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Arts Group "etoy" Files Trademark Suit Against Embattled Toy Retailer "eToys"

Early last year, online toy retailer eToys was forced to drop its trademark infringement claims against Switzerland-based artists organization etoy. Observers at the time believed that the battle was over. It seems, however, that the arts group is not willing to let the matter drop. etoy recently filed a trademark infringement complaint against eToys in the U.S. District Court for the Southern District of California. The complaint alleges that the toy retailer's mark is a close imitation of etoy that "is likely to cause consumer confusion, mistake or deception." The complaint demands that the court order eToys to turn over its mark and domain name.

The suit appears to be an aggressive attack on the embattled toy retailer. However, etoy attorney Chris Truax told Reuters that the suit is a protective measure. "etoy is essentially staking out their territory for everyone to see," said Truax. "It is not a question of revenge. It is a question of closure." etoy spokesman Stamberger reiterated the seriousness of the suit in a statement. "We have several projects on hold until this situation is resolved," said Stamberger. "It just doesn't make business sense to spend money to promote a global brand when there is a dispute over its ownership. We owe it to all of our stakeholders to invest our resources wisely."

It is interesting that etoy waited almost a year to sue eToys. According to etoy's statement, the two organizations discussed settlement possibilities for months before the suit was filed. eToys is cutting back on its operations. Early last month, the company announced that it would close most of its non-US operations and slash its staff. As a result, its stock price has fallen significantly.

Why This Matters: Early last year arts group etoy won a highly publicized trademark battle against Internet toy retailer eToys. Although the dispute never reached court, public opinion forced eToys to drop its trademark infringement claims and reimburse etoy's defense costs. Now, the arts group has turned the tables on the e-commerce company by suing it for infringing on the "etoy" mark. If etoy is successful, eToys could find its name no longer available. eToys would be eGone.