

TABLE OF CONTENTS

PREFACE		8	
		10	
INTRO	INTRODUCTION		
СНАР	TER 1	16	
THE G	GLOBAL STRUCTURE OF THE FILM INDUSTRY	16	
1.1	Opportunities for Film in Local Markets and Overseas	16	
1.1.1	The Major U.S Studios (Sony, Fox, Warner Bros., Disney, Paramount,		
	MGM, Universal)	16	
1.1.2	The Independent Distributors	18	
1.1.3	Film and TV Distribution Trade Organizations	21	
1.2	Entering the Global Marketplace for Films	21	
1.2.1	Sales Agents and Film and TV Festivals and Markets	21	
1.2.2	TV Distribution	24	
1.2.3	New Media Distribution	25	
1.2.4	Self Distribution	29	
1.3	Distribution Finance	30	
1.3.1	Basic Finance Issues	30	
1.3.2	Distribution/Finance Case Study: Sunny Days in Africa	33	
	a) A Pre-sale Model	33	
	b) The No International Pre-sales Model	36	
1.4	The Unlawful Distribution of Films	40	
СНАР	TER 2	42	
COPY	RIGHT DOCUMENTATION: FILM CHAIN OF TITLE	42	
2.1	Copyright Overview - Establishing Ownership	42	
2.1.1	Moral and Economic Rights	43	
2.1.2	Copyright Term	44	
2.1.3	Public Domain	44	
2.1.4	Authorship and Ownership of Copyright	45	
2.1.5	Formal Aspects of Establishing Copyright Ownership	46	
2.1.6	Collective Management Organizations	46	

2.2	Chain of Title (COT) Basic Documents	47
2.2.1	Pre-existing Works	47
2.2.2	Music Licenses and Clearances	48
2.2.3	Clip and Still Photography Licenses	49
2.2.4	Trademark Clearances	51
2.2.5	Name, Life Story and Likeness	51
2.2.6	Character Licenses	53
2.2.7	Talent Agreements	53
2.2.8	When is it not necessary to license the Copyright? Public Domain	
	and Fair Use	55
2.3	Errors and Omissions (E&O) Insurance	56
		58
CHAPTER 3		
SAMP	LE OF REQUIRED AGREEMENTS FOR FILM DISTRIBUTION	58
3.1	The Option Agreement	59
3.2	Music Agreements	64
	a) The Composer Agreement	65
	b) Contracts for Pre-existing Music	67
3.3	The Distribution-related Agreements	69
3.3.1	Analysis of Gross Receipts	70
	a) The Sales Agent Agreement	72
	b) The Territorial Distribution Agreement	81
3.4	Other Agreements / Documents to be aware of	83
	Chart: Timeline: Agreements and Responsibilities	85
CHAP.	FER A	86
COPYRIGHT CLEARANCE PROCEDURES		86
4.1	Registration of Copyright	86
4.2	Copyright Reports and other E&O Requirements	88



CHAP	TEK 5	92
DISPU	JTE RESOLUTION	92
5.1	Court Litigation	92
5.1.1	Basics on Court Litigation	92
5.1.2	Applicable Law and Jurisdiction	93
5.1.3	Disadvantages of Court Litigation	94
5.2	Alternative Dispute Resolution (ADR)	94
5.2.1	ADR Basics	94
5.2.2	Mediation	95
5.2.3	Arbitration	96
5.2.4	Expert Determination	96
5.3	WIPO ADR Options for Film and Media and Collecting Societies	97
5.3.1	The WIPO Arbitration and Mediation Center	97
5.3.2	WIPO Mediation and Expedited Arbitration for Film and Media	97
	a) WIPO Film and Media Panel	98
	b) Reduced Schedule of Fees and Costs	98
	c) Recommended WIPO Contract Clauses and Submission Agreements	99
5.3.3	WIPO ADR Procedures for Certain Collecting Societies	99
5.4	Other Options	99
СНАР	TER 6	101
GENE	RAL PITFALLS AND SOLUTIONS	101
6.1	Pitfalls	101
6.1.1	Rights Transaction Problems	101
6.1.2	The Producer Must Acquire the Rights from the Owner	102
6.1.3	It is Easy to Become Confused about which Rights are Included in a Deal	103
6.1.4	It is Difficult to Understand the Potential Value of Rights and Put a	
	Price on Them	103
6.1.5	Not Adhering to Obligations Can Result in the Loss of the Film	103
6.1.6	Sometimes it is Not Clear Who Owns Which Rights or How Those	
	Rights Can Be Enforced	104
6.2	Trademarked Product and Sponsorship Obligations Can Be	
	Difficult to Understand	104
6.2.1	Character Licenses are a Minefield	105

6.3	One Last Issue - Global Currency Transactions	107
6.4	Some Basic Solutions	107
6.4.1	Get Educated	107
6.4.2	Know the Players	108
6.4.3	Research and Verify Business Partners	109
6.4.4	Distribution Supervision	109
6.4.5	Do Not Relinquish Any More Control than Necessary	110
6.4.6	Insurance	111
6.4.7	Be Nice	111
6.4.8	Know When Not to Be Nice	112
6.4.9	Make Friends	112
6.4.10	Importance of Legal Representation	113
6.4.11	Understand the Agreements	113
FINAL \	WORDS	114
THE CH	ANGING MEDIA LANDSCAPE	114
GLOSS	ARY	116
ACKNO	WLEDGEMENTS	123
REFERE	ENCES	124
FILMO	GRAPHY	126
ANNEXES		130
Annex I	The Distribution Agreement	130
Annex II	Sample Errors and Omissions (E&O) Application From	138
Annex III	Recommended WIPO Contracts and Submission Agreements for	
	WIPO Mediation and Expedited Arbitration for Film and Media	147