

Question 1 :

- If a registrant has rights to the domain name via ownership and use they also have rights to sell the domain name and/or associate website and services. Domain names are issued and owned in a first come first served manner and sadly it is only now some organizations are becoming aware of the power of online marketing and branding and have found they are not able to have the exact domain they wish and resort to building a brand and then opening a DRS to claim a domain name.

The DRS needs to be able to recognize and protect generic, common, and descriptive terms as domain names from reverse hijacking eg. Sport , Television, Music, Football .co.uk's etc that many may be involved with the genre however none have absolute right to for example:

It would not be surprising for Sport.co.uk to have some form of sport related website, adverts or the like on. It would not be abusive if the owner sold advertising on Sport.co.uk for sporting goods etc however under the current policy the opposite could potentially be argued.

If the Policy could explicitly explain and protect such generic terms this would be a positive step.

Question 2:

- It would provide clarity if the Policy explained that generic, common, and descriptive term domain names receive natural specific traffic (eg. Users speculatively typing in the domain such as internet.co.uk looking for information on the term 'internet') and are seen as none abusive use as such traffic is of value just as viewers of a television programs are (advert breaks), drivers on the motorways (side of road adverts), tube commuters (railside adverts) and so on.
- The Policy ought to state explicitly that an offer to sell a domain name is not an example of abuse. The Policy should not refer to 'reasonable amounts' or 'out of pocket expenses' or the like to describe what an acceptable or abusive price for a domain name is.
- The Policy ought to state explicitly what abuse of a domain name is. In some cases 'parking' (eg. Sedo , Namedrive, Streamic etc) a domain name where adverts are then shown is sometimes seen as a poor use of a domain name. I would argue that if someone is looking at that domain name either from typing it in or finding a link somewhere it is of more use that they see relevant adverts and links than a blank page. A further note to this is to ensure that Nominet are staying current with the trends of the internet. 'Traffic' in terms of visitors to a domain name or page is of value due to advertising, as a result it can be a legitimate use of a domain name. A definition of 'parking' would be helpful, as currently a registrant can register a domain via many ISPs and the domain is automatically 'parked' if it is not used right away. This is currently a very grey area in the Policy.
- The Policy ought to state what proper none abusive use of a domain name is.
- The Policy ought to be brought in line with the UDRP ie. require evidence of both bad-faith registration and bad-faith use this would prevent new companies and brands trying to hijack existing registrations.
- I have spoken with Nominet regarding the release of two letter .co.uk domain names and an auction for charity is one method of release that is being floated. The Policy review ought to bear this in mind, it would not do for Nominet themselves to become abusive.

Question 3

- I agree that this statement ought to be included, with examples of weakness. Eg. Generic domains or marks based on generic terms.
- SussexSkips.co.uk and FineCheeses.co.uk DRS cases are prime examples where a very very fine line exists and in my humble opinion the domain names ought not have been transferred and with this proposed rule would not have.

Question 4/5: Fees.

- I would be in favour of a fee to commence a DRS. Currently any DRS made, even if it is a single line none serious complaint via the online form requires a full reply due to two main current failings of the DRS, both of which could take up time and money of a domain owner and take a couple of minutes of a complainants time.
 - The complainants right to a second followup response. As a result a 'thin' initial complaint may be expanded and thus any reply by a domain owner has to be full and complete at the first attempt.
 - As I previously mentioned in the previous consultation the 'three strikes and you are out' rule could be used negatively on a fourth DRS even if the domain name is pure generic and never used. Thus to prevent a possible pattern of abuse each DRS must be treated as thoroughly as the next.

An initial fee ought to weed out the serious complaints from the none serious – payment upfront on submission ought to cut down on the large (25% / 1348) number of invalid submissions that still require Nominets input.

I would be totally against a system where a losing party pays the DRS fees. This would be hard to administer and in some cases pointless due to incorrect ownership details.

Generally I feel the DRS as a low cost domain dispute system ought to stay in place (ie. Total cost per complaint under £1000) however initial fees are a good idea to prevent abuse of the system.

- I would suggest that in a case of a successful appeal Nominet absorbs costs incurred.. Thus if a registrant of a domain is appealing and correcting an 'experts' mistake they are not out of pocket, by all means charge the appellant if the appeal is unsuccessful!

Question 6/7: Misc Issues

- Regarding definitions of if a brand or term is well known / fame ought to be based on current law / UDRP not if a panel of three people have personally heard of it. Eg. Mercer.co.uk appeal !
- There ought to be a cut off point (12 months from registration?) where no complaint can be made by a previous registrant of the domain name.
- The current DRS system allows a complainant to repeatedly DRS the same domain name several times. Perhaps Nominet could compile a similar 'multiple complainants' list as per their current 'domain owners who have lost three DRS decisions' list.
- The current system of DRS allows a complainant a 'free' reply with no method of reply for the defendant. This is unbalanced in favour of the complainant and ought to be changed to allow an even discussion possibly with increase 'rounds'.

- As someone who owns a portfolio of generic domain names and also spends a decent amount of time outside of the UK I feel the timeframes involved in the DRS system are rather short. I maintain my address details correctly, however it could be several weeks before I catch up with the paper based post which would include any appendices to a complaint. One solution is for Nominet to digitize all submitted documents and place them online and / or email them out as PDF.
- I realise .uk is a United Kingdom based extension, however the internet is a system without geographical borders, and just as Nominet have recognized that IPS-TAG users often use their systems 24/7/365 and offered weekend support it also should recognize that many .uk domain users are not specifically in or from the UK and timezones , dates and distances can vary between registrants.
- I find the PAB's reply to the consultation disturbing: "
We believe that isolated offers to sell a domain, or "pay per click" activity are not of themselves evidence of abuse but done "in bulk", can be such evidence. We feel that registering many domains, taken in context with other factors can be evidence of abuse. Indeed, it may be that registration of a number of domains without a clear reason why this has been done is evidence of abuse."

If this is taken up users will have to start justifying if they own over X domain names, and I assume Nominet would decide if that was a valid reason. If this was to come into practice then it is not hard to avoid by having different entities owning the names under the threshold level.

Incidentally would Nominet then brand large organizations such as the BBC as conducting abusive registrations as they own large numbers of domain names?

- I would encourage Nominet to broaden the makeup the 'experts' as currently there is solely lawyers / people from the legal arena on the panels.
- I would suggest and support a time limit to how long an individual can serve as a Nominet expert.
- I would encourage Nominet to have compulsory training sessions for 'experts', as it is very worrying when 'experts' describe domain parking as '*sophisticated cybersquatting*' when the academic definition of cybersquatting mentions purpose of reselling to the trademark holder and very often parking domain names provides good quality (unpaid and paid relevant links, wikipedia articles etc) websites which are beneficial to an end user. Likewise not all domain names registered infringe the rights of others.
- I would like to see explicit rules on if and how experts can represent in other DRS's. Experts should not be allowed to represent parties in other disputes as it compromises their independence as with each decision they are in effect creating precedent for future cases so could be seen as writing their own rules. The execution of the Policy ought to be seen as whiter than white without any possible bias, and thus for the period an individual is an expert I propose they or their company cannot represent in other .uk DRS cases.
- Experts should **not** be allowed to venture off piste in decisions. It is interesting to read past DRS decisions and note that 'experts' have decided to research domain use further (eg. by use of Google in *FineCheeses* decision – why google? Would use of MSN or Ask made the DRS decision go the other way ? This is not a question that ought to crop up with .UK DRS!) however have never once offered such aide to a registrant!

- Regarding IDN – to avoid Nominet having to have a pool of linguistic experts perhaps a rule that all submissions ought to be in English (or Welsh / Cornish / Irish / Scottish etc!).
- I believe that the DRS ought to treat '*without prejudice*' in the standard legal way. The question of offers of domain names being the 'main evidence of abuse' would be nullified if the Policy accepts that domain names are of value and thus prices can be charged. The Policy is called the Dispute Resolution Service , so if without prejudice offers and discussions can take place it may aide the aims of the service ie. Dispute resolution.
- As I mentioned in the previous consultation I am against the 'three strikes and you are out' rule. A registrant may own three domain names that they lose at DRS for whatever reason yet the fourth may be a legitimate domain name and any dispute ought to be tested on its own merits.
- I am in favour of the DRS staying inside the current Nominet contract and any future updates to occur only after a period of debate and consultation involving all possible stakeholders.

Firming up the DRS policy will encourage use of the extension by businesses who are secure in the knowledge that a speculative DRS will fail, that previous registrants will not return X months later to reclaim the domain name their business is now based on.

This in turn will raise awareness of .uk via everyday use.

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