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PIRATES YES THEY ROB I

Three decades after cutting his first record, Bob Marley still ranks as one of the most exploited artists in the history of recorded music. Larry Jaffee reports as friends and family fight for their stake in the multimillion-dollar Marley legacy.

Robert Nesta Marley is even larger in death than he was in life. By the time he was diagnosed with terminal cancer in 1980, "the Soul Rebel" and his music were known around the world. May 11, 1981, was not the end but the beginning of a new chapter in the Marley legend. His posthumous greatest-hits album, *Legend*, occupied the top spot on the *Billboard* catalogue chart for a record 19 consecutive weeks in 1993, beating the Beatles, Pink Floyd, and every other member of the rock pantheon.

While Marley was alive, he made sure that his family, including all the children and "baby mothers," as well as his musical partners, were taken care of. But he left no written will. As a result, the huge dividends from his life's works—by some estimates as much as \$50 million—have been the subject of much fussing, fighting, and litigation since Bob "flew away home."

Island Records, the label that catapulted Marley to international stardom, has paid dearly for the exclusive right to market the Marley name. Island founder Chris Blackwell gave \$8.4 million to the Jamaican government in January 1989 for control of Tuff Gong, the company established by Bob Marley and his musical cohorts Peter Tosh and Bunny Wailer.

"Yes, people rob me and try to trick me, but now I have experience," Bob Marley told an interviewer in 1976. "Now I know and I see and I don't get tricked. Used to make recordings and not get royalties. Still happen sometime. All Wailers records made here [Jamaica] but then pirated to England.

All them English companies rob man. Everybody that deals with West Indian music—thieves."

February marked the 49th anniversary of the undisputed reggae king's birth. Some birthday present. Aside from the hordes of bootlegs, counterfeits, and unauthorized releases circulating throughout the world, a new, even messier legal battle is set to unfold in the English courts. This case pits the Marley Foundation, Island Records, and its mighty parent company Polygram (which bought the label from Blackwell for a reported \$300 million) on one side, against Marley's former partner Neville Livingston (a.k.a. Bunny Wailer) and the estate of the late Peter Tosh on the other.

Despite Island Records' investment in the Tuff Gong name, Bunny Wailer claims that, as the only surviving member of the Wailers, he should rightfully control Tuff Gong. At the center of the conflict is the Tuff Gong logo, a triad of interlocking black hands symbolizing the trio's partnership. A similar insignia adorns the entire Marley catalogue on Island, and also appears on *The Never Ending Wailers*, a recent Bunny Wailer-produced "reunion" album of Wailers standards released on the independent label Ras Records.

The current disputes are especially unfortunate considering that the three original Wailers grew up together like brothers in Trench Town, West Kingston, one of the world's bleakest ghettos. Besides being childhood friends, Bunny and Bob were also indirectly related. Had Marley and Tosh been around

to witness the current state of "thievery," Bunny insists, "they would have killed somebody by now." As an elder statesman of roots reggae, Bunny is not a violent man, but he has hired an attorney. "The use of the Tuff Gong name is a problem," says Gordon Williams, Bunny's British lawyer. "At the moment, the Tosh estate and Bunny are getting nothing from the use of the name and the early Wailers recordings."

Blackwell responds that, to his knowledge, Bunny and Tosh are receiving proper royalties for any Island releases on which they perform. Alistair Norbury, Island's London-based business affairs manager, admits that the Wailers' pre-Island period, from the early '60s to 1972, is "very much a gray area."

Most of the pre-Island tracks in question were produced by the brilliant but mercurial Lee Perry. "When we first approached Lee Perry, he was broke," recounts Bunny. "We withstood the cost for these records." Bunny says Perry and the Wailers agreed to split all proceeds 50-50. Nonetheless, the producer proceeded to make a deal with the English reggae label Trojan Records, which yielded four albums. "Perry started selling the tapes all over the place," says Bunny, who adds that he "never received one dime" from Trojan, which now claims an exclusive worldwide agreement to represent Perry's Wailers material.

Perry, who now lives reclusively somewhere in Switzerland, it is said, apparently signed other contracts besides the one with Trojan. In 1980 he purportedly cut a deal with San Juan Music, a New Jersey-based publishing company. Like Trojan, San Juan alleges an exclusive arrangement to represent Perry. The companies are now embroiled in legal action. Meanwhile, San Juan has licensed its 48 Perry-produced Wailers tracks to at least 15 other low-budget reissue companies, including three—Point/Zillion, Madacy, and Special Music/Essex—whose albums charted as *Billboard*/SoundScan best-sellers. At major retail outlets like Tower Records or Sam Goody, a three-CD box set like Madacy Records' *The Bob Marley Collection* can sell for \$14.99, while Island's official *Songs of Freedom* box retails for more than \$40. San Juan vice president Mike Chernow admits that the Marley estate doesn't benefit from San Juan-licensed releases except through publishing royalties paid to Island.

Meanwhile, the proliferation of unauthorized Wailers releases has spun out of control. There are literally hundreds of cassette and CD titles bearing the Marley name that do not pay royalties to anyone—not to the Marley or Tosh estates, nor to Bunny Wailer. You can see these shoddily produced releases selling for as little as three dollars on the streets of New York.

Most of the unauthorized albums recycle the same 50 or so songs recorded in the '60s and early '70s, and although the sound quality is vastly inferior to legitimate product—some CDs even have skips and other surface noise, removing any doubt that they've been lifted straight from vinyl—they're making an impact on the market. That Bob Marley accounted for 19 of the top 50 best-selling releases on *Billboard* magazine's first national reggae charts last July is no surprise. What's intriguing is that six of the 19 titles came from

companies other than Island, which are not authorized by either the Marley or Tosh estates or Bunny Wailer.

Factories in Holland, France, Italy, Germany, Spain, the Czech Republic, and Israel are now cranking out cassettes and CDs of the early Wailers material, as are plants in New Jersey, California, and throughout Canada. Independent Marley archivist Roger Steffens says he met a guy in Amsterdam who showed him a collection of more than 300 Marley bootlegs.

Though Island's Marley catalogue ends up selling more units each year than the one before, Blackwell says the bootleg phenomenon is a "nightmare." He estimates that unauthorized releases outsell the official albums by a ratio of four to one. In all of Africa, he says, Island has total legitimate sales of less than 100,000. Yet the well-heeled record mogul believes that Africans possess as many as 8 million homemade cassettes. These figures are particularly troublesome because when Blackwell acquired Marley's musical assets, he also took on the responsibility of trying to enforce payment of royalties on behalf of the estate. "It's a war on piracy," says Island's Norbury.

Blackwell, the man credited with putting reggae on the world map, entered the record business at the age of 20, taking advantage of the early 1960s ska craze by licensing Jamaican hits and rereleasing them in England. He had leased more than a dozen of the early Wailers singles for U.K. distribution, so when Bob, Peter, and Bunny were stranded in London in 1972 after a tour fell through, they sought him out. The group soon formed an alliance with Island, but after two well-received albums (*Catch A Fire* and *Burnin'*), Bunny made it clear that he didn't want to tour anymore and Peter was ready to launch his own career. Moreover, Island saw greater commercial potential for Marley as a solo act with a backing band. The legendary Wailers trio was no more.

As Yoko Ono was accused of breaking up the Beatles, Blackwell is often blamed for destroying the Wailers by hoisting Marley into the spotlight. "Peter was very pissed at Blackwell and annoyed at Bob," says Bob's white rasta sidekick Lee Jaffe, who later managed Tosh and remembers the Bush Doctor calling Blackwell "Whiteworst" to his face. But that was not the worst of Tosh's temper; once, Peter allegedly came after the record mogul with a rusty machete demanding a royalty payment. Bunny, Jaffe adds, "was always angry at Blackwell."

Just how long the Wailers' three-way partnership continued is the crux of Bunny's dispute with Island. Bunny insists that it was never dissolved, and that "Blackwell used Tuff Gong without getting the legitimate rights."

Blackwell dismisses Bunny Wailer's assertions as "just nonsense." He says that Tuff Gong, after being set up by Tosh, Marley, and Livingstone in 1970, "lapsed very early on. After leaving the Wailers in 1973, Peter had his own label, Intel-Diplo, and Bunny had his own label, Solomonic. Bob had Tuff Gong. *Survival*, Bob's next-to-last studio album, was released on the Tuff Gong label in Jamaica, as were many Marley singles throughout the 1970s. Bob's recording studio was called Tuff

THE WANDERING WAILERS

Ten years before they became international stars, the Wailers were a tight-knit group steering a course through the show-biz rat race.

SIR COXSONE Marley, Tosh, and Livingston joined forces in the early 1960s. At an impromptu audition, they impressed Clement "Sir Coxson" Dodd, owner of a major sound system and Kingston's home of the hits, Studio One. "They had such a youthful, fresh, surly kind of teenage sound," recalls the studio owner. Dodd says they wanted to be called the Juveniles, but he advised them to change the name to the Wailing Wailers. They recorded about 100 times at Studio One. **WAIL N' SOUL M** Bob convinced Peter and Bunny that they should start their own record company, **Wail N' Soul M**. Aside from the Wailers, the only other act on **Wail N' Soul M** was a female trio called the Soulettes, featuring none other than Rita Marley, Bob's new bride. Significantly, **Wail N' Soul M**'s very first release featured the famous three-handed logo. **Wail N' Soul M** failed due to lack of distribution (the artists often delivered records personally by bicycle).

LESLIE KONG The Wailers reluctantly began recording in late 1967 for producer Leslie Kong, the Chinese-Jamaican entrepreneur who had released Marley's first two singles. Kong had a great ear, but he was notorious for his business practices, and his partnership with the Wailers was short-lived. In 1971, Bunny discovered Kong's plans to release an album titled *Best of the Wailers* and went ballistic. He predicted Kong's death if he were to proceed with his plan. The record was released and, sure enough, within several weeks, the 38-year-old Kong died suddenly of a heart attack, though he never had any previous health problems.

LEE "SCRATCH" PERRY The Wailers next hooked up with producer Lee "Scratch" Perry, a brilliant engineer who had just left Coxson, after working at Studio One since the 1950s. Perry was something of a mad genius who reportedly buried freshly pressed records in the soil and let tapes bake in the sun to make their sound more potent. Bunny now fumes at the mere mention of the producer's name: "Lee Perry doesn't have the rights to anything. Lee Perry never played a note. Lee Perry never spent a dime. Lee Perry don't have shit. All these albums say Lee Perry wrote 'Keep On Moving' and all the others. All bullshit!" Nevertheless, Perry has gone so far as to register himself with BMI, the New York-based performing-rights society, as author of 174 compositions. "Small Axe" and "Duppy Conqueror" among them. These two songs are also registered with BMI competitor ASCAP under Bob Marley's name. Go figure.

TUFF GONG Regardless of their differences, the Wailers' singles on Perry's Upsetter label created a Jamaican sensation. Bob, Peter, and Bunny found that their music was in demand and, in 1970, they finally had the resources to start the company Tuff Gong—a name Marley earned for his fierceness as a street fighter—which they kept in operation for Jamaican releases even after signing with Chris Blackwell and Island Records in 1972. The logo of three interlocking hands still appears from time to time, although whose hands it now represents is not entirely clear.—L.J.



Gong." Blackwell believes that if Bob were alive, Bunny wouldn't dare sue. "Because he's not there, people feel they can make some kind of noise."

"Tuff Gong Records has been tampered with by Chris Blackwell, or whoever he claims gave him the authority through the Bob Marley Foundation, which he founded," retorts Wailer. "That's tampering and interfering with a company that was started by myself, Bob, and Peter, of which I am now the only remaining shareholder and director," he intones. "It's very serious."

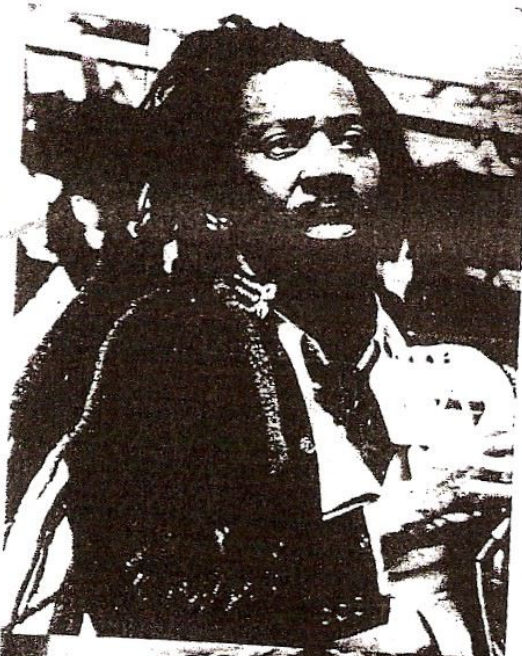
Just how serious was made clear in an advertisement that Bunny placed in the Jamaican newspaper *The Gleaner* in November 1992 (one month after the release of the *Songs of Freedom* box set, which has sold some 330,000 copies). Titled "Tuff Gong Restoration," the ad announces the "previously appointed officers" for the Tuff Gong board. These include Bunny Wailer and two attorneys who, the ad asserts, control Caribbean rights to all Marley records, including releases on which Bunny never played or sang. At the bottom of the ad appears the cautionary tale of "The Wailing Wall of Jerusalem," a pointed parable possibly directed at Blackwell and Polygram: "No foreigners may enter within the screen and enclosure around the holy place. Whoever is caught trespassing will himself be the cause of death overtaking him. A polite way of saying, 'Trespasser will be executed.'"

Blackwell remains adamant on this point: Island secured all necessary copyrights for both the *Songs of Freedom* and *Tougher Than Tough* box sets before releasing them. Island's way of resolving the tangle of conflicting copyrights was to decide that former Marley manager Danny Sims—and not Lee Perry—was the one who needed to be "dealt with" for the post-Coxsone, pre-Island tracks. According to Blackwell, Island paid Sims \$3.2 million for licensing, back royalties, and his publishing catalogue of Marley songs. Bunny Wailer says that Sims "doesn't have any legitimate rights. He wasn't defending the Wailers' artistic rights."

The Tosh estate, which supports 10 children as well as Peter's mother, is also joining Bunny's suit against Island. Pauline Morris, Tosh's first cousin, grew up in the same Trench Town house as Peter. "I remember Bob and Bunny would come by my mother's cabiner shop to pick up Peter," she says. "They've always been more like a family than a group. They were brothers."

Since 1983, Morris has overseen the Tosh estate's business affairs. In an interview at her downtown Manhattan office, she explains the decision to sue: "The Marleys—really Chris Blackwell—approached us and approached Bunny with X amount of dollars. We are refusing it... It's almost insulting our intelligence."

Bunny's crusade to take over Tuff Gong is understandably unpopular with the Marley family and others now affiliated with the company. "[Bunny's] crazy," says Rita Marley. "He's just like the bootleggers who want to capitalize on things that do not belong to them. Everybody went off on their own individual career. Why at this stage? We saw Bob work for this, while Bunny sit at home and get high. If Bob was alone, maybe he would have done it himself."



Bunny Wailer (top): "I am the only remaining shareholder and director." Rita Marley (bottom): "He's crazy."

that he can't agree with Bunny's position, e "As far as I'm concerned, Tuff Gong is Bob anything else would be like taking from Bob's

In the summer of 1992, Neville's house was sen as a neutral meeting place for Blackwell Bunny to discuss the *Songs of Freedom* collec which was due to be released in less than months. "I wanted to know why [Blackwell] sh be using the name Tuff Gong," recalls Bu "Chris Blackwell just cut the meeting short said he didn't come to discuss any of that stuff left a piece of paper listing a hundred or so tr and said to check off which songs I sang on, then he left."

To make sure Bunny would be properly c pensated, Blackwell says he wanted him to exp his contributions to the box set "while there still time to make adjustments. I personally g him a cassette of all the tracks." The Island ch man says he has no knowledge of Bunny's cha that his vocals on "Iron Lion Zion," a popular s gle from the Island box set, were wiped off. Tre Wyatt, who compiled the set for Island, confir that "there's no Bunny on 'Iron Lion Zion.' The ti we found only had Bob's voice." He admits that possible Bunny sang on another take of the tu but Island never found such a version.

Rita Marley wonders whether unauthoriz releases can ever be controlled. "It's annoying. I s it everywhere. Just last week in Spain, I saw a B Marley compilation of Coxsone [material]. I cou not contain myself. I asked, 'Where did you g this?'" The shopkeeper didn't know who she wa and Rita didn't identify herself. "The guy said I bought it. I said, 'Naturally, but from where?'" H didn't answer.

Cedella also sees "millions of people" makin T-shirts with her father's face on them. She says sh understands the root cause of the bootlegging prob lem: "Especially here in Jamaica, I try to be one an one with people. One man thinks he's not making enough money, so he's going to press a few extr records and sell them himself. It's all over, inside the industry and outside."

Marley biographer Timothy White, the editor-in-chief of *Billboard*, says that his several encoun ters with Marley lead him to believe that if the artist were still alive, "he'd be both very flattered and quite annoyed [over the unauthorized recordings]. I suspect he would be focused on the here and now. That was his range of reactions during his lifetime. He didn't get tied up in knots over these types of things. He was very generous with people."

Cedella Marley Booker, Bob's 67-year-old mother, wonders from her Miami home whether the people behind the unauthorized recordings "do it out of love or greed or both." A singer in her own right, Booker has seen the house Bob bought for her threatened in the incessant legal battles. But that much, at least, is over. She tends to refer to her famous son in the present tense, as if he were still alive.