

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

Submit date : **Feb 9, 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.

Yes they definitely should and in fact do at present as interpreted by experts

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 as drafted I think it gives the wrong impression that doing these things in relation to any names will be ok.

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.

I disagree. The rights may be weak but the abuse blatant.

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

No Change. Enforcement of fee awards will be a nightmare. A small upfront fee is more palatable, but if it is small then I doubt it will have much effect.

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?

It would fall to the Courts which would mean the Policy would no longer have the advantages as it is now of being a non litigious route. The Defendant would probably benefit as most Complainants are companies and are more likely to have the money to pay.

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?

Do not think Appeal period should be shortened. It is already difficult in the summer when people are on holiday. Think that likelihood of confusion should be included as this reflects the general standard in English law relating to trade marks. Long delay should not prejudice as many brand owners have thousands of these cases and so delay can be a result of competition for resources and little else. Anti avoidance provisions for three strikes is good as some defendants have run rings around the existing rules on this. Giving both parties legal rights if they make untrue statements sounds attractive just and fair and it is, but introducing this again turns a non litigious procedure into one which could encourage litigation in Court.

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.

Without prejudice material should be allowed due to special nature of bad faith in these kind of proceedings. Experts should be legally trained.

Please give us your contact details

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