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Rootkit Suits Settled

Sony BMG Music Entertainment will pay \$1.5 million and kick in thousands more in customer refunds to settle lawsuits brought by California and Texas over music CDs that installed a hidden anti-piracy program on consumers' computers.

Not only did the program itself open up a security hole on computers, but attempts to remove the software by some customers also damaged the PCs.

The settlements, announced Tuesday (Dec. 19), cover lawsuits over CDs loaded with one of two types of copy-protection software - known as MediaMax or XCP. The copy-protection software, installed when a CD is put into a computer, used a process called a "rootkit" to cloak itself after installation.

Under the terms of the separate settlements, each state will receive \$750,000 in civil penalties and costs.

In addition, Sony BMG agreed to reimburse consumers whose computers were damaged while trying to uninstall the XCP software. Customers in both states can file a claim with Sony BMG to receive refunds of up to \$175.

State officials estimate some 450,000 compact discs carrying the XCP software were sold in California, while about 130,000 were sold in Texas.

Customers have 180 days to file claims, which must include a description of how their computer was harmed and documentation of repair expenses.

Some who used certain antispyware software to remove the programs installed by the Sony BMG CDs

ended up with a glitch that disabled their CD-ROM drives.

As part of the settlements, Sony BMG also agreed not to distribute any compact discs loaded with any copy-protection software that hinders computer users from easily locating it or removing it from their computers.

The record company also agreed to improve its disclosure practices.

"Companies that want to load their CDs with software that limits the ability to copy music should fully inform consumers about it, not hide it, and make sure it doesn't inflict security vulnerabilities on computers," California Attorney General Bill Lockyer said in a statement. "To its credit, Sony BMG learned this lesson and has stopped the practices that led to this lawsuit."

According to the complaint filed by Lockyer, Sony BMG did not disclose in the outer packaging the presence of the software, which was loaded on consumers' computers without their knowledge or consent when they played the CDs on their computers. The software also was stored in such a way that it could not be seen on the PC without taking special measures.

Tuesday's settlements close out government probes into the matter by Texas and California. The company had previously settled a class-action case over the episode.

—Associated Press

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[IN BRIEF]

LIVE NATION TO EXPAND INTO SPAIN, FRANCE

In a move that will expand its presence from five to seven major music markets worldwide, Live Nation revealed today (Dec. 19) that it has acquired Gamercos, Spain's leading concert promoter, and has also entered into an agreement to buy a majority stake of France's Jackie Lombard Productions.

The purchase of Gamercos -- along with its affiliates Iguapop, Troublesooter and Cetisa -- brings principals Gay Mercader, Pino Saggioloco and Roberto Grima under the Live Nation umbrella. Gamercos produces more than 250 concerts per year primarily in Madrid and Barcelona. Those concerts have included performances from local and Spanish-speaking artists, as well as artists international acts like Marc Anthony, Il Divo, Luis Miguel, the Who and George Michael.

Jackie Lombard Productions, led by Jackie Lombard, produces concerts in Paris and throughout the rest of France that attract more than 250,000 concertgoers each year. The acquisition of Jackie Lombard Productions is expected to close in early 2007.

Meanwhile, Live Nation already has a presence in Holland, Italy, Germany, Canada, the United

Kingdom and the United States. The live entertainment company's entrance into Spain and France will provide it with a pan-European reach in artist bookings and multi-country sponsorship transactions.

—*Mitchell Peters, L.A.*

V2, QUIBUS FORGE CONTENT PACT

London-based independent label V2 Music has struck a deal to license its works for streaming and downloading on Quibus' peer-to-peer music promotion platform.

Malmö, Sweden-based Quibus' service is free to the user, and revenues are generated by online advertising and promotion.

The new agreement is described as the first of its kind between European players in the online music and advertising industries. Financial terms were not disclosed.

"The Quibus service represents an innovative business model and precedent-setting music promotion service," comments Beth Appleton, head of digital and business development at V2 Music, in a joint statement. "It offers our artists a great way to reach music fans and consumers using the potential of peer-to-peer technology, while increasing the potential of our revenue stream."

V2 Music's roster of artists in-

THIS DATE IN HISTORY

DECEMBER 20

2003 - "The Diary of Alicia Keys" gives the young sensation her second No. 1 debut on The Billboard 200.

1973 - Singer Bobby Darin dies of heart failure at the age of 37.

1962 - The Osmond Brothers appear for the first time on NBC-TV's "Andy Williams Show."

1957 - Elvis Presley receives his draft notice for the U.S. Army.

1909 - Danish composer Vagn Holmboe is born.

cludes Stereophonics, Paul Weller, Little Man Tate and Lethal Bizzle.

"We are proud to enter a strategic relationship with a leading European content owner of V2's calibre, and look forward to working with them on promoting their repertoire," adds Quibus CEO Carsten Wegmann. "We can increase their sales while Quibus can leverage the content for advertising and co-branding purposes."

Quibus was established in August 2003. The firm says it has been involved with a series of music promotions for the major and independent record labels in Europe and the U.S., involving EMI Music, Warner Music, Sony BMG and the Independent Online Distribution Alliance (IODA), among others.

Quibus' executive team includes chief marketing officer Lars Toft, a Scandinavian industry veteran who exited mid-year as managing director of EMI Music Denmark.

Morgan Stanley-owned V2 Music

is lining-up a series of events in 2007 to celebrate its 10th anniversary, Billboard.biz has learned.

—*Lars Brandle, London*

HARBICH TO EXIT EDEL

Joachim Harbich, managing director of edel entertainment, will exit the Hamburg-based company at his own request in the middle of January to concentrate on new projects.

Harbich joined edel in 2002 as GM, and was promoted to managing director in spring 2006. The outgoing executive did not give any comments about his future plans.

Edel has yet to announce a successor. Until then, the heads of departments will report directly to Haentjes and his deputy Timo Steinberg, COO edel music AG.

—*Wolfgang Spahr, Hamburg*

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DAVE CLARK FIVE'S PAYTON DIES

Denis Payton, saxophonist with British beat band the Dave Clark Five, died Sunday (Dec. 17) after a long battle with cancer in Bournemouth, England. He was 63.

Born Aug. 11, 1943 in Walthamstow, East London, Payton went on to be a founding member of the '60s hitmakers whose popularity, in their heyday, was second on to the Beatles in the United States.

They were the first English group to tour America, spearheading the "British Invasion" and selling over 100 million albums in the process, according to a spokesman.

The band also has the distinction of having made 18 appearances on the Ed Sullivan Show, more than any other British group.

—Lars Brandle, London

Warner CFO Sells Shares

The CFO of Warner Music Group Corp. sold 20,000 shares of common stock under a prearranged trading plan, according to a Securities and Exchange Commission filing Monday (Dec. 18).

In a Form 4 filed with the SEC, Michael D. Fleisher reported he sold the shares Friday for \$23.68 apiece.

The stock sale was conducted under a prearranged 10b5-1 trading plan which allows a company insider to set up a program in advance for such transactions and proceed with them even if he or she comes into possession of material non-public information.

Insiders file Form 4s with the SEC to report transactions in their companies' shares. Open market purchases and sales must be reported within two business days of the transaction.

Warner Music Group is based in New York.

—Lars Brandle, London

EU RATIFIES UNESCO CULTURAL TREATY

A UNESCO convention that allows countries to protect their music, movies and other cultural activities will formally come into force next March after European Union nations ratified the treaty today (Dec. 19) in Brussels.

The convention on cultural diversity, drafted by the United Nations Educational, Scientific and Cultural Organization, aims to consolidate the protection countries sometimes use to block music and movie imports, and strengthen rules on subsidies and quotas.

It was adopted in 2005 in the face of strong protests from the United States, which claimed that the convention would be used to erect barriers against its huge entertainment industry exports. However, it was eventually approved by 148 of the 154 UNESCO members. The EU ratification means the threshold of 30 member confirmations has been reached for it to become a legal instrument.

The 40-page treaty upholds the "sovereign right" of countries to protect and promote the diversity of cultural expressions and requires this to be taken into account in applying other accords, such as the rules of the World Trade Organization.

It does not create any new laws or instruments to protect music or movies, but the U.S. fears it could override the existing conventions that allow American entertainment to be sold to the world.

—Leo Cendrowicz, Brussels

PEER IMPACT OFFERS ONE CENT TRACKS

Peerimpact.com on Friday (Dec. 15), the digital media distribution platform owned by World Media, began offering music tracks priced at one cent as a holiday promotion.

Peer Impact offers over one million tracks from both major and independent record labels, according to a statement from the company. The promotion includes full albums priced at ten cents.

The service also allows consumers to purchase and send media files as a gift electronically along with a personalized message.

Currently Peer Impact features movies, television, music, computer games, and Internet radio.

—Chris M. Walsh, N.Y.

CONCORD NAMES GILLESPIE SVP

The Concord Music Group has hired Michael Gillespie as senior VP of sales. He was VP of sales and customer operations at Universal Music Group Distribution

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