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Arts Group Wins Domain Name Battle With eToys

After months of squabbling, the Swiss-based modern arts group etoy has forced eToys, the U.S. based online toy retailer, to drop its trademark infringement claim against the group and vacate a temporary injunction that prohibited the group from operating its Web site, etoy.com, which has not yet been re-launched. The settlement requires the toy retailer to reimburse etoy for \$40,000 in legal expenditures. In return, the arts group has relinquished its trademark infringement counterclaim against eToys.

The conflict began last year after eToys accused etoy of cybersquatting and of posting objectionable material on the arts group's Web site. Etoy countered that it had secured its domain name and launched its site long before eToys registered its URL. eToy, claimed it, not eToys, was entitled to register the trademark. eToys, however, stated that it did not agree to the settlement because it feared the counterclaim. Rather, it settled because thousands of consumers sent e-mail to eToys protesting its actions.

The protest, which had been encouraged by etoy through a special Web site, was led by former Grateful Dead lyricist John Perry Barlow. "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," said Barlow. "When you get a few thousand people online who really believe in something, they're a potent force," said Chris Truax, attorney for etoy. Truax also stated that the suit was settled without prejudice by either side. As a result, either of the parties could file a new suit in the future. Given the public outcry over eToys' actions, however, a new lawsuit seems unlikely.

Why This Matters: eToys' cybersquatting suit against etoy, a Swiss-based arts group, demonstrates the dangers inherent in attempts by large e-commerce companies to attack community-oriented Web sites with similar domain names. eToys found itself subject to a boycott, was perceived as a bully, and ran the risk of losing the use of its own domain name. All in all, the battle was a marketing disaster for the purveyor of toys through the Net.