

I am a small tagholder who has only his own domains on his primary tag, and a second tag for a small number of client domains administered by a business partner.

My particular area of concern with the DRS as it stands relate to the possibility that a good-faith registrant might later be exposed to DRS because of subsequent actions by another party. For example, I might be happily trading under a domain name, when another company decides to launch a new product, or a new line or marketing an existing product - in the same line of business or a completely unrelated one - which uses the same name. Having failed to get their choice of domain name on a FCFS basis, they decide to use the DRS instead of finding a different product name, using their existing marketing budget to generate rights in the name they should never have chosen to use in the first place.

The recent case of finecheeses.co.uk (DRS3747) exemplifies my concerns, although I know none of the parties involved.

I would like to see four particular points addressed in any DRS review:

- 1) As the UDRP does, require evidence of both bad-faith registration and bad-faith use; my understanding from the consultation is that the current DRS requires only one of these, and it is proposed to weaken it even further in this regard. I oppose any such weakening.
- 2) It would be nice to see in the new DRS not just lists of "examples of things that are not necessarily evidence of abuse", but lists of things which exemplify proper use.
- 3) "Loser pays" (even partially) is a very poor idea as it lowers the barrier to vexatious complaints even further.
- 4) The DRS is sometimes used as a cheap precursor to legal action. As is normal in other mediation schemes, the parties should have to waive the right to have recourse to courts to prevent "double-dipping" by complainants (or, for that matter, respondents).

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