

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

Submit date : **Feb 6, 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.

**1(a) and 1(b) would both be acceptable providing all experts keep up-to-date with current trends and developments in trade mark law. A trade mark (whether or not registered) does not necessarily confer a complete monopoly on its owner and its level of distinctiveness will always be relevant.**

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

**A general offer to resell for a reasonable price should not necessarily be evidence of abuse. My experience of "sale of traffic" cases suggests that these should be presumed to be abusive - there can be little justification for forcing trade mark owners to pay to use their trade marks. The number of domains should not necessarily be evidence of abuse (although the identity of those domains should be taken into account)**

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.

**This seems sensible.**

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

**2 seems preferable. Forcing costs on a losing party is inappropriate in a relatively cheap and informal procedure such as the DRS.**

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?

**n/a - see above**

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?

**The Procedure and Policy could both benefit from a rewrite in plain English. Easily accessible information on previous decisions would also be very useful.**

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.

**There should be a method (akin to default judgment) for a quicker, cheaper resolution to disputes where the respondent submits no evidence or does not otherwise take part in the DRS. Currently a respondent can sit back and make the complainant go through the motions of mediation and decision and incur the full expert's fee.**

Please give us your contact details

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