FRAMING DREAMS

How copyright supports film creativity and enterprise throughout the world
PREFACE BY HIS EXCELLENCY
MR. JUAN JOSÉ GÓMEZ CAMACHO

Ambassador of Mexico to the Kingdom of Belgium, the Grand Duchy of Luxembourg and the European Union.

Filmed entertainment is the leading gateway to cultural expression and a high-profile growth industry. The advent of broadband Internet and the rise in digital production have multiplied opportunities for creative enterprises which develop, produce and distribute films, and increased the contribution of film to GDP and job creation in many developing economies.

The vivid case studies in Framing Dreams brought home to me the sheer diversity of film creativity throughout the world. Going through this timely publication gave me an intimate sense of the practical economic challenges experienced by producers and film makers everywhere and a glimpse into their efforts to turn good stories into great films.

Above all, Framing Dreams introduced me to how producers use the legal framework of copyright law daily to support the difficult business of concentrating intellectual-property value in their films and attracting investment to finance the vision of film makers, thus satisfying the public’s limitless demand for quality film experiences.
My current responsibilities, as well as my years of service as Ambassador to the United Nations in Geneva, have made me a committed participant in ongoing debates about the future of the international copyright framework. I continue to hold the view that copyright laws must remain powerful incentives for film creators to work, and for producers and distributors to engage in this economically high-risk activity.

Mexico provides a persuasive example of the value of a strong copyright framework: the case study on the making of the Mexican independent hit film *El Estudiante* throws both the creativity and the economic challenges of Mexican film into sharp relief. Its success shows there is a huge demand for quality films reflecting our own culture. The global success of our television series, an abundant source of export revenue, attests to the importance of a consistent international copyright framework to support the growth of international rights’ licensing. The Mexican government is committed to a strong copyright framework that both serves the public interest and protects the intellectual-property value of films and other forms of cultural expression.

We salute the publication of *Framing Dreams* as a useful and practical vade mecum to better understanding film’s use of copyright and its contribution to economic growth and social development.

*see page 42*
“Film as dream, film as music. No art passes our conscience in the way film does, and goes directly to our feelings, deep down into the dark rooms of our souls.”

**Ingmar Bergman**, Film Director.

“To make films, is to broadcast a message, communicate emotions, life itself. There is a kind of eternal quality to communicating in this way. It is an antidote to death.”

**Mahamat Saleh Haroun**, Film Director.

“I entirely recognise the importance of maintaining the economic entitlement which flows from intellectual property rights... Otherwise, over time and in a world of high-speed broadband connectivity, revenues will be substantially diminished, leading to an inevitable decline in the appetite for investment in new content.”

**David Puttnam**, Film Producer.
Film is art, industry and commerce.

Film is *art* because its eventual success depends on the success of film makers in converting intimate visions and narratives into images that can be shared.

Film is *industry* in that turning in a professionally-produced feature length film will require a large and disciplined cohort of consummate technicians and crafts people – up to 300 of them at times - organised much like any small or medium-size enterprises, and will cost more to make than almost any other forms of cultural expressions. And if film makers’ great visions aren’t matched by finance, they remain unrealised, unshared. It is industry also because, in countries where talent and resources are concentrated, film can make a significant contribution to GDP.

Film is *commerce* because the various ways in which the public is seduced into the cinema turnstiles, the film channel stop on the remote control or the “Play” click on the online cinema platform, require a consummate marketing and distribution infrastructure. It is commerce also because successful films which reach export markets can attract currency earnings from foreign rights’ sales and help boost other economic activities such as tourism.
This publication looks at how art, industry and commerce interact with each other in the various ways original films come to be made, distributed and enjoyed by all. It looks at what film producers have to do, the entrepreneurial risks they have to take, in order to offer the world's citizens and consumers a product like none other: a product that reflects the drama of their lives – or the lives of others past and present – a product that will mesmerise, amuse or infuriate them, engaging them with the world they live in.

Through a variety of case studies, this publication explores how copyright and related exclusive rights are vital to film creators, producers and distributors throughout the world, not merely as a means of exploiting the films, but as a powerful incentive to embark on the considerable economic risk involved in turning a creative vision into a finished film. We also look at the role played by copyright in giving a new lease of life to old films, a part of the world's rich cultural heritage, and how it supports the development of new legal and consumer-friendly platforms for distribution over the Internet.

The famous ritualistic call of “Lights, camera, action!” heard on film sets has come to symbolise the process of making films. These case studies seek to illustrate that for films to move from dream to reality, the call may as well be “Rights, camera, action!”

No rights, no risk-taking. No risk-taking, no films...
Otherwise mentioned, contemporary (2014 current value) exchange rates were used throughout this publication to supply US $ figures corresponding to film budgets made initially in other currencies.
Otele Burning

Conflict and change at the end of South Africa’s Apartheid.

There was a time – not so long ago – when South Africa’s brutal Apartheid regime extended to all aspects of life.

Take surfing. This was a sport assumed to be the preserve of the affluent white, with blacks denied access to most beaches. South African director Sara Blecher’s affirming film tells a tale of defiance during the dying days of Apartheid.

The year is 1989. Young Otele and a handful of his friends from a poor Durban township take to the beaches and – haltingly at first, then with increasing self-confidence – they compete, finding dignity and accomplishment in their mastery of the big waves along the stunning Kwazulu coastline. As the film reaches its fevered climax, news break: Nelson Mandela is a free man…

Otele Burning was a very personal vision for Sara Blecher and her executive producer Kevin Fleischer, both Durbanites. By the time Otele Burning was being developed and painstakingly financed, Sara had acquired a strong local reputation as an uncompromising documentary maker. Her award-winning Surfing Soweto (2010) took an unflinching look at the bereft and thrill-seeking lives of a forgotten generation of young Soweto residents. Sara brought to Otele Burning, her first fiction film, the commitment to reality which pervades her previous work as a documentarian.
“We workshoped the script for many months” – says Kevin Fleischer – “Sara wanted the actual feel of the local culture that these kids - many of them from gangs - had developed in those years, including their particular patois and the way they conducted themselves. They had a very direct input into the dialogue and narrative.”

South Africa boasts a sophisticated set of public sector mechanisms to support local film production. After an initial grant from the National Film & Video Foundation (NFVF) enabled the film makers to develop a fully-fleshed out script, they were able, little by little, to raise funds to cover the full production budget of US$1.3m, a high budget by average African standards. 43% of the financing was secured through a direct equity investment by NFVF, and additional cash-flow from South Africa’s tax rebate facility. A further 17% came from a private equity source. At this delicate juncture,
however, the film could not have been made, had it not been for the ability of the film makers to pre-sell rights in the film, by granting an exclusive license in a single deal to a local private sector broadcasting organization, against a financial contribution worth 40% of the budget. This contribution gave the broadcaster the exclusive right to programme the film on its channels for several years.

The financing of *Otelo Burning* thus illustrates the increasingly important role played by advance licenses of exclusive rights in the financing of a growing number of films made in Africa. The relatively small cinema infrastructure and widespread piracy in the African video market means opportunities for film producers to secure pre-sales for theatrical and video rights are scant. By contrast, commercial broadcasters, including national and pan-African satellite broadcasters, are gradually developing good infrastructures, strong cash-flow and good professional standards in the acquisition of rights to content offered by third parties and are becoming important in the pre-sales marketplace.

*Find out more about the genesis of *Otelo Burning* and its production history in the exclusive video interview with executive producer Kevin Fleischer in FIAPF’s *Framing Dreams DVD.**
THE WIND THAT SHAKES THE BARLEY

# ONE OF EUROPE’S MOST CELEBRATED FILM DIRECTORS REVISITS A PAINFUL HISTORICAL CONFLICT.

Ken Loach is one of Europe’s most celebrated film directors. In a career spanning over 50 years, he has shown himself to be creatively versatile whilst consistently exploring the core themes of social and political justice which unify his entire body of work.

The Wind That Shakes the Barley is a 2006 historical epic about the struggles of the Irish people to achieve independence from Great Britain in the late teens and early twenties of the past century. The frenzied and violent conflicts of these years were not just about shaking off the colonial yoke: as with most revolutions, internal strife ran deep, with many on the nationalist side disagreeing on what a free Irish republic would be about.

This conflict is dramatised in The Wind That Shakes The Barley through the increasingly fractious – and eventually tragic – relationship between two brothers: Damian and Teddy are idealistic young fighters enrolled in the war of independence on the side of the Irish Republican Army. However, as the conflict descends into civil war, the brothers end up on opposite sides.

“How do you make a historical epic on a low budget?” asks Loach’s producer of 25 years Rebecca O’Brien, somewhat rhetorically. Loach is known for his sparse and economical approach to film making. “Barley,” as the crew came to call
THE WIND THAT SHAKES THE BARLEY

A FILM DIRECTED BY KEN LOACH

SCREENPLAY BY PAUL LAVERTY

www.thewindthatshakesthesbarley.co.uk
it, was a departure from this format: in order to tell the story in a manner that did justice to the historical sweep and complexity of the times, Loach needed a bigger budget than usual.

“In the end, the film was made for just under £5 million (US$8.1m at 2006 rates)” says O’Brien. This was well over a third more than the median budget that Loach would usually have worked with.

To raise the sizeable budget, O’Brien and her colleagues were able to tap into public funds in the UK, Ireland, Germany, Spain and Italy. Over decades, Ken Loach has slowly built-up an audience of steadfast cinephiles in these countries, and there was no shortage of European production companies enthusiastic about helping access those funds as part of an official co-production agreement.

However, public funds and related public sector film financing facilities such as tax rebates would never have been
sufficient to close the budget for this ambitious film. O’Brien’s production company, Sixteen Films, opened an international sales subsidiary (Sixteen International Sales) and went round Europe pre-selling rights to the project to distributors in seven countries. This approach, which entails the licensing or assignment of exclusive rights, raised just under £1.5m, a large proportion of which was used to close the gap on Barley’s budget. Pre-sales included distributors and TV stations in France, Italy, Spain, Ireland, UK, Benelux and Switzerland.

“Pre-selling foreign rights to our projects plays a big part in our raising finance to make our films” – says O’Brien – “Ken and I have had wonderful opportunities to cultivate relationships with local distributors all over Europe over a long period of time; our partners understand and support his vision as a film maker. Their willingness to buy the rights for their respective territories before the project even goes into production makes it possible for us to finance the films independently. And it ensures that we achieve meaningful distribution in all the various countries where our partners operate. Rights are a key asset for us.”
“Pre-selling foreign rights to our projects plays a big part in our raising finance to make our films.”

Rebecca O’Brien, Producer,  
The Wind That Shakes The Barley.
*The Wind That Shakes The Barley* was both a critical and commercial success for Loach and O’Brien, in spite of the intense historical and political controversy the film predictably triggered in some quarters.

The film was selected to appear in the official competition of the Cannes Film Festival in 2006, where it won the prestigious Palme d’Or.
WINNER! MTV MOVIE AWARDS BEST AFRICAN MOVIE

"A SLICK, EXCITING CRIME THRILLER, DRIPTING WITH ATMOSPHERE."
Rogel Ebert
CHICAGO SUN TIMES

VIVA RIVA!

KINSHASA IS CALLING
VIVA RIVA!

# AFRICAN CINEMA UNBOUND.

Congo-born film director Djo Munga likes thrillers. He and his collaborators certainly got plenty of thrills when they embarked on the adventure of writing, financing and filming *Viva Riva*.

The film, a taut, tense African thriller, depicts a lovable rogue (the Riva of the title) as he charts a perilous course through Kinshasa’s colourful criminal underworld with cocky nonchalance and charm. This is the first full-length professional feature film to come out of the Democratic Republic of Congo in over 30 years. With no pre-existing film industry infrastructure and initially sceptical financiers, moving *Viva Riva* from script to screen was an epic struggle for Munga and his Belgian and French co-producers Michael Goldberg and Boris Van Gils.

From the outset, the three young film makers had high ambitions for the project “*I wanted] to find a new way to talk about life in Kinshasa today - to describe how my hometown works and how it doesn't work*” says Munga. This approach implied a commitment to realism in the depiction of contemporary Congolese urban culture and the film makers set out to recruit their cast exclusively from local acting talent, carrying out extensive auditions at an acting school in Kinshasa.

Pursuing their vision with dogged ambition, Van Gils, Goldberg and Munga eventually raised funds to cover the
financing plan of just under €2.4 million (US$3.3 m). An impressive achievement for any independent first film anywhere, it was all the more so considering the fact that this was the first film about - and with – Congolese characters in many decades.

The film was made as an international co-production between the DRC, Belgium and France. The nature of the project as both the first film of a young director and the first contemporary Congolese film, combined with the high cinematic ambitions, meant the film makers had to rely principally on support from government funds from France and Belgium, as well as some private investment from Congo, all of which eventually amounted to 48% of the budget. The organisation of African, Caribbean and Pacific countries (ACP) also contributed a significant soft loan to the project. Another key public sector contribution came from a tax relief scheme for film production in Belgium, with the co-producers reducing the cash budget by a further 10% by deferring their fees and production company expenses. This
left a significant gap which the film makers needed to fill in order to make their vision come true.

It is at this juncture that the ability of the film makers to utilise the copyright framework became a pivotal factor in successfully getting the project financed. They pitched the project to France’s Canal+, a pay-TV operator. The company offered to pre-buy an exclusive license for the exploitation of pay-TV rights in France and in some African territories (Canal+ operates a pan-African service for the francophone market). This pre-sale of strategic rights, combined with a smaller ‘second window’ negotiated with a specialised ‘niche’ French pay-TV broadcaster (Ciné Cinéma), brought just over one fifth of the budget and effectively enabled the film to move to production.

*Viva Riva!* illustrates the strategic importance of intellectual property rights in financing and internationally distributing feature films from emergent economies. It is also emblematic of the new dynamism of a contemporary African cinema and its film-makers, whose entrepreneurial drive and
“I hope that this film will be a convincing argument that we can make it as a society.”

Djo Munga, Director,
*Viva Riva!*
creativity can be turned into a key asset for economic, social and cultural development.

Djo Munga is conscious of this potential and his ambition, more than ever, is to participate fully in fostering a cinema of Africa with universal appeal and made to international standards: “I hope, especially for young people coming up, that this film will be a convincing argument that we can make it as a society – and that Cinema can be part of our lives.”
A LIFE-AFFIRMING FILM LIGHTS UP A BEACON OF HOPE IN A CONFLICT-TORN COUNTRY.

Caramel, a first film by Lebanese actress-turned-director Nadine Labaki, was a three-year labour of love.

This low-key story of a group of women working at a hair salon in Lebanon’s capital Beirut is a spirited affirmation of hope over the ever-present threat of internecine feuds and regional conflict. Shooting on this €1.3 million film (US$1.76m) finished only days before conflict with neighbouring Israel broke out in July 2006.

As is so often the case with independent films made all over the world, Caramel was made possible by the creative energy generated by one encounter: Nadine Labaki, having been selected by the Résidence du Festival de Cannes programme to be financially supported in writing her script, presented a finished draft to French film producer Anne Dominique Toussaint of Les Films des Tournelles. Anne Dominique had met Nadine while on a trip to Beirut in 2003 and encouraged her to move towards feature films – Nadine was already a respected director of advertisements and music videos.

The delivery of the finished script in 2005 began what Anne Dominique described as the “obstacle course” that characterises all creatively driven independent production. This was to be a first film, in the Arab language, and with no known stars or at least, none of international repute.
Caramel

(au film de NADINE LABAKI)
Two developing world-oriented public bodies granted the project a soft loan representing only about 10% of the €1.3 m budget. Beyond that point, Anne Dominique became almost entirely reliant on using exclusive rights strategically to raise the balance from operators in the commercial marketplace.

On a fundraising trip to Beirut, the producer pre-sold all exclusive rights to cinema and DVD exploitation in the Middle East to Saban Media, an experienced pan-Arab distributor. This licensing fee was US$130,000. Another deal with pan-Arab satellite broadcaster for exclusive multi-territorial broadcasting of the finished film brought in another US$500,000 towards financing the production.

At this point, the producer took an entrepreneurial risk by taking the film into production with the financing yet to be secured for the balance of the budget. Using bank loans and with colleagues and herself deferring their own fees, she had enough to take the film through production but would need to persuade other potential licensees to pre-buy other rights.
while the film was shooting, so as to be able to pay for *Caramel*’s post-production and completion. This cliff-hanger situation is frequent for independent film companies – the ability to trade on rights on an unfinished project in order to secure its completion is therefore absolutely strategic.

While production started, the Paris-based international film sales agent Roissy Films signed a contract to contribute €300,000 (approx. US$400,000) to the film as a co-producer and against a mandate to sell the rights to the film worldwide.

Local film distributor Bac Films soon pitched in with a further €200,000 (approx. US$270,000) minimum-guarantee against exclusive distribution rights for France in cinemas and the home entertainment market. Finally, the Franco-German cultural broadcaster ARTE signed for €150,000 (approx. US$200,000), mostly against the exclusive rights to broadcast the film on its service in Germany and France. “Pre-selling rights to my projects allows me to raise more funds and to give directors more freedom to express their creative vision,” reflects Toussaint.

After finishing production, *Caramel* was selected to be presented at the 2007 Cannes Film Festival’s prestigious Directors’ Fortnight. The film was an instant hit with the Festival’s audiences, attracting rave reviews and drawing the attention of distributors in countries where rights had yet to be sold. By the end of the festival, sales of rights had been closed by Roissy Films for most of the world. *Caramel* went on to be a success in the cinemas in Italy, Spain, France, Lebanon, the United States and many other countries.
“Pre-selling exclusive rights to my projects allows me to raise more funds and to give directors more freedom to express their creative vision.”

Anne Dominique Toussaint, Producer, Caramel.
The story of the making of *Caramel* demonstrates the power of film to project an entire culture to the rest of the world and occasionally challenge clichés and prejudices about a culture. As war tore once more through Lebanon, this courageous film reminded the world of the Lebanese people’s longing for freedom from strife and conflict and celebrated the stoical and joyful side of their culture.
KIRIKOU ET LA SORCIÈRE
un film de MICHEL OCELOT
musique originale de YOUSOU N'DOUR
Kirikou and the Sorceress

African and European myths meet and merge in a stunning work of cultural hybridity.

French-born animated feature creator and director Michel Ocelot says his African childhood had a profound and lasting impact on his imagination.

Ocelot was already a seasoned animator when, in 1998, he completed and released a feature-length labour of love entitled Kirikou and The Sorceress. With this one film, the visionary director went from relative obscurity to worldwide fame, as the film became a global critical and commercial success.

At a time when the international community is exploring the possibility of endowing indigenous populations with rights to original cultural expressions, Ocelot’s creative process in the genesis of Kirikou and The Sorceress offers a captivating example of how complex and culturally hybrid film writing and film-making are, and how important creative freedom is.

“I drew my initial inspiration from a Western African folk tale” – Ocelot reflects – “it had probably emerged from centuries of oral village story-telling tradition and there were various versions of the same story floating around.”

This particular tale had found its way into the written word through the efforts of a French colonial-era administrator,
taking it upon himself to record and preserve this precious cultural resource.

Kirikou and The Sorceress begins with a memorable sequence. A little voice comes from the belly of a pregnant woman: “Mother, bring me into the world!” to which she calmly retorts: “A child who speaks to his mother from the womb can give birth to himself.” Whereupon, young Kirikou appears, effortlessly, into the world, ready to work his wonders.

Further on, the tiny hero confronts the beautiful but malevolent Karaba, a sorceress who holds the boy’s village community under a reign of terror and reprisals. “Up until this point, my story was faithful to the African tale,” says Ocelot. “Beyond it, other narrative traditions and my own imagination and free association began to take over.”

As a Western European raised in Africa, Ocelot is
comfortable borrowing equally from both worlds. The original African tale does not dwell on the infancy of the hero who soon mutates into a mighty warrior, endowed with magical powers. Ocelot kept the poetic opening idea, that of a valiant new-born baby who confronts the sorceress and serves his community. In the original tale, the baby, now turned adult warrior, kills the sorceress. On the very first reading, Ocelot knew immediately he wanted a different ending.

Hence, Ocelot’s Kirikou asked the question that traditional tales usually prefer not to raise: “Why is the sorceress wicked?” The answer, in Ocelot’s contemporary iteration of the tale, is that her wickedness stems from the deep emotional wounds she suffered at the hands of the men who violated her. Ocelot came up with the powerful idea of the poisonous thorn wedged in Karaba’s spine to symbolize the constant suffering that plagues victims of sexual violence. The film maker also added the wise grandfather, a mythic trope found all over the world. For the look of the “fetishes” who guard the sorceress, he borrowed from African art. For aspects of the tale, he resorted once again to European folk
“In order to create outstanding work, we film makers need to be able to draw freely from the oldest stories and forms - folk tales and fairy tales belong to all humanity, not to anyone in particular. And today, WE are the storytellers.”

Michel Ocelot, Author-Director, *Kirikou And The Sorceress.*
tale tradition, such as the fountain monster gorging on the water, and the kiss which transmutes the heroic baby into a full grown adult hero, able to marry Karaba and redeem her wound.

The creative genesis of Kirikou is the story of the cultural hybridity which increasingly characterises the creative process in this century of globalisation. “In order to create outstanding work, we film makers need to be able to draw freely from the oldest stories and forms - folk tales and fairy tales belong to all humanity, not to anyone in particular, and they are constantly modified as individual creators like myself enrich them with our own imagination,” reflects Ocelot. The universal appeal of the Kirikou films also attests to the fact that such hybridity is an asset in the dissemination of culture.
El Estudiante is a film brimming with joy and optimism.

When it came out in 2009, this tender and unassuming film went right against the grain of contemporary independent Mexican films, many of which were filled with a brand of violence and anxiety reflective of the country’s struggles with the criminal underworld and their impact on the fabric of Mexican society and polity.

In sharp contrast, El Estudiante tells the simple story of a warm-hearted older man who, having reached retirement age, decides to become a student again. The film explores the generational shock that ensues, with both comic and tragic overtones. “This old guy goes back to school and, through literary classics – especially Cervantes’ Don Quixote – he builds bridges that unify both generations,” says Roberto Girault, who co-wrote, produced and directed El Estudiante with his business and creative partner Gaston Pavlovich.

Perhaps El Estudiante provided an emotional antidote the Mexican public did not know it needed until the film appeared in the cinemas. At that time, no one – including film makers themselves – expected it to become the most successful independent Mexican film ever in its own home market.

After a slow start, this first film by a first time feature
el estudiante
el corazón no se cansa de aprender
director, based on an unsolicited script, gathered a strong popular word-of-mouth. It ended its run in Mexico’s cinemas with a record-breaking one million tickets sold. Two years later, four million people tuned in for the film’s broadcast television premiere, breaking another record for a Mexican film.

*El Estudiante* was a critical and commercial triumph. It is all the more surprising, therefore, to learn from its maker that it was not economically successful.

Why not? At around Mxn 24 million (US$1.85 m), the budget for *El Estudiante* had been substantial but certainly not extravagant: most of it had been covered through private investment and Mexico’s recently-introduced tax relief facility for film; and wasn’t *El Estudiante*’s success in the cinemas guaranteed to trigger strong sales when the film reached the DVD shelves?
“By normal Mexican film standards, the film did very well in DVD,” says Girault, “it sold 150 000 legitimate copies.” However, as with any successful film, foreign or domestic, the number of DVDs copied and sold illegally exceeded that figure several fold. “Our distributor has estimated that without piracy, we would have been on course to sell about 700 000 legal copies of the film,” recalls Girault, “that would have returned enough money to reward our investors and would have left us enough to pay for development costs on the next script and maybe half of production costs on the next movie.”

Like many other independent film entrepreneurs around the world, Girault finds it enormously frustrating that his efforts at making popular cinema are being undermined by pandemic levels of piracy, which make it very difficult for many smaller film companies to achieve economic sustainability. He and others in his generation of young film makers see the potential for film to contribute more fully to economic and social development.
“Respect for the laws and technologies that protect the rights of creators is essential for the continuance of their work, and for transmitting a legacy from one generation to the next.”

Roberto Girault, Writer, producer & director, El Estudiante.
Beyond the economic issue, the film maker also sees respect for copyright as an essential prerequisite for original cultural expression to survive and thrive: “Respect for the laws and technologies that protect the rights of creators is essential for the continuance of their work and for transmitting a legacy from one generation to the next,” Girault concludes. The story of *El Estudiante* illustrates the strategic importance for film makers to be able to create, produce and release films with a reasonable and fair expectation of financial returns. These revenues are meant to enable them to meet the material and economic conditions necessary to turn new ideas into scripts and new scripts into films that will express, reflect and celebrate a culture in all its diversity.

# Find out more about the genesis of *El Estudiante* and its production history in the exclusive video interview with director and producer Roberto Girault in FIAPF’s *Framing Dreams DVD*. 

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SHAW BUSINESS

# HOW THE LARGEST ARCHIVE OF ASIAN FILMS GOT A NEW LEASE OF LIFE IN THE DIGITAL AGE.

Sir Run Run Shaw, a.k.a “Citizen Shaw,” who passed away in January 2014, was one of the most towering figures in the history of the film medium. His fame and influence earned him a place alongside the larger-than-life moguls of the Hollywood studio era such as Louis B. Mayer or the Warner Brothers. In over 60 years of a scintillating career as Asia’s predominant film producer, he outperformed them all.

By the time it morphed into a television business and ceased to be a major production studio, the company he’d founded with his brother Runme in Hong Kong in 1958 had over 1,000 films to its credit. At its peak, Shaw Brothers, with its iconic logo of an “S” and “B” cast against a blue background bordered by a golden thread, produced over 50 films annually, most of them from its legendary Shaw Movietown studio in Hong Kong’s Clearwater Bay, which employed a 1,200 strong workforce and became the largest privately-owned film production infrastructure in the world.

Often erroneously dismissed as a low-cost “kung Fu” genre factory for the South East’s Chinese working class diaspora, Shaw Brothers turned in an astonishingly bold, diverse and innovative crop of films over its three decades as the most prolific film studio in the world. Its prodigious output included not only some of the most kinetic and inventive martial arts films ever made (SB singlehandedly redefined and revitalised the genre in the mid-1960s), but also a vast
array of lavish historical dramas, comedies and even soft core erotica. The influence of the Shaw Brothers’ house style on film makers the world over has been both pervasive and long lasting: the celebrated US film maker Quentin Tarantino paid direct tribute to the Shaw Brothers’ martial arts’ movies in his successful two-part tribute Kill Bill.

Shaw Brothers films took considerable advantage of the first boom in home entertainment led by the VHS video. This period, however, coincided with the company’s eclipse and its final mutation into a television media operation, with production activities going into a historic decline.

By the mid-nineties, the digital revolution had arrived, with the DVD digital format giving genre aficionados the world over a new, high quality home entertainment medium on which to enjoy both new films and old classics. In 2001, Celestial Pictures, a young Asian film company, bought extensive worldwide rights to 760 titles in the vast Shaw Brothers back-catalogue. With the explosion of DVD and the rise of broadband Internet, Celestial saw a considerable untapped potential to serve the cultural tastes and interests of admirers of these classic Asian films the world over. In order to do so successfully, they faced a considerable economic risk. Reportedly, the cost of restoration of the SB catalogue was around US$75 million, which suggests an average of just under US$100,000 per title.

Re-releases for the digital market involve the painstaking restoration of the films’ original negatives, high-grade digital re-mastering and state-of-the-art BluRay transfer. The average cost of re-mastering alone is between US$25,000 and US$35,000 per film. Converting back-catalogues to digital is an expensive business.
In order to offset this huge investment, Celestial set to work on licensing distribution rights to the restored library titles to foreign distributors throughout the world. In this context, the copyright attached to the Shaw Brothers catalogue proved to be a pivotal asset to help attract financial, technological and marketing investments from third parties to give a new (digital) birth to those productions that made *Shaw Brothers* a legendary catalogue.

Celestial’s strategy drew – amongst many others – the attention of a young distribution start-up in the French market, Wild Side Video. Its CEO, Manuel Chiche, a self-confessed die-hard cinéphile, saw the strategic bid for French rights to the *Shaw Brothers* catalogue as foundational for the new company. At a meeting during the Cannes Film Festival in May 2003, the young distributor signed a deal for the exclusive distribution of 46 *Shaw Brothers* titles in France. In the same year, Celestial also negotiated a North American distribution rights license to Miramax Films.
For the newly-restored films carefully selected by Wild Side for the French market, the work did not end with the acquisition of local distribution rights. Wild Side understood the need to add value to the product in order to fully capture the specialised market for such films. At significant additional costs to itself (and with Celestial’s approval), Wild Side made some additional qualitative changes to the masters, ensuring in each case that the films would be released in their intended original format. For the first time since the films had been released in cinemas as far back as the 1950s, consumers would rediscover them in the spectacular ‘Shaw Vision’ widescreen format in which they had been framed and shot. The films were also shown in their integral version and new special features were produced specially for the DVD release. They included a detailed 52 minutes feature documentary on the history of the Shaw Brothers studio. “In order to be culturally meaningful, making old films available online to the consumer is not a simple case of paying for a digital master. We need to do a lot more for our type of consumers,” reflects Manuel Chiche.

The strategy proved successful, with the most popular title, The 36th Chamber of Shaolin – a film made in 1978 – shipping an astonishing 18,383 units of DVD in its first year in the stores. Wild Side was able to afford high-end DVD releases for the cinephile market thanks to its parallel success in selling broadcast rights to pay-TV channels in France. Since this initial re-launch,
Wild Side has also taken advantage of the rise in broadband Internet VoD platforms, where the films have been successfully licensed in a series of non-exclusive agreements.

The **Shaw Brothers / Celestial Pictures** story and, latterly, the remarkable work of committed local distributors such as France’s Wild Side, demonstrate how financially challenging, complex and layered the digital roll-out of back-catalogues actually is. In this case, the company had to design a business strategy that would deliver a virtuous chain of cross-promotional effects: the newly restored films help re-launch the brand through costly high-end DVD (and now BluRay) re-releases of the most successful older titles (e.g. *The 36th Chamber of Shaolin*). This initial re-branding may then be extended to the launch of one or several branded online platforms (e.g. a dedicated YouTube channel, an iTunes package). Just making content available online will not enable film companies to sustain their business. In the online universe, the new gold is the broadband user’s
“In order to be culturally meaningful, making old films available online to the consumer is not a simple case of paying for a digital master.”

limited attention and time and capturing this attention is a skilled and costly business.

Echoing Manuel Chiche, in order to be culturally and economically meaningful, making old films available online to the consumer is not a simple case of paying for a digital master. It requires indeed deploying costly, integrated commercial strategies designed to create awareness and the consumer’s desire to choose this product over another.

The key incentive in film companies taking such high risks is contained in copyright and the exclusive rights related to copyright. Exclusive rights protect the long term value of film companies’ back-catalogues. They encourage film companies to use the opportunities arising from technological change in order to maximise the return on the value of those rights and satisfy rising consumer demand for content – old and new – anytime, anywhere.
A dynamic video-on-demand platform offers new online opportunities for Nigeria’s Nollywood.

Jason Njoku is a consummate entrepreneur. Born in London to a Nigerian family, he spent the first few years after university launching various ventures, including a clothing retail business and a student magazine. Although these were unsuccessful, they helped sharpen his business acumen.

Success finally came when Jason launched Nollywood Love back in 2005. This Internet channel was one of the first to brand Nollywood films in this new form of online distribution. The Internet channel proved an immediate hit on the Google-owned You Tube site, attracting a large base of users from all over the African diaspora. Whilst Jason’s business now centres around its owner-operated streaming website, iROKOtv, Nollywood Love remains a successful product, bringing healthy figures from the share-out of advertising revenue with YouTube.

The idea behind what was to become iROKOtv came from Jason’s identifying a business opportunity that was very close to home: while trying to satisfy his mother’s growing appetite for Nollywood fare, he discovered that most of these films, though mostly unavailable in DVD in the UK, were all over the Internet. Without exception, the films available for streaming or download were of disastrously poor quality and invariably pirated.

Jason’s age (early thirties) and his educational background
made him the prototype of the hyper-agile digital native. After visiting the Alaba Market in Lagos, and developing connections with Nollywood film producers and marketers, Jason started the original online Nollywood Love business from his mother’s flat in London.

From the start, the Nollywood Love business ethos involved the legitimate acquisition of rights for worldwide Internet use.
For the first time, Nollywood producers could count on those highly strategic rights being respected and payment being forthcoming for their exploitation.

By 2013, the iROKOtv vaults held some 5,000 films made in Nigeria, reportedly the largest catalogue of online rights for such films in the world. The basic service is advertiser-supported and is free to the consumers, who may stream directly from the site without payment. In 2012, iROKOtv launched iROKOtv PLUS, its first subscription premium service, where users will find the most recently released films from Nollywood. iROKOtv Extras is a free add-on service designed to satisfy users’ appetite for “making-of” featurettes about their favourite films, glimpses into Nollywood stars’ lifestyles, etc.

iROKOtv claims that traffic on its site reaches an average of 1 million unique visits per month. Although users are logging on to this over-the-top platform from 178 countries, the majority of iROKOtv consumers to date have been from the Nigerian and broader African diasporas in the United States and Great Britain.

The most significant challenge ahead for the platform is how to position itself to take full advantage of the deployment of broadband Internet in Africa. Currently, broadband infrastructure in Nollywood’s home, Nigeria, barely reaches 6% of the population. However, the country’s high growth and recent progress in infrastructure development bode well for the future. Mobile telephony also has immense potential for audiovisual content aggregators, with some 700 million mobile devices currently in use in Africa, for a population of just over 1 billion.
“Piracy dries out film creation; legal platforms can give consumers a quality experience and support film makers by acquiring rights to their works.”

**Jason Njoku**, Founder and CEO, **iROKOtv**.
Jason believes the development of best practices in the acquisition of Internet rights is in the mutual interest of both films producers and the new Internet platforms: “The potential for a legal online market for films from Africa is huge. Legal platforms can give consumers a quality experience and support film makers by acquiring rights to their works – this works to our mutual benefit as a platform like iROKOtv is dependent on new, good quality films being produced in order to stay in business. Piracy dries out film creation; we’re in the business of shoring it up.”

iROKOtv is not the only Internet film distribution platform taking advantage of the rising demand for Nollywood films all over Africa and in the 30 million strong diaspora market. Rising levels of competition from other legal platforms are a positive development. If combined with strong enforcement measures, they may in time create a stronger legal market for rights in African films.
THE END...?

Every movie must end. The work of the film producer, however, never does...

Almost always the first into a new project, the producer is invariably the last to leave it, having had to take the film from a single original idea, a book, a play or – indeed - an old film, to a workable script, then a finished film. In doing so, he/she will have engaged with, and federated, the talent and expertise of many others, thus demonstrating the full extent to which film creation is a collective enterprise. Beyond that point, the producer’s job isn’t over: he/she ensures that pathways to the consumer are cleared, by delivering the film to sales agents, distributors and platforms with their myriad of respective requirements for materials and documentation. The producer is a key catalyst in helping secure distribution on all media/platforms in territories not covered by the pre-sales that contributed at the pre-financing stage to make the film a reality. The success of a film hinges on these efforts to obtain the widest possible dissemination and – hopefully - secure a return on the hefty investments professional film requires.

Throughout all these key stages in this high-risk business, the copyright framework provides the legal bedrock on which most transactions depend, and underpins the economic value of the work. Copyright was essential to the
age of film distribution in analogue media; it remains essential to its dissemination on the diverse linear and non-linear communication platforms available to today’s consumer. The work of the Nigerian film platform iROKOtv, profiled above, demonstrates the growing importance of online/on-demand platforms in providing flexible access to filmed content, and the attendant importance of a supportive copyright framework adapted to the growth of on-demand consumption.

FIAPF hopes *Framing Dreams* will have given you, the reader, a vivid sense of the practical ways in which film makers and producers all over the world utilise the copyright framework not only to disseminate finished films but also to attract financing upstream of production in order to make it possible to turn a creative vision into a popular film and serve the growing demand of the consumer for a wide diversity of quality filmed entertainment.

We hope *Framing Dreams* also provided useful glimpses into the culturally important work undertaken by film companies – often in collaborative partnerships with the public sector – in restoring old films and making them available to the public in new high-quality digital products. This, too, is a risky business.

We would like to invite the reader to also discover the video interviews with five accomplished film producers from throughout the world, which FIAPF has compiled in the *Framing Dreams DVD*. In addition to Otelo Burning’s Kevin Fleischer and El Estudiante’s Roberto Girault, the DVD includes interviews with Argentinian film producer Luis Alberto Scalella, Brazilian TV drama producer Ricardo Rangel and Nigerian producer/director Kunle Afolayan.
Finally, we would like to encourage the reader to contact us at FIAPF with any queries or contributions on the importance of copyright to the present and future of film as one of the world’s most popular creative art forms.
FIAPF wishes to thank Olivier Delahaye, all the producers, directors and distributors quoted in the stories inserted in *Framing Dreams*, for their passion and ongoing commitment to the film community, as well as the *Independent Film and Television Alliance* for its generous consent to having some articles reproduced in *Framing Dreams* and its contribution to the original concept.

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