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Advanced ADR Workshop
Day 2: session 4

Date 04/09/07

Advanced ADR Workshop
Current hot topics and trends

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Consultation proposals

- How we handle descriptive terms within the DRS
- Safeguards for the secondary market
- Fees
- Word limits
- Experts' capacity to find abuse for reasons not included in the complaint
- Expert representation in DRS cases

Consultation responses

- Record 128 formal responses
- Polarised positions with little consensus
- Criticism and praise
- Lobbying and circulation of pro forma response

Consultation responses

Fees (nearly all 128 had a view on fees)

- All fees should be paid up front
- Loser should pay and enforcement would be by cancellation of all domain registrations of the losing party
- Lower fee for charities and small businesses
- Loser pays would be totally unfair

Consultation responses

DRS expense (sample comment)

- The fee for a decision was high enough to put it out of my reach
- To force a complainant to pay £750 plus VAT for a dispute that the respondent chooses to ignore is unfair

Consultation responses

Default transfer (11 suggestions)

- There should be a method (akin to default judgment) for a quicker, cheaper resolution to disputes where the respondent submits no evidence or does not otherwise take part in the DRS. Currently a respondent can sit back and make the complainant go through the motions of mediation and decision and incur the full expert's fee

Consultation responses

- Make the DRS completely separate from Nominet
- It is essential that DRS proceedings continue to be operated by Nominet

Consultation responses

- The arbitration process worked particularly well and needs to remain at the core of the process
- Nominet needs better mediators, preferably not in house

Consultation responses

- The DRS as it stands is nothing short of a disgrace
[continues in similar vein for several paragraphs]
- I was very happy with both the treatment and the fairness of the Nominet service. The site is clear and straightforward and the system is very fair.

Consultation responses

- It should be possible to rely of likelihood of confusion test as evidence of abusive registration

- I do not believe that “a likelihood of confusion” should be used as evidence of an abusive registration

Consultation responses

- The 3 strikes rule should be scrapped as it is unfair
- Misspellings should not be considered for abusive registration
- Improve the online forms
- Nominet should run monthly training sessions on how to file a complaint or how to submit a complaint response
- Nominet should introduce “Quality Control” checks before decisions are published, all decisions should be reviewed
- The opportunity to provide further relevant information once one has seen an outline of the case of the other side would enhance the chances of good decisions.

Default transfer

- £10 to commence a complaint
- Default transfer option where there is no response for lower fee of £200 ex VAT
- One month suspension of the domain
- Registered letter to registrant with warning and reminder of right to set aside

Proposed changes

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Fees

- £10 to commence a complaint
- No change to experts' fees regime
- No "loser pays"
- Winning appeals: should they be treated differently?

Proposed changes

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Other changes

- Secondary market protection
- Likelihood of confusion introduced
- Drafting overhaul

Advanced AR workshop
Further consultation

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Further consultation

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Overview

- Limited to default transfer
- One month (Sept 07)
- Aim to reassure and build consensus

Advanced ADR workshop
Session 4 Questions

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