

GigaLaw's

Domain Dispute Digest

Second Quarter, 2022

Trademark Owners Increasingly Turn to URS – Which Often Fails Them



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The most interesting news in this issue of GigaLaw's Domain Dispute Digest is not the ongoing rise in the number of cases under the Uniform Domain Name Dispute Resolution Policy (UDRP) – something that's been going on for years – but an unusually large increase in the number of disputes under the Uniform Rapid Suspension System (URS). As shown in the data on page 7 of this Digest, URS cases filed by trademark owners resulted in 80% more decisions in the quarter, representing an astonishing spike of 202.4% in the number of disputed domain names (since some cases involve multiple domain names).

But, just as intriguing is the fact that trademark owners won far fewer cases under the URS than before: only 69.1 percent in the quarter. By comparison, trademark owners won 100 percent of all URS cases in the same quarter of 2021.

I speculate that some trademark owners are attracted by the lower filing fee and quicker timeline of the URS as compared with the UDRP – but that they are unaware of the stricter filing requirements and higher burden of proof required by the URS. (Plus, the URS only allows for the suspension, not transfer, of a domain name.) Even sophisticated trademark owners found the URS unrewarding: Well-known brand owners Dyson, Reddit, Warner Bros., and Philip Morris all lost URS decisions in the past quarter.

On the other hand, as shown in the data of page 4, trademark owners won 95.3 percent of all UDRP decisions in the quarter, making clear that the UDRP remains the most effective tool against cybersquatting. Indeed, the number of UDRP decisions rose 10.4 percent, with trademark owners from virtually every industry (such as those shown on page 6) filing and winning their domain name disputes under the UDRP.

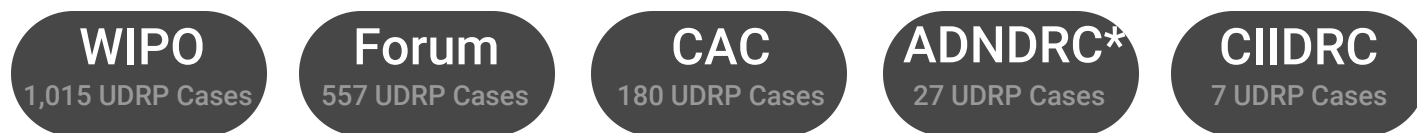
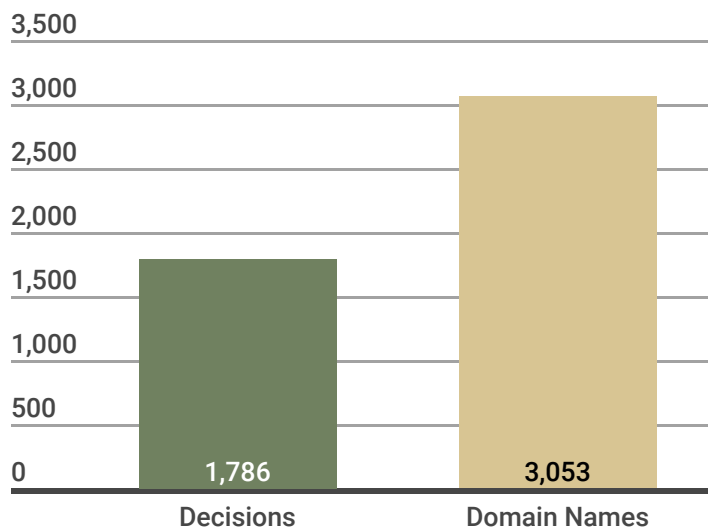
Number of UDRP Decisions and Domain Names

+10.4%

UDRP decisions v. Q2 2021

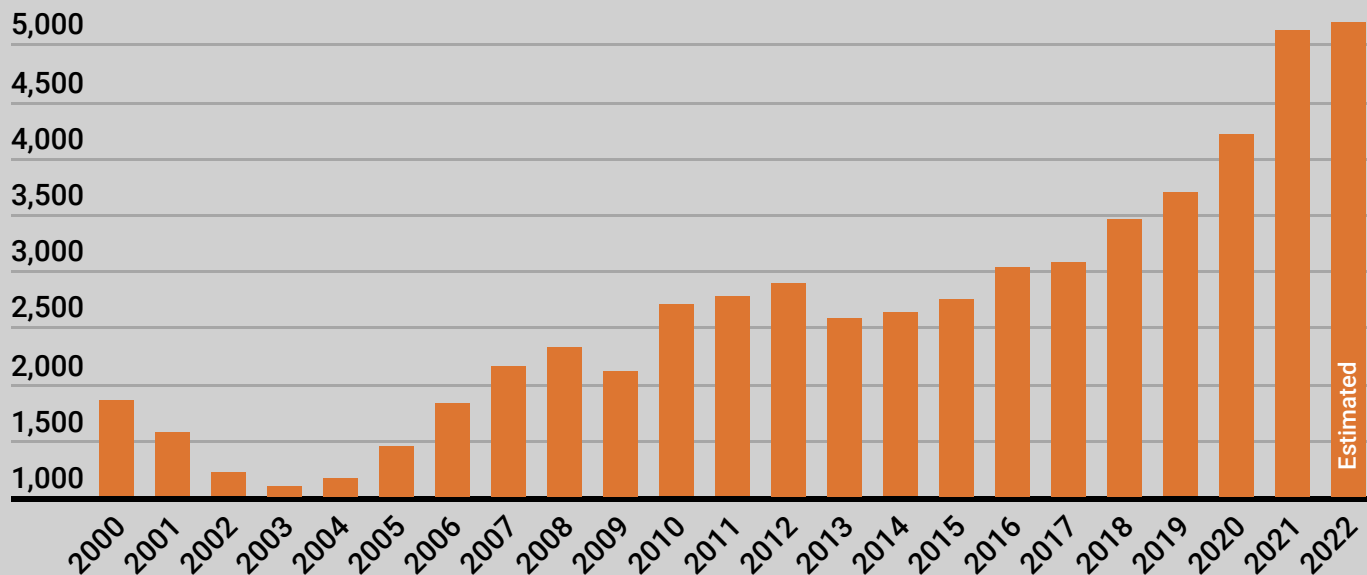
-0.9%

UDRP domain names v. Q2 2021



* HKIAC office only

WIPO Domain Name Cases by Year



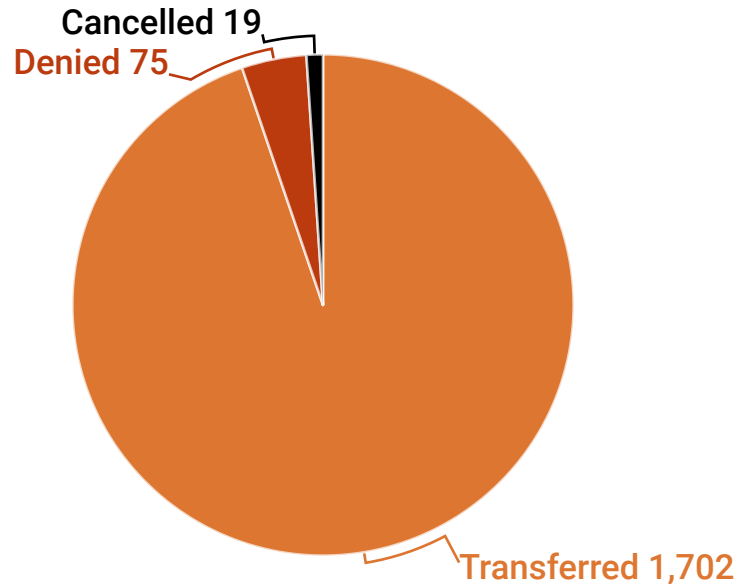
Data on this graph includes all domain name dispute policies administered by WIPO, including cases outside of the UDRP, such as ccTLD-specific policies. Estimate of 2022 cases is based on data as of August 6, 2022.

UDRP Outcome

95.3% Transferred

4.2% Denied

1.0% Cancelled

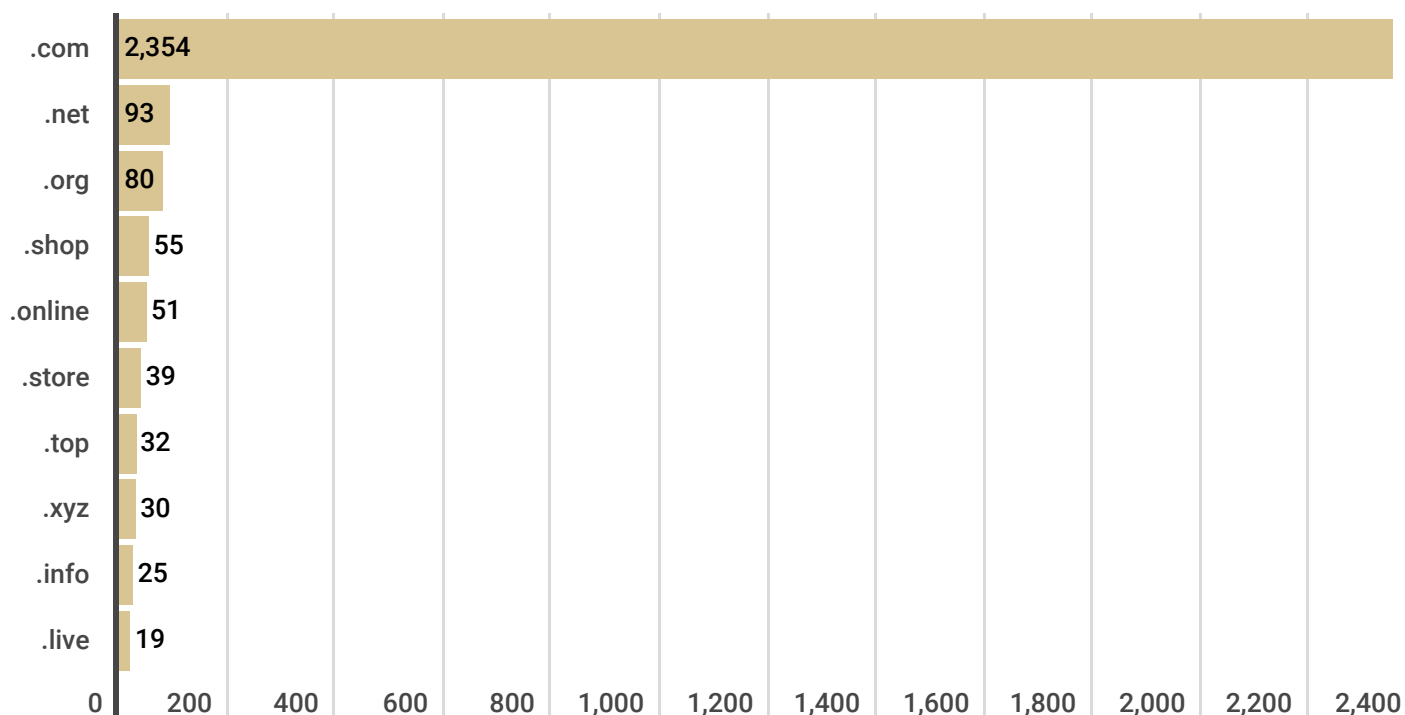


Total is not 100% because of a small number of cases that resulted in split decisions.

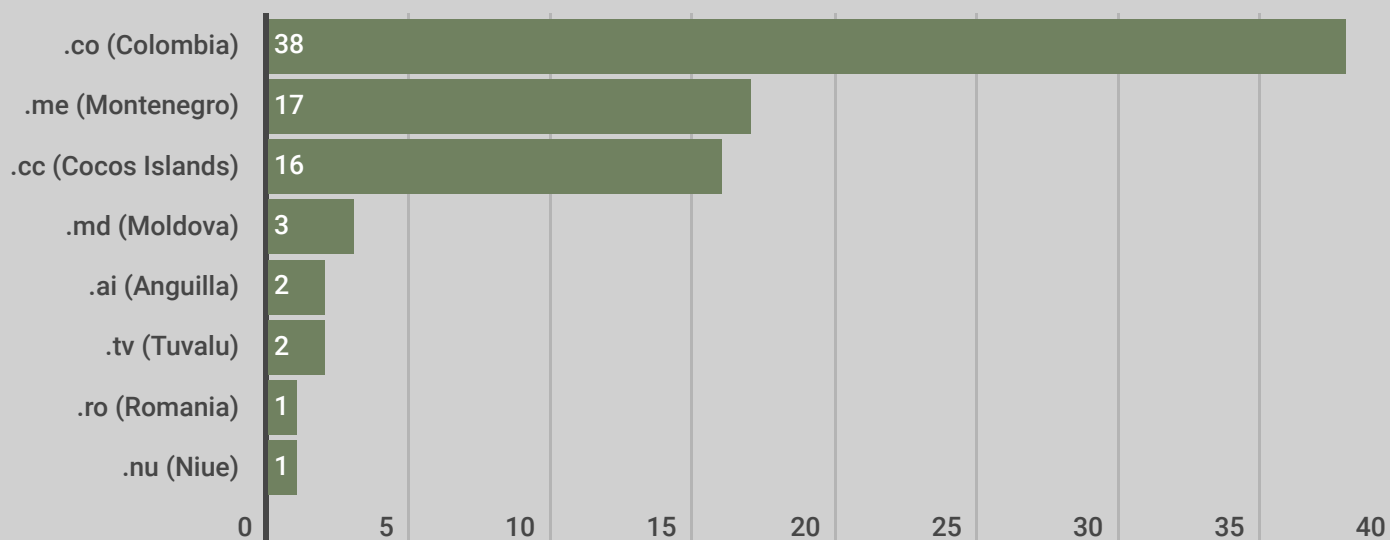
Largest UDRP Cases

Complainant	Case No.	No. of Domains
Morgan Stanley	Forum 1991414	62
Twitter	Forum 1992610	62
Tommy Hilfiger	CAC 104505	60
Morgan Stanley	Forum 1989084	58
San Antonio Shoe	Forum 1988967	54
OOFOS	Forum 1996766	48
Meta Platforms	WIPO D2022-1690	44
Treace Medical	Forum 1988388	32
Entain	CAC 104455	30
Belfius	WIPO D2022-0642	29

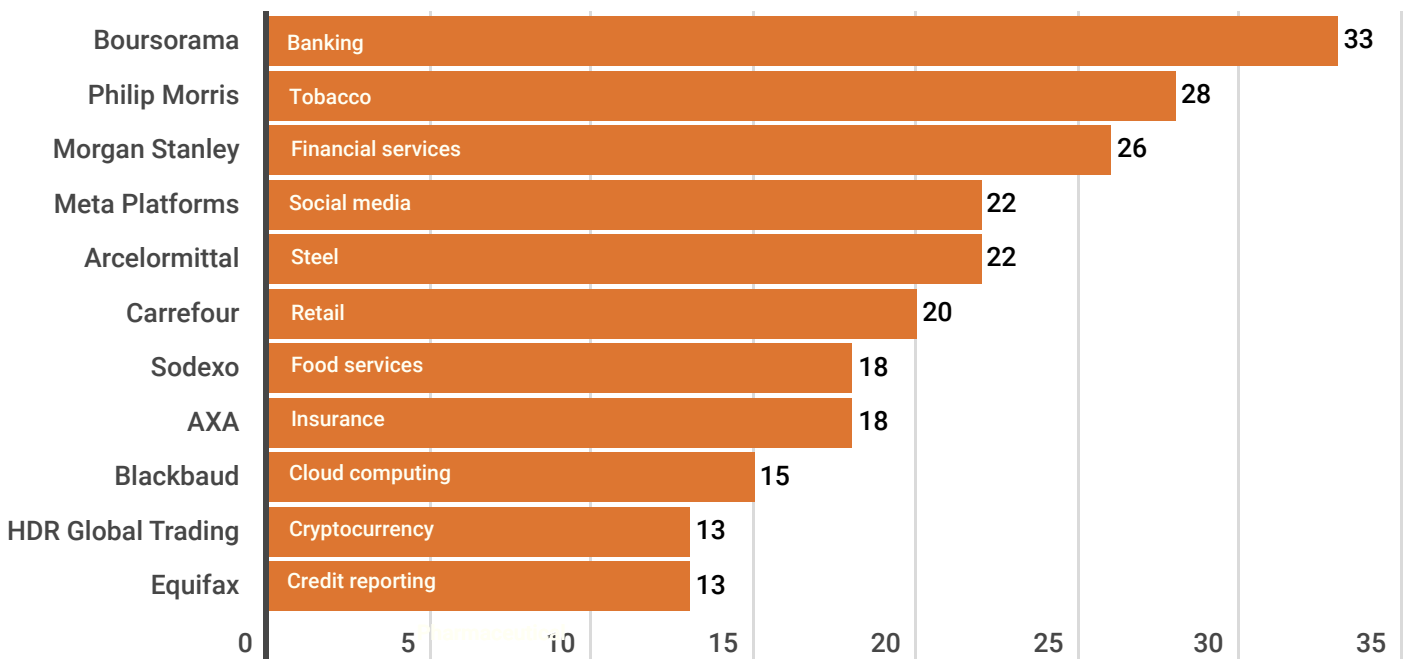
Most Common gTLDs in UDRP Cases



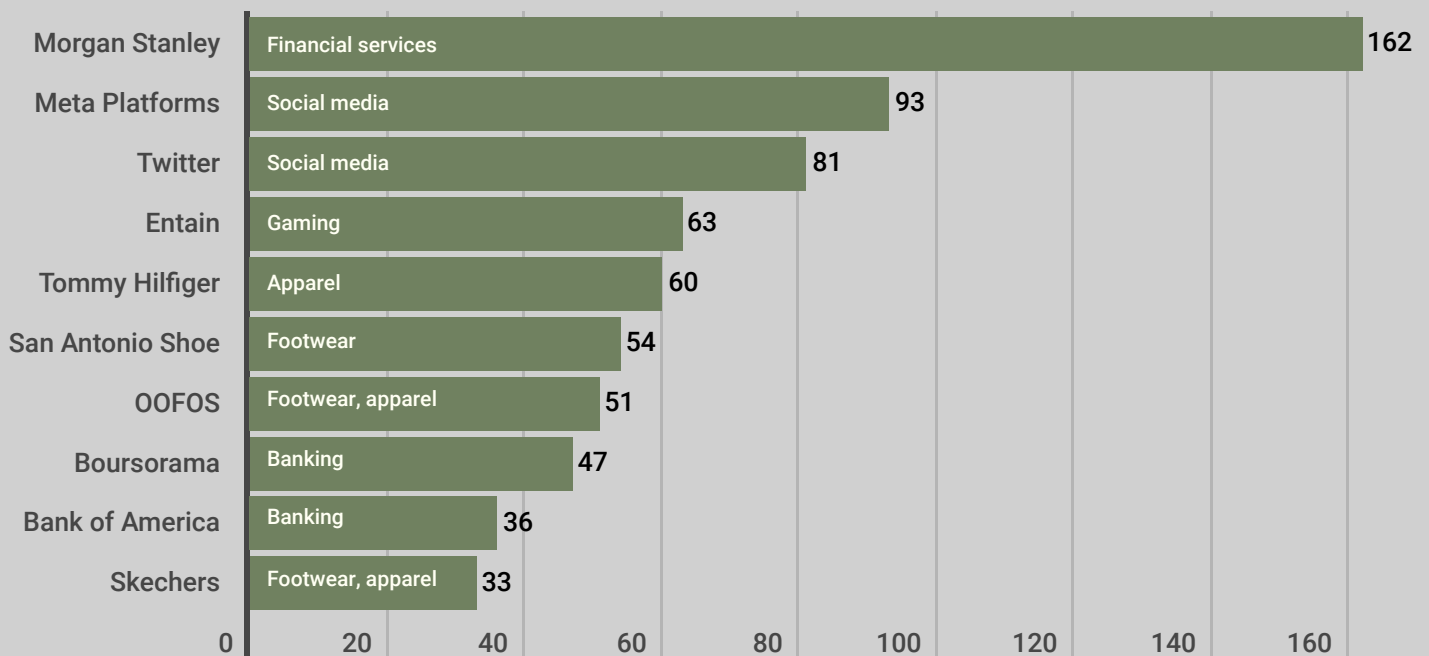
Most Common ccTLDs in UDRP Cases



Most Active Trademark Owners (UDRP Cases)



Most Active Trademark Owners (Domain Names in UDRP)



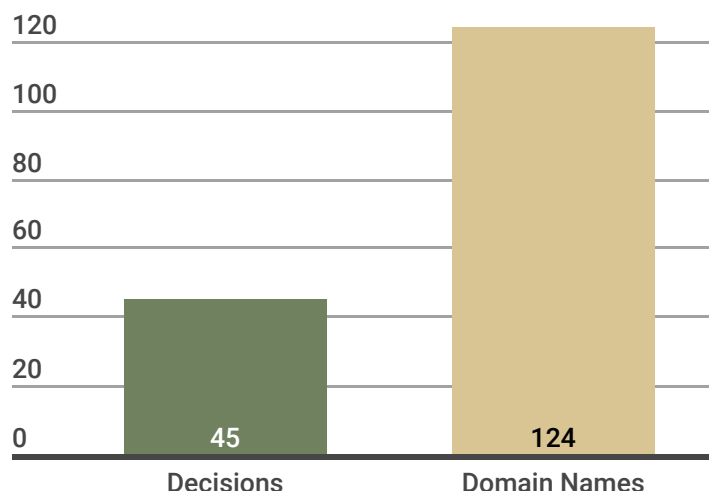
Number of URS Decisions and Domain Names

+80.0%

URS decisions v. Q2 2021

+202.4%

URS domain names v. Q1 2021



URS or UDRP?

The URS is less expensive than the UDRP, but it does not apply to .com, and it only allows a trademark owner to temporarily suspend (not transfer) a disputed domain name.

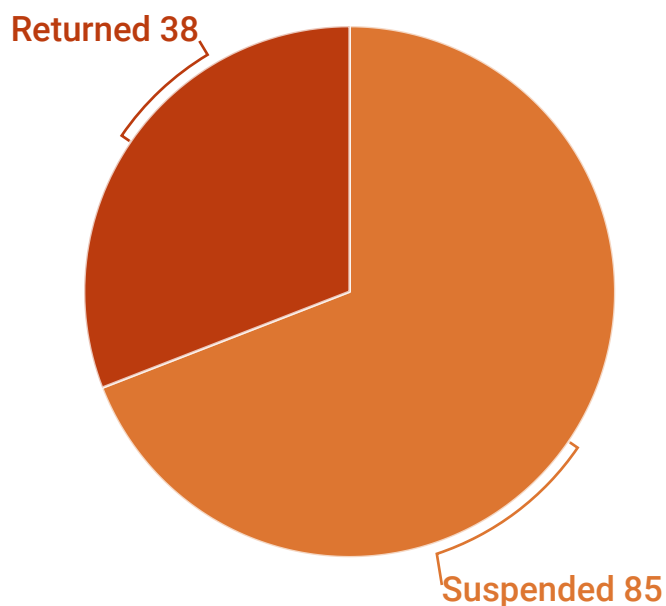
URS Outcome

69.1%

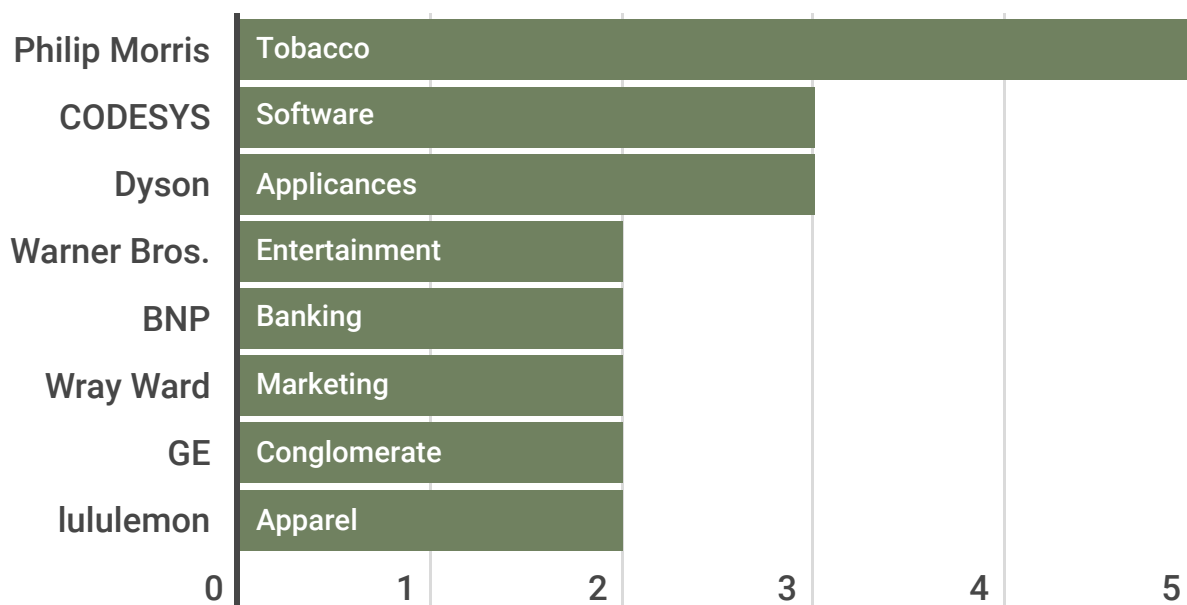
Suspended

30.9%

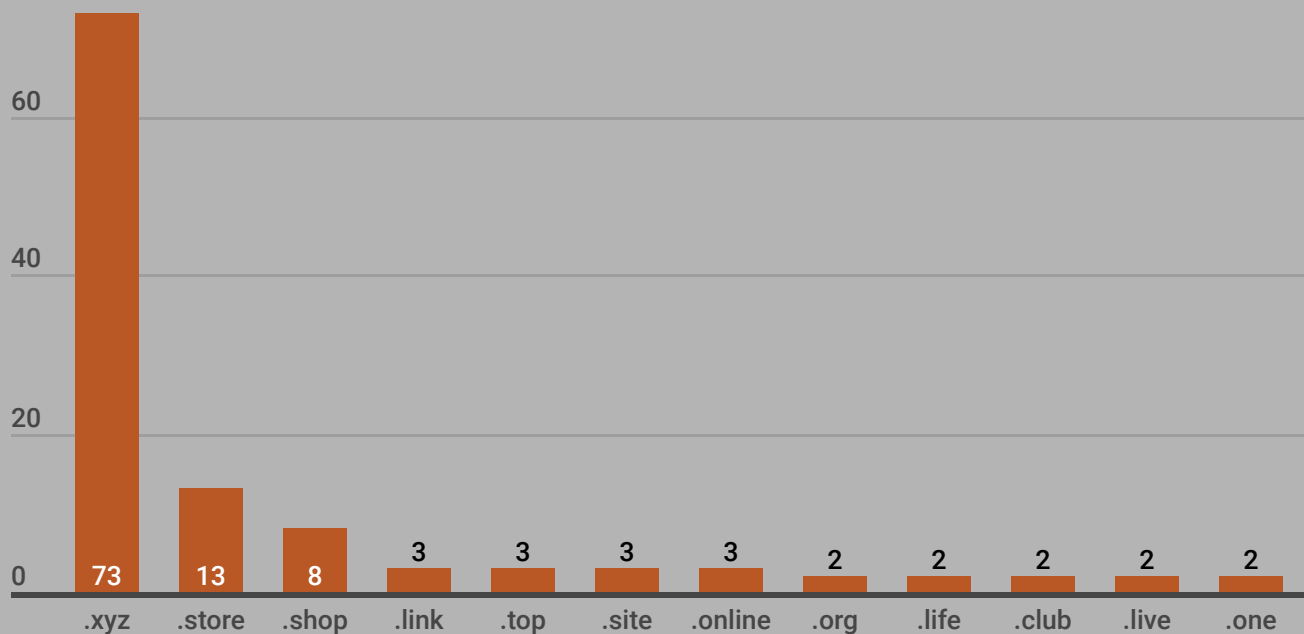
Returned



Most Active Trademark Owners (URS Cases)



Top gTLDs in URS Cases



YouTube Behind the Scenes: Doug Isenberg's Domain Name Dispute Videos

Why do I publish videos about domain name disputes for my GigaLaw website — and how do I create them?

I answer those questions (and provide a lot of other behind-the-scenes details about my legal practice) in a new documentary on my YouTube channel.

Created by my oldest son, Ari, for his “Sight & Sound: Documentary” class at NYU’s Tisch School of the Arts, this short film lifts the curtain on the videos I started publishing at the beginning of the pandemic.

I originally intended to create a short number of introductory videos on domain name disputes and the Uniform Domain Name Dispute Resolution Policy (UDRP), which resulted in 14 videos for what I called “Domain Name Disputes: A Masterclass.” But as I explain in this documentary, I decided to continue creating videos because I found it to be a great way to connect with clients and prospective clients online, in a way that blog posts and other marketing efforts simply can’t do.

But creating my YouTube channel, and maintaining a regular publishing schedule, is no easy task — at least not for me! Writing, filming, editing and publishing takes a lot of work, but, as I say in the video, it’s also fun and rewarding.

Although the focus in this documentary is on my legal practice, this turned out to be a highly personal project, with me talking about and showing how and why I do what I do. And where I do it. While each of my domain name dispute videos is a polished project, this short film truly goes behind the scenes, where you can see what I look like and what I do “off camera.”



Watch on YouTube: www.Giga.Law/behind-the-scenes

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 (right), 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's Hong Kong (HKIAC) office, and CIIDRC; and URS data from the Forum and MFSD. Analyzed data is from April 1-June 30, 2022, unless otherwise noted. 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. Copyright © 2022 The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC.