

GIGALAW'S

DOMAIN DISPUTE DIGEST

SECOND QUARTER, 2023

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FOREWORD

Domain Name Disputes Double Over Past Six Years

Only halfway through the year, the number of domain name disputes at the World Intellectual Property Organization (WIPO) has already surpassed the full-year totals we were accustomed to seeing until recently. The 2023 total (p. 4) is on track to more than double the 3,074 domain name cases that WIPO handled in 2017, which, at the time, was already a record.

Those numbers (which only tell part of the story, because WIPO is not the only UDRP service provider, and also because WIPO handles country-code domain name disputes outside of the UDRP) are consistent with a trend that started 10 years ago. But **the 2023 surge is greater than anything we've seen before.**

Indeed, all of the active UDRP service providers are experiencing bigger caseloads, with increases ranging from about 6 percent (at WIPO) to 330 percent (at the much smaller Canadian International Internet Dispute Resolution Centre) in the number of domain names in reported UDRP decisions this quarter versus the first quarter of the year.

As usual, I think the increases are the result of a number of factors, including:

- ▶ an overall growth in domain name registrations (VeriSign's Domain Name Industry Brief most recently reported a 4 percent rise);

- ▶ more nefarious types of cybersquatting activities (my clients have taken action on a greater number of phishing attempts and "tech support scams"); and
- ▶ a greater awareness of the UDRP by companies of all sizes.

Interestingly, the lists of most active trademark owners in UDRP cases has not changed significantly from previous quarterly issues of GigaLaw's Domain Dispute Digest (although Charter Communications is a newcomer). This consistency tells me that **trademark owners filing the most UDRP cases find the policy to be an effective way to deal with the ongoing problem of cybersquatting.**

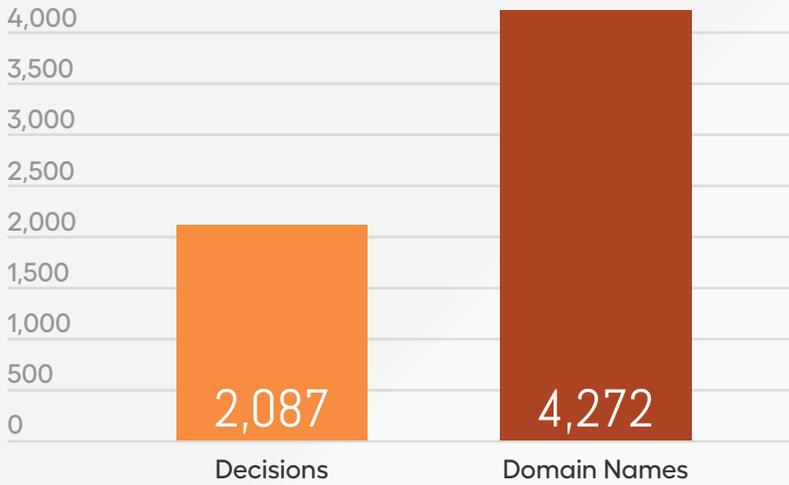
Finally, while .com domain names continue to dominate UDRP decisions (accounting for about 85 percent of the total), this quarter saw 96 top-level domains (TLDs) appear in UDRP decisions. The Digest (p. 7) includes the top 10, but a wide variety of TLDs round out the list, including .xyz (24 domains), .cam (a .com lookalike, with 4 domains) .international (the longest TLD on the list, with 3 domain names), and 51 others that appeared only once (from .africa to .zone).

Doug Isenberg

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Number of UDRP Decisions and Domain Names



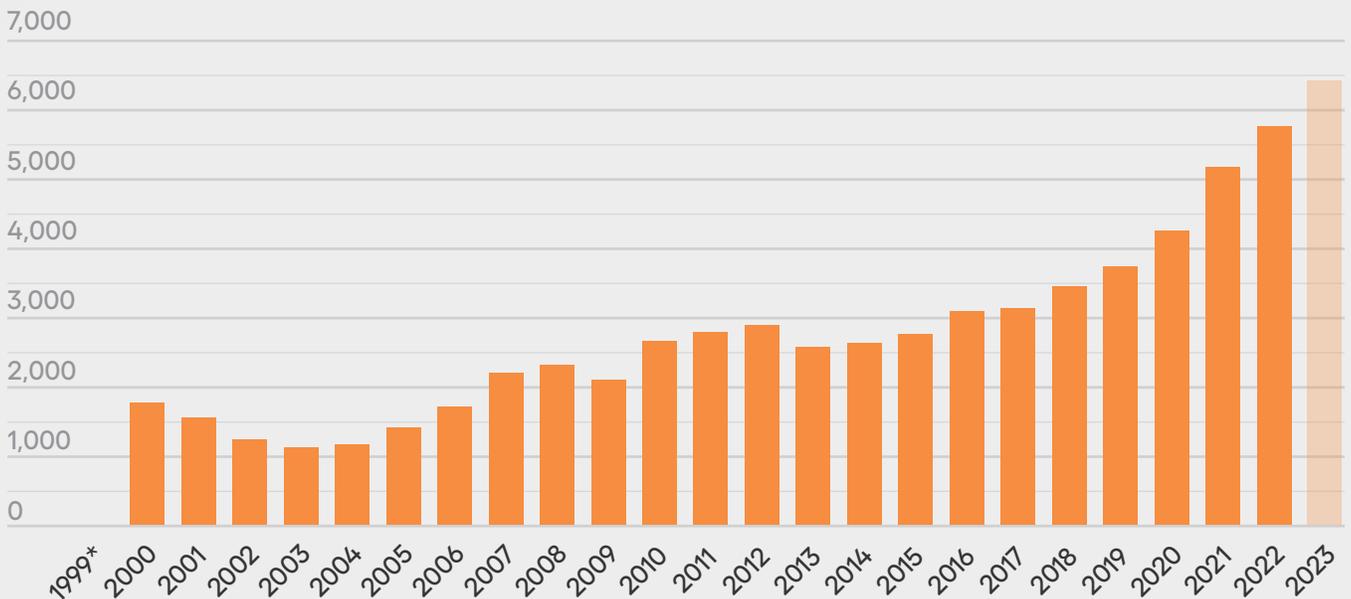
+16.85%

UDRP Decisions v. Q2 2022

+39.93%

UDRP Domain Names v. Q2 2022

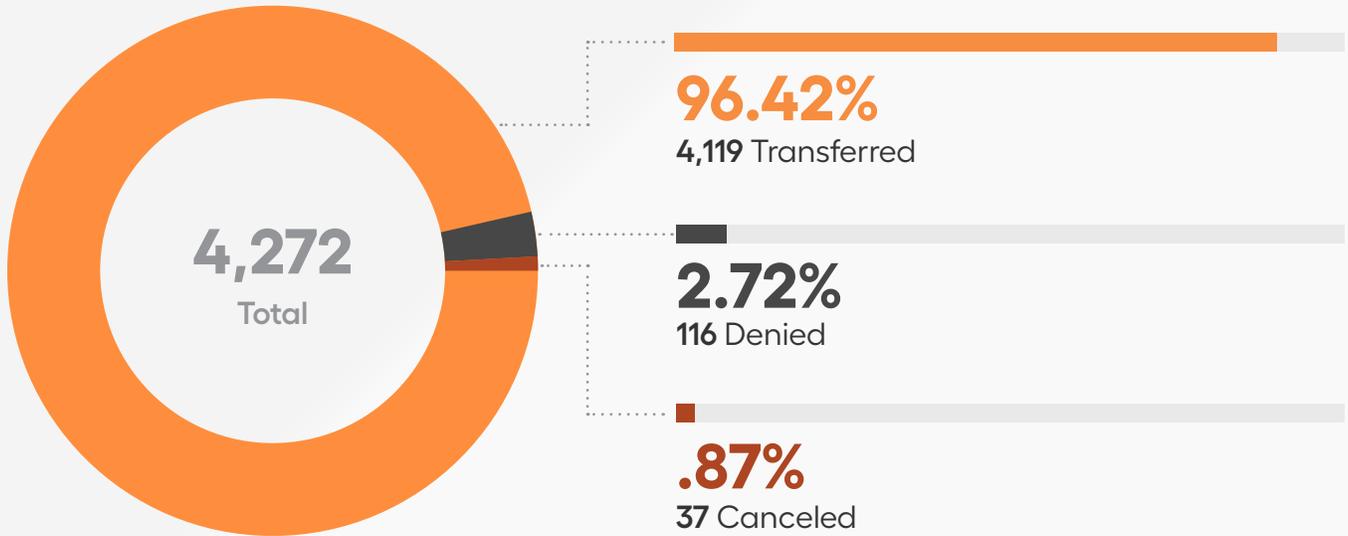
WIPO Domain Name Cases by Year



* One case was filed in 1999 Estimate for 2023

Data on this graph includes all domain name dispute policies administered by WIPO, including cases outside of the UDRP, such as ccTLD-specific policies. Estimate of 2023 cases is based on data as of July 18, 2023.

UDRP Outcome

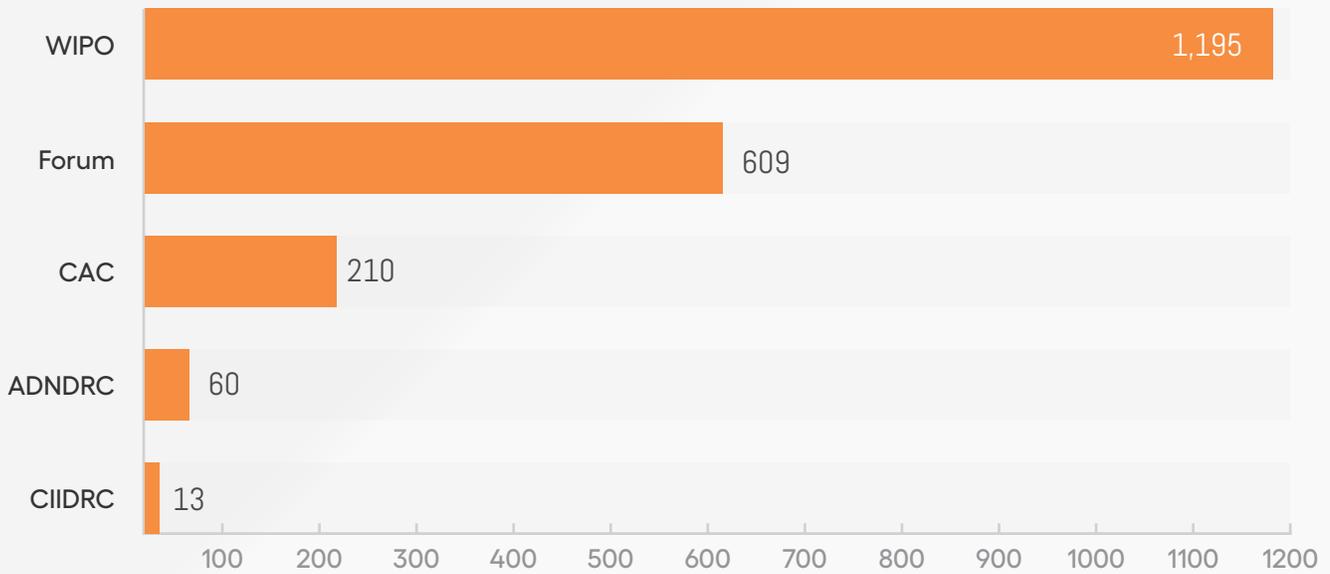


Largest UDRP Cases

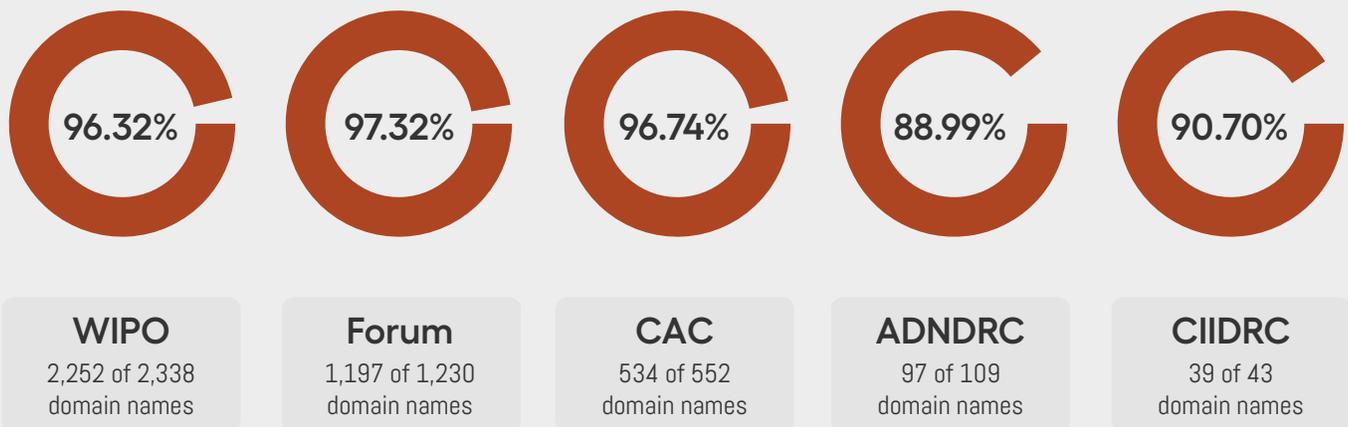
Complainant	Case No.	No. of Domains
HDR Global Trading	WIPO D2023-1432	123
Benefitfocus.com	WIPO D2022-4661	64
Workday	Forum 2037257	63
Moncler	CAC 105293	63
Palm Angels	WIPO D2023-1140	60
Verizon	WIPO D2023-0890	59
Univar Solutions	WIPO D2023-1704	53
H&M	CAC 105272	51
Wolverine	Forum 2033325	50
Millet Mountain Group	WIPO D2023-1188	47

Complainant	Case No.	No. of Domains
Acushnet	Forum 2045222	45
T. Rowe Price	Forum 2045506	41
Verizon	WIPO D2023-1232	41
Loro Piana	CAC 105445	39
Dominion Energy	Forum 2042086	35
Osprey	CAC 105399	35
Chicago Mercantile Exchange	WIPO D2023-0236	33
Canva	WIPO D2023-1121	31
Amazon	Forum 2043019	30
Yolano Veterinary Service	CIIDRC 18909	30

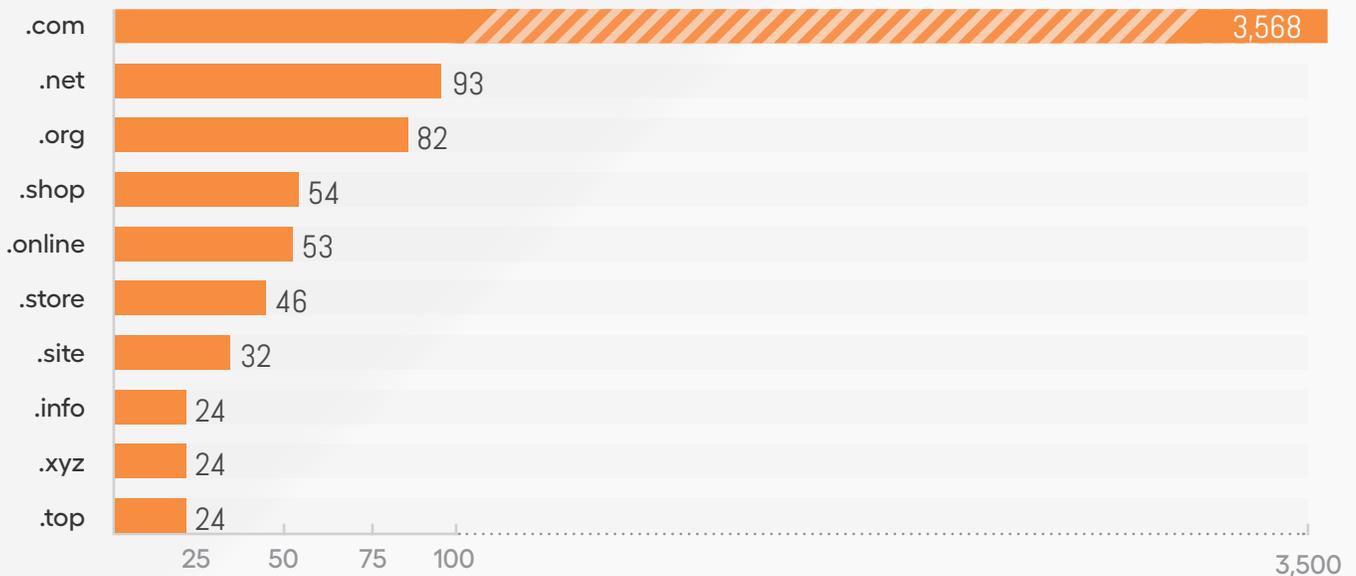
Number of UDRP Decisions by Provider



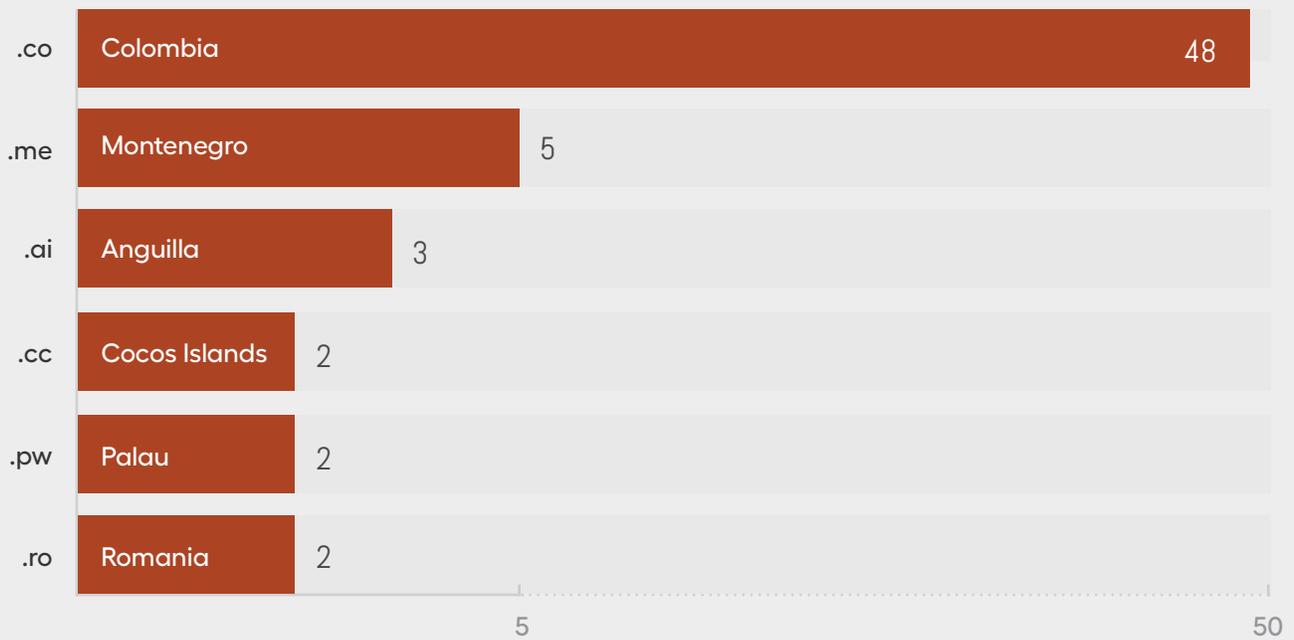
Transfer Rate by Provider



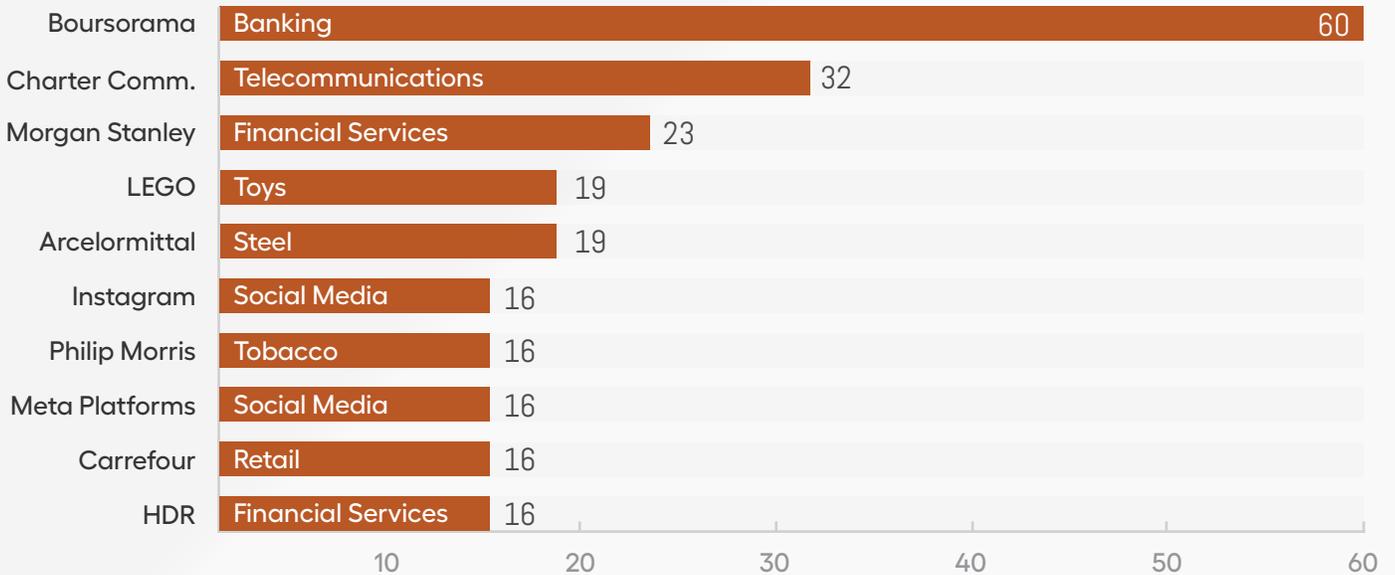
Most Common gTLDs in UDRP Cases



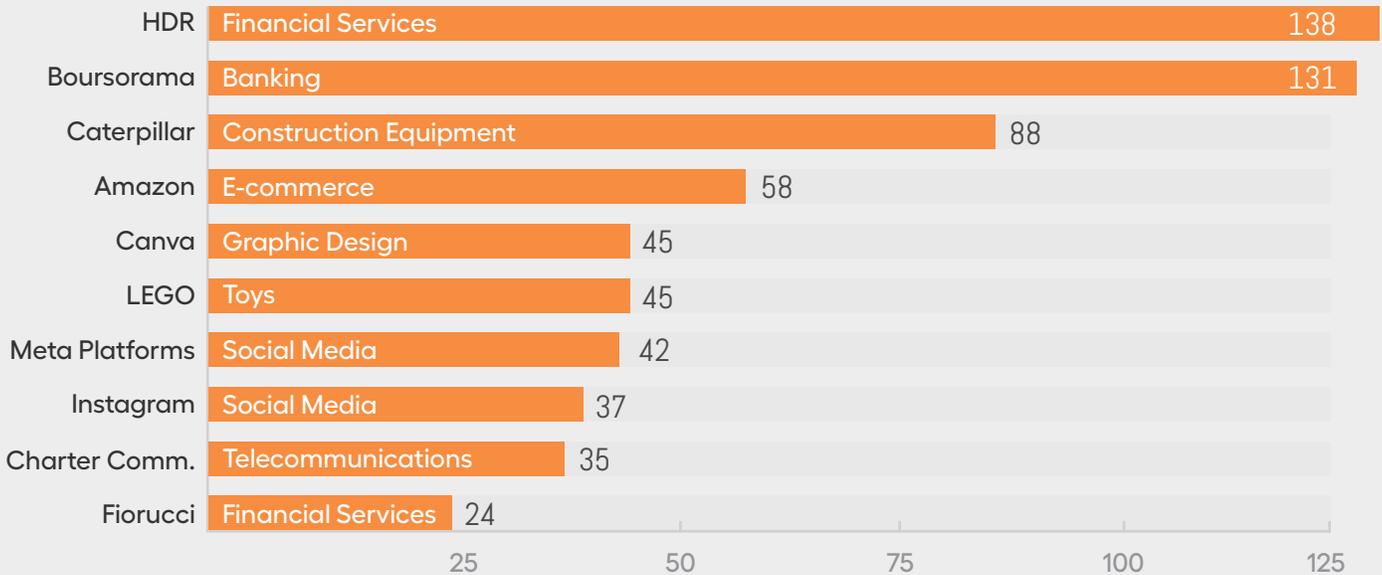
Most Common ccTLDs in UDRP Cases



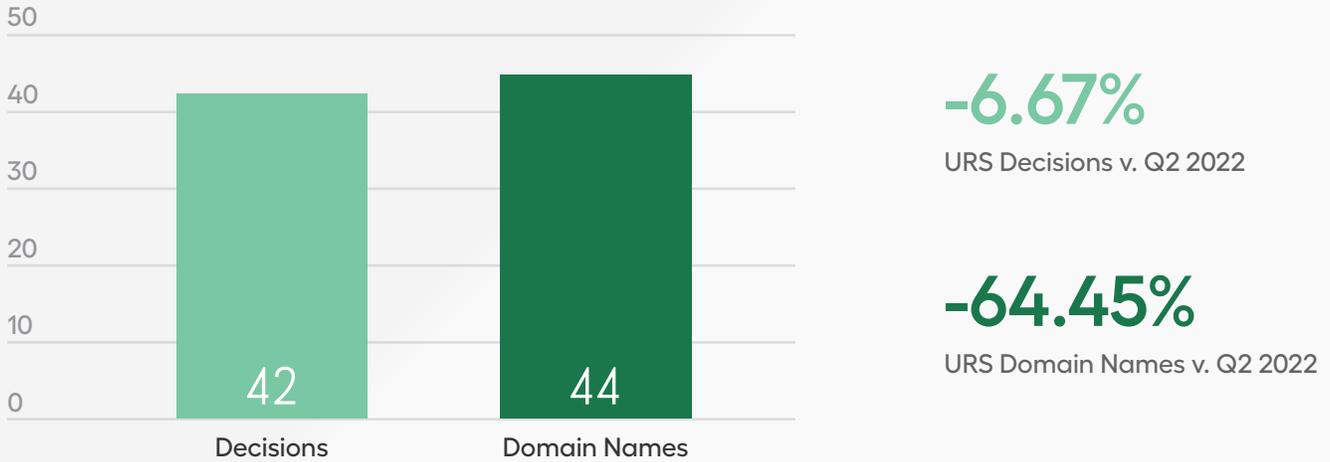
Most Active Trademark Owners (UDRP Cases)



Most Active Trademark Owners (Domain Names in UDRP)



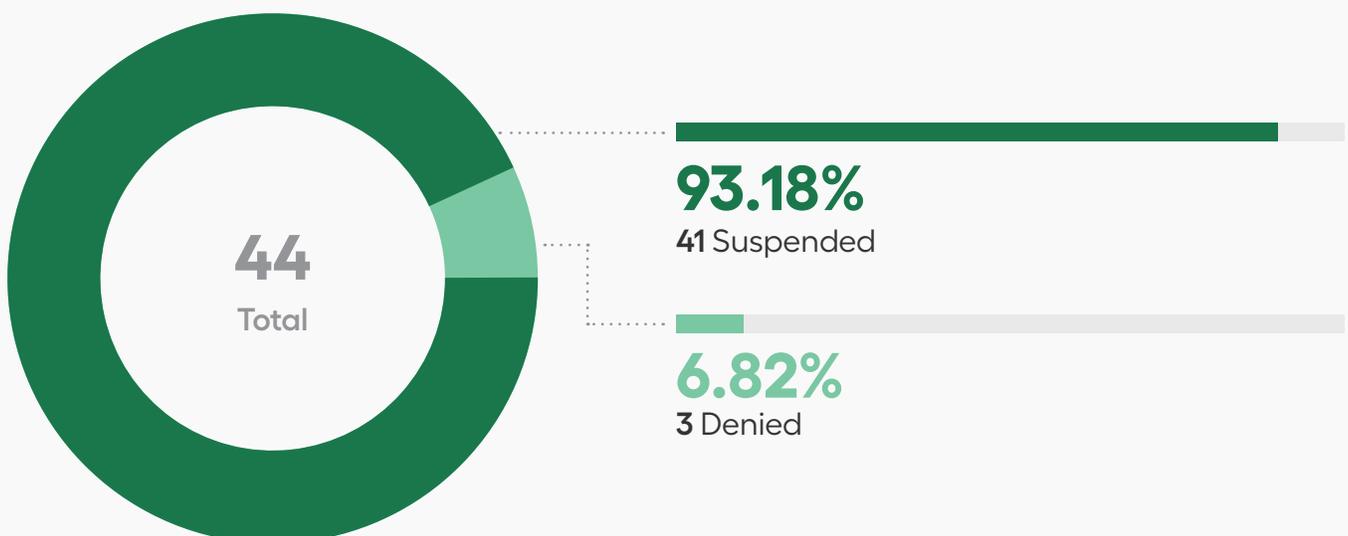
Number of URS Decisions and Domain Names



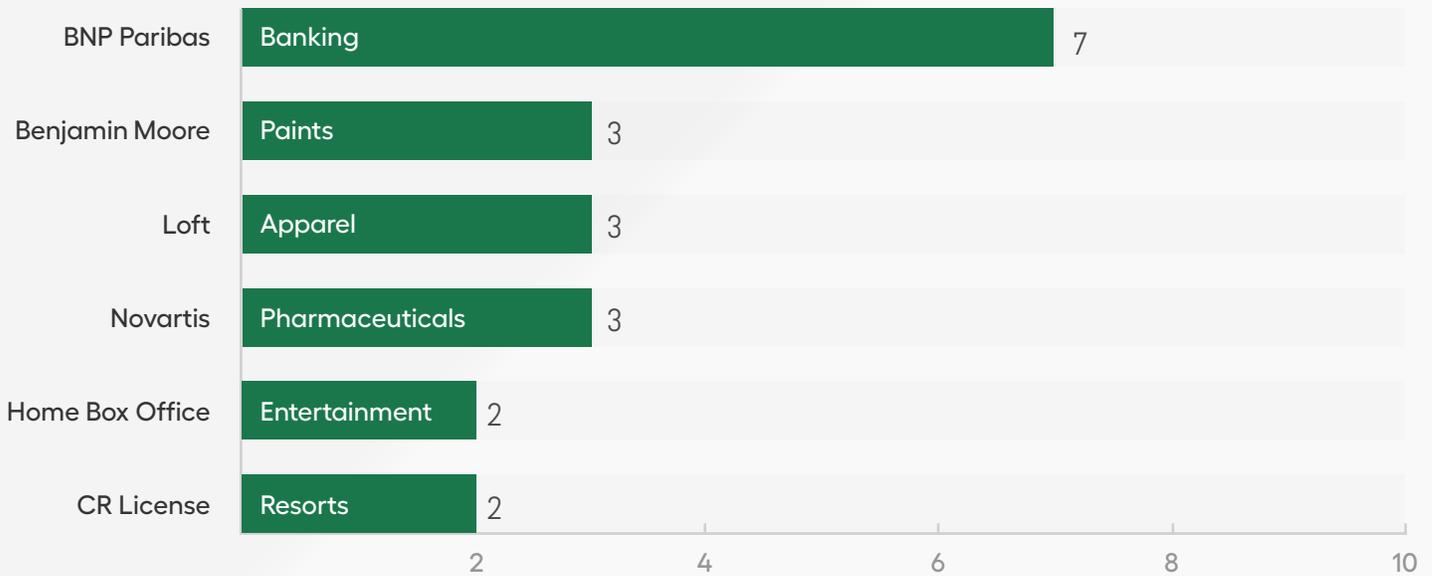
URS or UDRP?

Although the Uniform Rapid Suspension System (URS) is less expensive and usually faster than the UDRP, it remains unpopular because it does not apply to .com domain names, it only allows for the temporary suspension (not transfer) of domain names, and it has a higher burden of proof than the UDRP. Given the relatively few cases that are filed, data for any quarter is of limited value.

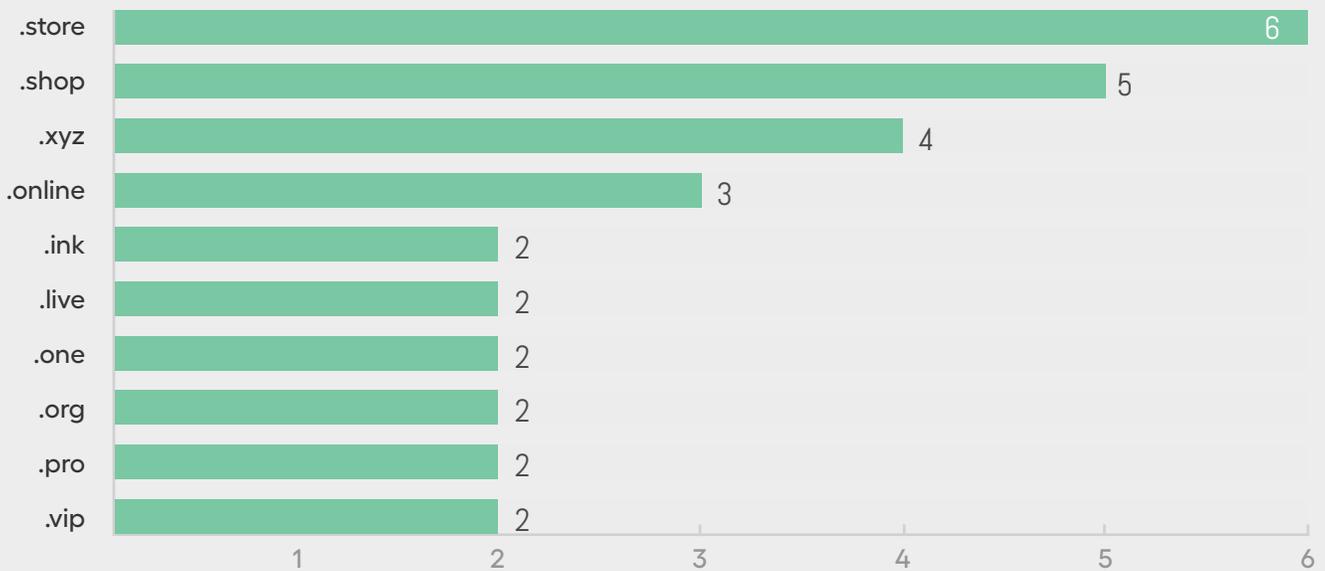
URS Outcome



Most Active Trademark Owners (URS Cases)



Most Common gTLDs (URS Cases)



SPOTLIGHT

An Interview with the Author of the First UDRP Decision

I had the privilege of serving with Scott Donahey for many years as a domain name panelist at the World Intellectual Property Organization (WIPO), until Scott's recent retirement. In a [video interview](#) on the [GigaLaw YouTube channel](#), I talked with Scott about his groundbreaking role in writing the decision for the very first case ever filed under the Uniform Domain Name Dispute Resolution Policy (UDRP), in 1999.

Today, of course, the UDRP is well-known as the most common way for trademark owners to take on cybersquatters. But in 1999, it was a brand new policy without a track record, so Scott's task was substantial.

In writing the first decision, Scott told me that he wanted "to give people a feel of why it made sense to use the UDRP... rather than go to court... and spend a lot of money."

Interestingly, the first case — filed by World Wrestling Federation Entertainment, Inc., for the domain name <worldwrestlingfederation.com> — presented a number of issues that would arise again and again in tens of thousands of UDRP decisions over the years.

For example, the registrant of the domain name was not using it in connection with an active website, he tried to sell it (for \$1,000) to the trademark owner, and he failed to submit a response.

"It was a very easy decision," Scott said.

In our conversation, Scott also tells me how he was picked by Francis Gurry (who would go on to become director general at WIPO) as the panelist for the first UDRP case and how he tried to explain the importance of the UDRP in writing his first decision.

As we discuss, Scott was no stranger to intellectual property arbitration, having worked for decades on international disputes involving hundreds of millions of dollars. And he would go on to write hundreds of decisions under the UDRP.



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 or email Doug@Giga.Law

This issue of GigaLaw's Domain Dispute Digest includes UDRP data from WIPO, the Forum, CAC, ADNDRC and CIIDRC; and URS data from the Forum and MFSD. Analyzed data is for decisions from April 1 – June 30, 2023, 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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