

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.

The protection afforded to words with distinctive character should only go as far as the classes/business in which a complainant has such rights and not beyond. i.e. The DRS should much more closely follow the Complainants IP rights rather than simply giving them a monopoly of over any word.

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

1. Offering to sell or resell a domain name should not be classed as an abuse. I have seen many cases where the seller was "set up" by a complainant simply to then use that against them. THAT is unfair and such offer of sale should in no way be abusive. Any offer to sell OR to buy made "without prejudice" should be excluded from inclusion in any DRS proceedings. 2. Sales of traffic/pay per click should not be considered abusive unless it is proven that it was being used to take advantage of a complainants Trade Mark or other law ful rights. 3. Registering "many" domains should not be abusive at all, why should it be .

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.

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

I would as choice only of these 3 options prefer option 1, but I would suggest that the costs of making a complaint be increased to £1,500 and to make an appeal against such decision be reduce to £250, that way it would make it fairer for the respondent who may not have any/much money. Rememeber that ALL Courts grant fee exemption to those with little money, the same should be offered to respondents.

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?

Refund of what ??

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?

If the DRS was run parallel and closer to TM law then many of these questions would become unnecessary to ask. I would suggest that IF a complainant relies on a TM to make a complaint they be restricted/confined to the parameters and extent of the TM under TM law. The DRS seems to be a "make it up as we go along " approach, whereas if it were to follow TM laws then it would be much easier for all parties concerned.

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.

I would like to see complainants being required to write to a respondent BEFORE they are allowed to issue a complaint as it is pointless allowing them to issue a complaint ,have a response and THEN have a mediation stage .It should be turned around, mediation, then complaint then response.

Please give us your contact details

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Company Name