

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 110 and 110 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

The original attempt to justify this suggestion has been destroyed, when the alleged factual basis for proposing it was shown to be wrong. Nominet have admitted these factual errors. However, instead of accepting the logical consequence of their mistake, they have simply engaged in meaningless spin doctoring and verbiage.

In the original consultation they claimed that:

"the great majority of domain name disputes ... the respondent does not submit any reply to their complaint.

It is with this situation in mind that the default transfer process is now being proposed."

But we now know - and Nominet accepts - that "this situation" does not exist. The truth is that less than 20% of DRS cases started in some recent months resulted in no response being filed. Under 20% - not any sort of majority - much less a "great majority".

Over the previous 12 months the figure is said to be 50% - and that is dropping according to the latest monthly stats. Again, no majority - and certainly no "great majority".

The figures tell us that the reason this whole proposal was presented simply does not exist.

However, without mentioning the changes to the webpage, the consultation webpage now says this:

"In our experience, for the great majority of domain name disputes where a third party rights holder has a straightforward claim to a domain name and the respondent does not submit any response to their complaint, the complainant succeeds at expert decision."

If you actually read what the site now says, it merely states a hypothetical case that is both blindingly obvious and meaningless at the same time.

Further, they continue stick to the 95% statistic for victories for the complainant in no response cases. It is now qualified by stating that this only covers ones that have gone to an Expert.

Originally there was no such qualification - the true figure for the original justification on the basis of all such no response cases drops to 45%. There is no mention of that on the revised consultation page.

As it happens, even if the "great majority" of cases were no response ones, there are a number of strong arguments that should ensure that it was not introduced. For a start, there is no need to re-invent the wheel - the County Court system (including the IP specialist Patents County Court) offers the opportunity to issue and serve proceedings for a court fee of £150. If there is no response, default judgment can be applied for.

It is cheaper than the DRS proposal and it would allow Complainants to bring actions for any number of domains against any of the particular Respondents who give rise to the perceived need for this proposal. There is simply no need to re-write the DRS in a way that will impact large numbers of legitimate registrants.

I agree with DRS Expert David Flint of MacRoberts when he stated that perhaps a better solution would be for Nominet to take a "more robust" approach to maintaining the accuracy of their database.

This proposal is totally flawed and open to obvious abuse by Complainants.

Instead of examining this red herring, why are we not being asked whether we still want Nominet to handle the DRS in-house. That was a much wider stakeholder response arising from the recent DRS Consultation.

3. Please give us your contact details

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