

The Calpers Tests for Independent Boards

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- Calpers, the California Employees Pension fund, suggested three tests in 1997 of an independent board:
 - ▣ Are a majority of the directors outside directors?
 - ▣ Is the chairman of the board independent of the company (and not the CEO of the company)?
 - ▣ Are the compensation and audit committees composed entirely of outsiders?
- Disney was the only S&P 500 company to fail all three tests.

Business Week piles on... The Worst Boards in 1997..

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THE WORST BOARDS OF DIRECTORS												
EW RANK	OVERALL SCORE	SURVEY SCORE	ANALYSIS SCORE	DETAILS	BOARD PERFORMANCE POLL				GOVERNANCE GUIDELINE ANALYSIS			
					SHAREHOLDER ACCOUNTABILITY	BOARD QUALITY	BOARD INDEPENDENCE	CORPORATE PERFORMANCE	SHAREHOLDER ACCOUNTABILITY	BOARD QUALITY	BOARD INDEPENDENCE	
1. DISNEY	10.3	1.8	8.5	Investors decry board for conflicts; many directors own little if any stock	3.3	4.3	2.0	5.8	-0.4	2.8	2.2	
2. AT&T	10.9	-16.6	27.5	Investors scorn board for failing to control succession, not ousting CEO	3.0	4.2	3.5	2.8	2.0	5.2	7.4	
3. H.J. HEINZ	15.4	-1.1	16.5	Longtime CEO dominates insider-filled board; resists investor calls for change	2.8	3.7	2.0	4.7	4.4	6.0	1.4	
4. ARCHER DANIELS MIDLAND	16.8	-12.2	29.0	Board changes fail to satisfy investors, who say directors still lack independence	2.3	2.1	1.3	3.5	5.6	7.6	5.0	
5. DOW JONES	21.1	1.6	19.5	Investors disenchanted with performance; weakest attendance record of any board	2.6	4.6	2.8	2.6	6.0	0.0	5.8	
6. BILLARD'S	22.0	5.0	17.0	Board loaded with insiders; lacks an outsider with retail expertise or CEO	2.0	3.0	2.0	3.5	6.4	3.2	2.0	
7. ROLLINS INTERNATIONAL	22.7	1.7	21.0	Board dominated by family members and insiders; lacks nominating panel	1.0	1.0	0.0	2.0	4.0	7.6	4.4	
8. OCCIDENTAL PETROLEUM	24.0	-1.5	25.5	Investors outraged over \$95 million payout to CEO by cozy, aging board	1.3	2.0	1.1	2.0	2.8	6.0	5.8	
9. OGDEN	27.2	4.2	23.0	Board has three consultants and a lawyer who do business with company	2.0	1.5	2.0	2.5	2.0	8.4	4.0	
10. MAXXAM	28.3	4.3	24.5	Tiny board with little business experience dominated by CEO	1.5	2.0	1.0	3.5	3.6	2.0	6.0	

Application Test: Who's on board?

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- Look at the board of directors for your firm.
 - ▣ How many of the directors are inside directors (Employees of the firm, ex-managers)?
 - ▣ Is there any information on how independent the directors in the firm are from the managers?
- Are there any external measures of the quality of corporate governance of your firm?
 - ▣ Yahoo! Finance now reports on a corporate governance score for firms, where it ranks firms against the rest of the market and against their sectors.
- Is there tangible evidence that your board acts independently of management?
 - ▣ Check news stories to see if there are actions that the CEO has wanted to take that the board has stopped him or her from taking or at least slowed him or her down.

So, what next? When the cat is idle, the mice will play

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- When managers do not fear stockholders, they will often put their interests over stockholder interests
 - Greenmail: The (managers of) target of a hostile takeover buy out the potential acquirer's existing stake, at a price much greater than the price paid by the raider, in return for the signing of a 'standstill' agreement.
 - Golden Parachutes: Provisions in employment contracts, that allows for the payment of a lump-sum or cash flows over a period, if managers covered by these contracts lose their jobs in a takeover.
 - Poison Pills: A security, the rights or cashflows on which are triggered by an outside event, generally a hostile takeover, is called a poison pill.
 - Shark Repellents: Anti-takeover amendments are also aimed at dissuading hostile takeovers, but differ on one very important count. They require the assent of stockholders to be instituted.
 - Overpaying on takeovers: Acquisitions often are driven by management interests rather than stockholder interests.

No stockholder approval needed..... Stockholder Approval needed

Aswath Damodaran

Managerial Self Interest or Stockholder Wealth? Overpaying on takeovers!

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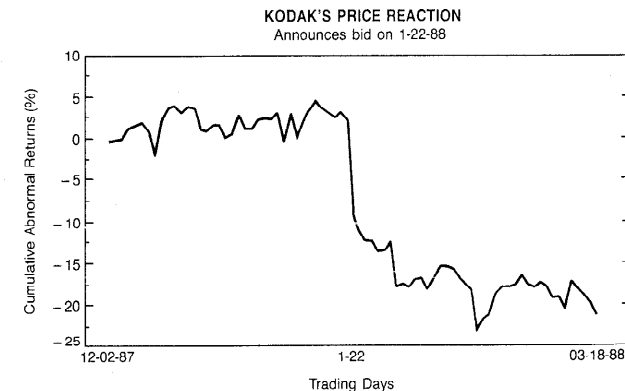
- The quickest and perhaps the most decisive way to impoverish stockholders is to overpay on a takeover.
- The stockholders in acquiring firms do not seem to share the enthusiasm of the managers in these firms. Stock prices of bidding firms decline on the takeover announcements a significant proportion of the time.
- Many mergers do not work, as evidenced by a number of measures:
 - The profitability of merged firms relative to their peer groups, does not increase significantly after mergers.
 - An even more damning indictment is that a large number of mergers are reversed within a few years, which is a clear admission that the acquisitions did not work.

A case study in value destruction: Eastman Kodak & Sterling Drugs

Kodak enters bidding war

- In late 1987, Eastman Kodak entered into a bidding war with Hoffman La Roche for Sterling Drugs, a pharmaceutical company.
- The bidding war started with Sterling Drugs trading at about \$40/share.
- At \$72/share, Hoffman dropped out of the bidding war, but Kodak kept bidding.
- At \$89.50/share, Kodak won and claimed potential synergies explained the premium.

Kodak wins!!!!



Kodak's market reaction indicates that investors expected no synergies:

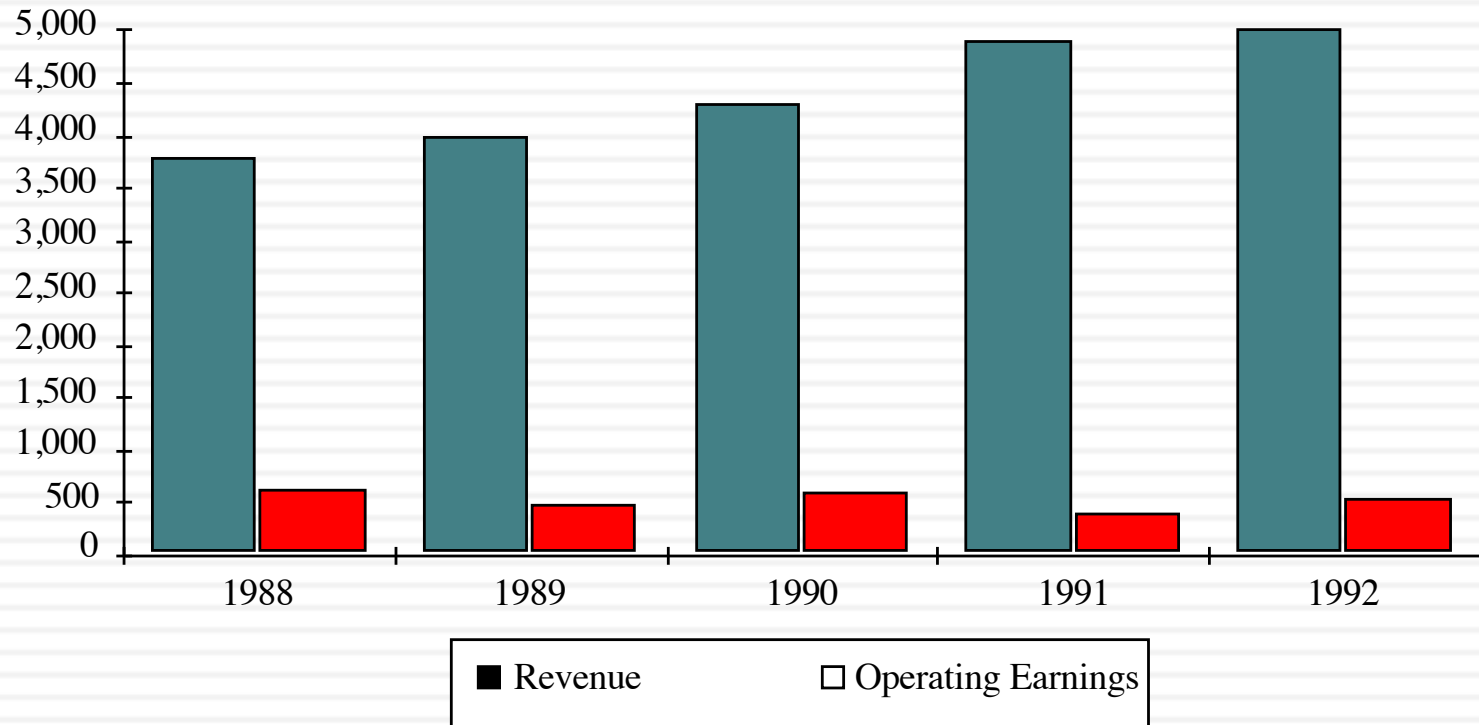
Kodak's bid =	\$5.1 billion
Sterling's market value 30 days prior to announcement =	3.0 billion
Premium bid	\$2.1 billion
Decrease in Kodak's market value =	\$2.2 billion

source: The Alcar Group, Inc.

Earnings and Revenues at Sterling Drugs

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Sterling Drug under Eastman Kodak: Where is the synergy?



Kodak Says Drug Unit Is Not for Sale ... but...

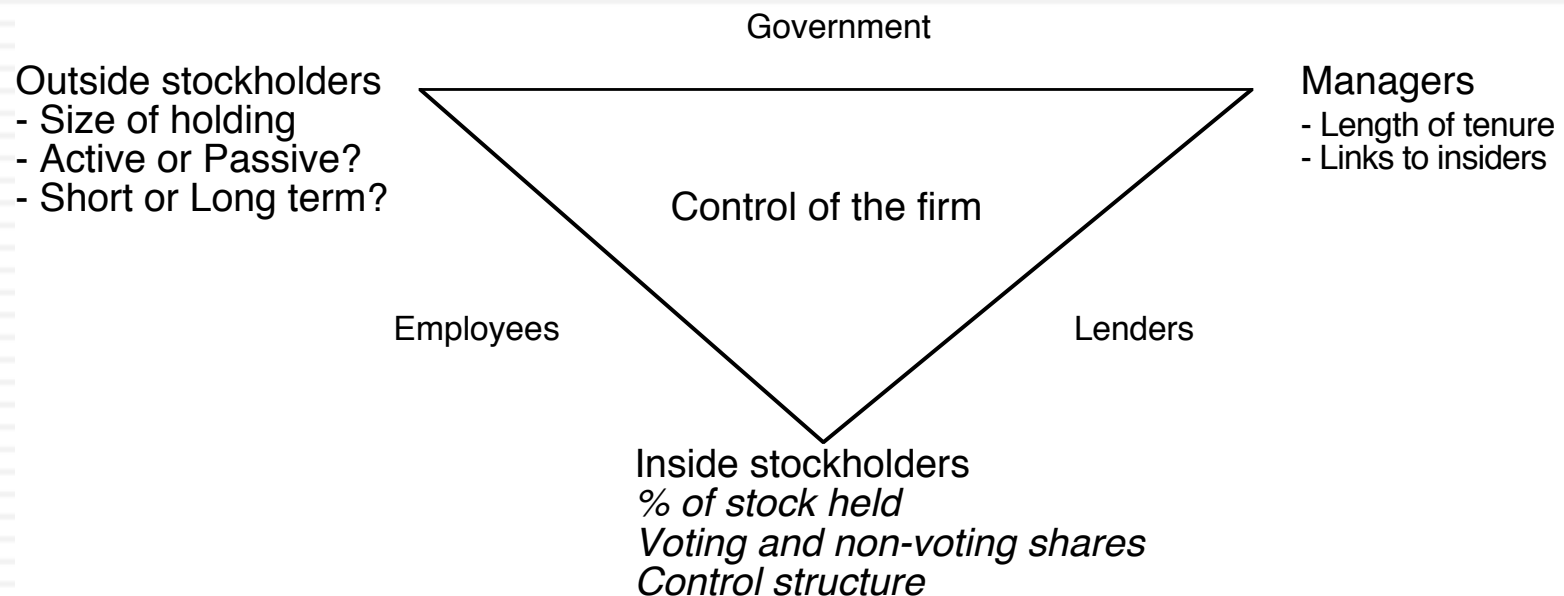
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- An article in the NY Times in August of 1993 suggested that Kodak was eager to shed its drug unit.
 - ▣ In response, Eastman Kodak officials say they have no plans to sell Kodak's Sterling Winthrop drug unit.
 - ▣ Louis Mattis, Chairman of Sterling Winthrop, dismissed the rumors as “massive speculation, which flies in the face of the stated intent of Kodak that it is committed to be in the health business.”
- A few months later...Taking a stride out of the drug business, Eastman Kodak said that the Sanofi Group, a French pharmaceutical company, agreed to buy the prescription drug business of Sterling Winthrop for \$1.68 billion.
 - ▣ Shares of Eastman Kodak rose 75 cents yesterday, closing at \$47.50 on the New York Stock Exchange.
 - ▣ Samuel D. Isaly an analyst , said the announcement was “very good for Sanofi and very good for Kodak.”
 - ▣ “When the divestitures are complete, Kodak will be entirely focused on imaging,” said George M. C. Fisher, the company's chief executive.
 - ▣ The rest of the Sterling Winthrop was sold to Smithkline for \$2.9 billion.

Application Test: Who owns/runs your firm?

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- Look at: Bloomberg printout HDS for your firm
- Who are the top stockholders in your firm?
- What are the potential conflicts of interests that you see emerging from this stockholding structure?



Case 1: Splintering of Stockholders

Disney's top stockholders in 2003

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Enter #<GO> to select aggregate portfolio and see detailed information

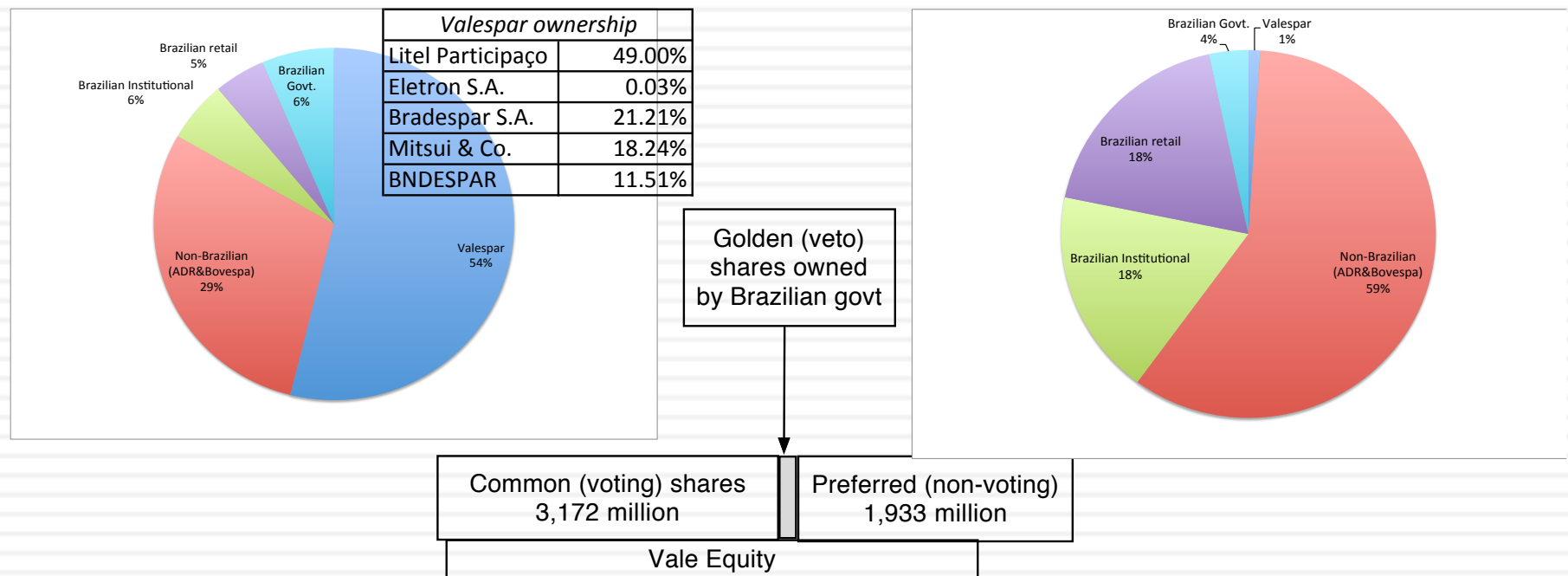
dgp Equity HDS
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DIS US DISNEY (WALT) CO Page 1 / 100

Holder name	Portfolio Name	Source	Held	Percent	Latest Filing	Change Date
1BARCLAYS GLOBAL	BARCLAYS BANK PLC	13F	83,630M	4.095	1,750M	09/02
* 2CITIGROUP INC	CITIGROUP INCORPORAT	13F	62,857M	3.078	4,811M	09/02
* 3FIDELITY MANAGEM	FIDELITY MANAGEMENT	13F	56,125M	2.748	5,992M	09/02
4STATE STREET	STATE STREET CORPORA	13F	54,635M	2.675	2,239M	09/02
* 5SOUTHERSTN ASST	SOUTHEASTERN ASSET M	13F	47,333M	2.318	14,604M	09/02
6ST FARM MU AUTO	STATE FARM MUTUAL AU	13F	41,938M	2.054	120,599	09/02
7VANGUARD GROUP	VANGUARD GROUP INC	13F	34,721M	1.700	-83,839	09/02
8MELLON BANK N A	MELLON BANK CORP	13F	32,693M	1.601	957,489	09/02
9PUTNAM INVEST	PUTNAM INVESTMENT MA	13F	28,153M	1.379	-11,468M	09/02
10LORD ABBETT & CO	LORD ABBETT & CO	13F	24,541M	1.202	5,385M	09/02
11MONTAG CALDWELL	MONTAG & CALDWELL IN	13F	24,466M	1.198	-11,373M	09/02
12DEUTSCHE BANK AK	DEUTSCHE BANK AG	13F	23,239M	1.138	-5,002M	09/02
13MORGAN STANLEY	MORGAN STANLEY	13F	19,655M	0.962	3,482M	09/02
14PRICE T ROWE	T ROWE PRICE ASSOCIA	13F	19,133M	0.937	2,925M	09/02
15ROY EDWARD DISNE	n/a	PROXY	17,547M	0.859	-126,710	12/01
16AXA FINANCIAL	ALLIANCE CAPITAL MAN	13F	14,283M	0.699	69,353	09/02
17JP MORGAN CHASE	JP MORGAN CHASE & CO	13F	14,209M	0.696	-462,791	09/02
Sub-totals for current page:			599,159M	29.340		

* Honey market directory info available. Select portfolio, then hit IP<GO>.
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Case 2: Voting versus Non-voting Shares & Golden Shares: Vale



Vale has eleven members on its board of directors, ten of whom were nominated by Valespar and the board was chaired by Don Conrado, the CEO of Valepar.

Case 3: Cross and Pyramid Holdings

Tata Motor's top stockholders in 2013

TTMT IN Equity

25) Settings

99) Feedback

Holdings: Current

Tata Motors Ltd

ISIN INE155A01022

1) Current

2) Historical

3) Matrix

4) Ownership

5) Transactions

6) Options

Search Name --

21) Save

22) Delete

3) Saved Search

24) Refine Search

Text Search

Holder Group

All Holders

20) Export

Holder Name	Portfolio Name	Source	Opt	Amt Held	% Out	Latest Chg	File Dt	
		All Sources	All					
1. TATA SONS LTD	n/a	Co File		702,333.345	26.07	0	09/30/13	
2. CITIBANK NA	n/a	20F		446,246.135	16.56	0	06/30/12	
3. LIFE INSURANCE CORP OF I	n/a	Co File		168,754.477	6.26	-119,728,333	09/30/13	
4. TATA STEEL LTD	n/a	Co File		147,810.695	5.49	0	09/30/13	
5. CAPITAL GROUP COMPANIES	n/a	ULT-AGG		97,689.911	3.63	-877,871	09/30/13	
6. TATA INDUSTRIES LTD	n/a	Co File		68,436.485	2.54	0	09/30/13	
7. VANGUARD GROUP INC	n/a	ULT-AGG		41,285.983	1.53	4,535,434	09/30/13	
8. PRUDENTIAL PLC	n/a	ULT-AGG		34,080.063	1.26	147,814	09/30/13	
9. GIC PRIVATE LIMITED	n/a	ULT-AGG		30,428.428	1.13	0	09/30/13	
10. WILLIAM BLAIR & COMPANY	WILLIAM BLAIR & COMP	13F		30,093.943	1.12	3,997,149	06/30/13	
11. JPMORGAN CHASE & CO	n/a	ULT-AGG		24,918.852	0.92	-2,157,750	08/31/13	
12. SCHRODER INVESTMENT MGMT	Multiple Portfolios	MF-AGG		19,136.665	0.71	2,578,904	06/30/13	
13. BLACKROCK	n/a	ULT-AGG		14,100.725	0.52	-265,173	10/31/13	
14. NORGE BANK	Multiple Portfolios	MF-AGG		10,762.579	0.40	0	12/31/12	
15. T ROWE PRICE ASSOCIATES	Multiple Portfolios	MF-AGG		10,056.366	0.37	324,353	09/30/13	
16. TATA INVESTMENT CORP LTD	n/a	Co File		10,025.000	0.37	0	09/30/13	
17. SBI LIFE INSURANCE CO LTD	Multiple Portfolios	MF-AGG		9,256.170	0.34	-151,323	09/30/13	
18. ALLIANZ ASSET MANAGEMENT	n/a	ULT-AGG		8,129.923	0.30	2,071,551	09/30/13	

% Out 76.19

Zoom

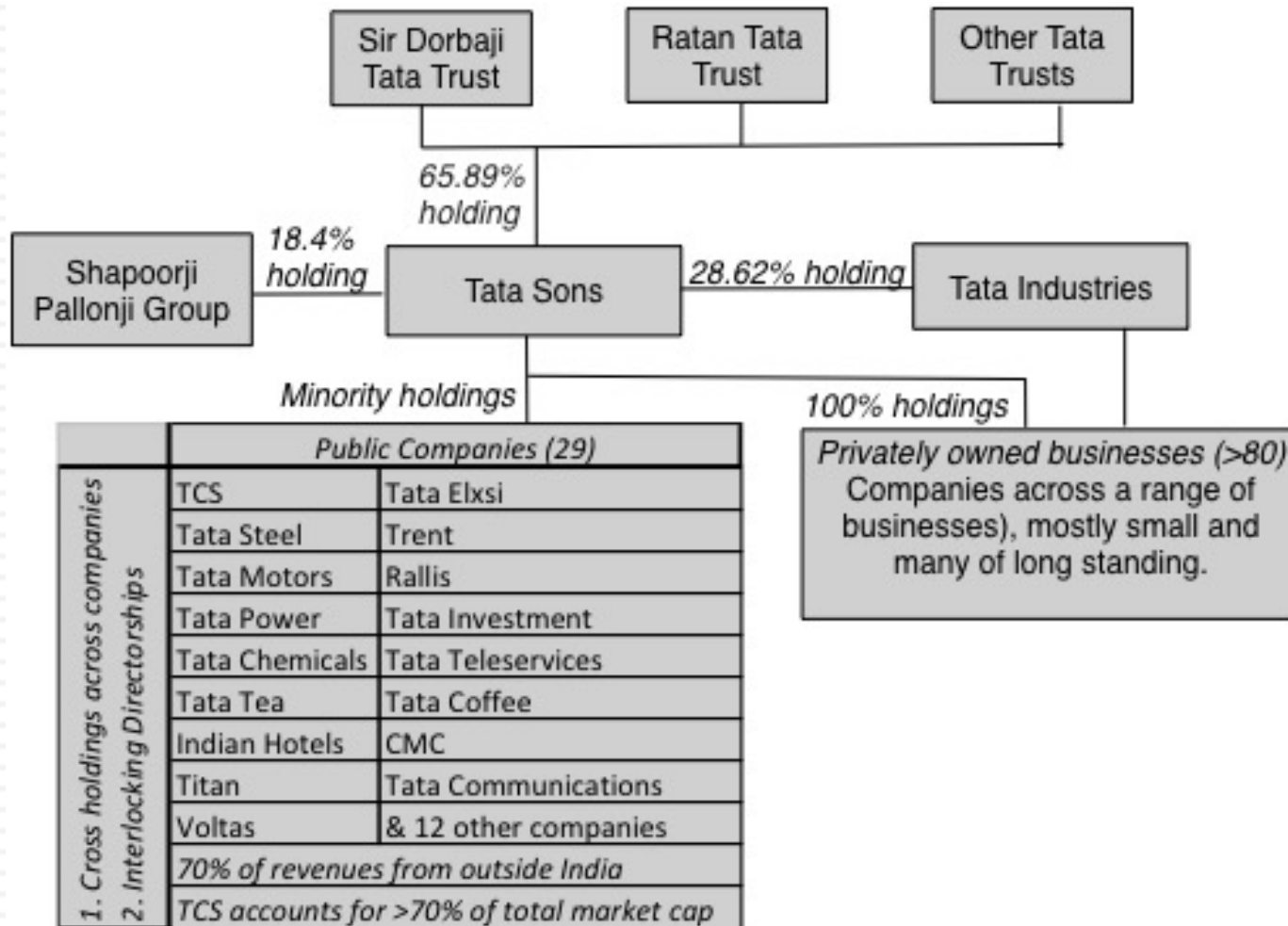
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But it is a benevolent family!



Case 4: Legal rights and Corporate Structures: Baidu

- The Board: The company has six directors, one of whom is Robin Li, who is the founder/CEO of Baidu. Mr. Li also owns a majority stake of Class B shares, which have ten times the voting rights of Class A shares, granting him effective control of the company.
- The structure: Baidu is a Chinese company, but it is incorporated in the Cayman Islands, its primary stock listing is on the NASDAQ and the listed company is structured as a shell company, to get around Chinese government restrictions of foreign investors holding shares in Chinese corporations.
- The legal system: Baidu's operating counterpart in China is structured as a Variable Interest Entity (VIE), and it is unclear how much legal power the shareholders in the shell company have to enforce changes at the VIE.

Things change.. Disney's top stockholders in 2009

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DIS US \$ ↑ **24.2422** +.7422 D 2s EquityHDS
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 DIS US Equity 95) Saved Searches 96) Default Settings Page 1/150 Holdings Search
 Walt Disney Co/The CUSIP 25468710

21) Sources 22) Types 23) Countries 24) Metro Areas 25) Advanced Filters
 Name Filter Sort By Mkt Val

	Holder Name	Portfolio Name	Source	Mkt Val	% Out	Mkt Val Chg	File Dt
1)	JOBS STEVEN PAUL	n/a	Form 4	3.34BLN	7.46	0	5/5/06
2)	FIDELITY MANAGEMENT &	FIDELITY MANAGEMEN	13F	2.05BLN	4.58	-36.12MLN	9/30/08
3)	STATE STREET CORP	STATE STREET CORPO	13F	1.7BLN	3.79	-18.6MLN	9/30/08
4)	BARCLAYS GLOBAL INVES	BARCLAYS GLOBAL IN	13F	1.66BLN	3.70	-160.12MLN	9/30/08
5)	VANGUARD GROUP INC	VANGUARD GROUP IN	13F	1.38BLN	3.08	-6.82MLN	9/30/08
6)	SOUTHEASTERN ASSET M	SOUTHEASTERN ASSE	13F	1.12BLN	2.50	-14.03MLN	9/30/08
7)	STATE FARM MUTUAL AU	STATE FARM MUTUAL	13F	1.02BLN	2.28	0	9/30/08
8)	WELLINGTON MANAGEMEN	WELLINGTON MANAGE	13F	939.38MLN	2.09	110.6MLN	9/30/08
9)	CLEARBRIDGE ADVISORS	CLEARBRIDGE ADVISO	13F	815.91MLN	1.82	-47.04MLN	9/30/08
10)	JP MORGAN CHASE & CO	JP MORGAN CHASE &	13F	693.31MLN	1.55	-18.89MLN	9/30/08
11)	MASSACHUSETTS FINANCI	MASSACHUSETTS FINA	13F	682.16MLN	1.52	112.29MLN	9/30/08
12)	BANK OF NEW YORK MELL	BANK OF NEW YORK	13F	681.68MLN	1.52	-57.13MLN	9/30/08
13)	NORTHERN TRUST CORP	NORTHERN TRUST CO	13F	610.26MLN	1.36	-4.81MLN	9/30/08
14)	AXA	AXA	13F	486.28MLN	1.08	47.05MLN	9/30/08
15)	BLACKROCK INVESTMENT	BLACKROCK INVESTME	13F	476.12MLN	1.06	-47.11MLN	9/30/08
16)	JENNISON ASSOCIATES L	JENNISON ASSOCIATE	13F	428.85MLN	0.96	-102.77MLN	9/30/08
17)	T ROWE PRICE ASSOCIAT	T ROWE PRICE ASSOC	13F	351.61MLN	0.78	-9.94MLN	9/30/08

26) Latest Chg 27) Hist Held % Out on Page 41.12
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