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Business In The Beltway

Hold The Applause On WTO's China Ruling

Brian Wingfield, 08.12.09, 9:00 PM ET

WASHINGTON -A World Trade Organization ruling released Wednesday has U.S. businesses and officials claiming victory over China on intellectual property matters. However, it's far from clear how much it will help slow down copyright piracy in China.

In a 469-page report, a WTO panel found that Chinese law limits the ability of foreign firms to sell and distribute DVDs, music, books, software and other copyright-intensive material in the country. The panel described China's actions as "discriminatory," and it urged Beijing to bring its policies in line with its obligations to the WTO.

Officials from the Chinese Embassy in Washington weren't available for comment, but U.S. Trade Representative Ron Kirk called the decision a "clear win" for "America's creative industries," noting that it will help U.S. exporters and distributors obtain a foothold for their products in China. The Motion Picture Association of America, the Recording Industry Association of America and the Association of American Publishers are among the industry groups that have lauded the finding.

The report is the latest chapter in a complaint filed by the U.S. against China in 2007, and the saga is not yet over. The WTO said some of the U.S.' complaints were without merit, and both countries can appeal the panel's findings. While lawyers from all sides assess the report, it's worth taking a look at what it means for copyright protection in China and relations between Beijing and Washington.

The decision does not signal the end of copyright piracy in China. The WTO has nudged China to give foreign firms better access for certain copyrighted products; it's not ordering Beijing to clamp down on piracy, which has made much officially restricted Western media widely available in China. As long as there's money to be made in the manufacturing and selling of bootlegged CDs, movies and videogames, thieves will do it--regardless of market rules. And they'll always have lower prices than the legit Western merchandise.

Moreover, the appeals process and China's implementation of new market access policies could take anywhere from a year to 18 months, says James Bacchus, a former WTO official and attorney at Greenberg Traurig in Washington who represented an alliance of U.S. industry groups in the case against China.

It could be seen as an opportunity for China. China is eager to participate at the WTO, an organization it joined in 2001, and the panel's decision gives Beijing the opportunity to show that it's willing to play by international rules and protect intellectual property rights. Ironically, it might actually improve relations between China and the U.S. "Oftentimes, a WTO dispute can clear the air" in bilateral negotiations, says Bacchus.

This is not a clear-cut victory for the United States. Although the WTO panel believes that China's market access policies for certain products are discriminatory, the body dismissed a handful of U.S. claims on the grounds that they were either without merit or beyond the panel's scope of review. Among them: a U.S. complaint that China's distribution market for imported films is inadequate and a claim that Beijing's treatment of Internet music discriminates against imported CDs.

There are many other economic rifts between Washington and Beijing. For most of the past decade, the U.S. and China have been at odds over economic matters. Some U.S. officials have long claimed that China manipulates its currency. In June, the Obama administration filed its first WTO complaint against Beijing. (See "[Trade Troubles With China.](#)") By Sept. 17, President Obama must decide whether to impose tariffs of up to 55% on imports of Chinese-made tires.

Daniel Ikenson, associate director of the Cato Institute's Center for Trade Policy Studies, says that if the president decides to impose the duties, it could "cause a lot of problems." The United Steelworkers, part of the president's union base, is the main advocate of the tariffs. But the Chinese would likely view such an action as highly protectionist.

