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Glass Houses: How Successful are the Latest Efforts to Control CD Piracy?

By Debbie Galante Block - Posted Apr 11, 2008

What is this world coming to, when there is a CD counterfeit bust in my sleepy New York? According to the Putnam Courier newspaper, a narcotics investigator observed a van driving with its headlamps turned off. The vehicle was stopped and its driver did not possess a driver's license, but they had lots of discs in their back seat! After the incident was reported to the Recording Industry Association of America (RIAA), it was confirmed the merchandise was unauthorized. Investigators searched the vehicle and discovered 1,000 counterfeit CDs and DVDs inside along with more than \$2,000 in cash and sales receipt copies.

While strides have been made in terms of disc piracy, it never really ends, particularly outside of the U.S. With so much peer to peer sharing, one would think music CD and DVD counterfeiting would be gone. Not the case, but the good news is that pirate seizures are up. "There are a lot of different ways people are trying to get innovative with how to best crack down on different types of piracy and devoting a lot of resources to customs and border protection," said RIAA spokesperson Cara Duckworth. "We really worked hard with Congress so that customs does have the resources to be aware of whatever pirated content comes into the U.S."

Artists are thinking outside the box as well. In the last couple of weeks, a couple of music artists rushed their new CDs to market, some analysts say to thwart piracy. The Raconteurs' *Consolers of The Lonely* (Warner Brothers), released March 25, became available in every format at the same time with no promotion before the release. The album was mastered and completed in the first week of March. It was then taken immediately to a vinyl pressing plant, then to a CD pressing plant. Then preparations to sell it digitally began next. Industry analysts say the move may thwart piracy. I'm not really sure how successful the ploy was, because Apple reportedly messed it up when someone decided the album should have its own exclusive (but brief) iTunes presale.

I've been trying to get comment from the label or the band about the marketing ploys effect on piracy, but all I found on the band's MySpace page was a quote that said, "In the event that the record leaks, we didn't want this method of release to be seen as a reaction to such a leak. It's not. The actual worst thing about a leak is the usual poor sound quality, akin to watching a movie on a wristwatch instead of in a theater. Which for the album's creators is a bit of a letdown, but again, it is completely up to the listener." No mention of piracy.

Gnarls Barkely also released their album, *The Odd Couple* (Atlantic), a week ahead of schedule. The band says nothing about piracy on their MySpace site, just that they felt

the timing was right. Nine Inch Nails had done something similar with Ghosts I-IV. Following a mysterious news update on their website titled "2 weeks," the band released a 36-track instrumental album March 2. This previously unmentioned album was made available in several different formats, including a free nine-track download, a five-dollar full-album digital download, a \$10 CD set with immediate album download, a \$75 deluxe edition set, and a limited run of 2,500 ultra-deluxe packages. These ultra-deluxe packages, priced at \$300 each, sold out within three days. Ghosts I-IV was officially released April 8.

The RIAA doesn't get much involved a lot of the marketing aspects of the record business, so Duckworth could not comment on whether these different methods of releases actually worked in terms of increasing sales overall. But she admits that pre-release piracy is a big problem and that it has had an enormous, harmful impact, so labels are experimenting with all sorts of different programs to see what works and what does not.

Software disc piracy is being targeted in a new way. Eight lawsuits have been filed by The Software & Information Industry Association (SIIA) this month against sellers of pirated Adobe software on eBay. This move follows the round of lawsuits filed in February. Source say that much more than half of the software being offer on eBay is illegal. They are aiming to stop that with all sorts of ways potential unsuspecting customers can spot illegal content as well.

While I was looking at piracy statistics, I wondered how the book industry is dealing with it all. From what I could tell, there are no specific numbers on CD book piracy. Whether the book publishing industry is paying close enough attention to piracy is a bone of contention, some authors say. The Society of Authors, a UK organization representing more than 8,500 authors, gave Ben Hoyle of Times Online an interview. Tracy Chevalier (Girl With A Pearl Earring), chairperson of the Society of Authors says the publishing industry is failing to adopt to the digital age and is allowing book sales to be lost. "There's a lot of 'wait and see what the technology brings,' but the trouble is if you wait and see too long then it's gone. That's what happened to the music industry," she said. The internet is full of unlicensed free digital copies of chapters and recipes for cookbooks, and sometimes even the whole book. Chevalier said, "Book piracy will ultimately drive authors to stop writing unless this is brought under control."

Michele Cobb, president of the **Audio Publishers Associations (APA)**--which represents the audiobook industry--is not as concerned as Chevalier. Audio book sales are still on the rise. "Our issues as an industry are not the same as it is for music," she said. "A music file is much smaller. Audio books can be from 22-40 hours worth of material. So, for CDs and downloadable, you are dealing with much bigger pieces of data. Pirating a book that is 20 CDs is much different than pirating a Britney Spears CD. Even if you are uploading CDs to the internet, you are still dealing with a lot of CDs, so we don't see quite the level of piracy experienced with a song or a music disc."

Cobb said studies on digital rights management are being done because "we know that downladable is important to our market, and we want to make material accessible although we are, of course, concerned with people breaking laws."

Random House Audio Publishing Group no longer requires retail partners use DRM when selling audiobooks via digital download. After a test last Fall with eMusic.com,

Random House concluded this move will allow for healthy competition among retailers targeting the iPod consumer without posing any substantive increase in risk of piracy. The company does quantify this policy by saying they can maintain DRM restrictions for those authors who feel it is necessary.

During the emusic.com test, Random House watermarked all of the files and then hired a piracy watchdog service to monitor and report back if any of the Random House titles appeared on the major filesharing networks. A mix of popular titles were tracked. While many copies of audiobook files were found available for free, none of them originated from the eMusic test, but rather from copied CDs or from files whose DRM was hacked. The result was no one single instance of the eMusic watermarked titles being distributed illegally.

Random House says that the MP3 distribution approach will allow them not only to sell through existing partners, but also to foster new audio sales through any CD retailer with a website. Cobb says, "With DRM-free materials this year, this is going to be a pivotal point to determine what happens."

Summarizing the state of piracy in the music and audiobook industries is difficult. So much is going on worldwide, it is not likely that piracy will ever be completely controlled, because as strides are made in one region, matters get worse elsewhere. And as disc piracy strides are made, internet piracy gains momentum, and mobile phones are likely to complicate the issue further.

The RIAA's Duckworth admits it is a never-ending issue, but also looks at the glass half full rather than half empty. "In terms of our enforcement efforts, I think that we are very realistic in that we know there is always going to be new technology and some new way that people can get music illegally, so we have focused our efforts on where we think we can make the most difference. We can try to drive the legal marketplace by focusing where we think are the most acute problems."

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