

## Fighting Pirates in Bangkok

By Noah Schwartz

A competitive and legal business model for selling recorded music has emerged to compete with the pirates. It is happening in one of Southeast Asia's hubs for the illegal sale of copy-protected material, Bangkok<sup>1 2</sup>.

It is a phenomenon that in many ways is similar to a practice that frequently occurred in the United States in the early to mid nineties. At that time, record store return policies were different than they are today. The common record store policy on returns was that the consumer could bring back one artist's CD and exchange it for another's if the first artist's music was unsatisfactory after a listen or two. If the CD being returned was in good condition, it could be exchanged for another of equal value. It could also be used as a credit in buying a more expensive one. At this time, the average consumer did not possess the technology to rip and burn music. However, as time progressed, more and more consumers acquired the necessary technology to pirate music<sup>3 4</sup>. Consumers could now use the return policy system to collect a large amount of digital music files without having to pay for every CD that was brought home and ripped. Eventually the record stores caught on and changed their return policies. The common practice now is to not allow compact disk returns, unless the CD has not been taken out of its plastic shrink-wrap<sup>5 6</sup>.

Bangkok: there is nothing that is not copied there. All media, be it music, movies or software, is pirated and distributed by market vendors and some malls across the city, for an extremely low price. This is illegal under Thai law, but the law is rarely enforced. Logic would seem to dictate that under these circumstances CD shops would be dead, but they are not.

In fact, the western style HMV and Virgin type stores in the malls here are really large and have a steady stream of customers. In Bangkok, one of the most popular stores like this is CD Warehouse<sup>7</sup>, a franchise. When you buy a new CD at a one of these stores, you pay about US \$15.50. Then, once you have copied it onto your computer, which is the assumption as to what will happen, you go back to the store and sell it back at US \$11.50.

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<sup>1</sup> "Microsoft praises decline in piracy in Hong Kong and Taiwan" Deutsche Presse-Agentur, 2005. <[http://tech.monstersandcritics.com/news/article\\_1026686.php/Microsoft\\_praises\\_decline\\_in\\_piracy\\_in\\_Hong\\_Kong\\_Taiwan](http://tech.monstersandcritics.com/news/article_1026686.php/Microsoft_praises_decline_in_piracy_in_Hong_Kong_Taiwan)>

<sup>2</sup> Betsy, Issbelle, ed. "Thailand: Pirate Distributors" Enforcement bulletin 28, September 2005: p.9, IFPI secretariat. <<http://www.ifpi.org/content/library/enforcement-bulletin-28.pdf>>

<sup>3</sup> Jackson, Matt and Darlington, Richard. "Chancellor urged to decriminalize ipod users" Institute for Public Policy Research, 2006. <<http://www.ippr.org.uk/pressreleases/?id=2404>>

<sup>4</sup> Spring, Tom. "Music Labels Target CD Ripping" PC World <<http://www.pcworld.com/article/id,69504-page,1/article.html>> 2001.

<sup>5</sup> "In-store Return Policy" Best Buy, 2007 <<http://www.bestbuy.com/site/olspage.jsp?type=page&categoryId=pcmcat23800050001&contentId=1117177044087&id=cat12098>>

<sup>6</sup> "Returns Policy" Walmart, 2007 <<http://www.walmart.com/catalog/catalog.gsp?cat=538459>>

<sup>7</sup> "CD Warehouse, Bangkok, Thailand" Yahoo Travel, 2007 <[http://travel.yahoo.com/p-travelguide-2768576-tower\\_records\\_bangkok-i](http://travel.yahoo.com/p-travelguide-2768576-tower_records_bangkok-i)>

The store checks to see that the case and CD are in good shape. They use a device to ensure that the CD is not scratched or damaged. The CD is then sold again, at a slightly lower price and generally with a “pre-owned” sticker.

In an environment where pirated media is the norm, how can this legal model work? The answer relates to some larger ideas than that of the sale of recorded music: competition, consumerism, quality, branding, and environment. The CDs on the street might be copies of copies or produced on sub par CD media. More often than not, the quality is bad. This legal system guarantees good quality reproduction. In some ways the CD shop has effectively become a library, loaning out CDs at a fee. (The actual fee is variable based on popularity of the disk, age and other factors.) In effect, the shop becomes like a Blockbuster for music. Also the shop now serves as a retailer of used disks. Of course, some of the consumers never bring the CD back and the shops count on a certain percentage of people doing this, which adds to their margins. Also, there are people who collect CDs and want an original as well.

This model works well in Bangkok and competes head to head with illegal marketers. The edge is high quality and a more reasonable environment in which to look at selections. You can sample CDs in the shops on reasonable equipment. There is air conditioning and assurances that any media you purchase will work. The street vendor locations are not conducive to relaxed viewing. Bangkok is an extremely hot city in terms of temperature, (This causes many CDs to overheat and malfunction.) the street vendors sell everything from CDs, to coal, to toys, to fruit and the markets are always hectic and bustling.

The record companies do not like the CD Warehouse model. They do not get to sell in volume and make their normal profits. However they like the illegal distribution even less, and in a city like Bangkok where copy-protected material is widely pirated, they allow it<sup>8 9</sup>. There is nothing illegal about renting a CD, as long as it is not copied. The record companies would have to prove that this is the intent, which they cannot do. The shops claim that they rent out the CDs for proper use, in the exact same way a library loans out a book, or a video store rents a movie.

So there you go. In one of the world's copying and pirating capitals, there is actually a model for legal music distribution that works. Even though the record companies dislike this type of sales approach, everyone is making a profit. After all, used record stores have been using this approach for years. It is important to note that there is always downloading to contend with, legal and illegal. That's the way it is.

Amazon.com, one of the largest retailers of recorded music in the United States uses a surprisingly similar system to the Thai CD Warehouse approach. Unlike all the other Hypermarkets that sell music, such as Wal-Mart and Best Buy, Amazon allows CD

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<sup>8</sup> AAP, IDSA, MPAA, NMPA, RIAA “GSP petition against Thailand” 2001  
<[http://www.iipa.com/gsp/2001\\_Jun17\\_GSP\\_Thailand-rev2.pdf](http://www.iipa.com/gsp/2001_Jun17_GSP_Thailand-rev2.pdf)>

<sup>9</sup> Lovatt, Fraser. “35% of All CDs Sold Worldwide are Illegal Copies” Digital Lifestyles, 2004 <<http://digital-lifestyles.info/2004/07/23/ifpi-35-of-all-cds-sold-worldwide-are-illegal-copies>>

returns even if the CD has been taken out of its package. 50% of the purchase price is returned to the buyer<sup>10</sup>. Amazon then resells the returned CDs. This is a lower return margin than the Thai's use at 70%, but nonetheless it has great appeal.

Scotti's Record Shops, located in New Jersey, instituted a "Buy It, Burn It, Return" policy in 2005. The consumer could return a recently bought CD as long as it was in good condition for 70% of the purchase price. The owners hoped to increase and diversify their clientele, and create a brand. In their own words: "We don't want to "butt heads with iPod owners... We have to embrace them."<sup>11</sup> The program ceased around March of 2006 because of declining profits. The CD returns were too high to maintain a reasonable financial return. A similar but more proven business structure for this country was instituted. Scotti's Record Shops current model runs similar to Amazon.com.

Competition, consumerism, quality, branding, and environment, are all important factors to consider when you are a vendor in the fast paced, ever-expanding free market of the planet earth. Competition and being competitive is key. In order to survive the oversaturated pirate media market of Bangkok, the legal vendors found a competitive edge. Consumerism (also known as consumer sovereignty) is based on the concept that only the consumer can dictate the structure of a society, economy, or economic framework<sup>12</sup>. The legal vendors found they could fight the pirates because they offer a superior quality of product, brand, and environment. By facing the realities of the current state of the recorded music business and providing a service that consumers found valuable, the legal Thai music retailers found a way to survive.

July, 2007 – Musiclawinfo.com

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<sup>10</sup> "Refunds" Amazon.com, 2007

<<http://www.amazon.com/gp/help/customer/display.html?nodeId=901926>>

<sup>11</sup> Solomon, Jolie. "If You Can't Beat 'Em" The Wall Street Journal, September 19 2005; p. R8

<[http://online.wsj.com/article\\_email/SB112671780705740624-INjftNmlaB4np2tZH6laKWHm4.html](http://online.wsj.com/article_email/SB112671780705740624-INjftNmlaB4np2tZH6laKWHm4.html)>

<sup>12</sup> Case, Karl and Fair, Ray. "Consumer Sovereignty" Principals of Economics eighth edition: p. 40, Pearson 2007.