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E-Riots Threaten EToys.com

by Steve Kettmann

BERLIN -- The domain name battle between toy giant eToys.com and the Swiss art site formerly known as etoy.com continues to escalate. Domain name registrar Network Solutions has stepped into the fray and angry observers are threatening electronic terrorism.

Network Solutions shut down etoy.com's email on Friday -- a move that appeared to go beyond the scope of a temporary injunction, issued late November by a Los Angeles Superior Court judge, against the Zurich artists using the etoy.com domain name.

"That's the huge scandal at the moment -- that's totally illegal," said an etoy agent who identified himself as Zai. "The court decision says etoy should stop doing services under this name, www.etoy.com, because it confuses the customers of www.etoys.com. Email is something else."

Network Solutions spokeswoman Sheryl Regan said the domain name registrar routinely shuts down contested domain names when court orders are issued.

"We put a domain name on hold so no one has access to it," Regan said.

Meanwhile, a Web site supporting etoy has vowed "digital riots" and etoy itself predicted etoys risked being compromised during the busy Christmas shopping season. The etoy spokesman, Zai, said hackers' offers to create havoc on eToys have been politely turned away.

"A lot of people are offering these services," he said. "I immediately delete these emails and send back an email saying we don't want to have anything to do with anything illegal. We want to win this case. We see that a lot of people are getting mad."

"We don't know who will turn into an electronic terrorist and who will not," Zai added. "Close friends of ours can attack these people. But we cannot be responsible for that. We always tried to live in a good neighborhood. We never even used their name to say they're bad until they filed the lawsuit. They started war. We didn't. I'm sure if there is a hack, they will come to us."

The controversy has sparked heavy email traffic to etoy agents and other interested parties. In a message to a Wired News reporter, Carl

Byington of Lake Arrowhead, California, said he was putting up a firewall to block access to eToys in a network he administers.

"I was just informing eToys that we are essentially blacklisting them until they give up trying to take the etoy.com domain from its rightful owners," explained Byington, who administers more than a dozen small email domains. "My guess is that there will be a number of administrators making the same decision. The intent is to put pressure on etoys.com."

"We have the capacity to welcome millions and millions and millions of people to our site," Ross said. "Traffic this holiday season has been robust. The site has performed in a very efficient manner."

"We're 100 percent concentrated on the holiday season," Ross went on to say. "We're in the home stretch of the Christmas crunch. We're focused 100 percent on satisfying our customers, and we're not going to take our eye off that mark for one second. As to the etoy matter, we feel that any conversation about it at this point is best conducted in private -- that is, in court."

The two sides are scheduled to return to court on 27 December for a "status conference," although the meeting is unlikely to yield a further ruling. The temporary injunction appears likely to remain in force until either a permanent injunction is issued or a settlement is reached.

Etoy, which was on the Internet two years before etoys, charges that the toy store's legal team knowingly misled the superior court judge. One of several trademark applications by eToys was questionable, according to Zai -- an important issue since potentially the toy company had claim to the name as early as 1990.

"Our lawyers just found out this week that [eToys'] trademark, which was held against us in this trial, was rejected by the US trademark office before the court meeting happened, and they used it to try to trample our rights," Zai said.

"That's hard core. Of course, they knew the judge was too stupid to see behind these things. They were always escaping, like fish in the water. Our lawyers thought this could be a fake trademark. Our trademark is still pending. That's what they brought against us in the court meeting. They said, 'These guys don't even have a trademark.' But the trademark they hold against us has been rejected."

Etoy and its growing list of defenders see the situation as a rich American corporation throwing its weight around, stepping on someone that gets in its way.

Etoy has made a name for itself in Internet art circles as a clever, creative mocker of Internet corporate culture. In 1996, the site won a Golden Nica award at Ars Electronica in Linz, Austria. But lately its creators are more concentrated on their legal fight.

"It's also a fight against time," said Zai. "We already spent too much money on lawyers and have no chance to hire another five. They just start 100,000 little wars. They want to see us in LA, and on the other side they attack us in terms that could lead to us getting arrested if people are stupid enough to believe the stuff they say....

"In Europe, this would be abuse of rights. I hope that in America there are also rights like this. You don't even need a trademark registration to use a trademark that you've been using. The trademark registration guarantees your rights. If you don't register, you have to fight for your rights.

"We have a lot of sites of people who are totally pissed off about this," Zai continued. "They are about to start electronic riots. They are thinking about starting illegal actions. We are not really happy about it, but what can we do? Now a lot of people turn into terrorists if this goes on. They don't see any chance of our getting our rights. That's when riots start, when people feel powerless and nobody listens to arguments, only money matters."