

Using the Dispute Resolution Service for .uk domain names online survey

Submit date : Jan 3, 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.

These are already adequately protected, further emphasis on registered trade marks is likely to tip the balance away from genuine non-abusive registration/use of such words. Care needs to be exercised to avoid travesties such as the prior use of terms such as in the itunes case, particularly where the domain use is self-descriptive.

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

Current policy refers to the sale in excess of out-of-pocket expenses. This needs to be removed to reflect both cumulative costs to-date for holding a domain and, to recover costs for purchases of generic and short (eg. 3 letter) domains.

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.

Generally agree but feel the issue of abuse should be clearly established for it to be determined such as such.

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

Support 1 or 2 but strongly oppose 3. Option 3 would lead to speculative complaints of valuable domains and considerable burden to small owners trying to protect their domains

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?

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?

Consistency of Decision I would like to see greater consistency between decisions, with the right to revisit previous decisions where merited. Industry consistency would also be welcomed (ie. with WIPO) Prior Rights It is damaging that domains that have been used legitimately are seized by companies later adopting these terms in their business (for similar purposes to original use). Identity / confusing similarity There is a need greater clarity / more sense, particularly in relation to small (ie. 3/4 letter domains) where a different character, or order of the characters genuinely infers lack of association with complainant's mark (see ncls.org.uk where respondent

failed to submit response). Recognition of domain worth There are numerous cases where extremely valuable domains have been transferred on less-than-robust cases (see ghd.co.uk). Due to the vast range of potentially legitimate owners, greater care is needed to establish bad faith than for obvious name-squatting cases. Appeals Appeals on decisions for No Action should not require the Respondent to pay any fees, even if the decision is subsequently overturned. To require them to pay gives large companies two stages of extorting domains on factors other than the genuine facts of their registration/use Recognition of UK location Greater recognition should be made for domestic uses of domains (particularly of the generic/abbreviative nature) against complaints from localised (ie. not multi-national) foreign brands/service marks.

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.

Please give us your contact details

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