

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 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

Yes the DRS should include examples of things that in isolation do not constitute abuse: - an offer to resell a domain name is *NOT* clear evidence of abuse - domaining whilst IMHO another form of spam, is not evidence of abuse - parking pages are not evidence of abuse.

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 DRS 03886 SussexSkips.co.uk 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?

2. I believe complainant should pay a fee to start the process, and that a few level of £200 would deter spurious complaints. I do not agree with losing party as well as losing the domain should get shafted with costs.

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 dont think option 3 should be implemented

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. I don't think documents received out of time or in incorrect format should be acceptable
Payment: I don't understand what you are asking
Drafting: 'Unfair Registration' is even more confusing than 'Abusive Registration'. bad faith may be a better term? Rewrite in plain English is fine as long as it doesn't lose any of its meaning
Appeals: Even the current appeal timeline is not long enough. See the apology on bounce.co.uk Appeal DRS 03316
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 - 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
Abusive Regs: Yes, you should clarify when and what rights have to exist. You should have an automatic cut off of say 12 months - if the domain has existed for 12 months prior to the trademark application it's automatically *NOT* abusive etc.
Miscellaneous: Please introduce a system allowing people to submit DRS cases (all material) online instead of having to submit three paper copies. Giving legal rights for untrue statements is very necessary

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: if applying to each stage are fine, but need to be increased if that includes appeals, extra documents submitted, responses etc.
Internationalised Domain Names: In my opinion .uk IDNs should not be allowed where the *visual* representation matches an existing domain name e.g. www.nic.uk where the i has an accent) What experts find abusive should only be based on the evidence All experts should be trained in intellectual property law.

Please give us your contact details

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