

**CLIENT ALERT: REGISTRATION OF <.EU>
DOMAIN NAMES BEGINS DECEMBER 7**

Registration guidelines for second level <.eu> domain names have recently been finalized and announced by EURid VZW, the independent organization selected by the European Commission to operate the new registry for <.eu>. The creation of the <.eu> top level domain is intended to identify activities or information related to the European Union and give companies based there the opportunity to use a pan-European Internet identity to complement their country top-level domain names.

1. <.eu> Sunrise Period Critical

In order to safeguard prior rights recognized under the European Community or the national law of member states, EURid will implement a pre-registration period (the “Sunrise Period”) from December 7, 2005 to April 7, 2006. During this period, EURid will accept domain name reservations on a first-come, first-served basis from residents, companies and organizations based in the European Union.

In the first phase, from December 7, 2005 to February 6, 2006, European-based entities owning either a Community Trademark (“CTM”) registration or a national trademark registration in at least one of the 25 European Union member countries will each be permitted to apply for one domain name that is identical to a registered CTM or national mark.

During the second phase, from February 7 to April 7, 2006, European-based entities may register domain names based on other prior rights protected under the national law of the applicable member state, including unregistered trademarks, trade names, business identifiers, company names, family names, and distinctive titles of protected literary and artistic works.

Once the four-month Sunrise Period ends, registration will be open to all entities with a presence in the European Union.

Since the <.eu> registration process is a first-come, first-served system, companies interested in maintaining or establishing their Internet presence in the European Union are advised to act immediately to increase the chances of securing a desired <.eu> domain name. The following are details concerning the procedures available to U.S. companies to secure a Sunrise Period registration.

2. <.eu> Eligibility Requirements During Phase One of the Sunrise Period

In order to obtain an <.eu> domain name registration during phase one of the Sunrise Period, an applicant must:

1. reside within the European Union;
2. own or license a registered trademark recognized under European Community law or the national law of a member state; and
3. provide sufficient documentary evidence in support of registration.¹

3. “Ad Hoc” Licenses Permit Registration to Non-European Union Entities

Although applicants for <.eu> domain names must theoretically reside within the European Union, newly released regulations permit a U.S. company without a base in the European Union indirectly to obtain an <.eu> domain name by applying through an “ad hoc” licensee in the European Union, which registers the domain name on behalf of the trademark owner. Such licenses may be granted for the sole purpose of obtaining <.eu> domain names for non-European Union entities.

As a result, some European Union trademark firms have designated affiliated companies to serve as European Union licensees and domain name registrants on behalf of foreign companies. Although the domain name in this arrangement will technically be owned by the European Union licensee, the trademark owner and licensor can draft the license to ensure that the licensor retains full control of the domain name.²

This practice has been acknowledged and accepted by EURid. In order to facilitate this process, the <.eu> registry has adopted, approved and made available on its Web site a form License Declaration for a Registered Trade Mark, which allows a non-European licensor to obtain an <.eu> domain name based on a license agreement that may (as explained by EURid) be strictly limited to use for domain name registration.

¹ A basic <.eu> domain name application costs 225 euros for a one-year registration, 305 euros for a three-year registration and 375 euros for a five-year registration. There is also a 50 euro fee to renew an <.eu> domain name upon the expiration of the registration period. These application fees include the electronic filing of the domain name, the fees charged by EURid and the Validation Agent, the checking and transfer of the file for verification in a 40-day period after the filing of the domain name and notification of the acceptance or refusal of the domain name. These fees do not include any attorney time incurred in preparing the domain name application.

² An <.eu> domain name application and license costs 625 euros for a one-year registration, 1,005 euros for a three-year registration and 1,325 euros for a five-year registration. There is a 250 euro fee to renew the <.eu> domain name and license upon the expiration of the registration period. These fees do not include any attorney time incurred in preparing the domain name application.

Additionally, as it will be more difficult for a U.S. company to submit documentary evidence sufficient to establish unregistered prior rights sufficient to support an <.eu> registration, we instead recommend seeking expedited registration of a national trademark in a member state. Those companies that have not yet been able to secure a registered CTM or national trademark in one of the 25 European member countries can obtain a national registration in a member country using expedited procedures. Accelerated registrations are obtainable in Benelux, Denmark and Germany within 48 hours.

Applications are reviewed on a first-come, first-served basis. However, applicants are given only one opportunity to provide the necessary documentary evidence in support of registration. If such evidence does not strictly comply with all registration requirements, then the application will be denied, opening up the requested domain name to other parties.

For companies wanting to ensure that priority is given to a desired domain name in this first-come, first-served system, “fast lanes” for important domains have also been set up through dedicated registrars, at a premium cost.³ Such fast-lane service comes with a guarantee that the domain name will be registered or the fee will be returned.

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For additional information on <.eu> registrations please contact William M. Ried (212-728-8729, wried@willkie.com) or Grace Yoo (212-728-8849, gyoo@willkie.com) in Willkie Farr & Gallagher’s Intellectual Property Department in New York, the attorney with whom you regularly work, or visit <<http://www.eurid.eu>>.

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³ “Fast lane” registrations for important domain names are available for an additional cost of 1,500 euros.