

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

Submit date : **Jan 26, 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.

No strong opinion

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

No strong opinion

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.

Question is somewhat fuzzy. Are the DRS proposing to review each complaint, or is this a generalised statement in the manner of a police caution? I agree with the statement itself.

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

Small upfront fee. Reason: To avoid frivolous claims. NB The worst option is the one where the losing party pays.

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?

No refunds

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?

**Procedure *Remove reply stage *13b seems to work just fine *No strong opinion
Payment *No strong opinion Drafting *No strong opinion Appeals *Timeline is fine (but I do, both here and in a later section, propose changes to the appeals procedure)
*Allow new evidence Expert Decisions *Yes clarification would be helpful, also any reference to previous cases that were referred to by the expert would be helpful. *No strong opinion *Yes Abusive Registrations No strong opinion to any of the 4 abuse questions Miscellaneous Generally no strong opinion, however both sides should have legal rights available if the other make untrue statements in submissions**

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.

In order to judge my responses to this questionnaire, I think you should know that I was acting on behalf of a company that was a successful respondent. Mainly, I would like to see a) A longer time period to respond (say 6 weeks) b) No right of reply by complainant c) If a respondent loses, they should be given the opportunity to propose one or more alternatives to the standard one of an immediate transfer. (In our case, an immediate transfer could have severely harmed our business) d) Appeals should allow for A statment of the 'basis' of appeal, with supporting evidence. A response to the supporting evidence e) Appeals should cost less. f) The DRS should make it clear within the website and documentation, that legal remedies are still available. g) The database of cases is not easy for a lay person to search. Finally, I do think that the DRS did a reasonable job in our case.

Please give us your contact details

Name

Charles East

Company Name

Leisure Building Specialists