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Victory for Etoy Is at Hand

by Steve Kettmann

The domain-name battle between etoy and eToys has finally lurched to a conclusive end.

The Santa Monica-based toy company eToys agreed Wednesday to pay up to \$40,000 in legal fees and expenses that the Internet artists of etoy accrued in the legal battle, and also to drop its trademark-infringement lawsuit against etoy. For its part, etoy dropped its counterclaim against eToys.

Both sides dropped the claims "without prejudice," meaning that neither forfeited the right to future legal action. "We decided to drop our request for an apology, because we felt an apology from a corporation would be meaningless," said Chris Truax, etoy's attorney. "A corporation might be able to learn from its mistakes, but not be sorry for them."

Now it's only a matter of days, and final paperwork, before the www.etoys.com Web site is reactivated -- and life goes back to how it was before eToys sued and won a temporary injunction in Los Angeles Superior Court in late November.

The struggle between the online toy seller and the Internet artists brought in some high-profile figures, such as former Grateful Dead lyricist John Perry Barlow. He joined etoy's crisis board and called on people to join the cause.

"This is the point where people begin to realize there is a difference between the Internet industry and the Internet community, and the Internet community needs to bind itself together and find a common voice," he said.

Whether or not many in the outside world would characterize eToys' retreat from legal action as a defeat, the company sounded a note of relief yesterday and a desire to put this controversy behind it.

"We have agreed to pay up to \$40,000," spokesman Jonathan Cutler said. "We're pleased with the outcome."

Many others might be pleased that the matter has finally been resolved. Etoy mobilized a wide following on the Internet in its support, and

assembled what it liked to call an "army" of etoy agents through its www.toywar.com game.

It was prepared to keep encouraging these followers to barrage eToys with email and generally make electronic noise. Now the standoff is over, and etoy will be able to go back to making Internet art at its site, just as it did before.

"It's not a settlement, because it doesn't settle anything," Truax said. "All it does is terminate this lawsuit. Etoys is going to immediately contact [Network Solutions] and request that the hold that was put on etoy.com be removed as quickly as possible.

"It really is a great victory for the Internet community and for etoy."