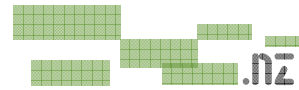


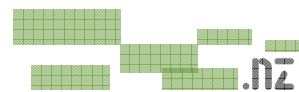
## Dispute Resolution Service (DRS) .nz Domain Names

Domain Name ADR Workshop  
South Africa, September 2008



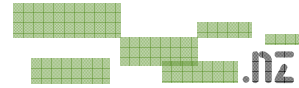
## Outline of presentation

- An overview of .nz
- .nz registration policies
- Background to the Dispute Resolution Service (DRS) implementation
- Overview of the .nz DRS
- Statistics
- Future plans



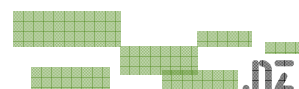
## The .nz Domain Name Space

- No legislation covering the .nz domain name space
- .nz domain name space operates as a Shared Registry System (SRS)
- Authorised registrars have access to the register and full responsibility over their domain names
- The SRS is governed by a series of .nz policies and procedures and formal agreements

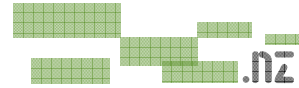
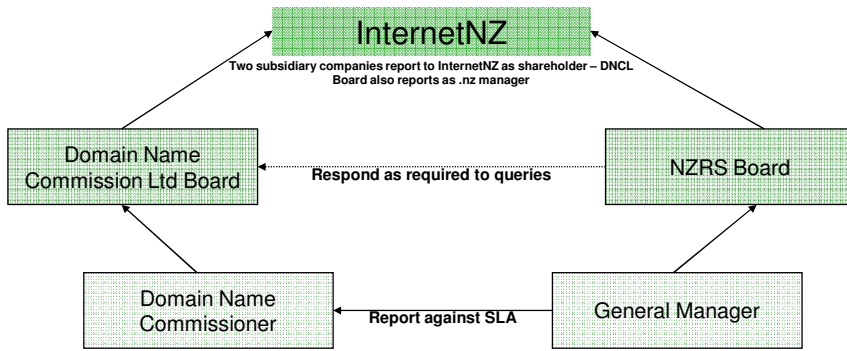


## Who looks after .nz

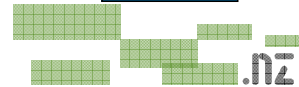
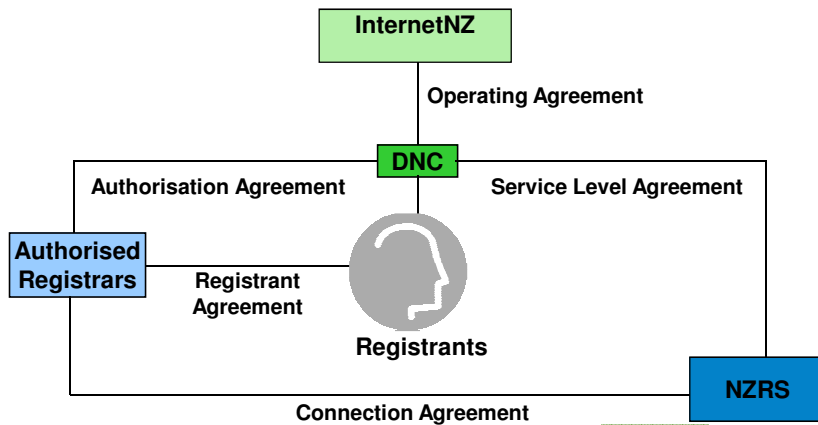
- InternetNZ – delegated responsibility for .nz
- Domain Name Commission Ltd – subsidiary company of InternetNZ responsible for managing the .nz space
- NZRS – Subsidiary company of InternetNZ responsible for operating the .nz register



## How they fit together.....



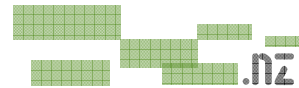
## The .nz Domain Name Space



## Domain Name Commission

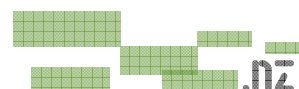
Responsibilities include:

- Authorising registrars
- Monitoring compliance with .nz policies and procedures
- Developing policies and procedures under the oversight of the Board
- Handling complaints that arise in the operation of the .nz market
- Monitoring the performance of NZRS against the Service Level Agreement (SLA)
- Administering the Dispute Resolution Service



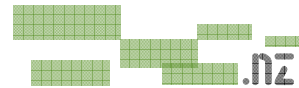
## Some key features of the .nz SRS

- Transfer at any time for no cost (except during registration grace period)
- Registrars must provide the UDAI to allow transfer
- Flexibility of one month to 120 month registrations
- Operates on an automatic renewal function
- Restrictions on when a domain name can be cancelled
- 90 day “pending release” period
- Sanctions can be imposed on registrars and registrants who breach .nz policies and procedures



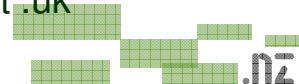
## Registration rules

- There are no registration restrictions for any of the 'open' second level domains (2LDs)
  - .co.nz, .net.nz, .org.nz, .geek.nz, .maori.nz, .gen.nz, .school.nz and .ac.nz
- Registrants must be properly constituted organisations or individuals over the age of 18 years
- All details must be current and correct
- Complaints to registrars, escalated to DNC
- Names can be cancelled by DNC if details not corrected



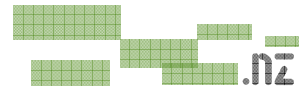
## Disputes in .nz

- Up until 31 May 2006, advice given:
  - Negotiate directly with the registrant
  - Take the matter before the courts
- Issue subject to working group and papers
- "technical" community largely against
- Further consultation over 2004/2005
- Options presented – status quo, WIPO UDRP or one based on Nominet .uk



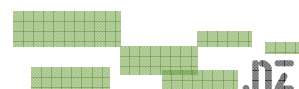
### Why Nominet's approach over WIPO's UDRP?

- .nz and .uk have similar policy frameworks in respect of open 2LDs
- Ability to manage the policy and ensure it meets the needs of the ccTLD and the local internet community on an ongoing basis
- Availability of statistical information
- Free filing of initial complaint
- Inclusion of a free, informal mediation step
- Payment only if complaint goes to Expert



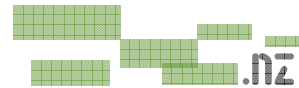
### Implementation date

- From 1 June 2006 a dispute resolution service, based on the Nominet (.uk) approach has been offered



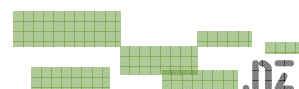
## Complainant's obligations

- Required to prove to the Expert that:
  - They have Rights in respect of a name or mark which is identical or similar; and
  - The domain name in the hands of the Respondent is an Unfair Registration
- Both elements have to be proven on the balance of probabilities



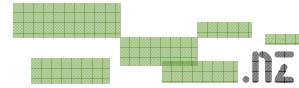
## Rights

- Defined as:
  - “includes, but is not limited to, rights enforceable under New Zealand law. However, a Complainant will be unable to rely on rights in a name or term which is wholly descriptive of the Complainant's business”



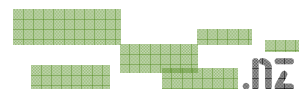
## Unfair Registration

- Means a domain name which either:
  - Was registered or otherwise acquired in a manner which, at the time when the registration or acquisition took place, took unfair advantage of or was unfairly detrimental to the Complainant's Right; or
  - Has been, or is likely to be, used in a manner which took unfair advantage of or was unfairly detrimental to the Complainant's Rights.



## Features of the .nz DRS

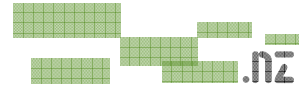
- Complaints are filed online at [www.dnc.org.nz/drs](http://www.dnc.org.nz/drs)
- If response received, matter goes to mediation
- If mediation unsuccessful, or there is no response, complainant can pay \$NZ1,800 plus GST (\$2,025) and submit complaint to Expert
- Expert appointed – “first cab off the rank”
- Appeal available - \$NZ6,600 plus GST (\$7,425), for panel of three Experts



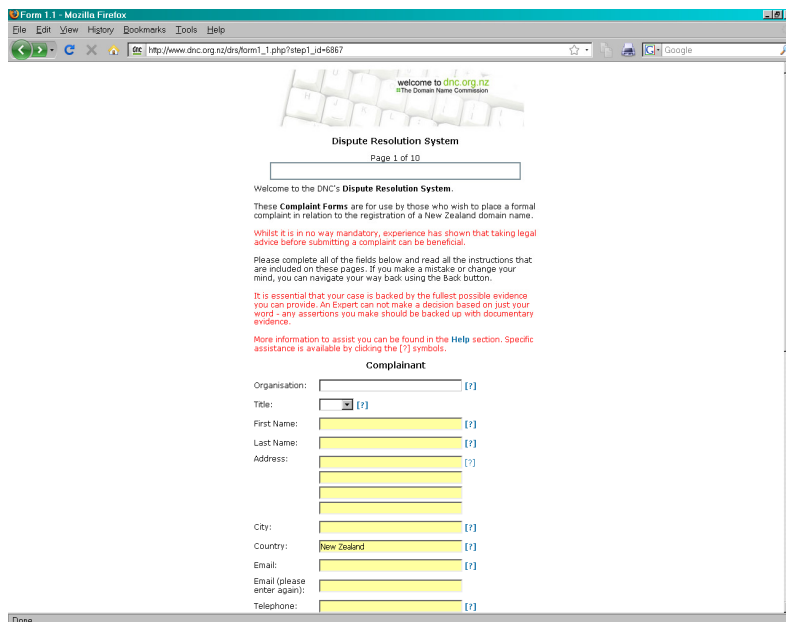


## Timeframes

- Quick and relatively inexpensive process
  - 15 working days for a response
  - 5 working days for a reply
  - 10 working days for mediation
  - 10 working days to pay for Expert
  - 10 working days for Expert decision
  - 15 working days to appeal



## Complaints lodged online at [www.dnc.org.nz/drs](http://www.dnc.org.nz/drs)



The screenshot shows a web browser window with the URL [http://www.dnc.org.nz/drs/Form1\\_1.php?step1\\_id=6867](http://www.dnc.org.nz/drs/Form1_1.php?step1_id=6867). The page title is "Form 1.1 - Mozilla Firefox". The main content area is titled "Dispute Resolution System" and "Page 1 of 10". It includes a welcome message and instructions for users. Below the text is a form titled "Complainant" with the following fields:

Organisation:	<input type="text"/>	[?]
Title:	<input type="text"/>	[?]
First Name:	<input type="text"/>	[?]
Last Name:	<input type="text"/>	[?]
Address:	<input type="text"/>	[?]
	<input type="text"/>	[?]
	<input type="text"/>	[?]
City:	<input type="text"/>	[?]
Country:	<input type="text" value="New Zealand"/>	[?]
Email:	<input type="text"/>	[?]
Email (please enter again):	<input type="text"/>	[?]
Telephone:	<input type="text"/>	[?]

At the bottom of the form, there is a "Done" button.

## Online advice

City:

Country:

Email:

Email (please enter again):

Telephone:

Fax:

Mobile:

How would you like to be contacted? [Email] [?] [?]

**Appointing a Representative**  
You are free to appoint a representative to deal with your wish to do so please tick the checkbox below indicating that should contact your representative in regards to this process will appear below where you can provide your representative's

I wish to appoint a representative

Representative Details

Organisation:

Title:

**Help for Complainant - Mozilla Firefox**  
http://www.dnc.org.nz/dns/help1.php?internal\_anchor=nome\_just#home\_li

**Last Name**  
Your last name. There may be more than one complainant, in which case, this field should contain the last name of the lead complainant, ie. The person who will be our main contact for the complaint resolution process. If your complaint is being made by more than one person, then please include the remainder of the names in the body of the complaint.

**Address**  
Please enter your postal address for written correspondence. Note that your city is specified in a separate line below. If your address requires further lines than are provided, please enter the information as clearly as you can in the fields provided, using commas to separate additional information.

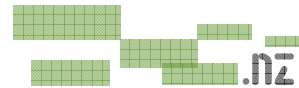
**City**  
As part of your postal address. If your city requires a postcode, please include that here.

**Country**  
As part of your postal address. We expect that many of the disputes handled by this process will be generated from within New Zealand, however, the process is available to complainants from other countries who wish to use this service for .nz domain names.

**Email**  
We ask you to enter your email address twice. This allows us to confirm details and reduces the risk that we will send correspondence about the matter to an invalid email address.

**Telephone/Fax/Mobile Numbers**  
No restriction format for telephone numbers are required. Please include

Clicking on the question mark to right of the field will bring up an explanation of information what is being requested.



## Complainant details

- The complainant details are filled in.
- If the complainant wishes to appoint a representative they check the box and fill in the representative's details.

**Appointing a Representative**  
You are free to appoint a representative to deal with your case. If you wish to do so please tick the checkbox below indicating that the DNC should contact your representative in regards to this process. (A section will appear below where you can provide your representative's details) [?]

I wish to appoint a representative

Representative Details

Organisation:

Title:

First Name:

Last Name:

Address:

City:

Country:

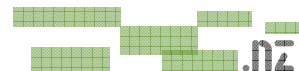
Email:

Email Confirmation:

Telephone:

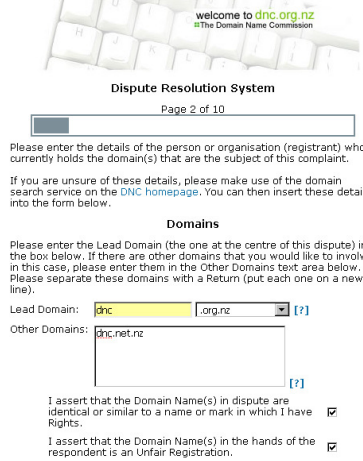
Fax:

Mobile:



## Domain names

- The main domain name being disputed is entered
- Any other domain names involved in the dispute should be added
- Domain names must be New Zealand domain names (.nz).



welcome to **dnc.org.nz**  
The Domain Name Commission

**Dispute Resolution System**  
Page 2 of 10

Please enter the details of the person or organisation (registrant) who currently holds the domain(s) that are the subject of this complaint.

If you are unsure of these details, please make use of the domain search service on the [DNC homepage](#). You can then insert these details into the form below.

**Domains**

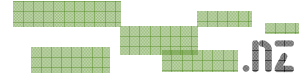
Please enter the Lead Domain (the one at the centre of this dispute) in the box below. If there are other domains that you would like to involve in this case, please enter them in the Other Domains text area below. Please separate these domains with a Return (put each one on a new line).

Lead Domain:   [?]

Other Domains:  [?]

I assert that the Domain Name(s) in dispute are identical or similar to a name or mark in which I have Rights:

I assert that the Domain Name(s) in the hands of the respondent is an Unfair Registration.



## Registrant details

- Registrant details are entered (who the domain name is currently registered to).
- Registrant details can be checked using the WHOIS search

**Registrant Details**

Organisation:  [?]

Title:  [?]

First Name:  [?]

Last Name:  [?]

Address:

City:  [?]

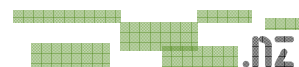
Country:  [?]

Email:  [?]

Tel:  [?]

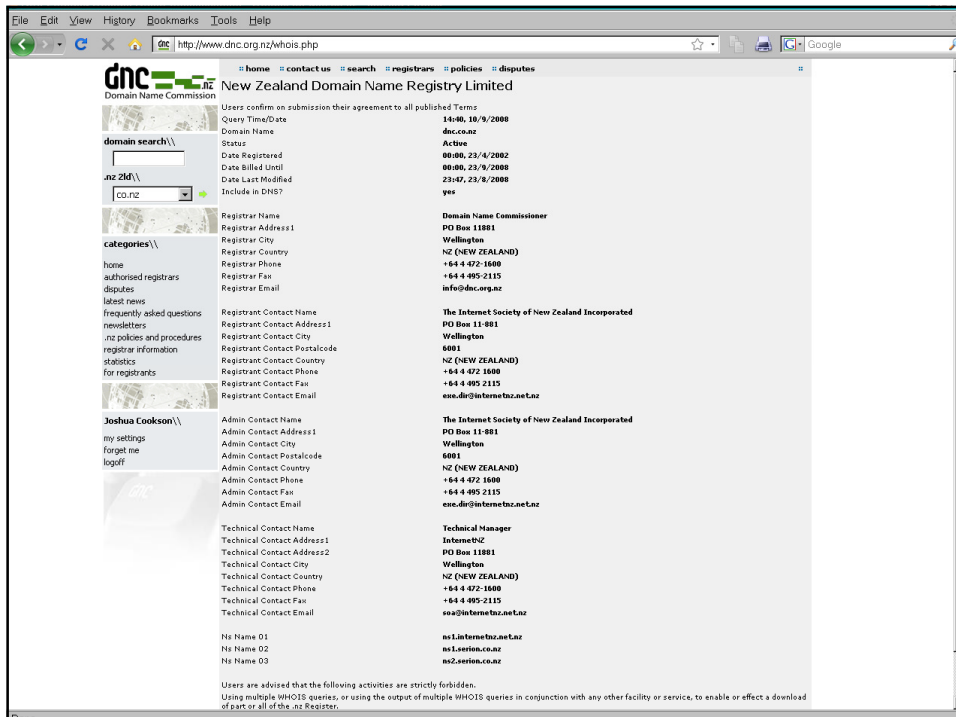
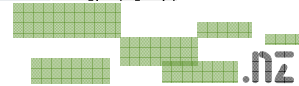
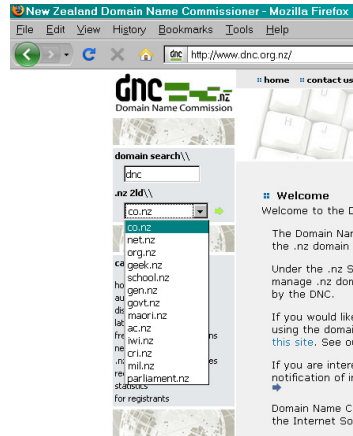
Fax:  [?]


Mobile:  [?]



## WHOIS search

- Registrant details can be found by entering the domain name into the WHOIS search on the DNC website





**Dispute Resolution System**

Page 3 of 10

Please enter your argument below outlining your concerns regarding the listed domains. Remember that you have a **maximum of 2000 words** in which to do this.


**Important Note:** We **DO NOT** advise typing the text directly in the text field below. It is much better if you write your document in a **word processor** (i.e. Word), **SAVE IT**, then cut and paste the contents into the field below.

Specify the name(s) or mark(s) which are identical or similar to the Domain Name in which you assert you have Rights.

Describe the Rights you assert in the name(s). [\[?\]](#)

Describe the Rights you assert in the name(s). [\[?\]](#)

[Back](#) [Next](#)



## Check on the information provided

**Dispute Resolution System**

Problem: Your submission contains fewer than 500 words.

The Complainant is required to prove on the balance of probabilities that:

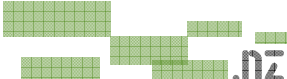
4.1.1 The Complainant has Rights in respect of a name or mark which is identical or similar to the Domain Name; and

4.1.2 The Domain Name, in the hands of the Respondent, is an Unfair Registration.

Are you satisfied that your complaint, as written along with supplementary evidence provided, would enable these elements to be proved to an Expert? Have you included details of your trade marks and/or provided details of your use of and reputation in the name or mark?

Page 3 of 10

**○ If fewer than 500 words have been entered, the complainant is prompted to supply more information for the benefit of their submission.**





**Dispute Resolution System**

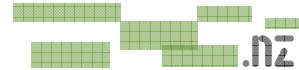
Page 4 of 10

Specify the type(s) of mark in which you have rights.

- A registered trade mark
  - I have included a copy of the registered trade mark
  - I have also included other documentation to support my claim that the registration is unfair
- An unregistered mark
  - I have included evidence of use of the unregistered mark or name and/or my reputation in the unregistered mark or name.
  - I have also included other documentation to support my claim that the registration is unfair.
- Other
  - I have also included other documentation to support my claim

[Back](#) [Next](#)

- The complainant checks whichever types of mark apply to their complaint
- They should supply evidence to support their rights to these marks



## Evidence of marks

**Dispute Resolution System**

You are relying on a registered trademark. You must include a copy of your trademark document with this complaint.

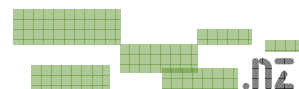
Page 4 of 10

Specify the type(s) of mark in which you have rights.

- A registered trade mark
  - I have included a copy of the registered trade mark
  - I have also included other documentation to support my claim that the registration is unfair
- An unregistered mark
- Other

[Back](#) [Next](#)

- The complaint must include evidence to support the claim of unfair registration. The complaint cannot proceed without this.



## Unregistered mark

### Dispute Resolution System

You are relying on an unregistered mark. You must include evidence of use of the mark with this complaint.

- If the complaint relies on an unregistered mark, evidence must be supplied to show it's use.

Page 4 of 10

Specify the type(s) of mark in which you have rights.

A registered trade mark

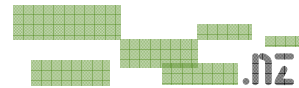
An unregistered mark

I have included evidence of use of the unregistered mark or name and/or my reputation in the unregistered mark or name.

I have also included other documentation to support my claim that the registration is unfair.

Other

[Back](#) [Next](#)



## Legal proceedings

- The complainant needs to advise of any legal proceedings regarding the domain name.



### Dispute Resolution System

Page 5 of 10

Please ensure that all legal proceedings from the past or present, relating to this case are mentioned in the case argument area below.

#### Legal Proceedings

As far as you are aware have any legal proceedings been issued or terminated in connection with the Domain Name(s)?

No

Yes


If "Yes", please provide a brief description of the proceedings issued, the parties involved, and where appropriate, the outcome.

Case no:

[Back](#) [Next](#)



## Relevant webpages

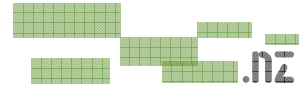


welcome to **dnc.org.nz**  
The Domain Name Commission

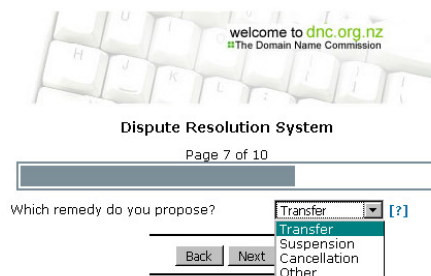
Dispute Resolution System  
Page 6 of 10

You may wish the Expert to view specific webpages relating to this dispute. Please list these in the field below.

- Any webpages relating to the dispute the complainant wishes the expert to view should be added here.



## Preferred outcome



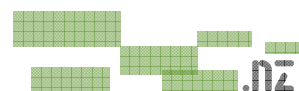
welcome to **dnc.org.nz**  
The Domain Name Commission

Dispute Resolution System  
Page 7 of 10

Which remedy do you propose?

Transfer	[?]
Transfer	
Suspension	
Cancellation	
Other	

- The complainant advises us what they wish the outcome of the submission to be.





## Declaration

- The declaration needs to be read and understood.
- The complainant ticks the boxes stating they agree to the statements

### Dispute Resolution System

Page 8 of 10

In order to proceed with this process you must indicate that you have understood the conditions below. Please read them and click each checkbox to the right of the statement.

I will submit to the exclusive jurisdiction of the New Zealand courts with respect to any legal proceedings seeking to reverse the effect of a Decision requiring the suspension, cancellation, transfer or other amendment to a Domain Name registration, and I agree that any such legal proceedings will be governed by New Zealand law.

#### Your Declaration [\[?\]](#)

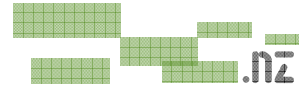
I, the Complainant agree that my claims and remedies concerning the registration of the Domain Name, the dispute, or the dispute's resolution shall be solely against the Respondent and that none of InternetNZ, the DNC, NZRS, any Registrar, Expert or Mediator, nor any of those entities' councillors, officers, employees or servants (as applicable) shall be liable for anything done or omitted in connection with any proceedings under the Dispute Resolution Service unless the act or omission is shown to have been in bad faith.

The information contained in this complaint is to the best of my knowledge true and complete. This complaint is not being presented in bad faith, including not being for a dominant purpose other than resolving the issue of who the proper registrant of a Domain Name is, and the matters stated in this complaint comply with the Policy and Procedure and applicable law.

I agree to the terms of the Dispute Resolution Services Policy and Procedure, and agree to be bound by any resulting Decision, subject to any rights of review or appeal.

I acknowledge that if the Expert orders a transfer of the domain name(s) to me or at my request, I will need to select an Authorised .nz Registrar to provide me with the necessary .nz registry and other services in respect of domain name(s). I will advise the DNC of my decision on request.

[Back](#) [Next](#)



## Electronic submission

- The complainant prints the complaint, reads and checks it, then dates and signs the submission
- Pressing the submit button submits the submission electronically
- Also have to submit four hard copies of complaint and annexes, signed by complainant or their representative

### Dispute Resolution System

Page 9 of 10

Below is a copy of your **complaint**. [\[?\]](#)

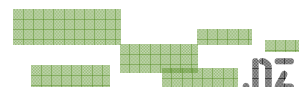
In order to proceed with your complaint to the DNC you need to:

1. **Print out** this page (DON'T press the Submit button yet).
2. **Read through** the content, **checking** that everything is correct. If you want to change something, click the **Back** button.
3. If all is ok, **Sign** the printed version of the document where indicated at the bottom.
4. Press the **Submit** button at the bottom of this screen.
5. Put the submission in an envelope and **mail to the address below**. Mail **four copies** of the signed submission and **four copies** of any annexes that you wish to have taken into consideration, to the address below.

DRS  
Level 9, Exchange Place  
5-7 Williston Street  
PO Box 11 881  
Wellington, New Zealand

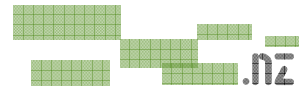
**Important:** For security reasons your complaint particulars are locked after you press the submit button below. Please check the details below carefully. If you notice any problems after the Submit button has been pressed, you will have to submit a new complaint.

[Back](#) [Submit](#)



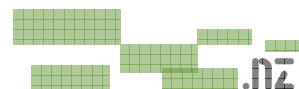
## Response & reply

- When we receive the hard copies of the submission we will notify the current registrant of the complaint and give them an opportunity to respond (15 working days).
- If they respond the complainant can then reply to this response (5 working days).
- If response received, mediation is 'forced' on the parties



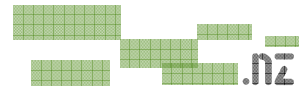
## Mediation

- By email and/or phone only and must be completed in 10 working days
- Mediator appointed "first cab off the rank"
- DNC covers cost of mediation
- Any agreement made through mediation should be written
- Written agreement obtained through mediation is binding.



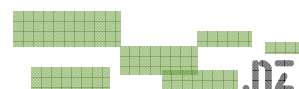
## Expert appointment

- If mediation unsuccessful, or there is no response, complainant can pay \$NZ1,800 plus GST (\$2,025) and submit complaint to Expert
- Expert appointed “first cab off the rank”
- 10 working days for determination



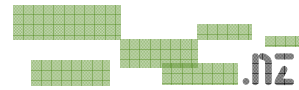
## Expert determination

- If the matter is referred to an Expert, the Expert’s decision is binding, unless appealed.
- All decisions published at [www.dnc.org.nz/drs-decisions](http://www.dnc.org.nz/drs-decisions)
- If no appeals are lodged the Expert’s then the Expert’s decision on changes to the registration will be implemented.
- Decisions include key words and are fully searchable at [www.dnc.org.nz/drs/decisions.php](http://www.dnc.org.nz/drs/decisions.php)



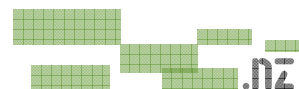
## Appeal

- An appeal is considered by a panel of three Experts
- Cost is \$NZ6,600 + GST (\$7,425)
- The appeal is the final settlement process the DRS offers, any decision reached is binding and will be implemented



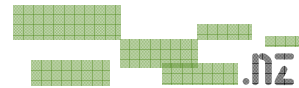
## 1 June 2006 – 31 August 2008

- 198 disputes received – average 7 a month
- Of those, 119 were valid – average 4 a month
- 40 disputes set to mediation with 28 of those being settled
- 21 resolved prior to mediation
- 37 referred for Expert determination



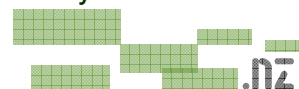
## 2008 year to end August

- 57 complaints received of which 34 were valid
- Of the 34 valid complaints:
  - 7 proceeded to Expert determination with 6 ordered transferred and 1 dismissed (notice of appeal received for the dismissed dispute)
  - 3 of 7 disputes that went to mediation were resolved
  - 8 disputes settled prior to being sent to the mediator
  - 9 disputes withdrawn
  - Rest continuing through the system



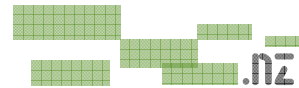
## Recent Nominet changes

- Option of a “summary decision” when no response received
- Recognise that ‘rights’ might exist in descriptive terms that have acquired a secondary meaning
- Respondents can pay for an Expert decision to request a Reverse Domain Name Hijacking finding
- Introduced a “likelihood’ of confusion factor
- Clarified that threatened use of a domain name may be evidence of an Abusive Registration
- Increased word limit to 5000 words
- Allow evidence to be attached electronically



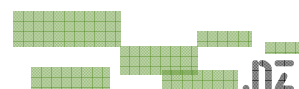
## .nz position

- Review undertaken earlier this year
- General support for process
- Felt DRS was still new and needed time to bed in before any major review and changes
- One change made to allow mediation settlements to be enforced



## Future plans

- Implement an annual appointment round for Experts and Mediators
- Monitor Nominet's changes and consider them for the next review
- Investigate additional .nz search functions, for example search by registrant





<http://dnc.org.nz>

<http://dnc.org.nz/drs>

<http://dnc.org.nz/drs-decisions>

