

A decorative graphic consisting of numerous thin, white, curved lines that sweep across the page from the left side towards the bottom right. The lines are more densely packed in some areas, creating a sense of motion and depth. The background is a solid, vibrant purple.

nominet[®]

The Dispute Resolution Service

About us

Nominet is the not-for-profit company entrusted with the management of the database of all *.uk* Internet domain names. Operating at the heart of the Internet in the UK, with highly respected industry credentials, we run one of the world's largest Internet registries with about seven million domain names.

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What is the Dispute Resolution Service?

Nominet's Dispute Resolution Service (DRS) offers an efficient and transparent method of resolving disputes in the .uk Top Level Domain. Through the DRS we seek to settle .uk domain name disputes through mediation, and where this is not possible, through an independent expert decision.

Why disputes happen

We accept .uk domain name registrations on a "first-registered, first-served basis". It is not possible for us to examine applications for domain names ending .co.uk, .org.uk or .me.uk because of the volumes we receive: we have about seven million domain names on our database and accept about 140,000 new registrations per month (as at July 2008).

Almost all of these registrations are problem-free, but about 1 in 2,000 causes someone to make a complaint. This might be based on trade mark law, or because it breaks an earlier agreement, or because the domain name has been registered by an ex-employee who is unhappy with their old boss.

For most people the court system is too expensive and difficult, so we provide the Dispute Resolution Service (DRS) as a cheap and quick way of dealing with these disputes.

In a DRS case, we act as a neutral body helping the parties to find a solution. If that is not possible, we arrange for an independent expert decision to settle the dispute.

How the DRS works

The DRS is based on a set of rules available from our web site **www.nominet.org.uk**. The rules which explain the principles of the system are called the “Policy” and these explain what you have to prove in order to succeed in or defend a DRS dispute. The “Procedure” explains all the administrative parts of the DRS.

Stage 1 : The Complaint

The person who complains about the domain name is the “complainant”. They can make their complaint by filling out the form through online services on our web site. We then send this to the registrant of the domain name, (called the “respondent”) who has time to respond to the complaint that the complainant made. We then send this response to the complainant who can comment on any new points that the registrant has made.



Stage 2 : Mediation

If the registrant responded, the case will be given to one of our mediators. Mediation is a very successful process where a trained member of staff speaks to both parties to the dispute by phone and discusses with them, confidentially and as a neutral third party, how the dispute could be settled. The majority of cases that reach this stage settle here, without costing any money (although sometimes the settlement includes money). Mediation usually lasts two weeks, but the mediator may adjust the time limits.

Stage 3 : Expert decision

If the case does not settle at mediation, or there is no response from the registrant, we will offer the complainant the chance to pay to have an independent expert appointed. The fee is £750 + VAT for a fully reasoned decision or £200 + VAT for a summary decision. A summary decision is only available in cases where there has been no response from the registrant. These fees go entirely to the expert. The payment of the fee is voluntary, but if you do not pay it the case does not go ahead. The expert chosen for your case is taken from a list of approved experts (mainly lawyers and IT professionals) previously selected by Nominet. The experts take the cases in order, so the expert you get will be the next one in line (unless they already know you or there is some other possible bias – in that case, that expert is ignored and the next one chosen).

The expert reads the documents sent by the complainant and registrant. The expert does not get to see what happened in mediation (this is kept confidential). The parties cannot speak to the expert directly, and cannot send in any new evidence, so you must put all your information and evidence in your complaint or response. The expert decides whether the complaint should succeed on the basis of the arguments made by each side and the Nominet Policy and Procedure.

Generally, if the expert thinks that the complainant has proved their case, they will order that the domain name is transferred to the complainant. If they do not think that the complainant has proved their case, they will order that no action is taken. The expert can order that the domain name is suspended (that means that it is prevented from working but is not deleted) or cancelled (deleted), but this is unusual. The expert can also declare that the complainant was “reverse domain name hijacking” which means that the expert thinks that the complainant was using the DRS in bad faith in order to try to get a domain name. If the complainant decides not to progress their complaint to the decision stage, the respondent may pay the expert fee, if they feel strongly enough that the expert should be invited to make a finding of reverse domain name hijacking.

Stage 4 : Time to appeal (cases with expert decisions only)

After the expert makes their decision, there is some time in which you can appeal the decision. The appeal is heard by a panel of three experts, and costs £3,000 + VAT (this does not have to be paid all at once, see the DRS Procedure). It is rare to want to appeal.

Publication

The expert’s decision (and the appeal decision, if there is one) is published on our web site for everyone to see.

DRS Policy

The Policy sets out what the complainant needs to prove if they want to succeed in their DRS case. The complainant must show that:



- they have rights in the name; **and**
- that the registration, in the hands of the respondent, is an abusive registration.

The full wording is set out in the Policy.

“Rights” includes trade mark rights, but in the past has also included people’s names or contract rights.

“Abusive Registration” covers a number of things, but includes registering the domain name in order to take unfair advantage of the complainant’s trade mark rights, or to block the complainant. A fuller list is given in the Policy.



The respondent will generally want to show that they had a legitimate reason for registering the domain name, and that their registration was not designed to take unfair advantage of the complainant’s rights. Again, the Policy sets out some common reasons why a registration might be acceptable.

What people do wrong

In our experience, there are three main mistakes that people make when dealing with the DRS:

They do not put their entire case in the complaint or response

(depending which one they are submitting). The DRS is designed so that the whole story is set out in the initial documents – so if you do not explain yourself fully in them, the expert will have no information to go on and may decide against you because you have not explained your position. These documents are essentially your only chance to speak to the expert.

They do not provide evidence.

It is common for people to say “we are really well known in the widget industry and have lots of trade marks” – but if they do not provide brochures, reviews, trade mark certificates and so on, the expert cannot know if this is true.

They have not read the Policy (and Procedure).

These documents explain the DRS in detail, and if you have not read them, particularly the Policy, you may not understand what is going on.

What the DRS cannot do

You should not use the DRS if:

- You want an injunction from the courts, financial compensation or to recover your legal costs. You are always free to pursue such claims using the courts, in which case you should take your own independent legal advice.
- You want to complain about a .com, .net, .org etc. domain name (see www.icann.org for information about their ‘UDRP’ system).
- You want to complain about your ISP or are trying to change registration agent or registrar (refer to ‘change registrar’ on our web site).
- You want to complain about Nominet (see our complaints procedure on our web site).



Further help

You can find more information and help on our web site www.nominet.org.uk/disputes/

You can email us on drs@nominet.org.uk
telephone us on **01865 332211**
or fax us on **01865 332292**

Remember that we have to stay neutral, so we cannot tell you whether you will win or lose your case, or how to write your complaint or response.

www.nominet.org.uk