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# Profits, Prestige, and a Little Bit of Sunshine: American Independent Cinema Enters the Mainstream

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**CLAREMONT McKENNA COLLEGE**

**PROFITS, PRESTIGE, AND A LITTLE BIT OF SUNSHINE:  
AMERICAN INDEPENDENT CINEMA ENTERS THE MAINSTREAM**

SUBMITTED TO

PROFESSOR JAMES MORRISON

AND

DEAN GREGORY HESS

BY

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FOR

SENIOR THESIS

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## Ch 1: New Hollywood Cinema and the Emergence of the Independent Film Market

Throughout its history, Hollywood cinema's relationship with independent filmmaking has developed from one of exclusion during the Classical period to a relationship of assimilation during the past decade in which the Hollywood mainstream has become involved in producing independent films. While certain filmmakers such as Charlie Chaplin and Orson Welles were able to make independent productions during the Classical period, Independent cinema finally emerged as a dominant sector during the New Hollywood era of the late 60s/early 70s. Hollywood's increased involvement in independent cinema during this period can serve as a model as to how Hollywood would change its approach to independent cinema during the late 80s/early 90s when "audiences became progressively more aware of independent films to the extent that some films became great commercial successes and demonstrated that low-budget, edgier, and offbeat pictures were also in a position to find a large enough audience to return substantial profits to the producers and distributors involved."<sup>1</sup> Thus, by the 90s, the major studios increased their involvement in the independent sector and American independent cinema became incorporated into the mainstream.

The New Hollywood era of the late 60s/early 70s was a unique moment in the history of American cinema in which independent films were dominating the box office in comparison to the star-driven, genre pictures being produced by the Hollywood studios. The unprecedented success of the New Hollywood films can largely be attributed to their embrace of the anti-establishment sentiments of the counterculture as well as the disillusionment the '60s youth felt towards the American ideals of freedom and democracy due to America's involvement in

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<sup>1</sup> Yannis Tzioumakis. *American Independent Cinema: An Introduction*. New Brunswick, New Jersey: Rutgers University Press, 2006. 282. Print.

Vietnam. While the old studio heads clung to their more conservative, post-war ideologies, the dire economic circumstances of the studios, forced them to support these more liberal films which were appealing to the youth demographic. By the late '60s, American cinema was characterized by low-budget, independently produced films such as *The Graduate* and *Bonnie and Clyde*, two of the most successful films released in 1967.<sup>2</sup> The success of *The Graduate* and *Bonnie and Clyde* allowed the studios to justify the increased production of these independent films and the increased involvement of the studios helped American independent cinema “gradually become an integral part of the mainstream.”<sup>3</sup> From the late '60s to the mid '70s, American independent cinema became more attractive to the studios because these low-budget films represented only a small financial risk to the studios while possessing the potential to earn substantial profits in comparison to the high risks the studios undertook by producing large scale epics and musicals, such as *Cleopatra* and *Doctor Dolittle*, which almost forced the studios into bankruptcy.<sup>4</sup> However, the involvement of the studios in the production of more independent fare would ultimately undermine American independent cinema by making “film distribution the insurmountable obstacle” for independent producers and forcing them to “accept the importance of the established major distributors.”<sup>5</sup> While the filmmakers of the New Hollywood era were eager to use this newfound freedom to attack the codes and conventions promoted by the studio system, their dependence upon the studios for distribution forced them to acquiesce and make more mainstream fare.<sup>6</sup>

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<sup>2</sup> Tzioumakis, 178.

<sup>3</sup> Tzioumakis, 171.

<sup>4</sup> Tzioumakis, 182.

<sup>5</sup> Tzioumakis, 181.

<sup>6</sup> Tzioumakis, 178.

By the late 70s, the Hollywood studios would revoke their previous support of the production of independent films as they began to devote their resources to the production of high budget, high concept blockbusters whose more conservative, ideological themes appealed to the changing political landscape and were able to earn unprecedented box office returns in a significantly shorter period of time. The studios were only able to produce these expensive blockbusters due to the financial security they achieved by becoming incorporated into larger, multi-faceted conglomerates. The financial resources of the conglomerates “shielded the majors from the vicissitudes of an unpredictable film market as their extremely broad economic basis allowed them to absorb much more easily the increasingly large losses during periods of box office drought.”<sup>7</sup> This financial security, combined with the larger box office returns that the blockbusters earned, allowed the studios to reduce the number of films they produced and instead devote the additional capital towards the production of higher budget blockbusters. The most successful blockbusters at that time, such as *Jaws* and *Star Wars*, were targeted at younger audiences that no longer preferred the darker, morally complex films of the New Hollywood. By courting this younger demographic, the Hollywood studios successfully undermined the one remaining independent market that posed the only chance of competing with the studio fare. That market was the exploitation market whose products were supplied by such independent companies as Roger Corman’s American International Pictures (AIP) and Allied Artists.

AIP and other independent companies that specialized in the production of exploitation films emerged during the ‘50s, which catered towards the youth audiences that the studios were ignoring at the time.<sup>8</sup> AIP was largely successful due to its strategic marketing campaigns built

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<sup>7</sup> Tzioumakis, 196.

<sup>8</sup> Tzioumakis, 136.

around films with “sensational or topical premises.”<sup>9</sup> AIP also launched a series of trends within the exploitation market such as the cycle of biker films that emerged in the ‘60s due to the success of *The Wild Angels*, which was released in 1966.<sup>10</sup> By the mid 70s, the New Hollywood films were losing their appeal meanwhile the major studios were cutting back on the number of films they released. A gap was created and the independent production/distribution companies, which often specialized in exploitation films, were determined to fill this gap. However, as the studios began to target their blockbusters towards the same youth audiences that were the foundation for the exploitation market, these “infinitely less capitalized” independent companies were unable to compete with majors due to their inability to survive significant losses at the box office.<sup>11</sup>

The few remaining independents were given a new lease on life during the 80s when new, non-theatrical markets were created that the independents were determined to exploit. The most promising new market for independents was the home video market because it initially allowed the independents to produce products that would not directly compete with products produced by the major studios. By the mid 80s, most of the independent companies shifted their production exclusively to home video.<sup>12</sup> Unfortunately, the home video market only offered the independent companies a short-lived lease because the studios quickly recognized the home video market as an auxiliary that would allow them to continue earning profits on their popular blockbusters while also allowing them to finally exploit the profitability of their large film libraries. By the late 80s, it was virtually impossible for independents to operate completely independent from the majors and thus the only independents that remained were those deemed

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<sup>9</sup> Tzioumakis, 149.

<sup>10</sup> Tzioumakis, 149.

<sup>11</sup> Tzioumakis, 193.

<sup>12</sup> Tzioumakis, 223.



by the industry as “mini-majors” or “major independents.” Unlike their predecessors, these companies such as Miramax, New Line Cinema, and Orion Pictures, modeled their infrastructures after the studios. Thus, these companies “provided a large part of the infrastructure for the development of a thriving brand of filmmaking that presented several differences from mainstream filmmaking”<sup>13</sup> and contributed to the institutionalization of American independent cinema by “consistently developing movies with the potential to cross over beyond the art house market.”<sup>14</sup>

Over the next two decades, the independent film market would be revitalized due to the unprecedented box office returns independent films earned as well as the prestige they garnered at the various award ceremonies. What led to this revitalization and how would it affect the kinds of films produced, these are some of the questions this paper intends to answer as it follows the emergence of the major specialty divisions and the independent film bubble they created in the early 2000s to the bursting of the bubble that occurred near the end of the current decade when the United States and the rest of the world was suffering from the impacts of the financial crisis. 1989 is an appropriate starting point for the following investigation because it was the year that Miramax released *Sex, Lies, and Videotape* whose exploitative marketing strategies proved that “low-budget independently produced films had the potential for extraordinary box office grosses.”<sup>15</sup> *Sex, Lies, and Videotape*’s unprecedented box office success would make the independent market once again attractive to the major studios; however, their

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<sup>13</sup> Tzioumakis, 225.

<sup>14</sup> Justin Wyatt. "The formation of the 'major independent': Miramax, New Line and the New Hollywood." *Contemporary Hollywood Cinema*. Eds. Steve Neale and Murray Smith. London: Routledge, 1998. 76. Print.

<sup>15</sup> Tzioumakis, 248.

return would fundamentally alter the way independent films were produced, marketed, and distributed.

## Ch 2: Miramax's Transition from a Major Independent into a Specialty Division

By the end of the 80s, Miramax along with New Line Cinema and a few other independent companies were the few surviving independent film companies. All of the other companies were forced to shut down their operations because they took on too much financial risk in order to produce their own projects in addition to acquiring finished products.<sup>16</sup> The stock market crash of 1987 was the final nail in the coffin; however, the few companies that managed to survive would redefine Hollywood's perception of the independent film market as they began to acquire projects that appealed to wider audiences and in turn reaped sizeable profits at the box office. Miramax, founded by Harvey and Bob Weinstein, became the dominant "major independent" company that would serve as the model for all of the other independent companies and specialty divisions that would arise in the late 90s and the early 2000s. Miramax was able to dominate the independent film market because of its ability to acquire the largest slate of independent pictures as well as its ability to implement aggressive marketing campaigns which were so effective that even the major studios were envious of Miramax's marketing team. However, Miramax's rise to dominance did not occur over night. Miramax was recognized after the unanticipated box office success of *Sex, Lies, and Videotape* and the company became known for its strategic marketing campaigns that drew mainstream audiences to edgier, sometimes controversial pictures such as *The Crying Game*, which was released in 1992. By the early 90s, Miramax had become the leading independent distributor; however, over the course of the decade, the Miramax brand was diluted after the company was acquired by Disney and the Weinsteins began to produce more mainstream fare such as *Shakespeare in Love*.

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<sup>16</sup> Peter Biskind. *Down and Dirty Pictures: Miramax, Sundance, and the Rise of Independent Film*. New York, New York: Simon & Schuster, 2004. 19. Print.

Harvey and Bob Weinstein founded Miramax in 1979 as a rock-and-roll promotion company that also exhibited classic films and concert movies<sup>17</sup> that appealed to mainly college audiences.<sup>18</sup> Initially, Harvey and Bob were willing to take whatever movies they could acquire and these mostly tended to be “the kind of movies the studios weren’t interested in but had developed into profitable ventures by virtue of the emergence of the home video market.”<sup>19</sup> In addition, the 80s allowed Harvey and Bob to experiment with the type of films that would be most appropriate for defining the Miramax brand. By the end of the 80s, Miramax became known for acquiring films that “aspired to the status of ‘art’ in terms of style and narrative construction” as well as “nonclassical films that focused on unconventional subjects and styles.”<sup>20</sup> Most importantly, the Weinstein brothers were envied for their ability to find “marketing hooks that could help [Miramax] films transition from the art house to the multiplex.”<sup>21</sup> By the late 80s, Miramax was steadily growing in comparison to its competitors due to the Weinstein brothers’ shrewd decisions to “limit their spending, opt for continuing acquisitions rather than producing their own films, and restricting their release schedule.”<sup>22</sup> These successful strategies would come to fruition in 1989 when Miramax released *Sex, Lies, and Videotape* and fundamentally changed the type of independent films that would be produced in the future as well as the major Hollywood studios’ perception of these independent film companies.

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<sup>17</sup> Alisa Perren. "Sex, Lies and Marketing: Miramax and the Development of the Quality Indie Blockbuster." *Film Quarterly* 55.2 (2001): 31. *Jstor*. Web. 10/18/2010.

<sup>18</sup> Wyatt, 79.

<sup>19</sup> Perren, 31.

<sup>20</sup> Perren, 31.

<sup>21</sup> Perren, 31.

<sup>22</sup> Perren, 32.

*Sex, Lies, and Videotape* was the first feature film of the then unknown director Steven Soderbergh who, legend has it, wrote the screenplay in eight days and went on to become the “big bang of the modern indie film movement.”<sup>23</sup> The film was shot for an estimated budget of \$1.2 million and was shot on location in Baton Rouge, Louisiana.<sup>24</sup> The film was initially co-financed by RCA/Columbia Home Video and was intended to be released directly to the video market.<sup>25</sup> The film’s “producers were free to seek a theatrical distributor” however, they were not successful in their efforts until the film played at the Sundance Film Festival and won the Dramatic Competition Audience Award.<sup>26</sup> A few weeks after its debut, *Sex, Lies, and Videotape* was acquired by Miramax for \$2 million, which included its theatrical rights as well as initial P&A<sup>27</sup> costs, and was expected to gross between \$5 and \$10 million.<sup>28</sup> The film would go on to gross approximately \$25 million by the end of its domestic theatrical run, setting an unprecedented box office record for an independent film while also initiating a series of films that attempted to imitate its commercial appeal.

*Sex, Lies, and Videotape*’s success can be attributed to a variety of factors, which include its controversial storyline, its unknown cast and director, and most importantly, the marketing strategy employed by Miramax to expand the film beyond the art-house cinemas. The film’s storyline focuses on the relationships between four primary characters: Ann and her husband John, Ann’s sister Cynthia, and John’s college friend Graham. One subplot of the film focuses on the dissolution of Ann and John’s marriage. While Ann spends most of her time in therapy trying to figure out a way to salvage her marriage, John copes by having an affair with Cynthia. The

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<sup>23</sup> Biskind, 26.

<sup>24</sup> [Sex, Lies, and Videotape](http://www.pro.imdb.com), November 27, 2010 2010, 11/27 2010 <www.pro.imdb.com>.

<sup>25</sup> Perren, 33.

<sup>26</sup> Perren, 33.

<sup>27</sup> Print and Advertising

<sup>28</sup> Biskind, 65.

other subplot of the film deals Graham and his peculiar affliction. When he first arrives, Ann views him as another burden John has placed upon her while John uses Graham as an excuse to distract Ann from discovering his affair. As Ann and Graham get to know each other, Graham feels comfortable enough to share his dark secret. He reveals that he is in fact impotent and the only way he can become aroused is by interviewing women about their sexual experiences. He videotapes these interviews so that he can watch them whenever he desires. Ann is shocked by this sudden revelation but overtime, the shock subsides and she becomes curious about Graham's peculiarity. Ann discusses Graham's secret with Cynthia, who then goes over to visit Graham and agrees to do an interview for him. While cleaning her bedroom, Ann discovers one of Cynthia's earrings and figures out that Cynthia is having an affair with John. Ann then goes over to Graham's apartment and demands that he interview her. Graham is hesitant to do so at first because it appears to be solely an act of revenge but then comes to realize that it is an attempt by Ann to assert her independence. A change appears to occur within Graham during the taping of the interview and while we don't see it on camera, Soderbergh suggests that Graham is finally able to overcome his impotence by sleeping with Ann. After the recording, Ann tells John that she recorded a tape with Graham and John is launched into a fury because he is no longer able to compete with Graham for Ann and Cynthia's affections. At the film's conclusion, Ann re-establishes her friendship with Cynthia while also embarking on a relationship with Graham while John is fired from his law firm because he neglected his job in order to have an affair with Cynthia.

The character-driven plot of *Sex, Lies, and Videotape* establishes it as a film typical of the other independent films being produced at the time such as *Mystery Train* and *My Left Foot*. Given that the Hollywood studios at the time were producing such blockbusters as *Batman*,

*Ghostbusters II*, *Back to the Future Part II*, and *Indiana Jones and the Last Crusade*, it's not surprising that *Sex, Lies, and Videotapes* would be relegated to the independent market due to its small cast of characters and its dependence on dialogue to move the plot along. In addition, unlike these blockbusters that were laden with A-list stars, the cast of *Sex, Lies, and Videotapes* were virtually unknowns. James Spader was the most recognized cast member due to his earlier career playing the villain in a variety of teen movies while Peter Gallagher had appeared in a few films and made-for-TV movies. Andie MacDowell had a previously successful career as a model and *Sex, Lies, and Videotape* was her first lead role. *Sex, Lies, and Videotape* was the feature film debut for Laura San Giacomo who would then go on to have a successful career in television. Overall, *Sex, Lies, and Videotape* launched the successful careers of its cast members as well as Steven Soderbergh, who won the Palme d'Or at the Cannes Film Festival at the age of 26, the youngest director to ever win the prestigious award. While the various accolades the film received certainly helped create audience appeal for the film, the marketing strategy employed by Miramax were "crucial in determining the film's box-office success."<sup>29</sup>

Miramax's marketing strategy for *Sex, Lies, and Videotape* is a textbook example of the niche marketing strategy that Miramax employed to promote its films. Miramax was able to court their traditional art-house audience by promoting the awards the film had garnered at festivals while appealing to the younger, college audience through racy promotional posters depicting the film's characters embracing and kissing.<sup>30</sup> Through a very shrewd marketing campaign, Miramax portrayed *Sex, Lies, and Videotape* as not your typical Hollywood romantic drama because it dared to openly talking about sex, masturbation, and other taboo subject matters, which the Hollywood studios tended to avoid. Miramax also employed a platform

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<sup>29</sup> Perren, 33.

<sup>30</sup> Perren, 34.

release strategy in which the film was initially released in only four theaters during the first week of August but would expand to 347 theaters by the first week of September.<sup>31</sup> The platform release schedule allowed the film to gain attention through word-of-mouth and by the end of the summer it was attracting a sizeable audience that was looking for something other than the summer blockbuster fare.

*Sex, Lies, and Videotape* was the first independent film to gross over \$20 million and established that “given the right marketing and exploitation, a low-budget independently produced film had the potential for extraordinary box office grosses.”<sup>32</sup> The cost-to-profit ratio of *Sex, Lies, and Videotape* drew the attention of the majors who would closely observe the independent film market over the next few years.

Due to the success of *Sex, Lies, and Videotape*, Miramax became the leading distributor of independent film and used the profits of *Sex, Lies, and Videotape* to acquire a larger amount of films at higher prices. Between the years of 1990 and 1992, Miramax struggled to produce a comparable box office hit which demonstrates how even the independent film market is cyclical in nature but unlike the Hollywood studios, Miramax didn't have sufficient capital to “withstand the inevitable cold spells.”<sup>33</sup> Therefore, by 1992, Harvey and Bob Weinstein began to consider the possibility of merging with a Hollywood studio in order to have access to more capital. In order to do this, they would need another box office hit to assure the studios that Miramax was still the best distributor in town. Neil Jordan's *The Crying Game* proved to be Miramax's saving

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<sup>31</sup> [Sex, Lies, and Videotape](http://www.boxofficemojo.com), November 27, 2010 2010, 11/27 2010 <[www.boxofficemojo.com](http://www.boxofficemojo.com)>.

<sup>32</sup> Tzioumakis, 248.

<sup>33</sup> Biskind, 140.



grace and its box office success helped secure the acquisition of Miramax by the Walt Disney Corporation.<sup>34</sup>

*The Crying Game* was a unique challenge for Miramax because its subject matter was deemed highly controversial and even Harvey was skeptical about whether the film had the potential to reach a broad audience.<sup>35</sup> Even Neil Jordan's recognition as an auteur by the international film community could not guarantee that the film had the potential to become a box office hit because Jordan's last two films, *High Spirits* and *We're No Angels*, were box office failures in the United States. Given these challenges, Harvey took a risk and acquired the film for \$1.5 million. It was then up to Miramax's marketing team to devise a strategy to attract audiences to the film.

At first, *The Crying Game* appears to be a straight forward story about Fergus, a member of the Irish Republican Army, who begins to question his loyalty to the IRA when he cannot bring himself to shoot Jody, a British soldier whom Fergus had become friendly with while the IRA was holding him hostage. Fergus allows Jody to escape; however, Jody's freedom is short-lived when a British tank that is on its way to raid the IRA compound runs him over. Fergus manages to survive the raid and takes refuge in London where he lives under the alias Jimmy. While in hiding, Fergus fulfills his promise to Jody by seeking out Jody's girlfriend, Dil, and checking to make sure that she is all right. Over time, Fergus gradually falls in love with Dil and just when he and Dil are ready to consummate their love, Fergus discovers that Dil is transgender. This is a shocking moment in the film not only because the scene contains an explicit full-frontal nude shot but also because up to this point, the audience has shared Fergus' belief that Dil is a woman. Fergus is repulsed by this discovery and proceeds to vomit in Dil's

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<sup>34</sup> Biskind, 148.

<sup>35</sup> Biskind, 142.

sink before leaving the apartment. After a few days, Fergus realizes the errors of his way and writes Dil an apology. Just as Fergus and Dil begin to reestablish their relationship, Fergus encounters Jude, one of his former IRA accomplices, who tells him that he must aid her in an assassination operation or else she will kill Dil. The night before the assassination attempt, Fergus spends the night with Dil and admits that he had a hand in killing Jody. Dil, who appears to be drunk, pretends not to notice, but wakes up in the morning and ties Fergus to the bed in order to prevent him from aiding Jude in the assassination. After the assassination goes awry, Jude arrives at Dil's apartment with the intent to kill her and Fergus; however, it's Dil's turn for revenge as she shoots the woman responsible for seducing Jody, thus allowing him to be captured. Fergus then convinces Dil to hideout in the nearby pub while he allows the police to arrest him for Jude's murder. The film ends with Dil visiting Fergus in jail and we realize that Fergus has overcome his initial repulsion and is now capable of having a relationship with Dil.

The history behind the marketing strategy of *The Crying Game* is very interesting because for American audiences, the most controversial part of the film is the revelation of Dil's "secret" whereas for European audiences, particularly British audiences, the sympathetic portrayal of an IRA terrorist was highly controversial given the escalating IRA activities.<sup>36</sup> Miramax was responsible for the domestic distribution of the film and intentionally "wanted to stay away from the film's political elements and instead position it as a thriller based around a core secret."<sup>37</sup> According to film scholar Justin Wyatt, "this major secret was responsible for the film's crossover success; due to the barrage of publicity and press coverage growing from the secret, an amazing \$62.5 million was grossed by a this film which would seem to be firmly

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<sup>36</sup> Amy Villarejo. "Movies and the Politics of Authorship." *American Cinema of the 1990s: Themes and Variations*. Ed. Chris Holmlund. New Brunswick, New Jersey: Rutgers University Press, 2008. 81. Print.

<sup>37</sup> Wyatt, 80.

within the boundaries of the art cinema.”<sup>38</sup> Thus, Miramax once again depended upon word-of-mouth promotion, which helped the film sustain a consistent gross of \$1 million by its third week in release and continued to play in theaters for twenty-two weeks. While Miramax also relied on Neil Jordan’s auteur status to market the film towards the arthouse demographic, ultimately, it was the marketing strategy around the film’s “secret” that led to a total gross of \$62.5 million, shattering the \$25 million barrier that had previously been set by *Sex, Lies, and Videotape*.<sup>39</sup> This landmark success signaled to the Walt Disney Corporation that acquiring Miramax could be substantially profitable.

Disney’s acquisition of Miramax occurred in 1993 for a record deal of \$100 million that insured the autonomy of Harvey and Bob Weinstein.<sup>40</sup> Jeffrey Katzenberg, at the time the President of the motion picture division, initiated the purchase of Miramax based on a series of factors. Given that the Walt Disney Company is one of the most recognized brands in the world, it’s logical that Disney would be interested in the most recognized distributor in the independent film market. However, what was surprising to most Hollywood executives was the fact that Disney, which was known for its conservative, family values, would be interested in acquiring a company that was known for pushing the boundaries on taboo subjects and had a habit of making publicity stunts when some of its films were given an NC-17 rating. In the end, it appears that economic incentives trumped this concern. Given the unprecedented success and the cost-to-profit ratios of *Sex, Lie, and Videotape* and *The Crying Game*, it’s not difficult to understand why Disney was interested in getting involved in the independent film sector. Katzenberg’s rationale for the acquisition is best explained by the following quote he gave at the time:

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<sup>38</sup> Wyatt, 81.

<sup>39</sup> Biskind, 148.

<sup>40</sup> Biskind, 151.

“Investing a million to make \$10 million would seem like not a very big business, but if you could do that four or five times a year, then it’s a \$40 to \$50 million business, and suddenly it has size and scale to it.”<sup>41</sup> It’s important to recognize that during this time, production costs were rising across the board and the studios weren’t making the sizeable profits that had earned in the past. Thus, the studios began to view the independent sector as a way to mitigate their risk because independent films were cheaper to make yet had the potential to become mainstream hits that reaped enormous profits.

The Walt Disney Company was not the only beneficiary of this unprecedented merger. Miramax benefited from having the financial security of a studio that would not only sustain them through a dry spell but it also gave them to initiate their own productions due to the capital pool they now had access to. This new access to capital was both a blessing and a curse because it allowed Miramax to essentially become a mini-major; however, it also significantly changed the primary focus of the company. By venturing into the production business, Miramax’s marketing strategy had to adapt to the new situation as the company executives began to realize that “it’s much easier to recognize in a finished film elements that can be exploited for an effective marketing campaign than it is to develop an idea from scratch and successfully see it through production.”<sup>42</sup> Given these new challenges, Miramax “demonstrated its continuing commitment to US indies and foreign-language distribution but increasingly the company steered towards the same market as that occupied by the six major studios”<sup>43</sup> so that by the end

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<sup>41</sup> Biskind, 149.

<sup>42</sup> Biskind, 153.

<sup>43</sup> Paul McDonald. "Miramax, *Life is Beautiful*, and the Indiewoodization of the foreign-language film market in the USA." *New Review of Film and Television Studies* 7.4 (December, 2009). 358. Print.

of the 90s, the distinctions between the Hollywood studios and the independent film distributors were blurred.<sup>44</sup>

1994 was a hallmark year for Miramax due to the success of Quentin Tarantino's *Pulp Fiction*. Due to its new access to capital, Miramax was able to fund this project for approximately \$9 million and used the prestige of its brand and the film's director to attract a pool of talent, which included John Travolta, Bruce Willis, Uma Thurman, and Samuel L. Jackson. Many of the stars agreed to lower their fees and for Travolta in particular, this film revived his career. That being said, *Pulp Fiction* still featured stars and when a film has stars it requires marketing budgets that are appropriate for the caliber of talent featured in the film. Therefore Miramax incurred higher P&A costs for *Pulp Fiction* but this investment paid off because the film went on to play in theaters for 27 weeks and grossed almost \$108 million. *Pulp Fiction* became the first independent film to break the \$100 million barrier and had a direct impact "on the direction of indie filmmaking throughout the rest of the decade."<sup>45</sup> With the success of *Pulp Fiction*, "the studios realized they could exploit the economies of scale and more or less gave up buying the films themselves and either bought the distributors or started their own."<sup>46</sup> By the end of the 90s, every studio would have at least one specialty distributor responsible for producing, acquiring, and distributing more indie fare and it's no surprise that these new companies modeled themselves after Miramax.

By 1996, with the release of *The English Patient*, people began to question whether Miramax could still legitimately claim itself to be primarily a distributor of independent films. The project was initially at Fox but after putting the project into turnaround, Fox agreed to sell

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<sup>44</sup> Geoff King. *Indiewood USA: Where Hollywood meets Independent Cinema*. London: I.B. Tauris & Co Ltd, 2009. 2. Print.

<sup>45</sup> Biskind, 189.

<sup>46</sup> Biskind, 193.

the project to Miramax for \$28 million. Given the history of Miramax, spending this amount of money on acquiring just a project, not even a completed film, demonstrates how far Miramax had drifted from its initial business strategy. Fortunately for Miramax, *The English Patient* grossed \$78.6 million domestically while also earning \$150 million in foreign markets alone.<sup>47</sup> The film was also nominated for twelve Academy Awards, nine of which it won including Best Picture, Best Director, and Best Supporting Actress, and it established Miramax as the leading distributor of prestige pictures. Two years later, Miramax would release *Shakespeare in Love* and attempt to promote it as an independent but by that point, “a significant portion of the press [would begin] to question the use of the label of independence by specialty divisions.”<sup>48</sup>

*Shakespeare in Love* marked a decisive turning point in the type of films Miramax produced because its storyline, cast, and visual look all suggest that the film was produced by a major studio and not a specialty division. The film initially was initially developed at Universal during the early 90s with the understanding that Julia Roberts would play the lead and Edward Zwick would direct the picture. After Julia Roberts dropped out of the project, Universal put the project into turnaround but put pegged its selling price at \$9 million in order to deter any of the other major studios from making the project.<sup>49</sup> It turns out none of the other majors were interested in the project because they deemed it as something that was more appropriate for the specialty market. Miramax executives saw this as an opportunity they couldn't pass up; however, they couldn't predict that the success of *Shakespeare in Love* would fundamentally alter the Miramax brand.

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<sup>47</sup> [The English Patient](http://www.boxofficemojo.com), November 27, 2010 2010, 11/27 2010 <[www.boxofficemojo.com](http://www.boxofficemojo.com)>.

<sup>48</sup> Perren, 37.

<sup>49</sup> King, 107.

During the era of the studio system, the major studios were responsible for producing “prestige pictures” based on classic literary works such as *Gone with the Wind* and *Little Women*, which were regarded for their artistic merits as well as their ability to appeal to a large, general audience. After the dissolution of the studio system, no independent companies could afford to produce these costly pictures and a supply gap was created. By the late 70s, the studios regained their prominence; however, they opted to invest their money in big-budget blockbusters that promised huge box office returns rather than devote the money to the production of prestige pictures. According to Mark Gill, the president of Miramax at the time of *Shakespeare in Love*’s release, he “identified the studio abandonment of ‘the traditional prestige pictures they used to make’ as a key factor in the creation of the distinctly Indiewood<sup>50</sup> space into which Miramax moved in the later part of the 90s.”<sup>51</sup> With the backing of Harvey, Miramax negotiated with Universal and purchased the rights to *Shakespeare in Love* for \$4.5 million on the condition that it could not cast an A-list star in the lead role.<sup>52</sup> While this condition would have been a difficult challenge for most other independent companies, Miramax was confident that it could use its successful marketing strategies to attract a broader audience to the picture regardless of the fact that it didn’t feature an A-list star.

While the major studios feared that the film would only appeal to a small, highly educated audience who would appreciate the film’s various nuances, Miramax was determined to market the film more as a romantic comedy that just happened to have William Shakespeare as one of its main characters. Unlike the films *Hamlet* and *Romeo and Juliet*, which were straight forward adaptations of Shakespeare’s respective works, *Shakespeare in Love* is a fictional

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<sup>50</sup> A term that emerged in the late 90s that executives used to describe the more commercial, independent films that the specialty divisions began to produce

<sup>51</sup> King, 97.

<sup>52</sup> Biskind, 329.

account of the romance that develops between William Shakespeare, played by Joseph Fiennes, and Viola, the daughter of a wealthy aristocrat, who is played by Gwyneth Paltrow. In the midst of this romance, Shakespeare suffers from writer's block as he develops a comedy called *Romeo and Ethel, the Pirate's Daughter*. The film suggests that the forbidden romance that develops between Shakespeare and Viola, as well as other events that occur throughout the story, inspires Shakespeare to rewrite the story as the drama *Romeo and Juliet*.

The storyline of *Shakespeare in Love* was a gift to Miramax's marketing team because it allowed them to simultaneously market the film to their long-standing art house, more educated audience while also appealing to the broader, multiplex audiences, which became Miramax's "meat and potatoes."<sup>53</sup> The film is scattered with references to Shakespeare's other works as well as his personal life which loyal fans of Shakespeare would not fail to recognize. While this recognition adds another dimension to the film, general audiences, who would most likely miss these references, would still be able to enjoy the romantic and comedic elements of the film's major plotline. Miramax's strategy of appealing to both the indie and mainstream markets paid off when the film went on to be nominated for twelve Academy Awards, seven of which it won including Best Picture, while also grossing over \$100 million domestically while only costing Miramax \$25 million to produce.<sup>54</sup>

*Shakespeare in Love*'s success fundamentally changed the type of pictures Miramax produced as it entered the next millennium. While Miramax was originally known for producing edgy, controversial films, by the late 90s, "[Miramax's] zeal in seeking to achieve nominations and awards [became] a key part of its marketing strategy."<sup>55</sup> Miramax certainly did not abandon

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<sup>53</sup> Biskind, 263.

<sup>54</sup> Shakespeare in Love, November 27, 2010 2010, 11/27 2010 <[www.boxofficemojo.com](http://www.boxofficemojo.com)>.

<sup>55</sup> King, 109.



making films similar to earlier films it produced, *Velvet Goldmine* and *Buffalo Soldiers* can be cited as examples, the majority of the films Miramax distributed were targeted towards a more commercial audience. Films such as *Gangs of New York* and *Chicago* are examples of the “star-led, studio genre pictures that were not usually associated with the indie sector” yet these films became the new focus of Miramax’s development slate.<sup>56</sup> By the end of the 90s, it was virtually impossible to distinguish Miramax from the other major studios and this identity crisis would only become more prevalent during the next decade when all of the major studios developed their own specialty divisions, which were modeled after Miramax.

Miramax’s legacy consists of not only reviving the independent film market but also for changing the way the Hollywood studios and audiences perceived independent films. Due to its shrewd and aggressive marketing campaigns, Miramax allowed independent films to break out of the art houses and enter the multiplexes where they began to appeal to a wider, general audience. This new audience increased the box office potential of independent films, which in turn attracted the attention of the major studios that began to see the independent film market as a sector they needed to exploit. While the increased investment by the studios into the independent market allowed more films to reach a wider audience, it also had the negative side effect of driving up the acquisition prices of these films as well as the P&A costs that were needed to promote them. These higher costs increased the risk factor of the independent films and therefore major independent companies began to invest in more conservative, star-driven independent films because they were more likely attract a commercial audience. All of these factors are exhibited in the films produced by the specialty divisions during the early 2000s and the next chapter will go into further detail examining the consequences of these factors.

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<sup>56</sup> King, 111.

### Ch 3: Specialty Divisions Help American Independent Cinema Enter the Mainstream

The success of *Shakespeare in Love*, *Good Will Hunting*, and other independent films released during the late 90s drew the attention of the major studios that eagerly wanted to reap the rewards of this reviving market. A combination of factors is responsible for explaining why the major studios saw the independent market as a promising investment. The most obvious factor that appealed to the studios was the opportunity for the studios to accumulate huge profits off of a successful independent film that cost the studio virtually nothing to produce in comparison to the multi-million dollar blockbusters that continued to be the primary product they produced. The major studios referenced the unprecedented success of *Pulp Fiction* and *The Full Monty* during the '90s as examples that justified their decision to create specialty divisions whose primary agenda would be to produce products that could achieve these huge profits. Fox Searchlight's *Little Miss Sunshine* (2006) is one of the primary examples of an independent film that managed to earn a sizeable profit in relation to its production costs and it will serve as a primary case study to examine this motivating factor. Another factor that enticed the major studios to develop their own specialty divisions was the increased recognition independent films were receiving at the Academy Awards and other respectable award ceremonies.

Although the primary rationale of the studios is to make a profit off of their products, studio executives also like to reassure themselves that they are still producing quality, prestige pictures that will ensure that their legacy will be a part of film history. Thus, the studios backed the production of more independent films via their specialty divisions in order to maintain their elite status as the producers of culture. The studios also used their specialty divisions as a means to attract new, young talent to their back lots with the hopes that the talent would establish a relationship with the studio and would eventually be willing to direct the bigger, studio-fare

projects. This is a factor that is often overlooked yet examples of this practice abound such as Focus Features on going collaboration with Sofia Coppola, which began with *Lost in Translation* and continues up to the present with her upcoming release, *Somewhere*. The final factor, and certifiably the most important factor, that explains why the studios developed specialty divisions is the influx of capital the studios received after 2004 from various Wall Street hedge funds that were looking for new investment opportunities. This, along with the other factors, created a boom in the independent market in which on a given weekend, multiple independent films were competing for weekend box office title. Like all economic booms, the independent film bubble eventually burst in 2008 and coincided with the financial crisis that would strike a devastating blow to all sectors of the United States economy. The last portion of this paper will address the contraction that occurred within the independent film market during the last part of the decade and will offer insights about the future prospects of the independent film market.

Around the beginning of the new millennium, all of the major studios created their own specialty divisions, which were designed to produce and distribute low budget, more independent fare that could be marketed towards specific audiences in order to increase the likelihood that a film would earn a positive profit-to-cost ratio. A byproduct of the creation of these specialty divisions was the altering of the type of independent films that were produced. Over the course of the decade, independent films, such as *Little Miss Sunshine*, that were produced by the studios were categorized under the term “Indiewood,” which referred to how these films were a hybrid of the films typically classified as independent and the genre films that were made by the studios. According to Geoff King, “a central characteristic of Indiewood cinema is a blend comprised of features associated with dominant, mainstream convention and markers of ‘distinction’ designed

to appeal to a more particular, niche-audience constituency.”<sup>57</sup> *Little Miss Sunshine* is a classic example because it has a conventional Hollywood road trip premise, yet its storyline and the characters it presents are geared towards a more adult audience.

Since the late 70s, the Hollywood studios have primarily concerned themselves with producing high budget, high concept blockbusters which had the potential to earn large enough profits to solely fund the operations of an entire studio. However, not all of the blockbusters were able to reach their targeted revenues and for the ones that were fortunate enough to do so, their profit-to-cost ratios were rather slim. For example, in 1989, Tim Burton’s *Batman* was huge success at the box office, earning a domestic gross of over \$250 million, yet its cost-to-earning ratio (.2) was well above that of *Sex, Lies, and Videotape* (.05).<sup>58</sup> Yet, throughout the early 90s, independent filmmaking was still deemed to be a “risky business” but by the next decade, as Greg Macks points out, “the trend toward [the production of] so many studio-independent films suggests that the studios [believed] they [had] lowered the risks associated with making independent-style films.”<sup>59</sup> It is difficult to argue against the mentality of the studios when you look at an example of an independent film whose storyline made it a risky investment but went on to defy the odds and become a huge box office success.

*Little Miss Sunshine* tells the story of Frank, a gay Proust scholar, who is forced to move in with his sister, Sheryl, and her family after a failed suicide attempt. Death may have been a better option for Frank when compared to Sheryl’s family, which consists of: her husband, Richard, an aspiring motivational speaker; her son Dwayne, an odd teenage who has taken a vow of silence; her father-in-law, Edwin, who curses every chance he can get; and then her daughter,

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<sup>57</sup> King, 2.

<sup>58</sup> Perren, 30.

<sup>59</sup> Greg Marcks. "The Rise of the "Studio Independents"." *Film Quarterly* 61.4 (2008): 9. Print.

Olive, the film's most endearing character who is trying out for the Little Miss Sunshine pageant. Just based on this brief description of the main characters, many studio executives were at first hesitant to consider making this film because of the various controversial subject matters it addresses throughout the film. For instance, studios have enough trouble making a gay character appealing to a general audience; therefore, a suicidal gay character would be even more controversial and challenging. Also, general audiences tend to frown up profanities and yet almost every word that comes out of Edwin's mouth is a profanity. In the end, none of the major studios were willing to produce the film so the film's directors solicited the help of private investors. *Little Miss Sunshine* was shot for \$8 million and after premiering at the Sundance Film Festival in 2006 to rave reviews; Fox Searchlight acquired it for over \$10 million.<sup>60</sup> The quirky, dysfunctional family comedy went on to gross almost \$60 million domestically and over \$100 million worldwide. Fox Searchlight was more than pleased with *Little Miss Sunshine*'s profit-to-cost ratio and the other studios took notice and didn't hesitate to replicate its model.

In order to earn these large profit-to-cost ratios, the specialty divisions employed "specialized marketing that targets the most specific (and lucrative) segments of the marketplace with tweezer-like precision."<sup>61</sup> The ultimate goal of their marketing strategies was for the target audience to then recommend the films to their friends, thereby the films' appeal to a larger, more general audience. The major studios also benefited from this niche marketing strategy because it increased the efficiency of the major studio's operations while not detracting from the studio's "chief priority of attracting mass-number audiences to the blockbuster-scale and/or star-led

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<sup>60</sup> Marcks, 8.

<sup>61</sup> Dana Harris. "H'wood Renews Niche Pitch." *Variety* (April, 2003): 1. *LexisNexis*. Web. 10/31/2010.

productions around which the fortunes of the studios primarily revolved.”<sup>62</sup> By employing niche-marketing strategies, the specialty divisions were able to attract specific audiences to see their films while not detracting a large percentage of the general audience away from the bigger movies being released by the studios.

*Little Miss Sunshine* was released at the end of the summer and was marketed as an alternative from the typical teen comedies that were playing at the time such as *Talladega Nights*, *Snakes on a Plane*, and *Beerfest*. Fox Searchlight began promoting the film towards an older, more adult audience; however, Steve Carell’s popularity from starring in *The 40 Year Old Virgin* also attracted a teen audience to the film. The film also received a score on 91% on Rotten Tomatoes, suggesting that it was popular with the critics as well. Word quickly spread that *Little Miss Sunshine* was the “must see” film of the summer and the film earned almost \$8 million a week after its wide release.<sup>63</sup> Fox Searchlight’s platform release and marketing strategies exemplifies how a specialty division was able to first target a specific audience that would then grow into a more general audience.

A year after *Little Miss Sunshine*’s release, independent films produced through the specialty divisions dominated the 2008 Academy Awards and thereby established that the major studios were also relying on the specialty divisions to bring home awards as a way to enhance the studios’ prestige. Geoff King argues that “the cultural capital produced by [Indiewood] cinema also appears to be significant to many of the executives involved in the sector” and are often willing to accept “a lower scale of financial gain... at the price of a higher return at the cultural level.”<sup>64</sup> After all, Hollywood is the main producer of entertainment for the United States

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<sup>62</sup> King, 5.

<sup>63</sup> [Little Miss Sunshine](http://www.boxofficemojo.com), November 27, 2010 2010, 11/27 2010 <[www.boxofficemojo.com](http://www.boxofficemojo.com)>.

<sup>64</sup> King, 30-1.

as well as the entire world and studio executives would like to think that the films their studios release provide meaning to the lives of their viewers. In show business, the Oscar is the highest cultural achievement one can receive and in a business comprised of egos, the amount of Oscars a studio has in its lobby signifies its cultural importance.

In 2007, Paramount Vantage released the Coen Brothers' *No Country For Old Men*, which was made for approximately \$25 million but went on to gross \$75 million domestically.<sup>65</sup> More importantly, the film was nominated for eight Academy Awards, four of which it won, including Best Picture, Best Director, and Best Adapted Screenplay. The film tells the story of Llewelyn Moss's attempt to outrun a ruthless hitman named Anton Chigurh who has been hired to retrieve the drug money that Llewelyn happened upon while he was out hunting. Javier Bardem gives a chilling performance as Anton and the film blatantly refuses to deliver a typical Hollywood happy ending. While at first it may seem odd that a film as bleak and challenging as *No Country For Old Men* won the Best Picture category but when it is considered amongst its other nominees, which included *There Will Be Blood*, *Atonement*, *Michael Clayton*, and *Juno*, its dark tone seems to be a consistent trait amongst all the other nominees. With the exception of *Juno*, none of the Best Picture nominees were huge successes at the box office but four out of the five nominees were produced by the specialty divisions. The 2008 Academy Awards demonstrated how most of the studios were able to garner cultural prestige due to the pictures they were producing through their specialty divisions; however, the studios also used the specialty divisions as a way to establish partnerships with the talent they hired to make these award-winning films.

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<sup>65</sup> [No Country For Old Men](http://www.pro.imdb.com), November 27, 2010 2010, 11/27 2010 <[www.pro.imdb.com](http://www.pro.imdb.com)>.

Although the primary task of the specialty divisions was to create low-budget products that could potentially become big box-office earners, studios executives also hoped “their indie labels [would] help create relationships with up-and-coming filmmakers” who would then agree to make larger, studio fare projects for the parent studio.<sup>66</sup> This strategy of courting hot talent early on in their careers was most likely inspired by the way Miramax discovered and then nurtured the career of Quentin Tarantino. Young, fresh talents were appealing to the studios for a number of reasons. For one, they were cheap and didn’t make the studios go through the drawn out back-end negotiation deals which they often had to with A-list talent. In addition, these young filmmakers had creative ideas about how to make smart, artistic pictures that still managed to appeal to the audiences the specialty divisions were targeting.

Focus Features, the specialty division at Universal that was run by David Linde and James Schamus, was “dedicated to finding and nurturing new talent, and to working with established filmmakers who want to take on challenges.”<sup>67</sup> Within a few years of its founding, Focus Features lived up to its mission statement by providing a home for such well regarded filmmakers as Ang Lee, Steven Soderbergh, Spike Jonze, and Todd Haynes just to name a few. An example of a filmmaker whose career has been nurtured over the years by Focus Features is Sofia Coppola, the daughter of the great American filmmaker Francis Ford Coppola. Although Sofia Coppola had already directed *The Virgin Suicides* in the 90s, she didn’t become an A-list independent filmmaker until 2003 when she made *Lost in Translation* through Focus Features. The film is about the friendship that develops between Bob Harris, a struggling American movie star who has already reached the pinnacle of his career, and Charlotte, a recent college graduate,

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<sup>66</sup> Dan Cox and Jonathan Bing. "Art Pic Overkill?: More pix, fewer bucks in specialty sector." *Daily Variety* (October, 2000): 10/10/2010. *LexisNexis*. Web. 10/10/2010.

<sup>67</sup> Cathy Dunkley, Dana Harris, and Charles Lyons. "Specialty snapshots: a midyear report." *Daily Variety* (July 29, 2002) Print.



while they both stay at a hotel in Tokyo. Both characters are at a moment of crisis in their lives, so they decide to explore the city together and bond over their different views of the world, life etc... Unlike the other films mentioned in this chapter, *Lost in Translation* has a rather minimalist plot but is filled with moving visuals and a lively soundtrack, which have quickly become signatures of Sofia Coppola's style. The film was acclaimed by critics not only for its direction but also for the performance of its star, Bill Murray, who challenged himself in a largely non-comedic role. Coppola won an Oscar for Best Original Screenplay and the film went on to gross \$44 million while only costing Focus Features \$4 million to produce.<sup>68</sup> It is now seven years later and Focus Features has continued its support of Coppola's career by producing her most latest project, *Somewhere*, which just received the Golden Lion award at the Venice Film Festival.

Another factor that explains the increased production of independent films during the current decade is the influx of capital the studios received from Wall Street hedge funds beginning at the end of 2004. By this point, the studios were spending \$100 million on average to produce and sell a film yet they had not found a way to mitigate the inherent risk that was involved in making a film. The old model for film financing involved a studio relying on bonds and bank loans to get the sufficient amount of capital to fund the production of a film; however, this relationship clearly favored the lender because they were assured a profit without acquiring any of the risk of the film.<sup>69</sup> Given this imbalanced relationship, the studios were still willing to take the financial risk of producing a film because the opportunity to make a huge profit off of a successful film was prospect they could not pass up. However, the increased production of

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<sup>68</sup> Lost in Translation, November 27, 2010 2010, 11/27 2010 <[www.boxofficemojo.com](http://www.boxofficemojo.com)>.

<sup>69</sup> Michael Hiltzik and Josh Friedman, "Hollywood's hedged bets," Los Angeles Times February 16, 2008 2008, .

blockbuster films forced the studios to devise an investment plan that would allow them to share some of the risk involved in the production of these big budget features.

Wall Street hedge funds were willing to be the solution to Hollywood's financial problem because they were drawn by projections of double-digit returns that could be acquired with minimal risk.<sup>70</sup> However, the hedge fund managers were not willing to take on this risk without being assured a significant return on their investment. This return would be based on the profits a film earned at the box office and auxiliary markets and unlike bank loans, this structure provided the opportunity for hedge funds to earn returns well above the actual amount they invested. This new business plan was unprecedented because throughout the history of the film industry, the studios had always kept their accounting numbers a secret. Nobody could have predicted that the studios would be willing to diverge from this long established practice but in the end, the amount of capital the hedge funds were willing to offer the studios was too good to pass up. As Columbia Pictures CFO Bob Osher explains "[the studios] were willing to give up some of [their] upside so that [they] could get more financial certainty in [their] slates."<sup>71</sup> By the mid 2000s, the entire film industry adopted the practice of slate financing, the term used to refer to the business model that was devised between the hedge funds and the major studios.

Slate financing essentially functioned as follows: the hedge funds would use their capital to back a package of films that varied in size from 15 films to 60 films. This package of films is often referred to as a "slate," hence the name slate financing. The amount of money the hedge funds invested in a slate financing deal varied from \$300 million to over \$1.6 billion in the case of the deal Legendary Pictures set up with Warner Brothers. The major benefit of slate financing

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<sup>70</sup> Hiltzik and Friedman.

<sup>71</sup> Gabriel Snyder and Nicole LaPorte. "Funds Pop For Pix." *Daily Variety* (January 20, 2006): 11/18/2010. Web.

from an investor's perspective is that it allows an investor to spread out the risk of their investment instead of investing in an individual film, where the risk of a loss is significantly higher. According to Harold Vogel, one of the leading experts on entertainment industry financing, refers to slate financing models as essentially "risk management vehicles" that the studios use to "push risk onto the investors."<sup>72</sup> By 2006, "every major studio had lined up private equity backers for at least one package of films"<sup>73</sup> and between the years of 2005 and 2008, the hedge funds pumped \$15 billion into the industry.<sup>74</sup> Please refer to Table 1 in the Appendix to see additional information about the slate financing deals that occurred between August 2004 and August 2007. While at first, the hedge funds focused primarily on backing the major studio slates, over the course of the decade, they too were drawn to the potential profits that the independent market offered.

Like the studios, the hedge funds were attracted towards investing in independent films because of "the potential for lower risks and higher returns."<sup>75</sup> While the studio slates offered the possibility of earning a huge reward, studio slate financing was also more risky as Charles Gardante explains: "the chances are one in ten of returning a profit, so you need to have a profile of ten \$100 million movies in order for that basket of films to return 30%."<sup>76</sup> Specialty films, on the other hand, are a more promising investment according to Aaron Kaufman, a former media executive, because investors "can mitigate risk with a large portion of [the film's] budget coming from foreign markets. [Independent film companies] are not in the box office performance

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<sup>72</sup> Hiltzik and Friedman.

<sup>73</sup> Hiltzik and Friedman.

<sup>74</sup> Banks and hedge funds withdraw billions of dollars of Hollywood deals, March 2, 2009 2009, 11/18 2010 <<http://thestockmasters.com/node/1190>>.

<sup>75</sup> Anthony Kaufman. "Investors Sweet on Niche Treats." *Daily Variety* (October 1, 2007): 11/18/2010. *NexisLexis*. Web. 11/18/2010.

<sup>76</sup> Kaufman.

business. Ultimately, [investors] make [their] money by selling [their] films to distributors around the world.”<sup>77</sup> Thus, by the middle of the decade, hedge funds began to increase their investment in more specialized fare. However, the combination of studio oversight and the availability of capital funds significantly altered the way the independent film market functioned.

The increased investment by the studios in the production of independent films fundamentally altered the independent market by driving up production costs, demanding lofty box office returns, and forcing the specialty divisions to mirror the release patterns the studios used for their products. All of these factors contributed to the specialty divisions increased dependence on their studio parents who demanded that the specialty divisions produce more mainstream products.

The studios’ desire for more mainstream fare forced the budgets of specialty pictures to increase dramatically as the specialty divisions were often forced to hire more A-list talent in order to appeal to a mainstream audience. According to an MPAA report published in 2008, “the cost of production for specialty pictures rose a whopping 60%” from the previous year while there was only an 8% rise in major-studio titles during the same period.<sup>78</sup> The report goes on to show that it cost specialty divisions, on average, \$74.9 million to produce and release a specialty film in 2007.<sup>79</sup> This number can be further divided into two segments: \$49.2 million for production costs, a 60% increase from the year before, and \$25.7 million for advertising costs, a 44% increase. Pamela McClintock notes that “the rise in specialty-division numbers reflect the fact that their films are more directly under the parent studio, with such \$30 million-plus titles as *There Will Be Blood* and *No Country for Old Men* pointing up the big jump from the \$10

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<sup>77</sup> Kaufman.

<sup>78</sup> Pamela McClintock. "H'wood's Niche Reach." *Daily Variety* (March 6, 2008): 10/10/2010. *LexisNexis*. Web. 10/10/2010.

<sup>79</sup> McClintock.

million-and-under budgets of pictures a few years ago.”<sup>80</sup> These higher production costs inevitably lead to higher box office expectations that the studios require in order to make up for their increased investment. David Dinerstein, the co-president of Paramount Classics, believes that these lofty expectations are threatening to destroy the independent market. Commenting on the increased presence of specialty divisions, Dinerstein claims, “if a studio or independent wants to put together an independent company because they believe they’re going to reap financial benefits in a huge way, they’re dreaming.”<sup>81</sup> To Dinerstein’s dismay, it seems to be more and more apparent that the specialty divisions are in the business of making huge profits and believe that the best way they can achieve these profits is by mirroring the studio release patterns.

During the 90s, independent films relied on platform release schedules in which they would only be released in a small number of theatres at first, but over time, they would slowly expand to more theaters as they gained more widespread appeal due to word-of-mouth hype. By the mid 2000s, the increased number of independent films made platform releases harder to implement. With such an abundance of product, movie theaters could not afford to keep a film in exhibition for such a long period of time. This abundance of product forced the specialty divisions to shorten the time in which their films could grow into a wide release and the opening weekend fever that characterizes the mindset of the major studio-marketing executives began to infiltrate the minds of the specialty division marketing teams as well. Specialty divisions began to adopt the studio slate mentality in which “studios look to find the powerful hit in their release schedule of some 12 to 15 pictures. That one hit can often make up for the losses generated by all

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<sup>80</sup> McClintock.

<sup>81</sup> Cox and Bing.

the other films.”<sup>82</sup> As one studio distribution executive put it, “[the specialty divisions] are sort of swinging for the fences on every picture”<sup>83</sup> but, as another executive points out, “the specialty business is much more about volume than trying to hit the ball out of the park.”<sup>84</sup> But the studio mentality says otherwise and as the specialty divisions adopted the studio release patterns they were forced to spend \$20 million on marketing for a film that cost \$5 to \$10 million to produce in order for it to have a chance to compete against other indie fare for the top box office spot.<sup>85</sup> As Tom Bernard, the president of Sony Pictures Classics, points out, “once you start putting up that kind of P&A money, that’s a very dangerous game to play.”<sup>86</sup> The studios and their specialty divisions chose to play the game with the hope that they could continue to reap huge profits from low-budget fare and while they originally seemed to be “beating the house” their lucky streak came to an end in 2008 when the United States economy was delivered a serious blow by the financial crisis.

Between the year 2000 and 2007, the number of independent films produced by the specialty divisions rose from 48 pictures in 2000 to 90 films in 2007. During this period, the U.S. economy in general was experiencing a boom. Housing prices were going up, Wall Street executives were receiving enormous bonuses, and people naively believed that this trend would continue into the foreseeable future. The year of 2008 delivered them with a serious reality check and the film industry was not immune. Similar to the housing crisis, the independent film market was hindered by an oversupply of product, which drove up the prices of the film assets well

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<sup>82</sup> Cox and Bing.

<sup>83</sup> Ian Mohr. "Too Big for Their Niches." *Variety* (March, 2005) Print.

<sup>84</sup> Mohr.

<sup>85</sup> Pamela McClintock. "Specialty Slide." *Daily Variety* (September 10, 2009): 10/10/2010. *LexisNexis*. Web. 10/10/2010.

<sup>86</sup> Patricia Saperstein. "Keeping an eye on the bottom line." *Daily Variety* (July 31, 2000): 10/10/2010. *LexisNexis*. Web. 10/10/2010.

beyond their intrinsic value. As James Schamus, the CEO of Focus Features, put it, “there were too many specialized films opening every weekend and the market couldn’t absorb it all.”<sup>87</sup>

Schamus wasn’t the only one to recognize this. Ron Cushey, the Managing Director of PriceWaterhouseCoopers, claimed, “there was too much money and too many films. The market couldn’t sustain it and the competition was too great to provide the returns the equity and hedge funds were looking for.”<sup>88</sup> This then begs the question, if film executives recognized that there was an overabundance of product in the market, why didn’t they just cut back on production? According to Vincent Grimond, the CFO of the French production company Wild Bunch, the influx of capital “perverted the system” and when producers are given more money, they naturally “spend it making films” and “the overall result is far too many films” that are “far too expensive.”<sup>89</sup> In addition to this glut in the independent market, the credit crisis that resulted from the financial crisis greatly debilitated the banks and hedge funds that were providing the studios with money and now these lenders were forced to write down their securities across the board, including their film assets, in order to recover their losses.<sup>90</sup> By the end of the decade, the saving grace for the independent film market was private equity holders who were willing to purchase these reduced price assets from the hedge funds.

In a strange twist of fate, many of these private equity holders who came to the rescue were “seasoned entertainment investors who specialized in the industry, knew it well, and took a longer-term view on returns.”<sup>91</sup> Unlike the hedge fund managers, who wanted a quick turnaround on their investment, these private equity holders are more interested in long term returns and

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<sup>87</sup> Karen Idelson. "Indie Implosion Impact." *Daily Variety* (December 4, 2008) Print.

<sup>88</sup> *Banks and hedge funds withdraw billions of dollars of Hollywood deals.*

<sup>89</sup> Charles Master and Stuart Kemp. "How recession proof is the industry?" *The Hollywood Reporter* (February 6, 2009) Print.

<sup>90</sup> *Banks and hedge funds withdraw billions of dollars of Hollywood deals.*

<sup>91</sup> *Banks and hedge funds withdraw billions of dollars of Hollywood deals.*

therefore “have been much more selective in terms of material.”<sup>92</sup> Graham Taylor, the head of packaging at William Morris Endeavor, predicts “over the next year, I think we’ll get back to where we were before the Wall Street invasion, comparable to about four to five years ago, with a better integration of distribution, cost of production, and above-the-line salaries. Everyone will be coming to the table as a partner in the overall success of a film, and not as a gambler with wildly unrealistic expectations.”<sup>93</sup>

From the looks of where the independent market stands today, it appears as though Taylor’s prediction is coming true. Warner Brothers and Paramount shut down their specialty divisions within the last two years, while the rest of the specialty divisions have dramatically reduced the number of features they produce in a given year. This can be seen in Figure 1 in the Appendix which displays the contraction that occurred within the independent film market after 2007. In addition, the chart also displays how the box office revenues have settled to a rather consistent figure of \$600 million, which are the same numbers the industry was seeing at the beginning of the decade before the influx of Wall Street money.

As we enter into a new decade, what lessons can be taken away from the developments that occurred within the independent film market in the past decade and what does the near future have in store for independent film producers? One lesson that the major studios have realized the hard way is that they should focus primarily on distributing independent films rather than investing in their actual production. The fact that most of the specialty divisions have been shut down suggests that the studios have indeed heeded this lesson. This reduction in the production of independent films has also allowed the prices of these films to return to more

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<sup>92</sup> Matthew Ross. "Fiscal shakeout is reshaping the indie model." *Daily Variety* (September 10, 2009): 11/18/2010. *LexisNexis*. Web. 11/18/2010.

<sup>93</sup> Ross.



appropriate levels. The acquisition deals that occurred at the recent Toronto International Film Festival suggest that the major distributors have recognized that the competition within the acquisitions market became so intense that it drove the acquisition prices of these films way beyond their intrinsic value. For instance, this year only two films were acquired for deals ranging over \$3 million while the majority of films were acquired for just over seven figures.<sup>94</sup> This trend will most likely continue through the winter of next year at the Sundance Film Festival as well as in the spring at the Cannes Film Festival.

If I were to predict what the foreseeable future of the independent film market would look like, I would be optimistic. The remaining independent film companies such as Fox Searchlight, Focus Features, and Sony Pictures Classics all have rather conservative business models that emphasize the acquisition or production of quality, low-budget films that can be marketed towards specific target audiences. In addition, these companies have realized that it is not in their best interests to release more than 15 films a year and they are all trying to determine a reasonable cap to place on their negative costs. Even with all of the changes that the independent film market as undergone over the past decade, its audience has never dwindled. As I have tried to demonstrate with all of the examples I've cited within this paper, film audiences ultimately crave interesting, well-crafted stories and as long as independent companies focus on satisfying this criteria, they can increase the odds of their film crossing over into the mainstream rather than relying on casting A-list actors, hiring well-known auteurs, and employing expensive marketing campaigns.

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<sup>94</sup> Mike Fleming. *Toronto: Deal Flurry Mean Biz is Back?.*, 2010. [www.deadlinehollywood.com](http://www.deadlinehollywood.com). Web. September 20, 2010.

**Appendix:**

Table 1

Slate of Play: A table of the slate finance deals from August 2004 to August 2007<sup>95</sup>

<http://www1.hollywoodreporter.com/hr/photos/stylus/12284.jpg>

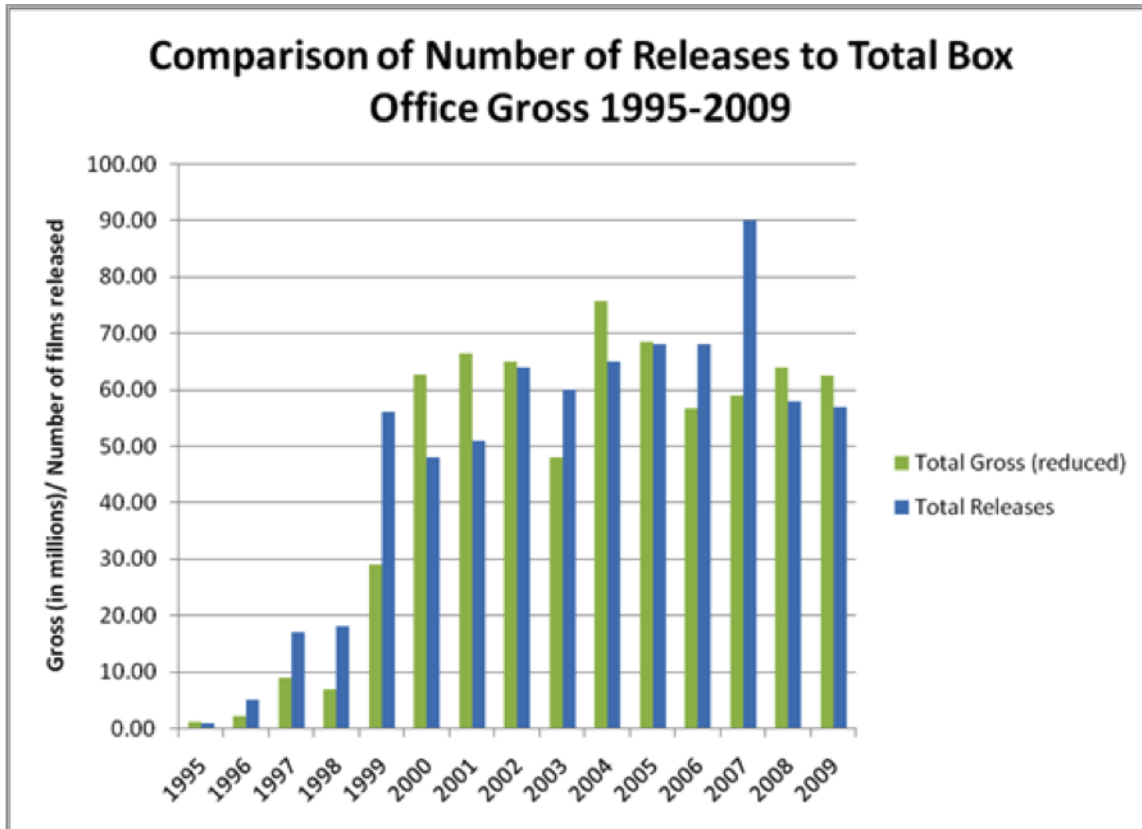
Source: Galloway, Stephen. "Will Wall Street firm investments roar or whimper?,"

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<sup>95</sup> Stephen Galloway. "Will Wall Street firm investments roar or whimper?" *The Hollywood Reportere* (November 2, 2007): 11/18/2010. *LexisNexis*. Web.

Figure 1:

Chart comparing the number of independent films released by the specialty divisions with the total box office gross earned by independent films in a given year



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