

United Artists Corporation et al., Plaintiffs,

v.

Exodus Motion Picture Corporation et al., Defendants.

Supreme Court, Special Term, New York County.

August 26, 1960

Phillips, Nizer, Benjamin, Krim & Ballon (*Walter S. Beck* of counsel), for plaintiffs. *Bernard S. Berkowitz, Albert G. Besser* and Hannock, Weisman, Myers, Stern & Besser for defendants.

HENRY EPSTEIN, J.

The plaintiffs are the distributor (United Artists) and the producer (Carlyle-Alpina, S. A.) of the motion picture EXODUS based upon the novel of the same name by Leon Uris. The budget for this picture is approximately \$4,000,000 and it is scheduled for release on or about December 15, 1960.

The corporate defendant came into existence on July 18, 1960. The individual defendant Hoffer was the person who brought the corporation into existence while the defendant Asch was his attorney. Incidentally, Asch has withdrawn as defendants' attorney and has disavowed the use of his name in an advertisement in a trade paper concerning a picture called "EXODUS".

The defendants have purchased the rights to a certain motion picture the theme of which dealt with the exodus of displaced Jews from Europe to Israel after World War II. This picture was produced about 1949 and released in Italy under the title: "Il Grido Della Terra" and in the United States under the title: "The Earth Cries Out".

The novel "EXODUS" has received great acclaim and has been widely distributed (in excess of 3,000,000 copies). The plaintiffs have gone to great expense to publicize the title EXODUS. The current attempt by the defendants to exploit this work of plaintiffs by renaming their own picture "EXODUS" and releasing it before the well-publicized United Artists version of EXODUS would appear to be a clear violation of the rights of plaintiffs and would cause irreparable injury to them. The defendants' opposition to the motion is based on rather tenuous reasoning, certainly not sufficient to prevent the granting of the relief requested. (*New York World's Fair 1939 Inc. v. World's Fair News, Inc.*, 163 Misc. 661, affd. 256 App. Div. 373.)

The defendants are enjoined pending the trial of this action from advertising, licensing or distributing any motion picture under the title of "EXODUS" or any similar name or names containing the word "EXODUS". Prompt trial should be provided in order.