DOMAIN ARBITRATION
IN THE CHANNEL ISLANDS REGISTRY

A brief introduction

Mediation or arbitration can occur using external advocates/solicitors to have detailed knowledge of the domain registration process, and domain law.

Arbitration provides an outcome to a legal dispute just as a court case would. In the case of domain name disputes, it may be used in cases which are unsuitable for the Channel Islands UDRP-style Dispute Resolution Service and for which mediation has not produced an agreed-upon outcome.

Arbitration is a form of Alternative Dispute Resolution.

Arbitration is carried out by an experienced Domain name solicitor or barrister and is considerably cheaper then being represented by solicitors if you go to Court.

Any court proceedings would also be likely to be fast tracked due to the complexity of the arguments in a domain name case so Arbitration is considerably cheaper using lawyers and going to Court.

Channel Islands Domain Dispute
Domain Dispute Process

These are all onsite at www.thundernerds.com

Why do we provide an arbitration service?

The arbitration service is provided because of the large legal fees and court costs that a domain name dispute can involve, when the matter is not suitable for a UDRP-style Dispute Resolution Service.

When you go to the Court today, you are expected to pay the entire cost of the court. This is done by require you to pay various court fees.

For example in the “Fast Track” of the English Court, which covers simple cases over £10,000 or relating to assets were over £10,000 or cases that are too complex for the small claims court (such as domain name cases), you could expect to pay costs such as the Claim Fee £455, Allocation Fee £200, Application Fee £155 per application, Hearing Fee £545 etc and a fee for each application (usually 3 to 5 applications) and you would then be paying legal fees on top.
Fees and costs will be different in the Channel Island Courts and would be higher..
If the court decides a payment is to be made you could have enforcement costs on top.). Obviously if the dispute is about who owns a domain name and there is no payment of money, then there are no enforcement costs because it is simply a matter of the registry amending the record to reflect the court decision.

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Arbitration has various advantages:

- Arbitration is designed to be used without the need for advocates or solicitors. Accordingly there is a saving of all of the legal fees that would otherwise be payable. Typically a Guernsey advocate could typically charge a figure that is at least somewhere between £4000 to £10,000 in such a case - English solicitors only slightly less.
- Arbitration is confidential. Court proceedings are not confidential and therefore everybody gets to know your business. Arbitration is
- automatically confidential and the public cannot get access to the results.
- Arbitration can be binding or non-binding. In binding arbitration, you both agree that the decision of the arbitrator is binding and final. In non-binding arbitration, you agree that the decision of the arbitrator is binding unless one of the parties appeals the arbitrator's decision to the court within a defined time period (typically 28 days of the arbitrators decision being given). (This "appeal" to the Court route would have to be via Court Proceedings in Alderney as this is set out in the rules of the registry). If you decide to go to arbitration but cannot agree on whether this should be binding or non-binding, then it automatically defaults to non-binding arbitration.
- Arbitration is cheaper.
- Arbitrators have industry specific knowledge.
- Arbitration is carried out by an experienced Domain name solicitor or barrister. If you go to court, you will be allocated a judge who may not even know what domain name is.

(Any costs quoted are exclusive of VAT or local sales taxes if applicable)

PROCEDURE IN BRIEF

1. Each party can make a statement of up to 3,000 words and can exhibit up to 60 pages of documentation ("exhibits").
These must be provided electronically to the registry and must include a signed statement of truth equivalent to the UK statement of truth. (Lying under a statement of truth is perjury.)

2. These statements must be provided to the registry by a particular date that you will be given.
If you are late providing the statements you will be deemed to have chosen not to make a statement (although the arbitrator has discretion to overlook lateness in exceptional circumstances).

3. The registry will then serve each party's statement (and exhibits) on the other party.
This is done electronically.

4.Each party then has the opportunity within 14 days to make a Rebuttal statement.
This is a statement dealing with anything arising in the other party's statements that you have not already dealt with in their original statement. It is not an opportunity for more evidence that you forgot, for example, to serve in your original statement.

5. These rebuttal statements must be provided to the registry within the 14 day period.
If you are late providing the statements you will be deemed to have chosen not to make a statement (although the arbitrator MAY allow late submission in exceptional circumstances, but this is very rare in respect of Rebuttal statements).

6. The arbitrator will review the material with a view to making a decision as quickly as possible.

7. The arbitrator has the right to ask any party for further information which must be provided within (usually) 7 days.
The arbitrator has no power to require further information but only to ask for it. This power can only be used in relation to each party once (although it is very rare that the arbitrator asks for any further information).

8. The arbitrator must provide the decision within 28 days, but usually the decision is much quicker.