

## Using the Dispute Resolution Service for .uk domain names online survey

Submit date : **Feb 15, 2007**

Question 1: Please give us feedback on our proposals that the DRS should include:

- (a) protection for words which have a distinctive character as a result of the use made of them.
- (b) dictionary words which are protected by registered trade marks or good will.

**I think it would be good to include (a) and (b)**

Question 2: Please give us your feedback on our proposal that the DRS should include the following as examples of things that are not necessarily evidence of abuse:

- a general offer to resell a domain name
- sale of traffic (i.e. visitors to the domain name)
- registering many domains

**I think all 3 should be included as examples of things that are not necessarily evidence of abuse. The fact that someone registers many domain names doesn't not in itself mean that person is being abusive in anyway. Domain names are a commodity. Whether it is used for hosting a website or just parked, a domain name has a value. The initial value is the cost to the registrant. After that, it's worth whatever anyone is prepared to pay for it and the fact that a domain name is offered for sale shouldn't be classed as abuse. If a trade mark is being infringed in some way that is a different matter.**

Question 3: Please give us feedback on our proposal that the DRS should include a statement that, where the evidence is finely balanced, the weaker the rights that the complainant has, the less likely it is that abusive registration or use will be inferred.

**No comments**

Question 4: Please tell us which payment option you would prefer and why: no change; a small upfront fee; or loser pays?

**I think an upfront fee should be introduced. Whilst I agree that this won't necessarily improve the quality of some complaints, it may stop people from using the DRS unless they are serious. Undecided on loser pays. It might be unfair on those parties who register and use a domain name in good faith and then suddenly get called into the DRS process and then lose their online business name and get hit with an unexpected bill at the end of it. However, I do accept that loser pays may deter people from purchasing a well known trade mark domain in case a DRS is brought against them and rather than it costing them just the £5 fee it could cost them £750 or more if it goes to appeal and they lose.**

Question 5: How would you enforce any system of refund (outlined in option 3)? Which section of the community would you imagine would most benefit from a refund system?

**If loser pays was introduced, how would Nominet enforce the fine? I know from talking to some people at the recent DRS event in London that they wouldn't feel obliged to pay the fees if they lost. So you could have someone waiting for their refund and someone refusing to pay it. With Nominet in the middle having provided the DRS it could get very messy and I don't think Nominet needs to be focusing on debt collection.**

Question 6: Do you have any comments about the proposals to change aspects of the procedure, payment, drafting, appeals, expert decisions, abusive registrations or miscellaneous issues?

**No comments**

Question 7: Do you have any other changes you would like to see within the DRS, or topics within the DRS that you wish to comment on? In particular, if you have any views about any of the following topics which have been the subject of discussion, please let us know:

- Length of submissions and word limits.
- The impact of Internationalised Domain Names, if introduced.
- Whether experts can find a registration abusive for reasons not spelled out in the complaint.
- Whether there have been any practical problems with the treatment of 'Without Prejudice' material.
- Whether experts should be able to represent parties in other disputes, and if not how to keep the quality of experts high.
- Whether the detail of the DRS can be taken out of the contract and updated more regularly.

**With regards to Experts there does seem to be an issue around trust. At the recent DRS event in London I felt the main worry people had was whether they could trust the expert decisions. In many of the cases that go to appeal, the expert decision has been overturned. There was also a question as to how the experts are reviewed and quality controlled. I feel that the introduction of the Experts Review Group is a positive step and I would certainly like to see them happen on a regular basis.**

Please give us your contact details

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