

## **Let me tell you about my experience with licensing resin and vinyl model figures and busts.**

In 1990, I was a trial lawyer who had been practicing law for about 5 years. A close friend and I started a company called GEOMETRIC Design, Inc. GEOMETRIC produced LICENSED resin and vinyl model figure kits and resin busts of horror/sci-fi/fantasy characters.

At the time there were very few licensed model figure kits of horror, sci-fi and fantasy subjects being produced by U.S. companies. When my partner and I started GEOMETRIC Design, Inc., we did so believing that we could more broadly advertise and market our kits if we had the approval, support and protection of licensing by the motion pictures studios who were the copyright holders of the subjects we liked. We would never have to worry about being sued for thousands of dollars and forced to stop marketing a kit after investing thousands of dollars in sculptures, molds, castings, instruction sheets, original box art, and promotional materials.

We obtained licenses with Columbia/Sony Pictures (Fright Night and films featuring characters by Ray Harryhausen), Universal Studios (the classic monsters, Tremors), MGM/UA (Pumpkinhead), Turner Home Entertainment (Clash of the Titans), Twentieth Century Fox (Aliens and Predator) Paramount Pictures (Star Trek: The Next Generation), Turner Home Entertainment (King Kong) and several others including licenses with the Karloff, Lugosi and Chaney families.

Our sculptures, packaging, instructions sheets, and advertising had to be approved by the studios that licensed us. We paid tens of thousands of dollars in licensing advances and quarterly royalty payments. And, eventually we had about 25 distributors in the U.S. and just as many in the UK, elsewhere in Europe, in Asia and in other countries around the globe. Business was pretty good.

In early 1998, we started getting complaints from distributors and store owners overseas about vinyl recasts coming out of Korea. Recasts of our Alien and Predator and Star Trek kits were selling for \$7.50. Our WHOLESALE prices for those kits were only as low as \$22.

That spring, at a convention in New Jersey, I came across a dealer that was selling recasts of our vinyl Alien kit. The packaging was a copy of our box label with the Aliens copyrighted logo and the Twentieth Century Fox copyright line; the GEOMETRIC's logo was blacked out. Recasts of other GEOMETRIC kits started popping up. Some were similarly packaged; others were simply bagged with instructions. And then we found that there were resin recasts of our kits being produced here in the U.S.

By early summer, our international sales dropped by nearly 50% and they continued to drop. Our licensing agreements provided that only the studios could take legal action against copyright infringement. I had conversations with the heads of the legal departments for a number of studios. I collected everything our licensors would need to shut down the bootlegging of our kits overseas and bootlegging going on right here in the U.S. I was a trial lawyer and knew what proof they would need. A hobby store owner in France sent us samples of the bootlegs. They were terrible. And then we started getting complaints from folks who bought them believing them to be GEOMETRIC's authorized kits. When I reported this to the legal departments of our licensors, we got lip service and they dragged their feet.

In August of 1998, I called the head of Twentieth Century Fox's Legal Department. The conversation went like this:

**GEO:** There is a company that is recasting our Aliens and Predator kits and retailing them AT A FRACTION OF OUR WHOLESALE PRICE and it is killing us. I have their contact information, samples of their kits, packaging, catalogs, and cooperating dealers in Europe who are seeing these recasts coming in.

**FOX LAWYER:** That's great stuff, George. Who is doing this?

**GEO:** It's a Korean company called Elfin and they....

**FOX LAWYER:** Did you say "Korean"?

**GEO:** Yes, I did.

**FOX LAWYER:** Well, there's nothing we can do. It wouldn't be cost-effective.

**GEO:** What do you mean?

**FOX LAWYER:** Korean courts don't recognize western copyrights. There's no point in going after them. It wouldn't be cost-effective.

**GEO:** (Stunned)... Well what about the distributor who is selling these recasts all over Europe. They are not in Korea; they're right here in Baltimore, Maryland...Diamond Comic Distributors, OUR distributor, and one of the largest comic distributors in the world. I have their catalogue and they are using your trademark for Aliens and Predator and using our images in their catalogue to sell these recasts of our kits.

**FOX LAWYER:** George, we aren't going to go after every little shop that has a couple of bootlegs of your company's kits. It wouldn't be cost-effective.

**GEO:** (Stunned and Pissed) OK. Well, I have two questions for you. The first question is, why are we paying you all of this money in licensing and royalties?

**FOX LAWYER:** (SILENCE)

**GEO:** And while you think about that question, I have another one for you. Why should I worry about you coming after us when we no longer pay you royalties? That wouldn't be cost-effective either.

**FOX LAWYER:** (SILENCE).

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This conversation with the head of FOX legal, and their refusal to take any action to protect us, along with similar responses from other studios, led to my refusal to pay any of the studios another penny in royalties. Our sales continued to drop, the internet blew up and recasts were all over the place and the writing was on the wall for GEOmetric. Our distributors and hobby stores saw our stuff as overpriced compared to bootlegs of our kits and the bootlegs of our competitors' kits. We were in trouble because we had become so reliant on distributors and hobby stores buying our vinyl kits. GEOmetric would have to scale down.

I started practicing law again full-time in October of '98. GEOmetric scaled back to a part-time job for me and I hired an office manager and a shop manager to work part-time producing kits and processing and shipping orders. I worked GEO some evenings and every weekend.

In the five years after my conversation with the lawyer at Twentieth Century Fox, I refused to pay royalties to any studio. AND THEY NEVER ASKED even though we continued to produce and advertise and sell our kits until I sold the company in 2003.

I started Black Heart in 2009 and I weighed the benefits of licensing our kits against the disadvantages of producing unlicensed kits. I had been a vocal supporter of licensing for most of the years I owned GEOmetric Design. My interview about the benefits of licensing was published in Terry Webb's book, *Son of the Garage*

*Kit that Ate My Wallet* (1991), and encouraged folks to get licenses. We had paid an advance of more than \$25,000 for our Star Trek license and quarterly royalties. We paid \$10,000 for our Aliens/Predator license and quarterly royalties. We paid advances and royalties for all of our other licenses but not one studio stepped up to defend us when we started getting bootlegged. It wasn't just about the challenges of fighting with a bootlegger in Korea; the distributor selling that stuff was here in the U.S. The studios had made it clear to us that protecting their licensee was not important.

I decided that if the studios felt it was not “cost-effective” to protect their licensee from losing sales to bootleggers (which cost the studio revenue from royalties), then going after a little company like Black Heart wouldn't be *cost-effective* either.

So, to those who would ask is your stuff licensed, “Yes, some of it is.” We have licenses with the estates or families of certain actors and artists. We paid them advances and quarterly royalties. And “No, some of it isn't.” We do not have licensing agreements with the motion picture studios. Fool me once, shame on you. I won't be a fool twice. If we are ever contacted by a motion picture studio about an unlicensed kit we offer, we would negotiate a *fair* license or stop producing that kit. I do still believe there are benefits to having licenses. I don't believe in setting my company up to be ripped off.

GeoS