

# DOMAINFest Amsterdam 2007

## .de Domains – Legal risks and specifics

### Presentation Agenda

- Overview - .de Market
- Registration
- Legal Risks
- Legal Actions
- Legal Trends
- Expired .de Domains
- Conclusion

## Overview - .de Market

- 10.912.332 .de Domains registered (2007/05/09)\*
- DENIC eG (<http://www.denic.de>)
- 246 Denic Members (Registrars)\*
- Value of sold .de Domains 2004-2006: 2.789.320 USD\*\*

Source: \*denic.de / \*\*domainsbot.com

## Registration - .de Domains

- **Anyone can register .de Domains, but...**

Administrative Contact has to be natural German person.

„The Administrative Contact (admin-c) is the natural person appointed by the Domain Holder to act as his/her authorized representative and who also has the authority and duty to take binding decisions in all matters concerning the domain and who is thus the contact for DENIC. (...) If the **Domain Holder is not domiciled or habitually resident in Germany**, the admin-c will also be the person authorized to receive service of official and court documents for the purposes of §§ 174 f of the German Code of Civil Procedure (Zivilprozessordnung); in this case, the **admin-c must be domiciled in Germany** and his/her full postal address must be communicated.”\*

- Maildrop is not sufficient.
- If Admin-C is fake, (all) Domain(s) will get deleted.

Source: \*denic.de

## Legal Risks

- Registered Trademarks
  - IR Trademarks (<http://www.wipo.int/trademarks/en/>)
  - EU Trademarks (<http://oami.europa.eu/>)
  - DE Trademarks ([http://dpinfo.dpma.de/index\\_e.html](http://dpinfo.dpma.de/index_e.html))
  - US Trademarks? (<http://www.uspto.gov/>)
  
- Names / Marks / Titles – What about common law TMs?
  
- Content / Use
  - Gambling
  - Adult
  - Other – IP Law
  
- Links

## Legal Actions - Part 1

- No WIPO UDRP - Ordinary jurisdiction of German courts.
- No Transfer order – only cancellation of Domain.  
Denic provides „**Dispute**“: → No owner change possible  
→ Dispute claimant will get  
Domain after cancellation
- „Abmahnung“ (~legal warning accompanied by a cease and desist letter) – high costs depending on „Streitwert“ (~value of matter in dispute).

## Legal Actions - Part 2

- Interim injunction
- **„Normal“ lawsuit – trademark specific claims:**
  - Cease and desist order
  - Information
  - Damages
- **Criminal law – misuse of trademarks a criminal offence:**
  - Prison sentence up to 3 years or fine.
  - If misuse for commercial purposes prison sentence up to 5 years or fine.
- **„Special“ laws:**
  - Olympic remedial statute
  - Geographical descriptions (Champagne)

## Legal Trends

- No **Domaintasting** in Germany - Setup Fee.
- Beware of money laundry scams.
- Stay clear of official city and country names (czech-republic).
- **Admin-C Liability** – differentiation between content and Domain name.
- **Domainparking** is commercial use, even if Domain is not for sale (hOLG Hamburg).

## Expired .de Domains

- No Redemption Period, but Transit.
- **Transit** = procedure, which makes sure that a domain holder does not lose the domain if it ceases to be administered by a Denic member:
  - Domain is immune to reregistration (still registered).
  - Denic contacts Domain holder with options of provider change or deletion (instantaneously).
  
- After deletion, Domain(s) can be reregistered without delay (no waiting period).

## Conclusion

- Get a trustworthy provider and (no fake) Admin-C.
- Stay away from legal infractions, even if you are not subject to German law, because your Admin-C is.
- .de definitely worth a look (second largest TLD), but be aware of legal specifics.

## Contact



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