

Anti-piracy battle unfolds in real time on Periscope, live-streaming apps

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Floyd Mayweather Jr. vanquished his last opponent on Sept. 12, but as fans used live-streaming apps such as Periscope to broadcast the fight, they were also throwing punches at anti-piracy rules in real time.

The battle extends beyond the boxing ring, with viewers whipping out their cellphones to film music concerts, football games or cable TV shows. They're sharing experiences - often with high ticket prices - for free worldwide and sending copyright holders, tech firms and anti-piracy companies on a mad scramble to get the broadcasts taken down midstream. In a race against time, copyright holders are navigating complex legal and technological waters fast.

"The value of real-time sports content diminishes rapidly after that event has ended so it's important that we can track these infringing sites and take them down within minutes. It's a real-time cat-and-mouse whack-a-mole," said Ben Bennett, senior vice president of business development at Irdeto, a digital security firm with anti-piracy operations in San Jose.

Twitter, which owns Periscope, said in a statement the company is committed to making the live video-streaming app "an enjoyable place for everyone" and quickly responds to takedown notices sent to the company. Periscope broadcasts are up for minutes or at most 24 hours before expiring.

While live video streaming has been around for more than a decade, mobile apps such as Periscope - which has more than 10 million users -

and Meerkat rocketed to popularity this year, making it easier to broadcast copyrighted content, Bennett said. Social media giant Facebook recently jumped into live streaming too, launching the feature first for public figures, journalists and celebrities.

The challenges of real-time copyright enforcement came back in the spotlight over the Sept. 12 weekend, when Periscope responded to more than 140 takedown notices, most about the fight between Mayweather and Andre Berto - a pay-per-view boxing match that cost up to \$74.95 to watch on Showtime but that thousands watched through the app for free.

Other complaints came from firms acting on behalf of the NFL, the United Kingdom's Premier League, the U.S. Open Tennis Championship and Taylor Swift, according to data from Chilling Effects, which tracks online takedown notices and was started by attorney Wendy Seltzer, several law school clinics and the Electronic Frontier Foundation.

The Ultimate Fighting Championship, which has kept a close eye on people it believes are illegally streaming its pay-per-view mixed martial arts matches, has sent more than 650 takedown notices to Periscope, according to data from Chilling Effects.

"The unauthorized distribution of UFC content hurts our ability to decide how we connect UFC athletes to their fans and how we present our athletes' performances. The vast majority of the piracy we are concerned with focuses on profit-generating enterprises who are selling a product they are not entitled to and, in doing so, delivering a substandard version of the UFC experience we strive to present. There is a clear economic impact to losing control of how our content and message are delivered," Dylan Budd, UFC's vice president and associate general counsel, said in a statement.

In 2014, UFC's parent company, Zuffa, settled for an undisclosed

amount a \$32 million lawsuit it filed against a New York man who was accused of uploading 200 hours of UFC content to popular file-sharing websites such as Pirate Bay. The company has also gone after websites that stream UFC pay-per-view events, suing former live-streaming site Justin.tv in 2011 while forcing other sites to shut down and hand over records of users who watched pirated matches.

The NFL and Showtime declined to comment about Periscope.

Quick to skim past the fine print on a ticket stub or rules for using an app, people on the live streaming sites might not realize they're violating copyright law when they stream live events. Some live streams over the Sept. 12 weekend only attracted a few dozen viewers before being taken down, while others - including a Periscope broadcast of the Mayweather-Berto match titled "The Fight for Free" - attracted more than 1,000 viewers in minutes. Periscope users took to Twitter to gripe about their accounts getting suspended because they didn't know it was illegal to broadcast a fight, while others thought it was #petty.

"There's so much out there it's impossible for the content owners to police everything, and the result is people think it's OK. We're not taught in school about copyright law," said Jesse Morris, a music lawyer at Morris Music Law near Los Angeles.

That law is evolving. There are also cases in which using copyrighted work is "fair use," a legal concept that allows people to legally reproduce the materials under certain circumstances in news reporting, teaching, commentary or research.

On Sept. 14, the 9th U.S. Circuit Court of Appeals in San Francisco ruled in *Lenz vs. Universal* that copyright owners must consider fair use before demanding that firms such as YouTube pull down videos and other copyrighted materials. Pennsylvania resident Stephanie Lenz sued

Universal Music in 2007 after the company asked her to take down a YouTube video of her son dancing to Prince's song "Let's Go Crazy," which the mom argued was fair use.

"If you were to apply that to the content of live events, then a rights holder that wants to send takedown notices is going to have to consider factors such as if the stream is going to be used for news reporting, how much of the event is going to be streamed, who's likely to be watching it and if it's likely to substitute for an actual purchase," said Mitch Stoltz, a senior staff attorney for the Electronic Frontier Foundation.

Anti-piracy firms say live video streaming still makes up a small part of piracy that occurs globally, and so far, isn't as big of a threat compared to other forms that allow criminals to rake in illegal dollars. That includes attracting ad money from posting a video on piracy sites, installing malware through links or selling fake Blu-ray Discs.

Yet it's the technology's potential that has got some worried about what the future holds.

"Somebody will figure out a way to monetize live streaming and video that they don't have the right to broadcast," said Adam Benson, deputy executive director of the nonprofit Digital Citizens Alliance. "Once they do, it's almost impossible for the consumer to discern and tell the difference between somebody who's not making money and somebody who is."

Periscope Copyright Takedown Notices At A Glance

Copyright holders can report possible infringement by filing a report to Twitter-owned Periscope online. If the company decides to remove or

disable access to the material, it will notify the user after taking down the material, provide them with the complaint and instructions on how to file a counter-notice. A copy of the complaint is then forwarded to Chilling Effects, which tracks takedown notices. Periscope, which launched in March, has responded to more than 1,500 takedown notices so far, according to data as of Friday from Chilling Effects. The Ultimate Fighting Championship sent more than 650 notices to the live-streaming app.

Broadcasts for the Mayweather fight, football games, Taylor Swift's 1989 concerts and United Kingdom's Premier League were some of the other [live events](#) that [copyright holders](#) have asked Periscope to take down.

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