

.nz Additional search functionality consultation - Submission

From: nzspeak.tumblr.com

Received: October 23 2009

I make this submission as an anonymous person with good knowledge of the domain name system and entrepreneurial business.

I disagree with the proposal to expand the .nz search functionality to include a search by registrant and wildcard-type search of a domain name for the following reasons:

(1) My observations show that .nz domain registrant information appears to be accurate in the majority of cases. Implementing the proposed search functionality runs the risk of having more people use proxies/anonymiser companies as is common with gTLD domains like .com, or to use outright false information.

(2) Despite some people's misconceptions, a domain name is not similar to a company name - the similarity is limited to a small subset of domain name registrations. Among other reasons, it is common for organisations to register names of products/ideas/websites which they have not yet revealed to the public. I.e. products in development, new business ventures, and so on, in order to secure rights to those names before they become public knowledge. It is unfair to have these innovations revealed to competitors and speculators by means of a search by registrant.

(3) .nz whois data is already widely available on overseas websites, despite the DNC terms and conditions prohibiting the accumulation of such data. The DNC should be acting to further protect the privacy of domain name registrants - not making it easier for this information to be exposed to the world.

(4) It is already easy to find out the registrants of "typo" domains. Simply enter those domains into a public whois and the registrant's details will be revealed if the domain name is registered. I don't condone the registration of domains that aim to capitalise on the rights or trademarks of other companies, but realistically if such domains are not found in google/bing and are also not found by trying out common typographical errors then it seems highly unlikely that the general public will even encounter such domains. Unfair use depends on use.

(5) There is a Dispute Resolution Service for .nz domain names. This system already contains provisions that help to remove domain names from recognised rights abusers (e.g. section 5.3 - presumption of unfair registration).

(6) I am concerned that IP lawyers may use these proposed search functionality changes to prospect business.

(7) If the proposed changes are implemented then provisions should also be made to compensate domain name owners for false DRS complaints brought against them. i.e. the search fee should be paid to the domain name owner if they successfully defend a DRS complaint. Filing a response to a DRS complaint takes time yet there is no compensation to domain name owners for filing a response. Domain name owners are not required to file a response yet the list of DRS judgements so far indicates that the filing of a response is an important element of defending a DRS complaint.

Despite the time involved, complainants pay nothing unless they choose to have the case decided by an expert.

(8) If the proposed changes are implemented then the "Search by Registrant" by any party other than the domain name owner should not be possible until a valid DRS complaint has been lodged *and the DRS expert fees have been paid.* Otherwise the system will be easily abused by "spying" on a registrant in the name of a DRS complaint even if that complaint does not proceed to the level of an expert decision (i.e. business secrets will be revealed with the complainant only paying the minimal search fee - no need to proceed with the DRS complaint once this objective has been met.)

(9) What protection is proposed for registrants having the same or similar name to a "search by registrant" in the case of DRS complaint? (Given that details of an innocent 3rd party may be published in a DRS decision.)

I strongly believe that the proposal should not be implemented, neither in its current form nor in a modified form. The competitive nature of internet business is such that success or failure of web- based projects can be decided by competitive intelligence. There is already a system in place to protect trademark holders and I believe that more should be done to protect the innovation and privacy of domain name registrants.

Signed,
nzspeak.tumblr.com