Digital Pirates Winning Battle With Studios

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On the day last July when “The Dark Knight” arrived in theaters, Warner Brothers was ready with an ambitious antipiracy campaign that involved months of planning and steps to monitor each physical copy of the film.

The campaign failed miserably. By the end of the year, illegal copies of the Batman movie had been downloaded more than seven million times around the world, according to the media measurement firm BigChampagne, turning it into a visible symbol of Hollywood’s helplessness against the growing problem of online video piracy.

The culprits, in this case, are the anonymous pirates who put the film online and enabled millions of Internet users to view it. Because of widely available broadband access and a new wave of streaming sites, it has become surprisingly easy to watch pirated video online — a troubling development for entertainment executives and copyright lawyers.

Hollywood may at last be having its Napster moment — struggling against the video version of the digital looting that capsized the music business. Media companies say that piracy — some prefer to call it “digital theft” to emphasize the criminal nature of the act — is an increasingly mainstream pursuit. At the same time, DVD sales, a huge source of revenue for film studios, are sagging. In 2008, DVD shipments dropped to their lowest levels in five years. Executives worry that the economic downturn will persuade more users to watch stolen shows and movies.

“Young people, in particular, conclude that if it’s so easy, it can’t be wrong,” said Richard Cotton, the general counsel for NBC Universal.

People have swapped illegal copies of songs, television shows and movies on the Internet for years. The slow download process, often using a peer-to-peer technology called BitTorrent, required patience and a modicum of sophistication by users. Now, users do not even have to download. Using a search engine, anyone can find free copies of movies, still in theaters, in a matter of minutes. Classic TV, like every “Seinfeld” episode ever...
produced, is also free for the streaming. Some of these digital copies are derived from bootlegs, while others are replicas of the advance review videos that studios send out before a release.

TorrentFreak.com, a Web site based in Germany that tracks which shows are most downloaded, estimates that each episode of “Heroes,” a series on NBC, is downloaded five million times, representing a substantial loss for the network. (On TV, “Heroes” averages 10 million American viewers each week).

A wave of streaming sites, which allow people to start watching video immediately without transferring a full copy of the movie or show to their hard drive, are making it easier than ever to watch free Hollywood content online. Many of these sites are located in countries with lackluster piracy enforcement efforts, like China, and are hard to monitor, so media companies do not have a clear sense of how much content is being stolen.

But many industry experts say the practice is becoming much more prevalent. “Streaming has gotten efficient and cheap enough and it gives users more control than downloads do. This is where piracy is headed,” said James L. McQuivey, an analyst at Forrester Research. “Consumers are under the impression that everything they want to watch should be easily streamable.”

Some of the first fights over video piracy on the Internet involved YouTube, the Google-owned Web site that introduced many people to streaming. Some legal disputes between YouTube and copyright owners remain, most notably a $1 billion lawsuit filed by Viacom, but the landscape “has improved markedly,” Mr. Cotton said. YouTube uses filters and digital flags to weed out illegal content.

But if media companies are winning the battle against illegal video clips, they are losing the battle over illicit copies of full-length TV episodes and films. The Motion Picture Association of America says that illegal downloads and streams are now responsible for about 40 percent of the revenue the industry loses annually as a result of piracy.

“It is becoming, among some demographics, a very mainstream behavior,” said Eric Garland, the chief executive of BigChampagne.

The files are surprisingly easy to find, partly because of efforts by people like Mohy Mir, the 23-year-old founder of the Toronto based video streaming site SuperNova Tube. The site, run by Mr. Mir and one other employee, allows anyone to post a video clip of any length. As the site has grown more popular, SuperNova Tube has become a repository for copyrighted content. On a recent day, the new movies “Paul Blart: Mall Cop” and “Taken” could easily be found on the site by following links from other sites, called “link farms,” which guide users to secret stashes of copyrighted content spread around the Web.

Mr. Mir says he did not know these files were there and that his company promptly responds to any request from major rights holders. He also says that piracy is actually his largest problem — advertisers flee when they are alerted to infringing material — and that he is constantly removing files at the request of Hollywood studios.

His reluctance is seemingly belied by his site’s name, which is based on the popular SuperNova BitTorrent hub, and its slogan: “We Work with uploaders, not against them.”

The piracy problem, however, does seem to weigh on him. He removed a copy of the movie “Twilight” from his site after a reporter pointed it out to him recently. “I think
about getting sued every day. If that happens it will definitely take us out of business,” he said.

Mr. Mir has reason for concern. In December, the motion picture association sued three Web sites that it said were facilitating copyright infringement by identifying and indexing links to pirated material around the Web.

John Malcolm, the association’s director of worldwide antipiracy operations, said that although the group does not sue individuals for watching pirated videos, other lawsuits against Web sites are forthcoming, and he acknowledged that the challenge is stiff.

“There are a lot of very technologically sophisticated people out there who are very good at this and very good at hiding,” Mr. Malcolm said. “We have limited resources to bring to the fight.”

With so much pirated material online, Hollywood is turning to technological solutions. Perhaps most important, media companies are learning from the music industry’s mistakes and trying to avert broader adoption of piracy techniques. The No. 1 lesson: provide the video on the platform that users want it.

Mark Ishikawa, BayTSP’s founder and chief executive, sees a correlation between the availability of content through traditional legal channels and their popularity on pirate networks.

“When DVD releases are postponed, demand always goes up, because people don’t have an authorized channel to buy,” he said.

Partly in response to the piracy problem, a cornucopia of video Web sites now feature the latest episodes of virtually every broadcast TV show. Movie studios are experimenting with video-on-demand releases and other ways to offer films on demand. Legal alternatives, the companies hope, will stifle the stealing. The music industry, by comparison, waited years to provide legal options for online listeners.

“That’s how you start to marginalize piracy — not just by using the stick, but by using the carrot,” Mr. Garland said.

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