

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

Submit date : **Feb 13, 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.

**Should include (a) and (b)**

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

**Should include all these**

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.

**Do not include - there may be cases where this is not so**

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

**3 would involve enforcement problems and enforcement machinery - keep it simple. 2 making people pay up front will not improve the quality of complaints - even with a fee of £750 the standard is poor . Reducing the fee would not be fair to experts - complex decisions can take hours and hours - reduced fees could lead to poorer standards. No change ie 1 is the right answer**

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?

**I`m against the preproposal - for goodness sake keep it simple! If you want an example of what can go wrong look at Industrial Tribunals - designed to be cheap and simple in which there would be no need for lawyers - now a vast and complex industry with stringent rules which only specialist lawyers can cope with**

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?

**Yes - Appeals - stick to 3 weeks unless there is evidence that it gives rise to real problems - new evidence should only be allowed in "exceptionally and when essential for the case to be dealt with justly and fairly " Expert Decisions There is no need to try and explain the experts` processes - keep it simple or you provide more grounds for complaint. Experts should not do their own research - if they do the rules of Natural Justice (which the courts are likely to enforce) require the results of the research to be "put" to the parties for comment, but there is not time for this. Clarification of the power to correct typos and other clerical errors is a good idea. Guidance about appeal decisions may help the public - but these should not be incorporated in any rules or the policy. Abusive Registrations - Proposals sensible. Miscellaneous - I disagree with last 3 bullet points - keep it simple and avoid "satellite proceedings"**

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.

**I have no views on length - but public should be told that they must produce documentary evidence to substantiate their claims to rights and detail of the alleged Abuse including the source of all factual information relied upon. Experts can find Abusive Registration on grounds not identified if the facts support those grounds and provided the Respondent has commented on those facts - otherwise the Respondent must be given the opportunity to do so. Without Prejudice material if genuinely without prejudice (ie it includes admissions or an offer made with a view to settle) should not be taken into account and should not be sent to Experts. The rules should make this clear. Experts should not be able to represent a party upon whose dispute he/she has adjudicated - it might look as though the Decision has been influenced by the prospect of remunerative employment -- though after a few years - say 5 - it probably ceases to matter. The detail of the DRS could be taken out of the contract with suitable wording.**

Please give us your contact details

Name

**David Blunt QC**

Company Name