



APPOINTMENTS

● **Auralex Acoustics** has announced that Tim Martin has been appointed as director of sales. Martin has a long history of professional experience in sales, consulting and leadership. "We are thrilled to have Tim as part of our executive staff, as he brings clear sales and management strengths coupled with superior knowledge of the retail business and distribution channels," said Dave Paxton, director of operations at Auralex Acoustics.

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WORLD

BanPiracy on verge of second partner sign-up

"Coalition of the brave" reveals methods, as UK studios face final chance to settle

Dave Robinson

BanPiracy, the company formed to fight intellectual property theft in the audio software industry, announced at the end of January that its client Waves Audio Ltd has retained the firm Nelsons Solicitors in an effort to stop the use of pirated audio software in several recording studios in the United Kingdom.

Following an initial invitation by Nelsons to various UK studios in the summer of 2007 to settle out of court – a situation that *PSNE* brought to the public's attention in August – the solicitors' office is now issuing 'last chance' demands to the

alleged 'cracked software' users.

Stewart Vandermark, litigation partner and intellectual property specialist at the Nottingham office of the East Midlands' firm, says: "We have begun issuing a final letter with draft court proceedings papers to those studios who have not yet settled to give them a final opportunity to resolve matters without the need to issue court proceedings. These studios now have a final opportunity to accept the offer to settle. Failing settlement, court proceedings will be issued and the court will be asked to assess the damages and costs payable." *PSNE* is aware of at least one studio in the UK which is prepared to stand its ground against the action.

So as BanPiracy steps up its war against the cracks, it transpires the operation has been gaining momentum with other plug-in brands, too. At an exclusive on-the-record meeting with BanPiracy's protagonists Michael David and Tomer Elbaz – along with publicist Ross Johnson – BanPiracy revealed that a UK-based plug-in manufacturer was on the verge of joining Waves as a partner in what Johnson styles "the coalition of the brave".

Elbaz confirmed, for the first time, many of the facts that *PSNE* uncovered last summer: that there had been covert filming in studios, where the law allowed, by any number of specially briefed 'agents'. Over 1,000 facilities have been visited worldwide, he said, ("some with visits, some with booked studio time") including studios in "UK, Germany, France, Poland – you will hear about other places".

"I'm proud to say we have cleaned up the industry in Israel – 85% of the studios there are now legitimate," said

Elbaz. Israel was used as the 'pilot' for the sting operations, as it is the base of Tehran-based Waves Audio. "Out of 80 visits, we found nearly 60 were [using pirate software]. About 50 of them have closed agreements with us. I'm very proud of this."

Johnson – also a Hollywood publicist, it should be noted – says the work of BanPiracy is somewhere between the espionage of *The Third Man* and the vigilante movies of Charles Bronson. "How many people you know would walk in to studio where the people are dealing in hashish, guns, cracking all kinds of shit..."

"All of these risky visits, 11pm in Spanish Harlem say, I took them. I've almost been robbed twice," said Elbaz.

BanPiracy also revealed its business plan to *PSNE*. In the course of its investigations, it has identified other brands of cracked software plug-ins; it plans to expand its business by approaching other vendors and saying, we have evidence, and we will be willing to work on your behalf, subject to the terms of a package to be negotiated. Elbaz noted cracked plug-ins by several developers, including Steinberg, IK Multimedia and Antares, that had been observed during the covert investigation.

"Companies that have not been cracked yet have been in touch with us and we are working with them to set up a customer service agreement," added Elbaz. "There will be further announcements."

"In three or four years, we will have created a climate of fear for those who sit there cracking software," remarked Johnson.

Where does the company stand with its lawsuits in the US?

"There have been a number of cases

where litigation has been initiated and settlements have been entered into, and both parties have agreed to keep those details confidential," said Michael David. Some cases are still pending, he said, but he emphasised that BanPiracy will try to settle out of court where they can.

"This is not about punishment," added Johnson, "but if you want to bang heads with us in court, you will be drilled. That is what litigation is about. But in a perfect world, we want to settle differences without bringing in a judge."

Elbaz: "We are doing everything we can to help people who say, OK, I'm guilty, I did something wrong. We will give them long-term payments, we will give them a deal better than the software dealers. We will do everything we can to make them legit."

"You can summarise what we're doing in two ways. There's a universal problem, there's mutual interest to solve that problem," said David. "BanPiracy has put together the resources, the skills, the desire and the investment to go after that. Secondly, BanPiracy is pursuing the initiative, and we're doing that based on the incentive of making some money at it. We're serving the mutual industry of the industry, and providing a value-added service to that industry."

Will there be more investigations?
"Yes." David again. "The problem we have identified is much, much bigger than we first realised. There are both opportunities for us, and there are a broader range of mutual interests to serve others throughout the marketplace. We don't know how big that opportunity is, but we know it is very large and we are going to pursue it." ♣

www.banpiracy.com