

Dispute Resolution Factsheets

Domain name disputes

Domain name basics

- Different 'top level' and second level' domains (ie the last part of the domain name, such as '.co.uk') are administered by different administrators. For example, most .uk domain names are administered by Nominet UK (www.nominet.org.uk). You can find details of administrators for other countries, and for 'generic' top level domains such as .com, on the Internet Assigned Numbers Authority website (www.iana.org).
- Domain names are registered using a domain name registration company. You can find names of accredited registrars by checking with the administrator.
- In general, anyone can register any domain name, but there are some restrictions. For example, you must be a UK limited company to register a domain name ending '.ltd.uk'. Similarly, some domain names are restricted to companies in a particular industry, or with a presence in a particular country.
- Domain name registrations must be renewed periodically. If a domain name is registered to you, you generally have first option to renew the registration before anyone else can register it. The precise renewal procedure varies for different administrators.
- You can find out who has registered a domain name by searching on a 'whois' facility (provided by most administrators and many agents).

Rights to domain names

Registering a domain name allows you to use it, but does not give you definitive ownership. Your registration can be challenged by another organisation that claims a better right to the name.

- Several different organisations could all claim some rights to a particular domain name. For example, different companies selling similar products (eg computers) would all have legitimate reasons to register a domain name such as 'computer.co.uk'.
- A business that has registered a relevant trade mark will tend to have a stronger right to domain names using that trade mark. Even so, different businesses might each have relevant trade marks.
- Your rights to a domain name will tend to be stronger if the domain name incorporates a business or product name that you use, even if you have not registered it as a trade mark.
- A business that registers and legitimately uses a domain name will tend to have increasingly strong rights to that domain name over time.
- Business based in other countries may have rights to domain names that use their trading names or trade marks, including '.uk' domain names. Large international companies that trade in the UK can be particularly aggressive in pursuing domain names that they feel infringe their rights.

Registering or buying a name

In general, you should try to avoid registering or buying a domain name that is likely to bring you into dispute with another organisation. It's worth carrying out an initial search for similar trade marks, business names and domain names (both within the UK and internationally).

- Using an accredited registrar (or an approved reseller for an accredited registrar) to register a new domain name for you helps protect you against potential scams.
- Fees may include an initial fee for registering the name, renewal fees, and administrative fees for changes (such as a change of address). Fees are typically minimal (say less than £50 per year in total).
- Check that the domain will be registered in your name (not the agent's name) with your contact details, and that you are allowed to move the registration to another agent should you wish to. This simplifies administration and strengthens your

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rights to the domain name.

- You can negotiate to buy a domain name - but remember that this does not give you definitive ownership. Offering to buy a name generally means that you will not be able to claim it using a dispute resolution procedure if the negotiations fail.

Handling disputes

As with most legal disputes, you should try to avoid the costs and risks of going to court if possible. Expert advice can help you choose the best course of action.

- Disputes typically arise where someone is misusing one of your trade marks, trying to pass themselves off as you, or has registered a name simply to try to get you to buy it from them.
- If someone else has registered a name which you have rights to and is using it unfairly, you might choose to use the administrator's dispute resolution procedure. This tends to be relatively cheap and quick, though you usually need to pay your own legal fees. If you are successful, the domain name will be transferred to you.
- If you want to claim damages, or need to stop someone else using a domain name quickly, you might go to court. But costs are higher (typically starting from around £5,000) and enforcing any judgment in your favour can be difficult.
- Depending on the circumstances, it might be possible to bring (or defend) a court case in different countries. This can have a substantial effect on costs and the likely outcome.
- If another business challenges a domain name you have registered, you need to make a commercial judgement on the best course to take. If you have strong rights to the domain name (eg a related trade mark) and have invested heavily in building your online brand, you might choose to fight. In other circumstances, and particularly when faced with a claim from a company with deep pockets, it may be wiser to give way and choose a different domain name.