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Legal Advice by Mark Litwak

Tactics in the Distribution Deal

Distribution executives know better than to mess with a moviemaker represented by Mark Litwak. Or they should.

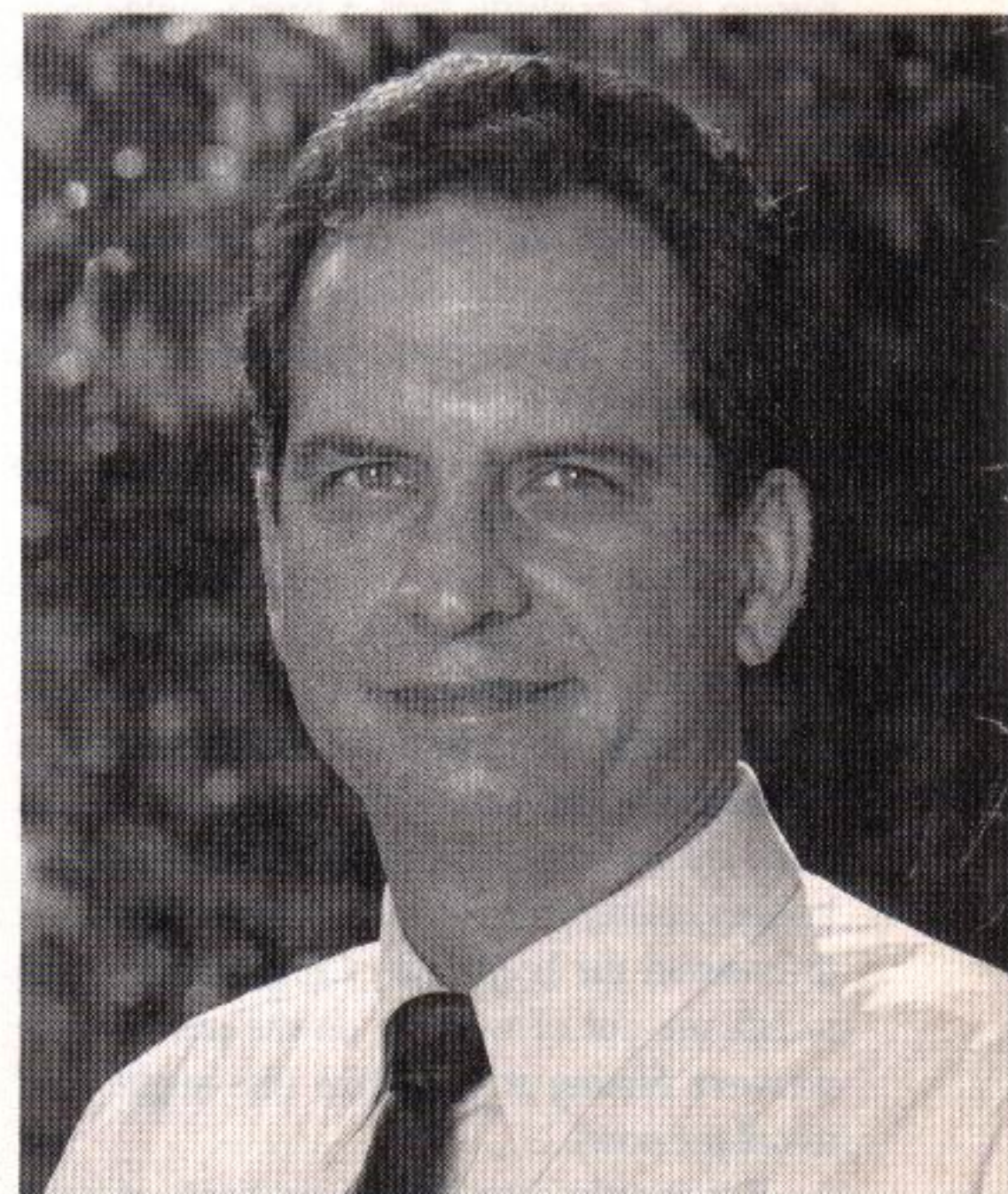
When a distributor negotiates with a filmmaker to acquire film rights, the distributor has considerable clout and the filmmaker may be desperate to make a deal. This is a perilous situation for the filmmaker. A filmmaker who makes a bad distribution deal will not be able to repay investors, and this often means the filmmaker will find it very difficult, if not impossible, to make another independent film. Filmmakers must know how to orchestrate the release of their film into the marketplace so that the filmmaker is at his/her competitive best when it comes time to negotiate the distribution deal.

Unfortunately, making the film is only half the battle. To secure favorable terms for distribution, a filmmaker needs to have a strategy designed to attract distributors. This often entails generating good word of mouth within the industry. This "buzz" or "heat" can be encouraged by filmmakers who are willing to work the festival circuit and mount a campaign on behalf of the film.

Festivals are a cost-effective way to get films in front of potential distributors. Acquisition executives tend to favor some festivals more than others. They prefer to attend festivals that premiere films with distribution rights still available. Festivals compete with each other in order to premiere such films. They each want to be first to discover a great film. Filmmakers need to understand that you only get one premiere per territory or region, and participation in one festival may make the film ineligible for others. For instance, the Sundance Festival has a policy of only accepting films that have been in one festival before Sundance. Note that Sundance does not count markets, such as AFM and IFFM, as a festival.

The festivals most important for filmmakers seeking distribution are those that are well-attended by acquisition executives. There are many festivals and they each have their own selection criteria and point of view. Some are very specialized; others exhibit a broad range of motion pictures including animation, shorts and documentaries. The nature of a film will determine which films are best to enter. Generally speaking, for independent

filmmakers with feature-length films, the best festivals are: The Independent Feature Film Market (IFFM), Sundance, Seattle, Hamptons International Film Festival, New York and Telluride. The most important international festivals and markets are: Berlin, Cannes, Toronto and Venice. Slamdance, which is held at the same time and place as Sundance, has become an established venue for independent films. Although only one year old, the Los Angeles Independent Film Festival is a rising star among festivals. When you attend a festival, come early and be sure to bring along a healthy supply of marketing materials. Some filmmakers show up the day of their screening and don't understand why only a handful of acquisition executives have attended their screening and the distribution offers are not pouring in. Other, wiser filmmakers spend a considerable amount of time laying the groundwork for a successful festival. They prepare professional one-sheets (8.5 x 11" handouts that look like little film posters), posters, T-shirts and giveaway items. Sometimes they



Litwak: Desperation is your worst enemy when talking to a distributor.