

APPENDIX A:
FINAL JUDGMENTS
(Ordered by Year Judgment Entered)

United States v. Paramount Pictures, Inc.

Equity No. 87-273

March 3, 1949

(Defendant Paramount Pictures, Inc.)

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Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Paramount Pictures Inc. et al., U.S. District Court, S.D. New York, 1948-1949 Trade Cases 162,377, (Mar. 3, 1949)

United States v. Paramount Pictures Inc. et al.

1948-1949 Trade Cases ,162,377. U.S. District Court, S.D. New York. Equity No. 87-273. March 3, 1949.

Sherman Antitrust Act

Film Industry-Consent Judgment-Separation of Production and Distribution from Theatre Operation.
-A consent judgment entered against a motion picture production and distribution company, in an antitrust suit charging eight prominent companies in the film industry with violations of the Sherman Act, requires the defendant to divest itself of all interest in a given number of theatres and enjoins the company from granting licenses with controlling stipulations attached thereto, from agreeing to maintain a system of clearances, from performing any existing franchise, formula deal, or pooling arrangement, as well as requiring it to divorce its domestic exhibition business from its production and distribution business. Such separation is achieved by the formation of two independent companies and the transfer of the defendant's theatre assets to one and the transfer of production and distribution assets to the others. The two new companies are required to issue to the defendant in exchange for the assets so received, a number of shares of their common capital stock equal to one-half the aggregate amount of common capital stock of Paramount Pictures Inc. then outstanding. The latter company is ordered to be dissolved and to distribute the stock of the first company *pro rata* among its stockholders and transfer the shares of the second company into the name of a Trustee appointed by the court to be held subject to the super vision of the Court. The judgment directs that the newly formed companies have no common directors, and that they be free of any previous managerial connection with the other, or the defendant. The decree requires each company to refrain from attempting to influence the operating policy of the other.

Judgment rendered and entered in lieu of and in substitution for the decree dated December 31, 1946, reported at 1948-1949 Trade Cases 1 57,526.

For plaintiff: Tom C. Clark, Attorney General; Herbert A. Bergson, Assistant Attorney General; Robert L. Wright, Sigmund Timberg, Special Assistants to the Attorney General.

For the defendants Paramount Pictures Inc. and Paramount Film Distributing Corporation: Simpson Thacker and Bartlett; Albert C. Bickford, a member of the firm.

Consent Judgment as to the Paramount Defendants

The plaintiff, United States of America, having filed its Amended and Supplemental Complaint in this action on November 14, 1940; the defendants, Paramount Pictures Inc. and Paramount Film Distributing Corporation (hereinafter sometimes referred to as the "Paramount defendants"), having filed their Answers to such Complaint, denying the substantive allegations thereof; the Court after trial having entered a decree herein, dated December 31, 1946, as modified by order entered February 11, 1947; the plaintiff and the Paramount defendants, among others, having appealed from such decree; the Supreme Court of the United States having in part affirmed and in part reversed such decree, and having remanded this cause to this Court for further proceedings in conformity with its opinion dated May 3, 1948; and this Court having, on June 25, 1948, by order made the mandate and decree of the Supreme Court the order and judgment of this Court; and

The Paramount defendants, having represented to the plaintiff and to this Court that they propose, for the purpose of avoiding discrimination against other exhibitors and distributors, promoting substantial independent theatre competition for the Paramount theatres and promoting competition in the distribution and exhibition of films generally, (1) to divorce their domestic exhibition business from their production and distribution business, (2) to divest Paramount Pictures Inc. and the divorced exhibition business of all interest in a minimum of 774

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theatres, and (3) to subject themselves and said divorced distribution and exhibition businesses to injunctive provisions, all as hereinafter set forth; and that accordingly they propose to adopt prior to April 19, 1949, a plan of reorganization which will have as its purpose and effect the complete divorcement of the ownership and control of all of the theatre assets of Paramount Pictures Inc. located in the United States from all other assets of the Paramount defendants; that pursuant to such plan two new corporations will be formed, one of which (hereinafter called the New Theatre Company) will own directly or indirectly all of the said theatre assets; and the other of which (hereinafter called the New Picture Company) will own directly or indirectly all of the said other assets; and that thereafter Paramount Pictures Inc. will be dissolved; and that for the purpose of establishing separate ownership and control of the said two new corporations the stock of the New Theatre Company will be delivered to a Trustee who will hold such stock subject to the terms and conditions of this judgment, and certificates of interest representing such trustee stock will be issued by the Trustee, and such certificates of interest together with the stock in the New Picture Company will be distributed *pro rata* by Paramount Pictures Inc. among its stockholders; and Paramount Pictures Inc. having set forth certain understandings with and made certain representations to the Attorney General in a letter filed herewith; and

The Paramount defendants having consented to the entry of this judgment after the taking of evidence upon the remand of this cause by the Supreme Court to this Court but without rendition of any decision by this Court upon any of the issues and matters which were to be determined upon said remand, without any findings of fact upon such issues and matters made after said remand, and without admission by the Paramount defendants in respect to any such issue or matter, and the Court having considered the matter,

NOW, THEREFORE, UPON CONSENT OF THE PARTIES HERETO, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

I.

The Complaint is dismissed as to all claims made against the Paramount defendants based upon their acts as producers of motion pictures, whether as individuals or in conjunction with others.

II.

[*Acts Enjoined*]

A. The Paramount defendants, their officers, agents, servants and employees are each hereby enjoined:

1. From granting any license in which minimum prices for admission to a theatre are fixed by the parties, either in writing or through a committee, or through arbitration, or upon the happening of any event or in any manner or by any means.
2. From agreeing with each other or with any exhibitors or distributors to maintain a system of clearances; the term "clearances" as used herein meaning the period of time stipulated in license contracts which must elapse between runs of the same feature within a particular area or in specified theatres.
3. From granting any clearance between theatres not in substantial competition.
4. From granting or enforcing any clear ance against theatres in substantial competition with the theatre receiving the license for exhibition in excess of what is reason ably necessary to protect the licensee in the run granted. Whenever any clearance provision is attacked as not legal under the provisions of this judgment, the burden shall be upon the distributor to sustain the legality thereof.
5. From further performing any existing franchise to which it is a party and from making any franchises in the future, except for the purpose of enabling an independent exhibitor to operate a theatre in competition with a theatre affiliated with a defendant. The term "franchise" as used herein means a licensing agreement or series of licensing agreements, entered into as a part of the same transaction, in effect for more than one motion picture season and covering the exhibition of pictures released by one distributor during the entire period of agreement.
6. From making or further performing any formula deal or master agreement to which it is a party. The term "formula deal" as used herein means a licensing agreement with, a circuit of theatres in which the license fee of

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a given feature is measured for the theatres covered by the agreement by a specified percentage of the feature's national gross. The term "master agreement" means a licensing agreement, also known as a "blanket deal," covering the exhibition of features in a number of theatres usually comprising a circuit.

7. From performing or entering into any license in which the right to exhibit one feature is conditioned upon the licensee's taking one or more other features. To the extent that any of the features have not been trade shown prior to the granting of the license for more than a single feature, the licensee shall be given by the licensor the right to reject twenty percent of such features not trade shown prior to the granting of the license, such right of rejection to be exercised in the order of release within ten days after there has been an opportunity afforded to the licensee to inspect the feature.

8. From licensing any feature for exhibition upon any run in any theatre in any other manner than that each license shall be offered and taken theatre by theatre, solely upon the merits and without discrimination in favor of affiliated theatres, circuit theatres or others.

B. If a final judgment be entered in this cause against Loew's Incorporated, Twentieth Century-Fox Film Corporation, and Warner Bros. Pictures, Inc., or any of them, which shall prescribe for any of such defendants provisions for licensing the exhibition of feature motion pictures different from those required by this judgment, the Paramount defendants or the New Picture Company or either or the successor or successors of either, may file herein a written notice of election to be relieved from further compliance with such provisions of this judgment and to comply with such provisions of such judgment against said defendants or any of them, and thereupon an order or supplemental judgment shall be entered on the application of such party or parties so electing, which shall subject such party or parties to such provisions of such other judgment and entitle it or them to the benefits of any terms thereof and relieve it or them from further compliance with such provisions of this judgment.

III.

A. The defendant Paramount Pictures Inc. (hereinafter in this Section III referred to as "Paramount"), its officers, agents, servants and employees are each hereby enjoined:

1. From performing or enforcing agreements referred to in paragraphs A-5 and A-6 of the foregoing section II hereof to which it may be a party.

2. From making or continuing to perform pooling agreements whereby given theatres of two or more exhibitors normally in competition are operated as a unit or whereby the business policies of such exhibitors are collectively determined by a joint committee or by one of the exhibitors or whereby profits of the "pooled" theatres are divided among the owners according to prearranged percentages.

3. From making or continuing to perform agreements that the parties may not acquire other theatres in a competitive area where a pool operates without first offering them for inclusion in the pool.

4. From making or continuing leases of theatres under which it leases any of its theatres to another defendant or to an independent operating a theatre in the same competitive area in return for a share of the profits.

5. From continuing to own or acquiring any beneficial interest in any theatre, whether in fee or in shares of stock or otherwise, in conjunction with another defendant.

(a) The said existing relationships in connection with the theatres in Michigan (excluding Detroit) named in paragraph 9 hereof shall be terminated by November 8, 1949 in accordance with the provisions relating to such theatres set forth in such paragraph 9.

(b) The said existing relationship in connection with the Great Lakes, Hippodrome, Niagara, Seneca, Kenmore, Buffalo, Teck, Bellevue, Kensington, North Park, Lackawanna, and Elmwood Theatres in Greater Buffalo, N. Y., shall be terminated by March 31, 1949, and the said existing relationship in connection with the Roosevelt Theatre, Buffalo, N. Y., shall be terminated by December 31, 1949. Paramount or the New Theatre Company may elect to acquire the interest of the co-owner or co-owners in the five theatres first mentioned in this subparagraph (b).

(c) The said existing relationships in connection with the Parkhill Theatre, Yonkers, N. Y., shall be terminated by November 8, 1949 in accordance with the provisions relating to such theatre set forth in paragraph 9 hereof.

6. From acquiring a beneficial interest in any theatre other than those named in paragraph 9 hereof, provided that:

(a) Until the joint ownerships set forth in paragraph 9 have been completely terminated, as provided for in said paragraph, beneficial interests in theatres may be acquired.

(i) As a substantially equivalent replacement for wholly owned theatres held or acquired in conformity with this judgment which may be lost through physical destruction or conversion to non-theatrical purposes;

(ii) In renewing leases covering any wholly owned theatre held or acquired in conformity with this judgment or in acquiring an additional interest in any such theatre under lease;

(iii) As a substantially equivalent replacement for any wholly owned theatre held or acquired in conformity with this judgment which has been lost through inability to obtain a renewal of the lease thereof upon reasonable terms, if Paramount or the New Theatre Company shall show to the satisfaction of the Court, and the Court shall first find, that such acquisition will not unduly restrain competition;

(iv) In one theatre in Miami, Florida, Chattanooga, Tennessee, Salt Lake City, Utah, and Tampa, Florida, respectively (which theatres Paramount represents it plans to construct upon sites now controlled by it and are to be substantially equivalent replacements for theatres heretofore lost by fire or failure to obtain renewal of leases), if Paramount or the New Theatre Company shall show to the satisfaction of the Court, and the Court shall first find, that such acquisition will not unduly restrain competition.

(b) After termination of the joint ownerships set forth in paragraph 9 hereof, Paramount or the New Theatre Company may acquire a beneficial interest in any theatre only in the situations covered by paragraphs (i) and (ii) of the preceding sub-section (a) unless the New Theatre Company shall show to the satisfaction of the Court, and the Court shall first find, that the acquisition will not unduly restrain competition.

7. From operating, booking or buying features for any of its theatres through any agent who is known by it to be also acting in such manner for any other exhibitor, independent or affiliate.

8. From making or enforcing any agreement which restricts the right of any other exhibitor to acquire a motion picture theatre.

9. From acquiring or continuing to own in conjunction with any actual or potential independent exhibitor any beneficial interest in motion picture theatres. The theatres in which such ownership now exists are the following:

<i>State</i>	<i>City</i>	<i>Names of Theatre</i>
ALABAMA	Anniston	Calhoun Cameo Noble Ritz
	Auburn	Tiger
	Bessemer	Grand State
	Birmingham	Alabama Lyric Rltz Grand Temple Drive-In
	Chickasaw	Chickasaw
	Ensley (suburb of Birmingham)	Ensley

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	Jasper	Franklin Jasper New
	Mobile	Crown Drive-In Empire Lyric Loop Saenger
	Montgomery	Charles Clover Empire Grand Paramount Strand
	Selma	Walton Wilby
	Troy	Enzor
	Tuscaloosa	Bama Diamond Druid Ritz
ARIZONA	Phoenix	Studio Drive-In Indian Head Drive-In
ARKANSAS	Camden	Rialto Ritz Strand
	Clarksville	Joy Strand
	Conway	Conway Grand
	Dardanelle Fayetteville	Joy Ozark Palace Royal U-Ark
	Fort Smith	Hoyts Joie New Plaza Temple Uptown
	Helena	Paramount Pastime
	Hope	New Rialto Saenger
	Hot Springs	Central Malco Paramount Victory
	Jonesboro	Liberty Palace Strand

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	Little Rock	Arkansas Capitol Drive-In Heights Lee New Prospect Pulaski Roxy Royal Ritz
	McGehee	Rialto
	Morrilton	Capitol
	Newport	Strand
	Pine Bluff	Malco Saenger Strand
	Russellville	Ritz
	Smackover	Joy
	Stuttgart	Majestic Strand
	Van Buren	Bob Burns Rio
CALIFORNIA	Hollywood	Paramount
FLORIDA	Pensacola	Drive-In Isis Rex Saenger
GEORGIA	Athens	Georgia Morton Palace Ritz Strand Imperial Miller Modjeska Rialto
	Augusta	Ritz Bijou Ritz Roxy
	Barnesville	Allen
	Brunswick	Colonial
	Buford	Bradley Georgia Rialto Royal Springer Village Rexview Drive-In
	Columbus	Elbert
	Elberton	Ritz
	Gainesville	Roxy Royal State

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	Lexington	Lex
	Macon	Capitol
		East Macon
		Rialto
		Grand
		Ritz
	Moultrie	Colquitt
		Moultrie
	St. Simons	
	Island	Casino
	Savannah	Avon
		Beach
		Bijou
		Lucas
		State
		Victory
	Waycross	Carver
		Lyric
		Ritz
IDAHO	Boise	Ada
		Boise
		Granada
		Pinney
ILLINOIS	Chicago	Iris
		McVickers
		North Center
		United Artists
	Galesburg	Colonial
	LaSalle	LaSalle
		Majestic
	Moline	Illini
		Le Claire
	Oak Park	Lake
		Lamar
	Peru	Peru
		Star
	Quincy	Orpheum
		Washington
	Rockford	Auburn
		Coronado
		Midway
		Palace
		Times
	Rock Island	Fort
		Armstrong
		Rocket
		Spencer
INDIANA	Gary	Grand State
IOWA	Algona	Call
		Iowa
	Boone	Boone
		Princess
		Rialto
	Burlington	Capitol
		Palace
		Zephyr

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Cedar Falls	Regent
Cedar Rapids	Paramount State
Centerville	Majestic Ritz
Chariton	Ritz State
Charles City	Charles Gem
Clarion	Clarion
Clear Lake	Lake Park
Clinton	Capitol Rialto Strand
Cresco	Cresco
Davenport	Capitol Esquire Garden
Des Moines	Des Moines Garden Hiland Ingersoll Paramount Roosevelt Uptown Strand Easttown Iowa Drive-In
Eagle Grove	Princess
Estherville	Grand
Forest City	Forest
Fort Dodge	Iowa Rialto Strand
Grinnell	Iowa Strand
Iowa City	Englert Strand Varsity
Mason City	Cecil Palace Strand
New Hampton	Firemens
Newton	Capitol Rialto
Oelwein	Grand Ritz
Oskaloosa	Mahaska Princess Rivoll
Otturawa	Capitol Ottumwa Rialto Strand Zephyr
Sioux City	Capitol

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		Drive-In
		Hipp
		Hollywood
		Iowa
		State
		Victory
	Waterloo	Paramount
		Strand
KENTUCKY	Fulton	Fulton Orpheum
		Strand
	Henderson	Kentucky
		Kraver
	Owensboro	Bielch
		Malco
		Seville
		Strand
LOUISIANA	Alexandria	Paramount Rex
		Sienger
	Baton Rouge	Drive-In
		Fort
		Louisiana
		Paramount
		Varsity
	Monroe	Capitol
		Delta
		Paramount
	New Orleans	Globe
		Saenger
		Tudor
	Shreveport	Centenary
		Drive-In
		Majestic
		Rex
		Saenger
		Strand
		Venus
		West End
MAINE	Auburn	Auburn
	Augusta	Colonial
		Capitol
	Bangor	Bijou
		Opera House
		Park
	Brunswick	Cumberland
		Pastime
	Gardiner	Opera House
	Hollowell	Rialto
	Lewiston	Empire
		Priscilla
		Strand
	Livermore Falls	Dreamland
	Norway	Rex
	Orono	Strand
	Ramford	Strand
	SouthParis	Strand
	Wilton	Wilton

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MASSACHUSETTS	Chicopee	Rivolt
	Fitchburg	Fitchburg
	Greenfield	Garden
	Haverhill	Colonial
		Paramount
	Holyoke	Bijou
		Strand
		Victory
	North Adams	Paramount
		Richmond
	Northampton	Calvin
		Plaza
	Palmer	Strand
	Pittsfield	Capitol
		Colonial
		Palace
		Strand
	Springfield	Paramount
		Broadway
	Ware	Casino
	Westfield	Strand
MICHIGAN	Adrian	Croswell
		Family
	Allegan	Regent
	Alpena	Lyric
		Malz
	Ann Arbor	Orpheum
		Michigan
		State
		Whitney
		Wuerth
	Battle Creek	Bijou
		Michigan
		Post
		Regent
		Strand
	Bay City	Bay
		Center
		Regent
		Westown
	Benton Harbor	Lake
		Liberty
	Big Rapids	Big Rapids
	Cadillac	Center
		Lyric
	Detroit	Alger
		Royal
		United Artist
	East Lansing	State
	Flint	Capitol
		Della
		Garden
		Palace
		Regent
		Roxy
		State

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	Strand
Grand Haven	Grand
	Robinhood
Grand Rapids	Center
	Eastown
	Royal
	Four Star
	Kent
	Majestic
	Our
	Wealthy
Greenville	Gibson
	Silver
Hillsdale	Dawn
	Hill
Holland	Center
	Colonial
	Holland
Ionia	Center
	Ionia
Jackson	Capitol
	Majestic
	Michigan
	Regent
	Rex
Kalamazoo	Capitol
	Fuller
	State
	Michigan
	Orpheum
	Uptown
Lansing	Capitol
	Gladmer
	Lansing
	Michigan
	Nortown
	Southown
Ludington	Center
	Lyric
Manistee	Lyric
	Ramsdell
	Vogue
Monroe	Family
	Monroe
Muskegon	Michigan
	Regent
	State
Niles	Ready
	Riviera
Owosso	Capitol
	Center
	Strand
Pontiac	Eagle
	Oakland
	Orpheum
	Rialto

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		State
		Strand
	Port Huron	Desmond
		Family
		Majestic
	Saginaw	Center
		Franklin
		Mecca
		Michigan
		Strand
		Temple
		Wolverine
	St. Joseph	Caldwell
	South Haven	Michigan
		Model
	Sturgis	Roxy
		Strand
	Three Rivers	Rialto
		Riviera
	Traverse City	Michigan
		Trabay
	Willow Run	Center
	Yosilanti	Martha Washington
		Wuerth
MINNESOTA	Fairmont	Nicholas Strand
MISSISSIPPI	Biloxi	Buck
		Saenger
	Clarksdale	Delta Paramount
	Columbus	Dixie
		Princess
		Varsity
	Greenville	Delta
		Paramount
	Greenwood	La Flore
		Paramount
	Gulfport	Gulf
		Paramount
	Hattiesburg	Buck
		Lomo
		Rose
		Saenger
	Jackson	Century
		Drive-In
		Majestic
		Paramount
		Pix
	Meridian	Alberta
		Strand
		Temple
	Natchez	Baker Grand
		Ritz
	Tupelo	Lyric Tupelo
	Vicksburg	Alamo
		Saenger
		Strand
	West Point	Ritz

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		Star
	Winona	Winona
NEBRASKA	Fairbury	Bonham
		Majestic
	Falls city	Oil City
		Rivoll
	Grand Island	Capitol
		Empress
		Grand
	Hastings	Rivoll
		Strand
	Omaha	Omaha
		Orpheum
		Paramount
		Drive-In
NEW HAMPSHIRE	Berlin	Albert
		Princess
		Strand
	Concord	Capitol
		Star
	Portsmouth	Colonial
		Olympix
NEW JERSEY	Newark	Adams
		Paramount
	Paterson	U. S.
NEW MEXICO	Albuquerque	Cheif
		Kimo
		Lobo
		Mission
		Rio
		Sunshine
		Yucca
		Drive-In
		Mesa
NEW YORK	Fulton	Avon
		State
	New York City	Rivoll
	Owego	Tioga
	Rochester	Capitol
		Paramount
		Regent
	Waverly	Amuzu
		Capitol
NORTH CAROLINA	Yonkers Asheboro Asheville	Parkhill
		Carolina
		Imperial
		Isis
		Palace
		Paramount
		Plaza
		State
		Commitment to build new
		theatre
	Burlington	Alamance
		Carolina
		Paramount

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Canton	Colonial Strand
Chapel Hill	Carolina Village
Concord	Cabarrus Paramount
Durham	Carolina Center Rialto
Fayetteville	Broadway Carolina Colony
Gastonia	Lyric Temple
Goldsboro	Carolina Paramount Wayne
Greensboro	Carolina Imperial National
Greenville	Colony Pitt State
Hendersonville	Carolina State
Hickory	Center Park
High Point	Broadhurst Center Paramount Rialto
Lenoir	Center State
Lexington	Carolina Granada
Lumberton	Carolina Pastime
Monroe	Center State
Mt. Airy	Center
Raleigh	Ambassador Capitol Palace State Varsity
Rockingham	Little Richmond
Rocky Mount	Carolina Center
Salisbury	Capitol State Victory
Wilmington	Bailey Bijou Carolina Royal

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	Wilson	Ritz Carolina Ritz Wilson
	Winston-Salem	Carolina State Colonial
NORTH DA KOTA	Jamestown	Forsyth Star
PENNSYLVANIA	Aliquippa	Rialto State Strand Temple
	Ambridge	State
	Bloomsburg	Capitol Columbia
	Butler	Capitol Penn
	Carlisle	Comerford Strand
	Danville	Capitol
	Dickson City	Rex
	Dunmore	Orient
	Duryea	Pastime
	Forest City	Freedman
	Forty Port	Forty Fort Institute
	Hawlay	Ritz
	Hazleton	Capitol Feeley Grand
	Honesdale	Lyric
	Jersey Shore	Victoria
	Kingston	Kingston
	Lebanon	Capitol Colonial Jackson
	Luzerne	Luzerne
	Mauch Chunk	Capitol
	Miners Mills	Crystal
	Northumberland	Savoy
	Old Forge	Holland
	Olyphant	Olyphant Granada
	Parsons	Parsons
	Pittston	American Roman
	Plymouth	Shawnee
	Pottsville	Capitol Hippodrome Hollywood
	Sayre	Sayre
	Scranton	Bell Capitol Comerford Family Globe

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		Rialto
		Riviera
		Roosevelt
		State
		Strand
		Temple
		Westside
		Pinebrook
	Shenandoah	Strand
	Sunbury	Rialto
		Strand
	Towanda	Keystone
	Wilkes-Barre	Capitol
		Comerford
		Hart
		Orpheum
		Penn
		Sterling
		Strand
		Temple
		Irving
	Willianisport	Capitol
		Keystone
SOUTH CAROLINA	Anderson	Drive-in
	Columbia	Drive-In
	Darlington	Liberty
		Darlington
	Florence	Carolina
		Colonial
	Greenville	Drive-In
	Greenwood	Carolina
		Ritz
		State
SOUTH DAKOTA	Madison	Lyric
		State
TENNESSEE	Elizabethton	Bonnie Kate
		Ritz
	Jackson	Paramount
		State
		Met
		Drive-In
	Kingsport	State
	Memphis	Malco
		Strand
	Abilene	Majestic
		Palace
		Paramount
		Queen
	Amarillo	Capitol
		Paramount
		Rialto
		State
		Esquire
	Anahuac	Rig
	Arlington	Aggie
		Texan

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Arp	Rex
Austin	Paramount
	Queen
	State
	Austin
	Capitol
	Texas
	Varsity
Baytown	Arcadia
	Bay
Beaumont	Gem
	Jefferson
	Lamar
	Liberty
	Star
	Tivoli
	Peoples
	Circle Drive-In
Breckenridge	National
	Palace
Brownsville	Capitol
	Queen
Brownwood	Bowie
	Lyric
	Gem
Channelview	Sanja
Conroe	Crighton
	Liberty
Corsicana	Grand
	Ideal
	Palace
	Rio
Dallas	Capitol
	Dalsec
	Fair
	Forest
	Majestic
	Melba
	Palace
	Rialto
	Tower
	White
	Circle
	Inwood
	Knox
	Lakewood
	Lawn
	Esquire
	Varsity
	Village
	Wilshire
	Telenews
	Drive-In-Buckner Bvd.
	Drive-In-Northwest H'way.
Denison	Rialto
	Rio

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	State
Denton	Dreamland
	Palace
	Texas
Donna	Plaza
Eagle Lake	Cole
Eastland	Majestic
	Lyric
El Paso	Ellanay
	Palace
	Pershing
	Plaza
	Texas Grand
	Wigwam
Fort Worth	Bowie
	Gateway
	Hollywood
	Majestic
	Palace
	Parkway
	River Oaks
	Worth
	Tower
	Varsity
	Bowie Drive-In
	Belknap
	Drive-In
	7th St. Theatre
Galveston	Key
	Martini
	Queen
	State
	Tremont
	Broadway
Gladewater	Cozy
	Gregg
	Palace
Goose Creek	Palace
	Texan
Greenville	Colonial
	Rialto
	Texan
Groves	Lyric
Hallettsville	Cole
Harlingen	Arcadia
	Grande
	Rialto
	Strand
Henderson	Palace
	Strand
Houston	Alabama
	Almeda
	Bluebonnet
	Eastwood
	Kirby
	Majestic

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	Metropolitan
	North Main
	River Oak
	Tower
	Village
	Wayside
	Yale
	Santa Rosa.
	Broadway
	Garden Oaks
	Fulton
	Shepard Drive-In
	So Main Drive-In
	Winkler Drive-In
Jacksonville	Jackson
	Palace
	Rialto
Kilgore	Crim
	Strand
	Texan
La Porte	Port
Longview	Arlyne
	Rembert
	Rita
Lufkin	Lynn
	Pines
	Texan
McAllen	Azteca
	Palace
	Queen
	El Rey
Marshall	Lynn
	Paramount
Mercedes	Rex
	Rio
	State
Nacogdoches	Rita
	Stonefort
	Texan
Nederland	Rio
Needville	Cole
Orange	Bengal
	Gem
	Royal
	Strand
Overton	Gem
	Strand
Paris	Grand
	Main
	North Star
	Plaza
	Rex
Pelly	Alamo
Pharr	Drive-In
Port Arthur	Majestic
	Pearce

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	Peoples
	Port
	Sabine
	Strand
	Surf Drive-In
Port Neehes	Lynn
	Neches
Richmond	Lamar
Rosenberg	Cole
	State
Rusk	Cherokee
San Antonio	Aztec
	Empire
	Majestic
	Texas
	Broadway
	Laurel
	State
	Sunset Woodlawn
San Marcos	Hayes
	Palace
	Texas
Silsbee	Palace
	Pines
Temple	Arcadia
	Bell
	Gem
	Rio
	Texas
Texarkana	Drive-In
	Paramount
	Strand
	Texan
Tyler	Arcadia
	Liberty
	Majestic
	Tyler
Vernon	Pictorium
	Vernon
Waco	Orpheum
	25th Street
	Texas
	Waco
	Circle Drive-In
Wallis	Cole
Weslaco	Gem
	Ritz
Wichita Falls	Majestic
	State
	Strand
	Wichita
Yoakum	Grand
	Ritz
UTAHOgden	Colonial
	Orpheum
	Paramount

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VERMONT	Brattleboro	Paramount
	Burlington	Flynn
		Majestic
	Montpelier	Capitol
VIRGINIA	Cape Charles	Radium
	Charlottesville	Jefferson
		Lafayette
		Paramount
		University
	Danville	Capitol
		Dan
		Rialto
	Exmore	Cameo
	Hampton	Langley
		Rex
	Hilton Village	
		Village
	Lynchburg	Isis
		Paramount
		Trenton
	Newport News	
		James
		Paramount
WEST VIRGINIA	Phoebus	Lee
	Bluefield	Granada State
	Wheeling	Rex
WISCONSIN	LaCrosse	Fifth Avenue Hollywood

The existing joint ownership in the above enumerated theatres shall be terminated as to all such theatres within three years from the date of entry of this judgment, and as to at least one-third of such theatres within one year from such date, and as to at least two-thirds of such theatres within two years from such date, in accordance with the following provisions:

(a) Paramount or the New Theatre Company shall terminate the existing joint ownership in each of said theatres by a sale or other outright transfer of the entire interest of Paramount or the New Theatre Company therein either (i) to a co-owner or co-owners, or (ii) to a person who is not a defendant herein and not owned or controlled by or affiliated with a defendant herein, except as otherwise provided in sub-paragraph (b) below.

(b) In the event that Paramount's interest in any joint ownership shall not be terminated as provided in sub-paragraph (a), Paramount or the New Theatre Company may acquire the interest of such co-owner or co-owners, after first negotiating for such acquisition with such co-owner or co-owners, in not to exceed the following theatres from the above list in each of the following communities:

State	City	Theatres
ALABAMA	Anniston	Any two of the theatres above listed, only one of which may be a first run theatre.
	Auburn	Tiger Theatre.
	Bessemer	Any one of the theatres above listed in each of these cities.
	Ensley	
	Jasper	
	Selma	
	Birmingham	Any four of the theatres above listed, only two of

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		which may be first run theatres.
	Chickasaw	Chickasaw Theatre.
	Mobile	Any four of the theatres above listed, only one of which may be a first run theatre.
	Montgomery	Any three of the theatres above listed, only one of which may be a first run theatre.
	Troy	Enzor Theatre.
	Tuscaloosa	Any three of the theatres above listed, only one of which may be a first run theatre.
ARIZONA	Phoenix	Either one of the two drive-in theatres above listed.
ARKANSAS	Camden	Any one of the theatres above listed in each of these cities.
	Jonesboro	
	Fayetteville	Any two of the theatres above listed (only one of which may be a first run theatre) in each of these cities.
	Fort Smith	
	Hot Springs	
	Little Rock	Any two of the theatres above listed.
FLORIDA	Pensacola	Any three of the theatres above listed, only one of which may be a first run theatre.
GEORGIA	Athens	Any one of the theatres above listed in each of these cities.
	Augusta	
	Brunswick	
	Columbus	
	Gainesville	
	Macon	
	Waycross	
	Savannah	Any two of the theatres above listed, only one of which may be a first run theatre.
IDAHO	Boise	Any two of the theatres above listed, only one of which may be a first run theatre.
ILLINOIS	LaSalle	Any one of the theatres above listed in each of these cities.
	Moline	

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	Oak Park	
	Peru	
	Quincy	
	Rock Island	Any two of the theatres above listed (only one of which may be a first run theatre) in each of these cities.
	Rockford	
INDIANA	Gary	Any one of the theatres above listed.
IOWA	Cedar Rapids	Any one of those theatres above listed.
	Davenport	Any two of the theatres above listed, only one of which may be a first run theatre.
	Des Moines	Any six of the theatres above listed, only two of which may be first run theatres.
	Sioux City	Any one of the theatres above listed in each of these cities.
	Waterloo	
KENTUCKY	Fulton	Any one of the theatres above listed.
	Owensboro	Any two of the theatres above listed, only one of which may be a first run theatre.
LOUISIANA	Alexandria	Any two of the theatres above listed (only one of which may be a first run theatre) in each of these cities.
	Monroe	
	Baton Rouge	Any one of the theatres above listed in each of these cities.
	New Orleans	
	Shreveport	Any four of the theatres above listed, only one of which may be a first run theatre.
MAINE	Bangor	Any one of the theatres above listed in each of these cities.
	Lewiston	
MASSACHUSETTS	Haverhill	Any one of the theatres above listed in each of these cities.
	Holyoke	
	North Adams	
	Northampton	
	Pittsfield	
	Springfield	

MICHIGAN	Ann Arbor	Any one of the theatres above listed in each of these cities.
	Battle Creek	
	Flint	
	Grand Rapids	
	Kalamazoo	
	Lansing	
	Pontiac	
	Saginaw	
	Detroit	The Royal Theatre, provided however, that promptly after the acquisition by Paramount or the New Theatre Company of the interest of the co-owner therein, Paramount or the New Theatre Company shall lease the said theatre to a party not a defendant herein or owned or controlled by or affiliated with a defendant herein and which lease shall contain no rental provisions based upon a share of the profits of such theatre or any other theatre, and provided further that Paramount or the New Theatre Company shall sell such theatre property as soon as practicable and in any event before the expiration of such lease.
MINNESOTA	Fairmont	Any one of the theatres above listed.
MISSISSIPPI	Biloxi	Any one of the theatres above listed in each of these cities.
	Clarksdale	
	Greenville	
	Greenwood	
	Gulfport	
	Natchez	
	Hattiesburg	Any two of the theatres above listed (only one of which may be a first run theatre) in each of these cities.
	Meridian	
	Vicksburg	
	Jackson	Any three of the theatres above listed, only one of which may be a first run theatre.
	Winona	Winona Theatre

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NEBRASKA	Fairbury	Any one of the theatres above listed in each of these cities.
	Falls City	
	Hastings	
	Grand Island	Any two of the theatres above listed, only one of which may be a first run theatre.
	Omaha	Any two of the theatres above listed.
NEW HAMPSHIRE	Concord	Any one of the theatres above listed in each of these cities.
	Portsmouth	
NEW JERSEY	Newark	Any one of the theatres above listed.
NEW MEXICO	Albuquerque	Any one of the theatres above listed.
NEW YORK	Fulton	Any one of the theatres above listed.
	New York City	Rivoli Theatre.
	Rochester	Any two of the theatres above listed, only one of which may be a first run theatre.
NO. CAROLINA	Asheboro	Carolina Theatre.
	Asheville	Any four of the theatres above listed (and which list shall be deemed to include the theatre in this city, when built, as to which there is a commitment to build), provided that such four theatres shall not include, and Paramount or the New Theatre Company shall concurrently dispose of the interest of Paramount in, one first run theatre in this city.
	Burlington	Any two of the theatres above listed (only one of which may be a first run theatre) in each of these cities.
	Durham	
	Fayetteville	
	Goldsboro	
	Greensboro	
	Greenville	
	High Point	
	Salisbury	
	Wilmington	
	Wilson	
	Winston-Salem	

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	Canton	Any one of the theatres above listed in each of these cities.
	Chapel Hill	
	Concord	
	Gastonia	
	Hendersonville	
	Hickory	
	Lumberton	
	Monroe	
	Rockingham	
	Rocky Mount	
	Raleigh	Any three of the theatres above listed, only one of which may be a first run theatre.
PENNSYLVANIA	Aliquippa	Any one of the theatres above listed in each of these cities.
	Bloomsburg	
	Butler	
	Carlisle	
	Hazleton	
	Lebanon	
	Pittston	
	Pottsville	
	Shenandoah	
	Sunbury	
	Wilkes-Barre	
	Williamsport	
	Scranton	Any two of the theatres above listed.
SO. CAROLINA	Anderson	The drive in theatre in each of these cities.
	Columbia	
	Greenville	
	Greenwood	Any two of the theatres above listed, only one of which may be a first run theatre.
SO DAKOTA	Madison	Any one of the theatres above listed.
TENNESSEE	Elizabethton	Any one of the theatres above listed in each of these cities.
	Jackson	
	Memphis	
	Kingsport	State Theatre
TEXAS	Abilene	Any one of the theatres above listed in each of these cities.
	Beaumont	
	Breckenridge	
	Brownwood	
	Brownsville	
	Corsicana	

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Denison	
Denton	
Galveston	
Harlingen	
McAllen	
Orange	
Paris	
Port Arthur	
Temple	
Tyler	
Vernon	
Wichita Falls	
Austin	Any three of the theatres above listed, only one of which may be a first run theatre.
Amarillo	Any two of the theatres above listed (only one of which may be a first run theatre) in each of these cities.
El Paso	
Texarkana	
WacoDallas	Any seven of the theatres above listed, only two of which may be first run theatres.
Fort Worth	Any four of the theatres above listed, only one of which may be a first run theatre.
Houston	Any seven of the theatres above listed, only one of which may be a first run theatre.
San Antonio	Any four of the theatres above listed, only one of which may be a first run theatre.
UTAH	Ogden
	Any two of the theatres above listed, only one of which may be a first run theatre.
VIRGINIA	Charlottesville
	Any one of the theatres above listed, in each of these cities.
	Lynchburg
	Newport News
WISCONSIN	La Crosse
	Any one of the theatres above listed.

(c) With respect to any jointly owned theatre as to which Paramount's interest shall not be sold or otherwise transferred in accordance with the provisions of sub-paragraph (a) or as to which the interest of the co-owner or co-owners shall not be acquired by Paramount or the New Theatre Company under the provisions of sub-paragraph (b) of this paragraph 9, Paramount or the New Theatre Company may negotiate with a third person who is not a defendant herein and not owned or controlled by or affiliated with a defendant herein, for a sale of

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the entire joint interest in such theatre to such third person and may negotiate for the acquisition thereof and thereafter, acquire the interest or its co-owner or co-owners for the sole purpose of effectuating such a sale, provided that such sale shall be consummated not later than six months following such acquisition¹ and shall create substantial motion picture theatre operating competition in any community in which Paramount or the New Theatre Company shall retain any theatre.

10. From voting its stock in any of the corporations through which said joint ownerships are held for the purpose of preventing corporate action which will effectuate dissolution of such joint ownerships upon reasonable terms in accordance with paragraph 9 hereof.

B. Paramount owns a beneficial interest in the following theatres, and the only other beneficial interests in such theatres are those of persons who are solely investors: Houlton and Temple Theatres, Houlton, Me.; Empire, Park and Strand Theatres, Rockland, Me.; Chateau, Empress, Lawler and Time Theatres, Rochester, Minn.; Avon, Broadway, State and Winona Theatres, Winona, Minn.; and Grand, Paramount and Strand Theatres, Rutland, Vt.

1. As to not to exceed the following theatres from the above list, Paramount or the New Theatre Company may elect to acquire the interest of the co-owner or co-owners therein, or to sell or otherwise transfer the interest of Paramount therein in accordance with the provisions of sub-paragraph (a) or (c) of paragraph 9 of sub-section A of this Section III, or to continue the same in the existing joint ownership applicable thereto:

Any one of the theatres above listed in Houlton, Me.

Any two of the theatres above listed in Rockland, Me., only one of which may be a first run theatre.

Any two of the theatres above listed in Rochester, Minn., only one of which may be a first run theatre.

Any two of the theatres above listed in Winona, Minn., only one of which may be a first run theatre.

Any two of the theatres above listed in Rutland, Vt., only one of which may be a first run theatre.

2. The remainder of the theatres above listed in the first paragraph of this subsection B shall be disposed of by Paramount or the New Theatre Company, or by the existing joint ownership if continued as above provided for in this sub-section B, to a person not a defendant herein and not owned or controlled or affiliated with a defendant herein, in accordance with the provisions of sub-paragraph (a) or (c) of said paragraph 9.

3. The provisions set forth in paragraphs 1 and 2 of this sub-section B shall be effectuated within two years from the date hereof and in such a manner as to create substantial motion picture theatre operating competition in any community in which Paramount or the New Theatre Company, or the joint ownership if continued as above provided, shall retain any theatres.

C. 1. For the purpose of creating substantial motion picture theatre operating competition in the communities hereinafter listed, Paramount or the New Theatre Company shall dispose of all of the interests of Paramount in at least one half of the following motion picture theatres within one year from the date hereof, and in all of the following motion picture theatres within two years from the date hereof, and each such disposition shall be to a party not a defendant herein or owned or controlled by or affiliated with a defendant herein:

One theatre in each of the following cities in Florida: Bartow and Bradenton.

Two theatres in Clearwater, Fla. *

One first run theatre in Daytona Beach, Fla.

One theatre in Deland, Fla.

Two theatres in Fort Lauderdale, Fla.,

One of which shall be a first run theatre.

The Ritz Theatre in Fort Myers, Fla.

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One first run theatre in Gainesville, Fla.
One theatre in Hollywood, Fla., which theatre shall not be the theatre located in the Hollywood Hotel.
Three theatres in Jacksonville, Fla.,
One of which shall be a first run theatre.
Two theatres in Lakeland, Fla.,
One of which shall be a first run theatre.
One theatre in Lake Worth, Fla.
One first run theatre in Ocala, Fla.
Two theatres in Orlando, Fla.,
One of which shall be a first run theatre.
One theatre in Plant City, Fla.
One theatre in St. Augustine, Fla.
Four theatres in St. Petersburg, Fla., of which one shall be a first run theatre.
One theatre in Sanford, Fla.
One theatre in Sarasota, Fla.
One first run theatre in West Palm Beach, Fla.
One theatre in Winter Park, Fla.
One first run theatre in Atlanta, Ga.
One theatre in Preston, Idaho.
One first run theatre in Bloomington, Ill.
One first run theatre in Elgin, Ill.
One first run theatre in Kankakee, Ill.
One theatre in Peking Ill.
One first run theatre in Peoria, Ill.
One first run theatre in South Bend, Ind.
One theatre in Danville, Ky.
One theatre in Bath, Maine.
The Regent Theatre and the Annex Theatre, Detroit, Mich.
One theatre in Austin, Minn.
One first run theatre in Mankato, Minn.
One first run theatre in Minneapolis, Minn.
One first run theatre in St. Cloud, Minn.
One first run theatre in St. Paul, Minn.
One theatre in Peekskill, N. Y.
One first run theatre in Poughkeepsie, N. Y.
One first run theatre in Charlotte, N. C.
One first run theatre in Fargo, N. D.

One first run theatre in Minot, N. D.

One theatre in Bellevue, Ohio.

One first run theatre in each of the following cities: Fremont, Ohio, Hamilton, Ohio, and Middle town, Ohio.

One first run theatre in each of the following cities: Columbia, S. C. and Spartanburg, S. C.

One theatre in Sumter, S. C.

One first run theatre in Aberdeen, S. D.

One first run theatre in Huron, S. D.

One first run theatre in Watertown, S.D.

One first run theatre in Chattanooga, Tenn.

Two first run theatres in Knoxville, Tenn.

One theatre in Logan, Utah.

One theatre in Provo, Utah.

One theatre in Barre, Vt.

One theatre in Eau Claire, Wis.

As to not to exceed twelve of the foregoing theatres, in the event that Paramount or the New Theatre Company is unable to sell on reasonable terms, Paramount or the New Theatre Company, upon application to the Court in any such case and with the approval of the Court first obtained, may lease or sublease the same to a party not a defendant herein or owned or controlled by or affiliated with a defendant herein; on condition, however, that no such lease or sublease shall contain any rental provisions based upon a share of the profits of the theatre covered by the lease or any other theatre; and further on condition that Paramount or the New Theatre Company shall thereafter sell its interest in any such theatre so leased or subleased as soon thereafter as it can do so upon reasonable terms and in any event prior to the expiration of such lease or sublease.

2. If the existing decree entered in the United States District Court for the Northern District of Illinois, Eastern, Division, in the case of *Florence B. Bigelow, et al. against RKO Radio Pictures Inc., et al.*, shall be modified or vacated, and if, after such modification or vacating, the competitive situation in outlying Chicago (outlying Chicago for the purposes hereof including the entire city of Chicago except the downtown portion of Chicago and also including Berwyn, Blue I stand, Chicago Heights, Evanston, La Grange and Oak Park) shall be less favorable for the independent exhibitors in outlying Chicago (an independent exhibitor for the purposes hereof meaning an exhibitor who is not a defendant herein or owned or controlled by or affiliated with a defendant herein), and if such less favorable competitive situation shall be shown by the Attorney General to the satisfaction of the Court in which this consent judgment is entered, then such Court may order such relief against, or with respect to, the theatres of Paramount or the New Theatre Company located in outlying Chicago as it may deem just or proper in order to create proper competitive conditions in outlying Chicago or in any particular section thereof.

3. As to the cities hereinafter mentioned in this paragraph 3, Paramount or the New Theatre Company (in lieu of disposing of the interest of Paramount in any motion picture theatres in such cities) shall commence within six months from the date hereof, and shall thereafter, until in any case the Attorney General otherwise consents in writing or, if such consent cannot be obtained, the Court otherwise orders, operate (a) only one first run theatre, as distinguished from a theatre or theatres operating other than first run, in each of the following cities: Tucson, Ariz.; Aurora, Ill.; Alton, Ill.; Danville, Ill.; Decatur, Ill.; Galesburg, Ill.; Kewanee, Ill.; Joliet, Ill.; Waukegan, Ill.; Grand Forks, N. D.; Anderson, S. C.; Greenville, S. C., and Mitchell, S. D., and only two first run theatres in San Francisco, Cal., in Duluth, Minn., and in Sioux Falls, S. D.

D. If Paramount so elects, the "theatre assets of Paramount located in the United States" and to be transferred to the New Theatre Company as provided in this judgment may be construed as not to include the Paramount

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Theatre property in New York, N. Y. Such property, if not so included, shall be regarded as being included in the other assets of the Paramount defendants to be transferred to the New Picture Company as provided in this judgment, provided, however, that (a) the theatre portion of such property may not be operated by the New Picture Company and may not be leased by Paramount or the New Picture Company to a defendant herein or a person owned or controlled by or affiliated with a defendant herein but may be leased by Paramount or the New Picture Company to the New Theatre Company (or a subsidiary of the New Theatre Company) under a lease which contains no rental provisions based upon a share of the profits of the theatre so leased or any other theatre, and (b) such property shall be sold by the New Picture Company within five years from the date hereof to a party not a defendant herein or owned or controlled by or affiliated with a defendant herein.

IV

[Formation of Independent Companies]

A. Within a period not to exceed one year after the entry of this judgment the New Theatre Company and the New Picture Company shall be operated wholly independently of one another and shall have no common directors, officers, agents or employees. Each of them shall thereafter be enjoined from attempting to control or influence the business or operating policies of the other by any means whatsoever. The foregoing provisions shall not be construed to prohibit the directors, officers, agents or employees of Paramount Pictures Inc. who become affiliated with either one of said new companies and who receive stock in such companies, either in exchange for stock presently held by them in Paramount Pictures Inc. or as the result of the exercise of option privileges now owned by them or who receive certificates of interest in the New Theatre Company issued by the Trustee as herein provided, from so acquiring stock or certificates of interest in the company with which they do not become affiliated and holding such stock or certificates of interest for a sufficient period of time to permit them to sell such stock or certificates of interest to persons not affiliated with the seller's company without undue hardship to the seller, provided that in any event such sales shall be made within a period not to exceed one year from the effective date of the reorganization of Paramount Pictures Inc.

B. The by-laws of the New Theatre Company shall provide that a majority of its Board of Directors shall consist of individuals who have not had any prior connection with the defendant, Paramount Pictures Inc., or the New Picture Company, as directors, officers, agents or employees. The names of the candidates for election or designation to the original Board of Directors of the New Theatre Company shall be submitted to and approved by the Attorney General and the Court.

C. The by-laws of the New Picture Company shall provide that all replacements of members of the Board of Directors on and after the date of reorganization of Paramount Pictures Inc. shall be filled by individuals who have not had any prior connection with the defendant Paramount Pictures Inc. or the New Theatre Company as directors, officers, agents or employees, until such time as a majority of the Board of Directors of the New Picture Company shall consist of such individuals and such Board shall thereafter continue to have such a majority.

V

[Transfer of Assets]

A. The defendant, Paramount Pictures, Inc., shall present to its stockholders, prior to April 19, 1949, a plan of reorganization to effect a divorcement of its theatre assets located in the United States from its other assets. Such plan shall provide that one of the new companies, viz., the New Theatre Company, shall receive the said theatre assets, and the other, viz. the New Picture Company, shall receive the said other assets, and the two new companies shall each issue to Paramount Pictures Inc. in exchange for the assets so received a number of shares of their common capital stock equal to one-half the aggregate amount of common capital stock of Paramount Pictures Inc. then outstanding. Paramount Pictures Inc. shall be dissolved and (a) shall distribute the stock of the New Picture Company *pro rata* among its own stockholders, and (b) shall on behalf of its stockholders transfer the shares of the New Theatre Company to, and register the same in the name of Bank of New York and Fifth Avenue Bank, a corporation organized and existing under the laws of New York,

as Trustee, herein after called the Trustee, to hold in accordance with the terms and conditions herein after set forth.

B. Upon the organization of the New Picture Company, Paramount Pictures Inc. shall cause the New Picture Company to file with the Court its consent to be bound by, and receive the benefits of, the terms of sections II, IV, VI (in so far as section VI is applicable to the New Picture Company), VIII and IX of this judgment, and there after the New Picture Company shall be in all respects bound by, and receive the benefits of, the terms of such sections of this judgment.

C. Upon the organization of the New Theatre Company, Paramount Pictures Inc. shall cause the New Theatre Company to file with the Court its consent to be bound by and receive the benefits of, the terms of sections III, IV, VI, VIII and IX of this judgment, and thereafter the New Theatre Company shall be in all respects bound by, and receive the benefits of, the terms of such sections of this judgment.

VI

[Supervision of Trustee]

A. The Trustee shall declare its submission to the jurisdiction of this Court for all purposes of this cause, and shall enter its appearance herein by counsel, and is made a party hereto; and said Trustee is hereby appointed to receive and hold, as the custodian of this Court, subject to the provisions of this judgment and to the further orders and judgment of the Court herein, the shares of capital stock of the New Theatre Company which shall be transferred to it as above provided for the purpose of assuring effective separation of the ownership and control of the New Picture Company from the ownership and control of the New Theatre Company.

B. The Trustee shall execute and issue certificates of interest representing the shares transferred to it hereunder and shall deliver them to the defendant, Paramount Pictures Inc., which shall distribute such certificates of interest, together with the shares of stock of the New Picture Company, *pro rata* among its own stockholders. All such certificates shall be registered by the Trustee in the names of the recipients.

C. The certificates of interest issued hereunder may be in such denominations as the Trustee shall elect. The certificates of interest shall be executed on behalf of the Trustee by such officer or officers of the Trustee as it may authorize, and such certificates of interest may be countersigned by a trust company in the City of New York, as registrar.

D. The Trustee shall, so long as any of the shares of the capital stock of the; New Theatre Company shall be held by the Trustee, collect and receive any and; all cash dividends declared by the New Theatre Company appertaining to the shares so held which shall be payable to the Trustee as the registered stockholder entitled to such dividends by the terms of the declaration thereof. Such dividends shall be held by the Trustee as trustee for the respective registered holders of certificates of interest to be paid to or upon their order as hereinafter provided.

The Trustee shall as soon as practicable after receipt of each cash dividend pay to each registered holder of a certificate of interest an amount which is equal to 50% of the amount of such dividend applicable to the shares of stock represented by such certificate of interest, in order to permit the holder thereof to apply such amount toward payment of income taxes on the income deemed to have been constructively received by him by virtue of the payment of such dividend to the Trustee; provided, however, that unless at least 51% of the shares of stock of the New Theatre Company have been released by the Trustee and registered in names other than that of the Trustee within two years from the date of creation of the Trust, the Trustee shall retain 100% of the dividends thereafter paid to it by the New Theatre Company and shall thereafter pay over no part of such dividends to certificate holders as provided above.

E. At any time upon the surrender to the Trustee at its office in the City of New York of any outstanding certificates of interest by the registered holder thereof, or his transferee, and the filing with the Trustee of a duly executed affidavit, substantially in the forms annexed as "FORMS A THROUGH B", the Trustee shall as soon as practicable unless it has reason to believe that the facts are not as represented in the affidavit, deliver to such

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applicant stock certificates for the number of shares of capital stock of the New Theatre Company represented by the surrendered certificates of interest. The term "applicant" as hereinafter used shall refer to a registered holder of a certificate of interest, or his transferee, who may surrender such certificate of interest to the Trustee in accordance with this or any of the succeeding paragraphs.

If at any time the number of shares of capital stock of the New Theatre Company held by the Trustee have been reduced by the conversion of certificates of interest in accordance with the preceding paragraph to 33 1/3% or less of the total number of shares of capital stock of the New Theatre Company outstanding, the Court may, upon application of the New Theatre Company, declare the trust terminated and all shares released therefrom if the Court shall first find that upon such termination there will be no working control of or controlling influence over the New Theatre Company by a person or persons affiliated with the New Picture Company, and no working control of or controlling influence over the New Picture Company by a person or persons affiliated with the New Theatre Company.

In the event of an order of the Court terminating the Trust in accordance with the preceding paragraph, it shall be the duty of the New Theatre Company promptly to notify the holders of certificates of interest; and thereafter, upon the surrender to the Trustee at its office in the City of New York of any outstanding certificate of interest by an applicant whose shares have been released by such direction or order, the Trustee shall as soon as practicable deliver to the applicant stock certificates for the number of shares of capital stock of the New Theatre Company represented by the surrendered certificate of interest.

When certificates of interest are surrendered to the Trustee for transfer and the circumstances are not such as to entitle the applicant to the issuance of a certificate for shares of capital stock of the New Theatre Company, the Trustee shall issue a new certificate of interest in the name specified by the applicant.

F. Upon the delivery by the Trustee of a certificate for shares of capital stock of the New Theatre Company against the surrender of an outstanding certificate of interest or upon the transfer of a certificate of interest into the name of a new registered holder, the Trustee shall pay in cash, to or upon the order of the person in whose name the surrendered certificate (or the certificate delivered for transfer) is registered, the amount of all cash dividends received by the Trustee appertaining to the number of shares represented by such certificate during the period in which such person was the registered holder of such certificate, less the amount theretofore released and paid by it in respect of the shares represented by such certificate, but without interest there on, as well as the amount of any dividends in respect of such shares which have been declared by the New Theatre Company payable on a date subsequent to the surrender (or delivery for transfer) of the certificate of interest to holders of record on a date prior to such surrender (or delivery for transfer).

G. The Trustee shall at any time after the end of four years from the date of the creation of the Trust, if the Attorney General so requests, and in any event not later than five years from such date, mail to each of the registered holders of remaining certificates of interest, addressed to him at the last known post office address appearing on the books of the Trustee, a notice stating that the shares of capital stock of the New Theatre Company remaining in the name of the Trustee as of a date not less than ninety days after the mailing of such notice, will be sold and the net proceeds distributed among such holders in proportion to the number of shares represented by their certificates; and as promptly as practicable after the date specified in such notice, the Trustee shall sell, in such manner as the Court shall direct, the remaining shares in the Trust to persons who are not owners of stock in the New Picture Company and upon distribution of the net proceeds (together with any dividends in the hands of the Trustee to which the holders of the remaining certificates of interest may be entitled) the Trust shall terminate.

H. If it shall appear to the Court or the Attorney General at the time that the Trust is proposed to be terminated, as provided in subsections E or G of this section VI, that a working control of or controlling influence over the affairs of either of the two new companies is being exerted by or on behalf of a person or persons affiliated with the other such company, and the Court finds that such a working control or controlling influence exists, the Court may take such action as may be necessary and appropriate in respect of such persons to ensure the termination of such working control or controlling influence, including, but not limited to, if such persons are stockholders

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of either company, the suspension of their right to vote or to receive dividends upon their stock, and, if such persons are officers, agents, directors or employees of either company, their removal from such positions.

I. Any shares which may be issued by the New Theatre Company during the existence of the Trust provided for herein, shall likewise be transferred to the Trustee and be subject to the terms of this judgment unless the person to whom such shares are proposed to be issued files an affidavit in substantially the forms annexed marked "FORM A THROUGH B" with the New Theatre Company.

J. To aid the Court in the enforcement of this judgment, appropriate provisions shall be made in the charters or the by-laws of the New Picture Company and the New Theatre Company requiring that so long as the Trust provided for herein is in existence any person to whom a dividend is paid (other than the Trustee) shall have first disclosed the identity of the beneficial Owner of the shares in respect of which the dividend is payable, and that, in the event that one of such companies shall not have paid a dividend within thirty days of a dividend payment by the other, any person (other than the Trustee) to whom the dividend is paid shall also have first disclosed the extent of any beneficial ownership such person and the beneficial owner may then have in the other company. Before the Trust is terminated both of said companies will procure from all of the stockholders then of record and the transfer agents whatever additional data as to beneficial ownership may be necessary to determine accurately as of the date of proposed termination the names of all beneficial owners of stock and the amounts respectively held by them.

K. The two new companies shall make arrangements with their transfer agents for the submission to each of them, at any desired intervals, of all such information as will enable such companies to determine the name of every person who is a holder of shares (or certificates of interest) in both companies, and the number of shares (including shares represented by certificates of interest) in each company standing in his name, and such information will be made available to the Attorney General.

L. All certificates of interest surrendered pursuant to conversions or exchanges effected under this section VI shall forthwith be cancelled by the Trustee and shall not be reissued.

Within 60 days after the conversion of certificates of interest as herein provided shall have commenced, and at monthly intervals thereafter, the Trustee shall file with the New Theatre Company a report showing the aggregate amounts of certificates of interest transferred and converted since the last previous report of the Trustee and the names of all persons to whom share of stock of the New Theatre Company shall have been issued pursuant to every such conversion and to whom certificates of interest shall have been transferred; and from time to time upon the request of the Attorney General the Trustee shall furnish him with any information which he may require relating to the carrying out of this judgment.

M. The Trustee shall exercise full voting rights on the shares of capital stock of the New Theatre Company registered in its name, having due regard for the interests of the holders of the certificates of interest, in accordance with the terms, conditions and purposes of this judgment.

N. The Trustee shall keep at an office maintained by it in the City of New York books for the transfer of the certificates of interest issued hereunder. The Trustee shall furnish to the New Theatre Company as and when requested lists containing the names and addresses of the holders of certificates of interest and the respective amounts held by them.

The Trustee may to enable it to effect the purposes of this judgment (so far as consistent with the provisions hereof), decide all matters of detail in respect of the form of certificates of interest and the arrangements necessary for their issuance and transfer.

The Trustee shall be accountable for its action hereunder only in proceedings in this cause, and any order of the Court entered upon notice to the Trustee and to the New Theatre Company shall be full protection to the Trustee for any action which it may take pursuant thereto, and any action so taken by the Trustee shall be binding upon all holders of certificates of interest. The Trustee shall not be liable to anyone for deferring to take any action until instructed by the Court.

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O. In case any certificate of interest issued hereunder shall become mutilated or be destroyed, the Trustee, in its discretion, may issue a new certificate of interest of the same denomination in lieu of such mutilated or destroyed certificate. In case of loss or destruction, the applicant for a substituted certificate of interest shall furnish to the Trustee evidence of such loss or destruction to the satisfaction of the Trustee in its discretion and such reasonable indemnity as the Trustee shall require.

P. The Trustee shall be entitled to reasonable compensation, the amount thereof to be approved by the Court, for all services by it hereunder, which compensation, together with counsel fees and other expenses incurred hereunder and approved by the Court, and all stamp and other taxes imposed by law upon the transfer of the shares of the New Theatre Company from the Trustee to the holders of certificates of interest, shall be paid by the New Theatre Company.

Q. The Trustee shall be subject to removal by the Court in its discretion and, in the event of such removal, or in the event of the resignation of such Trustee, the Court may appoint a successor Trustee. The term "Trustee" as herein used shall be deemed to refer to any such successor Trustee.

VII

[*Transitory Period*]

A. Nothing contained in this judgment shall be construed to limit, in any way what soever, the right of the Paramount defendants, during the period required for the completion of the reorganization of the Paramount defendants, which shall in any event occur within one year of the entry of this judgment, to license or in any way to provide for the exhibition of any or all of the motion pictures which it may distribute, in such manner, and upon such terms, and subject to such conditions as may be satisfactory to it, in any theatre in which Paramount Pictures Inc. has or may acquire pursuant to the terms of this judgment a proprietary interest of ninety-five per cent or more either directly or through subsidiaries.

B. From and after the effective date of the reorganization of the Paramount defendants, the provision of the preceding paragraph shall terminate and be of no effect; and from and after such date all licenses of motion pictures distributed by the New Picture Company or Paramount Pictures Inc. for exhibition in any theatre, regardless of its owner or operator, shall be in all respects subject to the terms of this judgment.

VIII

[*Enforcement*]

A. For the purpose of securing compliance with this judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or an Assistant Attorney General, and on notice to any defendant, reasonable as to time and subject matter, made to such defendant at its principal office, and subject to any legally recognized privilege (1) be permitted reasonable access, during the office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, relating to any of the matters contained in this judgment, and that during the times that the plaintiff shall desire such access, counsel for such defendant may be present, and (2) subject to the reasonable convenience of such defendant, and without restraint or interference from it, be permitted to interview its officers or employees regarding any such matters, at which interviews counsel for the officer or employee interviewed and counsel for such defendant may be present. For the purpose of securing compliance with this judgment any defendant upon the written request of the Attorney General, or an Assistant Attorney General, shall submit such reports with respect to any of the matters contained in this judgment as from time to time may be necessary for the purpose of enforcement of this judgment.

B. Information obtained pursuant to the provisions of this section shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice, except in the course of legal proceedings to which the United States is a party, or as otherwise required by law.

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IX

[1946 Decree Superseded]

A. This judgment is rendered and entered in lieu of and in substitution for the decree of this Court dated December 31, 1946. This judgment shall be of no further force and effect and this cause shall be restored to the docket without prejudice to either party if the proposed reorganization of the Paramount defendants shall not have been approved by the stockholders of Paramount Pictures Inc. prior to April 19, 1949.

B. For the purpose of any application under this judgment, the plaintiff and the defendant, Paramount Pictures Inc., hereby waive the necessity of convening a court of three judges pursuant to the expediting certificate filed herein on June 13, 1945; and agree that any application may be determined by any judge sitting in the United States District Court for the Southern District of New York.

Any application by either party under this judgment shall be upon reasonable notice to the other.

C. Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this consent judgment to apply to the Court at any time for such orders or direction as may be necessary or appropriate for the construction, modification or carrying out the same (including applications for alternative relief to accomplish termination of any joint ownership in a manner consistent with the purposes of this judgment in situations where none of the methods of terminating any such joint ownership provided in paragraph 9 of section III of this judgment has effected such termination, due to the unreasonableness of Paramount or a co-owner), for the enforcement of compliance therewith, and for the punishment of violations thereof, or for other or further relief.

Forms

"FORM A-1"

(Individual Form)

STATE OF }

ss:

COUNTY OF }

... being duly sworn deposes and says:

That deponent is surrendering a certificate or certificates of interest registered in the name of numbered, issued by ... as Trustee, under a judgment entered on the ... day of ... , 1949 by a statutory three judge District Court in the suit of United States of America v. Paramount Pictures Inc. and others; that he is the beneficial owner of ... shares of capital stock of ... (herein referred to as the New Theatre Company) represented, by said certificate or certificates; and that he makes this affidavit for the purpose of procuring the issuance in the name of deponent of a certificate or certificates for such shares of capital stock of the New Theatre Company held by said Trustee in exchange for said certificate or certificates of interest. That deponent does not own any beneficial interest in any shares of the capital stock of ... (herein referred to as the New Picture Company) a corporation of the State of ... , whether registered in deponent's name on the books of the New Picture Company or registered in the name: or names of others. That deponent in making this application is not acting either directly or indirectly for or on behalf of any stockholder of the New Picture Company, or in concert, agreement or understanding with any other individual, firm or corporation for the control of the New Theatre Company in the interest of any individual, firm or corporation affiliated with the New Picture Company, but in his own behalf in good faith.

Sworn to before me this ... day of ... , 19..

"FORM A-2"

(Form for Joint Tenants and Tenants in Common)

STATE OF }

ss:

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COUNTY OF

... being duly sworn deposes and says:

That deponent is one of ... joint tenants (or tenants in common), all of such tenants being herein referred to as the "Applicants"; that he is, pursuant to authority duly conferred on him, surrendering on behalf of Applicants a certificate or certificates of interest registered in the name of ..., numbered ..., issued by ..., as Trustee, under a judgment entered on the ... day of ..., 1949 by a statutory three judge District Court in the suit of United States of America v. Paramount Pictures Inc. and others; that the Applicants are the beneficial owners of ... shares of capital stock of ... (herein referred to as the New Theatre Company) represented by said certificate or certificates; and that deponent makes this affidavit for the purpose of procuring the issuance in the name of the Applicants of a certificate or certificates for such shares of capital stock of the New Theatre Company held by said Trustee in exchange for said certificate or certificates of interest. That none of the Applicants owns any beneficial interest in any shares of the capital stock of ... (herein referred to as the New Picture Company) a corporation of the State of ..., whether registered in his own name on the books of said New Picture Company or registered in the name or names of others. That Applicants in making this application are not acting either directly or indirectly for or on behalf of any stockholder of the New Picture Company, or in concert, agreement or understanding with any other individual, firm or corporation for the control of the New Theatre Company in the interest of any individual, firm or corporation affiliated with the New Picture Company, but in their own behalf in good faith.

Sworn to before me this ... day of ..., 19..

(Partnership Form)

STATE OF

ss:

COUNTY OF

... being duly sworn deposes and says:

That deponent is a member of the partnership of ..., the members of which are ... (hereinafter called the "Applicants"); that he is, pursuant to authority duly conferred on him, surrendering on behalf of Applicants a certificate or certificates of interest registered in the name of ..., numbered ..., issued by ..., as Trustee, under a judgment entered on the ... day of ..., 1949 by a statutory three judge District Court in the suit of United States of America v. Paramount Pictures Inc. and others; that Applicants are the beneficial owners of ... shares of capital stock of ... (herein referred to as the New Theatre Company) represented by said certificate or certificates; and that deponent makes this affidavit for the purpose of procuring the issuance in the name of the Applicants of a certificate or certificates for such shares of capital stock of the New Theatre Company held by said Trustee in exchange for said certificate or certificates of interest That none of the Applicants owns any beneficial interest in any shares of the capital stock of ... (herein referred to as the New Picture Company) a corporation of the State of ..., whether registered in his own name on the books of said New Picture Company or registered in the name or names of others. That Applicants in making this application are not acting either directly or indirectly for or on behalf of any stockholder of the New Picture Company, or in concert, agreement or understanding with any other individual, firm or corporation for the control of the New Theatre Company in the interest of any individual, firm or corporation affiliated with the New Picture Company, but in their own behalf in good faith.

Sworn to before me this ... day of ..., 19..

"FORM A-4"

(Corporate Form)

STATE OF

SS:

COUNTY OF

----- being duly sworn deposes and says:

That deponent is ----- of the -----, a corporation (or a joint stock company), hereinafter called the "Applicant"; that he is, pursuant to authority duly conferred on him, surrendering on behalf of Applicant a certificate or certificates of interest registered in the name of -----, numbered ----, issued by ----- as Trustee, under a judgment entered on the -- day of; -----, 1949 by a statutory three judge District Court in the suit of United States of America v. Paramount Pictures Inc. and others; that Applicant is the beneficial owner of ----- shares of capital stock of ----- (hereinafter referred to as the New Theatre Company) represented by said certificate or certificates; and that deponent makes this affidavit for the purpose of procuring the issuance in the name of the Applicant of a certificate or certificates for such shares of capital stock of the New Theatre Company held by said Trustee in exchange for said certificate or certificates of interest. That Applicant does not own any beneficial interest in any shares of the capital stock of ----- (herein referred to as the New Picture Company) a corporation of the State of -----, whether registered in the Applicant's own name on the books of the New Picture Company or registered in the name or names of others. That the Applicant in making this application is not acting either directly or indirectly for or on behalf of any stockholder of the New Picture Company; or in concert, agreement or understanding with any other individual, firm or corporation for the control of the New Theatre Company in the interest of any individual, firm or corporation affiliated with the New Picture Company, but in its own behalf in good faith.

Sworn to before me this ---- day of -----, 19..

"FORM A-5"

(Trustee Form)

STATE OF

SS:

COUNTY OF

----- being duly sworn deposes and says:

That deponent is trustee under the . trust, that on behalf of such trust estate he is surrendering a certificate or certificates of interest registered in the name of -----, numbered ----, issued by -----, as Trustee, under a judgment entered on the -- day of -----, 1949 by a statutory three judge District Court in the suit of United States of America v. Paramount Pictures Inc. and others; that such trust estate is the beneficial owner of ----- shares of capital stock of ----- (herein referred to as the New Theatre Company) represented by said certificate or certificates; and that deponent makes this affidavit for the purpose of procuring the issuance in the name of the trust estate of a certificate or certificates for such shares of capital stock of the New Theatre Company held by said Trustee in exchange for said certificate or certificates of interest. That such trust estate does not own any beneficial interest in any shares of the capital stock of ----- (herein referred to as the New Picture Company) a corporation of the State of -----, whether registered in the name of such trust estate on the books of said New Picture Company or registered in the name or names of others. That deponent in making this application is not acting either directly or indirectly for or on behalf of any stockholder of the New Picture Company, or in concert, agreement or understanding with any other individual, firm or corporation for the control of the New Theatre Company in the interest of any individual, firm or corporation affiliated with the New Picture Company, but in behalf of such trust estate in good faith."

Sworn to before me this ---- day of -----, 19..

Footnotes

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- * As used herein the phrase "wholly owned theatre" means a theatre in which Paramount or the New Theatre Company, or Paramount or the New Theatre Company together with persons who are solely investors, own a beneficial interest of 95% or more.
- 1 [1 By order of September 5, 1950, the words six months following such acquisition" were changed to read "October 5, 1950" CCH.]
- * The term "first run theatre," as used in this paragraph 3, shall be understood to mean a theatre with a policy of playing features in the particular city on a first run basis, other than second choice or western features or features released by distributors other than the defendants herein.
 - * The term "first run theatre," as used in this paragraph 3, shall be understood to mean a theatre with a policy of playing features in the particular city on a first run basis, other than second choice or western features or features released by distributors other than the defendants herein.

United States v. Paramount Pictures, Inc.

Equity No. 87-273

February 8, 1950

**(Defendants Columbia Pictures Corporation,
Universal Corporation, and United Artists Corporation)**

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Loew's Inc., Warner Bros. Pictures, Inc., Warner Bros. Pictures Distributing Corp. (formerly known as Vitagraph, Inc.), Warner Bros. Circuit Management Corp., Twentieth Century-Fox Film Corp., National Theatres Corp., Columbia Pictures Corp., Screen Gems, Inc., Columbia Pictures of Louisiana, Inc., Universal Corp., Universal Pictures Co., Inc., Universal Film Exchanges, Inc., Big U Film Exchange, Inc., and United Artists Corp., U.S. District Court, S.D. New York, 1950-1951 Trade Cases ¶62,573, (Feb. 8, 1950)

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United States v. Loew's Inc., Warner Bros. Pictures, Inc., Warner Bros. Pictures Distributing Corp. (formerly known as Vitagraph, Inc.), Warner Bros. Circuit Management Corp., Twentieth Century-Fox Film Corp., National Theatres Corp., Columbia Pictures Corp., Screen Gems, Inc., Columbia Pictures of Louisiana, Inc., Universal Corp., Universal Pictures Co., Inc., Universal Film Exchanges, Inc., Big U Film Exchange, Inc., and United Artists Corp.

1950-1951 Trade Cases ¶62,573. U.S. District Court, S.D. New York. Equity No. 87-273. Filed February 8, 1950.

Sherman Antitrust Act

Motion Picture Industry—Final Judgment—Divestiture, Compliance and Inspection —Admission Prices, Clearances, Pooling and Circuit Licensing.—In a final decree entered against motion picture distribution, production and theatre-operating corporations, prohibitions are directed against agreements relating to the fixing of admission prices, the fixing of clearances, the buying or leasing of films on a circuit basis, the pooling of management or licenses, or the integration of functions, and divestiture is required in companies vertically integrated in the industry. Plans for divestiture are required to be submitted, and provisions are made for the filing of compliance reports by the defendants and inspection is permitted by government authorities.

For earlier decisions! in the same case, see 1946-1947 TRADE CASES ¶ 57,470, 57,526, and 1948-1949 TRADE CASES ¶62,244.

Before Augustus N. Hand, Circuit Judge; Henry W. Goddard and Alfred C. Coxe, District Judges.

Final Decree

[*Loew's, Warner Bros., Twentieth Century-Fox, and National Theatres*]

The plaintiff, having filed its petition herein on July 29, 1938, and its amended and supplemental complaint on November 14, 1940; the defendants having filed their answers to such complaint, denying the substantive allegations thereof; the court after trial having entered a decree herein, dated December 31, 1946, as modified by order entered February 11, 1947; the plaintiff and the defendants having appealed from such decree; the Supreme Court of the United States having in part affirmed and in part reversed such decree, and having remanded this case to this court for further proceedings in conformity with its opinion dated May 3, 1948; this court having, on June 25, 1948, by order made the mandate and decree of the Supreme Court the order and judgment of this court; a consent decree having been entered on November 8, 1948, against the defendants Radio-Keith-Orpheum Corporation, RKO Pictures, Inc., RKO Proctor Corporation, RKO Midwest Corporation, and Keith-Albee-Orpheum Corporation; orders having been entered on stipulation against the Fox, Loew, and Warner defendants respectively, and Loew having further stipulated in the record, with respect to certain theatre interests held jointly with others; and a consent judgment having been entered on March 3, 1949 against defendants Paramount Pictures; Inc. and Paramount Film. Distributing Corporation; and an order having been

entered on April 21, 1949, severing and terminating, as of March 3, 1949, this action as against defendants Paramount Pictures, Inc. and Paramount Film Distributing Corporation; and an order having been entered on January 18, 1950 severing and terminating as of November 8, 1948; the action as against defendants Radio-Keith-Orpheum Corporation, RKO Radio Pictures, Inc., RKO Proctor Corporation, RKO Midwest Corporation and Keith-Albee-Orpheum Corporation;

Now, having considered the proposals of the parties, having duly received additional evidence and heard further arguments after entry of the consent decree against the RKO defendants, and having rendered its opinion on July 25, 1949, and having filed its findings of fact and conclusions of law in accordance with said opinion:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the decree heretofore entered by this court on December 31, 1946 is hereby amended to read as follows:

I.

[*Application of Decree*]

1. The findings of fact and conclusions of law heretofore made are superseded by the findings and conclusions now entered in support of this decree.
2. The complaint is dismissed as to all claims made against the defendants herein based upon their acts as producers, whether as individuals or in conjunction with others.

II.

[*General Prohibitions*]

Each of the defendant distributors, Loew's, Incorporated; Warner Bros. Pictures, Inc.; Warner Bros. Pictures Distributing Corporation (formerly known as Vitagraph, Inc.); Twentieth Century-Fox Film Corporation, and the successors of each of them (including but not limited to companies resulting from divorcement), and any and all individuals who act in behalf of any thereof with respect to the matters enjoined, and each corporation in which said defendants or any of them own a direct or indirect stock interest of more than fifty per cent, is hereby enjoined:

1. From granting any license in which minimum prices for admission to a theatre are fixed by the parties, either in writing or through a committee, or through arbitration, or upon the happening of any event or in any manner or by any means.
2. From agreeing with each other or with any exhibitors or distributors to maintain a system of clearances; the term "clearances" as used herein meaning the period of time stipulated in license contracts which must elapse between runs of the same feature within a particular area or in specified theatres.
3. From granting any clearance between theatres not in substantial competition.
4. From granting or enforcing any clearance against theatres in substantial competition with the theatre receiving the license for exhibition in excess of what is reasonably necessary to protect the licensee in the run granted. Whenever any clearance provision is attacked as not legal under the provisions of this decree, the burden shall be upon the distributor to sustain the legality thereof.
5. From further performing any existing franchise to which it is a party and from making any franchises in the future, except for the purpose of enabling an independent exhibitor to operate a theatre in competition with a theatre affiliated with a defendant or with theatres in new circuits which may be formed as a result of divorcement. The term "franchise" as used herein means a licensing agreement or series of licensing agreements, entered into as a part of the same transaction, in effect for more than one motion picture season and covering the exhibition of pictures released by one distributor during the entire period of agreement.
6. From making or further performing any formula deal or master agreement to which it is a party. The term "formula deal" as used herein means a licensing agreement with a circuit of theatres in which the license fee of a given feature is measured for the theatres covered by the agreement by a specified percentage of the feature's

national gross. The term "master agreement" means a licensing agreement, also known as a "blanket deal," covering the exhibition of features in a number of theatres usually comprising a circuit.

7. From performing or entering into any license in which the right to exhibit one feature is conditioned upon the licensee's taking one or more other features. To the extent that any of the features have not been trade shown prior to the granting of the license for more than a single feature, the licensee shall be given by the licensor the right to reject twenty per cent of such features not trade shown prior to the granting of the license, such right of rejection to be exercised in the order of release within ten days after there has been an opportunity afforded to the licensee to inspect the feature.

8. From licensing any feature for exhibition upon any run in any theatre in any other manner than that each license shall be offered and taken theatre by theatre, solely upon the merits and without discrimination in favor of affiliated theatres, circuit theatres or others.

III.

[*Contract and Agreements Outlawed*]

Each of the defendant exhibitors, Loew's, Incorporated; Warner Bros. Pictures, Inc.; Warner Bros. Circuit Management Corporation; Twentieth Century-Fox Film Corporation; and National Theatres Corporation; and the successors of each of them (including but not limited to companies resulting from divorcement), and any and all individuals who act in behalf of any thereof with respect to the matters enjoined, and each corporation in which said defendants or any of them own a direct or indirect stock interest of more than fifty per cent, is hereby enjoined and restrained:

1. From performing or enforcing agreements, if any, referred to in Paragraphs 5 and 6 of the foregoing Section II hereof to which it may be a party.

2. From making or continuing to perform pooling agreements whereby given theatres of two or more exhibitors normally in com petition are operated as a unit or whereby the business policies of such exhibitors are collectively determined by a joint committee or by one of the exhibitors or whereby profits of the "pooled" theatres are divided among the owners according to pre arranged percentages.

3. From making or continuing to perform agreements that the parties may not acquire other theatres in a competitive area where a pool operates without first offering them for inclusion in the pool.

4. From making or continuing leases of theatres under which it leases any of its theatres to another defendant or to an independent operating a theatre in the same competitive area in return for a share in the profits.

5. From continuing to own or acquiring any beneficial interests in any theatre, whether in fee or in shares of stock or otherwise, in conjunction with another defendant, or with any company resulting from divorcements provided for in decrees entered in this cause.

6. From acquiring a beneficial interest in any additional theatre unless the acquiring company shall show to the satisfaction of the court, and the court shall first find, that such acquisition will not unduly restrain competition in the exhibition of feature motion pictures, provided, however, that the acquisition of a theatre as a replacement for a theatre, held or acquired in conformity with this decree, which may be lost through physical destruction, conversion to non-theatrical purposes, disposition (other than the disposition of a theatre in compliance with this decree) or expiration or cancellation of the lease under which such theatre is held, shall not be deemed to be the acquisition of an additional theatre.

7. From operating, booking, or buying features for any of its theatres through any agent who is known by it to be also acting in such manner for any other exhibitor, independent or affiliate.

IV.

[*Plans for Divestiture*]

1. Within six months from the entry of this decree each of the major defendants named in Sections II and III of this decree shall submit a plan for the ultimate separation of its distribution and production business from its

exhibition business. Upon the filing of such a plan, the Government shall have three months within which, to file objections thereto and propose amended or alternative plans for accomplishing the same result. Such further proceedings with respect to such plans as the court may then order shall then be had. Such plans shall, in any event, provide for the completion of such separation within three years from the date of the entry of this decree.

2. Within one year from the entry of this decree the Government and each of the defendant exhibitors named in Section III of this decree shall submit respectively such plans for divestiture of theatre interests, other than those heretofore ordered to be divested, which they believe to be adequate to satisfy the requirements of the Supreme Court decision herein with respect to such divestiture. Upon the filing of such a plan the Government and the affected defendant shall have six months within which to file objections thereto and propose amended or alternative plans for accomplishing the same result. Such further proceedings with respect to such plans may then be had as the court may then order.

3. No defendant distributor named in Section II of this decree, and no distributor company resulting from the divorcement ordered herein, shall engage in the exhibition business; and no defendant exhibitor named in Section III of this decree, and no exhibitor company resulting from the divorcement ordered herein, shall engage in the distribution business, except that permission to a distributor company resulting from divorcement to engage in the exhibition business or to an exhibitor company resulting from divorcement to engage in the distribution business may be granted by the court upon notice to the United States and upon a showing that any such engagement shall not unreasonably restrain competition in the distribution or exhibition of motion pictures.

4. No exhibitor company resulting from the divorcement ordered herein shall acquire directly or indirectly any interest in any theatre divested by any other defendant pursuant to any plan ordered under Paragraph 2 of Section IV hereof or pursuant to Paragraph C 1 of Section III of the Consent Judgment as to the Paramount defendants entered March 3, 1949.

V.

Nothing contained in this decree shall be construed to limit, in any way whatsoever, the right of each major defendant bound by this decree, during the three years allowed for the completion of the plan of reorganization provided for in Section IV, to license, or in any way to provide for, the exhibition of any or all the motion pictures which it may at any time distribute, in such manner, and upon such terms, and subject to such conditions as may be satisfactory to it, in any theatre in which such defendant has a proprietary interest, either directly or through subsidiaries.

VI.

[*Arbitration Permitted*]

The defendant distributors named in Section II of this decree and any others who are willing to file with the American Arbitration Association their consent to abide by the rules of arbitration and to perform the awards of arbitrators, are hereby authorized to set up an arbitration system with an accompanying Appeal Board which will become effective as soon as it may be organized, upon terms to be settled by the court upon notice to the parties to this action.

VII.

The provisions of the existing consent decree are hereby declared to be of no further force or effect, except in so far as may be necessary to conclude arbitration proceedings now pending and to liquidate in an orderly manner the financial obligations of the defendants and the American Arbitration Association, incurred in the establishment of the consent decree arbitration systems. Existing awards and those made pursuant to pending proceedings shall continue to be enforceable.

VIII.

[*Compliance*]

1. For the purpose of securing compliance with this decree, and for no other purpose, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or an Assistant

Attorney General, and on notice to any defendant bound by this decree, reasonable as to time and subject matter, made to such defendant at its principal office, and subject to any legally recognized privilege (a) be permitted reasonable access, during the office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, relating to any of the matters contained in this decree, and that during the times that the plaintiff shall desire such access, counsel for such defendant may be present, and (b) subject to the reasonable convenience of such defendant, and without restraint or interference from it, be permitted to interview its officers or employees regarding any such matters, at which interviews counsel for the officer or employee interviewed and counsel for such defendant may be present. For the purpose of securing compliance with this decree any defendant upon the written request of the Attorney General, or an Assistant Attorney General, shall submit such reports with respect to any of the matters contained in this decree as from time to time may be necessary for the purpose of enforcement of this decree.

2. Information obtained pursuant to the provisions of this Section shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice, except in the course of legal proceedings to which the United States is a party, or as otherwise required by law.

IX.

[Jurisdiction Retained]

Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this decree, and no others, to apply to the court at any time for such orders or direction as may be necessary or appropriate for the construction, modification, or carrying out of the same, for the enforcement of compliance therewith, and for the punishment of violations thereof, or for other or further relief.

Final Decree

[Columbia Pictures, Screen Gems, Universal, and Big U Film Exchange]

The plaintiff, having filed its petition hereon on July 20, 1938, and its amended and supplemental complaint on November 14, 1940; the defendants having filed their answers to such complaint, denying the substantive allegations thereof, the court after trial having entered a decree herein, dated December 31, 1946, as modified by order entered February 11, 1947; the plaintiff and the defendants having appealed from such decree; the Supreme Court of the United States having in part affirmed and in part reversed such decree, and having remanded this case to this court for further proceedings in conformity with its opinion dated May 3, 1948; this court having, on June 25, 1948, by order made the mandate and decree of the Supreme Court the order and judgment of this court;

Now, having considered the proposals of the parties, having duly received additional evidence and heard further arguments, and having rendered its opinion on July 25, 1949, and having filed its finding of fact and conclusions of law in accordance with said opinion:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the decree heretofore entered by this court on December 31, 1946, as to the defendants Columbia Pictures Corporation, Screen Gems, Inc., Columbia Pictures of Louisiana, Inc., Universal Corporation, Universal Pictures Company, Inc., Universal Film Exchanges, Inc., Big U Film Exchange, Inc., and United Artists Corporation, is hereby amended to read as follows:

I.

[Application of Decree]

1. The findings of fact and conclusions of law heretofore made are superseded by the findings and conclusions now entered in support of this decree.

2. The complaint is dismissed as to the defendants Screen Gems, Inc., and the corporation named as Universal Pictures Company, Inc., merged during the pendency of this case into the defendant Universal Corporation. The

complaint is also dismissed as to all claims made against the remaining defendants herein based upon their acts as producers, whether as individuals or in conjunction with others.

II.

[*General Prohibitions*]

The defendants Columbia Pictures Corporation, Columbia Pictures of Louisiana, Inc., Universal Corporation, Universal Film Exchanges, Inc., Big U Film Exchange, Inc., and United Artists Corporation, and the successors of each of them, and any and all individuals who act in behalf of any thereof with respect to the matters enjoined, and each corporation in which said defendants or any of them own a direct or indirect stock interest of more than fifty percent, are hereby enjoined:

1. From granting any license in which minimum prices for admission to a theatre are fixed by the parties, either in writing or through a committee, or through arbitration, or upon the happening of any event or in any manner or by any means.
2. From agreeing with each other or with any exhibitors or distributors to maintain a system of clearances; the term "clearances" as used herein meaning the period of time stipulated in license contracts which must elapse between runs of the same feature within a particular area or in specific theatres.
3. From granting any clearance between theatres not in substantial competition.
4. From granting or enforcing any clearance against theatres in substantial competition with the theatre receiving the license for exhibition in excess of what is reasonably necessary to protect the licensee in the run granted. Whenever any clearance provision is attacked as not legal under the provisions of this decree, the burden shall be upon the distributor to sustain the legality thereof.
5. From further performing any existing franchise to which it is a party and from making any franchises in the future, except for the purpose of enabling an independent exhibitor to operate a theatre in competition with a theatre affiliated with a defendant or with theatres in new circuits which may be formed as a result of divorcement. The term "franchise" as used herein means a licensing agreement or series of licensing agreements, entered into as a part of the same transaction in effect for more than one motion picture season and covering the exhibition of pictures released by one distributor during the entire period of agreement.
6. From making or further performing any formula deal or master agreement to which it is a party. The term "formula deal" as used herein means a licensing agreement with a circuit of theatres in which the license fee of a given feature is measured for the theatres covered by the agreement by a specified percentage of the feature's national gross. The term "master agreement" means a licensing agreement, also known as a "blanket deal", covering the exhibition of features in a number of theatres usually comprising a circuit.
7. From performing or entering into any license in which the right to exhibit one feature is conditioned upon the licensee's taking one or more other features. To the extent that any of the features have not been trade shown prior to the granting of the license for more than a single feature the licensee shall be given by the licensor the right to reject twenty percent of such features not trade shown prior to the granting of the license, such right of rejection to be exercised in the order of release within ten days after there has been an opportunity afforded to the licensee to inspect the feature.
8. From licensing any feature for exhibition upon any run in any theatre in any other manner than that each license shall be offered and taken theatre by theatre, solely upon the merits and without discrimination in favor of affiliated theatres, circuit theatres or others.

III.

[*Arbitration Permitted*]

The defendants named, in Section II of this decree and any others who are willing to file with the American Arbitration Association their consent to abide by the rules of arbitration and to perform the awards of arbitrators, are hereby authorized to set up or participate in an arbitration system with an accompanying Appeal Board which

will become effective as soon as it may be organized, upon terms to be settled by the court upon notice to the parties to this action.

IV.

The provisions of the consent decree of November 20, 1940, are hereby declared to be of no further force or effect.

V.

[*Compliance*]

1. For the purpose of securing compliance with this decree, and for no other purpose, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or an Assistant Attorney General, and on notice to any defendant bound by this decree, reasonable as to time and subject matter, made to such defendant at its principal office, and subject to, any legally recognized privilege (a) be permitted reasonable access, during the office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, relating to any of the matters contained in this decree, and that during the times that the plaintiff shall desire such access, counsel for such defendant may be present, and (b) subject to the reasonable convenience of such defendant, and without restraint or interference from it, be permitted to interview its officers or employees regarding any such matters, at which interviews counsel for the officer or employee interviewed and counsel for such defendant may be present. For the purpose of securing compliance with this decree any defendant upon the written request of the Attorney General, or an Assistant Attorney General, shall submit such reports with respect to any of the matters contained in this decree as from time to time may be necessary for the purpose of enforcement of this decree.

2. Information obtained pursuant to the provisions of this section shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice, except in the course of legal proceedings to which the United States is a party, or as otherwise required by law.

VI.

[*Jurisdiction Retained*]

Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this decree, and no others, to apply to the court at any time for such orders or direction as may be necessary or appropriate for the construction, modification, or carrying out of the same for the enforcement of compliance therewith, and for the punishment of violations thereof, or for other or further relief.

United States v. Paramount Pictures, Inc.

Equity No. 87-273

January 4, 1951

(Defendant Warner Brothers Pictures, Incorporated)

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Loew's Inc., et al., U.S. District Court, S.D. New York, 1950-1951 Trade Cases ¶62,765, (Jan. 4, 1951)

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United States v. Loew's Inc., et al.

1950-1951 Trade Cases ¶62,765. U.S. District Court, S.D. New York. Equity No. 87-273. Filed January 4, 1951. Appeals from a judgment of the District Court for the Southern District of New York. Modified and affirmed.

Sherman Antitrust Act

Consent Decree—Motion Picture Industry—Common Ownership and Joint Management; Divorcement of Distribution and Exhibition Businesses.—A substitute decree consented to by certain members of the motion picture distribution and exhibition industry prohibits price-fixing, block-booking, and uniform clearance agreements with other members of the industry, prohibits agreements for the joint management or common ownership of competing theatres, requires the defendants to dispose of all their interests in certain theatres and to effect a reorganization so that distribution and exhibition businesses will be lodged in separate and independent companies, and prohibits certain individuals from holding stock in both such companies and to elect between the two.

Substituting a decree for prior decrees entered by the District Court on December 31, 1946, and February 8, 1950, 1946-1947 Trade Cases ¶ 57,526; and ¶ 62,573 in this volume.

For the plaintiff: Peyton Ford, Acting Attorney General; Wm. Amory Underhill, Acting Assistant Attorney General; Philip Marcus and Sigmund Timberg, Special Assistants to the Attorney General; Maurice Silverman and Harold Lasser, Trial Attorneys.

For the defendants: Joseph M. Proskauer and Robert W. Perkins, for Warner Bros. Pictures, Inc., Warner Bros. Pictures Distributing Corp., and Warner Bros. Circuit Management Corp.; Stanleigh P. Friedman, for Harry M. Warner, Albert Warner, and Jack Warner.

Before Augustus N. Hand, Circuit Judge, and Henry W. Goddard and Alfred C. Coxe, District Judges.

Consent Judgment as to the Warner Defendants

[*In full text*]

The Warner defendants having consented to the entry of this judgment without admission by them in respect to any issues or matters in this cause open on remand, and the Court having considered the matter,

Now, THEREFORE, upon consent of the parties hereto with respect to the issues as to which action was suspended or reserved by the Court, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, as follows:

I.

[*Substituted for Earlier Decrees*]

This judgment is rendered and entered in lieu of and in substitution for the decrees of this Court dated December 31, 1946, as amended, and February 8, 1950. This judgment shall be of no further force and effect and this cause shall be restored to the docket without prejudice to either party if the proposed reorganization of the Warner defendants shall not have been approved by the stockholders of Warner Bros. Pictures, Inc. within ninety (90) days from the entry of this judgment. Upon such approval by the stockholders this cause shall be severed and terminated against the Warner defendants as of the date of this judgment.

II.

[*Complaint Dismissed as to Producers*]

The Complaint is dismissed as to all claims made against the Warner defendants based upon their acts as producers of motion pictures, whether as individuals or in conjunction with others.

III.

[Price Fixing and Clearance Agreements, Block Booking Prohibited]

The defendant Warner Bros. Pictures Distributing Corporation, its subsidiaries in which it has more than a fifty per cent interest, its successors, its officers, agents, servants and employees are each hereby enjoined:

1. From granting any license in which minimum prices for admission to a theatre are fixed by the parties, either in writing or through a committee, or through arbitration, or upon the happening of any event or in any manner or by any means.
2. From agreeing with each other or with any exhibitors or distributors to maintain a system of clearances; the term "clearances" as used herein meaning the period of time stipulated in license contracts which must elapse between runs of the same feature within a particular area or in specified theatres.
3. From granting any clearance between theatres not in substantial competition.
4. From granting or enforcing any clearance against theatres in substantial competition with the theatre receiving the license for exhibition in excess of what is reasonably necessary to protect the licensee in the run granted. Whenever any clearance provision is attacked as not legal under the provisions of this judgment, the burden shall be upon the distributor to sustain the legality thereof.
5. From further performing any existing franchise to which it is a party and from making any franchises in the future, except for the purpose of enabling an independent exhibitor to operate a theatre in competition with a theatre affiliated with a defendant or with theatres in new circuits which may be formed as a result of divorcement, provided for in judgments entered in this cause. The term "franchise" as used herein means a licensing agreement or series of licensing agreements, entered into as a part of the same transaction, in effect for more than one motion picture season and covering the exhibition of pictures released by one distributor during the entire period of agreement.
6. From making or further performing any formula deal or master agreement to which it is a party. The term "formula deal" as used herein means a licensing agreement with a circuit of theatres in which the license fee of a given feature is measured for the theatres covered by the agreement by a specified percentage of the feature's national gross. The term "master agreement" means a licensing agreement, also known as a "blanket deal," covering the exhibition of features in a number of theatres usually comprising a circuit.
7. From performing or entering into any license in which the right to exhibit one feature is conditioned upon the licensee's taking one or more other features. To the extent that any of the features have not been trade shown prior to the granting of the license for more than a single feature, the licensee shall be given by the licensor the right to reject twenty percent of such features not trade shown prior to the granting of the license, such right of rejection to be exercised in the order of release within ten days after there has been an opportunity afforded to the licensee to inspect the feature.
8. From licensing any feature for exhibition upon any run in any theatre in any other manner than that each license shall be offered and taken theatre by theatre, solely upon the merits and without discrimination in favor of affiliated theatres, circuit theatres or others.

IV.

[Joint Management and Ownership Restrictions]

The defendants Warner Bros. Pictures Inc. and Warner Bros. Circuit Management Corporation, their theatre subsidiaries in which they have more than a fifty per cent interest, their successors, their officers, agents, servants and employees are each hereby enjoined:

1. From performing or enforcing agreements referred to in paragraphs 5 and 6 of the foregoing Section III hereof to which it may be a party.

2. From making pooling agreements whereby given theatres of two or more exhibitors normally in competition are operated as a unit or whereby the business policies of such exhibitors are collectively determined by a joint committee or by one of the exhibitors or whereby profits of the "pooled" theatres are divided among the owners according to prearranged percentages.

3. From making agreements that the parties may not acquire other theatres in a competitive area where a pool operates without first offering them for inclusion in the pool.

4. From making leases of theatres under which it leases any of its theatres to another defendant or to an independent operating a theatre in the same competitive area in return for a share of the profits.

5. From acquiring any beneficial interest in any theatre, whether in fee or in shares of stock or otherwise, in conjunction with another defendant, or with any company which may be formed as a result of divorcement provided for in judgments entered in this cause.

6. From acquiring a beneficial interest in any theatre provided that:

(a) Until the divorcement and divestiture ** provisions of this judgment have been carried out, beneficial interests in theatres may be acquired

(i) As a substantially equivalent replacement for and in the immediate neighborhood of wholly owned theatres *** held or acquired in conformity with this judgment which may be lost through physical destruction or conversion to non-theatrical purposes;

(ii) In renewing leases covering any wholly owned theatre held or acquired in conformity with this judgment or in acquiring an additional interest in any such theatre under lease;

(iii) As a substantially equivalent replacement for any wholly owned theatre held or acquired in conformity with this judgment which has been lost through inability to obtain a renewal of the lease thereof upon reasonable terms, if Warner or its exhibitor successor shall show to the satisfaction of the Court, and the Court shall first find, that such acquisition will not unduly restrain competition.

(b) After the divorcement and divestiture provisions of this judgment have been carried out, Warner's exhibitor successor may acquire a beneficial interest in any theatre only in the situations covered by paragraphs (i) and (ii) of the preceding subsection (a) unless Warner's exhibitor successor shall show to the satisfaction of the Court, and the Court shall first find, that the acquisition will not unduly restrain competition.

7. From operating, booking or buying features for any of its theatres through any agent who is known by it to be also acting in such manner for any other exhibitor, independent or affiliate.

8. From making any agreement which restricts the right of any other exhibitor to acquire a motion picture theatre.

9. From acquiring in conjunction with any actual or potential independent exhibitor any beneficial interest in motion picture theatres.

V.

[*Divorcement Requirements*]

1. Warner or its successor shall dispose of all its interest in the following theatres in the following towns:

ANSONIA, CONN.

One theatre; purchaser to have choice of theatres if Ansonia is designated as herein provided. ¹

APPLETON, WIS.

One theatre if by the end of one year from the date of this judgment an independent ² theatre is not regularly playing first run, or if thereafter (during a period of five years from the date of this judgment) for the greater part of any year an independent theatre is not regularly playing first run. ³ If the parties

disagree on the issue of whether or not this condition has occurred, such issue may be presented to the Court for its determination, in which event the burden of proof shall be on the defendant.

BRISTOL, CONN.

One theatre.

CHESTER, PA.

One theatre.

CLIFTON FORGE, VA.

One theatre.

CLINTON, MASS.

One theatre.

COSHOCTON, OHIO

One theatre, if at any time during a period of 3 years from the date of this judgment two Warner theatres play first run at a time when there is not more than one other theatre operating first run in Coshocton, except that there may be shown at the Pastime Theatre pictures for which a competitor who has had an opportunity to request licenses had not made an offer or had made an insubstantial offer, provided that upon the sole determination by the Attorney General or an Assistant Attorney General that a competing first run theatre will be adversely affected by the first run showing of such pictures at such theatre, Warner shall cease the showing of any pictures first run at such theatre within 30 days after receipt by Warner of the notice by the Attorney General of his determination.

DANBURY, CONN.

Empress or Palace, or Capitol. If Capitol is sold defendant or its successor must file with the Attorney General and the Court a statement of intention by the purchaser to operate said theatre on a first run basis.

DONORA, PA.

Harris or Princess.

DOVER, N. J.

One theatre.

ELMIRA, N. Y.

One theatre, if at any time during a period of 3 years from the date of this judgment three Warner theatres play feature films first run at a time when there is not more than one other theatre operating first run in Elmira.

FAIRMONT, W. VA.

One theatre if by the end of one year from the date of this judgment an independent theatre is not regularly playing first run, or if thereafter (during a period of five years from the date of this judgment) for the greater part of any year an independent theatre is not regularly playing first run. If the parties disagree on the issue of whether or not this condition has occurred, such issue may be presented to the Court for its determination, in which event the burden of proof shall be on the defendant.

GETTYSBURG, PA.

One theatre; purchaser to have choice of theatres if Gettysburg is designated as provided in footnote 1.

One theatre.

GREENSBURG, PA.

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One theatre.

HAGERSTOWN, MD.

One theatre.

HOBOKEN, N. J.

One theatre.

IRVINGTON, N. J.

One theatre.

LAWRENCE, MASS.

One theatre.

LEXINGTON, VA.

One theatre.

MANCHESTER, CONN.

One theatre.

MARTINSBURG, W. Va.

Apollo or Central and Strand or State.

MEDINA, N. Y.

One theatre.

MILLVILLE, N. J.

One theatre.

MILWAUKEE, WIS.

Warner or the Alhambra if by the end of one year from the date of this judgment an independent theatre is not regularly playing first run, or if thereafter (during a period of five years from the date of this judgment) for the greater part of any year an independent theatre is not regularly playing first run. If the parties disagree on the issue of whether or not this condition has occurred, such issue may be presented to the Court for its determination, in which event the burden of proof shall be on the defendant.

MONTCLAIR, N. J.

Clandge or Wellmont or Montclair.

NEWARK, N. J.

Stanley or Mayfair and Central or Tivoli or Savoy; the Ritz shall at the option of the defendant or its successor be divested or be subjected to a product limitation as provided in the footnote hereto,⁴ if during a period of three years from the date of this judgment an independent operator of a theatre in the Springfield Avenue zone, having a theatre suitable for first neighborhood run operation, is not afforded a reasonable opportunity to procure films for such theatre on a first neighborhood run basis if he so desires. If the parties disagree as to whether this condition has occurred, the matter may be presented to the Court for its determination. In that event, there shall be no burden of proof on either party, nor shall the defendant be excused from making this election because the condition may not exist at the time the matter is presented to or heard by the Court. In the event the condition is found to have occurred and the defendant chooses the product limitation, the three year period of such limitation shall run from the time the defendant or its successor shall have notified the Court, the Attorney General, and the independent

operator of its election, which shall be made within 30 days after the Court's ruling; Capital or Globe if by the end of one year from the date of this judgment an independent theatre is not regularly playing second run downtown Newark, or if thereafter (during a period of five years from the date of this judgment) for the greater part of any year an independent theatre is not regularly playing second run downtown Newark. If the parties disagree on the issue of whether or not this condition has occurred, such issue may be presented to the Court for its determination, in which event the burden of proof shall be on the defendant.

NEW BRITAIN, CONN.

Strand or Embassy or Capitol, but if Capitol is selected defendant shall divest one other theatre if by the end of a year from the disposition of the Capitol an independent theatre is not regularly playing first run or if thereafter (during a period of five years from the date of the disposition of the Capitol) for the greater part of any year an independent theatre is not regularly playing first run. If the parties disagree on the issue of whether or not this condition has occurred, such issue may be presented to the Court for its determination, in which event the burden of proof shall be on the defendant.

PASSAIC, N. J.

Montauk or Capitol or Central or Playhouse. If the Playhouse⁵ is disposed of in lieu of one of the other three theatres, then one of the other three theatres shall be disposed of if by the end of a year from the date of the disposition of the Playhouse no independent theatre is regularly playing on a first run basis or if thereafter (during five years from the date of the disposition of the Playhouse) for the greater part of any year there is not an independent theatre playing on a first run basis. If the parties disagree on the issue of whether or not this condition has occurred, such issue may be presented to the Court for its determination, in which event the burden of proof shall be on the defendant.

PATERSON, N. J.

One theatre.

PHILADELPHIA, PA.

Midway or Allegheny; Colonial or Orpheum or Vernon; REXY⁶ and Alhambra or Plaza or Broadway or Savoia, and one theatre shall be divested in addition to the two hereinabove required to be divested in this zone, which shall be the Broadway or the Savoia or another theatre operated on a first neighborhood run basis, if by the end of one year from the disposition of the REXY an independent theatre is not regularly playing on a first neighborhood run, or if thereafter (during a period of five years from the date of disposition of the REXY) for the greater part of any year an independent theatre is not regularly playing on a first neighborhood run. If the parties disagree on the issue of whether or not this condition has occurred, such issue may be presented to the Court for its determination, in which event the burden of proof shall be on the defendant. Colony or Fernrock⁷ and Diamond or Keystone;⁷ the Oxford or the Liberty shall at the option of the defendant or its successor be divested or be subjected to a product limitation as provided in footnote 4 (except substitute therein "second" for "first" neighborhood run), if during a period of three years from the date of this judgment an independent operator or operators of two theatres in the Frankford and Mayfair zones (formerly known as Frankford zone), having theatres suitable for second neighborhood run operation, is or are not afforded a reasonable opportunity to procure films for such theatres on a second neighborhood run basis if he or they so desire. If the parties disagree as to whether this condition has occurred, the matter may be presented to the Court for its determination. In that event, there shall be no burden of proof on either party, nor shall the defendant be excused from making this election because the condition may not exist at the time the matter is presented to or heard by the Court. In the event the condition is found to have occurred and the defendant chooses the product limitation, the three year period of such limitation shall run from the time the defendant or its successor shall have notified the Court, the Attorney General, and the independent operator or operators of its election, which shall be made within 30 days after the Court's ruling; the Forum shall at the option of the defendant or its

successor be divested or be subjected to a product limitation as provided in footnote 4 (except substitute therein "Forum availability" for "first neighborhood run exhibition"), if during a period of three years from the date of this judgment an independent operator of a theatre in the Frankford zone, having a theatre suitable for playing on the same availability as the Forum, is not afforded a reasonable opportunity to procure films for such theatre on such availability if he so desires. If the parties disagree as to whether this condition has occurred, the matter may be presented to the Court for its determination. In that event, there shall be no burden of proof on either party, nor shall the defendant be excused from making this election because the condition may not exist at the time the matter is presented to or heard by the Court. In the event the condition is found to have occurred and the defendant chooses the product limitation, the three year period of such limitation shall run from the time the defendant or its successor shall have notified the Court, the Attorney General, and the independent operator of its election, which shall be made within 30 days after the Court's ruling; Wishart or Richmond, if an independent theatre in the Kensington zone is not regularly playing third neighborhood run by the end of a year from the date of this judgment or if thereafter (during a period of five years from the date of this judgment) for the greater part of any year an independent theatre in the Kensington zone is not regularly playing third neighborhood run. If the parties disagree on the issue of whether or not this condition has occurred, such issue may be presented to the Court for its determination, in which event the burden of proof shall be on the defendant.

The Terminal if at any time for a period of 3 years after Warner begins operating the theatre pursuant to the provisions of paragraph 8 of this section V it is operated on a regular policy of exhibiting feature films earlier than seventeen to twenty-one days after first neighborhood run. If the parties disagree on the issue of whether or not this condition has occurred, such issue may be presented to the Court for its determination in which event the burden of proof shall be on the defendant.

The Wynne if at any time for a period of 3 years from the date of this judgment it is operated on a regular policy of exhibiting feature films earlier than third neighborhood run. If the parties disagree on the issue of whether or not this condition has occurred, such issue may be presented to the Court for its determination in which event the burden of proof shall be on the defendant.

PITTSBURGH, PA.

Strand or Center; Sheridan or Regent or Enright or Cameraphone. If Cameraphone is disposed of in lieu of one of the other three theatres, then one other of these three theatres shall at the option of the defendant or its successor be divested or be subjected to a product limitation as provided in footnote 4, if during a period of three years from the date of this judgment an independent operator of a theatre in the East Liberty zone, having a theatre suitable for first neighborhood run operation, is not afforded reasonable opportunity to procure feature films for such theatre on a first neighborhood run basis if he so desires. If the parties disagree as to whether this condition has occurred, the matter may be presented to the Court for its determination. In that event, there shall be no burden of proof on either party, nor shall the defendant be excused from making this election because the condition may not exist at the time the matter is presented to or heard by the Court. In the event the condition is found to have occurred and the defendant choose the product limitation, the three year period of such limitation shall run from the time the defendant or its successor shall have notified the Court, the Attorney General, and the independent operator of its election, which shall be made within 30 days after the Court's ruling; and one other of these three theatres shall at the option of the defendant or its successor be divested or be subjected to a product limitation as provided in footnote 4 (except substitute therein "second" or "first" neighborhood run), if during a period of three years from the date of this judgment an independent operator of a theatre in the East Liberty zone having a theatre suitable for second neighborhood run operation is not afforded a reasonable opportunity to procure feature films for such theatre on a second neighborhood run basis if he so desires. If the parties disagree as to whether this condition has occurred, the matter may be presented to the Court for its determination. In that event, there shall be no burden of proof on either party, nor shall the defendant be excused from making this election because the condition may not exist at the time the matter is presented to or heard by the Court. In the event the condition is found to have occurred and the

defendant chooses the product limitation, the three year period of such limitation shall run from the time the defendant or its successor shall have notified the Court, the Attorney General, and the independent operator of its election, which shall be made within 30 days after the Court's ruling.

The Schenley shall at the option of the defendant or its successor be divested or be subjected to a product limitation as provided in footnote 4, if during a period of three years from the date of this judgment an independent operator of a theatre in the Oakland zone, having a theatre suitable for first neighborhood run operation, is not afforded a reasonable opportunity to procure films for such theatre on a first neighborhood run basis if he so desires. If the parties disagree as to whether this condition has occurred, the matter may be presented to the Court for its determination. In that event, there shall be no burden of proof on either party, nor shall the defendant be excused from making this election because the condition may not exist at the time the matter is presented to or heard by the Court. In the event the condition is found to have occurred and the defendant chooses the product limitation, the three year period of such limitation shall run from the time the defendant or its successor shall have notified the Court, the Attorney General, and the independent operator of its election, which shall be made within 30 days after the Court's ruling.

PLEASANTVILLE, N. J.

One theatre, purchaser to have choice of theatres if Pleasantville is designated as provided in footnote 1.

PORTSMOUTH, OHIO

Columbia or LaRoy.

PUNXSUTAWNEY, PA.

One theatre.

RACINE, WIS.

One theatre.

SALEM, ORE.

Elsinore or Capitol if at any time during a period of 3 years from the date of this judgment two Warner theatres play first run at a time when there is not more than one other theatre operating first run in Salem, except that there may be shown at the Capitol Theatre pictures for which a competitor who has had an opportunity to request licenses had not made an offer or had made an insubstantial offer, provided that upon the sole determination by the Attorney General or an Assistant Attorney General that a competing first run theatre will be adversely affected by the first run showing of such pictures at such theatre, Warner shall cease the showing of any pictures first run at such theatre within 30 days after receipt by Warner of the notice by the Attorney General of his determination.

SHARON, PA.

One theatre.

SHEBOYGAN, WIS.

Two theatres.

SIDNEY, OHIO

One theatre, purchaser to have choice of theatre if Sidney is designated as provided in footnote 1.

SILVER SPRING, MD.

If at any time during a period of three years from the date of this judgment the Flower Theatre in Silver Spring is subordinated in playing position to the Silver Theatre while the latter is operated by Warner the question of divestiture of one theatre shall be reopened.

STATE COLLEGE, PA.

Cathaum or State.

STAUNTON, VA.

One theatre, if by end of a year there is not an independent theatre regularly playing first run or if thereafter (during a period of 5 years from the date of this judgment) during the greater part of any year there is not an independent theatre regularly playing first run. If the parties disagree on the issue of whether or not this condition has occurred, such issue may be presented to the Court for its determination, in which event the burden of proof shall be on the defendant.

TARENTUM, PA.

One theatre, if by end of a year there is not an independent theatre regularly playing first run or if thereafter (during a period of 5 years from the date of this judgment) during the greater part of any year there is not an independent theatre regularly playing first run. If the parties disagree on the issue of whether or not this condition has occurred, such issue may be presented to the Court for its determination, in which event the burden of proof shall be on the defendant.

TITUSVILLE, PA.

One theatre.

TORRINGTON, CONN.

Warner or Palace.

TYRONE, PA.

One theatre.

WARREN, PA.

One theatre.

WASHINGTON, D. C.

Tivoli or Sheridan.

WASHINGTON, PA.

One theatre if by end of a year there is not an independent theatre regularly playing first run or if thereafter (during a period of 5 years from the date of this judgment) during the greater part of any year there is not an independent theatre regularly playing first run. If the parties disagree on the issue of whether or not this condition has occurred, such issue may be presented to the Court for its determination, in which event the burden of proof shall be on the defendant.

WAYNESBORO, PA.

One theatre.

WELLSVILLE, N. Y.

One theatre.

WEST CHESTER, PA.

One theatre.

WILKINSBURG, PA.

Roland or State.

WILLIMANTIC, CONN.

One theatre.

WILMINGTON, DEL.

Warner or Queen or Arcadia or Grand.

YORK, PA.

One theatre, if by end of a year there is not an independent theatre regularly playing first run or if thereafter (during a period of 5 years from the date of this judgment) during the greater part of any year there is not an independent theatre regularly playing first run. If the parties disagree on the issue of whether or not this condition has occurred, such issue may be presented to the Court for its determination, in which event the burden of proof shall be on the defendant.

2. Warner or its successor shall within one year dispose of all of the interest of Warner in one half of the theatres presently required to be disposed of and within two years of all of the theatres presently required to be disposed of, under paragraph 1 of this Section V. All theatres which may in the future be required to be disposed of under paragraph 1 of this Section V shall be disposed of within six months after the time they are required to be divested. All such dispositions shall be made to parties not defendants in Eq. Cause No. 87-273 or owned or controlled by or affiliated with defendants therein, or their successors.

3. As to not to exceed 12 of the theatres presently required to be disposed under paragraph 1 of this Section V, in the event that Warner or its exhibitor successor is unable to sell on reasonable terms its interest therein, Warner or its exhibitor successor upon application to the Court in any such case, and with the approval of the Court first obtained, may lease or sublease the same to a party not a defendant herein or owned or controlled by or affiliated with a defendant herein; on condition, however, that no such lease or sublease shall contain any rental provisions based upon a share of the profits of the theatre covered by the lease or any other theatre; and further on condition that Warner or its exhibitor successor shall thereafter sell its interest in any such theatre so leased or subleased as soon thereafter as it can do so upon reasonable terms, and in any event prior to the expiration of such lease or sublease.

4. The Cadet, Elite and Poplar theatres in Philadelphia, Pa., shall be made available for a period of one year for sale or lease. Preference shall be given reasonable offers for motion picture theatre purposes, and until 30 days after making these properties so available for sale, no offer for non-motion picture purposes shall be accepted. After one year, these properties may be retained, sold or leased for any purpose; provided that if within a period of three years from the expiration of such year Warner desires to operate any of said theatres as a motion picture theatre, Warner shall notify the Attorney General of its intention so to do, and if within 14 days thereafter the Attorney General notifies Warner that such operation will unduly restrain competition in the exhibition of featured motion pictures in the same competitive area as such theatre, Warner may present the matter to the Court for its determination.

5. If Warner or its exhibitor successor should at any time after the expiration of the present leases or the renewals thereof make the Playhouse premises in Ridgewood, N. J., available as a whole for sale or lease, preference shall be given to reasonable offers for motion picture theatre purposes, and until 30 days after making these premises so available, no offer for non-motion picture theatre purposes shall be accepted.

6. If the existing decree entered in the United States District Court for the Northern District of Illinois, Eastern Division, in the case of Florence B. Bigelow, et al., against RKO Radio Pictures Inc., et al., shall be modified or vacated, and if, after such modification or vacating, the competitive situation in outlying Chicago (outlying Chicago for the purposes hereof including the entire city of Chicago except the downtown portion of Chicago and also including Berwyn, Blue Island, Chicago Heights, Evanston, La Grange and Oak Park) shall be less favorable for the independent exhibitors in outlying Chicago (an independent exhibitor for the purposes hereof meaning an exhibitor who is not a defendant herein or owned or controlled by or affiliated with a defendant herein), and if such less favorable competitive situation shall be shown by the Attorney General to

the satisfaction of the Court in which this consent judgment is entered, then such Court may order such relief against, or with respect to the theatres of Warner or its exhibitor successor located in outlying Chicago as it may deem just or proper in order to create proper competitive conditions in outlying Chicago or in any particular section thereof.

7. This judgment shall not affect the rights and obligations of the parties under the consent orders entered in Eq. Cause No. 87-273 by stipulation between the plaintiff and the Warner defendants with respect to theatres held in conjunction with non-defendants.

8. Nothing in this judgment shall be construed to prohibit Warner until the divorcement required herein has been effectuated and thereafter its exhibitor successor from owning and operating one theatre in Bridgeport, Conn., and one theatre in Harrison, New Jersey, to be constructed in accordance with existing contractual commitments or amendments thereto, or to prohibit Warner from retaking and operating, in the future, the following theatres of Warner now under lease to others:

Aldine Theatre, Wilmington, Del.

Ritz Theatre, Reading, Pa.

Terminal Theatre, Philadelphia, Pa.

VI.

[Reorganization to Effect Divorcement]

A. The defendant, Warner Bros. Pictures, Inc., shall present to its stockholders not later than ninety (90) days after the entry of this judgment, a plan of reorganization to effect the divorcement of its theatre assets located in the United States from its production and distribution assets. Such plan shall provide that all of said theatre assets, together with other assets which are not production or distribution assets located in the United States, shall be transferred and assigned to one of the new companies, viz., the New Theatre Company, which shall succeed to and receive such assets, and all of said production and distribution assets, together with other assets which are not theatre assets located in the United States, shall be transferred and assigned to the other new company, viz., the New Picture Company, which shall succeed to and receive such assets, and the New Theatre Company shall distribute pro rata to the stockholders of Warner Bros. Pictures, Inc., in exchange for the assets so received by it, its common capital stock, and the New Picture Company shall distribute pro rata to the stockholders of Warner Bros. Pictures, Inc., in exchange for the assets so received by it, its common capital stock, and thereupon Warner Bros. Pictures, Inc. shall be dissolved.

B. The New Picture Company shall not engage in the exhibition business, and the New Theatre Company shall not engage in the distribution business, except that permission to the New Picture Company to engage in the exhibition business or to the New Theatre Company to engage in the distribution business may be granted by the Court upon notice to the Attorney General and upon a showing that any such engagement shall not unreasonably restrain competition in the distribution or exhibition of motion pictures.

C. Upon the reorganization provided in this Section VI, Warner Bros. Pictures, Inc. shall cause the New Picture Company to file with the Court its consent to be bound by, and receive the benefits of, the terms of Sections III, VI, VII, VIII, X and XI of this judgment (with respect to Sections VII and VIII in so far as they are applicable to the New Picture Company), and thereafter the New Picture Company shall be in all respects bound by, and receive the benefits of, the terms of such Sections of this judgment.

D. Upon the reorganization provided in this Section VI, Warner Bros. Pictures, Inc. shall cause the New Theatre Company to file with the Court its consent to be bound by, and receive the benefits of, the terms of Sections IV, V, VI, VII, VIII, X and XI of this judgment (with respect to Sections VII and VIII in so far as they are applicable to the New Theatre Company), and thereafter the New Theatre Company shall be in all respects bound by, and receive the benefits of, the terms of such Sections of this judgment.

VII.

[Independence of New Companies]

A. Within a period not to exceed twenty-seven months after the entry of this judgment the New Theatre Company and the New Picture Company shall be operated wholly independently of one another and shall have no common directors, officers, agents or employees. Each of them shall thereafter be enjoined from attempting to control or influence the business or operating policies of the other by any means whatsoever. The foregoing provisions shall not be construed to prohibit the directors, officers, agents or employees of the Warner defendants, who become affiliated with either one of said new companies and who receive stock in such companies in exchange for stock presently held by them in Warner Bros. Pictures, Inc., from so acquiring stock in the company with which they do not become affiliated and holding such stock for a sufficient period of time to permit them to sell such stock to persons not affiliated with the seller's company without undue hardship to the seller, provided that in any event such sale shall be made within a period not to exceed one year from the effective date of the reorganization of Warner Bros. Picture, Inc., and provided further that the provisions of this sentence as to the disposition of stock shall not apply to any agent or employee whose legal or beneficial interest in stock does not exceed one per cent (1%) of the total amount of stock outstanding in the company, and shall not apply to the persons who are subject to the provisions of Section VIII hereunder.

B. The by-laws of the New Theatre Company shall provide that a person affiliated with any other motion picture theatre circuit cannot be elected an officer or a director until he has been approved by the Attorney General and the Court, and that in no event can an officer or a director be affiliated with any motion picture theatre circuit (other than the Warner defendants) which has been a defendant in an anti-trust suit brought by the Government, relating to the production, distribution or exhibition of motion pictures. The by-laws of the New Picture Company shall provide that a person who is a director, officer, agent, employee or substantial stockholder of another motion picture distribution company cannot be elected an officer or a director.

VIII.

[Disposition of Stock Holdings]

Harry M., Albert and Jack L. Warner represent that they now own approximately 18% of the outstanding common stock (excluding treasury stock) of Warner Bros. Pictures, Inc. and that certain members of their families, including their wives, now own approximately 6% of such stock. Within twenty-seven months from the date hereof, the said Warners and their families shall either:

A. Dispose of said holdings of the stock of (1) the New Picture Company or (2) the New Theatre Company, as they may elect, to a purchaser who is not a stockholder in the other company, a defendant herein or in an antitrust suit brought by the Government relating to the production, distribution, or exhibition of motion pictures against whom a judgment has been entered, or owned or controlled by or affiliated with such a defendant or a company resulting from divorcements provided for in judgments entered in Equity Cause No. 87-273, and the said Warners shall use their best efforts so to dispose of said stock; or

B. Deposit with a trustee designated by the Court said holdings of stock of the New Picture Company or the New Theatre Company, as they may elect, under a voting trust agreement whereby the trustee shall possess and be entitled to exercise all the voting rights of such shares, including the right to execute proxies and consents with respect thereto. Such voting trust agreement shall thereafter remain in force until the said Harry M. Warner, Albert Warner, Jack L. Warner, and their families shall have sold said holdings of stock of the New Picture Company or the New Theatre Company to a purchaser or purchasers as provided in subdivision A above, and upon such sale and transfer such voting trust agreement shall automatically terminate. Such trust shall be upon such other terms and conditions, including compensation to the trustee, as shall be prescribed by the Court. During the period of such voting trust, Harry M. Warner, Albert Warner, Jack L. Warner, and their families, shall be entitled to receive all dividends and other distributions made on account of the trustee shares, and proceeds from the sale thereof.

For the purpose of evidencing their consent to be bound by the terms of this Section VIII of this judgment, Harry M. Warner, Albert Warner and Jack L. Warner individually have consented to its entry. The obligations in this Section VIII with respect to the stock in the New Picture Company, or the stock in the New Theatre Company, as the case may be, shall be limited, so far as the families of the said Warners are concerned, to the stock received

in exchange for approximately 6% of stock of Warner Bros. Pictures, Inc. mentioned in this Section VIII as owned by certain members of the said families.

The stock disposed of in one company as provided in subdivision A above may not be voted if the holder, otherwise entitled to vote the same, be a person with a legal or beneficial stock interest, or be a corporation with a stock interest directly or through subsidiaries or affiliates, in the other company.

IX.

[*Interim Exhibition Business*]

A. Nothing contained in this judgment shall be construed to limit, in any way whatsoever, the right of the Warner defendants, during the period of 12 months from the date hereof, or until the reorganization provided in Section VI hereof shall have been completed, whichever shall be earlier, to license or in any way to provide for the exhibition of any or all of the motion pictures which it may distribute, in such manner, and upon such terms, and subject to such conditions as may be satisfactory to it, in any theatre in which Warner Bros. Pictures Inc. has or may acquire a proprietary interest of ninety-five per cent or more either directly or through subsidiaries.

B. After 12 months from the date hereof, or until the reorganization provided in Section VI hereof shall have been completed, whichever shall be earlier, the provision of the preceding paragraph shall terminate and be of no effect; and from and after such date all licenses of motion pictures distributed by the New Picture Company or Warner Bros. Pictures Inc. for exhibition in any theatre, regardless of its owner or operator, shall be in all respects subject to the terms of this judgment.

X.

[*Compliance and Surveillance*]

A. For the purpose of securing compliance with this judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or an Assistant Attorney General, and on notice to any defendant, reasonable as to time and subject matter, made to such defendant at its principal office, and subject to any legally recognized privilege (1) be permitted reasonable access, during the office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, relating to any of the matters contained in this judgment, and that during the times that the plaintiff shall desire such access, counsel for such defendant may be present, and (2) subject to the reasonable convenience of such defendant, and without restraint or interference from it, be permitted to interview its officers or employees regarding any such matters, at which interviews counsel for the officer or employee interviewed and counsel for such defendant may be present. For the purpose of securing compliance with this judgment any defendant upon the written request of the Attorney General, or an Assistant Attorney General, shall submit such reports with respect to any of the matters contained in this judgment as from time to time may be necessary for the purpose of enforcement of this judgment.

B. Information obtained pursuant to the provisions of this section shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice, except in the course of legal proceedings to which the United States is a party, or as otherwise required by law.

XI.

[*Jurisdiction Reserved to One-Judge Court*]

A. For the purpose of any application under this judgment, the plaintiff and the Warner defendants, hereby waive the necessity of convening a court of three judges pursuant to the expediting certificate filed herein on June 13, 1945; and agree that any application may be determined by any judge sitting in the United States District Court for the Southern District of New York.

Any application by either party under this judgment shall be upon reasonable notice to the other.

B. Jurisdiction of this cause is retained for the purpose of enabling any of the parties and their successors to this consent judgment, and no others, to apply to the Court at any time for such orders or direction as may be necessary or appropriate for the construction, modification or carrying out of the same, for the enforcement of compliance therewith, and for the punishment of violations thereof, or for other or further relief.

Footnotes

- * As used in this judgment, the term "defendant" or "defendants" means the defendants, or any of them, in Eq. Cause No. 87-273.
- ** Divestiture under the terms of this paragraph 6 shall be deemed to mean the disposition of Warner's interest in the theatres referred to in paragraph 1 of Section V other than theatres which Warner or its exhibitor successor may in the future be required to dispose of thereunder (as distinguished from those presently required to be disposed of) and the theatres referred to in paragraph 3 of Section V.
- *** As used in this judgment the word "theatre" means "motion picture theatre in the United States" and the phrase "wholly owned theatre" means a theatre in which Warner or its exhibitor successor, or Warner or its exhibitor successor together with persons who are solely investors, own a beneficial interest of 95% or more in the lease or fee thereof.
- 1 Within four months after the entry of this judgment, Warner shall designate two cities from among Ansonia, Conn., Gettysburg, Pa., Pleasantville, New Jersey, and Sidney, Ohio, in which the purchaser is to have his choice of theatre. No offer for the smaller theatre in each of such two cities shall be accepted until thirty days have elapsed after the properties have been offered for sale. The larger theatre in each of such two cities shall be sold if a reasonable offer therefor is made either during the thirty days or thereafter before the acceptance of a reasonable offer for the smaller theatre.
- 2 As used herein, the term "independent" or "independently" refers to any theatre not affiliated with any of the defendants in Eq. Cause No. 87-273.
- 3 As used in this judgment "first run" means first run of the eight distributor defendants in Eq. Cause No. 87-273.
- 4 For a period of three years, defendant shall not license: (a) More than 60% of the feature films released by the major distributors for first neighborhood run exhibition in any fiscal year, except as to pictures for which competitors who have had an opportunity to request licenses have not made an offer or have made an insubstantial offer; and b. More than 48 feature films from among the eighty pictures constituting the aggregate of the ten pictures released by each of the major distributors, respectively, for first neighborhood run exhibition in any fiscal year, which are allocated by the respective distributor to its highest selling bracket or brackets, except as to pictures for which competitors who have had an opportunity to request licenses have not made an offer or have made an insubstantial offer
- 5 Warner or its exhibitor successor shall file with the Court and the Attorney General a statement of intention by the purchaser of the Playhouse to operate the Playhouse on a first run basis.
- 6 Warner or its exhibitor successor shall file with the Attorney General and the Court a statement of intention by the purchaser of the Remy to operate the Remy on a first neighborhood run basis.
- 7 At the option of Warner, the Bromley may be chosen as one of the two theatres to be divested.
- 7 At the option of Warner, the Bromley may be chosen as one of the two theatres to be divested.

United States v. Paramount Pictures, Inc.

Equity No. 87-273

June 7, 1951

(Defendant Twentieth Century Fox Film Corporation)

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Loew's Incorporated, et al., U.S. District Court, S.D. New York, 1950-1951 Trade Cases ¶62,861, (Jun. 7, 1951)

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United States v. Loew's Incorporated, et al.

1950-1951 Trade Cases ¶62,861. U.S. District Court, S.D. New York. Equity No. 87-273. Dated June 7, 1951.

Sherman Antitrust Act

Consent Decree—Motion Picture Industry—Distributor—License Restrictions—Clearance—Master Agreement—Block Booking.—A member of the motion picture industry who produces motion pictures and distributes motion pictures is enjoined by a consent decree in its distribution business from granting any license in which minimum prices for admission to a theatre are fixed by the parties; from agreeing with any exhibitors or distributors to maintain a system of clearances, granting any clearance between theatres not in substantial competition, or granting any clearance against theatres in substantial competition with the theatre receiving the license for exhibition in excess of what is reasonably necessary to protect the licensee in the run granted; from making any franchise except for the purpose of enabling an independent exhibitor to operate a theatre in competition with a theatre of the defendants; from making a license agreement with a circuit of theatres in which the fee is measured by a percentage of the feature's national gross; from conditioning the right to exhibit one feature upon the licensee's taking other features; and from licensing any feature for exhibition upon any run in any other manner than that each license shall be offered theatre by theatre and solely on its merits.

Consent Decree—Motion Picture Industry—Theatre Interests—Agreements Prohibited.—A motion picture maker and distributor and its theatre subsidiaries by a consent decree are enjoined from entering into agreements for the joint control and management or the common ownership of competing theatres.

Consent Decree—Motion Picture Industry—Devestiture—Production and Distribution —Theatre Subsidiary.—A producer and distributor of motion pictures is required by a consent decree to effect a divorcement of its domestic theatre exhibition business from its film production and distribution business. The theatre subsidiary is required to divest itself of certain theatres and theatre sites absolutely; to divest itself of theatres in certain localities if by a certain time it does not have competition from independent theatres; to divest itself of certain theatres or confine itself to a percentage of the product release by the eight major film distributors, if over a period of time independent operators are not afforded a reasonable opportunity to procure films; and to divest itself of certain theatres if over a period of time it operates more than a designated number of theatres on specified runs.

For the plaintiff: H. G. Morison, Assistant Attorney General; Philip Marcus and Sig-mund Timberg, Special Assistants to the Attorney General; Maurice Silverman, Trial Attorney.

For the defendants: Dwight, Royall, Harris, Koegel and Caskey, for Twentieth Century-Fox Film Corporation and National Theatres Corporation.

Substituting a decree for prior decrees entered by the District Court on December 31, 1946, and February 8, 1950, 1946-1947 TRADE CASES ¶ 57,526 and ¶ 62,573 in this volume.

Before Augustus N. Hand, Circuit Judge, and Henry W. Goddard and Alfred C. Coxe, District Judges.

Consent Judgment as to Twentieth Century-Fox Defendants

[*In full text except for single omission explained in brackets*] The plaintiff having filed its petition herein on July 29, 1938, and its amended and supplemental complaint on November 14, 1940; the defendants having filed their answers to such complaint, denying the substantive allegations thereof; the Court after trial having entered a decree herein dated December 31, 1946, as modified by order entered February 11, 1947; the plaintiff and the defendants having appealed from such decree; the Supreme Court of the United States having in part affirmed

and in part reversed such decree, and having remanded this cause to this Court for further proceedings in conformity with its opinion dated May 3, 1948; this Court having, on June 25, 1948, by order made the mandate and decree of the Supreme Court the order and judgment of this Court; and this Court having considered the proposals of the parties, having duly received additional evidence and heard further arguments after entry of the consent decree against the RKO defendants, and having rendered its opinion on July 25, 1949, and having filed its findings of fact and conclusions of law in accordance with said opinion, and by a judgment of February 8, 1950 having amended its judgment of December 31, 1946, and said amended judgment having provided for the submission of plans of divorcement and divestiture.

The defendants Twentieth Century-Fox Film Corporation and National Theatres Corporation having consented to the entry of this judgment without admission by them in respect to any issues or matters in this cause open on remand, and the Court having considered the matter,

Now, therefore, upon consent of the parties hereto with respect to the issues as to which action was suspended or reserved by the Court,

It is hereby ordered, adjudged and decreed as follows:

I.

[Complaint Dismissed as to Producer]

The complaint is dismissed as to all claims made against Twentieth Century-Fox Film Corporation based upon its acts as a producer of motion pictures, whether individually or in conjunction with others.

II.

[Price Fixing, Clearance and Master Agreements, Block Booking Enjoined]

The defendant-distributor Twentieth Century-Fox Film Corporation, its officers, agents, servants and employees and its subsidiaries and any successor in interest are each hereby enjoined:

1. From granting any license in which minimum prices for admission to a theatre are fixed by the parties, either in writing or through a committee, or through arbitration, or upon the happening of any event or in any manner or by any means.
2. From agreeing with any exhibitors or distributors to maintain a system of clearances; the term "clearances" as used herein meaning the period of time stipulated in license contracts which must elapse between runs of the same feature within a particular area or in specified theatres.
3. From granting any clearance between theatres not in substantial competition.
4. From granting or enforcing any clearance against theatres in substantial competition with the theatre receiving the license for exhibition in excess of what is reasonably necessary to protect the licensee in the run granted. Whenever any clearance provision is attacked as not legal under the provisions of this judgment, the burden shall be upon the distributor to sustain the legality thereof.
5. From further performing any existing franchise to which it is a party and from making any franchises in the future, except for the purpose of enabling an independent exhibitor to operate a theatre in competition with a theatre affiliated with a defendant¹ or with a theatre comprising a part of a theatre circuit formed as a result of divorcements provided for in judgments entered in this cause. The term "franchise" as used herein means a licensing agreement or series of licensing agreements, entered into as a part of the same transaction, in effect for more than one motion picture season and covering the exhibition of pictures released by one-distributor during the entire period of agreement.
6. From making or further performing any formula deal or master agreement to which it is a party. The term "formula deal" as used herein means a licensing agreement with a circuit of theatres in which the license fee of a given feature is measured for the theatres covered by the agreement by a specified percentage of the feature's national gross. The term "master agreement" means a licensing agreement, also known as a "blanket deal", covering the exhibition of _ features in a number of theatres usually comprising a circuit.

7. From performing or entering into any license in which the right to exhibit one feature is conditioned upon the licensee's taking one or more other features. To the extent that any of the features have not been trade shown prior to the granting of the license for more than a single feature, the licensee shall be given by the licensor the right to reject twenty per cent (20%) of such features not trade shown prior to the granting of the license, such right of rejection to be exercised in the order of release within ten (10) days after there has been an opportunity afforded to the licensee to inspect the feature.

8. From licensing any feature for exhibition upon any run in any theatre in any other manner than that each license shall be offered and taken theatre by theatre, solely upon the merits and without discrimination in favor of affiliated theatres, circuit theatres or others.

III.

[Joint Management and Ownership Restrictions]

The defendants, Twentieth Century-Fox Film Corporation and National Theatres Corporation, their theatre subsidiaries in which they have more than a 50% interest, their successors, their officers, agents, servants and employees are hereby enjoined:

(1) From performing or enforcing agreements, if any, described in paragraphs 5 and 6 of the foregoing Section II hereof to which it may be a party.

(2) From making or continuing to perform pooling agreements whereby given theatres of two or more exhibitors normally in competition are operated as a unit or whereby the business policies of such exhibitors are collectively determined by a joint committee or by one of the exhibitors or whereby profits of the "pooled" theatres are divided among the owners according to prearranged percentages.

(3) From making or continuing to perform agreements that the parties may not acquire other theatres in a competitive area where a pool operates without first offering them for inclusion in the pool.

(4) From making or continuing leases of theatres under which it leases any of its theatres to another defendant or to an independent operating a theatre in the same competitive area in return for a share of the profits.

(5) (a) From continuing to own or acquiring any beneficial interest in any theatre, whether in fee or shares of stock or otherwise, in conjunction with another defendant, or any company formed as a result of divorcements provided for in judgments entered in this cause.

(b) From acquiring any beneficial interest in any motion picture theatre in conjunction with an actual or potential independent exhibitor. National Theatres Corporation shall dispose of its interests in theatres held in conjunction with non-defendants as provided in the orders of this Court, or any amendments thereto, including this judgment.

(c) From making or enforcing any agreement which restricts the right of any other exhibitor to acquire a motion picture theatre.

(6) From operating, booking, or buying features for any of its theatres through any agent who is known by it to be also acting in such manner for any other exhibitor, independent or affiliate.

(7) From acquiring a beneficial interest in any theatre provided that:

(a) Until the divorcement and divestiture^{*} provisions of this judgment have been carried out, beneficial interests in theatres may be acquired

(i) As a substantially equivalent replacement for and in the immediate neighborhood of wholly owned theatres^{**} held of acquired in conformity with this judgment which may be lost through physical destruction or conversion to non-theatrical purposes;

(ii) In renewing leases covering any wholly owned theatre held or acquired in conformity with this judgment or in acquiring an additional interest in any such theatre under lease;

(iii) As a substantially equivalent replacement for any wholly owned theatre held or acquired in conformity with this judgment which has been lost through inability to obtain a renewal of the lease thereof upon reasonable

terms, if National Theatres Corporation or the New Theatre Company shall show to the satisfaction of the Court, and the Court shall first find, that such acquisition will not unduly restrain competition.

(b) After the divorcement and divestiture provisions of this judgment have been carried out, National Theatres Corporation or the New Theatre Company may acquire a beneficial interest in any theatre only in the situations covered by paragraphs (i) and (ii) of the preceding subsection (a) unless National Theatres Corporation or the New Theatre Company shall show to the satisfaction of the Court, and the Court shall first find, that the acquisition will not unduly restrain competition.

IV.

[*Divestiture of Theatres*]

1. For the purpose of creating substantial motion picture theatre operating competition in the communities hereinafter listed, National Theatres Corporation ¹ (hereinafter in this Section referred to as "National") shall dispose of all of its interest in the following motion picture theatres within two years from the date hereof (except as otherwise provided herein) and each such disposition shall be to a party or parties not defendants in Equity Cause 87-273 or owned or controlled by or affiliated with defendants therein or their successors.

[A listing of the individual theatres to be divested by National Theatres Corporation is omitted. National is required by the consent decree to divest itself of about 100 theatres and theatre sites. In addition to these, National is required to divest itself of theatres in about 50 localities if by a certain time it does not have competition from independent theatres. In about 100 localities, National must either divest itself of a theatre or confine itself to 60% of the product released by the eight major film distributors, if over a period of time independent operators are not afforded a reasonable opportunity to procure films. In about 15 other localities, National must dispose of theatres, if over a period of time National operates more than a designated number of theatres on specified runs.]

2. National represents that it has, subsequent to January 1, 1950, disposed of the following:

De Anza Theatre, Riverside, California; Obispo Theatre, San Luis Obispo, California;

Broadway Theatre, Santa Ana, California; Valley Theatre, Menasha, Wisconsin; and Property located in Visalia, California.

3. Wherever, pursuant to the provisions of this Section, National is required to divest a theatre upon the happening of an event or condition herein set forth with respect to such theatre, such disposition shall, unless otherwise herein provided, be made within six months after National is required to make such divestiture pursuant to the provisions hereof.

4. As to not to exceed 12 of the theatres which National is or may be required to dispose of pursuant to the provisions of subsection 1 of this Section IV of this judgment, in the event that National is unable to sell on reasonable terms its interest therein, National, on application to the Court in any such case, and with the approval of the Court first obtained, may lease or sublease the same to a party, not a defendant herein, or owned or controlled by or affiliated with a defendant herein; on condition, however, that no such lease or sublease shall contain any rental provisions based upon a share of the profits of the theatre covered by the lease or any other theatre; and further on condition that National shall thereafter sell its interest in any such theatre so leased or subleased as soon thereafter as it can do so upon reasonable terms, and in any event prior to the expiration of such lease or sublease.

5. Any of the theatres which National is obligated to dispose of in accordance with the provisions of subsection 1 of Section IV of this judgment which are held under lease may be sublet by National in any case where National has used its best efforts to assign the lease and to secure a release by its landlord from its obligations under such lease in the event of an assignment of the lease by National and the landlord has been unwilling to agree to such a release, on condition that:

(a) the subtenant is not a defendant in Equity Cause No. 87-273 or owned or controlled by or affiliated with a defendant therein or a successor of any such defendant;

- (b) the sublease shall provide for no greater rental than is provided for in the master lease;
- (c) the sublease is for the entire remainder of the term, less one day, of the master lease;
- (d) the sublease shall not permit National to participate in any way in the operation of the theatre subleased;
- (e) the sublease may not be forfeited for non-payment of rent unless the subtenant is in arrears for more than a month's rent and has failed to reduce the amount of rental by which he is in arrears to a single month within 30 days after having been notified so to do by National;
- (f) the sublease may not be forfeited for failure to keep the premises in repair unless the landlord of National has threatened to declare a forfeiture of the master lease on account of such failure and the subtenant has not remedied the default in accordance with the requirements of the master lease after notification so to do by National;
- (g) National shall not renew or exercise any options to renew the master lease;
- (h) in the event of forfeiture of the sublease, National shall either assign the lease or again sublet the theatre within 60 days after such forfeiture;
- (i) the sublease shall provide that upon the subtenant securing a lease of the theatre property directly from the landlord of National and an agreement on the part of such landlord to cancel the master lease, or upon the purchase by the subtenant of the landlord's interest in the said property, the sublease and the master lease shall each automatically terminate and be of no further force or effect from the date of such automatic termination.

V.

[Divorcement of Theatre Subsidiary]

For the purpose of effecting the divorcement of its theatre interests in the United States from its other assets:

- (a) Twentieth Century-Fox Film Corporation shall, within two (2) years from the entry of this judgment, consummate a plan of reorganization which will have as its purpose and effect the complete divorcement of the ownership and control of the stock or theatre assets of National Theatres Corporation within the United States from all other assets of Twentieth Century-Fox Film Corporation and shall submit a plan there-for to its shareholders within one hundred and twenty (120) days from the date of this judgment.
- (b) Twentieth Century-Fox Film Corporation shall, within two (2) years from the entry of this judgment, sell all of the stock of the Roxy Theatre, Inc., a New York corporation, or the assets of such corporation, or lease the Roxy Theatre without any profit-sharing provisions or control over the operation of the theatre. Such lessee may be National Theatres Corporation or a subsidiary thereof. Twentieth Century-Fox Film Corporation shall entertain a reasonable offer for the sale or lease of the Roxy Theatre at any time.

VI.

[Reorganization]

From and after the consummation of the plan of reorganization required by Section V hereof, Twentieth Century-Fox Film Corporation or the New Production Company, if any, and National Theatres Corporation or the New Theatre Company, if any, shall be operated wholly independently of one another, and shall have no common directors, officers or employees. Each corporation shall thereafter be enjoined from attempting to control or influence the business or operating policies of the other by any means whatsoever.

Within three months from and after the disposition by Twentieth Century-Fox Film Corporation of its interest in National Theatres Corporation, as provided in the preceding Section of this judgment, any officer, director or agent (or employee who is the beneficial owner of as much as one-half of one per cent of the common stock of Twentieth Century-Fox Film Corporation or any new company formed to succeed to or control the production and distribution assets of Twentieth Century-Fox Film Corporation, which new company, if one shall be formed, is sometimes hereinafter referred to as the "New Production Company") of Twentieth Century-Fox Film Corporation or the New Production Company who is to continue in that capacity with such corporation shall (a) dispose of any stock owned by him in National Theatres Corporation or any new company formed to own the subsidiaries of

National Theatres Corporation presently engaged in the exhibition of motion pictures in the United States (which new company, if one shall be formed, is sometimes hereinafter referred to as the "New Theatre Company"), or (b) deposit with a Trustee approved by the Court all of the certificates for such stock under a voting trust agreement whereby the Trustee shall possess and be entitled to exercise all the voting rights of such stock, including the right to execute proxies and consents with respect thereto. Such voting trust agreement shall thereafter remain in force until such certificates are disposed of by the owner thereof or by the Trustee as hereinafter provided. Upon such disposition, such voting trust agreement shall automatically terminate and, in the event that such stock is not disposed of within a period of one year from the time of the deposit of the same with the Trustee, the Trustee "shall then, within a period of six months, sell such stock on the best terms procurable by him. Such trust shall be upon such other terms or conditions, including compensation to the Trustee, as shall be approved by the Court. During the period of such voting trust the owner of such stock shall be entitled to receive all dividends and other distributions made on account of the trusteed shares and proceeds from the sale thereof.

Likewise, any officer, director or agent (or employee who is the beneficial owner of as much as one-half of one per cent of the common stock of National Theatres Corporation or the New Theatre Company) of National Theatres Corporation or the New Theatre Company who is to continue in such capacity with such corporation shall, within the three months' period referred to in the preceding paragraph, either dispose of any stock in Twentieth Century-Fox Film Corporation or the New Production Company owned by him or shall deposit the certificates for such stock with a Trustee, to be held by such Trustee on the same terms and conditions as are set forth in such preceding paragraph and are applicable to officers, directors, agents or employees of Twentieth Century-Fox Film Corporation.

No officer, director, agent or employee of Twentieth Century-Fox Film Corporation or any subsidiary thereof or the New Production Company (with the exception as to employees hereinbefore provided, and with the further exception as to Spyros P. Skouras, as hereinafter provided) shall have any interest in the business or any participation, directly or indirectly, in the profits of National Theatres Corporation or any subsidiary thereof or the New Theatre Company, or any interest, directly or indirectly, in the business of exhibition of motion pictures. Mr. Spyros P. Skouras may for a period of one (1) year continue to hold the shares of stock now owned or controlled by him in Metropolitan Playhouses Inc. and Skouras Theatres Corporation, provided that such shares on or before the expiration of one (1) year from the date of the judgment may be transferred to a Trustee approved by the Court to the end that Mr. Skouras shall have no vote or participation in the management of either of such corporations and either Mr. Skouras or the Trustee shall cause such shares to be disposed of as soon as practicable and without financial sacrifice to Mr. Skouras, but in any event sale must be made within three years from the date of this judgment.

Likewise, no officer, director, agent or employee of National Theatres Corporation or any subsidiary thereof or the New Theatre Company (with the exception as to employees hereinbefore provided) shall have any interest in the business or any participation, directly or indirectly, in the profits of Twentieth Century-Fox Film Corporation or any subsidiary thereof or the New Production Company, or any interest, directly or indirectly, in the business of production or distribution of motion pictures.

The by-laws of National Theatres Corporation or of the New Theatre Company shall provide that a person affiliated with any other motion picture theatre circuit cannot be elected an officer or a director unless he has been approved by the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and the Court, and that in no event can an officer or a director be affiliated with any motion picture theatre circuit (other than the Twentieth Century-Fox defendants) which has been a defendant in an antitrust suit brought by the Government, relating to the production, distribution, or exhibition of motion pictures. The by-laws of Twentieth Century-Fox-Film Corporation or of the New Production Company shall provide that a person who is a director, officer, agent, employee, or substantial stockholder of another motion picture distribution company cannot be elected an officer or a director.

After divorcement neither Twentieth Century-Fox Film Corporation nor the New Production Company shall engage in the exhibition business, nor shall National Theatres Corporation or the New Theatre Company engage

in the distribution business, except that permission to the New Production Company to engage in the exhibition business or to the New Theatre Company to engage in the distribution business may be granted by the Court upon notice to the Attorney General and upon a showing that any such engagement shall not unreasonably restrain competition in the distribution or exhibition of motion pictures.

Upon the reorganization provided for in Section V, Twentieth Century-Fox Film Corporation shall cause the New Production Company, if any, to file with the Court its consent to be bound by and receive the benefits of the terms of Sections I, II, V, VI, IX, X and XI of this judgment (in so far as they are applicable to the New Production Company), and thereafter the New Production Company shall be in all respects bound by and receive the benefits of the terms of such Sections of this judgment.

Upon the reorganization provided for in Section V, National Theatres Corporation shall cause the New Theatre Company, if any, to file with the Court its consent to be bound by and receive the benefits of the terms of Sections I, III, IV, V, VI, IX, X and XI of this judgment (in so far as those Sections are applicable to the New Theatre Company), and thereafter the New Theatre Company shall be in all respects bound by and receive the benefits of the terms of such Sections of this judgment.

VII.

[Interior Exhibition Business]

Nothing contained in this judgment shall be construed to limit in any way whatsoever the right of Twentieth Century-Fox Film Corporation during the first twelve (12) months from the date hereof or until the reorganization provided for in Section V shall have been completed, whichever shall be earlier, to license or in any way to provide for the exhibition of any or all of the motion pictures which it may distribute in such manner and upon such terms and subject to such conditions as may be satisfactory to it in any theatre in which Twentieth Century-Fox Film Corporation has an interest or may acquire an interest pursuant to the terms of this judgment.

VIII.

[Partnership Terminated]

Twentieth Century-Fox Film Corporation and National Theatres Corporation, on the basis of information furnished to and believed by them, have represented to the Government that the partnership agreement which has existed between the Skouras brothers involving the earnings of such brothers, Charles Skouras, George Skouras, and Spyros Skouras, has been terminated. Charles and Spyros Skouras are hereby enjoined from reviving any such agreement or from entering into any similar agreement.

IX.

[Compliance and Surveillance]

1. For the purpose of securing compliance with this judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or an Assistant Attorney General, and on notice to Twentieth Century-Fox Film Corporation or National Theatres Corporation, reasonable as to time and subject matter, made to either defendant at its principal office, and subject to any legally recognized privilege (1) be permitted reasonable access, during the office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, relating to any of the matters contained in this judgment, and that during the times that the plaintiff shall desire such access, counsel for such defendant may be present, and (2) subject to the reasonable convenience of such defendant, and without restraint or interference from it, be permitted to interview its officers or employees regarding any such matters, at which interviews counsel for the officer or employee interviewed and counsel for such defendant may be present.

For the purpose of securing compliance with this judgment either defendant, upon the written request of the Attorney General, or an Assistant Attorney General, shall submit such reports with respect to any of the matters

contained in this judgment as from time to time may be necessary for the purpose of enforcement of this judgment.

2. Information obtained pursuant to the provisions of this Section shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice, except in the course of legal proceedings to which the United States is a party, or as otherwise required by law.

X.

[*Previous Decrees*]

This judgment is rendered and entered in lieu of and in substitution for the Decrees of this Court dated December 31, 1946, as amended, and February 8, 1950. *** This judgment shall be of no further force and effect and this cause shall be restored to the docket without prejudice to either party if, prior to the expiration of the one hundred and twenty (120) day period provided in Section V, paragraph (a), the proposed divorcement of the exhibition business of Twentieth Century-Fox Film Corporation from its production and distribution business shall not have been approved by the stockholders of Twentieth Century-Fox Film Corporation entitled to vote, Twentieth Century-Fox Film Corporation having represented that it will, prior to October 5, 1951, submit to its stockholders for approval such proposed divorcement.

XI.

[*Jurisdiction Reserved to One-Judge Court*]

1. Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this consent judgment and no others to apply to the Court at any time for such orders or direction as may be necessary or appropriate for the construction, modification, or carrying out of the same and for the enforcement of compliance therewith and for the punishment of violations thereof, or for other or further relief.

2. For the purpose of any application under this judgment the plaintiff and the defendants, Twentieth Century-Fox Film Corporation and National Theatres Corporation, hereby waive the necessity of convening a court of three judges, pursuant to the expediting certificate filed herein on June 13, 1945, and agree that any application may be determined by any judge sitting in the United States District Court for the Southern District of New York. Any application by either party under this judgment shall be upon reasonable notice to the other.

Footnotes

¹ As used in this judgment the term defendant or defendants means the defendant or any of them in Equity Cause No. 87-273.

* Divestiture Under The Terms of This Paragraph Shall Be Deemed To Mean The Disposition of The Interest of National Theatres Corporation or The New Theatre Company In The Theatres Referred To In Section Iv Other Than Theatres Which National Theatres Corporation or The New Theatre Company May In The Future Be Required To Dispose of thereunder (As Distinguished From Those Presently Required To Be Disposed of).

** As Used In This Judgment, The Word "Theatre" Means A "Motion Picture Theatre In The United States," And The Phrase "Wholly owned Theatre" Means A Theatre In Which National Theatres Corporation or The New Theatre Company, Or National Theatres Corporation or The New Theatre Company Together With Persons Who Are Solely Investors, own A Beneficial Interest of 95% Or more.

¹ Wherever the term "National" is used in this Section it shall also be deemed to refer to Twentieth Century-Fox Film Corporation.

*** It Is not intended by the entry of this judgment against the Twentieth Century-Fox defendants, or by this judgment itself to vacate or affect adjudications made in Equity Cause 87-273 of violations of the Sherman Act by said defendants.

United States v. Paramount Pictures, Inc.

Equity No. 87-273

February 7, 1952

(Defendant Loew's, Incorporated)

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Loew's Incorporated, et al., U.S. District Court, S.D. New York, 1952-1953 Trade Cases ¶¶67,228, (Feb. 7, 1952)

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United States v. Loew's Incorporated, et al.

1952-1953 Trade Cases ¶¶67,228. U.S. District Court, S.D. New York. Equity No. 87-273. Filed February 07, 1952. Case No. 434 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Consent Decree—Practices Enjoined in the Distribution of Motion Pictures—Price Fixing, Clearances, Master Agreement, and Block Booking—Motion Picture Distributor.—A motion picture distributor is enjoined by a consent decree from granting any license in which minimum prices for admission to a theatre are fixed; from agreeing with any exhibitors or distributors to maintain a system of clearances; from granting any clearance between theatres not in substantial competition; from granting or enforcing any clearance against theatres in substantial competition with the theatre receiving the license for exhibition in excess of what is reasonably necessary to protect the licensee in the run granted; from making any franchise except for the purpose of enabling an independent exhibitor to operate a theatre in competition with a theatre affiliated with the defendants; from making any license agreement with a circuit of theatres in which the license fee of a given feature is measured for the theatres covered by the agreement by a specified percentage of the feature's national gross; from entering into any license in which the right to exhibit one feature is conditioned upon the licensee's taking one or more other features; and from licensing any feature for exhibition upon any run in any theatre in any other manner than that each license shall be offered and taken theatre by theatre, solely upon its merits and without discrimination.

Consent Decree—Practices Enjoined in the Exhibiting of Motion Pictures—Pooling Agreements and Lease Restrictions—Motion Picture Exhibitor.—A motion picture producer and distributor is enjoined by a consent decree from making any agreements where given theatres of two or more exhibitors normally in competition are operated as a unit or where the business policies of such exhibitors are collectively determined or where profits of the "pooled" theatres are divided among the owners according to prearranged percentages; from making any leases of theatres under which it leases any of its theatres to another defendant or to an independent operating a theatre in the same competitive area in return for a share of the profits; from acquiring any beneficial interest in any theatre in conjunction with another defendant; from acquiring any beneficial interest in any theatre in conjunction with an actual or potential independent exhibitor; and from operating, booking, or buying features for any of its theatres through any agent who is known by it to be also acting in such manner for any other exhibitor.

Consent Decree—Divestiture of Theatre Interests Required—Divorcement of Production and Distribution Assets from Exhibition Assets—Reorganization—Motion Picture Producer, Distributor, and Exhibitor.—A motion picture producer, distributor, and exhibitor is required by a consent decree to dispose of all its interests in certain theatres by a certain time. It is required to consummate a plan of reorganization which will have as its purpose and effect the complete divorcement of the ownership and control of its theatre assets from its production and distribution assets.

Judgment entered in lieu of and in substitution for the decrees of the U. S. District Court, Southern District of New York, 1946-1947 Trade Cases ¶¶ 57,526 and 1950-1951 Trade Cases ¶¶ 62,573.

For the plaintiff: H. G. Morison, Assistant Attorney General; Philip Marcus and Sigmund Timberg, Special Assistants to the Attorney General; and Maurice Silverman, Trial Attorney.

For the defendant: John W. Davis and J. Robert Rubin (S. Hazard Gillespie, Jr. and Benjamin Melniker, of counsel), New York, N. Y.

Entered by Hand, Circuit Judge, and Goddard and Coxe, District Judges.

Consent Judgment as to Loew's Incorporated

[*Judgment Entered into by Consent*]

[*In full text except for omission explained brackets*] The plaintiff having filed its petition herein on July 29, 1938, and its amended and supplemental complaint on November 14, 1940; the defendants having filed their answers to such complaint, denying the substantive allegations thereof; the Court after trial having entered a decree herein, dated December 31, 1946, as modified by order entered February 11, 1947; the plaintiff and the defendants having appealed from such decree; the Supreme Court of the United States having in part affirmed and in part reversed such decree, and having remanded this cause to this Court for further proceedings in conformity with its opinion dated May 3, 1948; this Court having, on June 25, 1948, by order made the mandate and decree of the Supreme Court the order and judgment of this Court; and this Court having considered the proposals of the parties, having duly received additional evidence and heard further arguments after entry of the consent decree against the RKO defendants, and having rendered its opinion on July 25, 1949, and having filed its findings of fact and conclusions of law in accordance with said opinion, and by a judgment of February 8, 1950 having amended its judgment of December 31, 1946, and said amended judgment having provided for the submission of plans of divorcement and divestiture; an appeal having been taken from said amended judgment to the Supreme Court which affirmed said judgment on June 29, 1950; and

The defendant Loew's Incorporated (hereinafter sometimes referred to as Loew's) having consented to the entry of this judgment without admission by it in respect to any issues or matters in this cause open on remand, and the Court having considered the matter.

Now, therefore, upon consent of the parties hereto with respect to the issues as to which action was suspended or reserved by the court,

It is hereby ordered, adjudged and decreed as follows:

I.

[*Complaint Dismissed—Producer*]

The complaint is dismissed as to all claims made against Loew's Incorporated based upon its acts as a producer of motion pictures, whether individually or in conjunction with others.

II.

[*Distribution Practices Enjoined*]

The defendant-distributor Loew's Incorporated, its officers, agents, servants and employees and its subsidiaries and any successor in interest are each hereby enjoined:

1. From granting any license in which minimum prices for admission to a theatre are fixed by the parties, either in writing or through a committee, or through arbitration, or upon the happening of any event or in any manner or by any means.
2. From agreeing with any exhibitors or distributors to maintain a system of clearances; the term "clearances" as used herein meaning the period of time stipulated in license contracts which must elapse between runs of the same feature within a particular area or in specified theatres.
3. From granting any clearance between theatres not in substantial competition.
4. From granting or enforcing any clearance against theatres in substantial competition with the theatre receiving the license for exhibition in excess of what is reasonably necessary to protect the licensee in the run granted. Whenever any clearance provision is attacked as not legal under the provisions of this judgment, the burden shall be upon the distributor to sustain the legality thereof.

5. From further performing any existing franchise to which it is a party and from making any franchises in the future, except for the purpose of enabling an independent exhibitor to operate a theatre in competition with a theatre affiliated with a defendant¹ or with a theatre comprising a part of a theatre circuit formed as a result of divorcements provided for in judgments entered in this cause. The term "franchise" as used herein means a licensing agreement or series of licensing agreements, entered into as a part of the same transaction, in effect for more than one motion picture season and covering the exhibition of pictures released by one distributor during the entire period of agreement.

6. From making or further performing any formula deal or master agreement to which it is a party. The term "formula deal" as used herein means a licensing agreement with a circuit of theatres in which the license fee of a given feature is measured for the theatres covered by the agreement by a specified percentage of the feature's national gross. The term "master agreement" means a licensing agreement, also known as a "blanket deal," covering the exhibition of features in a number of theatres usually comprising a circuit.

7. From performing or entering into any license in which the right to exhibit one feature is conditioned upon the licensee's taking one or more other features. To the extent that any of the features have not been trade shown prior to the granting of the license for more than a single feature, the licensee shall be given by the licensor the right to reject twenty per cent (20%) of such features not trade shown prior to the granting of the license, such right of rejection to be exercised in the order of release within ten (10) days after there has been an opportunity afforded to the licensee to inspect the feature.

8. From licensing any feature for exhibition upon any run in any theatre in any other manner than that each license shall be offered and taken theatre by theatre, solely upon the merits and without discrimination in favor of affiliated theatres, circuit theatres or others.

III.

[*Exhibition Activities Enjoined*]

The defendant Loew's Incorporated, its theatre subsidiaries in which it has more than a 50% interest, its successors, its officers, agents, servants and employees are hereby enjoined:

1. From performing or enforcing agreements, if any, described in paragraphs 5 and 6 of the foregoing Section II hereof to which it may be a party.
2. From making or continuing to perform pooling agreements whereby given theatres of two or more exhibitors normally in competition are operated as a unit or whereby the business policies of such exhibitors are collectively determined by a joint committee or by one of the exhibitors or whereby profits of the "pooled" theatres are divided among the owners according to prearranged percentages.
3. From making or continuing to perform agreements that the parties may not acquire other theatres in a competitive area where a pool operates without first offering them for inclusion in the pool.
4. From making or continuing leases of theatres under which it leases any of its theatres to another defendant or to an independent operating a theatre in the same competitive area in return for a share of the profits.
5. (a) From continuing to own or acquiring any beneficial interest in any theatre, whether in fee or shares of stock or other wise, in conjunction with another defendant, or any company formed as a result of divorcements provided for in judgments entered in this cause.
(b) From acquiring or continuing to own any beneficial interest in any motion picture theatre in conjunction with an actual or potential independent exhibitor. In accordance with the order of this Court entered June 8, 1949, Loew's shall not, after February 29, 1952, hold any interest in theatres in conjunction with United Artists Theatre Circuit Inc.
(c) From making or enforcing any agreement which restricts the right of any other exhibitor to acquire a motion picture theatre.

6. From operating, booking, or buying features for any of its theatres through any agent who is known by it to be also acting in such manner for any other exhibitor, independent or affiliate.

7. From acquiring a beneficial interest in any theatre provided that:

(a) Until the divorcement² and divestiture³ provisions of this judgment have been carried out, beneficial interests in theatres may be acquired:

(i) As a substantially equivalent replacement for and in the immediate neighborhood of wholly owned theatres^{3a} held or acquired in conformity with this judgment which may be lost through physical destruction or conversion to non-theatrical purposes;

(ii) In renewing leases covering any wholly owned theatre held or acquired in conformity with this judgment or in acquiring an additional interest in any such theatre under lease;

(iii) As a substantially equivalent replacement for any wholly owned theatre held or acquired in conformity with this judgment which has been lost through inability to obtain a renewal of the lease thereof upon reasonable terms, if Loew's or the New Theatre Company shall show to the satisfaction of the Court, and the Court shall first find, that such acquisition will not unduly restrain competition.

(b) After the divorcement and divestiture provisions of this judgment have been carried out, the New Theatre Company may acquire a beneficial interest in any theatre only in the situations covered by paragraphs (i) and (ii) of the preceding subsection (a) unless the New Theatre Company shall show to the satisfaction of the Court, and the Court shall first find, that the acquisition will not unduly restrain competition.

IV.

[*Divestiture of Theatre Interests*]

1. For the purpose of promoting substantial motion picture theatre operating competition in the communities hereinafter listed, Loew's or the New Theatre Company shall dispose of all its interests in one half of the following motion picture theatres within one year from the date hereof and in all of the following motion picture theatres within two years from the date hereof (except as otherwise provided herein), and each such disposition shall be to a party or parties not defendants in Equity Cause 87-273 or owned or controlled by or affiliated with defendants therein or their successors:

[A listing of the individual theatres to be divested by Loew's or the New Theatre Company is omitted. Loew's or the New Theatre Company is required by the consent decree to divest itself of about 24 theatres, two-thirds of which are in New York City. In addition to these, it is required to divest itself of theatres in a number of localities if, by a certain time, it does not have competition from independent theatres. In about 50 localities, it must either divest itself of a theatre or, if independent operators are not afforded a reasonable opportunity to procure films, refrain from licensing a substantial portion of the film product released by the eight major film distributors.]

2. Notwithstanding the foregoing provision of this Section IV, if, within three years from the entry of this judgment a product limitation has been imposed on Loew's pursuant to this judgment, or if in any instance the matter of imposing a product limitation on Loew's pursuant to this judgment has been presented to the Court, then the said three year period during which the product limitation of footnote 8 may become applicable shall be extended for one additional year. Nothing herein contained is intended to change in any respect the contents of footnote 8 [omitted].

3. Loew's represents that it has, subsequent to January 1, 1950, disposed of the following: Lincoln Square, 42nd Street, Boston Road, Burland.

4. In the case of theatres in the City of New York the disposition of which is required by this judgment, the transferee shall be subject to the approval of the Attorney General in any case where such purchaser is acquiring more than one such theatre or has theretofore acquired any such theatre.

5. Wherever, pursuant to the provisions of this Section, Loew's is required to divest a theatre upon the happening of an event or condition herein set forth with respect to such theatre, such disposition shall, unless otherwise herein provided, be made within six months after Loew's is required to make such divestiture pursuant to the provisions hereof.

6. As to not to exceed 8 of the theatres which Loew's is or may be required to dispose of pursuant to the provisions of subsection 1 of this Section IV of this judgment, in the event that Loew's is unable to sell on reasonable terms its interest therein, Loew's on application to the Court in any such case, and with the approval of the Court first obtained, may lease or sublease the same to a party, not a defendant herein, or owned or controlled by or affiliated with a defendant herein; on condition, however, that no such lease or sublease shall contain any rental provisions based upon a share of the profits of the theatre covered by the lease or any other theatre; and further on condition that Loew's shall thereafter sell its interest in any such theatre so leased or subleased as soon thereafter as it can do so upon reasonable terms; and in any event prior to the expiration of such lease or sublease.

7. Any of the theatres which Loew's is obligated to dispose of in accordance with the provisions of subsection 1 of Section IV of this judgment which are held under lease may be sublet by Loew's in any case where Loew's has used its best efforts to assign the lease and to secure a release by its landlord from its obligations under such lease in the event of an assignment of the lease by Loew's and the landlord has been unwilling to agree to such a release, on condition that:

(a) the subtenant is not a defendant in Equity Cause No. 87-273 or owned or controlled by or affiliated with a defendant therein or a successor of any such defendant;

(b) the sublease shall provide for no greater rental than is provided for in the master lease;

(c) the sublease is for the entire remainder of the term, less one day, of the master lease;

(d) the sublease shall not permit Loew's to participate in any way in the operation of the theatre subleased;

(e) the sublease may not be forfeited for non-payment of rent unless the subtenant is in arrears for more than a month's rent and has failed to reduce the amount of rental by which he is in arrears to a single month within 30 days after having been notified so to do by Loew's;

(f) the sublease may not be forfeited for failure to keep the premises in repair unless the landlord of Loew's has threatened to declare a forfeiture of the master lease on account of such failure and the subtenant has not remedied the default in accordance with the requirements of the master lease after notification so to do by Loew's;

(g) Loew's shall not renew or exercise any options to renew the master lease;

(h) in the event of forfeiture of the sublease, Loew's shall either assign the lease or again sublet the theatre within 60 days after such forfeiture;

(i) the sublease shall provide that upon the subtenant securing a lease of the theatre property directly from the landlord of Loew's and an agreement on the part of such landlord to cancel the master lease, or upon the purchase by the subtenant of the landlord's interest in the said property, the sublease and the master lease shall each automatically terminate and be of no further force or effect from the date of such automatic termination.

V.

[Reorganization—Divorcement of Exhibition Assets from Production and Distribution Assets]

A. For the purpose of effecting a divorcement of its theatre interests in the United States from its other assets, Loew's Incorporated shall, within two years from the entry of this judgment, consummate a plan of reorganization which will have as its purpose and effect the complete divorcement of the ownership and control of its theatre assets located in the United States from its production and distribution assets and shall submit a plan therefor to its shareholders within one hundred and twenty (120) days from the date of this judgment.

B. Such plan shall provide that within two years from the date of this judgment all of said theatre assets located in the United States, shall be transferred and assigned to a new company, hereinafter referred to as the New Theatre Company, which shall succeed to and receive such assets in exchange for all the capital stock of the New Theatre Company.

C. Within three years from the date of this judgment Loew's Incorporated shall distribute prorata to its stockholders the capital stock of the New Theatre Company; provided, however, if Loew's shall after two years from the date of this judgment show to the satisfaction of the Court, and the Court shall first find, that it is unable to arrange a division of its present funded debt between it and the New Theatre Company or to procure substantially similar financing in replacement of the present funded debt so as to accomplish a division of such debt in a manner which will permit such companies to do business with a reasonably prudent financial position, Loew's incorporated may retain the stock of the New Theatre Company until a division or refinancing to accomplish a division of its present funded debt in a reasonably prudent manner between Loew's Incorporated and the New Theatre Company can be arranged, but such division or refinancing shall in any event be made no later than five years from the date of this judgment; and Loew's Incorporated shall distribute the stock of the New Theater Company prorata among its stockholders within (30) days after a division or refinancing of its present funded debt is effectuated.

D. So long as Loew's Incorporated retains the stock of the New Theatre Company it may receive monies from the New Theatre Company which are to be used for payments to the holders of the said funded debt or to pay dividends to the stockholders of Loew's Incorporated.

E. The by-laws of the New Theatre Company shall provide that, until its capital stock is distributed to the stockholders of Loew's Incorporated as hereinbefore provided and for the purpose of assuring that Loew's Incorporated and the New Theatre Company are operated wholly independently of each other, one-half of its Board of Directors (which shall consist of an even number of directors) shall be approved by the Court and subject to its direction.

VI.

[Independent Operation of the Two Companies Required]

A. From and after the consummation of the plan of reorganization required by Section V hereof, Loew's Incorporated and the New Theatre Company shall be operated wholly independently of one another, and shall have no common directors, officers, agents or employees. Each corporation shall thereafter be enjoined from attempting to control or influence the business or operating policies of the other by any means whatsoever.

B. Within six months from and after the distribution of the common stock of the New Theatre Company pro rata among the stockholders of Loew's Incorporated as provided in the preceding Section of this judgment, any officer, director or agent of Loew's Incorporated, or any employee who is the beneficial owner of as much as one-half of one per cent of the common stock of Loew's Incorporated, who is to continue in that capacity with such corporation shall (a) dispose of any stock owned by him in the New Theatre Company or (b) deposit with a Trustee approved by the Court all of the certificates for such stock under a voting trust agreement whereby the Trustee shall possess and be entitled to exercise all of the voting rights of such stock, including the right to execute proxies and consents with respect thereto. Such voting trust agreement shall thereafter remain in force until such certificates are disposed of by the owner thereof Or by the Trustee as hereinafter provided. Upon such disposition, such voting trust agreement shall automatically terminate and, in the event that such stock is not disposed of within a period of one year from the time of the deposit of the same with the Trustee, the Trustee shall then, within a period of six months, sell such stock on the best terms procurable by him. Such trust shall be upon such other terms or conditions, including compensation to the Trustee, as shall be approved by the Court. During the period of such voting trust the owner of such stock shall be entitled to receive all dividends and other distributions made on account of the trusteed shares and proceeds from the sale thereof.

C. Likewise, any officer, director or agent of the New Theatre Company, or any employee who is the beneficial owner of as much as one-half of one per cent of the common stock of the New Theatre Company, who is to

continue in such capacity with such corporation shall, within the six months' period referred to in the preceding paragraph, either dispose of any stock in Loew's Incorporated owned by him or shall deposit the certificates for such stock with a Trustee, to be held by such Trustee on the same terms and conditions as are set forth in such preceding paragraph and are applicable to officers, directors, agents or employees of Loew's Incorporated.

D. If an application is made to the Court pursuant to the provisions of Paragraph C of Section V and such application is granted, then, after two years from the date of the transfer of the assets to the New Theatre Company, no officer or director of the New Theatre Company or of Loew's Incorporated shall receive, directly or indirectly, any dividends on any share of stock of Loew's Incorporated in excess of the amount of earnings per share of the Company in which any such person is an officer or director.

E. No officer or director of Loew's Incorporated and no agent or employee of Loew's Incorporated with policy making powers and no agent or employee participating in deciding to whom pictures shall be licensed (with the exception as to employees hereinbefore provided) shall have any interest in the business or any participation, directly or indirectly, in the profits of the New Theatre Company; or any interest, directly or indirectly, in the business of exhibition of motion pictures.

F. Likewise, no officer, director and no agent or employee with policy making powers of the New Theatre Company (with the exception as to employees hereinbefore provided) shall have any interest in the business or any participation, directly or indirectly in the profits of Loew's Incorporated, or any interest, directly or in directly, in the business of production or distribution of motion pictures.

G. The by-laws of the New Theatre Company shall provide that a person affiliated with any other motion picture theatre circuit cannot be elected an officer or a director unless he has been aproved by the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and the Court, and that in no event can an officer or a director be affiliated with any motion picture theatre circuit (other than Loew's Incorporated) which has been a defendant in an antitrust suit brought by the Government, relating to the production, distribution, or exhibition of motion pictures. The by-laws of Loew's Incorporated shall pro vide that a person who is a director, officer, agent, employee, or substantial stockholder of another motion picture distribution company cannot be elected an officer or a director.

H. Loew's Incorporated shall not engage in the exhibition business, and the New Theatre Company shall not engage in the distribution business, except that permission to Loew's Incorporated to engage in the exhibition business or to the New Theatre Company to engage in the distribution business may be granted by the Court upon notice to the Attorney General and upon a showing that any such engagement shall not unreasonably restrain competition in the distribution or exhibition of motion pictures.

I. Upon the reorganization provided for in Section V, Loew's Incorporated shall cause the New Theatre Company to file with the Court its consent to be bound by and receive the benefits of the terms of Sections I, III, IV, V, VI, VIII, IX, and X of this judgment (in so far as those Sections are applicable to the New Theatre Company), and thereafter the New Theatre Company shall be in all respects bound by and receive the benefits of the terms of such Sections of this judgment.

VII.

[Licensing Rights Permitted]

Nothing contained in this judgment shall be construed to limit in any way whatsoever the right of Loew's Incorporated during the first twelve (12) months from the date hereof or until the reorganization provided for in Section V shall have been completed, whichever shall be earlier, to license or in any way to provide for the exhibition of any or all of the motion pictures which it may distribute in such manner and upon such terms and subject to such conditions as may be satisfactory to it in any theatre in which Loew's Incorporated has an interst or may acquire an interest pursuant to the terms of this judgment, except with respect to theatres held in conjuncion with United Artists Theatre Circuit Inc.

VIII.

[*Compliance and Surveillance*]

A. For the purpose of securing compliance with this judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or an Assistant Attorney General, and on notice to Loew's Incorporated, reasonable as to time and subject matter, made to such defendant at its principal office, and subject to any legally recognized privilege (1) be permitted reasonable access, during the office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, relating to any of the matters contained in this judgment, and that during the times that the plaintiff shall desire such access, counsel for such defendant may be present, and (2) subject to the reasonable convenience of such defendant, and without restraint or interference from it, be permitted to interview its officers or employees regarding any such matters, at which interviews counsel for the officer or employee interviewed and counsel for such defendant may be present.

For the purpose of securing compliance with this judgment any defendant, upon the written request of the Attorney General, or an Assistant Attorney General, shall submit such reports with respect to any of the matters contained in this judgment as from time to time may be necessary for the purpose of enforcement of this judgment.

B. Information obtained pursuant to the provisions of this Section shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice, except in the course of legal proceedings to which the United States is a party, or as otherwise required by law.

IX.

[*Decree Substitutes Prior Decrees*]

This judgment is rendered and entered in lieu of and in substitution for the Decrees of this Court dated December 31, 1946, as amended, and February 8, 1950.⁹ This judgment shall be of no further force and effect and this cause shall be restored to the docket without prejudice to either party if, prior to the expiration of the one hundred and twenty (120) day period provided in Section V, paragraph A, the proposed divorcement of the exhibition business of Loew's Incorporated from the production and distribution business shall not have been approved by the stockholders of Loew's Incorporated entitled to vote, Loew's Incorporated having represented that it will, prior to June 6, 1952, submit to its stockholders for approval such proposed divorcement.

X.

[*Jurisdiction Reserved to One-Judge Court*]

1. Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this consent judgment and no others to apply to the Court at any time for such orders or direction as may be necessary or appropriate for the construction, modification, or carrying out of the same and for the enforcement of compliance therewith and for the punishment of violations thereof, or for other or further relief.

2. For the purpose of any application under this judgment the plaintiff and the defendant, Loew's Incorporated, hereby waive the necessity of convening a court of three judges, pursuant to the expediting certificate filed herein on June 13, 1945, and agree that any application may be determined by any judge sitting in the United States District Court for the Southern District of New York. Any application by either party under this judgment shall be upon reasonable notice to the other.

Footnotes

¹ As used in this judgment the term defendant or defendants means the defendants or any of them in Equity Cause No. 87-273.

- 2 For the purpose of this paragraph 7, divorce shall not be deemed incomplete by reason of any action or conduct under or pursuant to Paragraphs C and D of Section V, or either of them.
- 3 Divestiture under the terms of this paragraph 7 shall be deemed to mean the disposition of the interest of Loew's and the New Theatre Company (referred to in Section V B) in the theatres referred to in Section IV other than theatres which Loew's or the New Theatre Company may in the future be required to dispose of thereunder (as distinguished from those presently required to be disposed of) and other than the theatres referred to in paragraphs 6 and 7 of Section IV.
- 3a As used in this judgment, the word "theatre" means a "motion picture theatre in the United States," and the phrase "wholly owned theatre" means a theatre in which Loew's or the New Theatre Company, or Loew's or the New Theatre Company together with persons who are solely investors, own a beneficial interest of 95% or more in the fee or lease thereof.
- 9 It is not intended by the entry of this judgment against defendant Loew's Incorporated or by this judgment itself to vacate or affect adjudications made in Equity Cause 87-273 of violations of the Sherman Act by said defendant