

Antigua gets OK to become copyright haven (Update)

January 28 2013, by Raphael Satter

Americans call it piracy. Antiguanians call it justice. The islands of Antigua and Barbuda are threatening to strip intellectual property protections from American goods as part of a long-running trade dispute over the U.S. embargo on the tiny Caribbean nation's online gambling industry.

U.S. officials say the proposed copyright haven - whose broad outlines were approved Monday at the World Trade Organization in Geneva - amounts to "government-authorized piracy." But Antiguanians, who've won a series of legal victories against the U.S. at the international trade body, reject any suggestion that they're pirates.

"We have followed the rules and procedures of the WTO to the letter," Antigua's high commissioner to London, Carl Roberts, said in a statement Monday. "Our little country is doing precisely what it has earned the right to do under international agreements."

The U.S. and Antigua have been tussling for years over the ability of Americans to use online casinos based in the Caribbean nation. U.S. laws have long been interpreted to mean that Internet gambling is illegal if it crosses state lines.

The World Trade Organization, however, has come down on Antigua's side. In 2007, it allowed the islands to draw \$21 million a year's worth of "nullification or impairments" from the United States as a penalty for the continuing refusal of the U.S. to allow American customers to place their online bets in Antigua.

Antiguan officials say they could make up the money through the operation of a copyright haven, although what that might look like and what its scope would be remains unclear. Antiguan officials have kept details vague and the move has little precedent.

Observers have suggested, for example, a subscription service to access copyright-free American music, or a pay-per-download site that charges pennies for Hollywood hits.

Mark Mendel, a lawyer for Antigua's government, cautioned that whatever ends up being set up, it wouldn't be an Antiguan version of The Pirate Bay, the free-for-all file sharing site whose name has become synonymous with illegal downloads.

"We aren't going to be flaunting the rules," he said in a telephone interview last week. "It's not piracy if you have the right to do it."

Right or wrong, American businesses aren't happy with the idea. Gina Vetere, with the U.S. Chamber of Commerce's intellectual property center, said such a move would only exacerbate the dispute and "sour the business environment."

The haven may still never see the light of day; Mendel said Antigua's goal remains a negotiated settlement with U.S. authorities over the gambling dispute.

Even if such a haven were set up, international fans of free downloads may want to exercise caution. Antiguanians may be allowed to download freely, but for those outside the country the legal regime remains murky.

Nevertheless, the notion of a country of 89,000 people standing up to the powerful United States on intellectual property matters has caught the imagination of many - especially those who believe that U.S. copyright

rules are too restrictive.

"It's time for small countries to be treated fairly in these organizations," said Mendel.

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