Claiming privileged signs in the .WIEN

sign procedure

Content

1 Management summary

The .WIEN sign procedure serves the purpose of allowing holders of rights to claim their rights to a Domain timely before any allocation to other candidates in the starting phase. For that reason Domains will be allocated not earlier than one week after the end of the Sunrise Phase and the Landrush Phase.

In this document applicants who have applied for the sign procedure are referred to as "Intervening Parties" and persons who have applied for the Domain during the Landrush Phase or the Sunrise Phase are referred to as "Candidates".

In order to support claiming of Signs, punkt.wien GmbH will notify trademark holders registered with the Trademark Clearinghouse by means of the claims service if a Domain that corresponds to the trademark registered with the TMCH is applied for by other Candidates who are not registered with the TMCH.

Also in connection with an upcoming Auction the Candidates and Intervening Parties involved will have an opportunity of claiming Signs in the context of the .WIEN sign procedure.

2 Institution of the .WIEN sign procedure

In a first step, the Intervening Parties holding Signs must submit a well-founded application to punkt.wien GmbH, which will initiate the procedure, if the documents are complete.

Time of intervention	The sign procedure may be started both during the Sunrise Phase and during the Landrush Phase if valid requests for Registration have been made for a Domain with regard to which Signs are alleged but where the Domain has not been allocated yet by punkt.wien GmbH.
Right to intervene	Any natural or legal persons claiming rights to the Domain based on a Sign are eligible to submit an application. These also include

Candidates who have submitted a request for Registration themselves.

Reasons	Description of Signs.
Intervention period	Within 72 hours of conclusion of the Sunrise Phase or the Landrush Phase; upon request the period for providing evidence of the Signs in the .WIEN sign procedure may be extended for one week. Once the Domain has been allocated, applications for the .WIEN sign procedure can no longer be made.

3   Announcement to the candidates

The opening of the sign procedure will be announced to all Candidates involved who have applied for the Domain.

4   Possibility for the candidates to withdraw their application

The Candidates involved have the possibility of withdrawing their Application for Registration within 48 hours of the announcement of the sign procedure without their identity being disclosed to the other Candidates.

5   Disclosure of the candidates' identity

In a next step the identity of the Candidates and of the Intervening Parties will be communicated via email to all Candidates interested in allocation of the Domain. During the subsequent additional period of at least 48 hours the Candidates may withdraw their Application for Registration.

6 Direct assignment or auction

The Domain applied for will then be assigned subject to certain conditions precedent. That means that both direct assignment and an Auction will be carried out but that final allocation and billing, also for the purposes of the Auction, will be suspended until it has been clarified whether

- the Intervening Party will institute arbitration or legal proceedings within a period of one week
- and whether those proceedings were closed in a non-appealable manner in favour of the Intervening Party or not.

6.1 Direct assignment

If only one Candidate has applied for a Domain, the Domain will be assigned conditionally until conclusion of the sign procedure. Final allocation and the payment process that may be necessary will be carried out upon conclusion of the sign procedure by lapse of time as laid down in Clause 7 or upon conclusion of the procedure as laid down in Clause 8.

6.2 Auction

If, after the identity of the parties participating in the Auction has been disclosed, several Candidates remain, an Auction for that Domain will be started not earlier than after expiration of the period stated above.

Although the identities are disclosed beforehand, the Auction procedure will be anonymous, i.e. no information about who made which bid will be disclosed.

However, in the case of timely institution of arbitration or legal proceedings (see Clause 7) after conclusion of the Auction the Domain will not be allocated and the payment process will not be started.

The result of the Auction will only become effective subject to the condition precedent that the Intervening Party loses the arbitration or court case in a non-appealable manner.

7 Arbitration or legal proceedings

Apart from the Intervening Party, also all Candidates involved have the right to enforce their alleged right to the Domain in dispute vis-à-vis the other Candidates by way of arbitration and/or in proceedings before the courts of law following disclosure of identities.

Only where the right of the Intervening Party prevents lawful assignment to other Candidates shall the Intervening Party win, so that the Domain will not be assigned.

The Intervening Party shall announce such proceedings prior to commencement of direct assignment or of the Auction and the proceedings must then be instituted within one week; otherwise the Domain will be allocated. Upon request the period may be extended for another week.

8 Conclusion of proceedings

8.1 Direct assignment

If only one Candidate has applied for a Domain, the Domain will, upon conclusion of the arbitration or legal proceedings, be

- o allocated to the Intervening Party for the nominal fee if his application has won, or
- o allocated to the Candidate if the Intervening Party has not been successful in the sign procedure.

8.2 Auction

After conclusion of the arbitration or legal proceedings the Domain will either be

- o allocated to the Intervening Party for the nominal fee if his application has won, or
- o allocated to the highest bidder if the Intervening Party's application has not been successful.

9 Liability

If he is not successful, the Intervening Party shall, irrespective of the degree of fault, be liable for all pecuniary damage suffered and expenses incurred by punkt.wien GmbH and the Candidates due to his application. These shall include but not be limited to

- reasonable costs of legal counsel
- processing of the application by in-house staff
- interest lost due to profit earned late
- loss of earnings due to prevented use of the Domain

By submitting the application for the .WIEN sign procedure the Intervening Party accepts the conditions stipulated herein.

10 Registration procedure

Final Registration of the Domain will be carried out via a 2013RAA Registrar. Upon successful processing of the application the applicant will be given a Registration code by means of which he will be able to register the Domain with the 2013RAA Registrar of his choice.

10.1 Transmission of a registration code

When the only remaining applicant has been determined and after the costs and fees have been paid, punkt.wien GmbH will send the Registration code to the applicant. Only the Candidate to whom the Registration code is sent will be able to register the Domain with punkt.wien GmbH via a 2013RAA Registrar.

10.2 Entry in the WHOIS Database

The function of the WHOIS Database is described in the .WIEN WHOIS Policy. The entry will be made in the course of Registration of the new Domain.

11 Alternative dispute resolution (= conciliation)

The applicants submit themselves to the dispute resolution procedures described in Clause 7 of the General Guidelines for Setting Up and Function of the .WIEN Top-Level Domain.

12 Other provisions

The "Other provisions" laid down in Clause 9 of the General Guidelines for Setting Up and Function of the .WIEN Top-Level Domain shall apply.