

Proposed DRS default transfer process

We are proposing that in undefended DRS cases, the complainant should have the right to a transfer of the domain name registration on payment of a fee of £200 (plus VAT).
Please read our consultation paper for full details of this proposed default transfer process and then answer the questions below.

This document contains respondents between 44 and 44 inclusive.

1. What do you think about our proposal for a default transfer process?

- I agree with the proposal
- I don't mind one way or the other
- I disagree with the proposal

2. Please give your reasons for why you feel this way about the proposal

Whilst I can very much understand the pressures which have induced Nominet to make these proposals (in a recent DRS case in which I was involved the complainant listed several hundred other names as part of their complaint, many of which at first sight appeared not dissimilar to well known businesses and marks, the connection of which to the registrant was unclear), one of the criticisms of the DRS which has been made is that it is unduly favourable to a complainant and fails to take account of legitimate concerns of registrants who may have registered a name for legitimate reasons only to find a well-resourced trademark owner pursuing it.

The present system, whilst not perfect, does not introduce a presumption in favour of the complainant even if the registrant chooses not to respond. It will be for the expert to decide whether to accede to the complaint on the basis of the evidence produced. If no evidence is adduced, why should the registrant go to the expense of defending the case? If this system were introduced, I fear that it might well lead to a situation in which large organisations with "dubious" claims systematically targeted legitimate registrants with limited resources in order to collect names which they fancied.

Whatever failings the existing system has - and no system can please all of the people all of the time - it at least requires the complainant to make out a case; silence is not an admission of the complaint per se. Nominet has created, and developed, a system which is rightly the envy of many as being perceived as "fairer" than other systems including UDRP and the EU dispute process. It would be unfortunate if this fairness were lost due to pressures by one interest group.

Conditioning much of my concern here is the fact that many of the "Complaints" which I see as an expert are very less than adequate and I fear for the process if such inadequacy cannot be penalised if the registrant does not reply. Some complaints do not go far beyond the "they have a name we would like"; "that's not fair"; "give it to us" logic and rather than reducing the standard of complaint an increase might encourage a perceptively improved system.

As far as bulk abusive registrations are concerned, perhaps a more robust approach to registrant information which is inaccurate would assist in the separation of bulk cybersquatters (of whom the domain community would not approve) from businesses engaged in a legitimate reseller activity. If domains where the contact information were inaccurate or unavailable were to be suspended until rectified, this might separate these categories. After a period of suspension they could then be cancelled for breach of Nominet's registration agreement

However, the thought of automatic forfeiture for non-response is, in my opinion, not a proportionate response to the problem.

3. Please give us your contact details

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