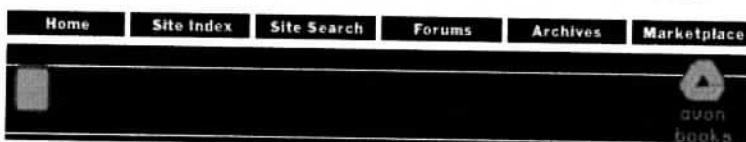


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arts
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By MATTHEW MIRAPPAUL **DIG**

EToys Lawsuit Is No Fun for Artist Group

A legal battle between the online retailer **eToys** and a group of European conceptual artists known as **etoy** has resulted, at least temporarily, in the closing of the artists' pioneering Web site.

On Nov. 29, a Los Angeles Superior Court judge issued a preliminary injunction ordering the artists to stop using the domain name **www.etoy.com**. **EToys.com**, based in Santa Monica, Calif., had sued the artists in September, accusing them of trademark infringement, trademark dilution and unfair competition after hearing from customers who went to the art site by mistake, including some who complained about its profane language.

The artists, who mimic corporate behavior for artistic purposes, stopped using the domain name immediately, fearing fines of up to



A legal battle between the retailer **eToys** (top) and a group called **etoy** has spawned protest sites like the Toywar Resistance Network (bottom).

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\$10,000 a day if they defied the judge's order. (The site is still accessible via a numeric address.) The two sides are scheduled to meet again on Dec. 27, when it is possible they may reach a settlement.

While the etoy artists lost the first round in the legal arena, the court of public opinion is clearly on their side. Supporters who believe the artists are being muzzled have put up several sites urging visitors to boycott eToys and send disapproving e-mail messages to the firm's executives. A few parody sites have also appeared. Michael Samyn, a digital designer in Belgium, has created a work called Amerikan Justice as a commentary on the case.

Wolfgang Staehle, executive director of The Thing, an arts-oriented bulletin board, opened a site called Toywar to protest the legal action against etoy. In a telephone interview from his New York office, Staehle said: "Artists should be free to do what they do. I'm outraged at how the dinosaurs are trying to stomp all over us."

An etoy spokesman who gave his name as "zai" (the group's dozen or so members do not divulge their real names) expressed disappointment with the initial ruling. In a telephone conversation from Switzerland, where the group has been conferring with its lawyers, he said: "Etoy.com was our concept. It's not just another home page from a band.

"Etoy.com was the art piece," zai said, and giving up the domain name "will be the end of this art piece."

But eToys, which is the leading toy retailer on the Internet, says it is only being responsible by taking the dispute to court.

"The primary concern of any business is serving its customers, and we found that a number of ours were confused and were understandably upset by the etoy site," said Ken Ross, vice president of corporate communications for eToys. "We tried to resolve the matter amicably, and we remain open to doing so. But if that is not to be, we think that asking the court to render an opinion is the most responsible and common-sense approach we can take."