

## New ".eu" domain name - the rush to register begins

The recent introduction of the new ".eu" top-level domain name (TLD) is likely to cause businesses to scramble to register their existing domain names with the new suffix. Each country in the world has its own TLD designation (for example, ".uk" refers to the UK top-level domain name); ".eu" will provide an additional TLD relating to all 25 Member States of the European Union.

### Why should I register?

".eu" is not intended to replace existing top-level domain designations in the EU (so ".uk" remains a valid domain name) but it gives users the option of also having a pan-European internet identity. Even if your business already has a well-established ".co.uk" or ".com" address, you may want to register the equivalent ".eu" address in order to prevent confusion and/or diversion of customers. As registration is on a "first-come, first-served" basis (once the eligibility criteria have been satisfied), speed is of the essence.

### How do I register?

EURid, the European non-profit organisation based in Belgium, has been appointed as the central organisational body of the new ".eu" TLD. However, applications may not be made through EURid directly but through a EURid-accredited registrar (which will likely charge a fee for its service). A list of the numerous UK-accredited registrars is available on the EURid website at [www.eurid.eu](http://www.eurid.eu).

### Who can register?

Registration is open to those satisfying the eligibility criteria, i.e. all public bodies and companies having their principal place of business, registered office or central administration within the EU. In the case of an individual applicant, a natural person resident in the EU may apply to register a ".eu" domain name. However, certain names, such as a prescribed list of geographical or geopolitical names, cannot be registered, may only be registered under a second-level domain name, or are reserved for registration by particular entities only.

### When can you register?

Owing to concern that the introduction of the new TLD may lead to opportunistic "cyber-squatters" registering names and thus forcing genuine applicants to pay to transfer the name, a four-month "sunrise" period has been introduced during which domain names will only be made available to the holders of "prior rights":

- Phase 1 - From 7 December 2005 to 6 February 2006, owners (or licensees) of national and Community-registered trade marks, holders of a geographical indication or designation of origin or public bodies may apply for registration of the full text of their mark. Pending trade mark applications will not qualify; the associated mark must be registered.
- Phase 2 - From 7 February to 6 April 2006, those with unregistered trade marks, trade, company or artistic names within the EU may apply for a corresponding ".eu" domain name, as well as those protected during phase 1.

From 7 April 2006, registration will be open to all public bodies, individuals and companies satisfying the eligibility criteria (see above).

### What if someone has already registered the domain name I want?

There can only be one ".eu" domain name for any one name throughout the EU. For example, if a Belgian company with a Belgian-registered trade mark "MASSIVE" successfully registers the domain name "massive.eu", an English company with a UK-registered trade mark "MASSIVE" will not be able to register the same domain name because it has already been registered by the Belgian company.

### What if someone else has applied for the domain name I want?

During the sunrise period, domain names are only available to the holders of prior rights, subject to the provision of appropriate documentary evidence (see below). If EURid decides to register the domain name concerned, the domain

name is not activated for a further 40-calendar-day period, giving other applicants the chance to commence an ADR procedure (see "How are disputes resolved?" below). This can be done on the grounds that there has been a breach of the correct registration requirements. Bear in mind that if entitlement can be demonstrated, the "first-come, first-served" rule will still apply. After the sunrise period, anyone can register (again, on a "first-come, first-served" basis). There is no opposition period, although ADR procedures may be initiated.

### **How do I know if a particular name is still available for registration?**

The WHOIS database available on the EURid website enables a search to be made to see whether a particular name has already been registered or the status of any applications made.

### **What supporting documentation must I provide?**

Holders of prior rights applying during the sunrise period must file evidence to support the prior right they hold. The evidence required varies according to the type of prior right claimed. For company names, it can be a certificate of incorporation or a signed declaration from, in the case of English companies, Companies House. From 7 April 2006, applications do not need to be substantiated by supporting documentation.

### **How much does it cost and how long does registration last?**

The cost of registering (and annually renewing) a domain name will be 10 euros. However, higher costs are charged for sunrise applications, ranging from 35-85 euros depending on the type of prior right held. The registrars will generally charge an additional fee for their registration services. A successful registration lasts for one year but is automatically renewed annually unless the owner informs the registrar otherwise.

### **What if I am not based in the EU?**

It is possible for holders of EU Member State and Community trade mark registrations that are not based in the EU to register a ".eu" domain name by licensing their trade mark to an EU-based entity. Legal advice should be sought before allowing a third party agent to register the domain name on a non-EU entity's behalf. Licensing arrangements of this type are not permitted where the non-EU licensor only holds unregistered rights.

### **How are disputes resolved?**

Alternative Dispute Resolution procedures for ".eu" domain name disputes are provided by the Czech Arbitration Court, the body responsible for the resolution of disputes. The ADR procedure may be initiated by any party against a ".eu" domain name registrant in the case of a speculative or abusive domain name registration or if the party believes EURid made an incorrect decision to register the domain name.

## **DO'S AND DON'TS**

### **Do register early**

There can only be one ".eu" domain name for any one name and names are allocated on a "first-come, first-served" basis (both during the sunrise period and afterwards). Businesses should therefore apply as soon as possible for the ".eu" domain name registration to avoid losing out to an entity with the same trade mark or company name.

### **Don't be misled by "pre-registration" deals**

Some companies are offering to "pre-register" or "reserve" ".eu" domain names by promising to make an application for a particular name as soon as this becomes possible. However, it is entirely possible that other applicants will register the relevant domain name first, so there can be no guarantee of success, in which case the additional fee usually demanded for "pre-registration" will be a waste of money.

### **Do register the domain name in the name of the business, not an individual**

It is important to register the domain name in the name of the business, not an individual employee or director. This will ensure that the business's domain name cannot be "held hostage" by an individual who leaves or who is dismissed and who tries to transfer or delete the domain name or link it to another website.