

## Brand Protection Stories: Episode 20: On Food Security, From Seed to Table



**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.

**Leah Evert-Burks:** We are speaking with members of the brand protection community about notable cases in their careers. Stories that are *stranger than fiction*, but in fact real life scenarios where we learn about the practice of brand protection and the challenges faced by brand-owners, law enforcement, government authorities, and consumers among other members of the world community.

**Andrés Díaz:** Big players behind the illicit pesticides, it's a gold opportunity. For instance, recently there were a prohibition over two active ingredients in Peru. Okay. So the people behind the black markets are extremely happy because the farmer trusts in this product, have been using this product for many, many years. Okay, so, not necessarily because of the government. - Okay, now, it's prohibited. The farmer is going to - Okay. I'm going look for a different solution. He's going to try to buy the same product. So for the black market, this is a great opportunity.

**Leah Evert-Burks:** Andrés Díaz is an International Senior Investigator and Consultant on Anti-counterfeiting, Anti- illicit Trade, and Enterprise Security Risk Management for the Americas, serving as Managing Director and founder of the company AIT Enforcement. Founded in 2021, AIT provides intelligence, criminal

investigation, legal services, advisory and consulting on Anti-illicit Trade. In this role he leads investigation firms and security teams in high-risk countries to protect market shares, customers, corporate reputation, and assets from criminal activities. Before AIT Enforcement, Andres held the position of as Head of Corporate Security for Latin America at Syngenta Group, one of the world's largest crop protection & seeds companies. While at Syngenta, Andrés led public-private collaboration to seize more than 5,000 metric tons of illegal pesticides and seeds (worth \$750 million dollars), took down 56 illegal laboratories and trained close to 7,000 law enforcement authorities. Andrés is a permanent collaborator of CropLife Latin America, a non-profit industry trade association consisting of 6 companies and a network of 26 associations in 18 Latin American countries. He has also been invited as speaker to more than 30 global and regional Intellectual Property and Brand Protection conferences, including the 2023 A-CAPP Brand Protection Summit where he spoke on the intersection of Corporate Social Responsibility and Brand Protection. Andrés graduated with honors at the Marines; was top of the class and awarded with 8 medals. He holds a degree as Specialist in Security Management; is a Certified Protection Professional by the American Society for Industrial Security; holds a Anti-Counterfeiting and Brand Protection Certificate from our Michigan State University's A-CAPP Center; a CTPAT auditor, and is trained in leadership (LDR-1) at the U.S. Department of Defense's Western Hemisphere Institute For Security Cooperation.

**Leah Evert-Burks:** Today I have the pleasure of speaking with Andre Diaz. I worked for a time in the vegetable seed industry, not doing brand protection per se, but was well aware of the challenges seed, pesticide companies, and those in the agricultural space face in protecting their intellectual property and the integrity of their brands. Protecting what is planted in the soils of this Earth, what people consume for sustenance, is at the foundation of all protection.

It's a concern of all, no matter what industry or sector you may come from. So I look forward to digging into this issue and welcome Andrés to Brand Protection Stories.

**Andrés Diaz:** Leah, thank you so much for this kind invitation and I'm really excited to be here and to share some interesting stories about this relevant topic. Thank you so much.

**Leah Evert-Burks:** Great, wonderful to have you here. So just to kind of set the stage, as I understand it, recently CNBC reported that estimates say that food fraud affects at least 1% of the global food industry at a cost as high as \$40 billion dollars a year. And this is according to the US Food and Drug Administration. We of course know, and they acknowledge that the full amount is unknown. But Andrés, with those facts and figures, the issues surrounding this type of fraud are daunting. Can you just generally talk about that?

**Andrés Diaz:** Yeah, definitely Leah. And probably we have all heard about the counterfeiting of medicines, clothing, luxury goods, shoes, adulteration of alcoholic beverages, music piracy, and all of them are important of course. However, what about the food, as you said that each and every one of us consumes every day of our lives? The question here is, are we and our families safe from counterfeiting or adulteration of crop protection products, illicit seeds, and economically motivated adulteration, which is the term that the FDA uses to referring to this crime of the whole foods and processed foods that we consume on a daily basis. And the simple answer is no. And probably, one of the most concerning parts is that it's perhaps one of the least known crimes, when we talk about the global counterfeit markets. So it is a little known crime. Extremely difficult to measure, due to its wide variety of modalities. Being a crime whose impacts on public health are generally observed in the medium and long term, when you talk about a counterfeit medicine, probably you are going to have an immediate impact but in this area

it's different. So because of that, there are not enough integrated, coordinated actions to prioritize it and therefore to combine it. Because of that, I'm extremely happy to be here, because probably this is the first time that we are going to record this topic about counterfeit pesticides, food fraud, and so on.

**Leah Evert-Burks:** Yeah, it's so interesting what you mentioned about this being a kind of a little known area and I think there's that saying "what is not measured cannot be controlled." So I think food fraud, and the fraud that we're talking about here with respect to counterfeiting in the agricultural space really falls into that. So what are some of the most affected commodities or food groups that are affected by this type of crime?

**Andrés Diaz:** Yeah, it's incredible. When we talk about foods, so, we can start with seafood. Especially because of the mislabeling that is affecting these commodities. Okay, many times, we receive an offer of a specific seafood, but actually with all of these types of preparations, sometimes it's extremely difficult to recognize what really is this type of food. So this is one of the most affected commodities. The other one is olive oil. This is a very demanded product globally, okay, especially because of the health-related conditions. But you know, this is something that criminals also are identifying. They basically use a different type of oils to fill these bottles of olive oil. So this is one of the most affected commodities. And also the honey. So the honey they use has different types of compounds. And the milk is also a concerning part. Today we are, for instance, investigating counterfeit coffee and counterfeit infant formula. So let's say that despite there are some more affected commodities, these criminals are targeting all kind of foods and all kind of products in order to get some profits.

**Leah Evert-Burks:** Right. And we talk about how counterfeiters are opportunists. So to hear about the different commodities that

they're targeting, we can see that - difficult maybe to determine whether the product is counterfeit. How do you determine counterfeit honey, or olive oils? So that's interesting. I also know very well in the agricultural space there are illicit pesticides and I know we'll talk about that a bit today. But, as I understand it, authorities such as the United Nations have estimated that up to 15% of pesticides used globally are illegal. And in the area that you specialize in, in Latin America, I think the percentage goes up to 25% of illicit pesticides.

**Andrés Diaz:** Yes. This is a very critical story because, as you said, in some countries in Latin America, we have up to 25% of illicit pesticides. When we talk about - when we refer to illicit pesticides, we're talking about counterfeit pesticides, illicit pesticides with no sanitary registration for instance, and I think that if you'll allow me Leah, a good way to exemplify this is with an example. This case was initiated three years ago 2019. A very important farmer, not a small farmer, located in Baja, California in the US. Sorry. Mexico.

**Leah Evert-Burks:** So this was in Baja, Mexico. Is that correct?

**Andrés Diaz:** This was in Mexico in Baja California State.

**Leah Evert-Burks:** Got it. Got it.

**Andrés Diaz:** Okay, so this farmer exported to the US 1,332 boxes of fresh snap peas. Okay, what we consume in the US as edamames. So these boxes were transported in 11 containers that crossed the border into California for commercialization in grocery stores in the country. So thanks to the CBP and the FBI control, the foods were inspected. And an unauthorized concentration of the pesticide that was used during the cultivation stages was identified. So the destruction of the food was ordered, the cost of the destruction had to be borne by the farmer, and in addition, the farmer was also

included on the FDA's warning list specifically their red list, because they have different lists depending on the on the issue. So, in addition to the potential health risks for the consumers who may have consumed the food, it is worth to mention that in this case the farmer had acquired the pesticides from an authorized distributor in Mexico. Yeah an authorized physical sales point where about 100 liters of the suspect product, or pesticide in this case, were bought with the legal imports. So an important point as a result of the investigations, no criminal legal actions were taken either in the country of origin, that is to say, Mexico or in the country of destination, that is to say, in the US. The only consequence in this investigation was that 5 employees of a highly recognized distributor were dismissed. And It's very likely that they are currently engaging in the trade of illegal pesticides in the border between Mexico and the United States. So this is just an example but when you see the big picture you will find that there are about 130 brands of illicit pesticides being traded in Mexico. Being produced in Mexico, and being traded in Mexico. So, where are the pesticides going? For food production. Not just for local consumption, but also for exporting. So definitely it's something that needs to be considered by not just the industry, but for the consumers and the government bodies.

**Brandon Drain:** Counterfeiting is a violation of trademark rights, one of the intellectual property rights granted to innovators and companies along with patents, copyrights and trade secrets. Trademarks tell the world who a brand is, building on the trust, quality and reputation of its name; for consumers, it designates the origin of the product bearing the trademark in word form and/or logo - in other words where the product came from, and who produced it.

**Leah Evert-Burks:** So it's interesting talking about this farmer, because, as you indicated, he received this pesticide from what he

thought was a legitimate source, and he was farming to sell the product to import into the U.S. to probably a legitimate brand, so he was duped. As I understand it too, and correct me if I'm wrong with this case, I did see some of the press on it. One of the real dangers here was the active ingredient in the pesticide was actually too high. So, as we know with pesticides, I mean, you don't have to be a scientist. It's a difficult balance between safety and effectiveness when you're developing a pesticide. Well known documented cases of too much exposure to pesticides that can cause all kinds of ailments, including cancer, and also latent effects, such as birth defects. So this pesticide actually exceeded the limits. So it was dangerous to the consumers. Also dangerous to the farmers and the workers in the field I would think. Is that correct?

**Andrés Diaz:** Yes. Yes. Let's say that this is one of the most controlled industries worldwide. For pharmaceuticals for instance, the principle is the same. So definitely as you well said, regulatory authorities, they need to keep in mind, they need to keep a balance between the effectiveness, the safety of the product, and the and the potential damages to the environment, even. When they decide, or when they determine that this is the maximum residue limit, okay, that a pesticide can leave in the foods that we consume it's because of the science. So definitely, if something is exceeding these limits, it's presenting potential health issues. I had the opportunity to see the report about this case. Let's say the concentration was not exceeding in terms of directly affecting the consumer, at least in in the short term or the mid term, because these limits are very conservative, if we consider, are extremely safe. But the point is, the question at the end is, these counterfeiters are mixing and diluting these counterfeits products in a very rustic way. They are not using - nobody in the industry, but the legal industry is using in this case, we had okay, we're exceeding a little bit the maximum residue limits. But during my career I have seen more critical examples about how these persons and active ingredients are exceeding, or are exceeding

maximum residue limits. So yeah, the critical part here is that as I said, these 130 brands, and I'm just referring to one example no, because we have a similar situation in different countries in Latin America, but probably this is one of the best documented cases, probably. Because here the point is that for the FDA this was about a quality issue. Okay. So, I'm 100% convinced that the FDA is not thinking - because when you when you jump into the website of the FDA, you will find thousands of alerts. Okay, thousands. So probably they think that it's about a quality issue and it's not about a counterfeit issue and that's a critical part of the story. Because you know basically what they require to the farmer is, okay, now you are in the red list, now we need you sending 5 or 7 more shipments to the US in order to confirm that you corrected the issue. Okay. Because they think that it's something related to the application of the pesticide. But if the FDA knows that this is about a counterfeit issue, probably we will be talking about different measures in order to encourage more safety and security about the force of these pesticides.

**Leah Evert-Burks:** Right, Right. And it's just that need for education, right? Even with authorities like the FDA. It's not just quality, it's a health and safety issue. And for this farmer, you know, I think I think the economic loss to him was like \$250,000. And again, as you indicated, he got put on the red alert list. You know the risk to consumers, you know, the other group, of course, is, you know, the health and safety of what they're consuming, and then the brands, you know, if it's known that a brand is counterfeited, they, of course, suffer from that reputation issue. So the whole gamut depending on where you are in the supply chain it can affect you. But I think what's interesting about this case, too, is again, this farmer received these pesticides through legitimate supply chain. So how do you see that it made its way into the legitimate supply chain? These counterfeit pesticides.



**Andrés Diaz:** Yeah, yeah. That's a good question Leah, and it's not on a specific case. To be honest with you, it's really easy for somebody, for some participant within this supply chain infiltrate these counterfeit products within the supply chain. I recall at least other 3 cases from different countries in Latin America, where the warehouse manager basically took X amount of counterfeit pesticides, put it in the warehouse, and basically they sell the genuine ones outside, so they receive this money and the counterfeit ones are embedded in the legal supply chain. It's extremely difficult to control, but probably that was this case, because this, as I said, this is a big and a high recognized distributor. Okay. So according to the investigation that our team conducted at that time, we identified that 5 employees were engaged not only in the business of counterfeiting and embedding these products within the legal supply chain, but they were all they were also moving products illegally between the US and Mexico. So for instance, they were bringing bulk quantities from the US and mixing and diluting in Mexico. So, let's say that important players in this case, unfortunately, as I said, they weren't subject to any criminal charge or something similar, but what corporations need to keep in mind is that when you see the business of illicit pesticides, we need to keep in mind that for counterfeit pesticides, you need some degree of technical knowledge. So after the investigation that we conducted across Latin America, we realize that many of the actors were former industry members because they had the knowledge. They know when this product can be applied. They know what is the season for this specific country in order to sell the product. So many times when we talk about counterfeit issues in Latin America, we immediately think in big mafias, in big organized crime, and so on, and sometimes not necessarily these gangs are engaged. If we talk tobacco, for instance, then we have big criminal organization behind it, because it's really easy to sell, to buy. So it's like, it's like having cash. If we talk about foods, if we talk about pesticides, if we talk about seeds, that's a completely different story. You need some

technical knowledge in order to play in the illicit markets of these goods.

**Leah Evert-Burks:** Yeah, yeah, you definitely do. And I know that you have been involved in raiding laboratories in which they're producing the counterfeit pesticides. So there has to be some knowledge base. But I do recall that there's a term in the criminal networks of "coyotes" right? That we that we're familiar with, with human trafficking or the drug trade or so forth. But are they, are those types of criminal networks ever involved in this type of counterfeiting?

**Andrés Diaz:** That's for sure. I mean, they're engaged, probably in all type of illicit goods. And not only, as you said, human trafficking. And there is a there is a good example also from Mexico, and I'm referring a lot to Mexico because as part of my corporate experience at some point we were like having success in different Latin American countries, such as Brazil, Argentina, Colombia, and so on. But in Mexico we were facing a lot of difficulties in terms of having law enforcement results against these counterfeiters. So in 2015, I remember that I basically moved to Mexico, and I remember one specific case that is related to coyotes, as you said, and to corporate reputation. And there was a press release published in Mexico, in January 2018. So I remember that the article's headline was "Abuse of Pesticides Causes Illness in Chiapas." In Chiapas State. Chiapas state. So in this article, respiratory and stomach diseases were mentioned, along with cases of leukemia and even congenital deformities. A government official recorded to 20 deaths in 2016 because of the issue. The only thing that the news headline didn't mention was that first, it was about the illicit pesticide, okay, not genuine pesticides, or legal pesticides and that were brought to the country by coyotes. So that's how one of - and probably this was not - but we cannot say that the journalist didn't make his homework to analyze everything. Probably, for this journalist, was not in his radar

that this is a critical issue for Mexico. Because nobody talks about the illicit pesticide. Nobody knows pesticides do the farmers and the industry and consumers, and other stakeholders are usually not in contact with this type of products. So probably was the same case with the journalist. If this journalist was educated about the illicit trade of pesticides, for me, it would be using different words in order to avoid creating a damage for the legal industry in the country.

**Leah Evert-Burks:** Andres shows professional restraint, but apparent frustration in his criticism of the reporter's failing to uncover that the pesticides mentioned in the article regarding overexposure to deadly compounds, were in fact *counterfeit products*. We can all appreciate the frustration. This is a *health and safety issue* when chemical substances such as pesticides are not properly manufactured, nor the level of active chemicals being monitored properly under some of the most *regulated* industry standards. But this is not just the case in misreported pesticide exposure. There are *electrical fires* that are reported as a "malfunctions", *auto accidents* in which airbags don't properly deploy attributed to "mechanical failures", *deaths* by prescription drugs, labelled as "overdoses" when in fact, in these cases the culprit is a *counterfeited product*. Even the FDA categories rejected produce under a "quality" issue rather than counterfeit or adulterated in their formal actions. Continue to be frustrated and critical and make sure you address these misguided assumptions, in order to educate on the true criminal nature and consequences of counterfeiting.

**Leah Evert-Burks:** Um moving on a little bit from Mexico and other countries that you've worked in, I know that there were significant cases you worked on in Colombia, and if we talk about, you know again, how counterfeit products affect, you know, farmers, the consumers. Let's talk about the environment. And I think the Colombia case is a good example of the damage that can be caused through counterfeit pesticides.

**Andrés Diaz:** Yeah, that's a - that's a really interesting part of the story, Leah. Because before jumping into the situation in Colombia, for instance in Brazil, you have a lot of engagement of the Law Enforcement agencies to fight illicit pesticides and illicit seeds because of the environmental damage. Okay. This, and also in also in Argentina, okay. In the rest of the countries we are talking more about - this is about an IP intellectual property issue.

This is a health issue. That definitely is. But the environment is something really important nowadays. And this case from Colombia exemplified, very well what is happening. When you have - because in the American continent you have some countries where you have local counterfeiters, right? Of course - of course, in the continent we are receiving counterfeits from mainly from Asia, but definitely we have some hotspots in the region where these guys are doing a lot of money with this business of counterfeiting, not just in terms of food, but in pesticides and the trade of illicit seeds. So this case in Colombia, this case was in 2015, if I'm not wrong. And I remember that when we started the undercover investigation, it was a very remote area located in the most important rice producing area of the country. So when we started these undercover investigations, we realize that these guys were dumping the toxic compounds, components, basically around this farm. It was a rural area, okay, and we found a lot of animal deaths. So when we were able to conduct the law enforcement operation, thanks to the collaboration with the authorities, all of these damages were recorded. Actually, this is a case that is published in - in YouTube. And this is a clear example in terms of how these guys, these criminals, are not just affecting public health, corporate reputation among other topics, but also the environment. And last year I remember that we conducted an investigation about intellectual property right, death from seeds. So we went to this area with the regulatory authority in Colombia. The regulatory authority evidenced that they - that these guys were deforesting the area. So they engaged the environmental prosecutor

and this is an active case because of the environmental damage. So you know the agriculture, agriculture is the main cause of deforestation, globally. So definitely - and when I said agriculture, because we need to feed not just ourselves, but we need to feed the animals that we consume. So when you talk about illicit pesticides and the damage to the environment, definitely that is something to consider as a inherent negative impact.

**Leah Evert-Burks:** So let's move on to counterfeit seeds. I think it's interesting, and possibly the listeners may not know this, but seeds are intellectual property of the brands. There are actually seed patents that are issued for new varieties. I looked this up, and there were over a thousand seed patents issued in the United States alone in 2022. As I mentioned, when we started our conversation for a while I worked at a seed company, and that was my first interaction with plant breeders who develop varieties to address issues such as resistance to pests, enhanced ability to grow in certain and specific climates and conditions, they're also bred for disease resistance, they help with soil health, and of course enhanced nutritional aspects of the particular food and vegetable variety. So in thinking about that, what are the consequences of counterfeit seeds?

**Andrés Diaz:** First of all Leah, it's incredible. The percentages that are illicit seeds, are incredible. And I'm talking about Latin America because this is the region that I know, but just give you some examples. 65% of the soybean seeds are illicit in Argentina, okay, according to the government. In general when you see all type of seeds in Brazil, 35% are illegal, and according to the Ministry of Agriculture, 80% of rice seeds for instance in Colombia, are illicit. And when we talk about illicit, we're combining different type of modalities, right? So we have, IP theft for instance, that they are selling these seeds in white bags without paying the rights to the owner of the patent or the owner of the technology, and so on. But the interesting part here is that these types of illicit seeds are using

usually illicit pesticides because - so now we have two issues within the same part of the story, and the consequences are simple. I mean using this type of illicit seeds, we are creating resistance for the weeds, the insects, and so on, that affect the seeds. So we are creating a long term damage for the farmer economy. Which is extremely difficult, which is today the farmer thinks “No, I need to get this cheap product” and it’s extremely difficult to make him to understand or her to understand that this is going to create even more issues for him in the future. I have the great opportunity this year to participate in - there is a huge project to bring more seed cotton to Colombia. Okay. And I had the opportunity to participate in one of these workshops with farmers with one of these companies made a clear explanation about the profitability, the benefits of using the right seed, the right technology to protect the seeds, and it's a very profitable business. But you know, virtually farmers in emerging markets, they are just looking for the low cost products and this is creating a huge challenge in terms of public health in the long term.

**Leah Evert-Burks:** Something I was just thinking about, that I'm sure affects Latin America is parallel imports that may actually be of legitimate, is a problem for brands and regulatory authorities. But parallel imports of counterfeits are even a bigger problem, because I would assume, you know, if you've got - if you think you're getting a legitimate product, that's authorized in Honduras and you're in Nicaragua, and you think this is legitimate, even though you know, it may not be authorized in your country you have some sense of false security. Well, this is legitimate in my neighboring country. What do you see is the problem for parallel importing of illicit products in the agricultural space?

**Andrés Diaz:** That's a very good point, Leah. And maybe, a key element here is that, as we said, this is a little known crime. So believe me that law enforcement agencies, customs, they are not

thinking of any illicit pesticides or illicit crop protection products or illicit seeds, and so on. They are looking on to other counterfeit crimes. So there are several legally established companies in different Latin American countries that they are - that they have all the registrations, they have all the licenses, the permissions to manufacture and to import the raw material from Asia, and so on. But they have a parallel business. Okay. And the parallel business is easy. I produce pesticides, for instance, not necessarily infringing trademarks, because most of the time they use their own brands. Okay. Non-registered brands. But the point here is that there is no IP owner affected, if we can say. Okay. Because me, I'm creating my own pesticide and I'm using the name Andrés, okay. So I'm not violating any - infringing any trademark. So this, this is even more concerning than counterfeit, if we can say. Because at the end when you are counterfeiting a product, you know that probably you will have an affected a victim, behind you, trying to take in some actions. When you are not infringing a trademark, and you are using fake information on the label so - actually when the farmer, if the farmer is affected he's going to call to a phone number that doesn't exist. So your risk is reduced basically to 0. And when - I mentioned 130 brands, illicit brands in Mexico and this is the perfect example. I will give you this specific case because it's a really interesting story. There is a product, it is a pesticide. The name is Qellak, okay. And when you see the product, you see all this information, simulating an American product. So all the information on the label is in English. There is an address from the United States, and so on. The point is that, they are using for this product an active ingredient that has a patent from an American company. Okay? So now we have - we have an IP infringement here. Okay, so, but the point is that farmers are buying these products because they think that it's about a high quality, American product. But the point is that the product is being manufactured in Mexico. They are using information on labels from the neighboring country, in this case the United States, to be seen by farmers. So this this is not necessarily fit within the parallel import

description, but definitely is a parallel black market, because it's a genuine – it's a legally established company, manufacturing a lot of illicit products in a parallel way and they have partners. They have partners in the black market. So as this case, we have cases across all Latin America. Okay. So you find you can find, for instance, illicit pesticides in Bolivia with labels in Portuguese so farmers in Bolivia think that the products are coming from Brazil, which is a huge importer of this type of goods for the region. You have pesticide manufacturers - illicit pesticides manufacturers in Colombia but using labels from Venezuela. So farmers they think that they are buying genuine products, but it's not from the neighbor country. So definitely the parallel market, Leah, is probably the most concerning part in terms of volume, because the counterfeit, of course we are talking about different risks in terms of reputation for the corporations and so on, but if we think about the food security, the big issue, the biggest issue is the parallel market.

**Leah Evert-Burks:** Very interesting and very complex.

**Andrés Diaz:** And if you'll allow me - because, you know, today we see across the world many restrictions in terms of - okay, no, these molecules, these active ingredients, it's dangerous. We're seeing a lot of prohibitions of these pesticides in different countries. But the point is that it is easy for a government to say, Okay, we're going to prohibit this type, this active ingredient because it's creating some type of damages or any other justification. But the point is that the big players behind the illicit pesticides, it's a gold opportunity. For instance, recently there were a prohibition over two active ingredients in Peru. Okay. So the people behind the black markets are extremely happy because the farmer trusts in this product, have been using this product for many, many years. Okay, so, not necessarily because of the government - Okay, now, it's prohibited. The farmer is going to - Okay. I'm going look for a different solution. He's going to try to buy the same product. So for the black market,



this is a great opportunity, and we're seeing how this is being, let's say, the criminals are taking advantage of this. They are bringing their goods and basically, they are declaring these products as different products. So because, as we said, Customs are not with this issue in their priority list.

**Leah Evert-Burks:** Right. Right. A lot of deception to try to figure out. So Andrés, we've talked about this complicated situation of illicit products, including pesticides and seeds, and also what you were just talking about with the complications of parallel importing. The situation, the complications, what do you see as a solution? That's a big question to throw at you, but what do you see as a solution here?

**Andrés Diaz:** Good point. I think, Leah, that –

**Leah Evert-Burks:** We want you to solve it for us but, do your best.

**Andrés Diaz:** No, I think that first we need a strategy, and this means that, as you said, for instance, education for me is key. But you need to combine this education with other strategies and all people in the brand protection sector knows that there is no one solution for these issues. So. Definitely we need to consider in a program, in a brand protection program or in a strategy to protect the products and try to reduce the counterfeit products. We need at least 3 aspects within this program or strategy which are the engagement part, the protection part, and the enforcement part. If one of these 3 pillars is not addressed, is not being addressed, or is not been working, the program probably won't be successful. And when we talk about engagement, we especially include this topic of education. Okay, this is, the key element of the engagement pillar because definitely, we need to educate consumers, distributors, authorities, government bodies and all of these stake holders that at the end are participate or are being affected because of this crime. But we need

to keep in mind that for decades in many markets consumers are paying - purchasing counterfeit goods knowingly. So when you have this definitely, you need to reinforce education but you need to combine these with different strategies. So, moving to the second pillar or the second aspect of the program, which is in terms of protection. Here we include the efforts that the corporations make, to make more difficult to counterfeit their products, and also to secure the supply chain that we discussed at the beginning, with the case of Mexico. But finally, regarding the enforcement pillar, we all know that despite the previous two pillars that are in place, engagement and protection, organized crime and criminals will always seek ways to make money and they will resort to multiple strategies to receive our consumers and the brands as we saw with the examples of using the labels from the neighboring countries. So the pillar of enforcement must always be a priority. And we must invest effort in intelligence and investigations that allow us to reach the source of the counterfeiters affecting consumers. And I remember that when we started the product security strategy in 2014 for the company that I was working for, we had nothing. We had just rumors from the field about some counterfeit products. And when we start to conduct law enforcement activities. When people see that there are authorities looking at the problem, this changed the awareness of the people. When you speak about - okay, there is a big issue of food fraud, counterfeit pesticides, Hmm, I don't know people not necessarily get convinced. When you mention, hey there was this scandal, the probably most famous food scandal of food fraud in China several years ago, where criminals were using melamine, which is a chemical compound for making paints, plywood, and other materials in milk, in infant formula, so, and you have children dead, Okay, that's a different story. When you hear about this scandal the that was in Spain precisely about olive oil, if I'm not wrong that was contaminated and a lot of people died, okay, that's a different story. So that's the reason because not necessarily we need to wait until these crisis arise in order to prioritize and law

enforcement operations help to construct this type of awareness especially among the consumers and the law enforcement agencies. So I think that it's good to keep - to share some examples about the importance of law enforcement actions in the wake of a brand protection program, and I have 2 examples to share. One of them is in the European Union. When we compare, for instance, the restrictions or the regulation of the European Union countries with the US, we are talking about similar restrictions, similar conditions, similar regulations, and between January 25<sup>th</sup> and April 25<sup>th</sup> last year, 2022, during an operation, the name of this operation Silver Axe 1,150 tons of illicit pesticides were received. Pesticides that were intended to enter, mainly intended to enter to the European Union countries. So in 3 months more than 1,000 tons of illicit pesticides were seized in these countries. And if we put together, or if we combine - because there were 7 versions of this law enforcement operation, we have about 5,000 tons of illicit pesticides in a determined period of time. It's incredible, because with this amount of pesticides you can, I mean, you can spread an area equivalent to different - to several countries in Europe. So questions. How many tons of illicit pesticides could be entering, for instance, into your country like United States or Canada, where there is little or none, awareness about this issue? And how many tons are entering Latin America for food production where regulations are weaker and resources are extremely more limited for affected harbors and airports inspections? This is one of the examples, and the other one is, I recall a case that we led in April 2021. This case was in Sinaloa state. Okay, as all of you know, this is a state very effective by other type of crimes. But we were able to shoot down a site where illicit pesticides were being manufactured So tons of untested, unauthorized chemical compounds were being produce, these illicit pesticides and these pesticides were used for local for production of food, for local consumption, and to be exported. So - But this is a great example that despite all the priorities that local law enforcement agencies and government bodies may have, a

proper investigation complemented by intelligence work and trust of authorities can generate positive results in terms of crop protection, even in the places most affected by other types of crimes more visible to enforce agencies.

**Leah Evert-Burks:** Yeah, I think those are great examples, Andrés, of what you were talking about with respect to the pillars, the engagement, protection, and enforcement. So I think that that puts some context into those pillars. How they can work effectively. So, thank you for that. So as we're winding up I've got a difficult task for you. I've had a few of them for you. If you could select one word to describe your experience in this counterfeit illicit trade of pesticides and seeds, what would that one word be?

**Andrés Diaz:** I have to say, Leah, that's an easy task for me and because this word applies not only to these type of matters, but also to my life. Okay, that's my life philosophy and the word is optimism. Why? Because during my military career I was taught to protect common good, despite any adversity that may arise, and even risking my own life. So today, in brand protection, I think that what we need is to always remember that we are protecting public health, that we are helping corporations to be socially responsible. And these 2 elements should be enough to wake up every day with the best energy to fight counterfeit products. And I remember one time when a manager, a commercial manager for a big corporation told me, Andrés, we're investing a lot of efforts, a lot of resources in fighting these counterfeits, and they still there. So I told him, Okay, you're right. We're investing a lot of efforts, a lot of energy, a lot of resources and we have 50% of counterfeits outside. Can you imagine what would happen if we did nothing about the problem? I think that was a good answer to him, because he said, okay, let's continue then with the program.

**Leah Evert-Burks:** Yeah.

**Andrés Diaz:** Then, I didn't receive more challenges after that, and I think that is many times, Leah, I had the privilege, because I was 5 years in the public sector, 15 years working for several national and multinational corporations, and now 2 years leading an investigations company, and at that time, when I was in the private sector, I was aware of the specific issue for that sector, okay. It was in the tobacco industry, crop protection industry but now that we are jumping to investigations from food fraud, counterfeit medicines, counterfeit pesticides, illicit seeds, now we have a different vision. Many times its frustrating, when you see how these guys are making tons and tons of money, and not necessarily they are being prioritized by our government. But actually, it's not responsibility of the government to be honest with you. I realize that there are many, many efforts that we at the industry level and the private sector level that we need to make them aware about these topics. And we need to invest a lot in education and in programs that help us to raise this level of awareness. So if you're seeing all day, every day you're seeing a different issue. Okay? Today we are investigating counterfeit coffee, today we are going to investigate counterfeit milk, tomorrow we - and everything is related to public health, it's frustrating. And that is the reason, because you need to keep optimistic, really, regarding the topic.

**Leah Evert-Burks:** Optimistic, I love that. Thank you for that. And thank you for your time spent with us today. And Andrés, thank you for doing the hard work.

**Andrés Diaz:** No, please Leah, this is this is a really, really interesting topic to me. I love this job. So, please, thank you so much for the invitation, and I was extremely happy to share these thoughts and with you and the audience today.

**Leah Evert-Burks:** The interwoven nature of brand protection is well displayed in this conversation with Andres where he discusses various illicit trade schemes that include parallel importation and counterfeiting. He highlights the need for education of which was evident in some of the cases he discussed, even in a misunderstanding by the press. We are talking about what we eat, what we are environmentally exposed to, place in our soils and on our plants. With the weight of the problem, I truly appreciate his “optimism” - that’s what is needed to defeat this global problem and, reminds us of the importance of brand protection in that we are *always* protecting public health.

**Brandon Drain:** Successful brand protection takes a village and as such is multi-disciplinary by nature, *and* necessity. That is one of the reasons the A-CAPP Center works across disciplines and opens its student internships to a variety of majors including packaging, engineering, law, criminal justice, psychology, and International Relations.

**Brandon Drain:** If you’re interested in sponsoring episodes of Brand Protection Stories, please contact A-CAPP Director Kari Kammel at [kkammel@msu.edu](mailto:kkammel@msu.edu).

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education, student internships, live summits and virtual events, and publish the quarterly digital industry journal, *The Brand Protection Professional*.

**Leah Evert-Burks:** This is Leah Evert-Burks with A-CAPP. This will be my last podcast as I'm retiring from my career in brand protection. It's been a blast, and a privilege to work with all of you good friends in the brand protection community. Never fear, A-CAPP will continue on with *Brand Protection Stories* to bring the stories that provide such insight into our profession and education on this important subject matter. Until the next session of Brand Protection Stories, keep protecting your brands, and the world's consumers. ***Continue*** to keep it real.