

Chris Horne: “On Music Bootlegging”

Leah Evert-Burks: This is Leah Evert-Burks with the Center for Anti-Counterfeiting and Product Protection @ Michigan State University and *this is Brand Protection Stories* - stories about the practice of brand protection by those who live it. In *Brand Protection Stories* we talk to those in the brand protection community about particular cases in their careers. Through some *stranger than fiction* real life scenarios we learn about the practice of brand protection and the challenges faced by brand-owners worldwide.

Chris Horne: I think when you look at the way this was being positioned. This isn't just taking away from one particular brand. And I know that when you, when we deal with counterfeiters they can become somewhat blinkered or focused on one particular brand because that becomes their niche market. Whereas, you know, arguably Mr. Purseglove had kind of diversified portfolio, if you will, and had an encroached upon many artists not only those that we talked about whether it be the Beatles or other more well-known but some up and coming artists and those that are genuinely struggling to kind of get their foot on the ladder. And, you know, when we look at you know that those actions that's why I think the judge was so disappointed because it wasn't just - There's enough people I think in the market might say, and I've heard this sadly. Well some of these big brands and, you know, billions of dollars, it's only a few thousand, you know, in this particular case what does it matter for them. Well, yeah, but you multiply that hundreds thousands across the globe, and it becomes a very very significant problem. Do that for the music industry for music artists who that is their primary income and that's their career, it's destroying their livelihood.

Leah Evert-Burks: Chris Horne was a Detective for the Metropolitan Police Service, London, for 17 years. He served on a series of Pan London, specialized operational teams involved in the investigation of Major Crimes, including Child Murder, Drug Supply & Domestic Violence. Following his work in law enforcement, Chris led Hewlett Packard Enterprises' Internal Security Investigators as the Investigations Security Director for the Ethics and Compliance Office from 2015 – 2018 having joined Hewlett Packard in 2012 as the Regional Investigations Manager in charge of driving consistent, ethical, and compliant behavior within the organization. Chris recently retired from HPE as the Business Security & Integrity Group Senior Director, responsible for HPE's brand and market share where he accelerated the delivery of next generation analytic, intelligence gathering, internal & external investigative services and risk mitigation; essentially making it harder to steal, fake or fraud HPEs product portfolio. His global team focused on major risks by minimizing the impact of illicit competition and business risk while leading world class next generation solutions through an Intelligence-Led and Communications focused organization.

Leah Evert-Burks: Welcome Chris.

Chris Horne: Thank you. Good morning.

Leah Evert-Burks: Though this story harkens back to a time of bootlegging music. When the landscape of the music industry was quite different. We chose to talk about this case today because it lays a foundation for examining the changing challenges faced in brand protection and reminds us that the threats evolve. Through the mechanism of this UK pirate's crime, which is now somewhat outdated, the lessons aren't and are still relevant. Not that long ago counterfeits were primarily available in physical locations. Whether storefronts or displayed on

blankets or on folding tables on sidewalks, now online is the brand's primary challenge in protecting their brand. So Chris this case occurred when you were with the Metropolitan Police Service in London.

Chris Horne: That's right, yeah so this is a as you as you mentioned in the introduction, a relatively old case but I thought it was an important one to talk about because for me when you look at any type of crime whether it relates to IP infringement or any other criminality there will always be an element of progression and growth because criminals like any other, you know, businessman or businesswoman will want to progress their trade, and they won't just continue to do the same thing. And so that's why I wanted to talk about this really interesting case that happened back in the beginning of the 2000s, when I was much, much younger.

Leah Evert-Burks: And me too. So this case involves a bootlegging pirate by the name of Mark Purseglove, who had about a 13 year career span as a music bootlegger. Interestingly enough, he ended up in jail in the US and the UK, and it pains my heart to hear some of the artists that he violated their rights, people such as the Beatles, EMINEM, Madonna, The Rolling Stones, David Bowie, Led Zeppelin, Coldplay. You know, again, these, these are, these are music icons. so the fact that he took their intellectual property, and, you know, in a criminal sense stole it is just heartbreaking.

Chris Horne: No, absolutely. And I think that's probably the, the record collection of many of us of this day and age but I think what's interesting about that is that, arguably, they are the brand owners, they own them music they own the rights to their music, to a large extent, either them or their, their management team. And because of that, that's why they are bootlegged. It's why today we see big brand names, being counterfeited because people want those big brand names, and that's why I think there's relevance to this particular case, and how it progresses today. I think it's important as well just to go back and talk a little bit about "bootlegging" because it sounds like a somewhat antiquated term, but but it's really a copy of a product that that may or may not exist in it's real form. And by that I mean, the, the CDs that were being created, were being obtained through illicit means and what was happening is Mark Purseglove either personally or eventually at through a series of others was paying people to attend music venues, concerts or otherwise, and record music - that music was then being put on CDs and being sold as legitimate material that was otherwise not for sale. In fact, some cases shown us know as the prize piece of music that was very rare. And so there was an element of demand that kind of came with that. And so, because the music was being created, and the demand existed. It fueled the process and over a number of years Mark Purseglove amounted several million pounds of of profit that, arguably, and in fact I kind of looked back at a press article when I was a detective when I led this case of what I said then which was had he had been a legitimate businessperson, he would have probably made just as much if not more, as, as a normal trading entity. Unfortunately he chose to go down this route. But, yeah, absolutely. It was an interesting case and that it spanned, not only the UK it bled into the US where he was convicted through infringing in the US through the FBI's investigation. And actually, there are some, some quirky names which, again, I'd forgotten about until I read the news article of some of the music labels that he created effectively he falsified to showcase what he was actually doing. One of them was called Criminal Records, another one was called Wanted Man, another was called Fugitive which, which was quite ironic in a certain sense.

Leah Evert-Burks: Very clever of him. So, so to, to make these recordings, he recruited some people in the industry. Is that right?

Chris Horne: He recruited a number of people either from the industry, whether it be sound recording artists that were actually, you know, basically, knocking out versions through the back door effectively. So these were people who were being paid to produce music and give him copies and then of course he was able to multiply that and make his millions.

Leah Evert-Burks: In talking about his profitability, I read an article that said that the profit margins were about 1,500%. So he was really making a lot of money through this criminal endeavor.

Chris Horne: Well I think if you create any kind of infringing product, the initial upfront cost is creating for lack of a better word, the mold. Once you have that you can knock them out through, you know, pretty rapid process and of course your, your return on investment will continue to grow. But of course, then you've got to make sure that you have more products and the difference I think with this than perhaps other brand owners, is that if you have product for example one particular t-shirt or one particular handbag or one particular pair of shoes. You know, you don't automatically have hundreds or if not thousands of fake versions of that, whereas in the music industry of course there are many many artists, many, many different versions of similar songs. And so those iterations were what made the product become more valuable, and certainly the profits for him were very good.

Leah Evert-Burks: I see. So you mentioned the US action which was coordinated with the FBI, and also an industry association group the Recording Industry Association of America, or RIAA, they, they set up a sting operation in 1996, which which interestingly enough, I believe they entertained Mr. Purseglove at Disneyland and got him interested in bootlegging for the US market. And again, this was something that was coordinated with RIAA and FBI. He was imprisoned in the US, served, I believe six months, was then deported back to the UK, and ordered by the court here in the US, not to return to the US for 20 years. But he continued his operation in the UK.

Chris Horne: He did, and actually became very much noticed by virtue of the infringing in the US but also in the in the UK by the British Phonographic Industry which is the similar entity and of course, the IFPI which is again the International Federation were also involved in helping identify and realizing actually Mr. Purseglove hadn't stopped, and in fact had continued to continue to grow his operation in the UK, while maintaining relationships and business engagements with other countries as well, including Japan, Germany, and indeed the US. So, this wasn't a case of he's been removed from the US and stopped. In fact this was the continuation of his of his efforts, which is what my investigation led to back in the early 2000s.

Leah Evert-Burks: Right so that's what brought brought you in with the London police. And as I understand in the UK he actually had an office that was behind the Royal Albert Hall, which to me is almost blasphemy. To be a music pirate and have your office there. But if you could talk to us about how you picked up the case, as you said, I believe that that was in the early 2000s.

Chris Horne: Yeah. So, at that time, the IFPI reached out to the Met police and and looked at the issue and asked us to consider whether we would continue the investigation criminally, because of course they couldn't do so. And as a result, we looked at the evidence looked at the information that they had obtained, whether that be through surveillance operations prior information really just building the case as you would expect. And as a result of that that the

case came to me. Fortunately, and that was my, I guess my first introduction to, you know, IP and infringing products and counterfeiting and copyright laws and and and like that's how the process started.

Leah Evert-Burks: Copyrights protect the way an idea is expressed and can take on many forms such as a musical composition, lyrics, photos and even an arrangement of dance steps. This right extends only to the form in which the idea appears, or is expressed, not the idea itself. Copyright-with its legal right of creation, and protection, provides only the creator with the right to reproduce, publish, and sell an idea for a certain period of time. Copying of copyrighted material such as music and movies without authorization is called piracy. In the U.S. the Copyright Term Extension Act of 1998 extended copyright terms. It is one of several acts extending the terms of copyrights. Following the Copyright Act of 1976, copyright would last for the life of the creator plus 50 years, or 75 years for a work of corporate authorship. It is also known as the *Mickey Mouse Protection Act*. Steamboat Willy, the first Mickey Mouse cartoon and the first animated short by Walt Disney was created in 1928. Under the 1909 Copyright scheme, the Mickey Mouse character had copyright protection for 56 years (with the renewal), expiring in 1984. With the impending loss of its copyright of its mascot, Disney began a serious lobbying push for changes to the Copyright Act.

Chris Horne: As we got further and further into the investigation it was pretty obvious that this was more of a criminal enterprise end to end that had amassed millions of pounds, through years of the engagements and as such, the final prosecution that we decided to go with was actually a conspiracy to defraud conspiracy to defraud the music industry and indeed those artists. And as part of the prosecution we had actually work very closely with the music industry, and had, Mr. Purseglove not had pleaded guilty we would have indeed had some of those artists hopefully turn up and give evidence a court so it was a quite high profile case back in its day, and was really something that opened my eyes to other ways of dealing with, you know, infringing products and and criminals, which is what they are.

Leah Evert-Burks: Right. As I understand you were talking about some of the artists that were willing to testify. I mean, those were names like Ringo Starr and Paul McCartney, were ready to go and take the stand and talk about this crime but he did in fact plead guilty to conspiracy to defraud. I believe he was sentenced to three and a half or four years but there was an, some additional time that was tagged on because he failed to turn over assets.

Chris Horne: That's right, yeah. So interestingly, just prior to the start of this investigation, and I think the Act was in it came into into fruition in 2003 was something referred to as POCA, or the Proceeds of Crime Act in the UK, which was a fantastic piece of legislation brought in to address the, I guess the criminal profits of those that were doing things which gained money. I mean of course there are some crimes, for example, you know, if you are taking drugs, you are committing a crime but you're not physically getting any money from it, but there are lots of crimes out there that you can benefit from financially. And so, the UK courts recognize that there needed to be legislation to address that and properly seize assets, whether it be cash or property, and of course property could be anything from real estate to vehicles, stock options bank accounts, and we'll get there in a moment but even more realistically nowadays things like cryptocurrencies and types of things like that that are very much at the forefront of criminality around the world. And so, the Proceeds of Crime Act, really brought about an opportunity for us to look at the profits of Mr. Purseglove and say, well, you have this now million dollar plus

property at the time in Chelsea, you have \$100,000 plus Aston Martin you're driving around in and Rolex watches that you're wearing and cash in the bank, etc. These are all criminal profits from your enterprise of your acts, and as a result the court ordered that Mr. Purseglove had to return 1.8 million pounds of his criminal profits that we were able to trace, and he didn't, and as a result received further five years imprisonment. So, in fact the act of failing to pay back his criminal profits gave him more time in prison, than the actual events that he committed in the first place so really strong piece of legislation that, you know, is often used by law enforcement in the UK. But of course there are elements of civil liabilities which enable the act to come into play, and, you know, there are scenarios where of course, private entities can take actions to recover losses through civil actions and of course if we look in the UK the balance of proof is different from a criminal prosecution to that other civil prosecution from a beyond reasonable doubt for crime, for criminal, versus the civil expectations which are more lenient and less so than that of criminal, so it's a great piece of legislation, and something that has been used now for a number of years, both in private and public sector.

Leah Evert-Burks: Absolutely, yeah, and as you list out you know his, his assets, and the amount of money he made from this crime it's interesting legislation because as you said it allows the government to seize those funds, because they are profits from from criminal acts. You mentioned you know he had multiple homes, fancy cars. He also had an interest in artwork, is that correct?

Chris Horne: He did. If I remember right and now you're really testing my brain to go back this far, if I remember right he had a, he had a Salvador Dali picture in his house which did make us laugh because of the way he kind of tried to create this image, and it was really a profitable business for him, and that was a wonderful statement piece for that. I mean there are lots of people who might be able to, for example afford a nice Rolex watch for a few thousand dollars if they save up, where he went beyond that said you know what I'm so extravagant, I'm going to have a Salvador Dali picture in my house. Yeah, very much the, the interesting part of the cases you deal with.

Leah Evert-Burks: It's interesting to some of the other episodes of Brand Protection Stories that we have done some of the other criminals exhibit that same behavior in that same lavish taste and get blinded by greed. Not really considering what they're doing is harmful. And you know what they're what they're doing is, is an actual crime, though I would say they, they all know it's a crime, but they really do get involved in the, the luxury of this space of criminal activity. So, so Mr. Purseglove when you, when you investigated him, were there are certain aspects of the investigation that that you found particularly interesting?

Chris Horne: I think when you when you look back on it. It's what was interesting is that you are effectively taking apart, a business, and you have to look at it that way. So you have to look for the bricks and mortar physical locations, especially when you're talking about product, and here of course we were talking about CDs, and that means real estate you need to store that somewhere, and how do you store it? And where are you acquiring you know the the means for that, and like anything you're not going to necessarily have that sitting in your, in your office at home or your lounge and when we did the raids of the properties that we identified that he had got for storing these, you know, it was very much set up like a business, and therefore it takes a lot of time, a lot of effort to go through to catalog all the information, much as it does for brand owners today and and so there's no real difference in in the fact that you've got this physical

commodity that needs to be reviewed, assessed, documented, catalogued before you can, you know, really start to understand the scale of the the issues that you're dealing with. Again going back to whether or not Mr. Purseglove understood his actions were illegal I think that his prior convictions in the US, of course, made it very difficult for him to argue that fact, and of course, as we mentioned already, the irony of some of the, the names of the music labels that he created themselves, whether it be Criminal Records or Fugitive I thought it was just, you know, the irony and in fact it was mentioned by the judge as part of the sentence.

Leah Evert-Burks: Right, yeah it's it's the acknowledgement that he knew what he was doing. And I think the judge was pretty incredibly incensed and in fact I think one of the quotes from the trial was that he was looking to deprive Mr. Purseglove have as much as he lawfully could.

Chris Horne: Yeah. I think when you look at the way this was being positioned. This isn't just taking away from from one particular brand. And I know that when you, when we deal with counterfeiters they can become somewhat blinkered or focused on one particular brand because that becomes their niche market. Whereas, you know, arguably Mr. Purseglove had kind of diversified portfolio, if you will, and had an encroached upon many artists not only those that we talked about whether it be the Beatles or other more well-known but some up and coming artists and those that are genuinely struggling to kind of get their foot on the ladder. And, you know, when we look at you know that those actions that's why I think the judge was so disappointed because it wasn't just - There's enough people I think in the market might say, and I've heard this sadly. Well some of these big brands and, you know, billions of dollars, it's only a few thousand, you know, in this particular case what does it matter for them. Well, yeah, but you multiply that hundreds thousands across the globe, and it becomes a very very significant problem. Do that for the music industry for music artists who that is their primary income and that's their career, it's destroying their livelihood. So that's why I think the judge was particularly disappointed at the time.

Leah Evert-Burks: Mm hmm. So music obviously is consumed differently these days, through streaming. As if we look at hard goods counterfeits are also, hard good counterfeits are also, distributed in consumed differently these days, primarily through online rather than physical locations. And if we think of the piracy music piracy and hard goods counterfeiting - what do you think this case in particular provides as a good takeaway?

Chris Horne: I think the first thing that I would say is that you cannot stand still. Whatever your industry is you have to think about what is happening in your industry as you grow from a business perspective, but also what is happening on the illicit side of the house that is either trying to catch up with you, or more than likely being ahead of you in certain aspects and try and tackle that in a unique and different way. I gave a talk on a podcast recently and I and I use the phrase and everyone's, everyone's discussed it many, many times industry, this is whack-a-mole approach. Well, what the whack-a-mole theory if you will exists because it's the standard bread and butter approach, dealing with the same issue. Well, if you're tackling the same issue in the same way, then it's not really making an indent, we're not doing anything different. And so, that's why I look back on this case and think, as the music industry has changed as has the way we consume music, as has the way we have acquired music as has arguably the way that we listen to music now. It's obtained through, through streaming but it's also become extremely popular with, as I, as I say that you know with earbuds on you know that you can just be much more remote with your, your music listening habits today. And so, it's, it's critical as

we look at how we tackle those problems. We understand the existence of the problem in the first place. And I kind of go back and it's probably not a very nice way of addressing it, but I couldn't go back into another aspect of my old policing career, which sadly was doing with child abuse images. And if you go back to the way that child abuse images were originally created because of the way that the legislation existed. There were people who were shipping printing plates, one plate at a time, because the legislation said you can't print, you can't ship or you can't transition, a whole image. So the way they got around it was they found this loophole and they may shift in single plates well of course nowadays it's all digital it's all done, you know, very differently, but every criminality will have a nuance to it, that will enable them to look very differently at the problem, but find a way around it, and that's exactly what's happened here in the way that this case was being managed, and of course today as we mentioned at the beginning of this conversation. People are less and less finding that counterfeits are being sold in this old marketplaces traditional marketplaces on you know market stalls versus the digital online marketplaces, because of availability access, deliverability, and the way in which we can transact, and of course that goes into what I mentioned at the beginning, you know, how do we how do we purchase these goods now? Is there a link into crypto currencies and what that brings but if that's the case do we start looking at our problem very differently, thinking, Okay, well, let's look at the the outcome. Let's look at the way that they are trying to sell these products and look at the problem differently. I think that's where I would, I would focus my attention.

Leah Evert-Burks: Right, yeah, great advice because examining how the criminals are circumventing, some of the strategies that brands may be imposing. I would say, many brands settle on a strategy, and kind of leave it alone thinking it's going to work but what the criminal is doing is figuring out how to circumvent that and modify their behavior, so that they're not further detected. And I think what's important and what you just said there is brands need to continue to monitor with the criminals are doing to circumvent and modify strategy accordingly.

Chris Horne: Absolutely. And I think that's one of the reasons why engagements with, you know, MSU and your thing and industry bodies like the IACC or Active Global or others that exists today that bring together industries that can talk amongst themselves freely about developing issues really helps us understand how these situations are occurring, what has been done at an industry level, and how that's being addressed. I would like to say that there will always be a need for that. As I refer to that bread and butter, you know policing of the issue right I mean you can't just say no you can't, you can't just remove every police officer from the street and say we've got a really good strategy on how we're going to tackle crime, because you wouldn't have anybody, you still need that that day to day work that's going to happen because that is what delivers you information. For me, I think it's critical to be very intelligence-lead, you have to start building that picture and gathering information from lots of different sources, lots of different data points, making sure that you've got a system that enables you to understand what that data means and gain, really good business insights from it. And that will enable you to then focus on those bigger risk areas, look for example at this you know and again if we go back to this, this discussion around the Proceeds of Crime Act and taking money away from offenders. Well, do you really want to spend your time, your money, most likely because you need to engage, either in house or external law firm or other specialists to help you in this

process. Tackling somebody who, who doesn't have any, any assets, versus somebody that you can say right, we know they're connected to this company this company this company. We've identified through our analytics and research that there are correlations with, you know, this asset, and those vehicles and etc. etc. and build your case. That's when you can really start to make an impact and I think that is where it becomes very relevant.

Leah Evert-Burks: So, Chris, thinking back on this Purseglove case from obviously a number of years back, but if you could select one word to describe the case, what would that word be?

Chris Horne: Eye-opening.

Leah Evert-Burks: Okay. With respect to how the criminal modified his behavior, how he continued to commit the crime even while in jail in the US?

Chris Horne: Yeah, well, I mean, I think there's probably enough movies out there to talk about people continuing their crimes in jail to argue that one. I think it was eye-opening for me in a number of ways. One, the case in itself was somewhat unique to me certainly at that time as a police officer. It was most certainly one of the largest if not the largest bootlegging case that had been led, certainly in the UK and potentially globally at that time as well. And then the number of aspects of that case that became important, so the relevance of having a strong intelligence lead up to kind of open that case. So that was really important, then you need to have really strong, I guess business industry brand statements from key areas. So really having your subject matter experts articulate the damage and the impact that was being caused by the crime that I think was also key, and then really truly understanding it. You know, when you're dealing with, you know, IP infringement on a day-to-day basis you may be the subject matter expert in your field for your for your own brand or for even an industry level, but understanding some of those differences and really getting to grasp of those big key cases can really start to open different doors. It also connects you with people in the industry by the very nature of what you're doing here I am, X number of years later after this case and I'm still talking about it. Why? Because it it rings true today, what you take away from those learnings and I think that's why it was eye-opening to me. Now I could take somebody down for, you know, drug supply and it probably wouldn't have had the impact on me in this case had. And you probably wouldn't have given me the learnings that this case has, you know, several years later in my, my working career.

Leah Evert-Burks: Well thank you Chris for joining us and our Brand Protection Stories podcast. And thank you for doing the hard work.

Chris Horne: Thank you and thanks for the invite. I really enjoyed it and I hope that other brands out there think very differently about the inception of the problem and try to figure out how they're going to tackle it longer term.

Leah Evert-Burks: Among admired artists, musicians hold a special place in my heart. I have no actual musical talent but a great appreciation - and many of the musicians whose copyrights were violated by Purseglove are on my all-time favorites list. The amazing artistry and hard work that goes into the creation of the song, the lyrics and the musical composition should be respected and revered for what it provides to the world. As stated by the US Patent and Trademark Office, copyright "is imagination made real. It is the ownership of a dream, an idea, an improvement, an emotion that we can touch, see, hear, and feel."

Leah Evert-Burks: If you're interested in sponsoring episodes of Brand Protection Stories, please contact A-CAPP Assistant Director Kari Kammel at kkammel@msu.edu.

Leah Evert-Burks: In the next episode, Dave Lake, formerly of the Phoenix Police Department, tells us about how a counterfeiter took advantage the cost saving staple, coupons. Though it became fodder for a Hollywood comedy, it's no laughing matter. Due to this case and the counterfeiting of coupons, American household's will not have this safety hatch available should, and when, we experience another financial crisis.

Leah Evert-Burks: Thanks for joining us today for this edition of *Brand Protection Stories*, produced by the Center for Anti-Counterfeiting and Product Protection (or A-CAPP) @ Michigan State University in East Lansing, MI. Please visit us @ a-capp.msu.edu. A-CAPP is a non-profit organization founded in 2009. It is the first and only academic body focusing on the complex global issues of anti-counterfeiting and product protection of all products, across all industries, in all markets. In addition to this series, we offer certificate courses in brand protection, applied education and academic courses, executive education, student internships, live summits and virtual events, ground-breaking research, and publish the quarterly digital industry journal, *The Brand Protection Professional*.

Leah Evert-Burks: This is Leah Evert-Burks with A-CAPP. Until our next session, keep protecting your brands, and the world's consumers. Keep it real.