

## 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) I agree with the experts view in this case: "The mere fact that a generic word happens also to be a trade mark cannot lead to the trade mark owner monopolising all uses of the word. Certainly for the purposes of complaints under the DRS Policy there has to be something more." DRS 03316**

**[http://www.nominet.org.uk/digitalAssets/10081\\_bounce\\_appeal.pdf](http://www.nominet.org.uk/digitalAssets/10081_bounce_appeal.pdf) b) I believe someone has the right to keep a dictionary word domain IF the person does not have something on the website that infringes the complainant's trademark.**

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

**I would like this proposal to be implemented however I don't want the term "domainers" to be used. The term "secondary domain market" is more appropriate. The important issue here is for Nominet and the DRS experts to acknowledge a domain has a value. I feel it's the actual content of the parking pages that we should be looking at here rather than the actual concept of parking a domain. Under a first come first serve policy I feel people should be allowed to register as many domain names as they like.**

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 believe this proposal could have been used in the following DRS cases: DRS 3747 Finechesses.co.uk [http://www.nic.uk/digitalAssets/8799\\_finecheeses.pdf](http://www.nic.uk/digitalAssets/8799_finecheeses.pdf) DRS 03886 SussexSkips.co.uk [http://www.nic.uk/digitalAssets/9598\\_sussexskips.pdf](http://www.nic.uk/digitalAssets/9598_sussexskips.pdf)**

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

**I prefer "no change" or "small upfront fee" which could even be higher at £250+ to improve the quality of complaints. Loser pays is most shocking proposal I have ever heard from Nominet in recent times. How would Nominet actually enforce this proposal and make registrants pay the "fine"?**

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?

**Unless Nominet implements "loser pays" then this is not necessary.**

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?

**Procedure:** I feel the respondent should have the right to reply again. **Payment:** If a respondent wants to pay the DRS fee VOLUNTARY then fair enough. **Drafting:** 'Unfair Registration' is even more confusing than 'Abusive Registration' in my opinion. **Appeals:** Even the current appeal timeline is not long enough. See the apology on [bounce.co.uk](http://bounce.co.uk) Appeal DRS 03316 [http://www.nominet.org.uk/digitalAssets/10081\\_bounce\\_appeal.pdf](http://www.nominet.org.uk/digitalAssets/10081_bounce_appeal.pdf) **Expert decisions:** These proposals are very important to introduce. - See the Google search on [http://www.nic.uk/digitalAssets/8799\\_finecheeses.pdf](http://www.nic.uk/digitalAssets/8799_finecheeses.pdf) - See the expert changing the DRS decision <http://www.acorndomains.co.uk/domain-name-disputes/5229-warning-nominet-can-doctor-drs-results.html> - See the Tony Willoughby four stage test [http://www.nic.uk/digitalAssets/1027\\_chivasbrothers.pdf](http://www.nic.uk/digitalAssets/1027_chivasbrothers.pdf) **Miscellaneous:** Please introduce a system allowing people to submit DRS cases (all material) online instead of having to submit three paper copies.

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.

**Word limits:** Both word limits seem a little on the low side however I suppose the DRS expert has to read it (paid for their time) and digest the information. However if "new evidence" is allowed in appeals is the word limit high enough? **Internationalised Domain Names:** Will Nominet have to have experts that understand different languages? Translators? Interpreters? **What experts find abusive:** They should not make decisions based on evidence not presented to them. **Without Prejudice material:** How does this fit in with Question 2 "A general offer to resell a domain name"? **Experts represent parties in other disputes:** See "Willoughby & Partners" cases [royalandancient.co.uk](http://royalandancient.co.uk), [hedonism.org.uk](http://hedonism.org.uk), The Pitman Case, [waynerooney.com](http://waynerooney.com)/[waynerooney.co.uk](http://waynerooney.co.uk) **DRS updated more regularly:** I think it is important that "registrants" are notified of DRS contract changes at the time of renewal or registrations. Any major changes should go to consultation. **Disclaimer:** With permission I have used quotes from Andrew Bennett's DRS response dated 13/02/07. However I am a Nominet stakeholder and fully support the above opinions.

Please give us your contact details

Name

Christopher Bowler

Company Name

