Sony BMG Sued Over Anti-Piracy Software

The music label’s system for protecting its CDs allegedly weakens a computer’s security.

By Charles Duhigg, Times Staff Writer

A California-based digital-rights group and the Texas attorney general sued Sony BMG Music Entertainment on Monday for selling compact discs with anti-piracy software that allegedly leaves computers vulnerable to hackers and viruses.

The cases highlight the narrow line walked by the recording industry as it experiments with ways to deter bootleggers. To be effective, copy-protection systems must be tough to crack. But software that’s too intrusive alienates music buyers — as Sony BMG’s so-called XCP technology has.

When discs with XCP are loaded onto a computer, they install a program that limits how many times the CDs can be copied. Critics allege that Sony BMG failed to warn buyers that XCP could potentially weaken a computer’s defenses to attacks from malicious software or hackers, although few users experienced any problems.

Embarrassed executives at Sony BMG, the nation’s second-largest record label, last week asked music retailers to pull the 52 albums that use the software and said the company would recall as many as 5 million CDs.

Texas Atty. Gen. Greg Abbott said at a news conference to publicize his suit that Sony BMG “hides on your computer secret files and then they stick it to you by making your computer vulnerable to things like viruses, spyware and even Internet-based crime.” He wants the company to pay $100,000 for every time a Texas computer user downloaded the software.

A similar lawsuit filed by the Electronic Frontier Foundation alleged that Sony BMG violated California’s consumer protection and unfair business practice laws by not adequately disclosing the effects of XCP-enabled discs. In addition, two lawsuits against Sony BMG seeking class-action status are pending in California and New York.

A representative for Sony BMG said the company did not comment on pending litigation, but would cooperate fully with Abbott in resolving the situation.

Sony BMG’s troubles began this month when a computer security expert publicized his discovery of the program on some of the company’s CDs — including new bestselling albums by Neil Diamond and Celine Dion. Within days, a virus appeared that exploited some of the software’s vulnerabilities, but it did not appear to spread widely.

Industry analysts said the negative publicity around Sony BMG was likely to influence how the recording industry proceeded.

"In their eagerness to stop piracy, Sony BMG has shown that there are lines consumers won’t tolerate being crossed,” said analyst Michael Goodman of Yankee Group. "And from now on, no company will court a lawsuit by trying something like this.”

However, copy protection isn’t ceasing. EMI Group, the nation’s fourth-largest record label, intends to include some form of copy protection on most of its releases by the end of next year. An EMI spokesman said the company had manufactured more than 175 million CDs that limit copying and received complaints from less than 1% of customers.

Sony BMG had planned to impose copy protection on all of its albums by the end of this year. The company is rethinking that strategy. Universal Music Group and Warner Music Group don’t use CDs equipped with software to prevent piracy, although they have supported industry efforts to combat piracy through lawsuits against online peer-to-peer networks and users.
Analysts said EMI's low incidence of complaints demonstrated that the music industry could deploy technology that didn't alienate listeners.

"The reason why people don't complain is because most aren't really copying CDs in the first place," said analyst Phil Leigh of Inside Digital Media Inc. "If you can sell music at reasonable prices, consumers will gravitate away from piracy. Eventually companies will stop fighting their customers and just lower their prices."