

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

Submit date : Feb 16, 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 DRS case number 03316: "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." Or: http://www.nominet.org.uk/digitalAssets/10081_bounce_appeal.pdf b) We believe that someone has the right to keep a dictionary word domain IF the person does not use it to infringe another parties 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

We would like this proposal to be implemented however i beleive the term "secondary domain market" is more appropriate than "domainers". Nominet and the DRS experts need to acknowledge that a domain name has a value. We 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. Parking a domain is totally legitimate business, and does not nessacerily contribute to abusive registration. After all, many people park domains as a temporary measure whilst development is going on in the background [we do]. Should the domain 'bounce.co.uk' have been parked advertising cleaning products, then it is our view that this would contribute to abusive use of the domain. If it was parked advertising bouncy balls, then in our view this is not abusive as it does not infringe the complainants rights. 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.

We believe this proposal could have been effectively used in DRS cases: DRS 03886 - SussexSkips.co.uk DRS 3747 - Finechesses.co.uk

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

We prefer "no change" as disputes can be settled for a smaller amount outside of the DRS. Alternatively, have a "small upfront fee" which is even higher at £250+ to improve the quality of complaints. We disagree with the proposal of "loser pays". After all, how would Nominet actually enforce this proposal?

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?

Sorry i have no time to complete sections beyond this point - however i have given most of our views in the previous questions. Unfortunately we have left our response until the last minute!

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.

Sorry i have no time to complete sections beyond this point - however i have given most of our views in the previous questions. Unfortunately we have left our response until the last minute!

Please give us your contact details

Name

Jonathan Dunn

Company Name

Raid Technology UK Ltd