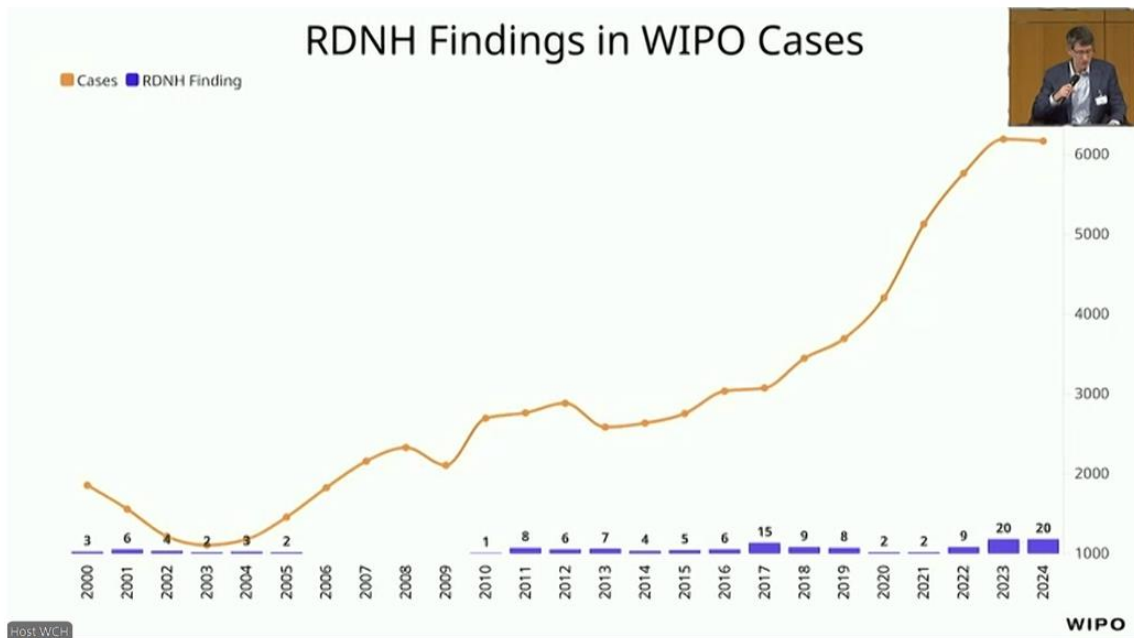


Potential Additional Data

Arising from the UDRP Policy Status Report (PSR)

- Data ought to be put into context of total domains registered across gTLDs (and those ccTLDs included in the UDRP data), to give some context of rise of cases against rise of domain registration.
- Data prior to 2013. PSR only considers 7 years of data, 2013-2020, thereby missing 13 years of data (at the time).
- Deterrence of abuse – Intent of the UDRP not just to address abusive registrations but also deter it. There is no data on deterrence – albeit the rising numbers of cases would suggest that it is not a deterrent.
- Data on the type of case handled by the UDRP, which has changed over time – e.g. fraud, phishing and other forms of abuse have risen vs mere cybersquatting. WIPO's review does capture such data.
- Data on RDNH should be presented as cases where RDNH was actually found, by reference to total number of cases, and by reference to total number of domains. RDNH cases are actually a small percentage of the total cases, and any rise in numbers should also be seen in context of the rise in UDRP cases generally. Below is WIPO data presented yesterday during its 25th Anniversary of the UDRP conference, which makes the point pretty clearly.



Factual errors should be corrected

S1.2 reference to 10 calendar days should be corrected to 10 business days here and anywhere else this is referenced: See UDRP, Section 4(k) (“We will then implement the decision unless we have received from you during that ten (10) business day period official documentation (such as a copy of a complaint, file-stamped by the clerk of the court) that you have commenced a lawsuit....”)

Misleading representation of data should be corrected

In s1.4 Summary of Findings (and across relevant sections of the report):

- data is presented as an average across providers, e.g. approx. 900 complaints a year filed with each provider. These averages are meaningless at best, and in some cases actively misleading, since 2 providers cover nearly all cases filed globally (and some seem to have a handful of cases at best).
- RDNH cases are presented as being on the rise with “2018 being a record setting year for abusive filings related to RDNH involving 917 Complaints for RDNH involving a total of 917 Complaints for the 2013-2020 observation period, which is 2% of all cases”. This is highly misleading since these are cases where RDNH is mentioned, and so includes e.g. cases where the respondent alleged it, cases where the panelists made a reference to RDNH in the negative. This is not cases with a finding of RDNH. Per Chart 8, the actual number of cases where RDNH was found was significantly lower than the cases in which it is referred to/not found, and the so-called record-breaking year 2018 was not, in fact, record-breaking at all. This highly misleading presentation of data in the PSR should be corrected. Additionally, while there has been some rise in RDNH findings over time, this needs to be put into context of the rise in numbers of UDRP cases generally, as referred to above.