Registry Liability for Content?! 

Stephan Welzel  
General Counsel, DENIC eG  
Chair, CENTR L&R
hell, no!
liability for domain names?
(in principle) no
liability for content?
a surprising proposition:
registry farther away from content than from domain names
nevertheless…
Cartier v. Nominet
BAF v. DNS Belgium
h33t.com
meanwhile under .de...
first (and only) attempt to hold DENIC liable for content under civil law in 2001

r-e-y.de
later two cases under administrative law

DENIC was ordered to disconnect domain names by authorities
DENIC won all cases

obviously…
DENIC does neither provide the content nor contribute to its provision
DENIC cannot remove the content
DENIC could disconnect/delete domain name

*but*

domain name is not the issue

would not remove the content
but is the registry an „intermediary“?
article 8 (3) Directive 2001/29/EC

Member States shall ensure that rightholders are in a position to apply for an injunction against *intermediaries* whose services are used by a third party to infringe a copyright or related right.

article 11 Directive 2004/48/EC

Member States shall also ensure that rightholders are in a position to apply for an injunction against *intermediaries* whose services are used by a third party to infringe an intellectual property right, without prejudice to Article 8(3) of Directive 2001/29/EC.
are registry services used to infringe rights?
at best, registry services are used to make infringement easier to find

but:

search engines

h33t.com?!
so, registry liability for content?

*hell, no!*
this is the *legal* assessment...