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Daily News

## **etoy eyes eToys domain as retailer struggles with debt**

*By Martin Stone*

As online toy store eToys Inc. struggles to pay its bills, a Swiss online artist cooperative is turning to a US court in a bid to take the retailer's Internet address and quash its trademarked name.

The move, announced Thursday by Zurich-based etoy (all lower case - no "s"), came on the same day that Los Angeles-based eToys said it had lost nearly \$86 million in its last quarter and now has only enough cash to keep its doors open until about the end of March.

EToys said it is meeting with creditors in an attempt to sort out its debt. However, the new lawsuit casts a shadow on what is seen as one of the company's valuable assets - its etoys.com domain name (although it also holds toys.com).

The lawsuit, filed in a US District Court in San Diego, appears to mark the rejection of a settlement offer made by eToys early last year when it was the retailer who was the instigator of legal action.

At that time, eToys dropped a lawsuit it had filed in September 1999 and which accused etoy of trademark infringement. The US company had already gained a preliminary injunction ordering the closing of the Swiss group's etoy.com Web site before the high-flying retailer had a change of heart, dropped the suit and offered to pay up to \$40,000 to the Swiss group to help it cover its legal fees.

But the new lawsuit alleges that the "etoys" trademark owned by the retailer violates Swiss etoy's rights in its own "etoy" trademark.

The artists' group says it wants eToys' trademark cancelled and it wants to be awarded control of the retailer's etoys.com domain name.

"Nobody invests to lose money," said a spokesman for etoy. "We have attempted to negotiate a solution to this dispute for several months without success. We have several projects on hold until this situation is resolved. 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."

EToys told its own investors Thursday that a group of major creditors - including toy companies such as Mattel, Hasbro, and Lego Systems - will wait until the end of this month before taking any action on the debts.

Etoys said sales for the most-recent quarter (its third) totaled \$131.2 million, a 23 percent increase over revenue of \$106.8 million in the same period a year ago. However, it also reported a net loss of \$85.8 million, worse than the \$75.5 million it lost in the third quarter of 1999. That loss works out to 62 cents a share.

Excluding deferred compensation, amortization costs and other one- time items, eToys' loss was calculated as 52 cents a share, higher than the 46 cents a share analysts surveyed by First Call/Thomson Financial were predicting.

Analysts' expectations had already been lowered by a warning from the company in December. Early this month, eToys said it would lay off some 700 workers, abort its efforts in Europe and close some warehouses in the US.

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