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## **Antigua threatens to allow piracy**

### **Gov't hopes to settle trade dispute with US**

By [WILLIAM TRIPLET](#)

The government of Antigua is likely to abrogate intellectual property treaties with the U.S. by the end of March and authorize wholesale copying of American movies, music and other "soft targets" if the Bush administration fails to respond to proposals for settling a trade dispute between the two countries, according to the lawyer representing the Caribbean island nation.

The Motion Picture Assn. of America has been closely following the case with tremendous concern, an org official said, fearing that the copying could be extensively damaging and that -- worse -- a dangerous precedent could be set for other small countries angry at U.S. trade policy.

"It is not our preferred option to punish the MPAA or others for the U.S. government's intransigence, but the U.S. has refused to negotiate fairly," said Mark E. Mendel, who represents Antigua.

Goods and materials that would be copied include "virtually everything from pharmaceuticals to music, anything with IP protection that can be duplicated, though we'll go for softer targets first," Mendel said.

Antigua has previously suggested it might retaliate as such -- with approval from the World Trade Organization -- but has never stipulated when. So far, the U.S. Trade Representative has dismissed that threat simply as a negotiating ploy.

"Antigua would be breaking the law if it did that," said USTR spokesman Sean Spicer.

The WTO ruled last year that Antigua was entitled to \$21 million in damages because of a dispute with the U.S. over Internet gambling. But Antigua has not received WTO approval to procure its damages via reproducing and selling domestically U.S.-copyrighted goods and materials, Spicer added.

"They continually engage in disinformation," Mendel responded. "The reality is, yes, we have to go before WTO and request their authorization for IP sanctions against the U.S., but we can do that at any

time and the WTO will agree. That is 100% guaranteed."

Mendel acknowledged his client would like such entities as the MPAA, the recording industry and Microsoft -- orgs that depend on IP protection -- to pressure the Bush administration into negotiating a "preferred" settlement, which would allow Internet gambling between Antigua and the U.S.

But he insisted the threat was neither idle nor empty. "Perhaps the U.S. doesn't think we're serious," Mendel said. "We are."

The case dates back to 2003, when Antigua claimed that the U.S. unlawfully prevented Antigua's online gambling operators from accessing American markets although the U.S. allowed domestic online bets for horse racing. Antigua claimed \$3.4 billion in losses and took its grievance to the WTO, which agreed, but awarded only \$21 million in damages.

Mendel said his client has been trying ever since to work out an agreement that would allow online gambling between the two countries, but instead the U.S. has responded by "using every possible appeal, counterattack and side attack it could think of. We've been through five separate full-blown WTO proceedings on this and have won every step of the way."

The most recent victory was in December, when the WTO ruled that Antigua could exact damages by ignoring IP agreements with the U.S. should a negotiated settlement fail.

Mendel said the U.S. promised then to respond to proposals for settling the dispute. "We have been waiting for three months already and there's been nothing," he said. "If the U.S. doesn't come in with something by the end of March, my suggestion to the Antiguan government will be to forge ahead and impose IP sanctions."

In a letter to the USTR about the potential effects of Antigua's retaliation, sent prior to December's ruling granting \$21 million in damages, the MPAA wrote: "The proposed retaliation would be impossible to manage. The real and resulting economic harm would vastly exceed any amount the (WTO) might approve, even the grossly exaggerated amount (\$3.4 billion) for which Antigua seeks approval, plus the economic harm would extend to other WTO members.

"MPAA believes it would be very difficult to insulate other WTO members from the effects of Antigua's proposed retaliation," the letter continued. "The unfortunate reality is that the failure to offer or enforce adequate protection of intellectual property rights in Antigua could foster abuses in other countries."

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