants and any two or more of them when acting as distributors of motion pictures in the Pacific Coast territory in such instance, or the defendants and any two or more of them, when one or more is acting both as a distributor and an exhibitor in the Pacific Coast territory in such instance, their respective officers, directors, agents, servants, employees and all persons acting or claiming to act on behalf of them or any of them be enjoined from preparing, publishing, adopting, enforcing or attempting to enforce any uniform plan system or schedule of zoning, clearance or protection whereby theatres owned, operated or controlled by defendant theatres company receive unreasonably long periods of protection or unreasonable zoning privileges over theatres owned, operated or controlled by competing unaffiliated exhibitors.

VIII. That nothing in this decree contained shall be construed to declare a classification of theatres as first, second, third or subsequent run or runs theatres, or such other reasonable classification as may hereafter from time to time be in use in the motion-picture industry or zoning of such theatres or clearance and/or protection of motion-picture films for exhibition purposes as between theatres, including clearances and/or protection according to runs or price of admission, to be illegal as such or in violation of the Act of Congress of July 2, 1890, entitled "An Act to Protect Trade and Commerce," commonly known as the "Sherman Anti-Trust Act," or as prohibiting any defendant from selecting its own customers and bargaining with them in accordance with law, or any affiliated exhibitor from exhibiting at any time its own films in theatres owned or controlled by it.

IX. Nothing in this decree contained shall be construed as prohibiting Fox West Coast Theatres from negotiating for or entering into any lawful contract for motion-picture films for exhibition purposes with any distributor separately.

X. Nothing contained herein shall be construed as affecting in any manner the decree of this Court entered on August 21, 1930, in the case of *United States v. Fox West Coast Theatres, Incorporated et al.* (In Equity No. S-10-C.)

XI. For the purpose of this decree in case any defendant is owned directly or indirectly by another defendant the two defendants shall, so long as such relationship continues, be deemed one defendant.

XII. The jurisdiction of this cause be and hereby is retained for the purpose of enforcing or modifying the decree.

XIII. The petitioner have and recover of the defendant its costs herein.

Dated: November 16, 1932.

HOLLZER,
United States District Judge.