

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

Submit date : **Feb 16, 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.

There should not be ANY protection, unless a registrant is infringing or passing off on a complainants mark!

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

It is very clear that these activities in themselves are not abusive and so it should be highlighted that these are legitimate day to day activities!

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.

The DRS should be a system that has the threshold set at 'Beyond Reasonable Doubt' and strength of rights should not come into the argument, i.e. it should be a question whether or not a registrant has 'passed off' or 'infringed' on a complainants mark!

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

An upfront, non refundable, 'cost recovery' fee should be charged to cover the cost of administering the DRS. The reason is simple: Every other aspect of Nominet is charged in a similar way and yet what must be one of the costliest to Nominet is provided free to complainants. This shows a clear bias on the part of Nominet towards complainants and is a practice that must stop!

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?

The answer is in the question as to who would most benefit from a refund and that's the complainants, as they (in general) are the ones doing the paying. The idea that you would even contemplate a system that would inevitably hurt the most vulnerable (and without proper consultation) is abhorrent!

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?

Remove the reply stage. The DRS contract should be clearly defined and in plain english. The only research the experts should do is to confirm a parties

submissions, i.e. NOT to provide new evidence! Experts should not make errors and therefore if serious errors are found within a decision must be annulled. Do not soften the test at 3(a)(ii), but strenthen it! The abuse (as in trade mark law) should be ongoing for the purpose of policy 3(a)(iii), this gives a registrant an oppertunity to correct any mistake they may have unwittingly made!

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.

Nominet Shouldn't be running the DRS, it should either be passed to an independant body to run, or scrapped and the UDRP adopted!

Please give us your contact details

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