



Unsere Stadt.  
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Translation from German

# .WIEN Sunrise Guidelines

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## 1 Management summary

These Guidelines are part of the documents for the starting phase of the .WIEN TLD. The regulations will be applied in the market launch phase. The so-called protection (=Sunrise) phase of at least 60 days is a mandatory requirement of ICANN; it is followed by a cool-off period. These phases serve the purpose of assigning second-level Domains to holders of Signs and excluding the priority principle that usually applies (i.e. no "first come - first served").

During the Sunrise two phases run parallel in time, which have different requirements. During "Sunrise TMCH", TMCH registered trademarks are assigned with Prio1, while in "Sunrise Local Prior Rights" ("Limited Registration Period #1") domains of trademark-holders are allocated with Prio2.

In the sense of a *lex specialis* these Guidelines include the particularities and the procedure for the protection phase and are supplementary to the General Guidelines for Setting Up and Function of the .WIEN Top-Level Domain and the General Terms and Conditions of punkt.wien GmbH.



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## 2 Definitions

The definitions of Clause 2 of the General Guidelines for Setting Up and Function of the .WIEN Top-Level Domain shall apply.

## 3 Subject matter and applicability

These Sunrise (= protection) Guidelines together with the General Terms and Conditions and the General Guidelines for Setting Up and Function of the .WIEN Top-Level Domain contain a detailed description of all technical and administrative measures taken by punkt.wien GmbH to warrant proper, fair and technically solid handling of the start-up of the .WIEN Top-Level Domain. The Sunrise Guidelines apply to all Applications which are filed during that phase.

## 4 Registration requirements

Apart from these Sunrise Guidelines the documents listed in Clause 1.3 of the General Terms and Conditions of punkt.wien GmbH shall apply to Registration.

Since due to holders of Signs will be granted a right of privileged Registration during the Sunrise Phases, the classification requirements are laid down below in Clauses 4.1 and 4.2.

### 4.1 Relation to Vienna as a criterion

The following persons are eligible for Registration of a domain name under the .WIEN Top-Level Domain:

- any natural person, and
- any legal person

who intends to show an economic, cultural, historical, social or other relation to the Austrian capital Vienna or another territorial entity with an identical name.



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## 4.2 Holders of signs

The following rights are considered Signs (non-judgmental order):

- trademarks registered for the territory of the Republic of Austria that can be documented due to an entry in the TMCH (Prio1)
- registered Austrian trademarks
- Community trade marks
- international trademarks extending to Austria
- geographical indications or designations of origin
- non-registered trademarks with a secondary meaning
- the Business Name (Section 17 of the Austrian Business Code [*UGB*])
- the specific name of a business within the scope of application of Section 9 of the Austrian Federal Statute against Unfair Trade Practices [*UWG*]
- names or pseudonyms/aliases (Section 43 of the Austrian General Civil Code [*ABGB*])
- titles that are protected pursuant to Section 80 of the Austrian Copyright Act [*UrhG*] or Section 9 *UWG*.
- Names of monuments, churches, etc.



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## 5 Evidence and certifications

Every Applicant must confirm his relation to Vienna in his Application. This *prima facie* statement can be substantiated by any type of evidence.

The minimum requirements are:

### 5.1 Holders of signs

All trademarks extending to the territory of the Republic of Austria that can be documented due to an entry in the TMCH	will be confirmed by the TMCH and considered mandatory; these requests are assigned with Prio1, all others with Prio2;
Registered Austrian trademarks	a copy of the trademark registration certificate (e.g. Austrian Patent Office). An application for registration of a trademark will not be considered a Sign.
Community trade marks	a copy of the trademark registration certificate (Office for Harmonization)
International trademarks	a copy of the trademark registration certificate (WIPO certificate)
Geographical indications or designations of origin	a copy of a legal act, a decree or decision of a competent official authority which grants protection for a specific name as a geographical indication or designation of origin
Non-registered trademarks with a secondary meaning	suitable evidence of the existence of a secondary meaning
Business Name	excerpt from the Business Register
Specific name of a business	excerpt from the register if an entry in a public register in the Applicant's home country is possible; otherwise:



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suitable evidence of the existence of a specific name of a business that is capable of protection

Surname

ID (passport copy) or birth certificate, certificate of citizenship, etc.

Aliases (pseudonyms)

excerpt from the register if an entry in a public register in the Applicant's home country is possible; otherwise:

an affidavit that has been signed by a competent authority, a lawyer or professional representative plus evidence of the alias/pseudonym or a relevant non-appealable court decision or arbitral award of an official alternative dispute resolution authority having jurisdiction over at least one EU Member State to prove the alias/pseudonym

Characteristic titles of protected works of literature or art, provided that they are protected under the national law of the Member State concerned

a copy of the coversheet or photo of the work of literature or art that contains the title (plus a brief description of the work or content of the work, a photo of the work, etc.), and

an affidavit that has been signed by a competent authority, a lawyer or a professional representative confirming that, as at the date of the Application, the Applicant is the holder of the claimed right to the said title, that the relevant work has been lawfully published and that the title is a characteristic one

Names of monuments, churches, etc.

ownership or evidence of the right to use the same



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## **6 The application**

Domains will exclusively be registered on the basis of an Application via a 2013RAA Registrar. This way of Registration also applies to holders of Signs. By filing his first request the Applicant accepts the terms and conditions of punkt.wien GmbH and the alternative dispute resolution procedures stated in Clause 9.

The Applicant further acknowledges the fact that punkt.wien GmbH assumes no liability whatsoever for Registration of Domains and that any disputes among candidates over an identical String will be settled in a dispute resolution procedure after completion of Registration.

The Applicant accepts the regulations of the contention procedure and states that he will be liable for any bids in this procedure. If the Applicant refuses to pay for bids he shall be liable for damages vis-à-vis punkt.wien GmbH for lost profit and other pecuniary damage.

### **6.1 Submission**

#### **6.1.1 Place of application, partner**

Domain names may only be applied for with punkt.wien GmbH via a 2013RAA Registrar, who acts on behalf of the Applicant.

#### **6.1.2 Form of application**

Applications are made by completing the form which is made available electronically.

#### **6.1.3 Language**

The Registration may be effected in German or English.

#### **6.1.4 Contents of the application**

A request for Registration of a Domain shall only be deemed complete if the Applicant, via the 2013RAA Registrar, at least provides punkt.wien GmbH with the full details listed in the .WIEN WHOIS Policy, and in particular with the following contents:

- full name of the Applicant; if no name of a business or an organisation is stated, it will be assumed that the Applicant is the individual applying for Registration of the domain name; if a name of a business or organisation is stated, it will be assumed that the Applicant is the business or the organisation;





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- address and country where
  - the registered office and business address or the service address of the organisation or association is, if the Applicant is a legal person, and
  - the person is domiciled (habitually resident), if the Applicant is a natural person;
- in addition, if available, an address in Vienna has to be stated;
- the Applicant's (or his representative's) email address via which further communication regarding the Application is to be sent;
- a phone number at which the Applicant (or his representative) can be reached;
- the language to be used for evidence;
- the String (domain name) applied for;
- a confirmation to the effect that the nexus conditions defined in Clause 4.1 are fulfilled;
- evidence in accordance with Clause 5 of these Guidelines.

### **6.1.5 Evidence**

If a trademark right can be proved by an entry in the Trademark Clearinghouse (TMCH), the evidence is submitted at the time of filing the request for Registration by communication of the relating code (SMD file). These requests are allocated with Prio1 (being "Sunrise TMCH" applications), all the others with Prio2 (see classification 7.1, being "Sunrise Local Prior Rights" (Limited Registration Period #1) applications).

Trademark claims service during "Sunrise Local Prior Rights" – being Limited Registration Period #1 applications. If the String applied for is identical with a term stored within the Trademark Clearinghouse, the candidate will be immediately informed about the fact that there is a holder of rights registered in the TMCH. This note doesn't necessarily mean that the term is will be registered by this trademark owner. If the candidate continues the Registration process the holders of rights registered with the Trademark Clearinghouse will be notified thereof.

The other types of evidence stated in Clause 5 only have to be transmitted after submission of the first request and acknowledgement of receipt by punkt.wien GmbH stating the Registration code (see Clause 6.2.2). To ensure validity of the Application this has to be done by the end of the protection phase without a mandatory reminder being required.



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### **6.1.6 Costs and payment**

The fee for checking the Application and the bases of the claim will be collected by the 2013RAA Registrar and forwarded to punkt.wien GmbH. punkt.wien GmbH assumes no liability for timely receipt of the amount paid to the 2013RAA Registrar by punkt.wien GmbH. In the case of a successful Application the License Fee will be separately invoiced to the registrant by punkt.wien GmbH. The invoice is issued to the Registrar (unless the Registrar asks punkt.wien GmbH to send this invoice directly to the registrant).

## **6.2 Further processing**

### **6.2.1 Matching against lock lists**

Incoming Applications are matched against the lock lists of punkt.wien GmbH (see Clause 5 of the General Guidelines for Setting Up and Function of the .WIEN Top-Level Domain). If a String that has been applied for is identical with a locked String, the Applicant will be contacted by punkt.wien GmbH and informed about the rejection of the Application. Possible further steps (depending on the lock list) will be advised by punkt.wien GmbH.

### **6.2.2 Acknowledgement of receipt by punkt.wien GmbH**

Upon receipt of the Application punkt.wien GmbH will send an acknowledgement via email including a Registration code to the Applicant and to the forwarding 2013RAA Registrar. The Applicant will be asked to keep the Registration code secret as it constitutes the key for communication with punkt.wien GmbH with respect to the Application made.

### **6.2.3 Check for completeness**

Upon receipt of the evidence by punkt.wien GmbH the Application will be made subject to an automated check for completeness and plausibility. If it is found that specific points have to be improved, the Applicant will be notified via email with reference to the Registration code. The Applicant will be given an opportunity to improve his Application by the end of the protection phase.

### **6.2.4 Form of matching strings**

The Strings applied for will be matched against the database of punkt.wien GmbH for identical matches. Similarities (e.g. typing errors) with existing Strings, trademarks or rights to a name will not be checked.



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### **6.2.5 Advance check of relation to Vienna**

The relation to Vienna which has to be substantiated will be made subject to a *prima facie* check. A more in-depth check as to whether the Applicant has the required interests in or relations to Vienna, will not be carried out at the time of Registration.

### **6.2.6 Withdrawal of the application**

The Applicant is entitled to withdraw his Application at any time. The relevant notification of punkt.wien GmbH shall include the Registration code. There will be no claim to a full refund of the Application fee. Any refund will exclusively be made via the 2013RAA Registrar.

### **6.2.7 Entry in the sunrise database**

An Application shall be deemed made if the Application is received during the protection (= Sunrise) phases free from errors in terms of contents or form and if the String is not listed in any of the lock lists. If these criteria are met, the Application will be entered in the sunrise database and the Applicant will be notified thereof via email. At that time no notification of classification into one of the two classes (see Clause 7.1) will be made.

## **7 Processing of applications in the cool-off period**

Timely and complete Applications that are stored in the sunrise database will be processed in the cool-off period.

No names resulting from "Sunrise Local Prior Rights" (Limited Registration Period #1) will be allocated or registered until the end of "Sunrise TMCH". In addition, all Applications received will be closed and Domains will be allocated not earlier than one week after the end of "Sunrise TMCH" to allow other holders of rights, if any, to apply for the .WIEN Sign Procedure.

Applications for an unambiguous String for which there are no other candidates will be registered upon positive verification, with no additional Registration procedure being required (see Clause 8).



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Applications for identical Strings will go through a two-stage procedure to identify the winning candidate, namely at first the

- classification procedure

and, if several candidates of the same priority still claim the Domain after that procedure, the

- contention procedure.

## **7.1 Classification procedure**

Several Applications for an identical String which have been received during the Sunrise Phases will, at first, be classified into 2 classes.

1. trademarks registered in the TMCH
2. all other holders of signs

If the evidence for classification of an Application into class 1 or 2 is not sufficient, the Application will be rejected.

For Registration of a String applied for class 1 shall prevail over class 2.

Applications for an identical String of equal classification will be decided upon by means of the contention procedure.

### **7.1.1 Examination criteria for the classification procedure**

In the classification procedure the information provided by the Applicants will not be verified but deemed to be true. However, the Applicants are informed about the possibility of a subsequent review in the course of a dispute resolution procedure.

### **7.1.2 Conclusion of the classification procedure**

Applicants who are unsuccessful in a classification procedure will be contacted by punkt.wien GmbH and informed about the rejection of the Application.

## **7.2 Contention procedure**

The contention procedure between two or among several Applicants of equal ranking in the classification procedure is an Auction. For details please see the *Auction Guidelines for the .WIEN Top-Level Domain*.



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## **8 Registration procedure**

Final Registration of the Domain will again be carried out via a 2013RAA Registrar. Upon successful processing of an Application the Applicants will be given a Registration code by means of which they are able to register the relevant Domain with the 2013RAA Registrar of their choice.

### **8.1 Transmission of a registration code**

When the only remaining candidate has been determined (either after a classification procedure or after a contention procedure) and after the costs and fees incurred 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.

### **8.2 Entry in the WHOIS Database**

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

## **9 Alternative dispute resolution (= conciliation) procedure**

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. The up-to-date details from time to time are available on the ICANN website and the punkt.wien GmbH website provides a link to the most recent version. The Applicants are responsible for studying the procedures and reacting appropriately, where necessary.

## **10 Other provisions**

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