

Music piracy challenges

Last month, EMI Thailand, one of the four largest music labels along with Sony-BMG, Warner, and Universal, closed its CD and DVD manufacturing operation in Thailand. This is not good news for the music entertainment industry, as not only does it reflect a dramatic change of lifestyle in music consumers, but it also demonstrates that copyright piracy remains a big problem. EMI reported dramatic sales reductions because it could not compete with the low prices of pirated CDs and DVDs.

The International Intellectual Property Alliance (IIPA) says that around 20 local Thai independent labels were forced out of business in 2006. Is Thailand going to witness more closures in the music industry? The IIPA estimates that in Thailand, 82% of "entertainment software" and 50% of music are pirated, with an annual loss of \$20.7 million. The group is calling for Thailand to be placed on the US Priority Watch List for not adequately protecting intellectual property. Sophisticated crime networks are behind today's music piracy. The syndicates hire young salespersons, 19- or 20-year-olds, or even children and disabled persons, who might not be prosecuted to the full extent of the law. They also hire "spotters" to look out for police. The spotters even have photographs of people involved in the copyright industry.

Thai officials report that most of the pirated versions of CDs, videos, DVDs and computer games are not produced in Thailand but originate from Malaysia, Burma, Cambodia, Laos, China and Taiwan. The Thai police do periodically seize fake goods that are on sale in the marketplaces, as happened in April 2007 when police raided three locations in Nonthaburi's Bang Kruai district. This followed as a result of a number of complaints of breach of copyright filed by Thai artists and producers.

A serious consequence of this problem could be that investment in developing artists would be eroded and the Thai music industry would suffer. Piracy is not a victimless crime. The singer or musician whose work is stolen is a victim; the Thai software engineer whose work is copied without recompense loses his livelihood. What rightfully belongs to the singer/musician and the engineer goes into the pockets of organised crime. Other employees of music companies

also suffer if their company goes out of business, as a number already have.

Thai customers need to know that the major cost of IP theft is not to the big international brand owners but to the country's economy, employment, reputation and its future. What can be done to solve the problem?

In Thailand, the police must do more to enforce IP laws. They must seek out production facilities and prosecute offenders. Government officials should personally visit night markets and tell stall holders to stop selling pirated merchandise. The government should mount a major public relations campaign and let the Thai people know of its effects on the economy and its reputation.

In addition, a 2006 Special 301 Report for Thailand by the IIPA cites a number of actions that, if taken, will help to solve the piracy problem. These include the establishment of an independent national Commission to Combat Corruption which would collect instances of irregular practices and recommend prosecution of offenders; greater enforcement of Thailand's 2005 Optical Disc Act which seeks to regulate 42 known plants (542.4 million disc capacity); and plant visits with follow-up enforcement to help dismantle pirate production capabilities.

Furthermore, Customs officials must increase efforts to seize pirated products, and where there is now only periodic enforcement against retail piracy, they should establish continuous enforcement so pirates do not return full-scale once enforcement campaigns end.

Thailand must also finalise the approval of an important proposed amendment to the copyright law. The draft bill creates a new regulatory regime to deal with the collection of royalties on copyrighted work in the domestic music industry, an area that is prone to confusion and exploitation under the existing legislation.

Thailand also needs to modernise its copyright laws with modern enforcement provisions and join the World Intellectual Property Organisation (WIPO), World Copyright Treaty (WCT), and the World Performance and Phonograms Treaty (WPPT) and abide by their rules.

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