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Literature Review Paper—HBO and Game of Thrones File Sharing

Ever since the world of Westeros first came to life on the silver screen, HBO’s “Game of Thrones” has continued to gain popularity with seemingly unstoppable momentum. Fans of the show, which is based on George R. R. Martin’s intricately crafted book series of the same name, can’t get enough of it; in fact, “Thrones” fans are so obsessed that the HBO series has quickly become the most pirated show of all time, breaking several of its own illegal downloading records. The season 5 finale, for example, broke the record for most illegal downloads of an episode in 8 hours with an astonishing 1.5 million downloads (Yeung). HBO’s attempts to combat this record-shattering piracy continue to increase as the problem itself increases, yet it is unclear what the company’s next move should be, since its current methods are clearly not cutting down on illegal downloading. Ultimately, if HBO wants to successfully combat Game of Thrones piracy, it has to determine whether furthering the use of the company’s time and resources to address the problem will be worthwhile or not.

To answer this question, it is important to understand why Game of Thrones has earned the position of most pirated show. One of the reasons Game of Thrones is so widely pirated is because of how costly and difficult it can be to access the show legally through HBO. Up until recently, HBO was only available through subscription along with a cable TV subscription, which is especially problematic as cable TV becomes obsolete; over 40% Americans, for example, now rely on streaming services such as Netflix and Hulu to watch shows and movies (Kang). In an attempt to combat this cable-drawback and compete with live streaming services, HBO introduced HBO Now, an app that allows users to watch unlimited HBO content for $15 per month. So far, though, HBO Now hasn’t been successful in combatting Game of Thrones piracy even though it allows fans to subscribe to HBO on a device without cable TV. Why? Because many Game of Thrones fans don’t watch any other HBO shows or movies, so $15 a month to watch Game of Thrones alone is more than many are willing to pay, especially since, in the age of the Internet, “piracy is still free” (Tassi 2015).

Of course, piracy may be free for consumers of shared files, but it is not “free” for HBO, at least on the surface—the company lost an estimated $44 million in U.S. revenue from pirating of just the season 5 premiere episode alone. That being said, illegal file sharing of Game of Thrones does help HBO in a number of indirect ways—for example, according to Jeff Bewkes, CEO of Time Warner Inc (which owns HBO), even though piracy can be directly correlated to loss of subscription revenue, it also “leads to more penetration, more paying subs, more health for HBO” and “less reliance on having to do paid advertising” (Forbes). Ultimately, he argues, the fact that Game of Thrones is the most pirated show in the world is “better than an Emmy” (Tassi 2014).

Bewkes’ statement makes it seem like HBO doesn’t care much about pirating and that the lost revenue it causes is made up for by increased publicity, but HBO’s legal actions against online pirates paint a very different picture. Following the BitTorrent leak of the first four episodes of “Thrones” season 5 before the set season premier date in early 2015, HBO began to crack down on specific pirates and piracy sites. The company’s legal team reportedly “issued thousands of warnings to Internet subscribers whose connections were used to share leaked Game of Thrones episodes” (Heisler), but since HBO has no way of knowing the actual identities of specific pirates, it seems as though the warnings were more of a scare tactic than anything. These warnings, though, are just one of HBO’s many attempts to discourage piracy, as HBO shows are “constantly flagged” on torrent sites (Tassi 2015) and, for the first time since the show began, HBO decided to air the season 5 premier on the same day for the entire world, as opposed to an earlier date for the U.S. (Bowman). According to some reports, HBO is even beginning to track specific IP addresses of online pirates and sending cease-and-desist letters to restaurants and bars that host live-screening events of Game of Thrones episodes (Swartz).

Clearly, HBO is fighting on multiple fronts to discourage and decrease Game of Thrones piracy—the simplest way to categorize these fronts is distinguishing between HBO’s battles with large torrenting/filesharing sites, individual pirates, live streaming apps, and live streaming events. Live streaming apps are a particularly dynamic and important threat to HBO’s anti-piracy efforts, with mobile devices playing a larger and larger role in entertainment consumption. One up-and-coming live streaming app is Periscope, which is owned by Twitter. To live-stream shows or movies with Periscope, one user sets up a recording/camera device and connects the device to the app, so anyone with access to the app can see, in real time, exactly what that initial user is recording. This is especially problematic for HBO because by the time the company issues take-down notices, the show is usually already over, and since it’s live-streaming, there’s no lasting or physical file left to remove. Furthermore, HBO has no way of detecting exactly who live-streamed the show after the user’s channel stops streaming (Wong). Essentially, Periscope has created “a real-time cat-and-mouse game for copyright holders and anti-piracy firms” (Wong); and, as many cat-owners and “Tom and Jerry” fans are surely aware, a cat-and-mouse chase can be incredibly tedious, but the mouse never stops running and the cat never stops chasing.

There are some drawbacks to live-streaming through periscope, aside from the obvious legal gray-area. For example, since Periscope users are essentially viewing through a screen and then a camera and then another screen, picture and sound quality suffer. Additionally, there’s no way to pause or rewind when using Periscope. For some, this quality sacrifice is worth the unbeatable price (free) and instant access, but the loss of quality has also hindered Periscope’s growth which, theoretically, could be explosive. The number of people who viewed the season 5 Game of Thrones premiere using periscope was in the range of hundreds to a few thousand (Dewey), which pales in comparison to the millions that viewed the show legally or later through traditional piracy and file-sharing. Still, HBO views live-streaming apps like Periscope as a serious potential future threat, and after the “Thrones” season 5 premier, HBO took legal action against Periscope and its users by sending takedown notices and copyright warnings (Dewey). Many experts in copyright law, including California copyright lawyer Richard Stim, argue that while Periscope may not be an immediate threat to HBO, the point at which live-streaming becomes transformational to the industry is a “slippery standard” (Dewey), which is why HBO has already attempted to thwart Periscope’s comparatively small audience of less than a few thousand people. HBO is even going after businesses that host Game of Thrones viewing parties as another form of live streaming, since only one subscription is being used for many people (Swartz). Although this example is one of HBO’s more legally questionable anti-piracy efforts, it just goes to show that HBO takes the threat of live-streaming seriously, sometimes even more seriously than torrenting.

I’m going to add a paragraph or two here about BitTorrenting….

HBO’s legal battles against torrenting, live streaming, BitTorrenting, and even community viewing parties clearly demonstrate that the company takes Game of Thrones piracy seriously, yet despite HBO’s efforts, “Thrones” piracy only continues to increase. Considering the colossal popularity of Game of Thrones, many wonder why HBO even bothers to use time and resources to stop “Thrones” piracy at all, especially since HBO still has millions of legal subscribers, and piracy is essentially free advertising. Of course, HBO can’t exactly condone torrenting, because that would open the floodgates to even more legal ambiguity and would ultimately hurt the company; HBO has to make some reasonable efforts to minimize piracy for the sake of control and business tactics, but no one at the company is naïve enough to believe that they could ever stop “Thrones” piracy completely. HBO’s best bet to both keep viewers and also maximize profits is to maintain its current amount of effort fighting traditional piracy/torrenting while also focusing on the future prospects of piracy (such as live streaming) before new methods of viewing catch HBO off-guard. Only time will tell if apps like Periscope are the future of Game of Thrones piracy or if more user-friendly live streaming apps will emerge, but either way, HBO should try to invest in staying one step ahead instead of continuing to play the cat-and-mouse game of issuing individual takedown request for torrented files.

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