

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.

Distinctive character... firstly how distinctive? moustache alone? raised bushy eye brows? a pair of dark black glasses or a mole on the upper lip? These are the details the DRS policy has to reflect and in-depth. For far too long the DRS procedure has sought to award domains to people with the weakest of arguments, I myself had my time absolutely wasted by a company who owned a four letter .com wishing to own the same four letters but with the extension .co.uk. They professed to trade under these letters but were neither on header paper nor on their website and only really stood for the letters of the beginning of the words of their business.

So how distinctive? British Gas yes that is, Eskimo Hunters Association For Seal Liberation, so is that, but whether mobile phone, shirt, tree or bounce should be, is another question entirely and one you really need to come to a conclusion on before wrapping this consultation up. You really have to define what you mean by distinctive character and not leave it open to misuse this time round, list definitive examples of how cases should be judged with no real margin of error, although accepted that will occur from time to time.

Dictionary Wording... going by normal trademark law and any simple minded IP lawyer would be able to state the same, everyone has a right to a word when they use it but what I am getting sick and tired of is seeing a company choosing any word they damn will please, building a brand and then subsequently doing a DRS because they feel what they built now deserves the same domain and therefore its theirs.

Granted there may well be exceptional case, but take Capitalism as it grows and grows and as companies continue to buy up little companies, and the bigger the get the more brands they own, the more products, are you suggesting these can build products at will, name them and then steal a domain from a registrant that's either been using the domain for years or had it parked before development or simply kept for his Son for 20 years?

Trademark is a use issue, a class issue and a misrepresentative issue all of which you claim to place under an abuse of registration with very little concept of how much power you've awarded the complainant.

As a developer foremost, based in affiliate marketing, I use medium keyword generics to target consumers and create sales, however I am also an academic domainer - yes it should be a recognised industry by all involved in domains, we do have levels of experience, talent and investment and it is a multi million pound industry, so with that in mind making statute that all dictionary words protected by registered trademark (I'm presuming in the UK and not Lapland, America, Europe and Syria) would be deemed fair, however, length of trademark, scope of trademark, use of trademark, how many others also use that mark either registered or unregistered, who holds the .net, the .eu, the .com, the hyphen, the one with the e and i or the z on the end, should all be taken into account.

The higher you get up the generic chain, the more people who feel they deserve they should own that domain, do you really wish to propose a DRS merry go round? I'm running out of time... moving swiftly on.

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

Look, you've got to use a little common sense, let's look at the facts, domaining is a legitimate multi million pound market if not billion taking in the wider scope of world trade. A domain name has many uses and is used in many ways, if nominet are to now start judging how domains should be used perhaps they should only sell them to business and restrict sale, if you wish to restrict use then do so, otherwise do not get in the way of free trade or allow after the fact a domain in possession to be stolen from one registrant and passed on to another simply because a business or person has a different use or maybe no real use for the domain. They have opened a contract with yourself, you neither asked nor requested that they use that domain in a certain manner so how can you justify leaving an open list of abusive or non abusive measures?

Reselling domains is legitimate, you certainly make enough money out of transfers, parking domains is legitimate, people type in domains of what they feel is right, there's a variety of reasons people get mixed up, firstly there's over 70 different world-wide extensions, mix up .com and you end up in another country, what are we proposing no parking where there's an issue a letter can be missed out?

As for registering domains, I hold over 800, what are my interests? Predominantly website development, secondly domaining and whatever I wish to with that asset while I hold the registration is entirely up to me, if I wish to park to get the most value out of that domain, I will, if I wish to operate a website or forward the domain then that is my right, if I wish to leave it dormant again, that is my right.

Is it someone's right to get the hump then I have the domain, of course, does that then entitle them to steal the domain and create untold paperwork in defending a DRS case, no of course not, individual cases should always be looked out, so yes, all above should be perceived fair use and not abusive.

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.

Naturally, enough said, you've answered your own question, re read what you wrote.

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

There is an argument for no change but I disagree. There is an argument for an initial fee and the amount quoted is fair, and I would naturally completely disagree that a £6.09 registration could end up as a bill for £750, firstly I am not going to pay, secondly I'd rather leave the country and thirdly, did I mention you're not getting £750 from me?

What I would consider fair is the current DRS fee being split, a quarter going to current registrant to afford time to defend the case, I think you will agree spending a week defending a DRS is quite time consuming. And the rest going to payment of adjudicator's time. And yes a small fee up front to deter the have a goers would be more than adequate.

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?

You can't, I just told you I'd rather leave the country, anyone who is contemplating this really needs to have their head seeing to, admitted to an asylum and having their brain removed.

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?

I've got two minutes (there's a change), do I have until 5pm or midnight? I'll email you the rest to update, I'm enjoying this. Cheers Lee

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

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