

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.

We would like to see the policy here to follow UK trademark law. Clearly it would make no sense if the policy flatly contradicted UK trademark law.

We do not believe however that protection should be extended to include words with merely a distinctive character or dictionary "generic" words, as the policy already includes appropriate protection. If on the other hand the word becomes a famous mark then it may extend its protection across many trademark categories, but this is something the complainant will have to set out and prove to the satisfaction of the Expert on a case by case basis.

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 believe that the Secondary Domain Market is now established worldwide and if the experts and potential complainants are not already aware of this, then the DRS should include mention of this business as examples.

If one accepts that the Secondary Domain Market is legitimate, then clearly it follows that registering many domain names, trading them and developing them into websites is not abusive. We believe that Nominet and most stakeholders accept that the Secondary Domain Market is legitimate and the view 'a domain is only worth the registration fee' is now obsolete. Therefore we support this proposal.

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.

**Agreed**

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

A small upfront fee - say £400 - to encourage a better quality of complaint. We think the 'loser pays' suggestion is unfair and unworkable.

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?

**We don't think a refund system is workable.**

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

**First and foremost we think the DRS should be independent from (although possibly funded at arms length by) Nominet UK.**

- a- **Right of reply.** We think the respondent should have a right to reply to the complainant's Reply. At the meeting in Holborn, there were comments from the Experts present that they already consider respondents' replies if they make them. Whatever the rules are, they should be followed consistently and accurately by the Experts or else the integrity of the DRS is called into question.

- b- We support proposals to increase the time limits for both the initial reply and the right of appeal.
- c- We prefer the term Abusive Registration to Unfair Registration. Unfair seems to us to be a more subjective term.
- d- We support proposals to allow new evidence in appeals where it is relevant.
- e- Where corrections are deemed necessary this should be transparent and open. The changes made should be published.
- f- We think that 'likelihood of confusion' should only be taken into account where there is a strong change that the registration or use is malicious - eg phishing sites.
- g- We think experts should have access to all information regarding a domain name, from Nominet - for example, full technical details, previous registrants, history of contacts etc to assess the veracity of the statements made by respondents (and only this).
- h- We think the 'three strikes' rule should be removed from the DRS and each case should be viewed on it's merits. A registrant may own three domain names that they lose via the DRS for varying reasons yet the fourth may be a legitimate domain name.
- i- We think submissions should be made available electronically, whilst still sending by post the Complaint and Reply (in case a parties anti-spam software prevents the email being received).

We think the Expert should make their decision only on the issues raised by the Complaint. Whilst research may be done to verify the veracity of the statements made by the Complainant and the Respondent it should not be used to introduce new reasons to uphold or dismiss a complaint.

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.  
Increase by around 1000 words
- The impact of Internationalised Domain Names, if introduced.  
All submissions should be in English
- Whether experts can find a registration abusive for reasons not spelled out in the complaint.  
Yes
- Whether there have been any practical problems with the treatment of 'Without Prejudice' material.  
As 'Without Prejudice' frequently encourages parties to resolve disputes without recourse to the courts or DRS, we would like to see 'Without Prejudice' material kept out of the DRS unless both parties agree for it to be shown
- Whether experts should be able to represent parties in other disputes, and if not how to keep the quality of experts high.  
We think experts should be able to represent parties in other disputes but perhaps this information should be declared by the expert
- Whether the detail of the DRS can be taken out of the contract and updated more regularly.  
No problem with this suggestion

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