

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.

I don't feel this is really necessary. The DRS policy appears to adequately cover this. Perhaps clarification is in order?

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 feel that this is something that could be introduced within DRS guidance notes rather than within the policy itself. Clearly each DRS comes with its own unique set of circumstances. Attempting to add in "circumstance specific" examples could serve as a dangerously false check list for both Complainants and Respondents. I would prefer the actual policy to remain as nonspecific as possible.

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.

This seems logical to me.

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

I favour a small upfront fee. £250.00 seems reasonable but others may prefer slightly less.

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?

I am against option three. It seems impossible to enforce and could make Nominet appear farcical should multiple losing parties fail to pay for one reason or another.

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?

Reply stage should remain. Respondents could potentially be allowed to reply to the Complainants Reply submission. More often than not, Respondents that have chosen to do so as part of a non standard submission have had their responses taken into account by the Expert. If this is the norm, formalising it may not be necessary. The non standard response procedure allows either party to make further submissions as they see fit.

Unfortunately too many Complainants and Respondents don't make themselves aware of its existence! Respondents should be allowed the opportunity to pay for a

decision if they desire it, if a DRS is launched by a Complainant.
This might swing the balance against those launching frivolous complaints.

Anti-avoidance provisions for the 'three strikes' could be something that would be impossible to determine. I doubt any such provisions would stop the most determined.

Introducing a maximum time period for when a complaint can be brought might be appropriate.

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 strongly feel that the phrase "In combination with other circumstances indicating that the Domain Name in dispute is an Abusive Registration, the..." should be added back into the DRS Policy at 2(c)III. This was removed in 2004, after the last review. It originally prefixed the current paragraph. Complainants should not be able to crowbar domain registrations away from Registrants, particularly Registrants that do not respond for whatever reason, solely based on them falling for this clause *alone*.

The removal of this phrase has facilitated the transfer of domain names, such as "alternate.co.uk" (DRS 02921), to Complainants, where no other abuse was detailed. I'd suggest going as far as removing the 2(c)III clause entirely from the DRS as I believe each DRS should be judged on its own merits, and the particulars relating to the domain name at issue *alone*. However I'd settle for the reintroduction of what was removed at the last consultation.

**I'd like to see an overhaul of the online DRS services relating to submissions.
Please give us paragraphs!**

Please give us your contact details

Name **David Thornton**

Company Name