

GIGALAW'S

# DOMAIN DISPUTE DIGEST

FOURTH QUARTER, 2022

# Table of Contents

FOREWORD Nine Consecutive Years of Record-Setting Domain Name Disputes	<b>3</b>
UDRP Decisions and Domain Names; WIPO Domain Name Cases	<b>4</b>
UDRP Outcome; Largest UDRP Cases	<b>5</b>
Most Common gTLDs and ccTLDs in UDRP Cases	<b>6</b>
Most Active Trademark Owners (UDRP Cases and Domain Names)	<b>7</b>
URS Decisions and Domain Names; URS Outcome	<b>8</b>
Most Active Trademark Owners and Most Common gTLDs (URS Cases)	<b>9</b>
SPOTLIGHT The Essential Importance of Evidence in Domain Name Disputes	<b>10</b>
About Domain Name Disputes and GigaLaw	<b>11</b>

## Nine Consecutive Years of Record-Setting Domain Name Disputes

As the data in this issue of GigaLaw's Domain Dispute Digest makes abundantly clear: Domain name disputes continue to surge, with more trademark owners filing complaints under the Uniform Domain Name Dispute Resolution Policy (UDRP) in 2022 than ever before.

"The strong growth can be largely attributed to the greater number of people spending more time online since the COVID-19 pandemic, with trademark owners reinforcing their online presence to offer authentic content and trusted sales outlets to Internet users," WIPO announced in mid-January.

WIPO, which handles a number of dispute policies for various country-code top-level domains (ccTLDs) in addition to the UDRP, experienced its ninth consecutive record-setting year of domain name disputes. And the growth was felt across all of the most-active UDRP service providers. According to GigaLaw's calculations, UDRP decisions rose by 21 percent at WIPO, 12.5 percent at the Forum, and 12 percent at the Czech Arbitration Court. (Announcements from individual providers may appear to offer different numbers because, among other things, they report on cases filed whereas GigaLaw reports on cases decided.)

I've certainly seen this increase in cases I handled for new and existing clients in 2022, with cybersquatters continuing to engage in traditional tactics such as creating pay-per-click (PPC) websites and offering counterfeit (or nonexistent) goods and services; increasing their use of domain names in phishing activities such as business email compromise scams; and redirecting domain names to various sites that attempt to trick users into believing that they have installed a virus on their computers (which can only be removed by calling a fraudulent "tech support" service).

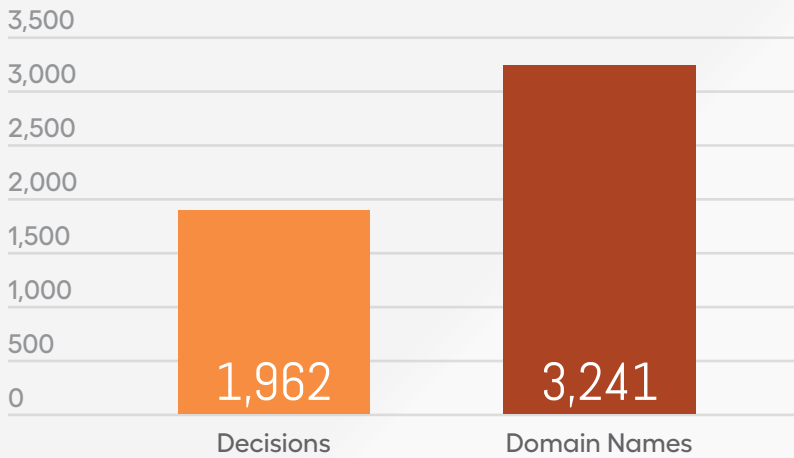
Will 2023 set another record for domain name disputes? Of course, only time will tell, but as the total number of domain name registrations continues to rise (349.9 million as of the end of Q3 2022, according to Verisign's Domain Name Industry Brief – up 3.4 percent from one year earlier), it seems likely that the UDRP will remain an important and incredibly useful tool for trademark owners.

### Doug Isenberg

Attorney and Founder of GigaLaw  
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## Number of UDRP Decisions and Domain Names

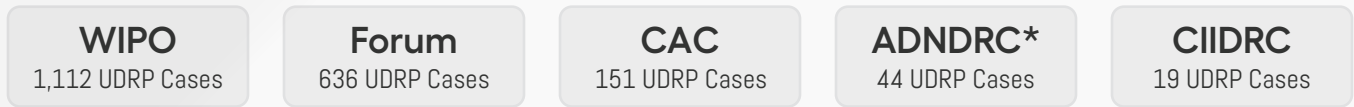


**+11.9%**

UDRP Decisions v. Q4 2021

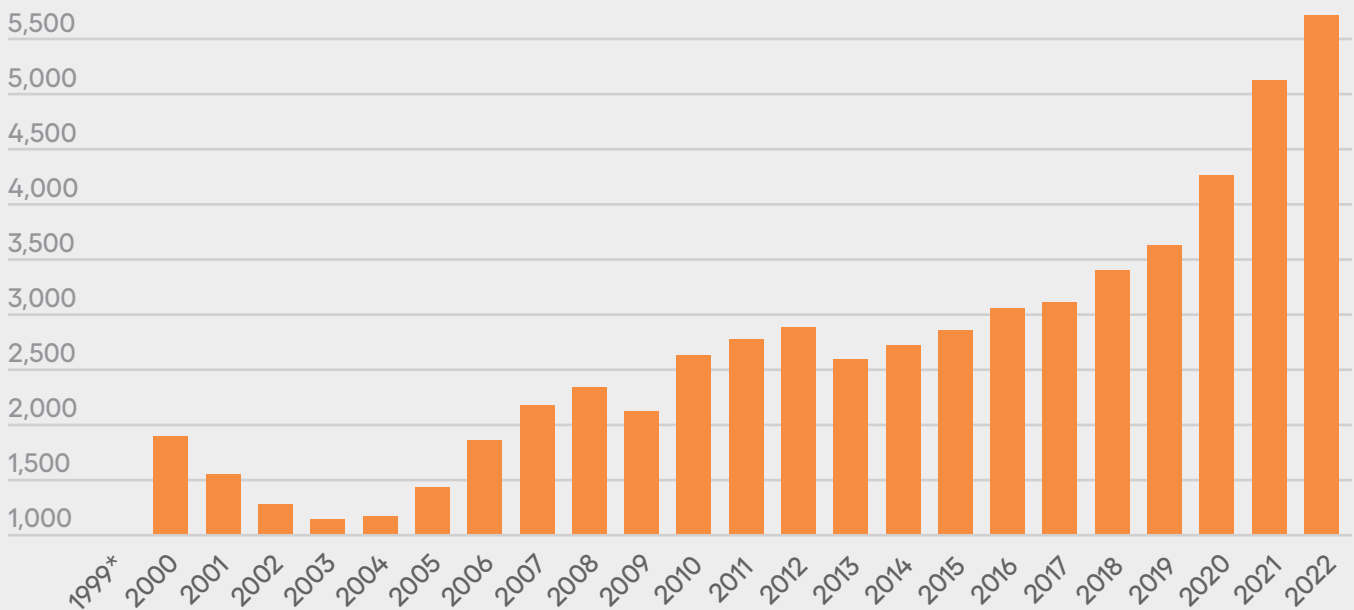
**+2.0%**

UDRP Domain Names v. Q4 2021



\*HKIAC office only

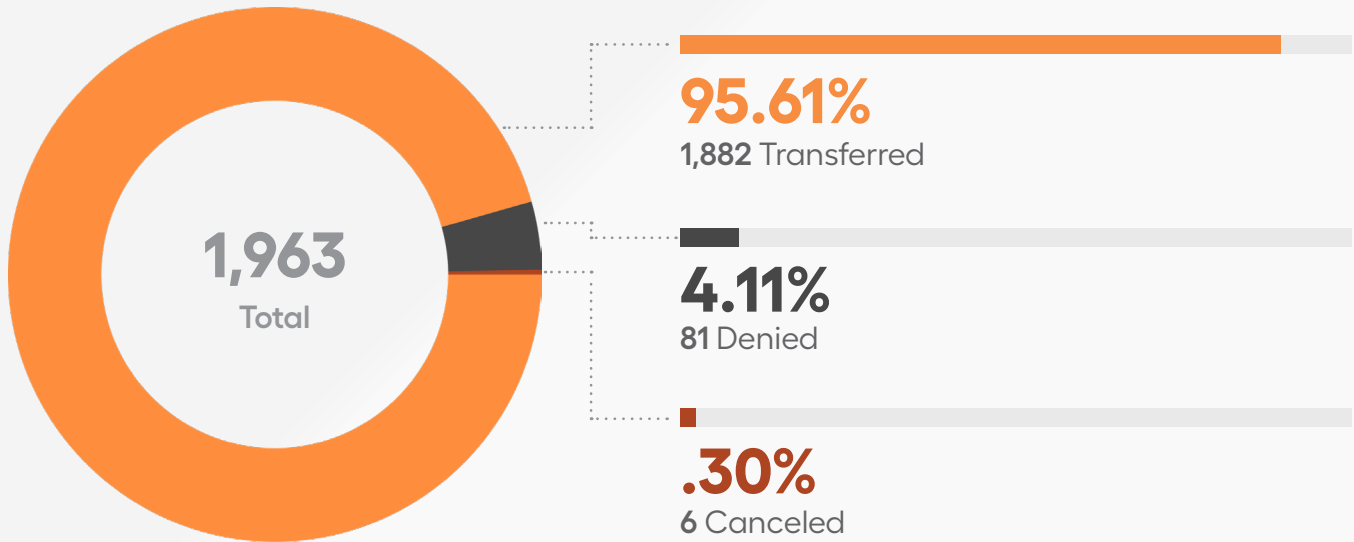
## WIPO Domain Name Cases by Year



\* One case was filed in 1999

Data on this graph includes all domain name dispute policies administered by WIPO, including cases outside of the UDRP, such as ccTLD-specific policies.

## UDRP Outcome

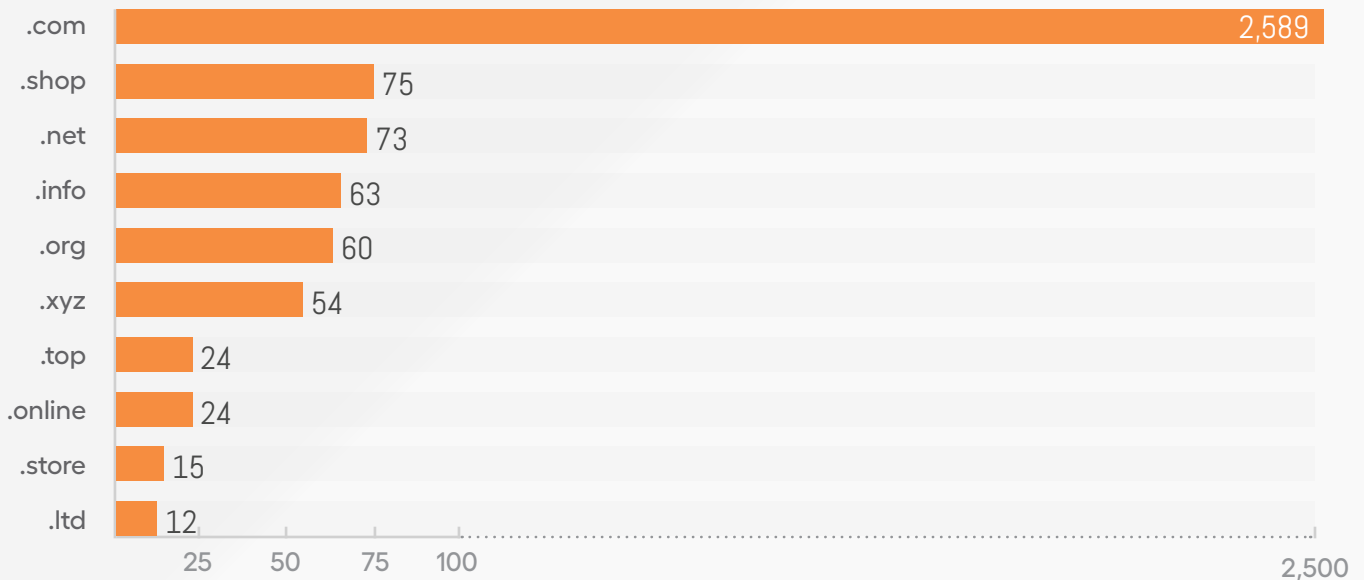


Total of outcomes is not 100% because of a small number of cases that resulted in split decisions.

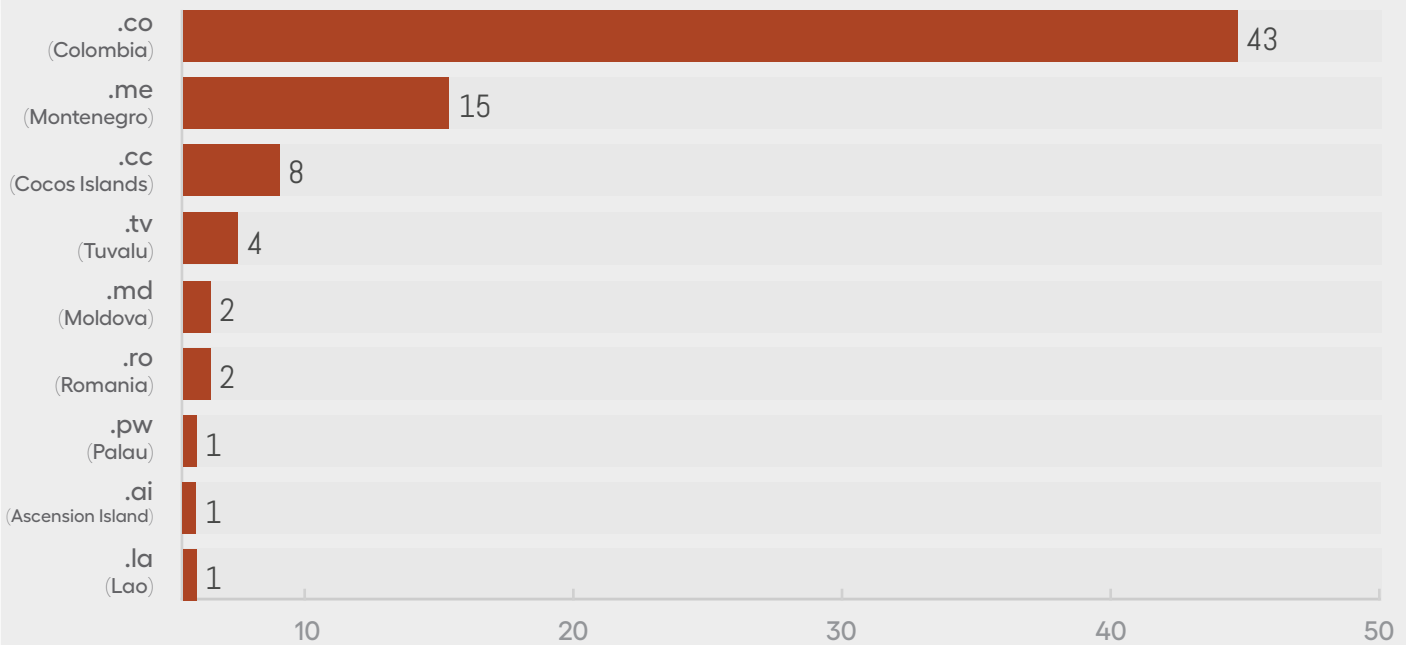
## Largest UDRP Cases

Complainant	Case No.	No. of Domains	Complainant	Case No.	No. of Domains
Basic Net	D2022-2669	72	Carvana	D2022-3869	30
Osprey	CAC-UDRP-104871	59	OOFOS	FA2211002020364	29
Google	FA2210002014579	58	Meta Platforms	D2022-3559	26
Meta Platforms	D2022-3213	53	Capitol One	D2022-3647	26
Tecnica	CAC-UDRP-104911	49	Under Armour	CAC-UDRP-104892	25
Tecnica	CAC-UDRP-104900	46	Gulfstream	FA2211002021352	24
Expedia	FA2211002021004	42	NIB Health	CAC-UDRP-104834	18
TJX	FA2210002014577	37	Tire Rack	FA2209002014017	17
ANWB	D2022-3435	34	Amazon	FA2208002010103	14
Basic Net	D2022-3756	31	Fenix	D2022-3002	14

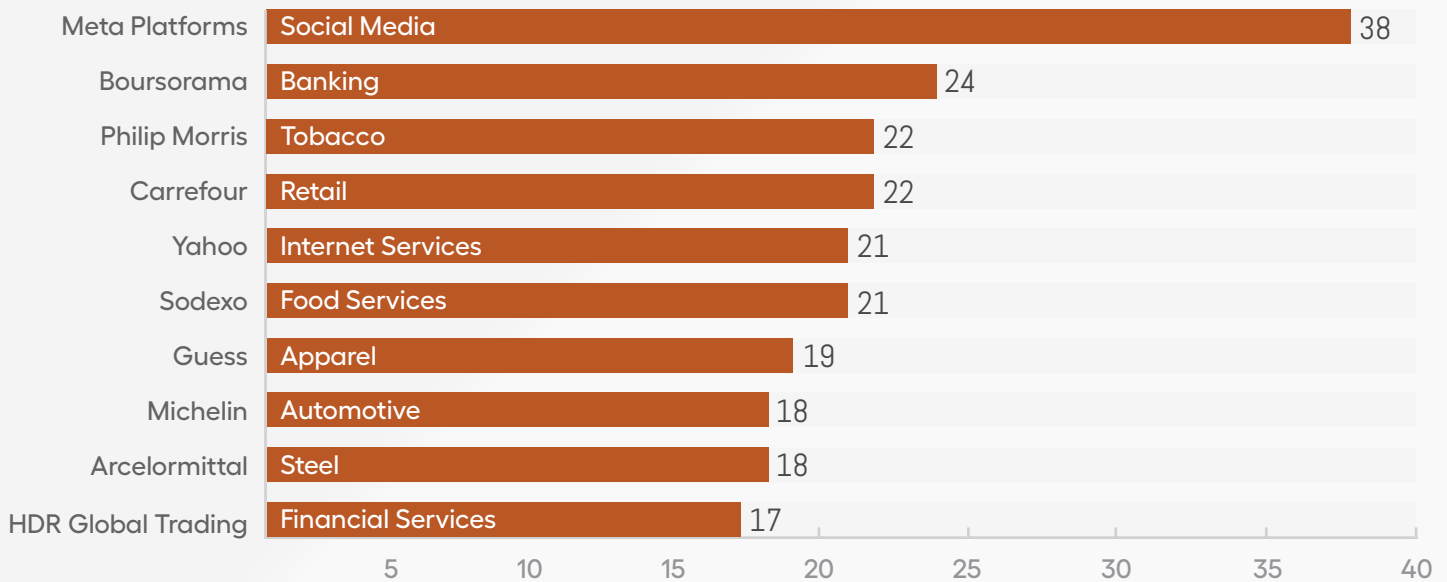
## Most Common gTLDs in URDP Cases



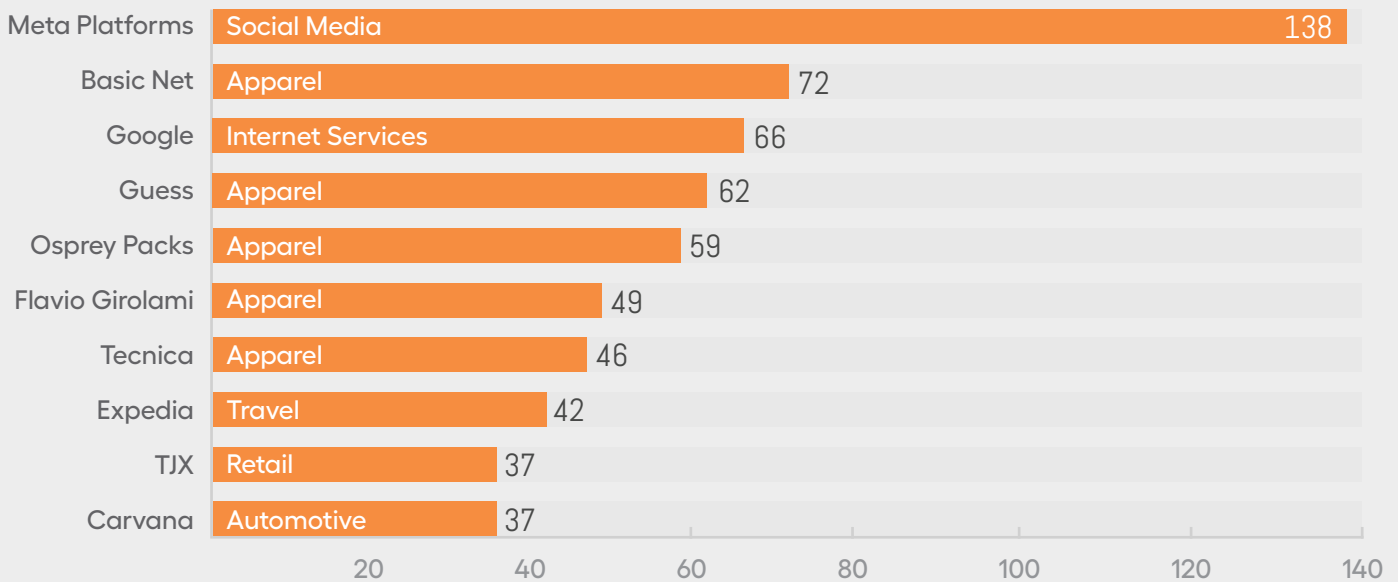
## Most Common ccTLDs in URDP Cases



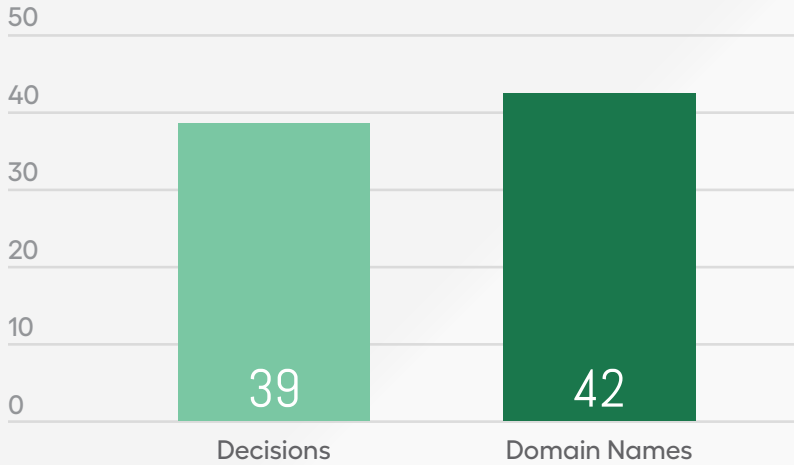
## Most Active Trademark Owners (UDRP Cases)



## Most Active Trademark Owners (Domain Names in UDRP)



## Number of URS Decisions and Domain Names



**-11.4%**

URS Decisions v. Q4 2021

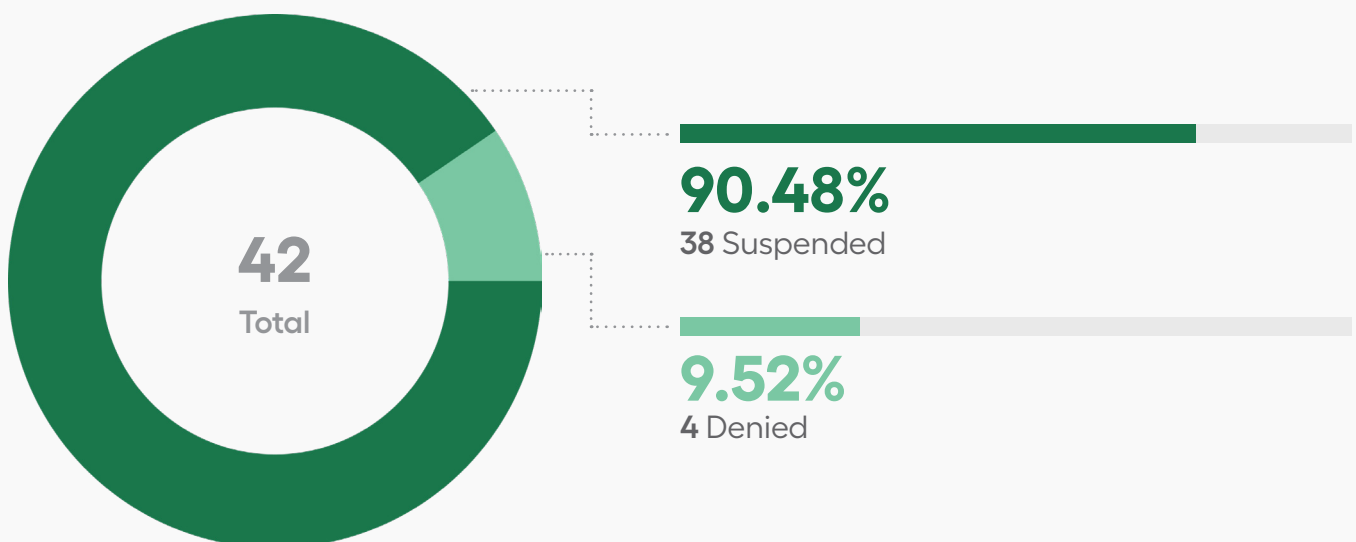
**-51.7%**

URS Domain Names v. Q4 2021

### URS or UDRP?

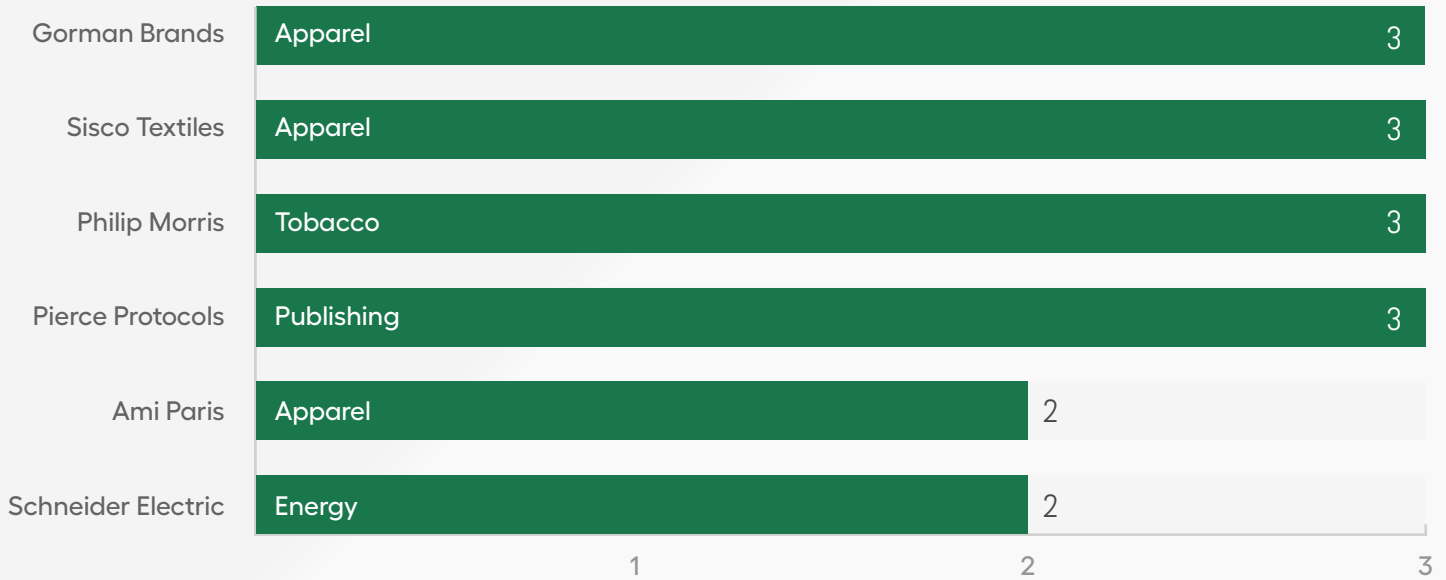
The Uniform Rapid Suspension System (URS) remains an unpopular alternative to the UDRP because it does not apply to .com domain names and only allows for the temporary suspension (not transfer) of a domain name. Given the relatively few cases that are filed, data for any quarter is of limited value. **For the year, the number of URS decisions in 2022 rose by 9.5%, while the number of disputed domains in URS cases was up 20.5% over 2021.** Still, as the chart above shows, the actual numbers are quite small compared with the UDRP.

## URS Outcome

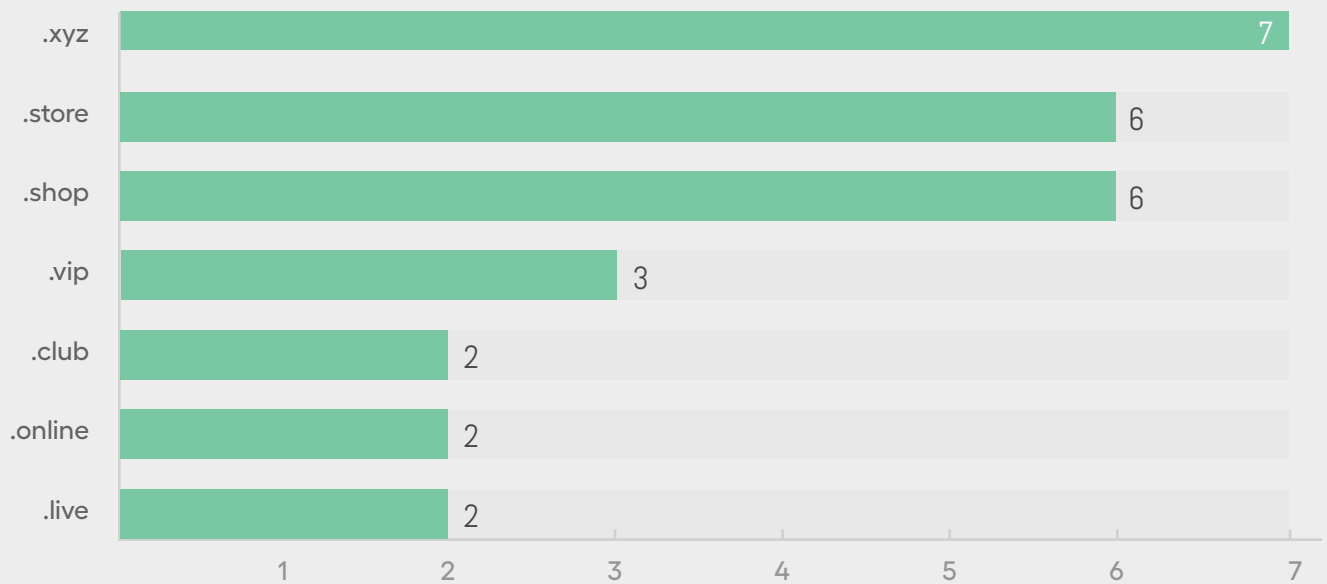




## Most Active Trademark Owners (URS Cases)



## Most Common gTLDs (URS Cases)



## Spotlight: The Essential Importance of Evidence in Domain Name Disputes

A domain name complaint is only as strong as the evidence submitted with it – as one trademark owner recently learned when it lost a case in which it apparently failed to properly document how the disputed domain name was actually being used.

I discuss the case, filed by the password management company Bitwarden against the domain name <bitwarden.icu>, in a new [video on YouTube](#).

The complaint was filed under the Uniform Rapid Suspension System (URS), which, as the data on page 7 makes clear, is a rarely used dispute procedure as compared with the Uniform Domain Name Dispute Resolution Policy (UDRP). The strict rules under the URS – such as a limit on annexes and a prohibition on procedural orders in which additional evidence could be requested – surely made this case more challenging.

Still, as I discuss in the video, this looks like a case that Bitwarden could have won if it had submitted proper evidence. Instead, the URS examiner wrote:

“The Complainant provided a .pdf document showing what appears to be a printout of a website corresponding to the Complainant’s official website. However, the Examiner observes that the URL is missing. It is therefore



impossible to verify whether this printout relates to a website linked to the disputed domain name. As the disputed domain name is currently inactive, the Examiner cannot confirm the Complainant’s claim by its own research either. In these circumstances, the Examiner finds that the Complainant did not make a prima facie case, proven by clear and convincing evidence, for the disputed domain name to be used in bad faith.”

Interestingly, after Bitwarden lost its URS case, it followed up by filing a complaint under the UDRP, which it won (presumably because it included sufficient documentation of how the domain name was being used).

This case is an important reminder that trademark owners must pay careful attention not only to the complaints they file against cybersquatters but also to the evidence they submit to support them.

## About Domain Name Disputes and GigaLaw

This report focuses primarily on the Uniform Domain Name Dispute Resolution Policy (UDRP), the ICANN policy that provides trademark owners with an inexpensive and quick legal process to combat cybersquatting. It applies to .com and all of the global or generic top-level domains (gTLDs),

as well as about 42 country-code top-level domains (ccTLDs). This report also includes data on the Uniform Rapid Suspension System (URS), a more limited policy that primarily addresses only disputes in the new gTLDs (.aaa to .zuerich) created in recent years.



**Doug Isenberg** (left), founder of GigaLaw and one of the world's most active domain name attorneys, frequently represents trademark owners under the UDRP, the URS and ccTLD-specific policies. He filed the largest UDRP complaint ever, for more than 1,500 domain names, in 2009. He also serves as a domain name panelist for most of the UDRP service providers, including the World Intellectual Property Organization (WIPO) and the Forum. *The World Trademark Review* has said that Doug is “a whiz on all things to do with Internet law and domain names.”

For more information, visit [www.Giga.Law](http://www.Giga.Law) or email [Doug@Giga.Law](mailto:Doug@Giga.Law)

This issue of GigaLaw's Domain Dispute Digest includes UDRP data from WIPO, the Forum, CAC, ADNDRC's Hong Kong (HKIAC) office, and CIIDRC; and URS data from the Forum and MFSO. Analyzed data is from October 1 – December 31, 2022, unless otherwise noted. The current Digest attempts to capture UDRP decisions dated but not published in the quarter, which may differ from the analysis applied in previous issues of the Digest. This report is for general informational purposes only, provides only a summary of specific issues, and is not intended to be and should not be relied upon as legal advice regarding any specific situation. This report is not intended to create, and does not constitute, an attorney-client relationship. Readers should consult with legal counsel to determine how laws, policies or decisions and other topics discussed in this report apply to the readers' specific circumstances. This report may be considered attorney advertising under court rules of certain jurisdictions.

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