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Movies, the Internet, and Piracy



by Lynda Irons

A few years ago, a friend downloaded full versions of recently released-to-DVD films from a Russian website for less than \$5 per film. I asked why this did not raise any red flags for her, and she said she checked the site thoroughly and was convinced it was legitimate. I am not sure how she "checked" the site nor am I convinced that it was as genuine as she thought it was, but this interaction illustrates one of the many underlying assumptions many users have regarding the Internet. One such assumption is normal copyright laws somehow do not apply in this virtual world, and that belief may be costing the "worldwide picture industry, which includes foreign and domestic producers, distributors, theaters, video stores, and pay-per-view providers, an estimated 18.2 billion dollars to piracy." [1]

According to recent news accounts, pirates distributed early copies of *Ratatouille* and *American Gangster* before these films' theatrical releases. John Desmond, Vice President of SafeNet Inc.'s MediaSentry, notes that, "the longer you can prevent a scenario like this one with 'American Gangster' from occurring, the better the return on investment for a studio." [2] Nonetheless, he stated that if a movie is to be pirated, the ideal for studios is a poor-quality bootleg copy as consumers would rather experience a high-quality film rather than the bootleg. [3]

The Motion Picture Association (MPA) estimates that in 2005, MPA studios lost 6.1 billion dollars to worldwide piracy; 2.4 billion dollars to bootlegging; and 1.4 billion dollars to illegal copying. [4] A major culprit in the piracy issues is the Asia-Pacific region. The MPA, working in conjunction with the Taiwan Foundation Against Copyright Theft, has reported more than 320 piracy cases in 2008 so far; up from 300 in the previous year. [5]

Copyright law "guarantees to copyright owners certain exclusive rights, including the exclusive right to make copies, distribute copies, publicly

perform the work, and make new derivative works based on it." [6] It is this right of distribution that pirates are attempting to thwart. The Motion Picture Association defines Internet piracy as "the downloading or distribution of unauthorized copies of intellectual property such as movies, television, music, games, and software programs via the Internet." [7] And the MPA is increasingly becoming more aggressive in pursuing copyright infringers; for example, they recently announced that a Singapore court has sentenced Lee Eng Sent, 50, to 15 month's imprisonment after he pleaded guilty to selling illegal DVDs. [8] However, Stephanie Ardito reports that many media outlets are taking a wait-and-see attitude. She feels the media giants will "eventually calm down and learn to work with social networking sites and video websites. Otherwise, they risk losing their customer base." [9] While she is specifically targeting *YouTube* and *MySpace*, the same principles apply in unlawfully distributing copyrighted material. Also, it appears that brokering or distributing the motion picture is unlawful as well. In a recent court case, MGM Studios filed suit against a popular peer-to-peer software company, Grokster. MGM argued that "the company should be held liable for encouraging its users to violate the copyright law." [10] The U. S. Supreme Court ruled unanimously that Grokster was indeed liable for infringing copyright laws and was held accountable for their actions. [11]

Motion picture studios have been relatively late-comers to the video streaming world, but they have been gaining momentum in providing consumers with alternative methods to access their products. Lucille Ponte notes that the film business should "creatively experiment with ways to offer the public faster and cheaper access to a broad selection of films." [12] Ponte further argues that the industry should take another look at how it controls Digital Rights Management endeavors as a way to allow consumers to legitimately make copies for personal use. This, she argues, could eliminate the piracy issues. [13] MPA notes there are legal distribution services such as CinemaNow, iFilm, Movieflix, or Movielink. [14] I can download movies even from my Netflix account.

Unless copyright laws are re-evaluated in light of today's technological schema, any illegal copying or distributing of copyrighted material is unlawful, and the motion picture industry will continue to aggressively pursue infringers.

Endnotes

- [1] *Economies*. Motion Picture Association. http://www.mpa.org/piracy_Economies.asp. October 13, 2008.
- [2] McBride, Sarah, and Peter Sanders. "Pirates Foil Hollywood's High-Tech Security." *The Wall Street Journal*. October 26, 2007. <http://proquest.umi.com> October 13, 2008
- [3] Ibid.
- [4] *Taiwan Pirate Websites Indicted*. Motion Picture Association. http://www.mpa.org/press_releases/taiwan_piratewebsiteraid_oct08.pdf October 13, 2008
- [5] Ibid.
- [6] Von Lohmann, Fred. "Fair Use, Film, and the Advantages of Internet Distribution." *Cinema Journal*. Winter 2007, 46(2), p. 129. Project Muse. <http://muse.jhu.edu/search> October 13, 2008
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- [8] *Singapore Court Sentences Movie Pirate to 15 Months' Jail*. Motion Picture Association. http://www.mpa.org/press_releases/singapore_moviepiratesentence_oct08.pdf October 13, 2008

- [9] Ardito, Stephanie. "MySpace and YouTube Meet the Copyright Cops." *Searcher*. May 2007, 15(5), p.3. Academic Search Premier. <http://web.ebscohost.com> October 13, 2008
- [10] *Legal Cases*. Motion Picture Association. http://www.mpa.org/NewsStand_Legal.asp October 13, 2008.
- [11] Ibid.
- [12] Ponte, Lucille M. "Coming Attractions: Opportunities and Challenges in Thwarting Global Movie Piracy." *American Business Law Journal*. Summer 2008 45(2), p. 368. WilsonOmniFile Full-Text Mega Edition <http://vnweb.hwwilsonweb.com> October 13, 2008
- [13] Ibid.
- [14] *Copy Protection Technologies*. Motion Picture Association. http://www.mpa.org/piracy_FightPir.asp October 13, 2008