

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

Submit date : **Feb 14, 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.

a, These should be protected. b, The trademark protection is not clear, as all some one registering a domain where some other party holds a trademark is ignore the DRS requests to respond which appears to trigger the need for experts, and considerable cost. A small fee up front say 50 to 100, submitted with copies of relivant trademark certificates should be enough to resolve a dispute.

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

The are poor examples and could lead to creation of reasons to extort money, even if token amounts, for example traffic sales from trademark owners. For example the offers to resell after often in excess of the orginal cost to register, but less than the legal costs.

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 statement does not provide a means to define the balance. Example, where both parties hold a trademark with similar text, but where the trademark is held in different classes, who would win? The older trademark or the first to register the domain?

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

50 fee, but with the ability for the those carrying out the DRS to understand the means of a trademark without having to run to experts. Example, 50 fee provided along with copy of trademark certificate, other party fails to provide response, or trademark certificate should end in domain transfer without further need for expert decision. Or run to a scale of fees, 50 with trademark certificate increasing the fee where evidence is more complex and would require more time and resources to consider.

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?

Complaint must be made with evidence.

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?

Given the need for a fee to trigger a complaint, the lack of a reply from the current domain holder should not need to trigger the need for an expert. It appears possible to register a domain and maintain ownership of a domain which may for example be a trademark simply by ignoring the DRS process. If for example a complaint about a domain is raised, and claims to be trademark related, a copy of the trademark must be included with the complaint and copied to the current domain owner.

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.

Please give us your contact details

Name **Peter**

Company Name