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Copyright Doctrine, Weak Appropriability Regimes, and Bollywood Cultural Creator Strategic Management

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ABSTRACT

A debate about law, economics, and culture has been taking place regarding cultural product creation and distribution and the ideal appropriability regime. India has a weak appropriability regime for cultural creators because Indian courts make copyright infringement difficult to demonstrate owing to how they define similarity and derivative rights and the Indian state poorly enforces copyrights against piracy. India produces 1000 films every year, so it appears to be a model of success. But, Bollywood filmmakers are influenced by their weak appropriability regime: Most filmmakers follow a familiar formula—a simple story, animated by colorful dance and buoyant music with modest production values, completed in a few weeks. Top-grossing Bollywood producers keep the budgets and production schedules of capable directors aligned with realistic creative visions, invest in "bankable" star-actors, manage product portfolios, and organize flexibly with networks of service providers to mitigate risks. The study advances legal scholarship by arguing that copyright doctrine should emphasize the incentive role of investment into quality and by applying a strategic management analytic framework.

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INTRODUCTION

A debate about law, economics, and culture has been taking place regarding cultural product creation and distribution and the ideal appropriability regime. Cultural creators will produce new works owing to innate desires of self-expression, but they will create more works when governments intervene with the enforcement of copyright laws (Plant, 1934). From a law and economics perspective, cultural creators share with technology innovators the distinctive economics of the knowledge appropriability problem: Product development is expensive; production and distribution tend to be comparatively inexpensive; potential investors and competitors consider the strategic implications (Landes and Posner, 1989). Copyright protection incents creators to produce cultural products by allowing them to recover their costs of creation when otherwise their work will be bid down to the marginal cost of copying. An econometric model showed that copyrights promote social surplus by incenting more works (Johnson, 1985).

Professor, later Justice, Stephen Breyer (1970), however, argued that the self-expression desire and evidence from the book publishing business renders the case for copyright “uneasy.” Professor/Justice Breyer’s “unease” with copyright law continues to this day to be shared by students of law, economics, and culture. It has been argued that many potential cultural creators lack social power and that copyright law and its enforcement reinforce their powerlessness in the cultural expression marketplace (Aoki, 1996; Chander and Sunder, 2007). Cultural minorities and women especially need protection in the marketplace from the copyright law-sanctioned control of cultural expression by cultural majorities and men. The socially power-less need an appropriability regime—a weak appropriability regime--that encourages free entry into the cultural marketplace. Developing country creators, it has been argued, share with cultural minorities and women in the United States a need for broad defenses to ensure social meaning in the cultural product marketplace is not controlled by the haves. The Indian creator of *Harry Potter in Kolkata* is an example, they say. J.K. Rowling, the author of the *Harry Potter* book series claims derivative rights. "*Harry Potter in Kolkata* was quickly pulled. Indian lawyers for Rowling and Warner Brothers issued a cease-and-desist letter to the 'pirate' work's Indian publisher, which quickly complied" (Chander and Sunder, 2007:611).

The poet Virginia Woolf (1929:25; 108) was not taking up the great copyright law appropriability regime debate when she asked, "Why was one sex so prosperous and the other so poor? What effect was poverty on fiction? What conditions are necessary for the creation of works of art?" nor when she answered, "Intellectual freedom depends upon material things. …[W]omen have always been poor, not for two hundred years merely, but from the beginnings of time. …Women, then, have had a dog's chance of writing poetry. That is why I have laid so much stress on money and a room of one's own." Her "cultural creator room of one's own thesis" contends that the lack of social power leads to a lack of economic capability to produce cultural products. She may be compensated for her cultural product creation when there is a strong appropriability regime or subsidized to create cultural products when there is a weak appropriability regime, but, either way, cultural creativity depends on the appropriability regime and other socio-economic institutions. She *wants* time in a room of her own as a matter of self-expression; she *needs* time in a room of her own as a matter of cultural product creation.

The law and economics perspective on copyright doctrine has recently drawn from industrial organization economics to argue that copyrights encourage entry of differentiated products through implementation in law of the idea-expression dichotomy (Yoo, 2004). If the copyright under law covers only *original expressions* of ideas, but not the underlying ideas, under a relatively low threshold of "originality," then, since there are lots of original ways to express ideas, the appropriability regime will encourage, not inhibit, cultural product creation (Landes and Posner, 1989). Copyright infringement rules about similarity define the appropriability rule for cultural creators. It has been argued that U.S. federal appeals court Judge Frank in the dispute between composers Ira Arnstein and Cole Porter in 1946 provided the clearest analytic framework when he explained that "improper appropriation" should be determined by inquiring whether the accused infringer had access to the plaintiff's work, i.e, seen or heard it, and how similar—"substantially similar"--the second work was to the first (Latman, 1990). The similarity test regarding copyright infringement is fundamental to the real meaning of the appropriability regime for cultural creators. An industrial organization-product differentiation analysis suggests that copyright laws may influence cultural product differentiation by discouraging excessive similar-work entry and congestion (Abramowicz, 2004). That is, *more* cultural product creation may not be the only measure of interest to law, economics, and culture studies. Law, economics, and culture studies may actually value *differentiation* among cultural products rather than merely *more* cultural products.

The grant of copyright to all derivative works from the original work provides an incentive to the originator to create new works that owe to the original but express something new, it has been argued (Goldstein, 1983). The contrary argument has been made often in legal scholarship and commentary that *no or limited* derivative work rights provide *more* incentives to subsequent cultural creators through free entry and that derivative rights actually discourage cultural product creation. In response, it has been argued that derivative rights incent original work copyright owners to produce *quality* derived works lest the value of their original be reduced by haste into the marketplace with sequels (Abramowicz, 2005-2006). An appropriability regime without derivative rights, so it follows, encourages haste into the cultural product marketplace with similar derivative entries. Quality of the cultural product marketplace suffers. *Investment into cultural product quality* should receive more scrutiny in debates about the ideal appropriability regime for cultural creators.

Legal studies regarding the ideal appropriability regime for cultural creators mostly debate within the confines of the American cultural product marketplace, despite an occasional anecdote about *Harry Potter in Kolkata.* The debate will be clarified through study of the decisive case of the emerging economy cultural product film and television marketplace in India. This study focuses in India on Bollywood cultural creators, the film and television businesses clustered in Mumbai (formerly known as Bombay and, thus, the linguistic origin of "Bollywood"). India is geographically large and culturally diverse, so film and television production is clustered in several major cities of India, but the Bollywood cluster is the country's largest by far. We consulted the annual industry report from the Federation of Indian Chambers of Commerce and Industry (FICCI) and KPMG. We gathered evidence from Bollywood sources regarding top-grossing films, actors, directors, and producers over the period 1970-2009.[1] We studied patterns of American "Oscar" Academy Awards and British BAFTA Awards for best

[1] Sources include boxofficeindia.com, Indiainfo, Internet Movie Database, chandrakantha.com, and planetbollywood.com.

foreign films. We carried out case studies of marketplace successful figures in Bollywood, including a superstar film and television actor (Amitabh Bachchan) and a seminal director (Yash Raj Chopra) in order to learn about Bollywood cultural creator strategies. We carried out case studies of leading Bollywood producers, including a maverick filmmaker (Bobby Bedi), a film hit-maker (Aditya Chopra), and a television hit-maker (Sanjiv Sharma).

This study follows recent approaches in law and economics by drawing from industrial organization economics, but advances legal scholarship by applying strategic management studies analyses and findings regarding American and British film and television marketplaces to the study of Bollywood cultural creators. In summary, it is argued here that India has a weak appropriability regime for cultural creators because Indian courts make copyright infringement difficult to demonstrate owing to how they define similarity and derivative rights and the Indian state poorly enforces copyrights against piracy. Pirates steal the celluloid prints of Bollywood films before they even get to the movie theaters; pirates hold cameras in the movie theaters on release night so they can sell the recording for subsequent theater distribution and illicit DVD distributors, and thousands of cable operator are unlicensed pirates. Nevertheless, Indian filmmakers produce some 1000 movies a year, a number twice that of Hollywood in the United States (FICCI-KPMG, 2010:63). The weak Indian appropriability regime produces *more* films, but at cost to *investment into film quality*. Copyright doctrine should emphasize the incentive role of investment into quality. Top-grossing Bollywood producers keep the budgets and production schedules of capable directors aligned with realistic creative visions, invest in “bankable” star-actors, manage product portfolios, and organize flexibly with networks of service providers to mitigate risks, thereby converging with the strategies of Hollywood. Cultural studies regarding film in India and in other developing countries are discussed through the lens of the analytic framework. Implications for legal studies conclude the paper.

AMERICAN AND BRITISH FILM AND TELEVISION STRATEGIES

Film and Television Growth, Risk, and Network Organization Strategies

Film production came to be clustered in the United States in Los Angeles because of the dependably warm dry weather that enabled year-round production schedules. Film studios arose to entertain an emerging American middle class: "A good-sized town like Toledo, Ohio, boasted forty-five movie theaters with an average seating capacity of 811…. Of the town's total seating capacity of 55,132, the fourteen largest theaters accounted for 20,000 seats. …Attendance in Toledo averaged 45,000 per day for a six-reel show, at a price ranging from seven to thirty-nine cents with fifteen cents the average. The six downtown theaters alone drew 75,000 patrons per week" (Koszarski, 1990:12).

> Unfortunately, we have better information on the location of theaters and the makeup of theater programs than on the audiences who patronized them. …Who were these people? …[T]his audience was fairly young. …[F]orty percent of their audiences were males above seventeen, 35% were females above seventeen, and 25 percent were children under seventeen. …Harold Corey, writing in *Everybody's Magazine,* claimed, "The backbone of today's business is the attendance of young people from seventeen to twenty-three years of age. At twenty-three other interests develop" (Koszarski, 1990:26).

Hollwood, as an entertainment industry, has always been about providing an attractive product for leisure time and the basic logics apply "wherever large middle-class populations emerge" (Vogel, 2007:9). "Over the longer term, the demand for leisure goods and services can also be significantly affected by changes in the relative growth of different age cohorts. …[P]eople under the age of 30 are the most avid moviegoers. Accordingly, a large increase in births following World War II created, in the 1960s and 1970s, a market highly receptive to movie… products" (Vogel, 2007:13). Hollywood growth strategies depended during the 20th century on prospering youth generations; American filmmakers thrived in demographics of growing young middle classes.

Technology innovators invented film as a popular medium of entertainment in the late 1890s and early 1900s. They brought manufacturer mind-sets to the business of filmmaking so that they made "short commodities" (Jones, 2001). Then William Fox encouraged the American government to bring an antitrust law suit against Thomas Edison and the others of the Motion Picture Patents Corporation. A film content era emerged so that filmmaking became about the creativity of the product. The feature-length film "allowed for innovations in story line and character development that were not afforded by short films. What ensued was a golden era of theme development that witnessed the emergence of many of the filmmaking genres that still exist in the industry today, such as science fiction, western, horror, and mystery" (Mezias and Mezias, 2000:310). Specialist-firm filmmakers arose in the 1920s, introducing creativity in new film products that dominated the early years of the Academy Award Oscars and engaged movie theater consumers with entertainment experience. Relatively low entry barriers to feature filmmaking and distribution through movie theaters being built in cities across America during the era fomented tremendous film entrepreneurship (Mezias and Kuperman, 2000). "To understand cultural industries, it is necessary to begin with their key distinguishing characteristic—the non-utilitarian nature of their goods. …Cultural goods are experiential goods.

They derive their value from subjective experiences that rely heavily on using symbols in order to manipulate perception and emotion" (Lampel, Lant, and Shamsie, 2000:264).

"A more appealing pitch to investors would be hard to find. Many people imagine that nothing could be more fun and potentially more lucrative than making movies. …In fact, of any ten major theatrical films produced, on the average, six or seven may be broadly characterized as unprofitable and one might break even" (Vogel, 2007:65). A couple of hit films and the occasional "blockbuster" are made among any ten that appear in the movie theaters. These product risk characteristics combined with increasing movie theater distribution control and relatively large capital requirements to distribute and market in a national marketplace explain the emergence and consolidation of the major Hollywood studios by the middle of the 1930s (Miller and Shamsie, 1996). The big studios--Columbia, Twentieth Century Fox, Universal, and Warner Brothers—arose during the era; Disney innovated the industry with his animation technique in the 1920s, leveraging growing demand for children's and family-fare movies into a major film production and distribution studio to join the other big studios that have dominated American film distribution into the 21st century. American film and television producers sustain themselves over time through risk-mitigating product portfolios.

Technology innovations in the 1950s and 1960s such as color films, stereophonic sound, and wide screens improved the consumer experience, but broadcast television and the antitrust challenge that resulted in the loss of control of movie theaters blew up the "studio system" of studio control of directors and stars through long-term contracts and stable product development (Miller and Shamsie, 1996). The studios disaggregated production in the 1960s because, as a matter of transaction cost economics, independent films were less costly than internally-produced films and, as a matter of innovation, independent films won more awards and earned higher revenues (Robins, 1993). The demand uncertainties of unpredictable shifts in consumer taste preferences for cultural products such as films tend to result in craft administration of cultural product creation and highly bureaucratized administration of cultural product distribution (Hirsch, 1972, 2000). "The market uncertainty and demand volatility of the industry require filmmakers to develop competencies in the identification and recruitment of talented commercial and artistic project participants; and the management of complexities spanning coordination of cast, production crews, elaborate sets and sophisticated audio, visual, and special effects technologies" (DeFillippi and Arthur, 1998:126). "Because movies—each uniquely designed and packaged—are not stamped out on cookie-cutter assembly lines, …we find a combination of large oligopolistic production/distribution/financing organizations regularly interfacing with and being highly dependent on a fragmented assortment of small, specialized service and production firms. …Hollywood is always in flux, a prototype of the emerging network economy, assembling and disassembling itself from one deal and one picture and one technology to the next" (Vogel, 2007:71-72).

Study of the television production marketplace in the United Kingdom characterizes the system as a quasi-marketplace because the "vast majority" of television programs are either produced by or commissioned by one of four television distributors—BBC (a universal TV-household license fee-based state-owned enterprise), ITV (a license fee-based network of 15 regional licenses), Channel Four Television (an advertisement-based public company, and Channel Five Broadcasting (an advertisement-based private enterprise owned by Bertelsmann) (Deakin, Lourenco, and Pratten, 2008). They call it a "quasi-market" because, though the UK government does not authoritatively control television, its "hand" is more visible than is typical of government regulation in general. Many UK television producers can be called "latent organizations" because they flexibly expand, contract, and re-expand to produce projects as contracts are won and lost (Starkey, Barnatt, and Tempest, 2000). American and British film and television producers sustain themselves over time through flexible network-based organizations.

Film and Television Creator-Innovators, Control, and Quality Investment

A study of some 7000 Hollywood films categorized by 15 genres ranging from action to drama to romance to western seeks to investigate the utility for filmmaker performance of replication by making films in the same genre and renewal strategies by making films in different genres (Shamsie, Martin, and Miller, 2009). Because genre determines the kinds of people and skills needed to make and promote the film, it is a strategic choice between building on existing capacities and building new capacities. Genre replication strategies work best when consumer demand is growing; genre renewal strategies yield best film product revenue results when consumer tastes are changing, they find. Filmmakers who develop capabilities to innovate in genres in which their rivals are not already successful prove the most successful over time. American filmmakers who innovate by differentiating their products from those of their rivals perform better.

Organization scholars call the tendency toward common structures, processes, and strategies within industry sectors "isomorphism." That is, the nature of the business in the sector encourages convergences in how the business is organized and carried out so that competitor business models look a good deal alike. This tendency across industry sectors toward isomorphisms may challenge distinctiveness and innovation, which are ultimately critical to sustainable competitive advantages. Filmmaking tends to isomorphism, which risks stagnation. A study of three European filmmakers notable for sustaining distinctiveness and innovation with their films find that they are director-producers who seek both artistic and business control of their projects from script to screen product (Alvarez, Mazza, Pedersen, and Svejenova, 2005). They tend to work closely and durably with the same producers, film executives who share the penchant for trying something new with its attendant risk-reward trade-offs. A study of Hollywood studio heads finds an executive life cycle of learning and harvesting at the box office until about 15 years have passed, at which point “executives stick to an obsolete formula or extend it beyond its utility” (Miller and Shamsie, 2001:738). Innovative American and European filmmakers tend to work in stable business relationships with film executives who share their willingness to take artistic and commercial risks.

Hollywood producers and directors tend to re-constitute the same project teams with each new film project which they take up. The Hollywood project-based organizational model is thereby paradoxically stable in practice. Again exploring genre innovation, a study examines the trade-offs between preserving team stability across projects with introduction of new team members with new projects (Perretti and Negro, 2007). Team stability likely reinforces identity, connectedness, and cohesion while new team members may introduce identity conflicts, discrimination from existing team members, and communication difficulties, they say. Yet, they find that “new configurations of team members are major sources of innovation. …Innovation comes from both newcomers and the novel combination of old-timers” (Perretti and Negro, 2007:564). Innovative American filmmakers tend to re-constitute film project teams with mixes of people with whom they have experience and with newcomers with whom they have not previously worked.

Project-based organizational strategies imply less hierarchy and more coordination in management structure. Filmmakers are often managing independent contractors and these contractors, including directors, actors, and the many skilled people who collaborate to make films, depend on reputation acquired through screen credits to get work (Faulkner and Anderson, 1987). A study of some 2400 Hollywood films finds that about 7% of producers made about one-third of the films and about 7% of directors made about 40% of the films. So, producers and directors really do depend on their reputations to keep working in the film industry. Whether actor-stars recognizable to film audiences yield bigger-grossing films in Hollywood is unclear, finds the research. A study of early 1990s Hollywood films finds that star-driven films performed better at the box office, but the true drivers of bigger revenues likely turn out to be bigger budgets, the film genre, and audience rating (G and PG13 rating significantly outperform R-rated films) (Ravid, 1999). Another study confirmed the mixed findings about Hollywood stars and box office performance (Bashroy, Chatterjee, and Ravid, 2003). Film "box office appeal" of talent and charisma define the phenomenon of "the economics of superstars" (Rosen, 1981) but Hollywood filmmaking appears to be a team activity so that the voice talent-market sales linkage with music performers (Hamlen, 1991) appears ambiguous with Hollywood film performers. Indeed, it is best to emphasize that more films fail than succeed and that hits and blockbusters are not the Hollywood industry norm. A top Hollywood filmmaker with a string of blockbusters opined, "I would rather put more money into fewer films than less on a lot of them. If you're making just another picture, forget it. You can't even get your advertising costs back. But if you have one or two big captivating entertainments a year, it's oil rush time" (Faulkner and Anderson, 1987:891). Bigger film budgets tend to enable the recruitment of big stars in Hollywood but also better directors and teams who make films with higher production values and technical effects, yet big stars regularly headline box office failures.

INDIAN APPROPRIABILITY REGIME AND BOLLYWOOD STRATEGIES

Indian Cultural Expression Appropriability Regime

A law of copyright was first passed in India in 1914 during the British colonial era, so Indian copyright law then explicitly followed English copyright law doctrines. The government of India passed the Copyright Act of 1957 to establish and an independent legal basis for its cultural expression appropriability regime. Amendments to Indian copyright law were passed in 1983, 1984, 1992, 1994, and 1999 and new amendments are pending in the Indian Parliament in 2010. Indian copyright law, according to the 1957 act, protects only *original* literary, dramatic, musical, artistic, cinematographic, and sound recording works of expression, though not underlying ideas themselves. Copyrightable subject matter according to the 1957 law includes works such as maps, photographs, and phonograms. The 1999 amendment added software programs as copyrightable subject matter, providing for the exclusive right to sell and offer to sell and/or rent any copy of the software program.

The 1957 law provides for copyright exemptions for purpose of (1) research or private study, (2) criticism and/or review, (3) judicial proceedings, (4) current events reporting, and (5) amateur performance for noncommercial audience. Literary, dramatic, musical, and artistic works receive a term of protection of life of the author plus 60 years; photographs, films, and sound recordings receive a term of protection of 60 years from the beginning of the calendar year following the year in which the work was released. Indian law does recognize the work-made-for-hire doctrine. Copyrights are granted with the creation of the work and are not dependent upon registration with Indian government authorities. Copyright owners may assign the rights in writing to another party. The 1957 law states that the copyright to films are held by the producer; it is the producer who is considered the “author” of the work.

Infringements, says the 1957 Act, means to (1) sell infringing copies or make copies for sale; (2) allow space or place for the making of infringing copies, (3) distributing for trade infringing copies, (4) public display for trade of infringing copies, and (5) importing infringing copies in India. Indian law provides for both civil and criminal remedies in the case of copyright infringement. Civil remedies under the jurisdiction of district courts include court injunction, return of infringing copies, and damages for profit loss. Criminal remedies include first offense punishment of 6 months imprisonment and fine and second offense punishment of 1 year imprisonment and fine.

It is estimated that about 80% of Bollywood films are "inspired" by Hollywood films, but "to date, no Hollywood studio has attempted to enforce its copyrights against Bollywood" (Desai, 2005:259). Lawyers for Hollywood studios assess that the Indian Supreme Court has set a "high bar" regarding the similarity test for copyright infringement: Lower courts are ordered to use a "lay observer test" that the copy is similar in a "substantial and material" way (Desai, 2005:264. A copyright infringement law suit became a seminal decision of the Indian Supreme Court. In 2003 the huge-selling American novelist Barbara Taylor Bradford sued in Indian court Sahara Television for copyright infringement for creating a television show without a license in violation of her derivative rights (Desai, 2005:266). A lower court initially issued a stay that held up release of the television show, but the Indian Supreme Court ruled in favor of Sahara TV and fined Bradford for delaying the show's release and ordered that she pay Sahara's court costs. "Indian society is considered highly litigious…;" the courts face huge backlogs of cases: "For litigation in India, you need a terrific amount of time, money, and energy and most people are not ready to spend that kind of time" (Desai, 2005:265, 269).

India extends these copyright protections to foreign works of expression in compliance with its membership in the Berne Convention for the Protection of Literary and Artistic Works. The 1999 copyright law amendments intended to bring India into compliance with the World Trade Organization Treaty regarding Trade-Related Intellectual Property Rights (TRIPS) articles 9-14, including Berne Convention obligations, protections for computer programs and databases, a 50-year minimum term from date of publication or creation, and specific rights with respect to computer programs, sound recordings, musical performance, and broadcasting. India has not implemented into its legislation the 1996 WIPO digital copyright treaties.

“Piracy—physical, Internet, and over mobile devices—continues at high levels in India” (IIPA, 2010:37). Film and music enforcement agents report the existence of 36 optical disc factories. Optical discs include film DVDs and music CDs. “Local factory pirate production is reported to be increasing. …Imports of pirate discs from Malaysia and other Asian countries also continue to be a problem. …The pirate retail trade is vast throughout all big cities in India” (IIPA, 2010:38). Camcording is also “rampant” in Indian movie theaters, which leads to re-playing in other theaters, through DVDs, and through digital download. Internet users are estimated to total about 52 million, but mobile phone users are estimated to be about 500 million and growing rapidly (IIPA, 2010:40). India is the fourth largest downloader of film in the world, after the United States, the United Kingdom, and Canada. “With its smaller Internet penetration, however, India has the highest level of piracy of any English-speaking country” (IIPA, 2010:40). Pirated music was estimated to be 60% of the Indian music marketplace; online piracy of music is estimated to be 99% (IIPA, 2010). Several Indian states, Tamil Nadu in 2005, Maharastra (where Mumbai is located) in 2009, and Karnataka in 2009, have augmented federal Indian copyright law enforcement with anti-piracy laws. An anti-piracy bill is pending in 2010 in the State of Delhi and in the Indian Parliament.

India thus should be characterized as a country with a weak cultural expression appropriability regime: Indian courts make copyright infringement difficult to demonstrate owing to how they define infringement similarity and derivative rights and the Indian state does not enforce copyrights against piracy. By contrast, Hollywood filmmakers have enjoyed a relatively strong appropriability regime with respect to infringement similarity, derivative rights, and piracy enforcement in the theatrical marketplace, the home video marketplace, and the home television and cable marketplace—if not the emerging Internet-based electronic marketplace.

Bollywood Actor and Director Strategies

Actors and directors in film and television are central to Bollywood cultural product creation. In order to explore how much a star actor matters to a Bollywood film's marketplace success, we studied the top-ten grossing films annually from 1970 to 2009. A few Bollywood actors may be called "bankable stars." Amitabh Bachchan dominated the Bollywood box office from the early 1970s through the early 1980s. Dharmendra, Jeetendra, Rajesh Khanna, Dilip Kumar, and Reena Roy headlined many top-ten films in the 1980s. Ajay Devgan, Sunny Deul, Sunjay Dutt, Govinda, Anil Kapoor, Karuma Kapoor, Salman Khan, and Shahrukh Khan headlined many top-ten films in the 1990s. The 1990s Bollywood stars continued to headline many top-grossing films of the 2000s, joined by the emergence of Priyanka Chopra, Kareena Kapoor, Aamir Khan, Saif Ali Khan, Akshay Kumar, and Aishwarya Rai as major box office draws. Over the 30-year period of study, 15 Bollywood stars appeared in 69% of Bollywood's top-ten grossing films; with the addition of another five stars, 20 Bollywood stars appeared in 83% of top-ten grossing films. The most enduring "bankable" Bollywood actor is Amitabh Bachchan.

Amitabh Bachchan, Film and Televison Performer: After appearing in several minor roles produced by small Indian film houses, Amitabh Bachchan broke out by playing the upright police officer going against a corrupt system in *Zaneer* (Shackles).[2] The movie played in the theaters for 50 weeks, making it then one of Bollywood's biggest all-time hits. After a second film success, the Bachchan screen identity emerged as an unconventional Bollywood film hero. Not considered classically handsome by Bollywood standards, by 1973 he was nevertheless recognized by producers and film-goers as their biggest star: In the late 1970s he had a stretch when five of his films opened on successive Fridays and in 1978 eight of his films were playing in the theaters simultaneously. From 1973 until 1982 only 7 of 70 films in which he starred failed at the box office, a remarkable run. He headlined a top ten-grossing Bollywood film every year except one in the 1980s.

Nevertheless, in the 1990s, no longer young, his leading man days seemed over. Bachchan decided to become a film producer. But, he discovered that he lacked the managerial skills to be effective and determined that the decision had been a mistake. He then embraced an opportunity, but a risky one, from cable television: There were no hit cable TV programs at the time, but he nevertheless signed with News Corporation's Star TV to become the host of the new Indian version of the British and American-market television hit-show *Who Wants to Be a Millionaire?*[3] When he helped make the show a hit in India, he again became a household name. Film directors again called and Amitabh Bachchan re-rose to marquee top-billing. He headlined box office hits again-and-again in the 2000s. Amitabh Bachchan holds unique status in Bollywood as a movie superstar for four decades. He sustained an extraordinary career as a

[2] Amitabh Bachchan was profiled by Rauf Ahmed, retired editor of *Filmfare* magazine, Mumbai.
[3] *Who Wants to Be a Millionaire* played central to the story in the Academy award-winning global blockbuster *Slumdog Millionaires.*

performer through acting, singing, and dancing talent, the cultivation of a distinctive screen identity, and an impressive work ethic.

These "bankable" stars appear in not one but a number of top-ten film each year, year-after-year. Recall our finding regarding Amitabh Bachchan's early career: *In the late 1970s he had a stretch when five of his films opened on successive Fridays and in 1978 eight of his films were playing in the theaters simultaneously. From 1973 until 1982 only 7 of 70 films in which he starred failed at the box office, a remarkable run.* Film production times are shorter in Bollywood than in Hollywood, enabling actors, especially bankable stars, to appear in a number of films in a year.

Review of Bollywood films indicates that most Bollywood films follow a familiar formula: A simple story is animated by colorful dance and buoyant music; production values are modest. Nevertheless, a few Bollywood directors stand out for films that sparkle creatively. Directors who can sustain success in the Indian marketplace film-after-film are few. Manmohan Desai directed box office number 1s in 1977, 1979, and 1983. Subhash Ghai directed box office number 1s in 1982, 1986, and 1991. David Dhawan directed the number 1 films of 1993 and 1999. Rakesh Roshan had two box office number 1s in the early 2000s until the return of Yash Chopra to number 1 at the Bollywood box office in 2004. The most enduringly creative film director is Yash Chopra.

Yash Raj Chopra, Film Director: Yash Raj Chopra, who has been assisting his older brother with his film-directing, directed in 1959 his first film, *Dhool Ka Phool* (Blossom from the Dust), which dealt with the difficulties of an illegitimate child.[4] The film was a critical and box office success. His second film bombed at the box office, but won the prestigious National

[4] Yash Raj Chopra was profiled by Rauf Ahmed, retired editor of *Filmfare* magazine, Mumbai.

Award. On the strength of critical and financial successes as a director working for his brother's production company, Yash Chopra founded Yash Raj Films in 1973.

His first film under his own banner was *Daag (*A Poem of Love) which put three of Bollywood's biggest stars, Rajesh Khanna, Sharmila Tagore, and Raakhee, into a marital mess. It was a big box office success. But, with his next film, Chopra shocked Bollywood by making not another film exploring love, romance, and marriage but a "guts-and-gore" film, *Deewar,* based on a real-life crime don played by Amitabh Bachchan. Chopra sought in his many films to engage the emotions of film-watchers through story-telling that was purposeful as well as entertaining: he turned very different story-lines and characters in films such as *Deewar, Ittefaq, Kabhi Kahie, Dar,* and *Dil To Pagal Hai* into hits by telling stories that engaged audiences emotionally, whether in the genre of a musical romance or an action thriller. Most of his 21 films were big box office hits; his most recent box office number 1 was *Veer-Zaara,* which led 2004 sales with 40 million rupees. Nevertheless, he had a few failures over the course of four decades of film-making. One of his personal favorites, *Lamhe*, failed at the box office, which he says puzzles him to this day, but it nevertheless ultimately did well in DVD. Yash Chopra made a large quantity of films for a seminal director. The awesome numbers in Bollywood film-making call for analysis, which we will provide through examination of producer strategies below.

Producer Strategies

The film *Johny Mera Naam*, directed by Vijay Anand, made 4 million rupees at the box office and thereby was the top-grossing Bollywood film of 1970. With the occasional exception, the film *Sholay* in 1975, a 15 million rupee take, it was not uncommon in the 1970s and 1980s for a 3-5 million rupee film to be the number 1 of the year when 8-15 rupees equaled a dollar. Bollywood filmmakers have long struggled to find the financial return in their own marketplace that would sustain their creative impulses. A few filmmakers early-on determined to escape the financial constraints of their home Indian marketplace: A prominent "maverick" Bollywood filmmaker is Bobby Bedi.

Bobby Bedi, Film Producer: Bobby Bedi earned an MBA and joined Sony operations in India.[5] Determined to strike out on his own, in 1989 he established Kaleidoscope Entertainment and put together $20,000 in financing for a literary film *In Which Annie Gives It* by a young director, Pradip Prishen, about his girlfriend's life as young architecture student. The girlfriend was Arundhati Roy, whose novel, *The God of Small Things,* would win the 1997 Booker Prize. His second film project, *Electric Moon,* was mostly financed by Channel 4, the *avant garde* UK television broadcaster. That 1992 film was the first Indian film shot using synchronized sound rather than studio dubbing. Channel 4 under-wrote his next project, the docu-drama called *Goddess of Flowers.* The screening in London yielded an invitation to show the film at the Cannes film festival. The Cannes film festival 1994 selectors invited the screening of the project that followed, *Bandit Queen,* his unflinching portrayal of Phoolan Devi, the real-life female "bandit" who took up arms against exploitation of India's poorest people before being caught and serving 10 years in prison. Containing violence and nudity never before seen in Indian film, released internationally both in theaters and on tape, it solidified Bedi's stature as the Bollywood maverick. His 2003 *The Rising* was an historical epic about the late 19th century rebellion of native *Sepoy* soldiers against British rule.

Bobby Bedi expresses frustration at the impact on his filmmaking career of piracy at home in India through stolen celluloid prints of his (and everybody else's) Bollywood films before they even get to the movie theaters, by pirates with hand-held cameras in the movie theaters on release night who sell the recording for subsequent theater distribution and illicit

[5] Bobby Bedi was profiled by Bertrand Moullier, Narval Media, London.

DVD distributors, and by thousands of unlicensed cable operator-pirates. He explains that pirates strip revenues from filmmakers throughout the distribution chain. Bollywood filmmakers until the late 2000s depended for 85-90% of their revenue on movie theater distribution, a percentage that reverses the economics of Hollywood. DVD sales and rentals generate only 3-5% of revenues rather than the half of revenues that drove Hollywood. Cable television also generates little revenue. When even the top-grossing Bollywood films bring in only 3-5 million rupees, most films make little or nothing at all, he explains. “It is not always because [the] films are bad. It is usually because they only see a fraction of their dues; the rest is stolen from under their noses.”

The FICCI-KPMG (2010:20) report states, “Poor content is often cited as the reason for the low success ratio for films. This highlights the need for trained scriptwriters and investments in research and development to develop and market content mapped to distinct target audience segments.” Financing for films is difficult because of the low expected revenues. Successful filmmakers make their films in 10-16 weeks; most Bollywood films are made in a few weeks; many Bollywood films are never completed because financing runs out. “Bankable” stars appear in not one but several films in a year and most top-ten revenue films boast (an expensive) “bankable” star. Bobby Bedi’s solution to the piracy-constrained revenue opportunities in his home marketplace was to seek funding from the UK, craft his films from dramatically engaging scripts, recruit talented directors, and distribute his films to the more sophisticated Indian diaspora and international audiences.

It was not until the 1990s that the description “blockbuster” truly applied in Bollywood filmmaking. Sooraj R. Barjatya directed for Rajshri Productions a film that did nearly 70 million rupees in 1994 and Aditya Chopra directed for Yash Raj Films his 61 million rupee film *Dilwale*

Dulhania Le Jayeng in 1995 when about 32 rupees equaled a dollar. Nine of the top-ten film distributors are UTV Software Communication, Eros Multimedia, Big Pictures, Studio 18, Shree Ashtavinayak Cinevision, Reliance Media Works, Sony Pictures Releasing of India, Shringar Films, and Percept Picture Company. But, Yash Raj Films, led by Aditya Chopra, is Bollywood's number 1 film distributor.

Aditya Chopra, Film Producer: Aditya Chopra became a presence in Bollywood filmmaking when, at the age of 17, he contributed creatively—rather than merely as a kid go-fer around the set--to his father Yash Chopra's film *Chandhi.*[6] The son encouraged the father to offer the lead role in his next project, *Darr,* to an unknown actor, Shahrukh Khan. Shahrukh Khan became among the biggest stars in Bollywood, playing the lead in six Yash Raj Films hits over 15 years. The son would also direct; his debut film in 1995 *Dilwale Dulhania Le Jayenge* (Braveheart Will Take the Bride) was a blockbuster that continues its run, *still playing in a Mumbai theater in its 15th year*. The son, like the father, is a story-teller, but Aditya Chopra gives more attention to developing the characters than does his father.

Despite success as a director, it is in the role of producer that Aditya Chopra is having his biggest impact on Bollywood filmmaking. He produced his father's number 1 hit of 2004 and over the decade of the 2000s has produced a number of young talented directors, including Sanjay Gadhvi, whose *Dhoom 2* was an 80 million rupee number 1 in 2006, Shimit Amin, Kunal Kohli, Shaad Ali, and, the best-known of all, Karan Jahar. The Aditya Chopra strategy as a producer is to provide moderate budgets but maximum creative independence to the directors and to innovate promotional and distribution strategies. Seeking "cross-over" success beyond the international Indian diaspora, Chopra screened his young director Kabir Khan's recent film at several international film festivals. He co-branded the early 2010-release *My Name Is Khan,*

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[6] Aditya Chopra was profiled by Rauf Ahmed, retired editor of *Filmfare* magazine, Mumbai.

directed by Karan Jahar and featuring superstar Shahrukh Khan, with Reebok. He has made Yash Raj Films the biggest Indian film distributor. A study of Bollywood film distribution in the United States and the United Kingdom finds Yash Raj Films the most successful measured by first week sales and total box office sales (Fetscherin, 2010).

The Chopra and Barjatya mid-1990s blockbusters were harbingers of a changing industry economics of Bollywood, but that change has been slow in coming. Only a few number 1 films of the late 1990s and early 2000s eclipsed the box office success of those two films. The number 1 films of 1999 and 2000 took in 24 million rupees and 38 million rupees respectively when about 45 rupees equaled a dollar. Finally, in 2001 Anil Sharma directed a blockbuster with *Gadar: Ek Prem Katha* that took in more than 73 million rupees. Nevertheless, the box office number 1s of 2002, 2003, 2004, and 2005 drew no more than 43 million rupees when about 45 rupees equaled a dollar. The box office trend in the late 2000s has been upward, peaking in 2009 with Bollywood’s biggest all-time hit: *3 Idiots* exceeded 200 million rupees at the box office when about 48 rupees equaled a dollar. Bobby Bedi is attempting to make a *Lord of the Rings*-like series of epic films, television programs, games, photograph books, and merchandise drawn from India’s traditional Vedic stories *Mahabharata.* Nothing so creatively and financially ambitious has ever been attempted in Indian film. The blockbuster numbers of the past few years in the Indian marketplace make his creative vision viable, he believes, though so far it remains an unrealized vision. His product strategy also rests on the perhaps false assumption that he will own in copyright practice the derivative rights to his creations.

Indian filmmakers, keeping in mind the foreign exchange rate of about 45 rupees to the dollar, generated revenue of 78 billion rupees in 2006, 93 billion rupees in 2007, and 104 billion rupees in 2008, but fell back to 89 billion rupees in 2009 due to some peculiar local problems

(FICCI-KPMG, 2010:18). The break-down by distribution mechanism is revealing: For the four years, in billions of rupees domestic theatrical was 62.1, 71.5, 80.2, and 68.5; overseas theatrical was 5.7, 8.7, 9.8, and 6.8; home video was 2.9, 3.3, 3.8, and 4.3; cable TV was 5.0, 6.2, 7.1, and 6.3. That is to say, the Bollywood film business is overall growing, led by individual blockbusters unprecedented in Bollywood filmmaking. A growing number of Bollywood filmmakers are following Bobby Bedi to the global marketplace. The biggest export markets, about two-thirds in sum, are the United States, Canada, the United Kingdom, and Europe, but the United Arab Emirates is a significant market. The emerging markets for Bollywood are the countries of Southeast Asia and East and South Africa (FICCI-KPMG, 2010:24). Nevertheless, Bollywood filmmakers remain heavily dependent on domestic theatrical release despite notable export growth and rising cable TV revenues.

Bollywood filmmakers are embracing digital revolutions in Indian filmmaking and distribution to enable their middle of the pyramid strategy. They increasingly are or want to be shooting and editing their films with digital equipment. A celluloid film print costs about $1500 per print so that, for the typical Bollywood film, the celluloid print costs for theatrical distribution represent substantial product development cost burdens. Print costs plus piracy mean that most films (authorized copies, that is) are not distributed by their producers outside the major population center cities. By contrast, figuring equipment and other costs, digital prints cost about $300 each. Then they send the encrypted film by satellite to movie theaters equipped with digital projectors. They seek to take the expensive celluloid print, which seems always to be pirated before reaching its destination theater, out of the distribution chain.

To top it off, film distributors are renovating the theaters to make them go-to entertainment experiences for the fast-growing educated middle class youth. Most Indians, even in Mumbai and New Delhi, still see films in traditional single-screen movie houses. However, the first multiplex was built in Delhi in 1997 and there are now some 800 multiplexes in India.

> Even though multiplexes typically have lower capacity per screen as compared to a single screen theater (nearly 300 for multiplexes compared to 500 for single screens) they currently contribute around 25% of the total domestic theatrical revenues for the overall Indian film industry and as much as 60% for Hindi films. This is due to the fact that ticket prices and occupancy levels are nearly five times that in single screens while the occupancy in multiplexes is approximately 30-35%" compared to nearly 20-25% in single-screen theaters (FICCI-KPMG, 2010:24).

There is only one terrestrial broadcast television provider, the Indian state provider Doordashan. But, cable television entered the Indian marketplace in the early 1990s, altering the Indian entertainment marketplace and Bollywood strategies in fundamental ways. Television generated 183 billion rupees in 2006, 211 billion rupees in 2007, 241 billion rupees in 2008, and 257 billion rupees in 2009. That is to say, Bollywood television is growing rapidly and the gap between film theatrical release and television revenues is also growing rapidly. Television households came to about 123 million in 2008 and to about 129 million in 2009 and the percentage of those TV households with cable and satellite rose from 70% to 74% from 2008 to 2009, taking subscription revenues upward (FICCI-KPMG, 2010:42, 60). Cable television advertisement hours grew from 94,000 hours in 2007 to 114,000 hours in 2008 to 149,000 hours in 2009, taking revenues upward (KPMG, 2010:46, 60). Advertisers pay to reach viewers; what explains the huge growth? Television "hits" are being produced in Bollywood. One of the most successful television producers is Sanjiv Sharma.

Sanjiv Sharma, Television Producer: Sanjiv Sharma was a young staff member at Mumbai office of the international advertising agency Ogilvy when he teamed in 1984 with a recent MIT graduate, Mansoor Khan, who had brought home video editing equipment. Television advertisements in India in those days were shot and post-produced in 35mm film over a period of three weeks, but their plan was make video-based television ads and deliver to the client the next day. When they did it, they revolutionized TV advertising in India, for they changed advertising cost structures so that many short inexpensive advertisements could be made rather than merely a few long expensive ads. But, the education-oriented government broadcast monopoly Doordashan offered neither much creative nor financial opportunity. Both the advertising creators and the television programming creators got their chances to re-make television in India with the arrival of cable TV in India in the early 1990s.

Indian cable television provided little entertainment excitement in the 1990s. Then *Who Wants to Be a Millionaire* became a huge hit in 2000 (with Amitabh Bachchan as its superstar host, as discussed above). Identifying not a one-hit wonder but a revolution in Indian television, Sharma and a television writer co-founded Optimystix Entertainment. They got the contract with Star TV to produce the Indian version of *Let's Make a Deal*, the American TV show famous with its long-time host, Monty Hall. They made it an Indian market hit. Then they made another hit for Star TV with *Night Fever*, a karaoke show. It was a live show, performed on a 360-degree stage, with a dancing-along audience. It required many cameras, a challenge to directors, and skillful management of stars and audience. Sony licensed the rights to *Idol* for the Indian market and Sharma, his company's reputation for skillful production of the kind of programs that could turn chaotic in the wrong hands, won the contract in 2005 to produce *Indian Idol*, which became the biggest hit ever in Indian television. With *Comedy Circus* they created their own concept:

They team a "soap" star with a comedian to perform as a duo with a live audience. They sold it to Sony TV. The show was—and is—a hit, airing every Saturday night at 9:00 in the evening since 2008.

Sanjiv Sharma explains that his and other successful Bollywood production companies organize flexibly as projects come and go. The permanent payroll is composed of a core team of project managers, accountants, and a few creative people. "We have managed to keep a strong and high-value core team because we have been able to manage multiple projects and not have real down-time with no projects." Project teams are assembled from the Bollywood community, "hired and disbanded along with the projects."

Hit TV shows, viewers, and advertisers are driving the huge Bollywood television revenue growth. The hit shows were introduced by global media companies; their risk-taking revolutionized television entertainment in India. Following that lead local TV concepts have turned cable television into an entertainment medium bigger than film theatrical release in India. Nevertheless, despite the cable TV market successes of Sanjiv Sharma and others, big opportunities for growth are tied to better cable TV regulation by the Indian state. It is estimated that there are as many as *70,000 cable operators* in the country and *most of these 70,000 cable TV operators do not pay license-fees for the creative content that they show*. That is to say, the television medium is shaped by the same dominant force as film theatrical release and DVD sales and rentals—piracy.

Bollywood Cultural Creator Strategic Management Discussion

A cultural studies scholar writes, "Hindi cinema is entertainment, presented in a melodramatic mode, with glamorous fantasies and famed for its song and dance numbers, yet it has routinely been disparaged, labeled as formulaic, escapist, derivative.… [Bollywood] does not give us a universal view…. For Bollywood is largely consumed and produced by India's hegemonic class, the new middle classes, and it shows us how they view themselves" (Dwyer, 2010:382, 384). Bollywood filmmakers aim to entertain one of the world's fastest growing emerging marketplaces of urbanized middle-class youth. C.K Prahalad in his *Fortune at the Bottom of the Pyramid* (2005) articulated the metaphor of the global income-market pyramid for business strategy. He focused on the Indian enterprises that are successfully marketing to the world's poorest consumers, those at "the bottom of the pyramid." Bollywood strategies have more to do with the *middle of the pyramid* rather than the bottom of the pyramid. Indian urban populations grew from 290 million in 2001 to 340 million in 2008 (McKinsey Global Institute, 2010). Seventy percent of employment is being created in India cities, contributing 70% of Indian GDP, and driving a four-fold increasing in per capita income in India. A huge Indian middle class concentrated in its cities is emerging: Households with 200,000 to 1,000,000 rupees in disposable income total some 50 million, about 5% of the population, and are expected to grow to some 580 million people, about 41% of the population, and about 70% of the urban populations by 2025 (McKinsey Global Institute, 2007). That is, the Indian "pyramid" is being re-shaped toward a "fatter" middle but with a still huge base of the poor. A spending shift is underway in the growing Indian middle class away from food and clothing necessities to choice-based goods and services: Indian consumers are spending more money on entertainment (McKinsey Global Institute, 2010). The two biggest entertainment revenue earners in India are cricket and Bollywood (India Brand Equity Foundation, 2006).

Bollywood filmmakers, nevertheless, cannot be described to be "thriving" despite their growing revenues amidst their expanding demographics of growing young middle classes. In contrast to a Hollywood that thrived over the course of a 20th century of prospering young middle class entertainment consumers in a strong appropriability regime environment, India has a weak cultural expression appropriability regime. Cultural creators make strategic management decisions conditioned by particular appropriability regimes. India produces 1000 films every year, so it appears to be a model of success. Most Bollywood filmmakers follow a familiar formula—a simple story, animated by colorful dance and buoyant music with modest production values, completed in a few weeks. Investment into film quality suffers. From a strategic management perspective, an Indian government that strengthens the appropriability regime for its cultural creators will provide opportunities for increased revenues throughout movie and television distribution channels and thereby enable greater investment into product quality.

During the 30 years under study Indian filmmakers were nominated for Best Foreign Language Film by the Oscar Academy Awards only two times. Filmmakers in Mexico, who produce about 50 films each year, were nominated nine times; filmmakers in Poland, who produce 30-40 films each year, were nominated eight times; filmmakers in Brazil, who produce about 100 films each year, were nominated four times. The British BAFTA Best Foreign Language Film Awards nominated films from Mexico five times, from Poland four times, from Brazil three times, from India four times. Many governments around the world subsidize film production in their countries through cultural ministry grants because their local consumer marketplaces provide too little financial return to filmmakers owing to population, wealth per capita, piracy, and Hollywood competition. “Perhaps only a tenth of Mexican features break even,” so the Mexican Film Institute provides more than $70 million in grants and tax incentives annually (Economist, 2010). “The robust health of Poland’s film industry is the region’s success story. The only European Union country to avoid a recession in the past two years, the Polish Film Institute handed out $36 million to the local industry in 2010” (Holdsworth, 2011). “While many filmmakers around the world are struggling for coin, biz in Brazil is booming thanks to a generous mix of federal, state, and municipal film funds, grants, and tax shelters. …The boom is driven by the federal government, which creates new funding systems while the existing ones in place. The country's film tax incentive system dates back to the pioneering audiovisual and Rouanet laws of the 1990s" (Cajueiro, 2011). The Indian government does not provide grants to filmmakers.

A cultural studies scholar recalls the impact on Bollywood filmmaking nearly three decades ago of a Yash Chopra-directed film starring a young Amitabh Bachchan: "The tremendous success of *Zanjeer* (1973), a film about a police officer who works outside the bounds of the law, introduced the figure of the 'angry young man' to the Indian screen. This hero was portrayed as a disaffected, cynical, violent, rebellious, urban worker who was often seen single-handedly fighting rich businesses and ineffectual and corrupt politicians" (Rao, 2007:59). She points out that in the 2000s 80% revenues from a Bollywood hit film owes to urban multiplexes and international sales, so that ethnography of the film patrons shows them to be a young middle class with wholly different values from pre-reform India. "In the new Bollywood, it is the wealthy who are the heroes. Even the actor who personified the angry young man on screen in the 70s and 80s, Amitabh Bachchan, plays in recent films, a multi-millionaire industrialist… and a rector of a wealthy prep school" and hosts *Who Wants to Be a Millionaire* (Rao, 2007:64). It was once observed that Bollywood "popular cinema is the slum's point view of Indian politics and society and, for that matter, the world" (Nandy, 1998). Professor Dwyer (2010) offers the thesis that Bollywood films provide unique insight into Indian culture, socially, economically, politically. A scholar of Bollywood films likely offers analysis as correct about contemporary films as about the films of the time: "Hindi films emphasize the central features of fantasy; the fulfillment of wishes; the humbling of competitors and the destruction of enemies" (Kakar, 1983:89).

A cultural studies scholar emphasizes, "Bollywood is *not* the Indian film industry" (Rajadhyaksha, 2003:27). He explains, "Let us see the problem as one of *defining culture* economically…. By the early 1990s, the growing economic power of the non-resident Indian, people of Indian origin who were domiciled abroad, … had already announced the arrival of a new culture industry that we have here named Bollywood" (Rajadhyaksha, 2003:31, 32). The argument is like the argument of law and culture scholars who express concern for the expressive capacities of poor people. As has been explained here, a few Bollywood filmmakers early-on determined to escape the financial constraints of their home Indian marketplace, seeking a global marketplace or, at least, a global Indian diaspora living in places such as the United Kingdom and the United States with stronger appropriability regimes. A growing number of Bollywood filmmakers are following the leaders to the global marketplace. Global strategies aimed at the Indian diaspora will benefit non-Bollywood filmmakers. A stronger appropriability regime in the home Indian market will benefit non-Bollywood filmmakers, for Indian economic growth is not limited to the Mumbai-Delhi northern arc of Hindi-speakers. Hyderabad, Bangalore, Chennai, and Kolkata are major metropolitan centers of economic growth and each possesses distinctive local cultures with filmmaking capabilities.

A relative few Bollywood producers are the business people behind the Bollywood hits. A relative few Bollywood directors stand out for making films that sparkle creatively and become box office hits. These relative few directors consistently make top-grossing films at the Indian box office. Successful Bollywood producers keep the budgets and production schedules of capable directors aligned with realistic creative visions. They spend their money, when they have it, on "bankable" star-actors—a mere 20 stars headline 83% of the hit films over a period of 30 years. It may be that the Bollywood superstar phenomenon owes to information shortages among Indian film consumers and that, as their knowledge of film and access to information grows, more Bollywood films will be successes owing to story and production values. Successful film and television producers in Bollywood, as in Hollywood, sustain themselves over time through risk-mitigating product portfolios. Successful Bollywood film and television producers, as in Hollywood, organize flexibly with networks of specialist–firm service providers to mitigate risks that owe to the nature of the fickle cultural product marketplace.

Bollywood film and television makers, as in Hollywood, who innovate by differentiating their products from those of their rivals perform better. The study here finds that innovators with respect to story and genre, production technology enablement, project financing, and distribution strategies have consistently outperformed their rivals over the past 30 years in the box office and in recent years with the emergence of cable television. The finer points about innovation and network organization strategies, that innovative filmmakers tend to work in stable business relationships with film executives who share their willingness to take artistic and commercial risks, yet tend to re-constitute film project teams with mixes of people with whom they have experience and with newcomers with whom they have not previously worked, awaits additional in-depth research regarding Bollywood film production management.

CONCLUSION

Analytically, this study follows the recent industrial organization economics product differentiation emphasis in copyright doctrine. In particular, this study emphasizes the focus on quality as the outcome of copyright laws that articulate and enforce the idea-expression dichotomy. Investment into product quality, not product quantity, is shown in this study of Indian film to be the victim of a weak appropriability regime for cultural creators. Focus merely on *more* cultural products should give way as measure of ideal appropriability regimes for cultural creators to cultural product *quality*. Copyright doctrine should emphasize the incentive role of investment into quality and thereby more closely mirror patent doctrine, which specifies quality improvement by definition of rule and process of administration.

A previous study that sought to assess the strength of a country's appropriability regime focused on treaty membership and patent law and enforcement in order to focus on technology innovation (Ginarte and Park, 1997). Another study considers issues such as subject matter patentability and copyright duration (Kanwar and Evenson, 2009), but it is argued here that a cultural expression appropriability regime should be assessed strong or weak depending on how a country's courts define copyright infringement similarity and derivative rights and how a country's state enforcing copyrights against pirates. Cultural creators, like technology innovators (Teece, 1987), make strategic management decisions conditioned by particular appropriability regimes. The weak appropriability regime in India is generalizable to most emerging market countries, where appropriability regimes for cultural creators tend to be weak. Bollywood cultural creators necessarily use tactics quite different from the internalization and secrecy tactics used by technology innovators in weak appropriability regime locations (Zhao, 2006; Gans, Hsu, and Stern, 2008) and by composers in the weak music appropriability regimes of 18th and 19th century Europe (Scherer, 2004:170). Film and television products cannot be held as trade secrets, so Bollywood producers keep the budgets and production schedules of capable directors aligned with realistic creative visions and spend their money, if they have enough of it, on "bankable" star-actors. They manage product portfolios and flexible organizations with comparatively few permanent staff to mitigate marketplace risk. Study results here support a call in legal scholarship to encourage creative industry development in poor countries through copyright anti-piracy (Schultz and van Gelder, 2008-2009).

Development economists are increasingly embracing innovation and entrepreneurship as drivers of growth (Hausman and Rodrik, 2003). “The comparative experience with economic growth over the last few decades has taught us a number of important lessons. One of the most important of these is the importance of private initiative and incentives. …It became clear that incentives would not work or would generate perverse results in the absence of adequate institutions” (Rodrik, 2000:3, 4). Successful Bollywood innovator-entrepreneurs, cultural product creators who have sustained great success in an extremely challenging marketplace, have been explained in this study as strategic managers. The study takes impulse from two management scholars, who remark that it is “curious … how little attention scholars have given to the role organizations play in economic development, relative to that played by markets” (Moran Ghoshal, 1999:390). That a thousand films are made every year in this extremely challenging marketplace shaped by a weak appropriability regime suggests that Bollywood brims with entrepreneurs bursting with creative vision yet struggling for rooms of their own.

REFERENCES

Abramowicz, Michael. 2004-2005. An Industrial Organization Approach to Copyright Law. *William & Mary Law Review* 46:33-125.

Abramowicz, Michael. 2005-2006. A Theory of Copyright’s Derivative Right and Related Doctrines. *Minnesota Law Review* 90:317-388.

Alvarez, Jose Luis, Carmelo Mazza, Jesper Strandgaard Pedersen, and Silviya Svejenova. 2005. Shielding Idiosyncracy from Isomorphic Pressures: Towards Optimal Distinctiveness in European Filmmaking. *Organization* 12:863-888.

Aoki, Keith. 1996. (Intellectual) Property and Sovereignty: Notes toward a Cultural Geography of Authorship. *Stanford Law Review* 48:1293-1355.

Bashroy, Suman, Subimal Chatterjee, and S. Abraham Ravid. 2003. How Critical Are Critical Reviews? The Box Office Effects of Film Critics, Star Power, and Budgets." *Journal of Marketing* 67:103-117.

Breyer, Stephen.1970. The Uneasy Case for Copyright: A Study of Copyright in Books, Photocopies, and Computer Programs. *Harvard Law Review* 84:281-351.

Cajueiro, Marcelo. 2011. Government Drives Brazil Pic Boom. *Variety* 30 July.

Chander, Anupam and Madhavi Sunder. 2007. Everyone's a Superhero: A Cultural Theory of "Mary Sue" for Fiction as Fair Use. *California Law Review* 95:597-626.

Deakin, Simon, Ana Lourenco, and Stephen Pratten. 2008. No "Third-Way" for Economic Organization? Networks and Quasi-Markets in Broadcasting. *Industrial & Corporate Change* 18:51-75.

DeFillippi, Robert J. and Michael B. Arthur. 1998. Paradox in Project-Based Enterprise: The Case of Film-Making. *California Management Review* 40:125-139.

Desai, Rachana. 2005. Copyright Infringement in the Indian Film Industry. *Vanderbilt Journal of Entertainment Law and Practice* 7:259-271.

Dwyer, Rachel. 2010. Bollywood's India Hindi Cinema as a Guide to Modern India. *Asian Affairs* 41:381-398.

Economist. 2010. Accion! Mexico's Film Industry: More Films, More Subsidies, Elusive Profits. 18 November.

Faulkner, Robert R. and Andy B. Anderson. 1987. Short-Term Projects and Emergent Careers: Evidence from Hollywood. *American Journal of Sociology* 92:879-909.

Federation of Indian Chambers of Commerce and Industry-KPMG. 2010. *Back in the Spotlight: FICCI-KPMG Indian Media & Entertainment Industry Report.* Mumbai.

Fetcherin, Marc. 2010. The Main Determinants of Bollywood Movie Box Office Sales. *Journal of Global Marketing* 23:461-476.

Gans, Joshua S., David H. Hsu, and Scott Stern. 2008. The Impact of Uncertain Intellectual Property Rights on the Market for Ideas: Evidence from Patent Grant Delays. *Management Science* 54:982-997.

Ginarte, Juan Carlos and Walter G. Park. 1997. Determinants of Patent Rights: A Cross-National Study. *Research Policy* 26:283-301.

Goldstein, Paul. 1983. Derivative Rights and Derivative Works in Copyright. *Journal of the Copyright Society* 30:209-252.

Hamlen, William A. 1991. Superstardom in Popular Music: Empirical Evidence. *Review of Economics & Statistics* 73:729-733.

Hausman, Ricardo and Dani Rodrik. 2003. Economic Development as Self-Discovery. *Journal of Development Economics* 72:603-633.

Hirsch, Paul M. 1972. Processing Facts and Fashions: An Organization-Set Analysis of Cultural Industry Systems. *American Journal of Sociology* 77:639-659.

Hirsch, Paul M. 2000. Cultural Industries Revisited. *Organization Science* 11:356-361.

Holdsworth, Nick. 2011. Fights and Flights: Bulgaria and Hungary Stall Out, while Czechs and Poles Gain Traction. *Variety* 12 February.

India Brand Equity Foundation. 2006. *Entertainment and Media.*

International Intellectual Property Alliance. 2010. *Special 301 Report on Copyright Protection and Enforcement*. Washington, DC.

Johnson, William R. 1985. The Economics of Copying. *Journal of Political Economy* 93:158-174.

Jones, Candace. 2001. Co-Evolution of Entrepreneurial Careers, Institutional Rules, and Competitive Dynamics in American Film, 1895-1920. *Organization Studies* 22:911-944.

Kakar, Sudhir. 1983. The Cinema as a Collective Fantasy. In Aruna Vasudev and Philippe Lenglet, eds., *Indian Cinema Superbazaar*. Delhi: Vikas Publishing House.

Kanwar, Suni and Robert Evenson. 2009. On the Strength of Intellectual Property Protection that Nations Provide. *Journal of Development Economics* 90:50-56.

Koszarski, Richard (1990) *An Evening's Entertainment: The Age of the Silent Feature Picture, 1915-1928.* Berkeley, CA: University of California Press.

Lampel, Joseph, Theresa Lant, and Jamal Shamsie. 2000. Balancing Act: Learning from Organizing Practices in Cultural Industries. *Organization Science* 11:263-269.

Landes, William M. and Richard A. Posner. 1989. An Economic Analysis of Copyright Law. *Journal of Legal Studies* 18:325-363.

Latman, Alan. 1990. "Probative Similarity as Proof of Copying: Toward Dispelling Some Myths in Copyright Infringement. *Columbia Law Review* 90:1187-1214.

Lin, Chen, Ping Lin, and Frank Song. 2010. Property Rights Protection and Corporate R&D: Evidence from China. *Journal of Development Economics* 93:49-62.

Mezias, John M. and Stephen J. Mezias. 2000. Resource Partitioning, the Founding of Specialist Firms, and Innovation: The American Feature Film Industry, 1912-1929. *Organization Science* 11:306-322.

Mezias, Stephen J. and Jerome C. Kuperman. 2000. The Community Dynamics of Entrepreneurship: The Birth of the American Film Industry, 1895-1929. *Journal of Business Venturing* 1:209-233.

Miller, Danny and Jamal Shamsie. 1996. The Resource-Based View of the Firm in Two Environments: The Hollywood Film Studios from 1936 to 1965. *Academy of Management Journal* 39:519-543.

Miller, Danny and Jamal Shamsie. 2001. Learning across the Life Cycle: Experimentation and Performance among the Hollywood Studio Heads. *Strategic Management Journal* 22:725-745.

McKinsey Global Institute. 2007. *The Bird of Gold: The Rise of India's Middle Class.* New York.

McKinsey Global Institute. 2010. *India's Urban Awakening: Building Cities, Sustaining Economic Growth.* New York.

Moran, Peter and Sumantra Ghoshal. 1999. Markets, Firms, and the Process of Economic Development. *Academy of Management Review* 24:390-412.

Nandy, Ashis. 1998. Introduction. In Ashis Nandy, ed., *The Secret Politics of Our Desires: Innocence, Culpability, and Indian Popular Cinema.* Delhi: Oxford University Press.

Perretti, Fabrizio and Giacomo Negro. 2007. Mixing Genres and Matching People: A Study in Innovation and Team Composition in Hollywood. *Journal of Organizational Behavior* 28:563-586.

Plant, Arnold. 1934. The Economics of Aspects of Copyright in Books. *Economica* 1:167-195.

Prahalad, C.K. *The Fortune at the Bottom of the Pyramid: Eradicating Poverty through Profits.* Philadelphia, PA: Wharton School Publishing.

Qian, Yi. 2007. Do National Patent Laws Stimulate Domestic Innovation in a Global Patenting Environment? A Cross-Country Analysis of Pharmaceutical Patent Protection, 1978-2002. *Review of Economics & Statistics* 89:436-453.

Rajadhyaksha, Ashish. 2003. The “Bollywoodization” of the Indian Cinema: Cultural Nationalism in a Global Arena. *Inter-Asia Cultural Studies* 4:25-39.

Rao, Shakuntala. 2007. The Globalization of Bollywood: An Ethnography of Non-Elite Audiences in India. *Communication Review* 10:57-76.

Ravid, S. Abraham. 1999. Information, Blockbusters, and Stars: A Study of the Film Industry. *Journal of Business* 72:463-492.

Robins, James A. 1993. Organization as Strategy: Restructuring Production in the Film Industry. *Strategic Management Journal* 14:103-118.

Rodrik, Dani. 2000. Institutions for High-Quality Growth: What They Are and How to Acquire Them. *Studies in Comparative International Development* 35:3-31.

Rosen, Sherwin. 1981. The Economics of Superstars. *American Economic Review* 71:845-858.

Scherer, F.M. 2004. *Quarter Notes and Bank Notes: The Economics of Music Composition in the Eighteenth and Nineteenth Centuries.* Princeton, NJ: Princeton University Press.

Schultz, Mark and Alec van Gelder. 2008-2009. Creative Development: Helping Poor Countries by Building Creative Industries. *Kentucky Law Journal* 97:79-147.

Shamsie, Jamal, Xavier Martin, and Danny Miller. 2009. In with the Old, in with the New: Capabilities, Strategies, and Performance among the Hollywood Studios. *Strategic Management Journal* 30:1440-1452.

Starkey, Ken, Christopher Barnatt, and Sue Tempest. 2000. Beyond Networks and Hierarchies: Latent Organizations in the United Kingdom Television Industry. *Organization Science* 11:299-305.

Teece, David J. 1987. Profiting from Technological Innovation: Implications for Integration, Collaboration, Licensing, and Public Policy. *Research Policy* 15:285-305.

Vogel, Harold L. (2007) *Entertainment Industry Economics: A Guide for Financial Analysis*, 7th edition. New York: Cambridge University Press.

Woolf, Virginia. 1929. *A Room of One's Own.* New York: Harcourt Brace Jovanovich Publishers.

Zhao, Minyuan. 2006. Conducting R&D in Countries with Weak Intellectual Property Rights Protection. *Management Science* 52:1185-1199.

Yoo, Christopher S. 2004. Copyright and Product Differentiation. *New York University Law Review* 79:212-280.