iMEGA Files Response to Government in Internet Gambling Law Challenge

Contributed by Thomas Jensen
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The legal team for the Interactive Media Entertainment & Gaming Association (iMEGA) today filed their response brief with the US 3rd Circuit Court of Appeals, the latest step in their challenge to the constitutionality of the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA). Their suit – iMEGA v. Keisler, et al — targets the US Department of Justice (DoJ), the Federal Reserve and the Federal Trade Commission, and seeks to have the law overturned on constitutional grounds by the appeals court.

The filing comes one day after the US Department of the Treasury and the Federal Reserve System published the final regulations for UIGEA, requiring all US banks, credit card companies and electronic payment processors to refuse all "unlawful internet gambling" transactions.

"After reviewing the final regulations, we're extremely confident the court will look at this law and agree that UIGEA should be 'void for vagueness," said Joe Brennan Jr., chairman of iMEGA . "Regulators and Congress have refused to even define what 'unlawful internet gambling' is, and if you cannot even answer that basic question, how exactly are banks supposed to do it?"

The reply brief in in answer to an earlier brief submitted by the government, challenging the basis for iMEGA's suit. iMEGA's legal team answered the government's arguments point-by-point:

1. DoJ's claim that a "void for vagueness" argument against UIGEA was not raised by iMEGA at the trial court level is groundless, as it was addressed and preserved by the trial court and in Judge Mary J. Cooper's decision.

2. DoJ's claim that iMEGA lacks standing to raise privacy claims of individual Internet gamblers fails to recognize that iMEGA members may be prosecuted under UIGEA for permitting individuals to gamble on their Web sites

3. DoJ failed to refute the fact that UIGEA has no uniformity regarding "illegal gambling" in the states, and is therefore "void for vagueness"

4. DoJ are wrong when they deny gambling online in one's home — which is not a criminal activity — lacks constitutional privacy protection, even when the such conduct is indeed private, consensual and legal under UIGEA.

The next step in this challenge will be for a three-judge panel to be selected by the court to review the briefs, and decide at what time the court would entertain oral arguments from both sides.

"For our part, we cannot wait for the opportunity to go before the 3rd Circuit," Brennan said. "We have a powerful argument that the government will find very hard to dispute. The sooner we can move this fatally flawed law off the books, the sooner we can turn our attention to working on technology solutions that will provide for a regulated online gaming industry in the US, while addressing the concerns for responsible gaming that critics have voiced."