Qtrax jumped gun on online deal, labels say

Four big music firms say they haven't signed pacts with the service.

By Joseph Menn, Los Angeles Times Staff Writer
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The executives behind a new music service called Qtrax wanted to get the industry talking. They did -- for the wrong reasons.

Brilliant Technologies Corp., the publicly traded parent company of Qtrax, said Sunday that it had opened the first Napster-like network to feature free music from the four major record labels with their permission. The New York company launched the service during a music-industry conference in Cannes, France, with lavish events including a Qtrax-funded performance by singer James Blunt.

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Widespread news coverage sent 61,000 users an hour to the site of Qtrax, which had been working on the file-sharing system for years.

But they came away disappointed: The site didn't work because, although the big four labels had been in negotiations with Qtrax, none said they had actually signed deals authorizing the use of their music.

The premature announcement stunned the music industry and provoked comparisons to dot-com disasters at the turn of the century, when some companies worked harder at throwing good parties than making good products.

"When you launch a service billed as the first legal peer-to-peer, it sets up expectations," said former EMI Group digital executive Ted Cohen, who moderated a panel discussion in Cannes with Qtrax Chief Executive Allan Klepfisz. "It's going to be tough for them to recover from this."

Qtrax kept up appearances as the Midem conference continued Monday. Rapper LL Cool J, a guest of the company, performed in the evening. Klepfisz said in a telephone interview that the labels were overreacting in refusing to let their music be used on his site.

"We got nods to go ahead with the service Friday night," Klepfisz said. "There's been a misunderstanding."

Klepfisz said he thought he had gotten close enough to final deals to proceed. His lieutenant for technology said some of the more major innovations, such as allowing users to move downloaded songs onto portable devices, had been put off for a few weeks at the labels' insistence.

Qtrax had built momentum last week, giving demonstrations and granting interviews to reporters on condition that no articles appear before Saturday night. Spokesmen for the labels, assuming deals were near,
 didn't dissuade reporters from the story, which appeared across the Web and in several newspapers, including some early copies of The Times on Monday, before the labels' complaints came to light.

Qtrax executives issued a news release Saturday night claiming they had all labels on board, then spent Sunday trying to cajole them into providing content even though the deals weren't signed, according to sources at two labels. That didn't work. Warner Music Group, which is publicly traded, was the first of the four labels to tell reporters it had reached no agreement.

Qtrax said Monday that it would delay the service until it could get contracts finalized.

Label executives, some of whom had agreed to support an earlier, less radical, version of the system for ad-supported downloads, said they were either still negotiating with Qtrax or were willing to do so.

But they marveled at the company's willingness to officially proclaim something that wasn't there. Qtrax even released supportive quotes from record-label executives that had been agreed upon more than a year before and that referred to different incarnations of the service.

Brilliant Technologies shares set a 52-week high of 9.2 cents Friday in heavy over-the-counter trading before any official announcement. But trading volume tripled Monday and the share price plunged to 5 cents, cutting the stock's market value to about $35 million.

That market value drop of more than $25 million should be enough to trigger a shareholder class-action lawsuit alleging fraud, Columbia University securities law expert John Coffee said.

"There will predictably be some litigation," Coffee said. "There's a good chance the SEC may take action too."

A spokesman for the Securities and Exchange Commission said the agency couldn't comment on specific companies. He noted that such "pink sheet" stocks as Brilliant Technologies' face much less scrutiny than companies trading on major exchanges.

Qtrax spokesman Justin Kazmark declined to comment on the applicability of securities laws forbidding false material statements.

He also declined to comment on estimates by those at Midem that the company had spent $1 million on the launch events, including the performances by Blunt and LL Cool J.

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