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Intellectual Property Lawsuit Against Dept. of Tourism Lingers as St. Thomas Prepares for Carnival 2023

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Carnival in St. Thomas. By. REEMY-REEMZ PHOTOGRAPHY/VICONSORTIUM

As the V.I. Department of Tourism is busy preparing another calendar of activities for this year's Carnival in St. Thomas, a trademark infringement lawsuit wending its way through the federal courts is still hanging overhead. The matter is now pending at the Third Circuit, with the local government opposing the plaintiff's request to expedite, according to Terri Griffiths, legal counsel for the V.I. Carnival Committee (V.I.C.C.).

Tourism Commissioner Joseph Boschulte said there has been no resolution to date. "It's still an active legal situation. Our representative in the case is the Department of Justice ... to my knowledge, there's no final resolution yet," he told legislators this week.

The VICC filed a lawsuit against the Department of Tourism [almost a year ago](#), claiming that DOT's use of the verbiage "Carnival St. Thomas" and "Carnival Virgin Islands" in its advertising of Carnival's 70th anniversary last year in St. Thomas was an infringement of VICC's copyright.

In 2004, the VICC applied to trademark the phrases "Virgin Islands Carnival", "St. Thomas Carnival" and "V.I. Carnival" for up to 15 years.

But Act No. 8153, passed by the 32nd Legislature of the Virgin Islands in 2018, supposedly dissolved the authority of the VICC to execute carnival activities on behalf of the state, and [reposed that authority with the Department of Tourism](#). That made DOT responsible for managing carnival activities in the territory. However, VICC still exists as an entity.

VICC's argument in last year's lawsuit is that since 1952, those trademarks and names have been publicly attributed to its annual carnival program and are recognized as originating and being owned by the V.I. Carnival Committee. VICC. alleges that the Dept. of Tourism and its Division of Festivals improperly used trademarks "St. Thomas Carnival" and "Virgin Islands Carnival" during promotions of the 2020 annual carnival in St. Thomas, and that the DOT. and the Division of Festivals have been promoting "Carnival St. Thomas" and "Carnival Virgin Islands". It also alleges that when the tourism department hired the V.I. Carnival Committee's former Executive Director Halvor Hart to spearhead the department's campaign, he cleared out the Carnival Committee's office, allegedly taking with him vendor contact lists, volunteer contact lists, application forms for contracts, waivers, indemnity agreements, and the judging criteria used for various competitions.

The VICC had requested that the District Court set an early hearing on the matter or in lieu, enter a temporary restraining order directing the department to immediately cease using "St. Thomas Carnival" or "Virgin Islands Carnival" or any similar name including but not limited to St. Thomas Carnival V.I., Carnival St. Thomas, and Carnival Virgin Islands and to take whatever action needed to remove all posters, marketing, and advertising with these names.

DOT continued with their campaign however, and on Wednesday, Mr. Boschulte told the Senate Committee on Economic Development and Agriculture that last year in late April through early May, St. Thomas' 70th Carnival event's live stream and social media engagement reached more than 3 million viewers.

"Currently, the Division is putting the finishing touches on the upcoming 2023 St. Thomas Carnival, which begins on April 8. The theme of this 71st annual event is 'Illuminating Our Culture for the World to See, St. Thomas Carnival 2023,' reflecting the pride and joy of our people's heritage and carnival celebrations," he said.

In addition to traditional Carnival events such as J'ouvert, Food Fair, the Children's and the Adults Parade, and Panorama, this year's celebration will honor Kelly "Pupa Kelly" Charles as the Village Honoree. There will also be performances by a suite of local and international artists, such as Spectrum, Bunji Garlin, Monea, Romain Virgo, VIBE, Asa Banton, Imagi and 17 Plus, to name a few. On April 29, a spectacular fireworks display will close out the festivities.

"Our plans for promoting and marketing the upcoming St. Thomas Carnival include a mix of traditional marketing, social media, influencers, OTT (Over-the-Top, or film content via internet TV, i.e., Netflix, Sling or Hulu) and online ads, as well as email marketing," the commissioner explained.

According to Mr. Boschulte, DOT has also partnered with VIYA and the Consortium to promote a miniseries dubbed My Reason to Fete, produced by local videographer John Wheatley. The series highlights seven components of Carnival, and will be promoted to travel groups to encourage cultural tourism and destination travel while telling the story of St. Thomas Carnival and all of its festivals.

“We will also host journalists affiliated with Travel Noire, Travel + Leisure, Essence, Trini Jungle Juice and other media to promote visiting St. John, St. Croix and St. Thomas in the future. Throughout the month of April, we have put together a spectacular schedule of events that showcases the rich tradition and spirit of our Carnival,” he concluded.

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