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Case Study: Game of Thrones Season 5 Leak

Introduction

Last spring, just hours before the highly-anticipated Season 5 premier of HBO's *Game of Thrones*, online piracy dealt a huge blow to the wildly popular franchise. The fifth season of the show, based on George R. R. Martin's novel series of the same name, was set to premier at 9 P.M. on April 12th, 2015; instead, the first four out of ten episodes were leaked a full 24 hours before that, on the night of April 11th. Within 12 hours of the leak, the four episodes combined had been downloaded almost 800,000 times (IBTimes), and after 18 hours, the first episode alone was reportedly downloaded over a million times—still a full six hours before the show would air on HBO (TorrentFreak). The episode copies were first spotted on IPT, a private torrent tracker, during the afternoon on April 11th, but by that night, the files had also been added to larger, public torrenting sites, including The Pirate Bay, RARBG, and KickassTorrents (Gizmodo). Once mainstream media got word of the leak that same evening, illegal downloads soared even further. On April 13th, HBO confirmed the leak and released a statement about how they believed the leak originated, saying, "Sadly, it seems the leaked four episodes of the upcoming season of 'Game of Thrones' originated from within a group approved by HBO to receive them. We're actively assessing how this breach occurred" (IBTimes). Even though HBO had been battling illegal downloading of 'Game of Thrones' long before season 5—starting with season 3, the show had officially become the most pirated TV show of all time—the simultaneous leak of

multiple episodes before the set screening date was unprecedented and dramatically changed HBO's tone on piracy as a whole.

Include more detailed case intro/clearer (currently nonexistent) thesis ▼

Before the Leak

Ever since the world of Westeros first came to life on TV screens across the world, HBO's "Game of Thrones" has continued to gain popularity with seemingly unstoppable momentum. Fans of the show 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, HBO has to decide whether or not furthering the use of the company's time and resources to address the problem of illegal downloading is worthwhile; although torrenting initially causes subscription revenue loss, according to the CEO of Time Warner Inc (which owns HBO), piracy does end up positively effecting the show's popularity (Tassi, 2014). This is particularly relevant with regard to the season 5 leak, because now, in addition to deciding whether combatting traditional filesharing and live-streaming apps is worthwhile, the company has to fight larger-scale leaks on a completely new front. Moreover, since the leak originated from a source that HBO had approved to see the season early, the company now has to decide whether or not to increase

preventative measures and screening tactics before releasing copies of the show to journalists or employees.

To analyze the question of whether or not going after online pirates is worth it for HBO, 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; according to Nielsen's fourth-quarter 2014 audience report, for example, over 40% Americans, 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. In short, as Paul Tassi, a frequent *Forbes* technology news contributor and reporter states, "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 premier episode alone, according to *Entertainment Weekly* journalist James Hibberd (Hibberd). 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, the

aforementioned CEO of Time Warner Inc, 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).

During the first few seasons of the show, when Game of Thrones piracy began to soar, it certainly seemed like HBO’s actions (or lack thereof) in response to illegal downloading echoed Bewkes’ sentiments. Starting in 2012, TorrentFreak, a blog that reports the latest file-sharing trends, reported that Game of Thrones was the most pirated show of the year, and soon after, the most pirated show of all time (NPR Staff). Then, in early 2013, National Public Radio (NPR) writer Jacki Lyden interviewed Wired.com writer Graeme McMillan about the implications of HBO’s piracy problem and how illegal downloading is changing the way people watch TV. During the interview, McMillan states that HBO’s programming chief, Michael Lombardo, said that “his bigger concern wasn’t the people who were downloading, but that by downloading they’d get an inferior product” (NPR Staff). McMillan, when asked if he thought piracy actually hurt HBO, said, “I’m not sure it does...I think it really raises the profile of the show and the profile of HBO in general” (NPR Staff). He then continues by quoting Game of Thrones producer David Pertrarca, who stated, “No, [piracy] is great. It really helps the show’s cultural buzz, and it does not impact the bottom line because HBO has more than enough money to keep making the show” (NPR Staff). Ultimately, he argues, since the future of television is online and piracy is currently the center of online-viewing buzz, that’s probably where “somewhere [HBO] really wants to be” (NPR Staff).

After the Leak

McMillan's account is largely representative of HBO's view on piracy in general—that is, until the infamous early leak of the first four episodes of Game of Thrones season 5 in early 2015. Bewkes' statement and HBO's early responses to "Thrones" piracy both make 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 recent 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 premiere 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). Additionally, according to technology investor and journalist Jeremy Bowman, for the first time since the show began, HBO decided to air the season 5 premier on the same day for the entire world in an attempt to combat illegal downloading by international viewers after the U.S. premier who did not yet have access to the show legally (Bowman). According to numerous 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). While threatening live-screening events might seem extreme, according to Northwestern University Law professor Peter DiCola, since

screenings of the show at bars can be considered as unauthorized public performances, it is HBO's right to take legal action and threaten penalties (Swartz).

The reason HBO's tone changed after the season 5 leak is probably because it led to a change in momentum for viewing of the show. Basically, because so much of the hype surrounding Game of Thrones and its revenue comes from the fact that fans count down the days until the next episode airs, the fact that four episodes were leaked at once caused a large decrease in excitement about the first half of season 5, since many fans downloaded and watched the first month's worth of episodes all at once and then had to wait it out until episode 5. Since some sources estimate that approximately 800,000 to 1 million fans watched episodes 1 through 4 as leaked files, this was a huge blow to HBO's momentum going into season 5 (Tassi). Additionally, HBO had been planning to launch HBO Go, a monthly subscription streaming service, on the same day as the season 5 premier (Tassi, April 2015); when the first four episodes leaked, much of the excitement and media coverage for HBO Go decreased dramatically (Tassi). These factors combined likely caused a sharp change HBO's tone and responsive action to online pirates and torrenting sites. ▼

Another Leak?

There's no question that the leak of episodes 1-4 of season 5 definitively shifted HBO's anti-piracy tactics. From an increased number of individual takedown requests to shutting down viewing parties, HBO obviously wants to make it clear that it takes security breaches seriously—especially since leaks of multiple episodes at once may cause piracy of the show to spiral out of control. Just a few weeks after the initial season 5 leak, though, it became clear

that HBO was still continuing to lose ground to determined hackers/pirates—several images of the season 5 finale leaked online, particularly those of a seemingly-dead Jon Snow and others of a “stripped-down” Cersei Lannister (Harding 2015, 1). Some of the picture leaks were sent at Snapchats, according to a June 2015 iDigitalTimes article, but several other leaked photos from Season 5, episode 10 appear to be of much higher quality and probably originated from another security breach within HBO’s pre-approved media screenings (Harding 2015, 2). There were even several reports of an episode 9 plot leak and the entirety of episode 10 leaking onto a few torrenting sites (also from media outlet reviews), but these leaks are harder to confirm (SpoilerTV.com—lol).

^Going to talk more about HBO’s response to these smaller leaks and how it has changed their anti-piracy tactics going into Season 6/the future.

Live Streaming????? → probably will remove but not sure if this section will be useful

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 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 (Dewey). 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 (Dewey). 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. According to Washington Post reporter Caitlin Dewey, the number of people who viewed the season 5 Game of Thrones premier 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.

^ not sure this is relevant at all and I will probably delete it but then I also need to change my conclusion/main argument a bit so I'll just keep it here for now

Conclusion

HBO's legal battles against pre-release leaks, torrenting, live streaming, third-party streaming, 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. With season 6 set to premier later this year, many HBO and Time Warner executives fear that another massive leak could set back the company's anti-piracy efforts even further. 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. Ultimately, 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 more on the future prospects of piracy (such as live streaming and pre-screening leaks, like the season 5 leak) 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 of security breaches and larger leaks instead of continuing to play the cat-and-mouse game of issuing individual takedown request for torrented files.

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