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Record Labels Turn Piracy Into a Marketing Opportunity

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A video clip from Jay-Z's live concert in June at Radio City Music Hall is popping up on all sorts of illicit music-sharing hotspots. But Jay-Z isn't upset.

That's because the rapper, at the request of **Coca-Cola Co.**, agreed to allow distribution of the eight-minute clip -- which included promotions for Coke -- on the peer-to-peer sites, using technology usually used to thwart music pirates.

The unusual alliance demonstrates a new tack being taken by the music industry to deal with the challenge posed by widespread music piracy. For years, the industry has been suing individual downloaders and file-sharing services, hoping to discourage the practice. In a tactic little known outside the music industry, record labels have also started to hire outside companies to plant "decoy," or fake, files on the sites. (One such company, ArtistDirect Inc.'s MediaDefender, says it has deployed decoys for as many as 30 of the top 100 Billboard songs at any given time.) The decoy files frustrate users because they fail to download even though, thanks to the companies' technical expertise, they often claim the top spot in search results for a tune.



Coca-Cola is promoting its Jay-Z concert clip on a Coke Web site, as well as peer-to-peer networks.


But now there's a growing recognition among some record executives and performers that the people who are downloading illegally are frequently huge music fans and that marketing to them may be more desirable in the long run than suing or otherwise harassing them.

Hence the alliance between Jay-Z and Coke. By inserting promotional material into the decoy files, and then planting those files prominently on file-sharing sites, record labels and other marketers can turn what is now an antipiracy tool into an advertising medium. "The concept here is making the peer-to-peer networks work for us," says Jay-Z's attorney, Michael Guido. "While peer-to-peer users are stealing the

intellectual property, they are also the active music audience," and "this technology allows us to market back to them."

Concert outtakes aren't the only content. Audioslave, Ice Cube, Yellowcard and other music groups have used decoy files for their own version of viral marketing. With help from niche companies like Sparkart LLC and NFA Group's BuyDRM, they put snippets of a song into the files with the promise that a stream of the entire song will be "unlocked" for everyone once the promotion is forwarded to enough people. The hope is that this will motivate people to send the file to lots of friends.

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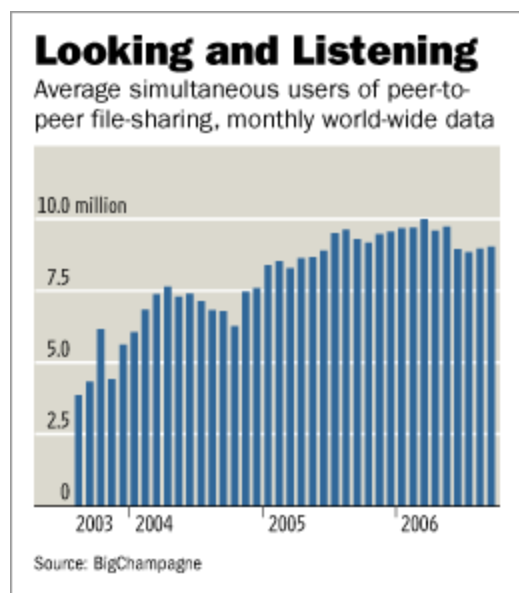
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Alternative rock band Dashboard Confessional tried that approach with its single "Don't Wait" to promote its latest album, "Dusk and Summer," released jointly on the independent Vagrant label and Universal's Interscope label. "It just emanated out of one more thing we could do on the Internet, because that's where our customers are," says Dashboard's manager, Rich Egan, who credits filesharing rather than radio airplay with the performer's success.

Right now, only about 1% of the decoy files on peer-to-peer sites include promotions or ads, but the potential audience is huge. While many well-known peer-to-peer services such as eDonkey and Grokster have been shut down by legal action, new ones pop up all the time. In September, an average of nine million people were logged on to the services at any given time, up from 6.8 million two years ago, according to BigChampagne, which tracks the industry. By comparison, last month YouTube attracted about two million visitors a day and MySpace.com attracted 16.8 million visitors a day, according to comScore Media Metrix.

The typical downloader is a tech-savvy male between 14 and 25 years old. "It's a wonderful audience that is very difficult to reach through any other means," says Mitchell Reichgut, a principal at Jun Group, the ad agency in Norwalk, Conn., that crafted the Coke promotion.

The record industry's approach toward downloaders began to change after last year's landmark Supreme Court ruling on Grokster. The Justices found that file-sharing companies like Grokster could be held liable for copyright infringement if their products encouraged consumers to swap music or movies illegally. Before the ruling, record labels worried that they might undercut their legal arguments if they used peer-to-peer sites for their own purposes. Now, "we're basically free to exploit these billions of fake files we're putting out," says Randy Saaf, chief executive of MediaDefender.



Still, marketing on peer-to-peer sites is "a bit of a tricky dynamic for entertainment companies," says Mr. Reichgut. He says many of his clients in the entertainment industry don't want to be identified.

Not so reticent is **EMI Group PLC's** Virgin Records, which says it's in talks with MediaDefender about marketing options. "It's an opportunity that will hopefully lead to a better experience for the artists, the labels and the consumers," says Virgin Chairman Jason Flom.

Labels typically must approve file-sharing marketing projects, says Peter Katsis, an executive at The Firm, an entertainment-management company. Coke, which devised the Jay-Z promotion as part of a bigger marketing push, says it wouldn't have gone ahead without the agreement of Universal Music Group, Jay-Z's record company. Helping facilitate the

deal was Jay-Z's unusual role at Universal: He heads Def Jam Records, the Universal label that releases his albums. Coke did a similar decoy-file promotion using another Def Jam artist, the R&B act Ne-Yo, earlier this year.

Coke says that 3.5 million people downloaded the Ne-Yo video during the six weeks it was on the peer-to-peer networks, and the Jay-Z concert clip has already been downloaded more than 2.5 million times. "It has so far exceeded our goals that you should look for us to do more," says Katie Bayne, senior vice president of Coca-Cola North America.

Some music acts are using peer-to-peer sites to gather marketing data. Over the summer, MediaDefender ran a promotion for the alternative music group Gin Blossoms. File sharers looking for songs got files with links that asked if they wanted to win a free iPod preloaded with Gin Blossoms tunes. If they clicked on the link, they landed on a page that asked them to fill in demographic data, including name, age and email address, and 25% of them did. MediaDefender executives say they were surprised so many responded, but they believe that placing the questionnaire on ArtistDirect, a well-known music site, gave the promotion legitimacy.

Meanwhile, some file-sharing sites are fighting back against the marketing-infused decoy files, which they consider spam. When they release new versions of their filesharing programs, they are including tweaks that can make planting the covert ads more difficult. The latest version of LimeWire, for example, won't allow people responding to other users' searches to easily include a link to a Web page.

At the same time, MediaDefender and other decoy-file distributors are constantly trying to beef up their own technology. "It's a constant cat and mouse game," says MediaDefender's Mr. Saaf.

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