

GigaLaw's

**Domain
Dispute
Digest**



Third Quarter, 2021

While Domain Disputes Keep Rising, UDRP Can Never be Taken for Granted



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As we head into the final quarter of the year, it seems obvious that domain name disputes will set yet another record – especially given that the total number of cases filed at WIPO through the third quarter of 2021 has almost reached the level for the *total* number of cases in 2020.

In my legal practice, I've seen a renewed interest in the Uniform Domain Name Dispute Resolution Policy (UDRP) from trademark owners, thanks in part to what seems to be an increased number of cybersquatting activities. Recent UDRP complaints that I filed for my clients include:

- domain names used in sophisticated phishing activities targeting vendors;
- domain names used in connection with websites selling competing goods and services;
- domain names that contain clever typos (such as substituting similar-looking characters, transposing characters, and adding and deleting characters);
- domain names redirecting to pornographic websites;
- and much more.

Still, despite overwhelming success that trademark owners enjoy under the UDRP, it should never be taken for granted. For example, in a recent decision I analyzed in a video (WIPO Case No. D2021-1830, for <nali.life>), I explain how one trademark owner apparently failed to file a proper complaint – not only losing its case but also drawing the panelist's scorn, which wrote that the complaint “verges on spurious” and reminded trademark owners that “[i]t is generally not acceptable to file boilerplate complaints only containing conclusory arguments...”

For more details about this case, and the lessons I discuss, watch my video: <https://www.youtube.com/watch?v=o6lztIZY45s>

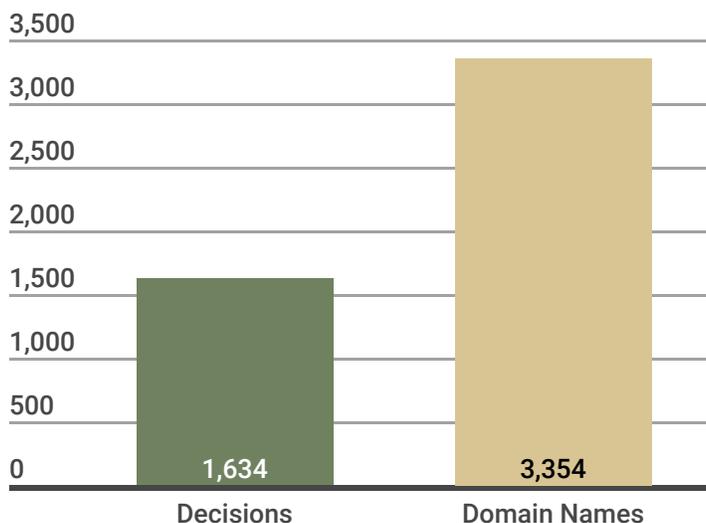
Number of UDRP Decisions and Domain Names

+1%

UDRP decisions since last quarter

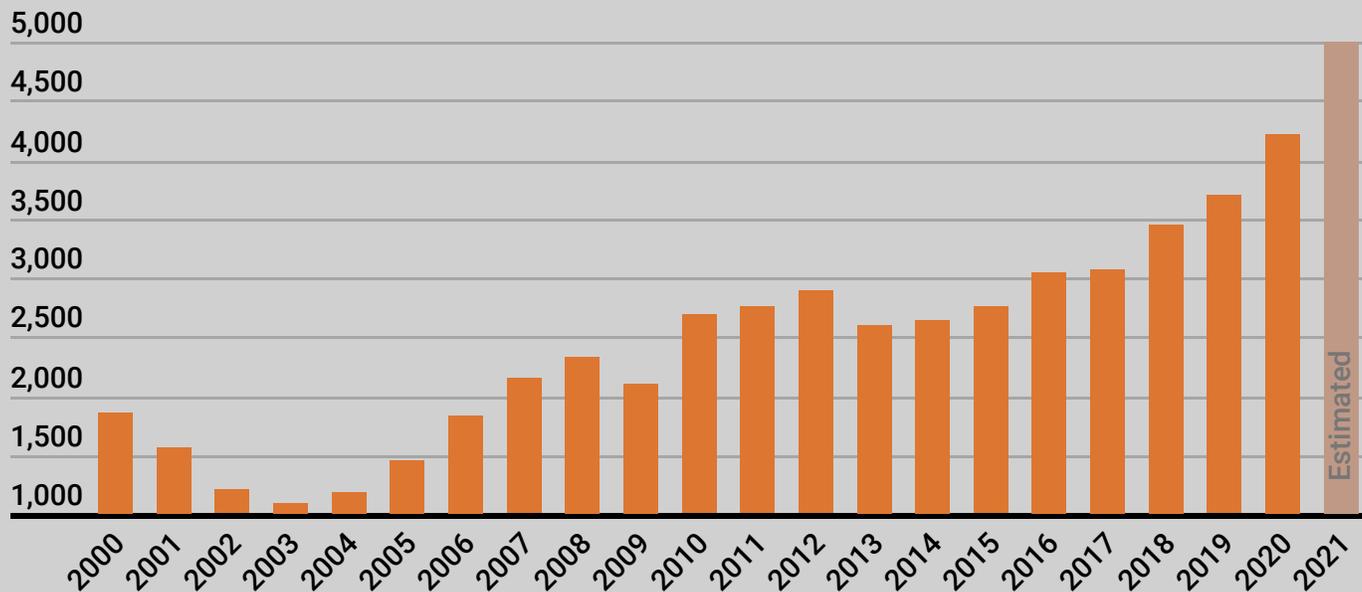
+8.9%

UDRP domain names since last quarter



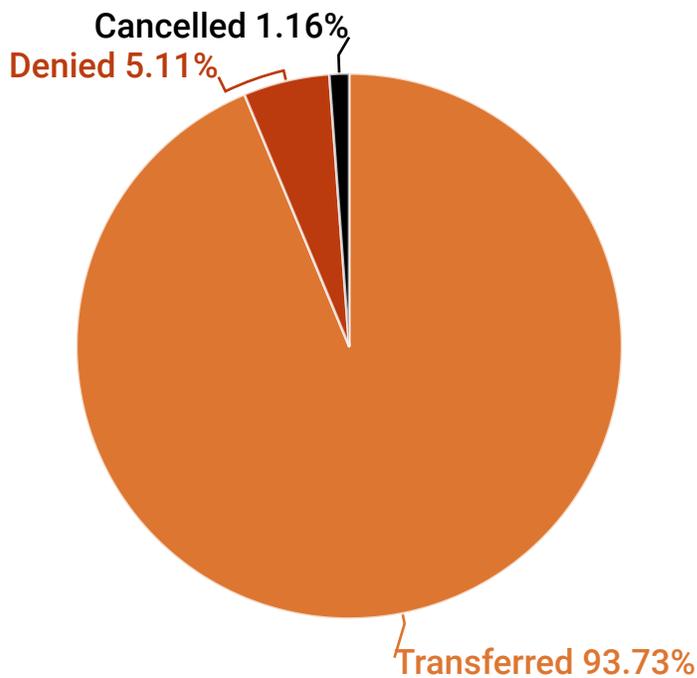
<p>WIPO 924 UDRP Cases</p>	<p>Forum 537 UDRP Cases</p>	<p>CAC 121 UDRP Cases</p>	<p>HKIAC 48 UDRP Cases</p>	<p>CIIDRC 4 UDRP Cases</p>
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WIPO Domain Name Cases by Year



At WIPO, the leading UDRP service provider, the number of domain name disputes continues to surge, rising more than 20% thus far in 2021 versus the same period of time in 2020. If the trend continues, the number of disputes filed in 2021 will yet again set a record high. (Note: 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



The percentage of domain names transferred to trademark owners in UDRP cases dropped slightly in the quarter, but the overwhelming success rate (94.89% including transfers plus cancellations) indicates that the UDRP remains a strong weapon against cybersquatters.

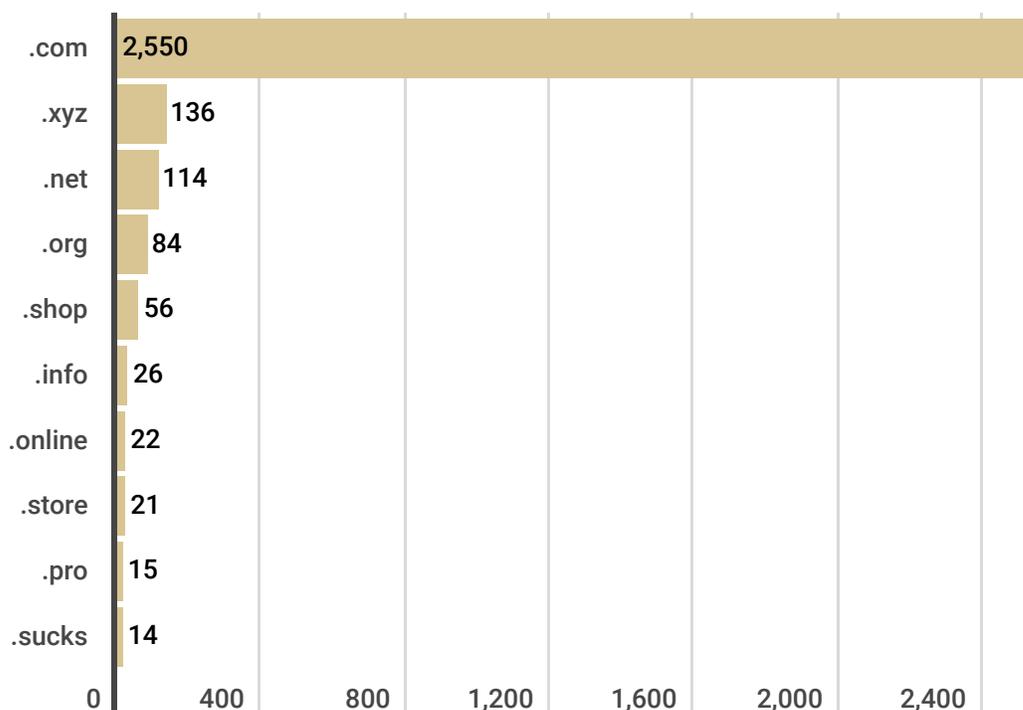
Largest UDRP Cases

Facebook (and its subsidiaries WhatsApp and Instagram) have become the most prolific filers of UDRP complaints, responsible for four of the top 10 largest UDRP complaints decided in the quarter.

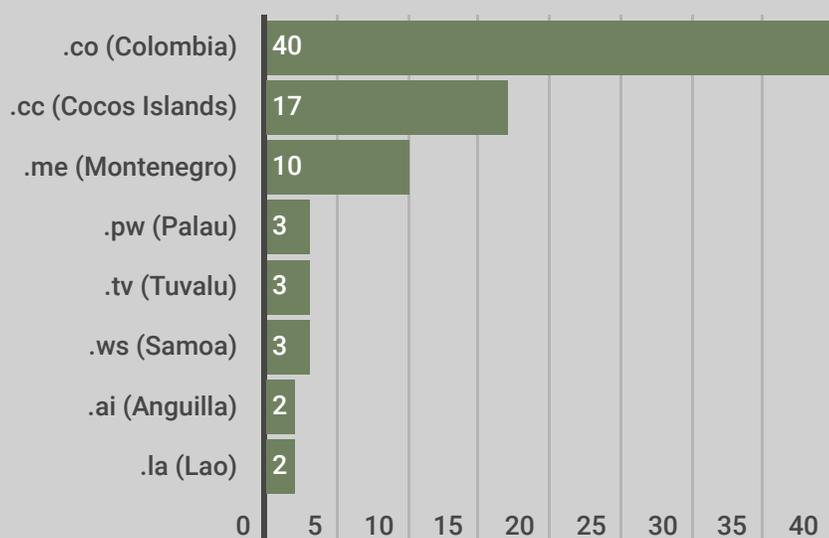
Complainant	Case No.	No. of Domains
Facebook, WhatsApp	WIPO D2021-1838	132
Facebook	WIPO D2021-1810	105
Chevron	Forum 1959508	99
Facebook, Instagram	WIPO D2021-1782	69
Pandora	CAC 103880	63
Wolverine	Forum 1958126	60
AbbVie	Forum 1954234	56
Wolverine	Forum 1954954	50
Facebook, Instagram	WIPO D2021-2008	49
Omega	WIPO D2021-2396	47
UPS	Forum 1952218	47

Most Common gTLDs in UDRP Cases

As usual, domain names using the .com TLD remain far and away the most popular in UDRP disputes, while .xyz has now become the most frequently disputed new gTLD.

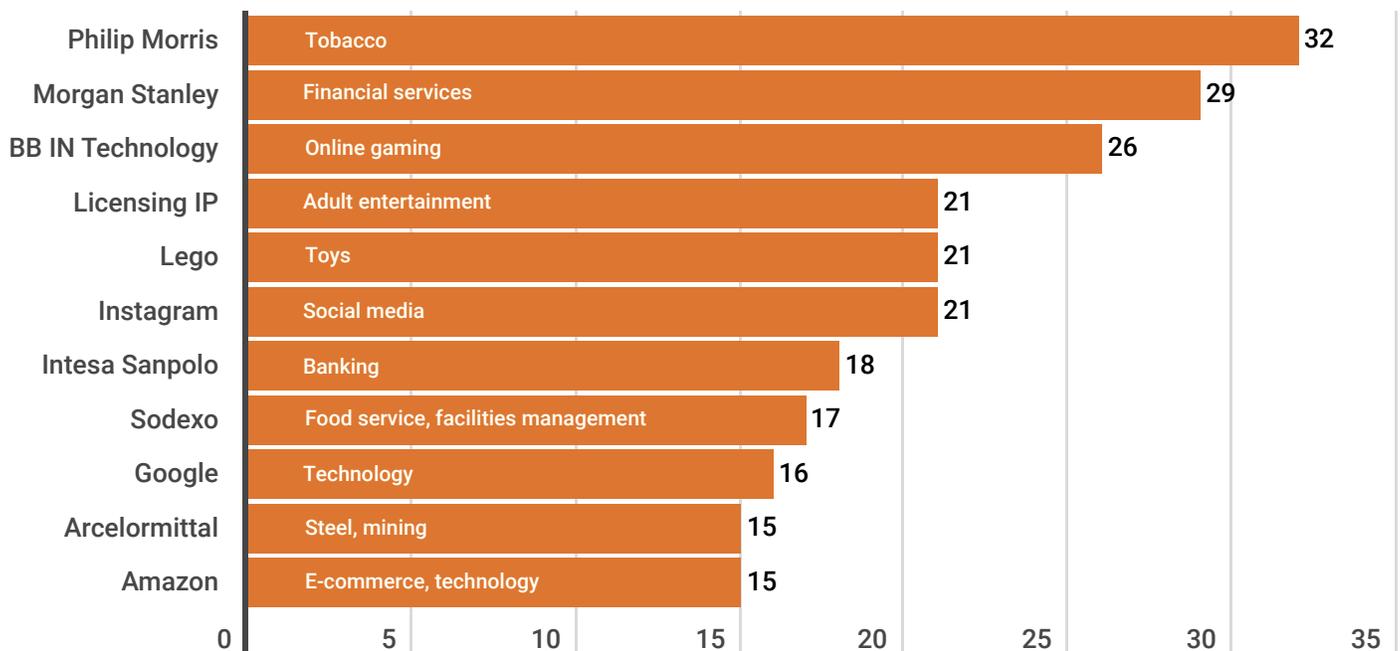


Most Common ccTLDs in UDRP Cases

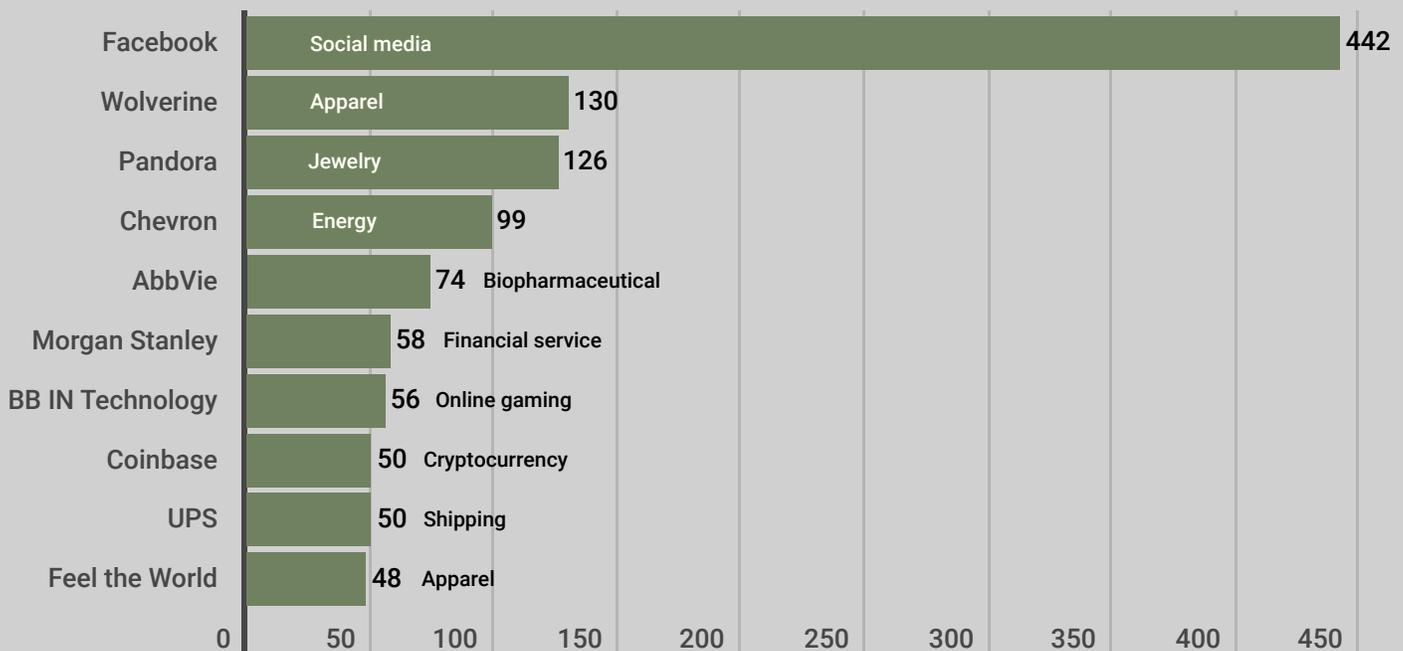


The three most-often disputed ccTLDs remain .co, .cc, and .me. About 41 ccTLDs have adopted the UDRP.

Most Active Trademark Owners (UDRP Cases)



Most Active Trademark Owners (Domain Names in UDRP)



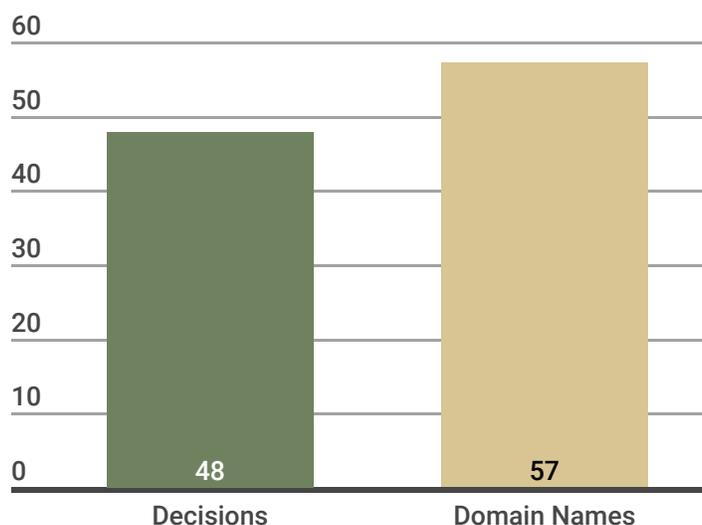
Number of URS Decisions and Domain Names

+92%

URS decisions since last quarter

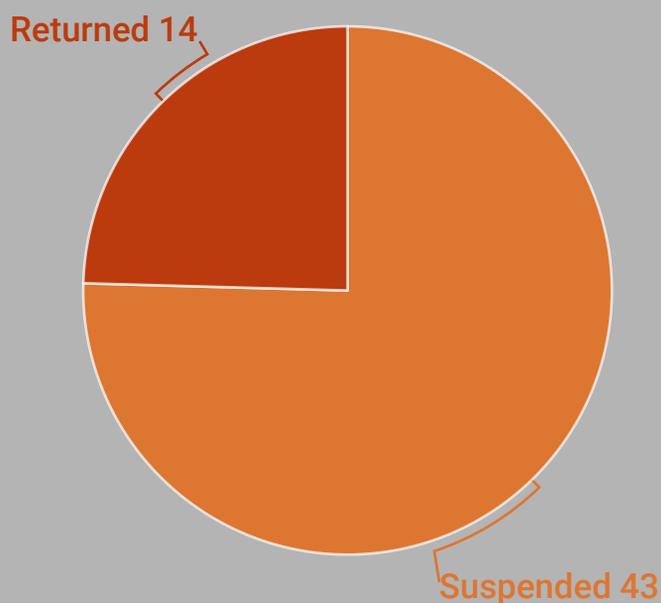
+39%

URS domain names since last quarter



URS or UDRP?

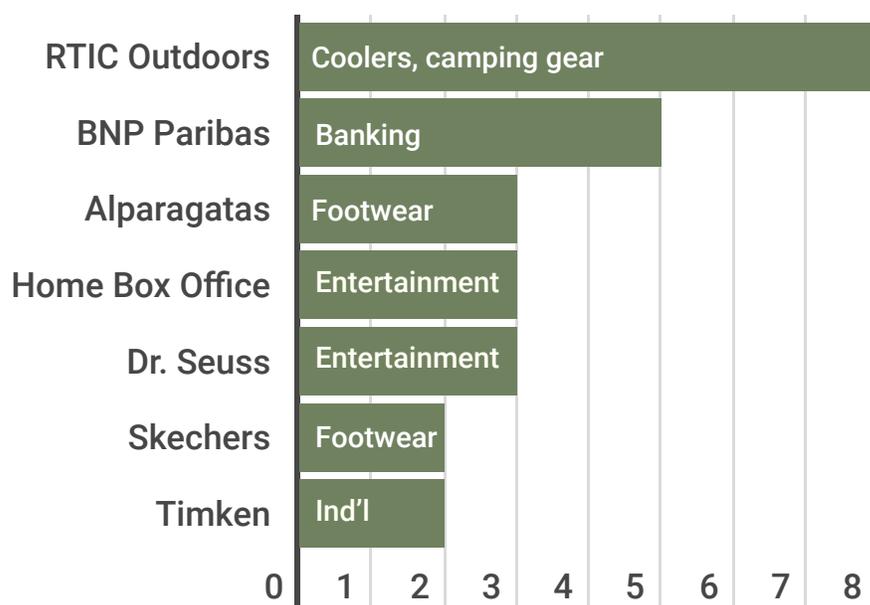
The URS is less expensive than the UDRP, but it does not apply to .com, and it only allows a trademark owner to temporarily suspend (not transfer) a disputed domain name.



URS Outcome

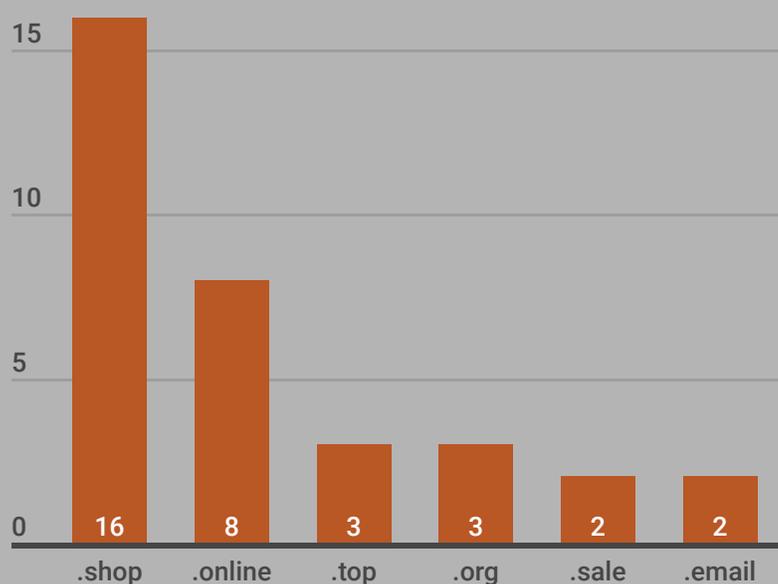
Interestingly, trademark owners won a relatively low percentage of URS decisions in the quarter – only about 75%, which is down from 100% in the previous quarter, and much lower than the nearly 95% success rate for trademark owners in UDRP cases. But, given the very low number of total URS cases filed, the outcome in any particular quarter is not especially meaningful.

Most Active Trademark Owners (URS Cases)



RTIC – a company that sells coolers, drinkware, bags, and camping items – won its first-ever URS complaints and quickly became the most active filer (in a small field). Interestingly, Dr. Seuss Enterprises, which has been among the most active filers of URS complaints, lost two in the quarter (for <lorax.shop> and <lorax.blog>).

Top gTLDs in URS Cases



In addition to those gTLDs shown to the left, each of the following appeared in one URS case in the quarter: .capital, .blog, .care, and .club.

Spotlight: Inside the Czech Arbitration Court (CAC)

In the newest video in an ongoing series of interviews with UDRP service providers, Doug Isenberg of GigaLaw talked with Lenka Náhlovská, secretary general of the Czech Arbitration Court (CAC).

As one of the oldest arbitration centers in Europe, the CAC, which is based in Prague, is attached to the Czech Chamber of Commerce and Czech Agrarian Chamber and has handled a variety of domestic and international commercial disputes. The CAC began providing domain name services in 2005 when it started offering dispute services for the European Union's .eu top-level domain, and it was approved by ICANN as a UDRP provider in 2008. The CAC also provides dispute services for the Czech .cz top-level domain.

Like almost all of the UDRP service providers, the CAC has seen a surge in domain name dispute filings, something Doug discusses with Lenka in the interview.

"Most of our complainants are European-based companies or companies that are based in USA but have some affiliations to Europe," Lenka tells Doug in the interview.

To watch the interview, visit the GigaLaw YouTube channel at www.youtube.com/GigaLaw or go directly to <https://youtu.be/2XcmAnKRzfw>



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 41 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 five of the six 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 office (HKIAC), and CIIDRC; and URS data from the Forum and MFSD. Analyzed data is from July 1-September 30, 2021, 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 © 2021 The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC.