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**The Oscar Indie: Examining The Rise in Success of Independent Films
at the Academy Awards**

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by

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Dedication

I dedicate this thesis, first, to my late friend Ryan for leading me down the most important path of my life. Next, to my parents for always being supportive even when my endeavors seemed as impractical as can be. And last, I dedicate this work to Allie for always understanding.

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Abstract

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The goal of this study is to understand the institutional and cultural relationship between modern American independent film and the Academy Awards by focusing on the rise in success for independent films from 1992-2007. Two are two main approaches implemented throughout the work. The first focuses on the cultural construction of the indie brand on certain films during this time and the second analyzes how a production or distribution company tries to strategize the marketing of their films to boost their Oscar chances. These approaches allow a conversation for the occurrences of when these two meet and provide a coherent film identity I have identified as an “Oscar indie.” Starting with Miramax in the 1990s and ending with the Oscar race of 2007-08 a trend can be found which shows a rise in success of “indie” branded films at the Academy Awards. The implications of this trend are as simple as more “indie” films being released each year and as complicated as changing the face of the American film industry as a whole.

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Introduction

“The Oscar is the most valuable, but least expensive, item of world-wide public relations ever invented by any industry.”

-Frank Capra (1936)

“[The Oscars] are the greatest promotion scheme that any industry ever devised for itself.”

-William Friedkin (2009)

In 1992 an American independent film distributor treading water and heading for bankruptcy picked up the distribution rights for a small political film from Britain. The film was a success in its early run, in late '92, taking in over \$14 million in ten weeks while only playing on slightly over 200 screens. It was a critical darling and had won numerous critics' awards. It was following the path of the successful independents of its day but was nothing special. Then on February 9, 1993 the film, writer-director Neil Jordan's *The Crying Game* (1992), was nominated for six Academy Awards including five in the major categories of Best Picture, Best Director, Best Actor (Stephen Rea), Best Supporting Actor (Jaye Davidson), and Best Original Screenplay. The company that decided to take a chance on the film, Miramax, had a success on their hands far bigger than they could have imagined.

Less than a month later Miramax expanded *The Crying Game* to over 1,000 screens with significant results. After the Academy nominations were announced the film took in over 76% of its eventual \$62 million box office total and, in the big picture of American independents, “[shattered] the \$25 million ceiling that none of the indie

blockbusters had been able to break” at this time.¹ People wanted to see this “indie” film that was garnering substantial Academy attention.

The terms “indie” and independent can both be used to describe very different aspects of a film. The use of the “indie” or “indieness” in this essay will be employed to illustrate, as scholar Michael Z. Newman explains in *Indie: An American Film Culture*, “a film culture [that] includes texts, institutions, and audiences...[it] is the product...which comes premade for us as part of the film’s promotional discourse and its contexts of consumptions.”² Independent, however, will be used to describe films that are produced, either partially or entirely, outside the major studio system. In other words, “indie” can be understood more as a cultural brand given by certain institutional strategies through a very specific process that includes marketing, reviews, and release strategy. Independent has a simple, discernible definition that only relates to its production circumstances.

Variety critic Todd McCarthy pointed out that *The Crying Game* “[presented] one of the toughest marketing challenges in recent memory... [Miramax’s] main hope lies in amassing a collection of rave reviews the likes of which will make attendance mandatory for specialized audiences.”³ This was a very popular way for a film to gain an “indie” brand and find an audience. *The Crying Game* did respectable business before the Academy nominations came out, but it was after that this little British pickup really changed the business game for Miramax and, eventually, American independent film. By

¹ Peter Biskind. Down and Dirty Pictures: Miramax, Sundance, and the Rise of Independent Film. Simon & Schuster. New York, 2004.

² Michael Z. Newman. Indie: An American Film Culture. Columbia University Press. New York, 2011. p. 11-12.

³ Todd McCarthy. “The Crying Game.” *Variety*. Sept. 11, 1992. Accessed at www.variety.com Dec. 3, 2011.

cashing in on the strength of the Oscar nominations, to an unprecedented degree, Harvey and Bob Weinstein found another element to add to the already-existent indie formula that mainly included using critical acclaim to help boost box office returns. That was the Oscar element. While awards were already used and marketed by major studios to collect more money at the box office such was seldom the case with independents, even those like *Kiss of the Spider Woman* (1985), which received multiple nominations and a win in major categories but did not see a giant boost in its financial return.

Even though Academy consideration was not on the minds of the Weinsteins for *The Crying Game*, the financial impact of the film due to its Academy nominations would stay with them. In the years that followed after 1992, Miramax, I will argue, ushered in a new model for producing and/or marketing independent films. This I will call the “Oscar indie” model, which has two main components. The first is an emphasis on branding a film’s “indie” qualities, either through marketing or media discourse or both. These include posters, reviews, commercials, and other pertinent advertisements. The second component centers on the gain and hope of Academy consideration through Oscar campaigning, critical acclaim, and recognition in the form of guild and critics’ awards.

While Miramax did not unleash a strong or expensive Oscar campaign for *The Crying Game* because it did not foresee the film as a Best Picture nominee, the film’s nominations alone helped Miramax financially and reversed its financial fortunes after two-and-a-half years of distributing box office failures. In the following essay I will argue that after this Miramax created and implemented the “Oscar indie” strategy and this

creation spread through the industry and paralleled the changing landscape of American independent film. I will do this by examining how the Oscar nominees for Best Picture from 1992-2012 were discussed in terms of *independent* and *studio* through the various media outlets listed. Added to this, I will also analyze Oscar campaigns, box office numbers, as well as production in an attempt to find how companies branded their films as independent and Oscar-worthy.

The History and Politics of the Oscars

Even though *The Crying Game* is only one example of a film that had its box office success propelled by the Academy Awards nominations, this would become a very common and usually expected trend. While many of the nominees for Best Picture since 1992 have made the bulk of their profits before the nominations there is no denying a serious “bump” in box office revenue usually comes from a nomination in this category. In fact some films, such as October Film’s *Secrets and Lies* (1996) and Warner Bros.’ *L.A. Confidential* (1997) found their way back to screens after a hiatus to cash in on the Academy-infused box office. On the other end of the spectrum, films like *Apollo 13* (1995), a summer blockbuster, did not gain much financially from Academy recognition. One thing is clear: the Academy and its annual awards ceremony affect Hollywood and the film industry for the better, whether it puts people in the seats of theaters or helps brand their overall product as “quality.”

While this has become the main effect of the ceremony it was not the intent when the Academy was formed. The creation of the Academy happened in late 1926 when

MGM head Louis B. Mayer wanted to fight the unionization of Hollywood through the creation of industry guilds of technical workers. The creative talent that included actors, directors, and writers were still without standardized contracts. Before this could happen Mayer met with director Fred Niblo, actor Conrad Nagel, and the head of the Association of Motion Picture Producers, Fred Beeston. The four men “conceived of an organization that would mediate labor disputes and also improve the public image of Hollywood.”⁴ Mayer then met with thirty-six industry leaders who proposed seven main goals, one of which would be to “encourage the improvement and advancement of the arts and sciences of the profession by the interchange of constructive ideas and by awards of merit for distinctive achievements.”⁵ The group would always consist of those in the industry under the working categories of acting, directing, writing, and technical artists. The first breakdown of members had five categories: actors, directors, writers, producers, and technicians. The Academy later expanded to include “special” groups for the documentary and short films, administrative categories of public relations and executives, and more specific technical branches. To date the Academy includes over 6,000 members in fifteen different branches.

⁴ Emanuel Levy, All About Oscar: The History and Politics of the Academy Awards. Continuum International. New York, 2003. p. 41.

⁵ Levy, p. 46

| Branch | Number of Members |
|-----------------------------------|-------------------|
| Actors | 1,170 |
| Art Directors | 359 |
| Cinematographers | 201 |
| Directors | 366 |
| Documentary | 157 |
| Executives | 441 |
| Editors | 220 |
| Makeup & Hairstylists | 117 |
| Music | 233 |
| Producers | 444 |
| Public Relations | 363 |
| Short Films and Feature Animation | 343 |
| Sound | 402 |
| Visual Effects | 286 |
| Writers | 375 |

Figure 1: Breakdown of Academy Membership in 2012 via AwardsDaily.com

Membership is by invitation only, but there are many ways to get an invitation. The easiest is simply to be nominated. Every Academy Award nominee receives an invitation for membership except in extreme cases where the Academy uses its discretion to deny a nominee entry, but this is a very uncommon occurrence. For some of the other technical categories other ways to receive an invitation include having several film credits and, of course, being considered a distinguished artist in a given field. Voting, both in the nomination and award processes, is restricted so that only members of a certain branch can vote in that category-- i.e., the category of Best Cinematography can only be voted on by those in the cinematographers branch. The only exception to this is the Best Picture Award for which all members of the Academy vote.

Emanuel Levy's historical breakdown of the Academy and its ceremony *All About Oscar: The History and Politics of the Academy Awards* from its inception in 1926

until 2002 includes statistical as well as cultural, political, and social analysis. One of his chapters discusses the creation of the Academy and its membership and concludes “the Academy’s small size and elitist nature account for its prestige, thus making membership a desirable goal for any artist.”⁶ The Academy’s small size has been criticized but, according to Levy, those who defend the Academy procedures remind its critics that “by opening it to a large number of industry workers would defeat one of the Academy’s original purposes – to be an elite organization of the most accomplished film artists.”⁷ Another criticism of the Academy that Levy discusses concerns its gender structure. Only the acting branch has an equal proportion of men and women. This has caused many to argue that the male-dominated Academy has a sex bias when it comes to its nominations and awards.

Levy also includes extensive data of the Academy’s major awards of Best Actor, Best Actress, Best Director, and Best Picture. This data includes race, nationality, budget, length, genre, and popularity. For instance chapters center on how many films in a certain genre have taken home Best Picture. Levy also employs cultural and sociological analysis about the nominated films, filmmakers, and actors. He illustrates, through statistical data, how the Academy displays bias toward genres such as epics, biopics and social problem dramas and against others like westerns, horror, and comedies.⁸ He concludes that this favoritism of certain genres occurs because “like all art, American films do not operate in

⁶ Levy, p. 47

⁷ Ibid., p. 47

⁸ Ibid., pp. 144, 188-189, 204

a social or political vacuum...American pictures have expressed the ideological dominance of one powerful group: White upper-class men.”⁹

Levy also discusses the political interplay between the Academy and the American film industry in his analysis. As far back as the very first ceremony the larger studios, according to Levy, controlled the Oscars. That year, 1927, saw studio heavyweight Paramount receive all five Best Picture nominees with *Wings* (1927) taking home the top prize. This stranglehold loosened but has not disappeared as “both the nominations and final voting have been prejudiced by the studios’ ad campaigns, even though there was always ambivalence toward outright politicking.”¹⁰ Studio Oscar campaigns will be discussed in depth later.

Steve Pond’s *The Big Show: High Times and Dirty Dealings Backstage at the Academy Awards* is a detailed, behind-the-scenes look at the ceremony itself, especially from the years of 1994-2005. Pond was a writer for *Premiere* assigned to write a piece on the inner workings of the ceremony. He received full access to the 1994 awards show and was a staple there for the following eleven years. Pond weaves first-hand accounts of what happened backstage during these years with media and industry discourse before, during, and after the event. By doing so his analysis, like Levy’s, includes studio and industry politics as well as public and media perception and commentary. In his introduction Pond addresses the huge cultural and financial behemoth that the Academy Awards has become over decades by stating that “at stake is the most widely recognized

⁹ Ibid., p. 235

¹⁰ Ibid., pp. 323-325

symbol of excellence in the entertainment industry—and also, clearly, one of the most potent marketing tools ever created.”¹¹ Pond also discusses the massive television audience for the ceremony, which reaches into the hundreds of millions. In fact, more people watch a Best Picture winner take home the gold statuette than watch the film in the theater.

For Pond a huge increase in the criticism given to the event has occurred over this time period because so much more media time and effort is given in the press and on TV to tracking and following celebrities. For some the Oscars ceremony has become a pageant showcasing Hollywood for the sake of Hollywood instead of being a genuine event to honor the art of film. Whether people are on either side of this debate more than likely, Pond argues, they find themselves watching it because it is irresistible television. Pond’s main goal in *The Big Show* is to look at the process of making the Academy Awards from an insider’s perspective including its politics, compromises, and excesses.

Along with his inside perspective, Pond comments on trends from year to year. For instance, in 1995, he states that for the first time in a while “the year’s best-reviewed films, in many cases, came from smaller, independent companies.” That year’s biggest independents, *Leaving Las Vegas* (1995) and *Dead Man Walking* (1995), did not receive nominations for Best Picture; however, the films’ directors were nominated for Best Director. This indicated that the members of the Academy were beginning to honor both independent and studio films in the major categories. The next year the Academy

¹¹ Steve Pond. The Big Show: High Times and Dirty Dealings Backstage at the Academy Awards. Faber & Faber. New York, 2005. p. 12.

honored more independent films as four of them --*The English Patient* (1996), *Secrets & Lies* (1996), *Fargo* (1996), and *Shine* (1996) -- received nominations for Best Picture.

According to Pond “Academy voters had become a more independent lot, and they knew giving the prize to the sole studio production [*Jerry Maguire* (1996)] in a year that belonged to the independents would make the Academy look positively medieval.”¹²

While Levy and Pond have very different approaches to Hollywood’s biggest night, both arrive at similar conclusions when looking at the politics of the Oscars. On one hand the Academy still reiterates to the public the illusion that the ceremony is all about awarding artistry of the highest order. On the other it is a huge advertisement for the movie industry.

The main thesis of Pond’s book is that the Academy Awards have changed significantly since 1989. One of the most prominent aspects of this change has been the importance of Oscar campaigns. Beginning in the Oscar season of 1993-1994, the year following *The Crying Game*’s unexpected success, Miramax began this transformation of Oscar campaigns with its advertising for *The Piano* (1993). That aggressive campaign, which will be discussed in depth later, cost Miramax over \$250,000. While this was less than was spent to campaign for some of that year’s other nominees, it was unheard of for a small-scale independent distributor.

Awards campaigns are now a normal, expected part of the Oscar process. The most prominent form of campaigning is through *Variety*, where companies place full-page ads for their Oscar hopefuls. In these ads they use quotes from reviews that help

¹² Pond, p. 140

frame a film in a particular manner. Recently *Avatar*'s (2009) Oscar ads kept using the same audacious *Time* quote from Richard Corliss stating that James Cameron's 3-D sci-fi epic "will define what movies can achieve."¹³ On a smaller scale 2003's *Lost in Translation* was described in its Oscar campaign as a film "that is different from anything else out there and yet perfect in its own singular way."¹⁴ These two claims, though different, are both examples of how a company can brand their films during Oscar season. 20th Century Fox wanted to present *Avatar* as the movie event of the year, a mix of both technological and artistic achievement never seen before in film. Focus Features advertised *Lost in Translation* as an alternative to Hollywood by simply having an excerpt from a review directly state that it is "different."

Levy and Pond both discuss Oscar campaigns in their respective studies. Levy states there had always been advertisements and promotions for films trying to capture various awards. As far back as the 1940s campaigning has been an important and influential part of the Academy Awards, but they believe Oscar ads reached a new high in the 1990s.¹⁵ Pond has been told that "the Academy finds the very thought of Oscar campaigns to be distasteful, along with the idea that those campaigns have any influence on voters."¹⁶ This does not appear to be the case as the Academy has let Oscar campaigns spread to a more and more extravagant process for almost two decades. Its peak started during the 1990's and moved into the next decade when campaigning was not strictly

¹³ *Variety*. February 10, 2010. Cover.

¹⁴ *Variety*. January 5, 2004. p.17.

¹⁵ Levy discusses Joan Crawford's 1945 Best Actress win for *Mildred Pierce* (1945) as the result of one of the first highly aggressive campaigns by a studio.

¹⁶ Pond, p. 14

about “For Your Consideration” ads but also included parties, talk shows appearances, celebrity endorsements, as well as some other tactics.

Changes like these have made the Academy Awards a bigger target for criticism and debate. Never have the Oscars felt so political, calculated, or premeditated as they have in recent years. Every year it becomes easier to predict who the winners will be because the winning formula, which includes campaigning, has become easier to spot. One of the other main components includes success at the earlier critics awards and guild awards and, to a lesser degree, the Golden Globes. By the time the Oscars announce their awards there are few surprises, especially in the major categories. In 2012 the Weinstein Company’s *The Artist* (2011) won more Best Picture awards from critics associations than any other film and director Michael Hazanavicius took home the top prize at the Directors Guild of America awards. Since 1969 the latter award has been a predictor for the Best Picture winner 36 out of 42 times, and it is understandable since most of the voting block for that award votes on Best Picture for the Academy as well.

Modern American Independent Film

Almost 30 years before this, on the other side of the American film gamut, independent film saw a very less expected event occur. In 1984 Jim Jarmusch arrived at the Cannes Film Festival with *Stranger than Paradise* (1984). It won the Camera d’or for the Best First Film and went on to gross \$2.5 million in the U.S. That same year the Coen Brothers’ *Blood Simple* (1984) was released to rave reviews as was Wim Wenders’ European/American hybrid *Paris, Texas*. The success of these films, both financially

(each grossed over \$2 million) and artistically, led to what indie film guru John Pierson called a “veritable golden age for independent film.”¹⁷

In the following year American independents pushed into the Hollywood mainstream when *Kiss of the Spider Woman* from small distributor Island Alive was nominated for four major Oscars including Best Picture, Director (Hector Babenco), Adapted Screenplay (Leonard Schrader), and Actor (William Hurt). Hurt was its only winner. While the film was unsuccessful in breaking through what Pierson and Peter Biskind call the \$25 million indie ceiling, *Kiss* was a step forward both in its \$17 million box office and major Oscar nominations.

In 1989 Steven Soderbergh’s *sex, lies, and videotape* (1989) pushed the indie movement onward. The film’s success began at Cannes, where it took home the Best Actor award as well as the festival’s highest honor, the Palme d’Or. After that the film grossed an unprecedented \$24,741,677 in America while only costing \$1.2 million.¹⁸ American independent film was not just better in eyes of critics; it was also obviously financially viable.

In his book Spike Mike Reloaded Pierson states that 1989 was “the year it all changed.” He also gives *sex, lies, and videotape* the distinction of being “the film that put the capper on one decade and jump-started the next one...[it] changed the industry landscape.”¹⁹ It was not only Soderbergh’s film that helped independent film flourish in

¹⁷ John Pierson. Spike Mike Reloaded: A Guided Tour Across a Decade of American Independent Cinema. Miramax. New York, 2003. p. 28.

¹⁸ Figure from Box Office Mojo. Accessed Jan. 21, 2012.

¹⁹ Pierson, p. 127

1989. A few notable and important highlights from that year were Spike Lee's *Do the Right Thing* (1989) and Jim Jarmusch's *Mystery Train* (1989), the third feature for each filmmaker, both of which made splashes at Cannes and the New York Film Festival. The former made over \$27 million, but the latter failed to make a substantial profit. Michael Moore's first feature *Roger & Me* (1989) was a success, especially for a documentary, taking in over \$6.5 million. One of the under-the-radar achievements for Miramax earlier that year was *Scandal* (1989), which gave the Weinsteins their first undisputed hit taking in just under \$9 million. The independent company was also receiving substantial Oscar consideration. Their success started in 1989 with wins for Best Foreign Language Film for *Cinema Paradiso* (1988) and Best Actor for Daniel Day-Lewis' performance in *My Left Foot* (1989). The latter was the studio's first win in a major category. That film's nomination for Best Picture was also a first for Miramax.

In *Down and Dirty Pictures* Biskind tracks the effects of Sundance and Miramax from 1989 to 2003. The book, not surprisingly, begins with *sex, lies, and videotape*. This, for Biskind, is the beginning of the rise for Miramax, a company that had been flirting with bankruptcy. After they won the bidding war at Sundance and bought *sex, lies, and videotape*, the founders and CEOs, Harvey and Bob Weinstein, distributed the film slowly until it played on over 600 screens (very high for an independent film) and made everyone involved more money than was ever expected.

In the early 1990s, because of the changing face of American indies, distributors, including Miramax, were finding more and more ways of expanding their audience by finding films with crossover appeal to the mainstream audience. This would normally

include gunplay and action [*Reservoir Dogs* (1992), *Good Will Hunting* (1997)]. After 1989 one of the main places to find indie films to bring to a larger audience was the Sundance film festival. Pierson describes this search by distributors as looking for “the next Soderbergh.”²⁰ For Pierson the search ended in 1992 when *Reservoir Dogs* screened at Sundance and Quentin Tarantino became the talk of the festival. Live Home Video, a small video distribution company, financed the film’s \$1.5 million. Miramax bought the right to distribute the film, which only took in around \$2.8 million.

That same year Miramax picked up *The Crying Game*. That film would change Miramax financially as it enticed Disney to buy the Weinsteins’ company. Not only was the film a box office hit but, as stated earlier, it garnered the studio six Oscar nominations, including Best Picture. The following year *The Piano* took in over \$40 million and won the studio three major Oscars for Best Actress (Holly Hunter), Best Supporting Actress (Anna Paquin), and Best Original Screenplay (Jane Campion).

In 1994 Tarantino’s second feature, *Pulp Fiction*, was released. According to Biskind this was the first time Harvey Weinstein gave a director final cut, regardless of what test audiences told him. Harvey had a lot of faith in the project and opened it on over 1,000 screens as oppose to the usual slow “platform” release for indies that opens a film in a handful of theaters and increases that number as word of mouth spreads. The bold strategy worked as *Pulp Fiction* grossed over \$100 million domestically and doubled that figure worldwide. It was the first indie to reach those milestones. It also gave Miramax its third straight Academy nomination for Best Picture. Biskind believes

²⁰ Pierson, pp. 202-204

that “*Pulp*’s biggest impact was on Miramax itself, and therefore on the direction of indie filmmaking throughout the rest of the decade...It cemented Miramax’s place as the reigning indie superpower.”²¹ Biskind observed that Miramax’s model was becoming so successful by this time that “the world of indie distribution was remaking itself in Miramax’s image...Suddenly the Weinsteins faced stiff competition not only from nemeses Sony Classics, Goldwyn, October, and Fine Line, but from new kids on the block Universal’s Gramercy, Fox Searchlight, and even Paramount Classics.”²²

These names refer to independent distributors or studio indie divisions. During the rise in American independent film from 1989 to 1994 there had also been a rise in the companies producing and distributing these films. Miramax was the first to hit a home run and the others were following its lead. While Gramercy, a joint venture of Polygram and Universal Pictures, did not get into Miramax’s league early on, it did score a monumental hit in 1994 with *Four Weddings and a Funeral* (1994). That film went on to gross over \$245 million worldwide. In 1992 Sony Classics, a self-proclaimed “art house” division of Sony, distributed *Howards End* (1992), which brought in over \$25 million. In 1994 20th Century Fox created its indie division Fox Searchlight. Its first film, *The Brothers McMullen* (1994), was a mild hit. It reached over \$10 million, but it established Fox Searchlight early as a substantial player in the indie film world. Its success continued in 1997 when it picked up the unexpected British hit *The Full Monty* (1997). The modest comedy took in \$45 million stateside and over \$257 worldwide, making it easily Fox

²¹ Biskind, p.189

²² Biskind, p.193

Searchlight's biggest hit at that time. During the 1990s these indie divisions had become a staple in American film industry.

The rise of these conglomerate-owned indie divisions has also led to the debate about what exactly constitutes an independent or indie film. In 1984 it was much easier to distinguish and define films like *Stranger Than Paradise* and Spike Lee's *She's Gotta Have It* (1986) as independent and indie films because they were not products of a studio in any way. Jarmusch used leftover film stock from other productions for his film, and Lee borrowed money from friends to finish his first feature. Now the viable market brand of "indie" is given to films with budgets reaching into the tens of millions paid for by a parent conglomerate and given first-class distribution on thousands of screens across the country.

This difficulty of defining independent and indie film has been the topic of many articles, books, and essays. In *Indie: An American Film Culture* Newman talks about the independent films of this time period. He dubs this the "Sundance-Miramax era" because of both entities' strong influence on independent and indie film. His argument is to understand the conception of independent film "by locating indie cinema within the integrated web of text, audience, and institutions."²³ The most influential of these three are institutions like the aforementioned conglomerates, which have the ability to brand their films as independent to indie moviegoers before the film even hits theaters with large studio-sized marketing campaigns. Newman wants to differentiate independent and indie. The former is the tangible attribute given to a film through textual and financial

²³ Newman, p. 18

features. The latter “is the product of a judgment that we make about a film, or which comes premade for us as part of the film’s promotional discourse.”²⁴ With this clear distinction between these two concepts, Newman concedes that “Fox Searchlight and its ilk...share the power...to define the category [independent]...The fact that many ordinary moviegoers would identify *Juno* (2007) as an indie film [like *Garden State* (2004), *Napoleon Dynamite* (2004), *Sideways* (2004), and *Little Miss Sunshine* (2006) before it] is a testament to that power.”²⁵ This does not mean that these films are independent, but they have been successfully branded as indie.

These films were all produced or distributed by the conglomerate-owned subsidiary Fox Searchlight and are prime examples of the blurring of the defining line between the brands of “indie” and “studio.” Some believe that these companies manipulate audiences into believing films are independent or indie when they are not. A reviewer that holds this position, Manohla Dargis, wrote in *The New York Times* in 2008: “independence in the movies is a cri de coeur and an occasionally profitable branding ploy, but mostly it’s a seductive lie.”²⁶ Dargis believes that audiences are manipulated into thinking these films are independent. Newman believes this is because these films are given the intangible, cultural brand of indie through the discourse of marketing campaigns, specific reviews, as well as the indie brand given to the indie division that distributes and/or produces them.

²⁴ Newman, p.12

²⁵ Newman, p. 245

²⁶ Manohla Dargis. “The Revolution is Dead, Long Live the Revolution.” *The New York Times*. September 4, 2008. p. AR35

From one perspective the institutional influence that causes this blurring between indie and studio films has paved the way for more and more of these films to be nominated for Academy Awards. By moving indie into the mainstream these companies have given a more commercial appeal to indies that has led to exposure and more Academy Award nominations. However the members of the Academy, beginning in 1985, began giving independent and indie films nominations in major categories. This symbiotic relationship between the Academy and independent film culminated in 1996, the earlier mentioned “year of the independents” at the Academy Awards with the eventual top prize going to Miramax’s *The English Patient*, a film Steve Pond describes as “the independent film that didn’t look, sound, or feel like an independent film.”²⁷ Before this, in 1992, indies had begun a rise in success at the Oscars. In *All About Oscar* Levy marks this year as significant for indies as “*Howards End*, *The Crying Game*, and *The Player* (1992)...garnered more Oscar nominations than the big studio releases.”²⁸

By 1995 Miramax did not win a major award outside of writing and acting, even with *The Piano*’s aforementioned three big wins in 1993. After that it received at least one Best Picture nomination for the next thirteen years. Miramax became the Oscar king of independent and indie filmmaking, but it was not alone. In fact in the 21 years from 1992 to 2012 independent films and films from studio subsidiaries dealing in indie product have produced 35 out of the 110 nominees for Best Picture. Of those, nine won the award, including seven in an eight-year span from 2005-2012. At the forefront are

²⁷ Pond, p. 140

²⁸ Levy, p. 327

Harvey and Bob Weinstein whose studios Miramax and The Weinstein Company have taken home the top award five times.

This Oscar success parallels the trend with the overall rise and change in American independent film. Over this time conglomerate-owned independent subsidiaries were popping up and becoming more and more successful and, in turn, making their films look and feel more like Hollywood mainstream fare. Examples of this are the multi-million-dollar-budgeted *The English Patient*, *The Cider House Rules* (1999), *Traffic* (2000), and *The Pianist* (2002). Geoff King explores these issues of the merging of independent and studio elements, both in text and discourse, in his book *Indiewood, USA: Where Hollywood meets Independent Cinema*. His aim is to cover and investigate “Indiewood, an area in which Hollywood and the independent sector merge or overlap.”²⁹ This cinematic realm consists of films that constitute elements of both Hollywood and indie filmmaking. The rationale for these divisions, King argues, enabled the conglomerates to cash in on large-scale independent and indie hits, broaden their overall portfolios, and bring in new filmmaking talent behind and in front of the camera. King also discusses the parallel in the indie subsidiaries to two economic trends of the 1980s: the commodification of material goods and capitalization of cultural events. In the 1990s, “significant portions of an ‘independent’ cinema defined previously as more separate, alternative or in some cases oppositional, became increasingly commodified and brand-marketed, and thereby penetrated by the prevailing forms of contemporary

²⁹ Geoff King. *Indiewood, USA: Where Hollywood meets Independent Cinema*. I.B. Tauris. New York, 2009. p. 3.

capitalism.”³⁰ This idea is what makes the rise of conglomerate-based indie divisions so interesting and so open to controversy.

Most of King’s analysis is textual, looking at Indiewood filmmakers such as Charlie Kaufman, Tarantino, and Soderbergh. The goal of doing a vast sweep of the Indiewood landscape, for King, is to show the many different niches into which this type of film production taps. King argues that while some can see the indie divisions as an artistic compromise of sorts, they can also be viewed as outlets for a greater range of diversity in American film. King suggests a more appropriate argument is that “the development of Indiewood institutions and practices has exerted pressures on and helped to shape aspects of the wider indie sector.”³¹ In other words, the norms of the films and companies that make up Indiewood have spread to a large portion of American independent film. This makes it less viable to sell a product that is a true alternative to Hollywood films and forces independent filmmakers, to some extent, “play” the Indiewood game by making their films fit within the “indie” brand.

Method and Theory

The main goal of this study is to explore the symbiotic relationship between the Oscars and modern American independent film from 1992-2007. The main method employed will be discourse analysis. The scope will encompass multiple films nominated for Best Picture from 1992-2007 with an emphasis on those that best exemplify the

³⁰ King, p. 9

³¹ King p. 269.

evolving “Oscar indie” phenomenon. These years are chosen because Miramax first had success with the Oscar indie model in 1992 with *The Crying Game* and the Best Picture nominees of 2007 are relevant examples of the various ways that the Oscar indie model has been utilized and how it evolved over these 15 years. The works of two scholars already discussed, Geoff King and Michael Z. Newman, will be useful because of their emphasis on discourse and its role in the process of creating the brand of “indie.” The discourse that will be analyzed will extend from reviews and articles in both mainstream publications and the trade press, as well as advertising, Oscar campaigns, and other pertinent blogs and literature. The focus will be how these films were and are discussed in terms of *independent* and *studio* in an effort to track the evolution of the “Oscar indie” from its birth at Miramax in the early 1990s to its institutionalization in the early 2000s to its further complication in 2006 and 2007.

Along with the main discourse analysis I will also use textual analysis to give context to a particular discourse about a film. For example many critics have found that studio/indie hybrid films have many elements that are reminiscent of the Hollywood mainstream. Analysis of a particular film’s text can show how a scholar or critic has arrived at that conclusion for a particular film. For instance some critics attacked *Little Miss Sunshine* because its characters were one-dimensional and its plot was predictable and unoriginal, adjectives not usually employed when talking about a successful indie. This textual analysis will also be used on a film’s advertising and Oscar campaigns to demonstrate how these marketing strategies were used to brand films as quality and indie.

While some years there are a handful of Oscar achievements for indies outside Best Picture my focus for the most part will stay in the Best Picture category.

Chapters

1. *Miramax and the Birth of the Oscar Indie*

In this chapter I will define the characteristics of films that follow the model I term the “Oscar indie.” The Oscar indie refers to a process that includes release strategy, marketing campaign, media discourse, critical reception, guild and critics awards success, and Oscar campaigning. I will argue two very prominent and distinct versions of the Oscar indie were created and implemented by Miramax in the 1990s. The first version consists of small-scale, low-budget films. The two main examples of this are *The Crying Game* and *The Piano*. The media discourse surrounding the films that fall into this version focus on the production elements of budget and scale and help the films achieve the brand of “indie” in the eyes of the movie going public and the industry. This includes reviews, articles, and advertisements. For example, while *The Crying Game* was achieving massive financial success, *Entertainment Weekly* ran a cover story about the film titled “The Little Movie That Could.” The article labeled the film as a “low-budget...art film...that is a critical and popular success.”³²

The second important brand the small-scale, low-budget film has to attain is Oscar-worthiness or, in more general terms, quality. Critics’ reviews are the most

³² Mark Harris. “The Little Movie That Could.” *Entertainment Weekly*. February 12, 1993. Accessed at www.ew.com Feb. 24, 2012.

common way to achieve this. After a film has been given both these brands, most likely in critic's reviews and awards, the Oscar indie model has been utilized successfully, which sometimes ends with an Academy nomination for Best Picture. In this chapter I will use an in-depth analysis of these major branding elements with regards to three films from Miramax. The first film discussed will be *The Piano*. I will argue that Miramax's release strategy as well as its mindset after the commercial success of its previous Oscar darling *The Crying Game* was very conscious in following the Oscar indie model with *The Piano*. In fact, after the film received eight Oscar nominations including Best Picture, Miramax's aggressive and costly Oscar campaign only cements how much the company coveted Oscar success for its film.

The other version of the Oscar indie that Miramax cultivated in the 1990s differs from the small-scale, low-budget version simply because of the scale of production. These are much larger, in scope and/or budget, than one would expect from an independent film, but the media discourse allows for the film to still have an "indie" brand. These include *The English Patient*, *Good Will Hunting*, and *Shakespeare in Love* (1998). While these indie-brand films develop more complications than previous Miramax Oscar contenders the second element of branding a film as quality or Awards-worthy is aligned with the "Oscar indie" model. For example *The English Patient's* budget exceeded \$27 million, but the critical consensus still described it as an alternative from Hollywood and an independent film. *Variety* believed that Miramax had to "try to

push it as far into the mainstream as possible” in order to be financially successful.³³ The film became a commercial and critical hit allowing it to achieve both the brands of “indie” and awards-worthiness.

2. Institutionalization of the Oscar Indie by Independent Subsidiaries

This chapter will analyze the rising Oscar success of the films produced and/or released by conglomerate-owned independent subsidiaries. My discussion will focus on the effect the Oscar indie models implemented in the 1990s had on these film divisions in the early to mid 2000s. During this time the Oscar indie was reaching an apex, both in box office returns and Oscar success. My main analysis will again focus on the media discourse surrounding these films including marketing campaigns, reviews, articles, as well as eventual Oscar campaigns. Statistics prove that these divisions were not only producing and distributing more features over this period of time but were also making more money and enjoying more Academy recognition, both in nominations and wins, by implementing the Oscar indie strategy of Miramax.

I will also emphasize a complication, both in discourse as well as in the films themselves, of films that fall into the earlier defined Oscar indie models. For example, while in the 1990s reviewers gave the indie brand to Miramax’s *The English Patient* and *Shakespeare in Love*, films with \$20-plus million budget, in the 2000s other factors outside of a company’s indie brand, such as a film’s text, budget, and talent, allowed the

³³ Todd McCarthy. “The English Patient.” *Weekly Variety*. Nov. 10, 1996. Accessed at www.variety.com Feb. 24, 2012.

media to brand a film as indie. By 2005 many of these films were achieving Oscar success as well because of these two developments. Thus, subsidiaries like Fox Searchlight, Sony Pictures Classics, and Focus Features were becoming more synonymous with the brands of indie and quality.

This chapter breaks down this evolution by talking about these Oscar indies in two main groups. The first includes smaller, character-driven films like *Lost in Translation* (2003) and *Sideways* (2004), whose distributors used marketing campaigns that accentuated these films' intimate scope and critical acclaim. The second group includes larger-budgeted films that gained indieness because their textual elements were an alternative to the Hollywood mainstream. These include *Traffic* (2000), *Gosford Park* (2001), and *The Pianist* (2002). How these independent divisions branded these films through marketing and diversified the way the Oscar indie model was implemented. The success these "Indiewood" movies were enjoying at the Oscars, and at the box office, showed that even if the indie brand was achieved in different ways it did not hamper its success in both these areas.

3. The Evolution of the Oscar Indie

The years of 2006 and 2007 are very important and interesting in regards to the Oscar indie. In the final chapter I will focus on how the Oscar indie films of these years earned their indie brands. These films will be grouped into three categories, based on how they achieved indieness: ones mirroring the Oscar indies of '90s Miramax and the subsidiary indies of the early 2000s [*The Queen* (2006) and *Atonement* (2007)], those that

are similar to Oscar indies of the past but also use newer marketing developments such as being described as “quirky” (*Little Miss Sunshine* and *Juno*), and the new breed of Oscar indie that achieves its brand mainly by how its narrative elements were being represented as anti-Hollywood in press discourse [*Babel* (2006), *No Country For Old Men* (2007) and *There Will Be Blood* (2007)].

In these two years seven out of the ten Best Picture nominees could be defined as Oscar indies. This trend signaled that the Oscar indie was becoming more and more successful in terms of Academy Award nominations and therefore more championed in its own industry. Hollywood was celebrating the films that the media was branding as industry outsiders. Whether or not that development is implicit does not change the fact that the brand is lucrative and powerful. The grouping parallels the stages in the Oscar indie model’s path from Miramax in the ‘90s through the rise by independent subsidiaries in the early 2000s to the important anti-Hollywood Oscar indies of 2006 and 2007.

Chapter 1: Miramax and the Birth of the Oscar Indie

Introduction

During the 1990s Miramax began executing and implementing a new kind of model of releasing their films in the hopes of achieving significant Oscar contention and, subsequently, a higher box office return. This model, what I will call the Oscar indie model, first consists with releasing a film in the hopes that it can attain two very important brands: indie and quality. Both of these are very complex culturally constructed brands that are shaped by many factors including the film industry, marketing, the press, and, in some cases, the movie going public. The first brand, indie, is further complicated by its connection to the term independent. Both are sometimes interchangeable in writing and conversation about film because indie can be used as shorthand for independent. While that may be the case in some instances, the terms differ greatly in this study and that difference will determine which term is used. “Independent” is an industrial and business oriented term referring to the elements of production and/or buying and release of a film while “indie” refers to the culturally constructed brand. In

Indie: An American Film Culture Michael Z. Newman states that:

Determining what indie means requires that we be attentive to its cultural circulation...Indie constitutes a film culture: it includes texts, institutions, and audiences...Indianness is the product that we make about the film, or which comes premade for us as part of the film's promotional discourse and its contexts of consumption.³⁴

³⁴ Michael Z. Newman. Indie: An American Film Culture. Columbia University Press. New York, 2011. pp. 11-12.

It is this definition of indie that will dictate the meaning of the word in the following chapters. The word “independent” will be utilized when talking strictly about the industrial and production aspects of films. For Miramax the indie brand is a built-in brand that has been achieved through the company’s efforts throughout the 1980s and very early 1990s by almost exclusively acquiring independent and foreign films for distribution.

The second brand that an Oscar indie release strives to achieve, quality, is very comparable to Newman’s idea of the indie brand because it also requires a combination of marketing and press discourse. This most prominently occurs with positive reviews and culminates in year-end awards from critics as well as industry guilds and, most significantly, the Academy Awards. The similar nature of the indie and Oscar brands is at the heart of the success of the Oscar indie model for Miramax in the 1990s.

In the Oscar indie model the initial goal is to achieve the indie and quality brands. For Miramax this consisted of releasing a film with a platform strategy, which was very prominent with independent distributors in the 1980s. This strategy opens a film in a small number of theaters and hopes either good reviews, strong word of mouth by the public, or both would help strengthen the awareness of it as a quality film by the time it would slowly expand to more theaters. A platform release fits nicely within the goals of the Oscar indie model because it also relies on and utilizes the “cultural circulation” Newman uses to understand “indie.”

The main goal behind Miramax trying to achieve the brand of quality for a film is to receive Oscar contention for a certain film, an objective that would yield higher box

office returns and give the company an overall image of success that would help future endeavors. The goal of achieving the indie brand would be to attract moviegoers who actively search out indie films. Both brands bring with them monetary value from different avenues. On the one hand a Miramax film with both these brands can attract a niche arthouse audience while also attracting a larger mainstream audience through strong, positive press discourse and word-of-mouth. The difference during this period for Miramax was the extra money that could be used in strong Oscar campaigns.

I will argue that from 1993-1998 Miramax heavily utilized the Oscar indie model and, in turn, brought about a distinct and important evolution in the company. Furthermore I will also discuss the effects of this evolution slowly beginning to show in studio-owned independent subsidiaries in the way they released and marketed their films to incorporate elements of the Oscar indie model. This chapter will be organized in three distinct phases, which are represented by three films on which Miramax implemented the Oscar indie release strategy: *The Piano*, *The English Patient*, and *Shakespeare in Love*. Other Miramax films, as well as other films distributed by independent subsidiaries, will be also be discussed in terms of their marketing, release, press discourse and Oscar success to illustrate how the Oscar indie model became one of the defining factors that shaped the image and business strategy and films of Miramax from that of an independent distributor to something resembling a Hollywood studio and that this change would begin to spread throughout American independent film as a whole. The overall effect of Miramax's Oscar indie model does not take place during the time period, but the origins are set and instances are present. By the time *Shakespeare in Love* is released in

1998 there is a dominant press discourse identifying Miramax as more a studio than an independent distributor. Films that are produced and released during this time by Miramax begin to merge between both these arenas. Geoff King describes these films, in *Indiewood, USA*, as “a part of the American film spectrum in which distinctions between Hollywood and the independent sector [appear] to have become blurred...A kind of cinema that draws on elements of each, combining some qualities associated with the independent sector...[with] other qualities and industrial practices more characteristic of the output of the major studios.”³⁵ The Oscar Indie was a major catalyst for this of “blurring” the characteristics between independent and studio films.

The Piano

The Crying Game was a fluke. Its multiple Academy Awards nominations in major categories and its box office were nothing Miramax had ever experienced before. After *The Crying Game* became the biggest hit ever for Miramax, the company began to show they believed they could duplicate its success. While *The Crying Game* was the first Miramax film to employ the Oscar indie model with a slow release and marketing emphasis on its stellar reviews, its next release, *The Piano*, was the first film in which Miramax strategically implemented this process from start to finish. They were so confident in the idea of buying another highbrow foreign import that they were negotiating with Disney, who saw potential profits in the company after *The Crying Game*. Miramax was already in the heat of acquiring Jane Campion’s artsy romantic

³⁵ Geoff King. *Indiewood, USA*. I.B. Tauris & Co. Ltd. New York. 2009. p. 3

gothic drama, *The Piano*. The film follows a Scottish mute pianist, Ada (Holly Hunter), and her daughter, Flora (Anna Paquin). Ada's father sells her into marriage to a New Zealand frontiersman, Alistair. As the film progresses Ada and Alistair have no romantic connection, and she instead falls in love with his friend Baines (Harvey Keitel). Like *The Crying Game*, the film is not one that exudes mainstream appeal, but it was a film that Miramax could utilize the Oscar indie model with because it could attain the indie and quality brands.

The first public screening of *The Piano* would be at the prestigious Cannes Film Festival. There the film shared the festival's top prize, the Palme d'Or, with another Miramax acquisition, *Farewell My Concubine* (1993). After this Miramax put its or, more specifically, Disney's money on *The Piano* to be the company's Oscar darling for 1993. The first step was the timing of the release. Even though the film needed no revisions after Cannes, which took place in May, Miramax released it in November in the U.S. The most likely reason was the hope that the film would follow the path of *The Crying Game* and gain end-of-year box office momentum from rave reviews, critics' awards, and eventually Oscar success.

During the first week of its public release *The Piano* had no problem with one of the early elements of the Oscar indie – i.e., garnering many positive reviews, especially from top critics. The film was so strongly praised that Vincent Canby of *The New York Times* began his glowing review with the instruction for readers to not “let the mountains of superlatives that have already been heaped on *The Piano* put you off: Jane Campion's 19th-century love story lives up to its advance notices. Prepare for something very

special.”³⁶ Critics everywhere were lauding the film giving it superlatives such as “evocative, powerful, extraordinarily beautiful”³⁷ as well as “assured and provocative.”³⁸

Miramax made sure these words were the centerpiece of the early ad campaign for *The Piano*. These reviews were important because they labeled *The Piano* with the quality brand. Some also exuded the film’s difference from most Hollywood films.

Roger Ebert described *The Piano* as “peculiar and haunting as any film”³⁹ and Canby’s review went on to proclaim that when watching the film “you know you’re in uncharted cinema territory early on.”⁴⁰ These statements gave *The Piano* a strong indie brand.



Illustration 1.1: Early release poster for *The Piano*.

³⁶ Vincent Canby. “The Piano: Forceful Lessons of Love And Cinematic Language.” *The New York Times*. Oct. 16, 1993. Accessed at www.nytimes.com Mar. 4, 2012.

³⁷ Hal Hinson. “The Piano.” *The Washington Post*. Nov. 19, 1993. Accessed at www.washingtonpost.com Mar. 4, 2012.

³⁸ Jonathan Rosenbaum. “The Piano.” *The Chicago Reader*. Nov. 12, 1993. Accessed at www.chicagoreader.com Mar. 4, 2012.

³⁹ Roger Ebert. “The Piano.” *Chicago Sun-Times*. Nov. 19, 1993. Accessed at rogerebert.com Mar. 4, 2012.

⁴⁰ Canby.

Reviews helping *The Piano* achieve the brands of quality and indie were only the beginning of the Oscar indie process. The next step was to give *The Piano* a limited release that would slowly expand as reviews, awards, and word of mouth spread. In its first two weeks Miramax opened *The Piano* on less than 100 screens in the U.S, but the strong reviews already helped the film gross nearly \$3 million. Throughout December Miramax widened the release to over 500 screens nationwide with very positive box office results. By the first week of 1994 *The Piano* had grossed over \$18 million and the Oscar nominations were still over a month away.⁴¹ This was shaping up to be another homerun like *The Crying Game* and was proving the Oscar indie model was a viable moneymaking strategy.

Nominations for the 1994 Academy Awards were announced on February 8, 1995. To no one's surprise *The Piano* was nominated for eight awards including Best Picture, Director (Jane Campion), Actress (Holly Hunter), Supporting Actress (Anna Paquin), and Original Screenplay (Jane Campion). During January *The Piano* was still appearing in around 500 theaters and had only made around \$7 million. Miramax put the film in more theaters to use the Oscar nominations to help boost box office revenue. A new set of publicity was developed to advertise that *The Piano* was not just as a critical darling but as an Oscar-caliber hit. The post-nomination theatrical poster illustrates how strongly Miramax focused its marketing on the Oscars. Not only were the film's eight nominations included, but the color palette was also different. Miramax tossed aside the

⁴¹ Box Office Mojo: *The Piano*
<<http://boxofficemojo.com/movies/?page=weekly&id=piano.htm>> Accessed Aug. 14, 2012.

icy blue and white of their previous posters and instead gave the poster a makeover accentuated with a golden hue, the color of Oscar.

In fact Miramax, which now had the luxury to spend money with their buyout deal with Disney, spent an unprecedented amount to help their film gain as much exposure as possible with the public and Academy voters. While Miramax claimed the Academy push only cost around \$250,000, still an enormous amount for an independent film, some believed the total to be somewhere around \$750,000. Many in the industry criticized the aggressive campaign.⁴² At the end of the day, whether it was discussing Miramax in positive or negative terms, the press was consistently talking about the campaign and *The Piano*, which was a marketing win for Miramax. Not only were the Weinsteins making sure their film was labeled by its Oscar-worthiness, but the press was helping them out as well.

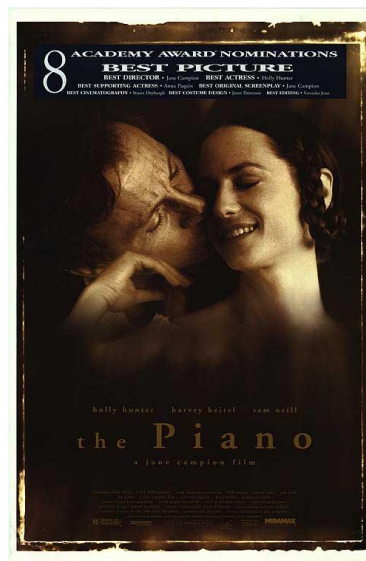
Heading into the final week before the ceremony the press were reporting that “the sheer volume of ads, especially for such a modest and relatively inexpensive film...have numbered as many as seven per day in *Daily Variety* and the *Hollywood Reporter*...[This] has raised eyebrows, even among some veteran Oscar observers.”⁴³ Part of it was Disney’s money, but it was also Miramax’s experience with *The Crying Game* the year before and knowing how much Oscar can drive box office. If he could have another winner with *The Piano*, the Miramax brand could begin to start becoming

⁴² Emanuel Levy. All About Oscar: The History and Politics of the Academy Awards. Continuum International. New York, 2003. p. 312.

⁴³ David J. Fox. “Playing the Oscar Game Like a ‘Piano’?” *Los Angeles Times*. Mar. 11, 1994. Accessed at www.latimes.com Mar. 12, 2012.

synonymous with Oscar. For Weinstein there was too much at stake not to invest big money in *The Piano*'s Oscar campaign.

After nominations were announced the box office saw a noticeable upward bump. This was the expected norm with Oscar-nominated independent films. Most in the press believed there was “little question that [independent] films like *The Piano* and *In the Name of the Father* improved their box office as a result of multiple Oscar nominations.”⁴⁴ The two weeks following the announcement saw *The Piano* take in another \$5 million, the best two-week performance for the film since it went to over 500 screens during the final weeks of 1993. As Oscar night approached *The Piano* added another \$8.5 million, giving it a grand total of \$35 million.⁴⁵ For two straight years Miramax distributed the highest grossing and most nominated independent film of the year.



⁴⁴ Leonard Klady. “‘Schindler’s List’ likely due biggest B.O. boost.” *Variety*. Mar. 21, 1994. Accessed at www.variety.com Mar. 12, 2012.

⁴⁵ Box Office Mojo: *The Piano*.

Illustration 1.2: Post-Oscar poster for *The Piano*

On Oscar night the women of *The Piano* were all winners. Hunter took home the Oscar for Best Actress, 11-year old Paquin won for Best Supporting Actress, and writer/director Campion's script was given the distinction of Best Original Screenplay. Even though Miramax lost the top prize of the evening to the heavy favorite *Schindler's List* (1993), receiving three major awards put them on top of the independent world. A month after the Oscars *The Piano* ended its theatrical run. It had made Miramax slightly over \$40 million, which fell short of *The Crying Game*'s gaudy box office total, but was still an unqualified success.⁴⁶

The Piano proved that the Oscar indie model was a successful strategy in terms of achieving high box office returns for Miramax while also maintaining the indie and quality brands that were vital to independent distributors at this time. Whether or not this would be the case for future releases of Miramax and what impact, if any, would be on the rest of the American film industry was yet to be seen.

Keeping Up Appearances

In the following years Miramax changed as a film distributing and filmmaking institution. Their next big release and Best Picture nominee, *Pulp Fiction* (1994), was noteworthy on many accounts. It was the first film produced and distributed by Miramax under Disney. It eventually was also the biggest moneymaker in the history of Miramax,

⁴⁶ Ibid.

taking in over \$100 million at the U.S. box office alone. Those are the big reasons, but the smaller ones are the most telling. *Pulp Fiction* was anything but a film to release under the Oscar indie model. Where *The Crying Game* and *The Piano* were smaller, intimate endeavors with indie qualities that were acknowledged by the press *Pulp Fiction* was described as a bigger, more entertaining film that could find a mainstream audience. Peter Biskind describes this change in *Down and Dirty Pictures* by stating that “compared to *The Piano* and *The Crying Game*, *Pulp* [Fiction] wasn’t that risky...it had sex, drugs, and rock n’ roll, and violence, and that’s something every studio would have gone for.”⁴⁷

Instead of going the way of the Oscar indie strategy, Miramax decided to open *Pulp Fiction* wide and it paid off. The film’s box office was through the roof; reviews were almost unanimous in their praise. While the press gave *Pulp Fiction* the distinction of being a completely bold and inventive vision. In *The New York Times* Janet Maslin called the film “a triumphant, cleverly disorienting...a work of such depth, wit and blazing originality that it places [Tarantino] in the front ranks of American film makers.”⁴⁸ *Entertainment Weekly*’s Owen Gleiberman stated he left the film “high on rediscovery of how pleasurable a movie can be.”⁴⁹ After its theatrical run the same magazine later described it as “the *Jurassic Park* of independent films.”⁵⁰ The success and discourse of *Pulp Fiction* can be seen as a symbol for Miramax during this time

⁴⁷ Peter Biskind. *Down and Dirty Pictures*. Simon & Schuster. New York, 2004. p. 167

⁴⁸ Janet Maslin. “PULP FICTION: Quentin Tarantino’s Wild Ride On Life’s Dangerous Road.” *The New York Times*. Sept. 23, 1994. Accessed at www.nytimes.com Mar. 12, 2012.

⁴⁹ Owen Gleiberman. “‘Pulp Fiction’.” *Entertainment Weekly*. Oct. 14, 1994. Sep. 8, 1995. Accessed at www.ew.com. Mar. 12, 2012.

⁵⁰ Ibid.

period. After the success of the Oscar indie model with *The Crying Game* and *The Piano* Miramax and Weinstein tried something new for *Pulp Fiction* because it was a decidedly different type of movie for the company. It was big and bold while most Miramax releases had been predicated on being very small, intimate releases. For most, if *Pulp Fiction* was an independent film, it was a new kind. John Pierson admits in his book *Spike Mike Reloaded* that “you have to bend over backwards and jump through hoops to define *Pulp Fiction* as an independent.”⁵¹ Of course Pierson is looking at the industrial and production aspects of *Pulp Fiction*, which is a complicated mess in terms of defining whether or not the film is independent. Its indieness, however, is an attribute that entails a much more complex discussion.

After the deal that made Disney the parent company to Miramax, it could be argued that every film they produced, including *Pulp Fiction*, could never be considered independent. However because Miramax was promoting itself as an indie company – a view shared by the press – then its films also inherently received the indie label as well. This is an important distinction and development for the Oscar indie model mainly because the independent nature of a film is irrelevant, but the indieness of a film is. During the years that followed *The Piano* and *The Crying Game*, Miramax was using Disney’s money for marketing and unprecedented Oscar campaigns. And with *Pulp Fiction* it was now using it to produce films as well. Miramax’s indie brand was safe from criticism because it was still releasing what the press deemed arthouse fare, or at least an alternative from Hollywood, along with its high budgeted pictures. Moreover, the

⁵¹ John Pierson. *Spike Mike Reloaded*. The New York Times Company. New York, 2003. p. 332.

Oscar indie strategy was not in full effect in 1994 as *Pulp Fiction* was a different case compared with *The Crying Game* and *The Piano*. How to label Miramax and its films came back in 1995 with the small foreign pick-up and Best Picture nominee *Il Postino* (1995). That film was a mild hit, especially compared to its Oscar indie predecessors, but it still kept the Oscar indie model present within Miramax. More importantly it maintained the brand of indie by being more akin to the earlier films that Miramax distributed before the Disney deal. This would not be the case with the next Oscar indie Miramax would release. It showcased the marketing and release strategy of the model to full effect, but it also was a film that was the catalyst for Miramax's indieness to be called into question.

The English Patient and The Year of the Independent

From 1992-1995 Miramax releases garnered four Best Pictures nominations and a total of 20 nominations in the eight major categories of Picture, Director, Actor, Actress, Supporting Actor, Supporting Actress, Adapted Screenplay, and Original Screenplay. To the press Miramax represented the very best of American independent film. The company maintained its indie image with by releasing films such the low-budget romantic comedy *Swingers* (1996), David O. Russell's original and zany *Flirting with Disaster* (1996) and the Scottish-produced, Danny Boyle-directed dark take on British drug culture, *Trainspotting* (1996). These were all hits with critics and were great additions to reinforce the company's indie reputation.

This image was something that Miramax had been effectively maintaining over the past few years, but the numbers showed that the indie brand was not as profitable as the Oscar brand. The weakest box office performer out of the company's most recent group of Best Picture nominees was *Il Postino*, which took in over \$21 million. If a Best Picture nomination helped out the gross of a Miramax release substantially, the logical thought would be that a win in the category would make a film even more profitable and help the company overall. In 1996, however there was stiff Oscar competition from a different American film sect; studio-owned independent subsidiaries.

Since its inception Miramax has been predominantly in the business of picking up smaller arthouse and foreign titles. 1996 was a big year for independent titles as *Sling Blade* (1996), *Breaking the Waves* (1996), *Shine* (1996), and *Secrets & Lies* (1996) were hitting the festival circuit and generating buzz with studios looking to buy. As mentioned earlier Miramax and their employees were becoming very busy and had their hands in many deals for films looking for distribution, but other firms had started to emulate Miramax and were becoming aggressive buyers. October Films bought the Lars von Trier directed, Danish import *Breaking the Waves* and British director Mike Leigh's *Secrets & Lies* and Fine Line Features, the indie division of New Line, beat out Miramax to acquire the Australian film *Shine* (dir: Scott Hicks), which was a big hit at Sundance.

The year before Miramax had bought *The English Patient*, which started at Fox where it was deep into pre-production when suddenly the studio backed out. Producer Saul Zaentz needed to find someone to cover the \$20 million or so it was going to take to complete the picture. All the key personnel were set: Anthony Minghella would direct

and Ralph Fiennes, Kristin Scott Thomas, Juliette Binoche and Willem Dafoe would star. Miramax swooped in at the last minute and bought the world rights for \$28 million.⁵²

The film, also written by Minghella, is based on Michael Ondaatje's novel, an epic love story set during WWII. In it a badly burned Hungarian Count (Fiennes), his nurse (Binoche), and an Italian thief (Dafoe) try to live out the end of the war in a castle outside a small Italian village. Through a series of flashbacks we learn about the Count and how an affair with a married woman (Thomas) is the main action that has led to his present injury and situation. While the film is told in a non-linear fashion it is very much an old-style, sweeping historical romantic epic. Its overall budget was \$40 million, higher than any other film Miramax produced or released.⁵³ At this point Miramax had prestige because of the quality of the movies they distributed and the Oscar nominations they had received. *The English Patient* was only going to heighten that part of Miramax's image. It did, however, have the potential to damage Miramax's other image of indie.

However, that was not the focus of the press discourse about *The English Patient* as it opened in mid-November, the heart of awards season and the standard time Miramax was releasing its Oscar indies. Critics loved the film, so its quality, not its budget, took center stage. Yet their praise showcased the film's epic scope, if not directly stating its studio-sized budget. *The Washington Post's* Rita Kempley gave it a glowing review and called it "an epic romance...a tour de force so haunting that other films can't exorcise the memory of its radiant cast, exquisite craftsmanship or complex system of metaphors.

⁵² Biskind, p. 243-246

⁵³ Biskind, p. 243

This, ladies and gentlemen, is a movie.”⁵⁴ Roger Ebert believed the film was “poetic and evocative” and “told with the sweep and visual richness of a film by David Lean.”⁵⁵

While these critics saw the film’s epic scope as one of its many positive elements Todd McCarthy of *Variety*, whose reviews contain a mix of criticism and business analysis, did not particularly like *The English Patient* but believed that the film had “the prestige to be a strong attraction for upscale audiences, and Miramax [could] be counted upon to try to push it as far into the mainstream as possible.”⁵⁶

McCarthy proved to be right as Miramax decided to give *The English Patient* a wider release than most of its other Oscar hopefuls, showing its strong conviction that this was a strong contender and a moneymaker. *The English Patient* only opened on ten screens but averaged an astonishing \$50,000 a theater. After two weeks Miramax expanded the release to around 600 screens. At this point the film already brought in \$10 million. This was around the number of screens on which Miramax played the film for the rest of the year. It did not need to expand further, at least not yet. By January 9, 1997, *The English Patient* already had made back Miramax’s \$28 million investment.⁵⁷ *The English Patient* was going to be Miramax’s Oscar indie for 1996, but it is important to note that the Oscars had become such a strong part of Miramax’s release strategy that, as Alisa Perren states in *Indie, Inc.*, during this year the company “released several

⁵⁴ Rita Kempley. “‘The English Patient’: A Fever Pitch.” *The Washington Post*. Nov. 22, 1996. Accessed at www.washingtonpost.com Mar. 13, 2012.

⁵⁵ Roger Ebert, “The English Patient.” *Chicago Sun-Times*. Nov. 22, 1996. Accessed at www.rogerebert.com Mar. 13, 2012.

⁵⁶ Todd McCarthy. “The English Patient.” *Variety*. Nov. 10, 1996. Accessed at www.variety.com Mar. 12, 2012.

⁵⁷ Box Office Mojo: *The English Patient*

prospective Oscar nominees during the year... With *The English Patient* yielding the most favorable critical reaction overall and substantial pre-awards season attention, the company quickly reallocated its resources to make this its primary candidate for the Academy Awards, especially Best Picture.”⁵⁸ Also just as Miramax’s prime Oscar contenders had done in the past, *The English Patient* rode the wave of critical acclaim to success at the box office. The difference with *The English Patient* was that this year most of its award competition was coming from truly independently distributed films.

On top of indie-director films like Lars Von Trier’s *Breaking the Waves*, Scott Hicks’ *Shine*, and Mike Leigh’s *Secrets & Lies* there was also the Coen brothers’ *Fargo*, which Gramercy distributed. These films were all critically acclaimed and had taken home various critics’ and guild awards so their Oscar chances were prominent. This rise in Oscar contenders from these companies was a part of a larger shift in the overall increase of film distributed by subsidiaries in general because of the potential market Miramax had tapped into over the last few years. This was not a purely new occurrence as numerous subsidiaries had been around, but now independent film’s viability was becoming a commercial asset – something that the conglomerates that owned these indie companies well understood. While there was an unprecedented number of independently distributed and indie films were prominent contenders for the Best Picture Oscar, it was obvious that one of these films was very different from the rest of the group.

As 1997 began, calling Miramax a distributor and producer of independent film was simply not accurate. Disney’s monetary influence could be seen early on. Miramax

⁵⁸ Alisa Perren. *Indie Inc.* University of Texas Press. Austin. 2012. p. 167.

may have been able to distribute *The Piano* without Disney money, but the film's expensive marketing and Oscar campaigns were a major effect of Disney's involvement. With *The English Patient* that studio effect was expanding to production and acquisition. Now Miramax could use this to further refine the Oscar indie model. Early on it was apparent that the film not only had a much larger budget than the independent contenders it was also raking in more money than them. The timing of Miramax's release was predicated on the announcement of Academy nominations and winners. The weekend before nominations were released, Miramax put *The English Patient* in just over 1,000 theaters, a 40% increase from the previous week.⁵⁹ The company was rewarded handsomely as the film received twelve nominations, including six in major categories. As expected, independent releases dominated the Academy nominations as four out of the five Best Picture nominees (*The English Patient*, *Fargo*, *Secrets & Lies*, *Shine*) were indies as well.

Now Miramax was ready to focus their marketing campaign on *The English Patient*'s recent Oscar success while also accentuating its lauding reviews. The week following the nominations *The English Patient* matched its best financial week, even though it had been in wide release for about three months. Everything was working out in Miramax's favor, both with the film's growing box office and record number of nominations for a Miramax film.

The criticism Miramax received after *The Piano*'s Oscar campaign was not something from which Miramax shied away from. Harvey Weinstein defended himself

⁵⁹ Box Office Mojo: *The English Patient*. Aug. 27, 2012.

and Miramax and said the claims were exaggerations. The reported \$750,000 spent in 1994 was a quickly forgotten figure. As Steve Pond remembers in his historical



Illustrations 1.3 & 1.4: Pre-nomination and post-nomination posters for *The English Patient*

account of the Oscars, *The Big Show*, “Miramax worked aggressively on behalf of *Sling Blade*’s Billy Bob Thornton, but the company’s real muscle went behind *The English Patient*.”⁶⁰ There are many reasons for that, but Sharon Waxman of *The Washington Post* cut right to the point, arguing “there’s more than the honor of an Oscar at stake. There’s money. For small movies the gold statues can mean substantially more business at the

⁶⁰ Pond, p. 140.

box office.”⁶¹ This was a key concern at the time for many in the press, but that discussion also brought up the larger, more implicit issue of whether *The English Patient* could even be considered, even under the most loose restrictions, an independent film.

Even though Miramax was criticized for its aggressive, expensive Oscar campaigns in the past, most of its competition just started to accept and even praise its tactics. An article in *Variety* laid out Miramax’s plan that consisted of “[conducting] a massive marketing campaign to get the attention of Academy members. The company’s Oscar blitz included pay-cable infomercials about the making of ‘English Patient’ and ‘Sling Blade,’ massive trade ad campaigns and even telemarketing.”⁶² *The New York Times* reiterated this view and reported, “the studio [had] mounted a relentless lobbying campaign to turn every one of those nominations into a statuette.”⁶³ These articles also connected Miramax’s release and campaign for *The English Patient* to their recent Oscar nominees as well as films distributed by Fine Line and other independent divisions with nominated films.

The Oscar indie model that Miramax began with *The Crying Game* and evolved with *The Piano* and *The English Patient* was now spreading to other independent divisions and subsidiaries as well. Miramax was becoming the standard for business success in the indie film world. But while films like *Fargo* and *Shine* had budgets of \$7 million and \$5.5 million, Miramax’s Oscar front-runner could not hide from its \$40

⁶¹ Sharon Waxman. “The Price of Reeling in an Oscar.” *The Washington Post*. March 12, 1999. Accessed at www.washingtonpost.com Mar. 13, 2012.

⁶² Andrew Hines. “Miramax scores with heavy marketing push.” *Variety*. Mar. 24, 1997. Accessed at www.variety.com Mar. 13, 2012.

⁶³ Mark Landler. “How Miramax Sets Its Sights on Oscar.” *The New York Times*. Mar. 23, 1997. Accessed at www.nytimes.com Mar. 13, 2012.

million price tag. As Gramercy and Fine Line were making \$24 million and \$35 million domestically with their hits, *The English Patient* had already gone over \$61 million in U.S. box office receipts by Oscar night.⁶⁴ Miramax was changing the financial face of indie film, even if its products were no longer truly independent yet the company had become so connected with the indie brand that most didn't directly questioned the assumption that *The English Patient* was an independent film even though some admitted it "didn't look, sound, or feel like an independent film."⁶⁵

On Oscar night *The English Patient* took home eight Academy Awards, including Best Picture and Best Director. The other indies were celebrated as well as Fine Line cashed in with a Best Actor award for Geoffrey Rush. Gramercy received wins when *Fargo*'s Frances McDormand won Best Actress and the Coens were awarded Best Original Screenplay. But Oscar night and the so-called "year of the independent" belonged to, ironically and fittingly, Miramax. As the company moved farther away from being an independent studio in practice, but not in its image, it began to leave some lasting impressions.

Overall the end of the 1996 Oscar race was the beginning of change for Miramax, the Oscars, and American independent film. *The New York Times* singled out Fine Line's efforts to make its Oscar campaign in Miramax's image by "[pulling] out all the stops...to promote *Shine*" because they realized Oscar "recognition can vault its lower-

⁶⁴ All figures from Box Office Mojo.

⁶⁵ Pond, p. 140

profile films to a much broader audience.”⁶⁶ Fine Line and other independent distributors were at the point Miramax was in 1992. Miramax was ahead of the curve. From 1992-1996 Miramax had developed its indie brand and delivered on it with offbeat fare like *Sling Blade* and *Trainspotting* while also releasing a film that formally and stylistically was more akin to a Hollywood epic than an alternative to the classical studio system. There was no getting around the fact that *The English Patient* was decidedly different from every independent film released, yet Miramax’s indie brand was intact. Biskind sees the release and Academy success as a turning point for Miramax:

The critical and commercial success of Minghella’s historical romance defined the ‘Miramax picture’ for the rest of the decade and beyond...After *Pulp Fiction*, it looked for a while as if that’s what the Weinsteins would do, pictures that were too cool and too hip for the studios...As much as the Weinsteins might love Tarantino, *Pulp Fiction* was never going to win an Oscar...but *The English Patient* could.⁶⁷

For the Weinsteins and Miramax the driving force became the Oscar because it meant more at the box office and a higher profile. Now they had evolved the Oscar indie model into a winning formula, with a new element being a bigger budget and a decisively more Hollywood-looking film, while they still tried to maintain their viable indie brand. *The English Patient* rode the wave of nine Oscars all the way into early September 1997 and took in \$78 million at the U.S. box office. Overseas it added another \$153 million, a figure unprecedented for Miramax or any independent film at the time.⁶⁸ Its \$231 million

⁶⁶ Landler.

⁶⁷ Biskind, p. 277.

⁶⁸ Box Office Mojo: *The English Patient*

worldwide gross made it the most profitable film ever released by Miramax. The lasting effect of *The English Patient* and its success on Miramax was yet to be seen.

Shakespeare in Love

Two years later *The English Patient* effect was becoming clearer with the release of *Shakespeare in Love* (1998). The development of this film was very similar to that of *The English Patient* because the rights were bought from a studio, this time Universal and the film became a Miramax production instead of just an acquisition. Also, just like *The English Patient*, the budget was going to be north of \$25 million. Textually there were other correlations as well. *Shakespeare in Love* was also a period piece that told the fictional account of the writing of Shakespeare's *Romeo & Juliet* that centered on the romance between the Bard and the daughter of a wealthy merchant. The material, with its many Shakespearian references as well as the inner workings of Hollywood, was considerably highbrow, the type of fare Miramax utilized the Oscar indie model with throughout the decade and was a major factor in the company's strong quality brand. Such movies are tend to be big hits with the Academy. Geoff King points out this notion of the strong quality brand inherit in *Shakespeare in Love*: "With its Elizabethan English setting, period reconstructions and explicit literary resonances, *Shakespeare in Love* fits clearly into the 'quality costume drama.'" He goes on to add how this has become a motif in the blurring of independent and studio filmmaking in the late '90s by arguing this

“format...has played a part in the development of Indiewood.”⁶⁹ When the pieces were set Miramax produced *Shakespeare in Love* for \$24 million, relatively small for a period piece of its magnitude, but still high compared to independent productions.

Shakespeare in Love opened on December 11, 1998, in just eight theaters. The weekend numbers, though, were staggering. In three days the film earned \$224,000, slightly over \$28,000 a venue.⁷⁰ In two weeks Miramax played the film in about 300 theaters around the country and took in \$3.5 million.⁷¹ And, just like all recent Miramax Oscar indies, the critics loved it. *Variety* labeled it as “exquisitely acted, tightly directed and impressively assembled.” It also accurately claimed that it was “the kind of arty gem with potentially broad appeal that Miramax certainly knows how to sell.”⁷² Not only was the press heaping praise upon the film, but it also understood how it fit into the overall Miramax brand of quality that the company had been building over the last six years. Since *The Crying Game* Miramax have been in the business of pushing these films toward the general movie-going public and *Shakespeare in Love* was the most successful example of its business strategy. *Entertainment Weekly* gave the film the distinction of being a “crowd-pleaser...[and] the richest and most satisfying romantic movie of the year.”⁷³ Ruthe Stein of *The San Francisco Chronicle* also commented on the script accomplishing the difficult task of “[finding] a way to make the Bard’s poetry

⁶⁹ King, p.95-96.

⁷⁰ The Numbers: *Shakespeare in Love*. <<http://www.thenumbers.com/movies/1998/SHKSP.php>> Accessed Sep. 2, 2012.

⁷¹ Ibid.

⁷² Lael Lowenstein. “Shakespeare in Love.” *Variety*. Dec. 6, 1998. Accessed at www.variety.com Mar. 13, 2012.

⁷³ Owen Gleiberman. “Shakespeare in Love. *Entertainment Weekly*. Dec. 11, 1998. Accessed at www.ew.com Mar. 13, 2012.

understandable to movie audiences” and eventually making *Shakespeare in Love* “completely accessible [to them].”⁷⁴ *Shakespeare in Love* was turning into another successful Oscar contender for Miramax. A month into its release it was moving steadily along, taking in \$15 million and playing at 648 theaters. The box office was steady and critics were backing the film with their reviews. *Shakespeare in Love* was definitely Miramax’s Oscar indie for 1998.

The Academy Award nominations were announced on February 9, 1999. *Shakespeare in Love* received thirteen nominations, a new Miramax record, with six coming in major categories. The biggest competition for Miramax was from Steven Spielberg’s *Saving Private Ryan* released by DreamWorks. Two weeks after nominations were announced the film was playing in just under 2000 screens and its total gross was \$46 million.⁷⁵ Miramax planned its release strategy to begin the film’s wide release right after the Academy nominations came out in the hopes that the film would gain momentum leading to the big night. From what Miramax learned from *The English Patient* post-Best Picture box office, Miramax was hoping to snag the top prize from DreamWorks so it could keep riding this momentum at the box office and add another Best Picture Oscar to its name. Its ads were changing as well. Instead of displaying an image of romantic leads Joesph Fiennes and Gwyneth Paltrow Miramax changed the post-nomination poster to showcase the humor and fun of the film, its members of the cast, including former Oscar winners, while proclaiming the film’s thirteen Oscar

⁷⁴ Ruthe Stein. “Poetic License: ‘Shakespeare in Love’ an original, magical imagining of Bard’s inspiration.” *San Francisco Chronicle*. Dec. 25, 1998. Accessed at www.sfgate.com Mar. 13, 2012

⁷⁵ The Numbers: *Shakespeare in Love*.

nominations. There were also countless For Your Consideration ads in *The Hollywood Reporter* and *Variety*. The main purpose of these ads is to keep the film in the minds of those who read them, namely people in the industry who are, hopefully, Academy voters.



Illustration 1.5 & 1.6: Pre-nomination and post-nomination posters for *Shakespeare in Love*

But heading into the awards season *Saving Private Ryan* was the heavy favorite. Miramax pulled out all the stops to make sure *Shakespeare in Love* would not be forgotten come Oscar night. The highest estimated total Miramax spent for its campaign is \$15 million.⁷⁶ Academy Executive Director Bruce Davis believed that “Miramax had

⁷⁶ Pond, p. 210.

gone at the whole idea of campaigning in a way that just hadn't been seen before" and added that it was "not the only ones responsible, because the others have felt the need to step up and match them."⁷⁷ On Oscar night the main question in the press and Hollywood was whether or not Miramax's strategy would work again.

Shakespeare in Love won seven Oscars, including a Best Picture win over *Saving Private Ryan*, which led to much debate and discussion in the press. Vincent Canby in *The New York Times* took a step back from the situation and did not criticize Miramax or its aggressive campaign. In fact, he took aim at its critics, especially DreamWorks:

There's still nothing quite as exhilarating as the spectacle of some of Hollywood's toughest wheeler-dealers, each of whom has an average income exceeding the G.N.P. of many countries, as they take umbrage at the shabby behavior of an upstart not yet in their club.⁷⁸

To Canby the entirety of the backlash Miramax received in Hollywood was simply because it was an outsider beating the studios at their own game. For him Miramax was still an outsider to Hollywood or at least a lesser-ranked player. He challenged the critics of Miramax claiming that they forgot that "the Oscars are voted by 5,500 card-carrying members of the Motion Picture Academy of Arts and Sciences, employees of the same executives who are hypocritical about the success of Miramax... There are changes going on in movies that Hollywood seems to be serenely unaware of."⁷⁹ There were changes indeed, but the biggest change was the one Canby directly ignored: Miramax was no longer independent and outside of Hollywood.

⁷⁷ Ibid., p. 210.

⁷⁸ Vincent Canby. "Critic's Notebook: Hollywood's Shocked and Appalled by Miramax? Oh, Please!" *The New York Times*. Mar. 25, 1999. Accessed at www.nytimes.com Mar. 13, 2012.

⁷⁹ Ibid.

While Canby considered Miramax a Hollywood outsider others in the press did not. They knew that the company was now too successful and its releases too expensive to be considered an independent studio. The term “mini-major” kept popping up in articles about Miramax after *Shakespeare*’s big win. An article in *Variety* tried to explain this term by proclaiming Miramax’s studio-like mentality and structure, “operating as a subsidiary of Disney...they have the capital to wheel and deal. And, to be sure, they have their trusty marketing juggernaut to mobilize each year at Oscar time.”⁸⁰

After all the arguments and opinions over Miramax’s Oscar campaign for *Shakespeare in Love* subsided, one could not take away the film’s seven Oscars and its momentum at the box office. The film saw a slight bump the weeks following the Academy Awards and continued its successful run until July. By then the film took in \$100 million in the U.S. for Miramax, making it their third film in the last five years to cross that milestone.⁸¹

By the time the Oscar race of 1998 was ending, *Shakespeare in Love* was doing the damage to Miramax’s image that should have been the case with *English Patient* two years prior. Its indie brand was disappearing and terms such as “mini-major” were being used to describe the Disney-owned company. It was being criticized again for its Oscar campaign spending, and *Shakespeare*’s production budget was being discussed much more than *The English Patient*’s was in 1996. The press was becoming more aware of

⁸⁰ Unknown. “After Oscar: It’s judgments vs. juggernauts.” *Variety*. Mar. 28, 1999. Accessed at www.variety.com Mar. 13, 2012.

⁸¹ Box Office Mojo: *Shakespeare in Love*

Miramax's new nature, but the effects of its highly profitable ways were still too fresh to be defined and articulated.

One of the elements that influenced Miramax's evolution from near-bankruptcy in 1992 to the toast of Hollywood in 1998 was its cultivation and eventual successful execution of the Oscar indie model. The company's Best Picture nominations and box office successes display many elements that transformed the company. After Miramax was purchased by Disney it went from strictly picking up foreign films to starting to produce movies in-house, and the budgets of those films were increasing along with its box office take and Oscar nominations and wins. In particular the stages of this change presented here through *The Piano*, *The English Patient*, and *Shakespeare in Love* also represented a change that was taking place in American independent film. More independent subsidiaries were trying to emulate Miramax, as was evident in the explosion of Oscar indies in 1996. And as Miramax pushed toward Oscar success its films began to look more like the kind that were coming out of Hollywood. Instead of distributing small, politically charged, controversial fare like *The Crying Game* and *The Piano* it was producing elaborate, expensive period pieces like *The English Patient* and *Shakespeare in Love*. And now these films could receive a strong Oscar push because of Disney's involvement.

This was the beginning of a seismic change as other independent subsidiaries followed Miramax's trend in the coming years. Biskind was aware of this and argued "not only did the Weinsteins change distribution, they brokered a marriage of indie and mainstream that resulted in a novel kind of picture that did more than just cross over; it

exchanged DNA with commercial movies.”⁸² In the following chapters I will argue that the spreading of the Oscar indie throughout American independent film was a major cause of this change that produced a blurring between independent and studio films.

⁸² Biskind, p. 470.

Chapter 2: The Institutionalization of the Oscar Indie by Independent Subsidiaries

Introduction

Throughout the 1990s Miramax's execution of the Oscar indie strategy laid out a blueprint for how to market successfully a film to achieve the indie and quality brands in the hopes of turning those brands into a high box office profit. By 2000, this model had numerous case studies for other production and distribution companies to view and begin to execute the model on their films. While there were isolated instances of this, most notably the non-Miramax Best Picture nominees of 1996 (*The Full Monty*, *Fargo*, *Secrets & Lies* and *Shine*) the following decade witnessed more occurrences of this model being used by other non-major studios and independent subsidiaries. In the 2000s this development appeared as well in the conglomerate-owned subsidiaries for indie-type films. These companies, which included, among others, USA Films, Fox Searchlight, Focus Features and Sony Pictures Classics, were following Miramax's lead with the Oscar indie model. They would distribute films that could attain quality status as potential Oscar nominees by critics' reviews while also creating the brand of indie through marketing and/or press discourse.

In this chapter I will look at how the Oscar indie spread to these companies and was beginning to become institutionalized by them. This analysis will include films that were used in executing the Oscar indie model and will dissect their production, the discourse surrounding them, as well as their box office and Oscar success. For discourse

analysis the main goal will be to mark this evolution by looking at the ways in which these films achieved the brands of indie and quality. As in chapter 1 the main focus will be on Best Picture nominees. This chapter will differ by focusing on the rise from 2000-2005 in the number of films, compared to the 1990s, that can be described as Oscar indies. In a larger thematic sense this chapter will also focus on the growing industrial implications this development caused. I will argue that the rise in Oscar indies from 2000-2005 parallels the overall change that was taking place in American independent film during this time. Just as Miramax's actions between 1993-1998 were important in blurring the distinction between independent and studio films, the ensuing period developed along the same lines, but in a much broader industrial capacity. Some of the films that will be discussed include larger-budgeted films like *Traffic* (2000), *The Pianist* (2002) and *Gosford Park* (2001) as well as much more intimate low-budget character pieces like *In the Bedroom* (2001), *Lost in Translation* (2003), and *Sideways* (2004) in order to examine the growth of Oscar indies throughout the industry at this time.

The Studio- Indie Oscar Hybrid

In 2000 USA Films, a non-major distribution and production company, released Steven Soderbergh's *Traffic* (2000). Eleven years prior the writer/director was one of the pioneers of the new era in American independent film when his film *sex, lies, and videotape* broke the then unprecedented \$25 million box office ceiling for non-studio distributed films. While that film cost less than \$1 million to produce, *Traffic*'s price tag

was substantially higher at \$48 million.⁸³ USA Films emulated the trend Miramax started with producing and distributing Oscar contenders with a larger scope and budget in the 1990s [*The English Patient*, *Shakespeare in Love*, *The Cider House Rules* (1999)].

In *Indiewood, USA*, Geoff King finds a parallel between Miramax's actions in the 1990s and *Traffic* and its one-time indie superstar director. He states that "if Miramax is the company that most clearly embodies (and played a key role in creating Indiewood) Steven Soderbergh is an individual whose work illustrates as well as any the ability of some filmmakers...to produce hybrid features that occupy the ground between [Hollywood and the independent sector]."⁸⁴ This hybrid nature was at the heart of the change in independent film Miramax began to push in the previous decade, and that change was beginning to have a larger effect on the representation of independent and indie film as a whole.

King then focuses on *Traffic* as a prime example of these hybrid films that contain elements of independent and studio filmmaking. The film, based on a British miniseries, focused on the multiple avenues, people, institutions and relationships that are affected by the drug war. The material was dark and ambitious, two traits that were hard to sell to Hollywood studios. The film started preproduction at 20th Century Fox, but the major studio eventually passed. Interest in the project shifted to Fox's independent subsidiary, Fox Searchlight. *Traffic* was going to cost more money than any production the small independent division ever distributed, but they were willing to try to make the release of a

⁸³ The Numbers: *Traffic*. <<http://www.the-numbers.com/movies/2000/TRAFC.php>>

⁸⁴ Geoff King. *Indiewood, USA*. I.B. Tauris & Co. Ltd. New York. 2009. p. 141

high-budget film work. King defines this decision as “a marker of the extent to which lines were being blurred at the time in the Indiewood arena” and observes that at this point “*Traffic* was pulling in two directions: distinctive qualities for which the natural home would be a specialty unit, combined with a budget heading towards parent-studio proportions.”⁸⁵ In other words the as yet unrealized project still had indie elements in terms of its textual features and Soderbergh’s involvement, but it would be far from independent, especially when analyzing its development and budget. After Fox Searchlight passed, mainly because the share of the budget they would have to spend on their end was just too much, *Traffic* eventually found a home at a non-major studio, USA Films, whose monetary focus would be on the distribution and marketing side of the film.⁸⁶

Traffic was a film that was hard to sell, but the high hopes that USA had for it showed in the company’s release strategy, which employed the Oscar indie model. To call the film’s opening as a limited release would be an understatement. On the final weekend in 2000 *Traffic* was shown on four screens in New York and L.A. in order to make it eligible for end-of-year awards. That week it still grossed a very impressive \$370,000.⁸⁷ The high per screen average was most likely helped by the overwhelmingly positive reviews by critics who praised the film. *The New York Times* implied the film’s fusion of both industrial forces by describing it as “the first Hollywood movie since

⁸⁵ Ibid., pp. 144-145.

⁸⁶ King, pp. 146-149.

⁸⁷ The Numbers: *Traffic*. <<http://www.the-numbers.com/movies/2000/TRAFC.php>>

Robert Altman's 'Nashville' to infuse epic cinematic form with jittery new rhythms."⁸⁸ *Entertainment Weekly* gave it straight Hollywood superlatives calling it a "dazzling epic" and even compared it to *The Godfather*.⁸⁹

USA's release strategy displayed its hope of making *Traffic*, now branded as quality by critics, an Oscar contender. To follow the Oscar indie model, though, *Traffic* also needed the indie brand. Reviews were less straightforward in their discussion of *Traffic*'s indieness except when it came to the film's subject matter. In *Indie: An American Film Culture* Michael Z. Newman focuses on press discourse as a means of creating indieness and points out that this can occur simply by defining a film "against the other of the mainstream, commercial industry" and describing it broadly as "more honest, artistic, political, realistic, personal, intelligent."⁹⁰ This makes *Traffic* a very interesting and complicated case because as reviews were centering on the film's dark subject matter they were also comparing it to past Hollywood epics. Its cast consists of stars Michael Douglas, Catherine Zeta-Jones and Dennis Quaid, but its director is one of American independent film's most famous filmmakers. In *The San Francisco Chronicle* Edward Guthmann articulates both these institutional sides in his review: "With 'Traffic,' his most ambitious and complex film to date, Soderbergh again proves himself one of our most inventive filmmakers. Soderbergh doesn't play it safe: With each project he erects a

⁸⁸ Stephen Holden. "Teeming Mural of a War Fought and Lost." *The New York Times*. Dec. 27, 2000. Accessed at www.nytimes.com May 2, 2012.

⁸⁹ Owen Gleiberman. "Traffic (2000)." *Entertainment Weekly*. Jan. 12, 2001. Accessed at www.ew.com. May 2, 2012.

⁹⁰ Michael Z. Newman. *Indie: An American Film Culture*. Columbia University Press. New York, 2011. p. 46.

new set of dramatic and logistic challenges; instead of being intimidated by those challenges, he's galvanized by them, inspired to greater and more exciting work."⁹¹

Traffic achieved its indieness through its narrative structure and style, but its scale and genre are more aligned with a Hollywood production. In the end USA could not have predicted a better outcome for *Traffic* as the film took home Oscars for Best Adapted Screenplay (Steven Gaghan), Best Supporting Actor (Benicio Del Toro) and Best Director (Steven Soderbergh) and made over \$124 million domestically.⁹² It was the first example of another independent using Miramax's Oscar indie model in the new decade. One statistic that makes this apparent is that the film took in almost half of its box office after Oscar nominations were announced, two months after its initial release.⁹³ This is the time in a traditional release schedule when a film is just trying to stay in theaters, yet *Traffic* was still earning a substantial profit.

This same Oscar season Sony Pictures Classics released a film that was very similar to *Traffic* in scope: the foreign martial arts epic *Crouching Tiger, Hidden Dragon*, directed by Ang Lee. Like *Traffic* the film received near-unanimous critical praise and a large box office total. Because of these elements Sony Pictures Classics decided to focus an Oscar campaign around the film. As reported in *The Los Angeles Times* the company:

was caught off guard by the picture's popularity. Never had any of its previously released films received such recognition and widespread appeal. Once the Oscar campaign began in earnest, the small specialty arm of Sony Pictures could count on its mother studio to back it. Indeed, Sony

⁹¹ Edward Guthmann. "'Traffic': Soderbergh's riveting thriller lays open America's anti-drug campaign." *The San Francisco Chronicle*. Jan. 5, 2001. Accessed at www.sfgate.com May 4, 2012

⁹² The Numbers: *Traffic*

⁹³ Ibid.

Pictures, having few other nominees, launched an intense publicity campaign pushing the film in the trades and television.⁹⁴

The film was embraced by almost all groups of the American film industry including the independent film sector. As that same *L.A. Times* article states, “it was lavished with praise by critics. It received the admiration of the independent film world...as well as the attention of the mainstream studio world.”⁹⁵ The film cost around \$17 million to produce and made just over \$128 million in the U.S. with over 50% coming after it was nominated for Best Picture.⁹⁶ Reviews didn’t directly help *Crouching Tiger* achieve indieness, but other elements did. Ang Lee developed some indie cred with his intimate character drama *The Ice Storm* in 1997 and *Crouching Tiger* took home three Independent Spirit Awards, including Best Picture.

While there was awareness in the press regarding Miramax and its shift from functioning as an independent to a mini major to a studio, the same can be said for its competing subsidiaries. *Traffic* and *Crouching Tiger* had high budgets like the films that began to put Miramax’s indie image in jeopardy and critics also focused on this aspect.

Miramax’s surge of big budget Oscar winners in the late ‘90s effected the Oscar indie model in ways that were apparent as early as 2000. It allowed for bigger budget films distributed by subsidiaries to be given the important indie brand even if critics were also aware of its larger budgets. The critical discourse of *Traffic* allowed more

⁹⁴ Lorenzo Munoz. “Springing ‘Crouching Tiger’ on U.S. Audiences. *Los Angeles Times*. March 26, 2001. Accessed at articles.latimes.com May 4, 2012.

⁹⁵ Munoz.

⁹⁶ Box Office Mojo: *Crouching Tiger, Hidden Dragon*.

<<http://www.boxofficemojo.com/movies/?id=crouchingtigerhiddendragon.htm>>

opportunities for subsidiaries to execute the Oscar indie model without strict industrial restrictions, which mirrored Miramax's ability to still have their larger-budgeted prestige pictures attain indieness. 2000 was a very important year because it showed, with *Traffic* and *Crouching Tiger, Hidden Dragon* that these studio-indie hybrid films could attain indieness with press discourse because they were being described as, in Newman's mind, opposing the Hollywood mainstream. *Traffic*'s narrative was a dark, complex look at the drug trade and *Crouching Tiger, Hidden Dragon* was helmed by Lee and was considered a thinking moviegoers action movie, a near-extinct breed in Hollywood. In the end neither of these films won Best Picture, but their presence and success, both in Oscar nominations and at the box office, would start the trend of commercialization and institutionalization of the Oscar indie strategy.

The Fall of the Oscar Indie at Miramax

After 2000 the Oscar indie was spreading through the American independent film landscape. Miramax was no longer at the forefront of implementing this strategy, but it still remained, at this time, a company that was highly successful both in terms of box office and Oscar success. When it first produced the modern Oscar indie model in 1992 with *The Crying Game*, the goal of the company was to turn Oscar nominations into higher box office returns. By 2001, Miramax's aims with their Oscar indies were very much the same, but the landscape around them was evolving into a more competitive arena. Even so their unprecedented Oscar run during the mid-to-late 90's solidified the Oscar brand to their name while their indie brand was not strong.

But just when it looked like Miramax was ready to give up on re-establishing their Oscar indie model, they released *In the Bedroom* (2001), a dark intimate drama starring Sissy Spacek, Tom Wilkinson and Marisa Tomei. Miramax's release followed the platform strategy and the film was a critical hit. However, unlike the previous five Best Picture nominees for Miramax, it was not produced in-house in any capacity. Miramax bought it at the Sundance Film Festival early in 2001, and its late November release date indicates that it was Miramax's Oscar contender for that year.⁹⁷ And its modest \$1.7 million budget was much closer to the very first Oscar indies from Miramax as opposed to the more recent fare like *Shakespeare in Love*.⁹⁸ For the first time in years a Miramax Oscar contender looked like an indie.

The film followed the first development of the Oscar indie model by receiving massive critical acclaim. In *Entertainment Weekly*, Lisa Schwarzbaum described the film as "a riveting drama... filmmaker Todd Field builds his movie with such confident vision that it's hard to believe this is his feature directorial debut."⁹⁹ Critics were also helping brand the film as indie. In his review Roger Ebert writes that "most movies are about plot, and chug from one stop to the next" and observes that *In the Bedroom* does not do this, but "uses the elements of plot, but only on the surface... because the movie isn't about what happens, but about why."¹⁰⁰ Another example of a review describing *In the Bedroom* as having indie features appeared in *The New York Times* as critic Stephen

⁹⁷ Box Office Mojo: *In the Bedroom* <<http://boxofficemojo.com/movies/?id=inthebedroom.htm>>

⁹⁸ Ibid.

⁹⁹ Lisa Schwarzbaum. "In the Bedroom." *Entertainment Weekly*. Nov. 30, 2001. Accessed at www.ew.com May 6, 2012.

¹⁰⁰ Roger Ebert. "In the Bedroom." *Chicago Sun-Times*. Dec. 25, 2001. Accessed at rogerebert.suntimes.com May 6, 2012.

Holden wrote, “The typical American movie is so committed to noisy spectacle and shameless emotional button-pushing that when a film as profoundly quiet as ‘In the Bedroom’ comes along, it feels almost miraculous, as if a shimmering piece of art had slipped below the radar and through the minefield of commerce.”¹⁰¹

Like its comparable ‘90s Oscar indies *The Piano* and *The Crying Game* the film was not produced in-house and went on to garner a substantial profit at the box office, making over \$35 million in the U.S.¹⁰² The film was eventually nominated for five major Academy Awards including Best Picture. As usual, Miramax was not scared to spend on its Oscar campaign. *The New York Times* reported that it went so far as to have “a 24-page insert in Daily Variety touting ‘In the Bedroom’” and the company was “thought to be spending far more than the \$1.5 million it paid for the film.”¹⁰³

In the following years four big-budget, Hollywood type Oscar contenders from Miramax -- *Chicago* (2002), *Gangs of New York* (2002), *Cold Mountain* (2003) and *The Aviator* (2004) -- together symbolized the seismic change the company had undergone, making *In the Bedroom* an aberration rather than the norm. Those films’ budgets were \$30 million, \$97 million, \$79 million and \$110 million respectively; they were cast with stars including Leonardo DiCaprio (twice), Renee Zellweger (twice), Catherine Zeta-Jones, Cameron Diaz, and Nicole Kidman; and they were directed by Martin Scorsese

¹⁰¹ Stephen Holden. “In the Bedroom: When Grief Becomes A Member of the Family.” *The New York Times*. Nov. 23, 2001. Accessed at movies.nytimes.com May 6, 2012.

¹⁰² Box Office Mojo: *In the Bedroom*

¹⁰³ Rick Lyman. “What Price Buzz?: Hollywood Breaks Bank for Oscar Race.” *The New York Times*. Feb. 3, 2002. Accessed at www.nytimes.com May 6, 2012.

(twice), Rob Marshall and Anthony Minghella.¹⁰⁴ It became clear that Miramax, the driving force behind independent film success throughout the 1990s, was no longer in the Oscar indie game. The model became an endangered species for the company. What took its place now was simply the standard Oscar contender model of the studios. The films were similar in some aspects to the Oscar indie model: they were strategically released in the later months of the year (October-December) and were dependent on critics' positive reviews. They also had to be successes at the box office. King describes this specific group of films as "star-led, studio-scale pictures in genres not usually associated with the indie sector."¹⁰⁵ To help further complicate Miramax's image, though, it was still releasing films that would easily be recognized as indie such as Soderbergh's *Full Frontal* (2002), Gary Winick's *Tadpole* (2000) and Thomas McCarthy's *The Station Agent* (2003). It seems that Miramax was still trying to maintain their indie brand, but it was the big-budget Hollywood-style Oscar fare that was taking center stage at the box office and in the press. In late 2002 it was reported that rival subsidiaries of Miramax believe the company had "gotten involved in too many pricey studio co-productions [and tried] to stuff too many films into [that] year's Oscar corridor."¹⁰⁶ Miramax refuted this statement by focusing on the fact that most of its releases were productions that fell under \$10 million. However, Miramax devoted much more time, effort and money in releasing and marketing their Oscar contenders, thus making them in the press and public's eye more important to the company.

¹⁰⁴ All Figures from Box Office Mojo

¹⁰⁵ King, p. 111.

¹⁰⁶ Justin Oppelaar. "Harvey beefs up, slims down." *Variety*. Nov. 10, 2002. Accessed at www.variety.com May 14, 2012.

Also, as the accusation about Miramax's loss of indie branding alluded to, the company was involved in other big-budget co-productions with other major studios. These included Best Picture nominees *The Hours* (2002), which Miramax collaborated with Paramount to make; *Master and Commander: The Far Side of the World* (2003), a film in which both 20th Century Fox and Universal invested; and *The Aviator*, in which Miramax partnered with Warner Bros.

From 2002-2004 it became apparent that these bigger budgeted films of Miramax were the final chapter for the existence of the company's indie image. While it tried to combat this by also releasing smaller-budgeted, foreign, and niche films, it became apparent that Miramax was no longer a true indie studio or mini major. It was very much a studio and a major one at that.

While Oscar success was still high for 2002-2004, box office was not. Of their four Best Picture nominees only one, *Chicago*, was a box office hit. That same year Scorsese's ambitious *Gangs of New York* failed to make back its money domestically. In the following years *Cold Mountain* (which did not even receive a Best Picture nomination but still was honored in other major categories) and *The Aviator* followed the same disappointing financial trend. For the first time a Best Picture nomination did not help a Miramax release turn a profit. This could be attributed to two main factors. The first is simply that a production budget of \$25 million is much easier to recoup than \$100 million. Second, the movies were indie-like in that the material was more challenging and less mainstream than their budgets suggested but thus did not appeal to mainstream audiences hoping to see the next Hollywood hit. The first reason suggests a very concrete

understanding of the situation while the second proposes a much more complex development. *The English Patient* was, like these films, a challenging, epic period piece. *Shakespeare in Love* was lighter, being a comedy, but was still a movie about Shakespeare, which would not seem an easy sell to the mainstream. The indie brand allowed for these films to give audiences different and perhaps more accurate expectations, which may have been a vital factor to their word-of-mouth and eventual financial success.

For Newman and King, branding is the key to the cultural conception of indie. Newman, who explicitly believes that indie is a culturally constructed brand, argues that “whatever its commercial status, the cultural mandate of indie cinema is to be legitimated in comparison to Hollywood.”¹⁰⁷ When talking about films that walk the line between indie and studio, King admits that this blurring practice hurts the indie brand for films and companies because “the basis on which differentiation from the mainstream is measured can easily be challenged.”¹⁰⁸ In the late ‘90s Miramax and its high profile films were somewhat resembling standard Hollywood studio filmmaking, which was putting their indie brand into question. By 2004, they were no longer the alternative to the mainstream. This made the company’s indie brand difficult to maintain and gave its films a different set of expectations, which may have been a key reason their Oscar contenders were losing money.

¹⁰⁷Michael Z. Newman. *Indie: An American Film Culture*. Columbia University Press. New York, 2011. p. 49.

¹⁰⁸ King, p. 15-16.

Miramax was trying to focus on one or two big-budget Oscar pictures a year in the hopes of Academy awards and high box office returns, like in past years, but they underestimated the cost of losing the indie brand. As Miramax's Oscar contenders were failing to make a substantial profit during this time, other independent subsidiaries were using the Oscar indie model to maximum effect.

The Oscar Indie comes into Focus

Miramax's slate of Best Picture contenders from 2002-2004 signaled a shift that caused heavy damage to their indie brand. While this was happening, its competitors in the indie film sector were solidifying their indie brand. Independent subsidiaries were releasing films that were scoring at the box office and garnering Oscar consideration. One of the first of these in the 2000s was the aforementioned *Traffic*. Its distributor, USA Films, used the Oscar indie model for that film and created a successful campaign on its big Oscar hopeful the following year, *Gosford Park* (2001).

The film, directed by the legendary Robert Altman, is an ensemble period piece set inside a British mansion in the 1930s. It was a highbrow look at the class system in the U.K. during this time with a slight twist; the story is also a murder mystery. Like Miramax's epic co-productions, USA along with multiple production companies financed the film's roughly \$20 million budget, but it did have exclusive distribution rights in the U.S.¹⁰⁹ As mentioned above, in 2002 other subsidiaries criticized Miramax for its co-productions, which affected their indie brand, but USA was not subjected to this attack.

¹⁰⁹ IMDb: *Gosford Park*. < <http://www.imdb.com/title/tt0280707/companycredits> >

The most likely reason for this was that Miramax was co-producing \$100 million films while *Gosford Park*'s budget was around \$20 million.¹¹⁰ It's this element that makes *Gosford Park* such an interesting Oscar indie. In the mid-'90s it would have been the perfect film for Miramax to distribute at the end of the year with the Oscar indie model. The film's European setting and subject matter, which mixes sophisticated comedy with melodrama, are similar to *English Patient* and *Shakespeare in Love*. *Gosford Park*'s similar scope, cast, and budget to Miramax's Best Picture winners of the '90s, allowed USA to give it the Oscar indie treatment.

Critics also gave *Gosford Park* rave reviews that commented on its differences from the mainstream. Roger Ebert declared "at a time when too many movies focus every scene on a \$20 million star, an Altman film is like a party with no boring guests."¹¹¹ Like Ebert, most of the critics also made it a point to describe Altman as a director who loves to subvert conventional Hollywood genres. Newman believes this helped brand the film as indie by placing it as different from studio filmmaking.¹¹² USA used these reviews with a strategic platform release that started in late December and expanded through awards season in the following months. USA did give it an Oscar push in marketing but nothing like the millions Miramax annually spent. In the end *Gosford Park* received nominations in four major categories, including Best Picture. On Oscar night it took home the Best Original Screenplay Award for writer Julian Fellowes. The Oscar success

¹¹⁰ Box Office Mojo: *Gosford Park* < <http://boxofficemojo.com/movies/?id=gosfordpark.htm>>

¹¹¹ Roger Ebert. "Gosford Park." *The Chicago Sun-Times*. Jan. 1, 2002. Accessed at www.rogerebert.suntimes.com May 25, 2012.

¹¹² Newman discusses this both in terms of the press and audience viewing practices where they read certain films as anti-Hollywood.

helped *Gosford Park*'s domestic box office, which was around \$41 million domestically, 46% of that coming after its Best Picture nomination.¹¹³ It was not quite the high profit that Miramax and USA's Oscar indie *Traffic* had previously produced, but it was still effective.

The trend of subsidiaries focusing on larger budgeted films to implement the Oscar indie strategy continued for one more year. In 2002 Universal bought USA Films, and merged it with their existing subsidiary, Focus Features. Later that year Focus released the holocaust drama *The Pianist*. Focus Features acquired the film, which cost \$35 million to produce, for U.S. distribution.¹¹⁴ Focus made the film their Oscar indie for that year, deciding to start a platform release for the film in late December. Looking at the reviews it is easy to see why the firm was so hopeful of success. In *The San Francisco Chronicle* Mick LaSalle praised the film: "the Holocaust has been the subject of many films. 'The Pianist' is one of the great ones."¹¹⁵ He goes on to describe it directly as anti-Hollywood directly by stating that "[director Roman] Polanski eschews the big canvas of Spielberg's 'Schindler's List' and follows the true story of a single individual and his family."¹¹⁶ This theme of the intimate filmmaking style of director Roman Polanski appears in many reviews of the film. Studio films about the historical subjects of the Holocaust and WWII are usually anything but intimate. Also, unlike Hollywood's usually overtly dramatic take on the subject of the Holocaust in particular, Richard

¹¹³ Box Office Mojo: *Gosford Park*

¹¹⁴ Box Office Mojo: *The Pianist*. <<http://boxofficemojo.com/movies/?id=pianist.htm>>

¹¹⁵ Mick LaSalle. "'Pianist' a gripping drama of survival." *San Francisco Chronicle*. May 30, 2003. Accessed at www.sfgate.com. May 17, 2012.

¹¹⁶ Ibid.

Corliss in *Time* urged viewers to “admire [the] film for its harsh objectivity and refusal to seek our tears, our sympathies.”¹¹⁷

These reviews were flattering and helped the film attain the indie brand much the same way they had done with *Gosford Park*. The critical acclaim, along with Focus’s release strategy, likely helped *The Pianist* receive a Best Picture nomination and three more in major categories. In Academy Award terms *The Pianist* was the biggest success of USA/Focus’s Oscar indie trio of 2000-2002 with wins for Best Director, Best Adapted Screenplay (Ronald Harwood) and Best Actor (Adrien Brody). However, just as with *Gosford Park*, these awards did not translate into incredibly high box office numbers. While Focus received a slight “bump” from the Academy nominations and wins, the film earned just less than its \$35 million budget at the U.S. box office.¹¹⁸ These two films helped Focus develop its brands of indie and quality. The first brand was achieved because these films, even with medium-sized budgets, were being described in terms that placed them outside mainstream Hollywood cinema.

Size Matters

Focus was becoming the newer version of late ‘90s Miramax by starting a pattern of releasing higher-budgeted Oscar indies. But these films were creating success in nominations while not delivering on box office potential. At the time the same was happening to Miramax, which now had the image of a major studio with their Oscar fare.

¹¹⁷ Richard Corliss. “Have a Very Leo Noel.” *TIME*. Dec. 15, 2002. Accessed at www.time.com May 21, 2012.

¹¹⁸ Box Office Mojo: *The Pianist*.

As stated above, it is easier to see why Miramax's releases were suffering -- higher budgets being the main reason -- than to explain the financial failures of the Oscar indies of Focus. Another reason could also be that the Oscar indie model, at least as implemented, needed to change. The strategy did not, but the films chosen needed to change. The next section will illustrate this by showing that when Focus altered its Oscar indie releases it had box office success. When Miramax released *The Crying Game* in 1992, the film's box office and Oscar success were a total surprise. By 2002 the Oscar indie model that Miramax utilized on that film had become the successful strategy for subsidiaries to follow when they released their Oscar hopefuls during awards season.

In 2003 Focus bought Sofia Coppola's sophomore effort *Lost in Translation*. The story is heavily character-driven and thin on action. It follows the growing friendship that develops between two Americans, a recent college graduate and a once-famous movie star, who meet in a hotel while separately visiting Tokyo. The film cost a modest \$4 million to produce and starred veteran comedic actor Bill Murray, which was easily its strongest marketing asset. Not only was he a star he had also had a revival as an indie regular after his performance in Wes Anderson's *Rushmore* (1998), which helped any non-major studio film he was in attain indieness. For its initial marketing campaign, Focus put Murray front and center on its theatrical poster to make sure it was utilizing the star as much as possible.

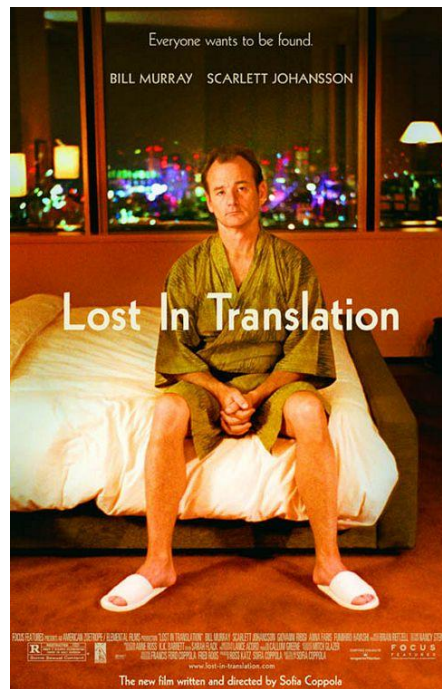


Illustration 2.1: Theatrical poster for *Lost in Translation*

Instead of releasing the film in the heart of the start of awards season, Focus decided to begin a platform release for *Lost in Translation* in September.¹¹⁹ The most likely reason is that this was a lucrative window in between the blockbuster-driven summer and awards season. Jack Foley, head of distribution for Focus, also stated that a key factor for the decision was that the Academy Awards had been moved up to February rather than the usual March date. He and Focus were confident about the choice because he believed “when you’re first in and you have something really good...you become a

¹¹⁹ Box Office Mojo: *Lost in Translation*.
<http://boxofficemojo.com/movies/?page=weekly&id=lostintranslation.htm>

comparative touchstone.”¹²⁰ Focus was hopeful of *Lost in Translation*’s Oscar chances and was utilizing the Oscar indie strategy around its platform release. The process started out well as the film received unanimous praise from critics and was gaining momentum at the box office. As awards season was in full swing by the end of 2003 and beginning of 2004 *Lost in Translation* was about four months into its release but was expanding to more theaters, a very good sign, and had already earned \$31 million at the U.S. box office.¹²¹ For Newman, if Focus could cash in on this it would prove an important development for the company and independent film. For him “the cultural prominence of indie cinema is increased every time a film in [a] style such as *Lost in Translation*...is nominated for a major award.¹²² Newman describes the indie style in basic narrative terms as stories “about ordinary people’s day-to-day lives [that] can be relatively cheap to produce.”¹²³ The plot and budget of Coppola’s film fit both these criteria.

The reviews fueled *Lost in Translation*’s Oscar momentum and singled out Murray’s performance and the film’s indie tone, pace and style. In *Variety* David Rooney described the film as “a mood piece,” noting that “there’s nothing labored or forced” and the story has a “free-flowing narrative style.”¹²⁴ *San Francisco Chronicle* critic Edward Guthmann was happy about its anti-Hollywood aesthetic and narrative, stating, “it’s a

¹²⁰ Anthony Kaufman. “Oscar shift shuffles strategies.” *Variety*. Aug. 17, 2003. Accessed at www.variety.com June 3, 2012.

¹²¹ Box Office Mojo: *Lost in Translation*.

¹²² Newman, p. 88.

¹²³ Ibid.

¹²⁴ David Rooney. “Lost in Translation.” *Variety*. Aug. 31, 2003. Accessed at www.variety.com June 8, 2012.

treasure to not be crushed or overwhelmed by an excess of noise and style.”¹²⁵ Reviews like these strengthened the film’s, and Focus’s, indie brand. Because critics loved the film and the box office was solid, the film’s Oscar chances were high. When nominations were announced, *Lost in Translation* received nods in four major categories: Best Picture, Director, Actor (Murray) and Original Screenplay (Sofia Coppola). These results were so positive Focus decided to release the film on DVD even though it was still playing in over 600 theaters in the U.S. The home video sales were good and the film still picked up an additional \$6 million at the box office over the next eight weeks bringing its domestic domestic total to \$44 million.¹²⁶

The film’s only Oscar was for Coppola’s script, but Focus utilized the Oscar indie model to maximize box office, and the press discourse helped with solidifying the indie brand for Focus. Its \$44 million domestic box office all made it a financial success. It was a positive use of the Oscar indie model that resembled more of the older titles like *The Crying Game* and *The Piano* that helped Miramax so successfully achieve the brands of indie and quality.

Other subsidiaries must have noticed this because over the next two years they implemented the Oscar indie strategy with films that were modestly budgeted with character-driven narratives. In 2004 the most notable of these was Fox Searchlight’s *Sideways*, a \$16 million comedy-drama directed and co-scripted by Alexander Payne about two 40-year-old friends taking a weeklong vacation through the Santa Barbara

¹²⁵ Edward Guthmann. “‘Lost’ souls connect in frenetic Tokyo.” *San Francisco Chronicle*. Feb. 6, 2004. Accessed at www.sfgate.com June 8, 2012.

¹²⁶ Box Office Mojo: *Lost in Translation*.

Wine Country. The independent subsidiary used the Oscar indie model by starting a platform release in late October. Critics praised the film and focused on its indie-sized premise. David Ansen in *Newsweek* lauded the film as “wonderful...an unblinkingly funny portrait...with harsh satirical edge” that “stays resolutely life-size. And that, in this age of hype and hyperventilation, may be the most radical thing about it.”¹²⁷ Many other rave reviews echoed Ansen’s sentiment of the film’s refreshing scope. This helped the film instantly gain its indie credibility while also being branded as a quality film. The film’s minimalist style was also present in its marketing. The film’s theatrical poster’s only image is a animated drawing of the two leads in a wine bottle.

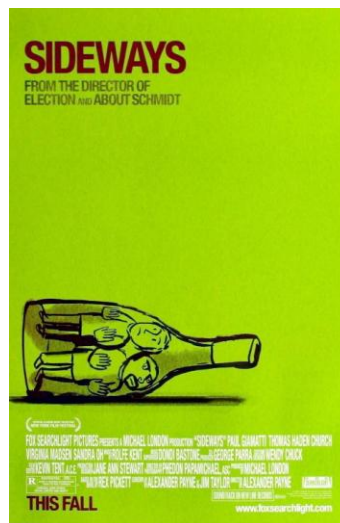


Illustration 2.2: Theatrical poster for *Sideways*

Eventually Fox Searchlight cashed in on both fronts as the film went on to gross \$71 million in the U.S. and was nominated for five major Academy Awards including

¹²⁷ David Ansen. "Life is a Cabernet." *Newsweek*. Oct. 24, 2008. Accessed at www.newsweek.com June 17, 2012.

Best Picture.¹²⁸ It is worth noting that the film's high box office returns relied heavily on the Oscars with over 55% of its earnings coming after its nominations were announced over four months into its release.¹²⁹

The next year saw a substantial growth in the smaller-scaled Oscar indies. The 2005 Best Picture nominees included Focus's *Brokeback Mountain* directed by Ang Lee, Warner Bros.'s subsidiary Warner Independent's *Good Night, and Good Luck*, directed by George Clooney, and Sony Pictures Classic's *Capote* directed by Bennett Miller, all films and releases that align with the Oscar indie model. Their budgets were \$14 million, \$7 million, and \$7 million respectively, and each film made a substantial profit for their distributors.¹³⁰ They were all also released during awards season and became hits with critics.

More importantly all three of these films were very different from the usual Hollywood fare. *Good Night, and Good Luck*. was a stark visual contrast to mainstream American film as director George Clooney choose to shoot his film black-and-white. It followed the Edward R. Murrow-led CBS newsroom in the 1950s and was another of the character-based dramas that was beginning to saturate the market of subsidiary Oscar contenders. It was also an intelligent, socially aware, politically left-leaning work that was geared toward the indie audience, which Newman believed to be "generally mature, urban, college-educated, sophisticated, and familiar with conventions of representation

¹²⁸ Box Office Mojo: *Sideways*. <<http://boxofficemojo.com/movies/?id=sideways.htm>>

¹²⁹ Ibid.

¹³⁰ All figures from Box Office Mojo.

and reception in many various media and forms, high and low.”¹³¹ In a more general sense *Good Night, and Good Luck*, was a movie for the active, thinking and culturally aware moviegoer.

Capote was an emotionally dark retelling of the infamous author’s experiences while researching for his true-life crime novel *In Cold Blood*. Its protagonist, played by often-time indie actor Phillip Seymour Hoffman, was flawed and, in the end, not redeemed, and its resolution gave the viewer anything but closure. *Brokeback Mountain* was a heartbreaking love story between two male cowboys. A homosexual romance was a narrative that no major studio had dared to make the major narrative centerpiece of a production. Oscar indies were infiltrating the market of awards films with rising success, and in 2005 the Best Picture nomination for these three films might have been a sign that this development would continue.

Adding to this was that the eventual Best Picture winner of the 2005 Oscar race was a film that was a consummate Oscar indie with the notable exception of its release date. The film was *Crash*, a \$7 million production released by independent distributor Lionsgate and directed by Paul Haggis. It is an ensemble piece set in L.A. involving multiple storylines that center on the common theme of racial tension. The company bought the film after it was a hit at the 2004 Toronto International Film Festival and decided to open the film wide on nearly 2,000 screens in early May, probably hoping to find an audience wanting to see something different than the usual summer Hollywood

¹³¹ Newman. p. 38.

blockbusters.¹³² It was the antithesis of a platform release. In fact almost every week *Crash* was in release it played on fewer screens than the week before. It was a bold strategy for a small independent production, but it paid off financially as *Crash* made \$53 million before leaving theaters in September.¹³³

When awards season came around it first picked up mild momentum by drawing on its positive reviews, which overall were more lukewarm than that year's traditional Oscar indies. There was a slight Oscar campaign from Lionsgate but nothing aggressive. So when *Crash* received nominations in four major categories, including Best Picture, it was a considerable shock. And when the Oscar underdog took home Best Picture it was noteworthy because *Crash* had the lowest production budget of an Oscar indie Best Picture winner since Miramax started executing the model in 1992 with *The Crying Game*.

Conclusion

From 2000-2005 the use of the Oscar indie model began to spread as independent subsidiaries and non-major studios executed the strategy on more of their films. From 2000-2002 independent subsidiaries implemented the model for films that were large in scope and budget. These included Sony Pictures Classics' *Crouching Tiger, Hidden Dragon*, USA Films' *Traffic* and *Gosford Park* and Focus Features' *The Pianist*. Like Miramax in the '90s these films, despite their budgets, were still able to maintain the

¹³² Box Office Mojo: *Crash*. <<http://boxofficemojo.com/movies/?page=weekly&id=crash05.htm>>

¹³³ Ibid.

indie brand through press discourse, mainly critics' reviews. This discourse, along with Academy Award nominations, also help the films achieve the brand of quality.

From 2003-2005 independent subsidiaries and distributors more prominently utilized the Oscar indie model on smaller-budgeted films. Examples included Focus Features's *Lost in Translation* and Fox Searchlight's *Sideways*. In 2005, the development became more successful for these companies when four of the five Best Picture nominees fit the category of the modestly budgeted Oscar indie. When looking at the larger scope of the American independent film sector, this is a striking and relevant trend. Instead of using the model on larger budgeted Oscar indies like Miramax succeeded with when releasing *The English Patient* and *Shakespeare in Love*, it was becoming the strategy used on more and more small-scale, character-driven fare.

The rise in success at the Oscars and at the box office for Oscar indies from 2000-2005 helped institutionalize the Oscar indie model that Miramax executed for almost a decade. What that meant for American independent cinema remained to be determined. The specific trend from 2003-2005 that saw more Oscar indies provide true alternatives to the Hollywood Oscar contender suggested that the independent film sector was beginning to distance itself from the mid-to-late '90s Oscar indies of Miramax that effectively blurred the line between indie and studio.

Chapter 3: The Evolution of the Oscar Indie

Introduction

Miramax's involvement from 1996-2005 in films that had multi-million-dollar budgets from 1996-2005, some of which reached \$100 million production costs, marked a shift in strategy that did not maintain as high a premium on its indie brand. This was most obvious in the releases during Oscar season, which were its larger-budgeted, high-profile films. The company was still also distributing smaller-budgeted films, but its Oscar hopefuls were defining its image. In the early 2000s the Oscar indie model of Miramax had become institutionalized with its use by independent subsidiaries, including Fox Searchlight, Focus Features and more. Because of Miramax's changing brand image of privileging Oscar over indie, the films on which these companies utilized the Oscar indie strategy and model ranged from \$50 million crime epics (*Traffic*) to \$4 million character studies (*Lost in Translation*). This contributed, along with Miramax's releases, to the complication of "indie" as a cultural concept and brand.

In 2006 and 2007, the evolution of "indie" continued through the successful use of the Oscar indie model. Over these two years seven of the ten Best Picture nominees could fall into the parameters of the Oscar indie. They were distributed by companies outside the major studios; they were actively marketed to create brands of quality and indie; and they were strategically released near the end of the year. It is also pertinent to note that three of these releases were connected in distribution and/or production to Miramax. These films ranged substantially in budget and this led to decidedly different

press discourse pertaining to their indieness. 2006 saw Miramax move away from its recent, “bigger” Oscar fare and release a smaller-budgeted period piece, *The Queen*, directed by Stephen Frears. Paramount Vantage, an independent subsidiary of Paramount, released the ambitious, multi-narrative ensemble drama *Babel*, directed by Alejandro González Iñárritu, as its Oscar contender and Fox Searchlight released Jonathan Dayton and Valerie Faris’ feel-good festival hit *Little Miss Sunshine*. 2007 also saw varying types of Oscar indies in the Best Picture category with the intimate and quirky comedy *Juno*, helmed by up-and-coming director Jason Reitman, Joe Wright’s epic WWII melodrama *Atonement*, the Coen brothers arthouse Western *No Country for Old Men*, and Paul Thomas Anderson’s boldly unconventional historical piece *There Will Be Blood*.

This chapter will analyze the ways in which these Oscar indies were being discussed in terms of independent, studio, and “indie,” as well as other press discourse surrounding the films’ production aspects and marketing. The goal is to determine how this specific two-year run of success for the Oscar indie affected the American independent film sector, the Oscars and the industry as a whole. The chapter will be broken into three main parts. The first will focus on a group of Oscar indies and their parallels to Miramax Oscar indies of the past, arguing that the original model was still present. These similarities include production budgets and textual elements, including scope and narrative. The main important difference that occurs is the *press discourse* surrounding them and the Oscar race. The second part will focus on the Oscar indies that have a strong brand indie brand emphasis in their marketing, displaying a new, ultra indie-center Oscar indie. The last part will center on Oscar indies that are decidedly

different to past Oscar indies in terms of narrative elements, characters, and thematic complexity, and different in *press discourse* causing a new kind of art-centered Oscar indie.

The emphasis on differences in discourse, both surrounding the films and the Oscar race, will clarify how these three specific groups of Oscar indies, those modeling themselves from the old Miramax Oscars winners of the '90s, those that are centered around the indie brand, and those that are centered on the brand of quality, are examples of what was perceived as American independent film during this time. These groups also are indicative evolution of the Oscar indie from Miramax to its institutionalization by independent subsidiaries.

Same Oscar Indies, Different Time

Two Oscar indies that were nominated for Best Picture in 2006 and 2007 were films that were similar to those of Miramax Oscar indies in the '90s. *Atonement* and *The Queen* mirror the prestigious Miramax Oscar-nominated period pieces *The English Patient* and *The Piano*. Especially when looking at the scope of these films the wartime setting of *Atonement* and *The English Patient* lend themselves to obvious comparisons.

Starting with the period pieces there is an interesting trend in the press discourse. *The Queen* and *Atonement* were both late-year releases by Miramax and Focus Features, respectively, who eyed them both as Oscar hopefuls. In 2006 Miramax, as usual, spent millions on the campaign for *The Queen*. The difference was that Miramax was not viewed as aggressively buying votes, but simply the norm. *Los Angeles Times* remarked

that now “the final weeks before the Academy Awards [are] passing in a blizzard of print and TV ads, screeners, coffee-table books, tchotchkes and celebratory cocktail parties” and noted that the high spending from studios on their nominees “has been the subject of controversy for years.”¹³⁴ Adding to the money pit was that the 2006 Academy Awards had no clear front-runner for Best Picture, making it a wide-open race. The *Los Angeles Times* discussion is completely different from the one that attacked the Weinsteins and Miramax during their supposed \$750,000 campaign for *The Piano* in 1993.

The Piano is also significant because of its similarities with *The Queen* when it comes to the film’s path to a Best Picture nomination. In broad strokes each film used enthusiastic praise from critics at a major festival (Cannes for *The Piano*, Venice for *The Queen*) to support a late-year release and led to a Best Picture nomination. Textually their strongest similar attribute is that they center on a strong female character, but they both have a “foreign” feel to them, mainly due to their foreign locales (*The Piano* takes place in New Zealand and *The Queen* in Britain). Both films also had modest budgets at around \$7 million and \$15 million, respectively and each earned high international box office returns.¹³⁵ They both eventually won at least one major Oscar and were loved by critics. And, fittingly, they were both distributed by Miramax.

The main difference lies in the discourse surrounding the Oscar race for *The Piano* vs. *The Queen*. In 1993 Miramax’s strong Oscar campaign was criticized while *The Queen*’s comparable campaign was just one of many that flooded the industry during

¹³⁴ Mary McNamara. “You thought political campaigns were tough.” *Los Angeles Times*. Accessed at www.latimes.com Nov. 12, 2012.

¹³⁵ The Numbers: *The Queen*
< <http://www.the-numbers.com/movies/2006/QUEEN.php>>

this time. Another difference was the lack of conversation about *The Queen*'s indieness, probably because it was similar to a standard Hollywood biopic. *The Piano* was given the distinction of a film made in "uncharted cinema territory."¹³⁶ The prestigious foreign drama was still a staple of the Oscar indie model for Miramax, but the notion of the company automatically receiving the brand of indie was gone.

Looking at 2007's *Atonement*, the past Oscar indie it most closely resembles is *The English Patient*. Both films cost around \$30 million to produce and took home huge box office returns worldwide; the similarities are both textual and industrial.¹³⁷ Both present dark, complex narratives set during WWII. They take place over many years and involve a multitude of characters and have an emphasis on subjectivity and perspective. They were produced outside the major studios -- *Patient* at Miramax and *Atonement* at Focus Features. The main difference is how these films were being discussed in the press. Richard Corliss of *Time* wrote that *The English Patient* was "keenly rapturous...this is a big, [serious] film...beyond gorgeous...you realize with a gasp of joy [at] what movies can do."¹³⁸ That was a particularly glowing sentiment, free of any industrial language and focused directly on the qualities of the film. In 2007, Corliss lauded *Atonement* in much the same way, but some of his insights did focus on the film industrially. After *Atonement* won the Golden Globe for Best Picture he believed that the win should "remind

¹³⁶ Vincent Canby. "The Piano: Forceful Lessons of Love And Cinematic Language." *The New York Times*. Oct. 16, 1993. Accessed at www.nytimes.com Nov. 13, 2012.

¹³⁷ The Numbers: *Atonement*
< <http://www.the-numbers.com/movies/2007/ATONE.php> >

¹³⁸ Richard Corliss. "Cinema: Rapture in the Dunes." *TIME*. March 10, 1997. Accessed at www.time.com Nov. 17, 2013.

Hollywood that there is a middle way between ornery independent film and the mindless mainstreamers.”¹³⁹

These are just two quotes by the same critic, but it is important to note how he focused on different aspects when writing about two films he felt so similar about. In 1996 he praised *The English Patient* strictly on its textual elements. He almost did the same for *Atonement*, comparing its impressive costume and production designs to the great period piece duo of Merchant-Ivory and calling it “an elevated, old-fashioned cry at the movies.”¹⁴⁰ However his commentary on its Globe win directly defined the type of film it, and the majority of Oscar indies, were at their core. They were “ornery” independent, they were not just “mindless” studio, they were the *middle way*. The Oscar indie was still in its early stages in 1996; by 2007 it was solidified and now the product of this complex development.

Looking at these two examples of discourse for *The Queen* vs. *The Piano* and *Atonement* vs. *The English Patient* it becomes clear that over the life of the Oscar indie, something had changed. The American film industry was different, with more variety in its product, and notions of the independent film were different with more expansion in its origins.

¹³⁹ Richard Corliss. “The Golden Globes Atone for the Critics.” Dec. 13, 2007. Accessed at www.time.com Nov. 17, 2013.

¹⁴⁰ Ibid.

Putting the “Indie” Back in Oscar Indie

Another duo of Oscar indies that became Best Picture nominees during these years were *Little Miss Sunshine* (2006) and *Juno* (2007), two intimate character comedy-dramas. Both cost far less to produce compared to *The Queen* and *Atonement*, which helped give them a different image in terms of the way they were marketed and discussed in the media and eventually how they were sold to the Academy come Oscar time.

Little Miss Sunshine was an independently financed film whose producers were hoping to sell to a distributor at the Sundance film Festival in early 2006. It did not take long for word of mouth to travel; audiences loved the film and distributors were aggressively bidding to obtain it. The winner was Fox Searchlight and their marketing campaign emphasized the film’s critical acclaim, festival buzz and idiosyncratic nature. This was executed specifically in advertising by putting glowing quotes from critics, the Sundance selection logo, and the film’s defining image of a yellow ‘70s Volkswagen van.

The film follows the Hoover family, a group of societal misfits, as they embark on an impromptu family trip. The patriarch, Richard, is an unsuccessful motivational speaker. The daughter, Olive is a slightly overweight, seven-year-old beauty pageant participant. The son, Dwayne, has taken a vow of silence after reading Friedrich Nietzsche. The uncle, Frank, is suicidally depressed, and the grandfather, Ed, is a sex-crazed heroin addict who has recently been kicked out of his retirement home. Together they, along with unconditionally loving and understanding mother, Sheryl, pile into the family van and head to California so Olive can compete in a beauty competition. The

film's cast consisted of TV star, Steve Carell, young nine-year-old Abigail Breslin, and successful, but not A-list actors Alan Arkin, Greg Kinnear and Toni Collette.



Illustration 3.1: Pre-release poster for *Little Miss Sunshine*

When looking at all of these characters on the poster with that yellow VW van it becomes apparent that if the marketing team at Fox Searchlight wanted readers to think this film was “indie” they succeeded. In Michael Z. Newman’s definition of indie in *Indie: An American Film Culture* a film gains indieness through text, institutions and audience. *Little Miss Sunshine* is an excellent example of an indie utilizing these three

elements to obtain the brand of indie.¹⁴¹ The marketing team at Fox Searchlight served as the institutional element as their campaign continually emphasized the film's indie nature by placing the VW van in its ads. Also critics described it in indie language. Caludia Puig in *USA Today* praised it as "a refreshing alternative in a season filled with hot air and predictability."¹⁴² Christine Lemire of the Associated Press declared the film "an indie treat" and a "small gem is a road trip comedy that subverts the genre."¹⁴³ Roger Ebert said that the film "harks back to the anti-establishment, countercultural comedies of the 1970s."¹⁴⁴ Textually, the story is a celebration of being different by embracing multiple quirky characters.¹⁴⁵ And there was a large arthouse audience for the film as it amassed \$100 million worldwide.¹⁴⁶

The film's high box office, combined with a heavy dose of critical acclaim gave Fox Searchlight the confidence to push the film into voters' minds come Oscar time. With major studio films such as *The Departed* (2006) and *Letters From Iwo Jima* (2006), directed by Hollywood heavyweights Martin Scorsese and Clint Eastwood, nominated as well as Miramax's *The Queen* and Paramount Vantage's *Babel*, one thing was clear: *Little Miss Sunshine* was the little, outsider film of the bunch. Fox Searchlight used this

¹⁴¹ Michael Z. Newman. *Indie: An American Film Culture*. Columbia University Press. New York, 2011. p. 11.

¹⁴² Claudia Puig. "'Sunshine' beams, but darkly." *USA Today*. July 26, 2006. Accessed at www.usatoday.com Nov. 17, 2012.

¹⁴³ Christine Lemire. "'Little Miss Sunshine' is an indie treat." *Today* Accessed at www.today.com Nov. 17, 2012.

¹⁴⁴ Roger Ebert. "Little Miss Sunshine." *Chicago Sun-Times*. August 4, 2006. Accessed at www.rogerebert.suntimes.com Nov. 17, 2012.

¹⁴⁵ Newman describes this as an element of the quirky indie, which pushes quirky characters on screen and, for him, works to strip the film of realism. Newman finds this trend of the quirky indie to be most prominent during the 2000s.

¹⁴⁶ The Numbers: *Little Miss Sunshine*
< <http://www.the-numbers.com/movies/2006/LMSUN.php>>

angle in their Oscar campaign, which consisted of a slightly altered version of their original poster. The main difference was that this time the film's title was replaced with the words "Little Best Picture." *Little Miss Sunshine* was nominated for Best Picture and three more Academy Awards in major categories. It was the Cinderella story of the 2006 Academy Awards. *The New York Times* described its status in the Oscar race as a "low-budget, road-trip charmer...[against] bigger studio competition."¹⁴⁷



Illustration 3.2: *Little Miss Sunshine* "For Your Consideration Ad" in *Variety*

¹⁴⁷ "'Little Miss Sunshine' improves Oscar chances with win at Screen Actors Guild awards." *The New York Times*. Jan. 29, 2007. Accessed at www.nytimes.com Nov. 17, 2012.

Little Miss Sunshine ultimately won Oscars for Best Supporting Actor (Alan Arkin) and Best Original Screenplay (Michael Arndt), but it really did much more. It kept the indie in Oscar indie, just like *Lost in Translation* and *Sideways* before it. While studio Oscar hopefuls were also flooding the Awards season, there was still a place at the Academy Awards table for a smaller-scaled indie that was produced with genuinely independent funds.

The next year a similar story occurred with another Fox Searchlight film, *Juno*. The company already owned distribution rights when the film received standing ovations and praise at Telluride and the Toronto International Film Festivals. The company used the film's strong festival buzz and put it in theaters on a limited release in mid-December. Fox Searchlight knew this was its Oscar darling and, learning from *Little Miss Sunshine*'s summer opening date, decided to open the film in mid-December. They also learned that the "indie" brand that *Little Miss Sunshine* had was not only good for Oscar gold, but it was also immensely profitable.

Juno shares certain textual similarities with *Little Miss Sunshine*. Its main character, a Minnesota teen, gets pregnant and must deal with making some very hard decisions. Her name is Juno and she does not really care what anyone thinks about her, the antithesis of most Hollywood cinematic teen characters. Her strong, anti-conformist personality is reinforced by her decision to keep the baby and give it up for adoption. Just like *Little Miss Sunshine*, *Juno*'s narrative and main character were placing the film outside of Hollywood conventions. Added to that the film's soundtrack consisted mainly of songs by indie folk singer Kimya Dawson as well as other acoustic-based musicians.

Newman notes that “One part of the film’s perceived quirk and thus its indieness [is the] music...lo-fi, folkie indie pop opposed to the masculine aggressiveness of rock and roll and punk, a style that aligns an indie cinema aesthetic with one of indie music.”¹⁴⁸ *Juno*’s opening credits were displayed in a very distinct animated sequence that also gave the film an indie sensibility.

Juno cost around \$7 million to produce and its biggest name was Jennifer Garner, not exactly an A-list star.¹⁴⁹ The rest of the cast included TV stars Jason Bateman and Michael Cera and little-known screen actors like Ellen Page in the title role. Its director, Jason Reitman, though not a household name with only one feature under his belt, did have indie credibility for *Thank You for Smoking* (2005). Fox Searchlight was banking on word-of-mouth and the critics to help the film at the box office and on the awards circuit.

As with *Little Miss Sunshine* these two elements were strong. Critics helped assert an indie brand by comparing it to Fox Searchlight’s earlier hit. Jack Mathews in *New York Daily News* observed that like “‘Little Miss Sunshine,’ ‘Juno’ has that indie film gusto...and Oscar potential.”¹⁵⁰ In *Entertainment Weekly* Lisa Schwarzbaum described the film’s look as having “bright, sunshiny (and *Little Miss Sunshine*-y) colors and

¹⁴⁸ Newman. p. 240.

¹⁴⁹ Box Office Mojo: *Juno*
<<http://www.boxofficemojo.com/movies/?id=juno.htm>>

¹⁵⁰ Jack Mathews. “Ellen Page is a teen who aces the pregnancy test in ‘Juno.’” *New York Daily News*. Dec. 5, 2007. Accessed at www.nydailynews.com Nov. 29, 2012.

tempo.”¹⁵¹ They were also giving it high praise. Ebert declared it “just about the best movie of the year. It is very smart, very funny and very touching.”¹⁵²

Juno had everything going for it: critical acclaim, strong indie and quality branding and a marketing team that had just been down this road before. Instead of the bright yellow of the *Little Miss Sunshine* posters, Fox Searchlight used a combination of orange, green and animated letters to accentuate *Juno*’s difference from mainstream Hollywood films. It also summed up the film’s critical praise with one glowing quote from Ebert.

¹⁵¹ Lisa Schwarzbaum. “Juno (2007).” *Entertainment Weekly*. Nov. 28, 2007. Accessed at www.ew.com Nov. 29, 2012.

¹⁵² Roger Ebert. “Juno.” *Chicago Sun-Times*. Dec. 14, 2007. Accessed at www.suntimes.rogerebert.com Nov. 29, 2012.



Illustration 3.3: Pre-release poster for *Juno*

The film made over \$140 million in the U.S. alone and over \$230 million worldwide.¹⁵³ It was also nominated for Best Picture and three more major Oscars. Fox Searchlight's Oscar campaign also hit home the film's indie and quality brands by using the same color motif along with another quote by Ebert and an offbeat image of Juno

¹⁵³ Box Office Mojo: *Juno*

resting a toy car on her pregnant belly. It used the bold orange and green color scheme along with the animated “JUNO” title.



Illustration 3.4: *Juno* “For Your Consideration Ad” on the cover of *Variety*

Juno only took home an Oscar for Best Original Screenplay (Diablo Cody) but Fox Searchlight had a second straight successful Oscar season indie using the Oscar indie strategy. The character-driven, intimate Oscar indie was not a fluke. In fact, judging by *Juno* and *Little Miss Sunshine*’s huge profits and multiple nominations these Oscar indies were now becoming the most lucrative films to produce and/or distribute. Just like the

independent boom at the Academy Awards in 1996, the indie was being put back in Oscar indie.

The “Anti-Hollywood” Oscar Indies

Four Oscar films of 2006 and 2007 display characteristics that have been constructed either by the original Miramax model (*The Queen* and *Atonement*) or the newer strategy of the Oscar indie model of the 2000s with an emphasis on indieness (*Little Miss Sunshine*, *Juno*). Though different these two strategies both earned the “indie” brand the same way, primarily through their texts and institutions. However the latter strategy also emphasized a film’s indieness heavily through marketing and it also helped that the *Little Miss Sunshine* and *Juno* were truer independents in terms of production and distribution. Some critics also applauded these films for being different from the usual Hollywood movie, while a few were less convinced of this aspect of *Juno* and *Little Miss Sunshine*. Newman states that “the extent to which a film is judged to be anti-Hollywood can determine the strength of its candidacy for indieness” but “often this takes into account...contexts of production.”¹⁵⁴ This makes *Juno* and *Little Miss Sunshine* more indie because of the way they were produced. *Little Miss Sunshine* was independently financed and *Juno* cost around \$7 million to make.

What I will now focus on is an entirely different type of indieness based almost solely on textual qualities if the film asserts the values of autonomy from mainstream Hollywood. Newman believes that “it is even possible to read [a film] as anti-Hollywood

¹⁵⁴ Newman. p. 45.

in relation to a film that is not considered authentically indie.”¹⁵⁵ I will look at three films in these circumstances and discuss them in terms of their achieved indieness and its impact on their Best Picture nominations in the overall discussion of American independent film.

Newman’s claim is at the heart of the indieness of three nominees for Best Picture in 2006 and 2007: *Babel*, *No Country For Old Men*, and *There Will Be Blood*.

Independent subsidiary Paramount Vantage bought the U.S. distribution rights to *Babel*, which was produced for around \$20 million.¹⁵⁶ Its cast included A-list stars Brad Pitt and Cate Blanchett. It was directed by Alejandro González Iñárritu, who had found acclaim with two previous films: *Amorres Perros* (2000), a meditation on love and death set in Mexico City, and *21 Grams* (2003), a dark, intimate character study centering on grief produced by a car crash and starring the acting trio of Sean Penn, Naomi Watts and Benicio Del Toro. Both films were critically acclaimed and art house hits. The press discourse surrounding *Babel* focused on Iñárritu’s filmmaking track record as well as the film’s strikingly similar anti-Hollywood traits. *Babel*’s plot involves four separate stories, set in four different countries, which are connected by a random shooting in Morocco. Mick LaSalle’s review in the *San Francisco Chronicle* described the film as “a fractured narrative...a film of profound ambition...a similarly experimental approach [that worked in the filmmaker’s previous] ‘21 Grams.’”¹⁵⁷

¹⁵⁵ Ibid.

¹⁵⁶ The Numbers: *Babel*.

<<http://www.the-numbers.com/movies/2006/BABEL.php>>

¹⁵⁷ Mick LaSalle. “Four stories add up to less than one.” *San Francisco Chronicle*. Accessed at www.sfgate.com Nov. 30, 2012.

LaSalle's review echoed the trend of how the film was being discussed in the press. Words such as unconventional, challenging and artistic popped up in many reviews and the film's A-list stars were rarely singled out as doing "star turns." Overall, though, the critics were not unanimous in their praise of the film.¹⁵⁸ This could have affected its box office, as Oscar indie films that are considered "artsy" strongly rely on critical praise of quality to help box office returns. Paramount Vantage opened the film in seven theaters in its first week in late October and quickly expanded it to over 1,000 two weeks later.¹⁵⁹ The U.S. box office results were disappointing as *Babel* did not make back its \$20 million after two months in release.

In terms of its text and production the previous Oscar indie that resembles *Babel* is Steven Soderbergh's *Traffic*. These films are similar in that their budgets could be considered studio-level, they had star power, and they mainly received the brand of indie because of their anti-Hollywood elements, particularly including narrative structure. As stated earlier, *Babel* also achieved its "indie" brand because of the press discourse centered on Iñárritu's previous efforts and the strong anti-Hollywood elements they all shared including a time-jumping narrative and the use of multiple languages. *Traffic*'s indieness was also related to Soderbergh's previous films but as well to its complex look at many different aspects of the international drug war, a subject almost untouched in Hollywood to that point. When looking at *Traffic* and *Babel* from an industrial viewpoint it is difficult to define either of them as independent but when looking at the films

¹⁵⁸ This is based off the findings of aggregate review websites www.rottentomatoes.com and www.metacritic.com.

¹⁵⁹ The Numbers: *Babel*

themselves there are strong “indie” elements. This is connected to the rise of the studio-indie hybrid in the late ‘90s and early 2000s, but *Traffic* and *Babel* make a strong case that the form and content of these films shifted more towards the anti-Hollywood, “indie” aesthetic.

While *Babel* could be seen as an example of a more successful Oscar indie in terms of achieving the brand, the opposite is true in terms of its profitability. Paramount Vantage placed *Babel* into the Oscar race and the film was a success in achieving Oscar buzz. Critics proclaimed it was “an almost certain Oscar contender.”¹⁶⁰ Paramount Vantage gave the film a strong Oscar campaign, but the box office did not pick up. Although the film was nominated for five major Academy Awards, not even that helped the returns. The film ended up making just over \$34 million in the U.S. and only gained a one-week surge of Awards momentum when it won the Golden Globe for Best Drama.¹⁶¹ The release strategy behind *Babel* was most definitely the Oscar indie model, but *Babel* did not become a financial success.

In 2007 Paramount Vantage were back and active in the production and release of two similar, “anti-Hollywood” Oscar indies. The films, *No Country for Old Men* and *There Will Be Blood*, were co-produced with Miramax, who had started to break away from the \$100 million co-productions that defined their Oscar films at the beginning of the decade. Like *Babel* and *Traffic*, the films both had directors with a track record in the independent film world. *No Country* was written and directed by Joel and Ethan Coen

¹⁶⁰ Roger Moore. “Babel: Why can’t we all just get along?” *Orlando Sentinel*. Nov. 10, 2006. Accessed at www.orlandosentinel.com Dec. 4 2012.

¹⁶¹ The Numbers: *Babel*.

and *Blood*'s writer-director was Paul Thomas Anderson. All three filmmakers' careers began in the ranks of indie film and thus they still brought to their films a degree of the "indie" branding, even if they were making a Hollywood productions.

Also, like *Babel*, each film's production budget was around \$25 million with Miramax and Paramount Vantage sharing the cost.¹⁶² It was also decided that Miramax would have the U.S. rights and marketing duties for *No Country For Old Men* and the foreign rights and duties for *There Will Be Blood* and vice versa for Paramount Vantage. In the 1990s Miramax banked on the profitability of the overseas market and Paramount Vantage only had U.S. distribution rights to *Babel*, which made \$96 million overseas compared to \$34 million in the U.S.¹⁶³

As the films were set for release in the U.S. in late 2007, Miramax was first out of the gate with *No Country*. The film centered on a Texas man who stumbles onto a bag of drug money after a deal goes wrong. He flees town but is soon followed by a killer who is hired to find him and the money. Subsequently a soon-to-be-retired sheriff is tracking the killer. The parallel cat-and-mouse chases and violence lend the film to bold, theme-oriented moments in place of the standard plot-centered scenes. Most of these involve simple conversations between two characters discussing no less than mortality, evil and regret. *No Country* played earlier at prestigious festivals like Cannes, Toronto and New York to high praise and awards buzz. The film then followed the Miramax Oscar indie model of slowly, but effectively widening from 28 theaters to 1,324 in its first month of

¹⁶² The Numbers: *No Country For Old Men*.
<<http://www.the-numbers.com/movies/2007/NCFOM.php>>

¹⁶³ The Numbers: *Babel*.

release. After four weeks it had already recouped its production budget, earning almost \$29 million.¹⁶⁴ The box office was very promising, especially considering the discourse surrounding the film. *Variety* described Miramax's Oscar indie strategy with the film, which was abandoned in the early 2000s with their larger-budgeted Oscar contenders, as "a textbook case of a release campaign ripped out of the old Miramax Films playbook...Harvey Weinstein used to launch a pic in May at Cannes, flog it at the fall film fests in Toronto and New York, open in limited release in October or November, play through Thanksgiving and Christmas, and broaden after a slew of Oscar nominations."¹⁶⁵

Added to the film's financial success, *No Country* also received near-unanimous rave reviews from critics, many of which stressed the film's generic elements but also the Coens' ability to subvert them. This made *No Country* a film that the press deemed high on artistic integrity. Lou Lumenick of *The New York Post* declared, "No Country for Old Men' is the first movie I've seen in a very long while that deserves to be called a masterpiece...[it] works as high art and a rousing genre entertainment."¹⁶⁶ Roger Ebert also notes the film evokes both an artistic film and a conventional picture by stating it has "elements of the thriller and the chase but is essentially a character study," then he called the film "flawlessly constructed" and "a miracle."¹⁶⁷

¹⁶⁴ The Numbers: *No Country For Old Men*.

¹⁶⁵ Anne Thompson. "Slow burn keeps 'Old Men' simmering." *Variety*. Jan. 31, 2008. Accessed at www.variety.com Dec. 4, 2012.

¹⁶⁶ Lou Lumenick. "Neo Grande: Western Noir Flirts With Oscar." *New York Post*. Nov. 9, 2007. Accessed at www.nypost.com Dec. 4, 2012.

¹⁶⁷ Roger Ebert. "No Country for Old Men." *Chicago Sun-Times*. Nov. 8, 2007. Accessed at www.suntimes.rogerebert.com Dec. 4, 2012.

Paramount Vantage's usage of the Oscar indie strategy with *There Will Be Blood* was equally obvious as the company released the film in only two theaters the last week in 2007, one in New York and one in Los Angeles. The main reasoning was to make the film eligible for the Academy Awards that year and build upon the film's strong Oscar buzz for profit-making. And, like *No Country*, Paramount Vantage expanded *Blood*'s release throughout its first month to almost 900 theaters, but the box office returns were not nearly as strong as *No Country*'s. Over this time the film earned under \$15 million. Paramount Vantage was not fazed by the disappointing returns and even expanded its release the following weeks to over 1,600 screens, but the wider release did not give the film the box office boost the company had hoped.¹⁶⁸

While the box office was disappointing, the reviews were positive and even if they were not helping Paramount Vantage yield large profits, they were cultivating the aforementioned strong Oscar buzz for *There Will Be Blood*. The critics were singling out the film's atmosphere and tone and the original vision of its writer/director Anderson. Richard Schickel of *Time* described the film as a "unique experience, one of the most wholly original American movies ever made."¹⁶⁹ In *The New York Times* Manohla Dargis called Anderson's film "above all a consummate work of art...it pleasures are unapologetically aesthetic."¹⁷⁰ The rhetoric of this critical praise, most notably the words "art," "original," and "unique" was giving the film a clear artistic and indie label

¹⁶⁸ All figures from *The Numbers: There Will Be Blood*.

¹⁶⁹ Richard Schickel. "There Will Be Blood: An American Tragedy." *TIME*. Dec. 24, 2007. Accessed at www.time.com Dec. 5, 2012.

¹⁷⁰ Manohla Dargis. "An American Primitive, Forged in a Crucible of Blood and Oil." *The New York Times*. Dec. 26, 2007. Accessed at www.nytimes.com Dec. 5, 2012.

because, according to Newman's argument, the press discourse was giving it perceptible anti-Hollywood elements.

Both Miramax and Paramount Vantage centered the critical praise in their Oscar ads. In fact, Miramax constructed a two-page ad for *No Country* that was dominated by lengthy quotes from various critics. Paramount Vantage also used many grandiose quotes from critics. For the latter the marketing also visually singled out Day-Lewis's performance in a majority of the ads, most likely in hopes that a win for its leading actor would help its box office.



Illustration 3.5: Oscar ad in *Variety* for *There Will Be Blood*



Illustration 3.6: Oscar ad in *Variety* for *No Country For Old Men*

Both films received multiple nominations in major categories including Best Picture. *No Country For Old Men* saw a spike in its domestic box office, which eventually rose to \$74 million.¹⁷¹ *There Will Be Blood* was in the midst of its wide release, but its box office declined every week after nominations came out. Its eventual take would be just over \$40 million.¹⁷² On Oscar night both films enjoyed success, although *No Country* was clearly the winner. *There Will Be Blood* only received one win, but it was a major one as Day-Lewis, as expected, won Best Actor. *No Country For Old Men*, however, became one of Miramax's biggest Oscar winners ever in terms of major

¹⁷¹ The Numbers: *No Country For Old Men*.

¹⁷² The Numbers: *There Will Be Blood*

awards. It won for Best Picture, Director (Joel and Ethan Coen), Adapted Screenplay (the Coens again) and Supporting Actor (Benicio Del Toro). This type of Oscar success had not been seen for a Miramax picture since *Shakespeare in Love* capped off their great run in the '90s.

When looking specifically at Miramax Oscar winners *Shakespeare in Love* and *No Country For Old Men*, one can see this pair as symbolic of a shift in the films that fell into the Oscar indie model from the late 1990s to 2007. By the time it released *Shakespeare in Love* Miramax had lost -- or was in the process of losing -- its ability to have any of its films achieve an "indie" brand solely because of its company's name. The company and its Oscar contenders were no longer Hollywood outsiders because Miramax was operating more and more like a studio with its large budgets and standard generic Hollywood fare. This was, as chapter 1 argued, a major step toward the blurring line between American independent and studio film. Now *No Country For Old Men*, a Miramax Oscar indie, was achieving the "indie" brand even though its budget and elements of production were similar to *Shakespeare in Love* because its text was, because of press discourse, perceived to not be like typical Hollywood movies.

The anti-Hollywood Oscar indies of *Babel*, *No Country For Old Men*, and *There Will Be Blood* clearly indicate that the label of "indie" could be attained almost exclusively through press discourse presenting them as having an anti-Hollywood element. The development started with Oscar indies like *Traffic* and *The Pianist*, but they seemed more like exceptions than the rule. The three artistic, "anti-Hollywood" Oscar indies of 2006 and 2007 strengthened the argument that these kind of Oscar indies could

become the norm, especially with *No Country For Old Men* winning big at the Oscars and at the box office. Whether this would happen or have any effect on American independent film, the Oscars, or the film industry in general remained to be seen.

Conclusion

The Oscar indies of 2006-2007 represented the three large sects of this group as a whole. *Atonement* and *The Queen* became examples of the ideals of the '90s Miramax Oscar indie model, *Little Miss Sunshine* and *Juno* representing the smaller, character-centered Oscar indies of the early 2000s, and *Babel*, *There Will Be Blood* and *No Country for Old Men* constituted the Oscar indie that was defined by their press defined anti-Hollywood elements. The growth of this final group was indicative of a development that had been present since Miramax in the 1990s: More and more Oscar indies started to look, sound and feel like Hollywood studio products whether it was *The English Patient*, *Shakespeare in Love* or *Traffic*. This new group of “anti-Hollywood” Oscar indies still had the large budgets and production elements of Hollywood studio products, but the press discourse indicated that their material was an actual cinematic alternative to the mainstream.

Overall an increasing number of Oscar indies during these years showed that no matter what kind of Oscar indies were being distributed as award hopefuls, the Academy members were voting for them. Those in the industry apparently wanted these to be the representation of their professional artistic medium. This was not the beginning of a new trend, but the apex of an ongoing one. The '90s saw the beginning of the Oscar indie

trend. The early 2000's saw many films distributed by independent subsidiaries nominated for Best Picture, and by 2006 and 2007, seven films from these companies were vying for their industry's top prize. The press noticed and declared, "the reality is that studios [had] essentially decreed that the Oscars should be about arthouse movies."¹⁷³ And the press was still dictating what exactly could be categorized as an arthouse movie and that categorization on "anti-Hollywood" would become an element that helped certain films achieve indieness. Its also important to note that Paramount Vantage and, more significantly, Miramax had been folded into their parent major studios and were no longer functioning as semi-autonomous indie divisions. The Weinsteins were gone, of course, and Miramax was now quite literally a brand name. By 2007 the evolution and success of the Oscar indie strategy made these films become typical Oscar contenders, not just for speciality divisions of studios, but of American film in general.

¹⁷³ Peter Bart. "Oscar snubs mainstream for arty party." *Variety*. Jan. 25, 2008. Accessed at www.variety.com Dec. 7, 2012.

Conclusion

In 1992 *The Crying Game* surprised everyone in the industry with its unprecedented box office take of \$62 million and its five Academy Award nominations. Analyzing Miramax's release and marketing strategy and the press discourse surrounding it displayed that the company and the media branded the film as indie and quality. These developments were the beginning of a change in the American film industry.

Miramax apparently observed the financial potential of their strategy with *The Crying Game* and applied it to *The Piano* in 1993 with similar results. A striking parallel between these films' releases was that a substantial percentage of their box office profits was earned after each film received Oscar nominations in major categories. Thus, the Oscar indie model was born: a strategy that focused on a film achieving the brand of indie through its industrial and textual elements and press discourse and the brand of quality through Oscar nominations in the hopes that both would yield a high box office return. It is important to note that indie does not necessarily mean independent. Independent was and is a label that usually pertains to a film's industrial and production elements while indie, as Newman states, "constitutes a film culture: it includes texts, institutions and audiences."¹⁷⁴ Independent is a purely industrial definition; indie is a created image-based cultural definition.

Throughout the '90s Miramax gained a brand of indie because of releases like *The Crying Game* and *The Piano*. This allowed them to release higher-budgeted films that

¹⁷⁴ Newman, p. 11

could still achieve the indie brand, even if they were looking more and more like Hollywood studio products. In 1996 it released *The English Patient*, a film that cost \$27 million to produce, with the Oscar indie model. That film went on to make north of \$100 million domestically for Miramax and win the distributor its first Best Picture Oscar. Two years later it released *Shakespeare in Love*, a film similar in budget and scope, and received the same success. At the time this signaled the developing complication of defining independent, but it mainly pertained to Miramax. These last two films' achieving the "indie" brand develops more complications than the previous Miramax Oscar contenders. The second element of branding them as quality or Awards-worthy is aligned with the "Oscar indie" mode. During these years other independent distributors such as Fine Line, Gramercy and October Films were beginning to release their Oscar contenders (*Secrets & Lies*, *Fargo*, and *Breaking the Waves*), but these films more closely resembled what many in the media believed to be independent film.

The American independent film landscape was evolving into an unknown entity as Miramax's films and other independent releases were gaining more and more Academy recognition, which was helping them gain higher profits. This was new complicated territory for independent film, and Miramax was leading the way. The effects of this would become clearer in the next decade.

In the early 2000s independent subsidiaries would implement Miramax's Oscar indie strategy on their own films. This could range from \$50 million epics like *Traffic* and quirkier, intimate fare like *Lost in Translation* because indie is not achieved through strictly defined elements. These films were different in many ways including institutional

and production elements and textual qualities, but they were achieving brand of indie through press discourse that defined them as being outside the Hollywood mainstream. The other necessary task is to achieve the brand of quality, which was almost exclusively done so through positive critics' reviews. This was the element from which an Oscar indie's life could begin. Because of the financial potential more independent subsidiaries were successfully and strategically using the Oscar indie model on films such as *Gosford Park*, *In the Bedroom*, *Sideways*, *Crash*, and *Good Night, and Good Luck*. Oscar indies were beginning to take over the Academy Awards. This institutionalization and successful use of the Oscar indie model by independent subsidiaries caused a very telling development: The Academy, a group dominated by those in the American film industry, was beginning to celebrate the films that were trying to market themselves as being different from the Hollywood mainstream.

This takeover by Oscar indies at the Academy Awards was solidified in 2006 and 2007 as seven out of the ten nominees were released using the Oscar indie strategy. The interesting aspect of these specific group of films were that some closely resembled the Miramax Oscar indies of the '90s (*The Queen*, *Atonement*), others mirrored the independent Oscar indies of the independent subsidiaries in the early 2000s (*Little Miss Sunshine*, *Juno*) and then some were of a completely new Oscar ilk (*Babel*, *No Country For Old Men*, *There Will Be Blood*). This last group of films mainly used non-Hollywood narrative and textual elements to achieve their distinction of quality.

This final development implicitly displays that the possibilities of the Oscar indie and the brand of indie are, to some degree, boundless. As oppose to independent, the

parameters of the indie are subjective due to their cultural position. Indie is a cultural product and independent is a defined term. From 1992-2007 independent films did not overtake the Oscars, even with the declared “year of the independent” in 1996, the Oscar indie did.

The larger implications of this development can be attached to two main components: The Academy as a Hollywood industrial institution and American independent film as a public and cultural label. Over these fifteen years the Oscar indie had become institutionalized and, in a way, normalized as films that the model was used on gained more Academy success. This has caused the line between the two categories of independent and studio to be even more blurred and complicated.

Since 2007 this has become an even more convoluted as films such as Fox Searchlight-distributed, Danny Boyle-directed India-set Dickensian, underdog tale *Slumdog Millionaire* (2008), Summit Entertainment’s Iraqi war film *The Hurt Locker* (2009) directed by Kathryn Bigelow and the new Weinstein Company’s *The King’s Speech* (2010) and *The Artist* (2011) – all of which won the Academy’s top prize. These films could be seen as utilizing an Oscar indie strategy applied by their non-major studio distributors. It is also important to note that it is becoming less and less certain that these Best Picture winners would necessarily earn a substantially higher box office because of their Oscar success (which did not occur for either *The Artist* or *The Hurt Locker*). This main factor for the success of the model when it was implemented in the first place was soon disappearing.

For better or for worse the Oscar indie has left its mark on modern American film and it does not look like it will be leaving anytime soon. The number of indie companies is depleting, but its impact has moved to newer independent distributors with success and the number of new non-major studio distributors continues to grow. It has helped change and shape the way independent films are produced, distributed, and discussed. It has also allowed many films to gain recognition they otherwise would not have.

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