

.Brand TLD Designation Application for .ANDROID

Internet Corporation for Assigned Names and Numbers ("ICANN")
12025 Waterfront Drive, Suite 300
Los Angeles, California 90094
Attention: New gTLD Program Staff

RE: Application for .Brand TLD Designation

Charleston Road Registry Inc. ("Registry Operator"), in connection with the execution of the Registry Agreement for the .ANDROID TLD (the "Registry Agreement"), hereby applies for the .ANDROID TLD (Application ID: [REDACTED]) to be qualified by ICANN as a .Brand TLD.

Registry Operator confirms and represents to ICANN that the TLD meets each of the criteria for the TLD to be qualified as a .Brand TLD, as described in the .Brand TLD Application Process and Specification 13 attached thereto, and that all supplemental material accompanying this application is accurate and not misleading in any respect. Registry Operator also represents that the trademark registration attached hereto as Exhibit A and the registration policies attached hereto as Exhibit B are complete and accurate copies of the official trademark registration and Registry Operator's registration policies for the TLD, respectively.

Registry Operator also submits detailed information, including particular evidence, attached hereto as Exhibits C-D, supporting the TLD's satisfaction of the .Brand TLD criteria set forth below.

- i. **TLD and Trademark Identity.** Registry Operator's Affiliate Google Inc. owns the India Trade Mark Registration for ANDROID (Reg. No. [REDACTED]) (the "ANDROID mark"), which Registry Operator submits to support this application. The ANDROID mark consists only of the textual elements "ANDROID". The applied-for ANDROID TLD string is thus identical to the textual elements protected by the attached Indian Trade Mark Registration for the ANDROID mark. See Exhibit A.
 - a. **Trademark Clearinghouse Entry.** Registry Operator's Affiliate Google Inc. owns and recorded the ANDROID mark including proof of use with the Trademark Clearinghouse, and such proof of use was verified by the Trademark Clearinghouse. A copy of the Signed Mark Data file (ID No. [REDACTED]) issued by the Trademark Clearinghouse for the GOOGLE mark is attached hereto as Exhibit C.

- b. **Trademark Ownership.** As detailed in its new gTLD application for the .ANDROID TLD, the statements and representations of which were expressly warranted as true and accurate by Registry Operator by submitting its application under the Top-Level Domain Application Terms and Conditions, Registry Operator is a wholly-owned subsidiary of Google Inc. Under the Registry Agreement, "Affiliate" means a person or entity that, directly or indirectly, through one or more intermediaries, or in combination with one or more other persons or entities, controls, is controlled by, or is under common control with, the person or entity specified, and (ii) "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities, as trustee or executor, by serving as an employee or a member of a board of directors or equivalent governing body, by contract, by credit arrangement or otherwise. As the owner of all shares of Registry Operator, Google Inc. has the power to directly control the Registry Operator. Google Inc. is thus an Affiliate of Registry Operator, and is the owner of the India trademark registration for the ANDROID mark.
- c. **Registration Timing.** The trademark registration for the ANDROID mark was issued on November 5, 2007 (See Exhibit A), well before ICANN opened its new gTLD application window on January 12, 2012 and the Registry Operator submitted its TLD registry application.
- d. **Continuous Trademark Use.** Registry Operator's Affiliate Google Inc. and its predecessor have continuously used the ANDROID mark in connection with all of the goods identified in the submitted trademark registration since at least as early as 2008, and Google Inc. intends to maintain such use through the Term of the Registry Agreement. Specimens showing Google Inc.'s use of the mark for the goods identified in the submitted trademark registration are attached hereto as Exhibit D.
- e. **No Punctuation.** The ANDROID mark does not begin with a period or dot. See Exhibits A, D.
- f. **Trademark Unrelated To Registry Services.** Registry Operator's Affiliate Google Inc. and its predecessor have continuously used the ANDROID mark in connection with all of the goods identified in the submitted trademark registration since at least as early as 2008, and Google Inc. intends to maintain such use through the Term of the Registry Agreement. See Exhibits A, D. The goods identified in the submitted trademark registration and supporting specimens do not reference the provision of any TLD Registry Service, as defined in Section 2.1 of Specification 6 of the Registry Agreement.

- ii. **Registrants and DNS Record Control.** As detailed in its Registration Policies (See Exhibit B), only Registry Operator, its Affiliates or its Trademark Licensees are eligible to be registrants of domain names in the TLD and control the DNS records associated with domain names at any level in the TLD.
- iii. **Non-Generic String.** The applied-for TLD ANDROID is not a Generic String TLD as defined in Specification 11 of the Registry Agreement. As defined in Section 3(c) of Specification 11 of the Registry Agreement, "Generic String" means a string consisting of a word or term that denominates or describes a general class of goods, services, groups, organizations or things, as opposed to distinguishing a specific brand of goods, services, groups, organizations or things from those of others. "Android" is not a general class of goods or services, but is a specific brand of goods or services offered by Google Inc. At the India Trademark Office, the Registrar substantively analyzes trademark applications to determine if they are unregistrable for being generic in relation to the applied-for goods and services. See India Trademark Rule No. 35. Registry Operator's Affiliate, Google Inc., holds a presumptively valid Indian trademark registration (Reg. No. [REDACTED]) for the ANDROID mark, meaning that it is the opinion of the India Trademark Office that the word ANDROID is not generic, and that it distinguishes a specific brand of goods from the goods and services of others. Indeed, no court of law has ever held that ANDROID is a generic term for any class of goods or services.
- iv. **Registration Certificate.** Registry Operator has provided ICANN with an accurate and complete copy of an India trademark registration (Reg. No. [REDACTED] for the GOOGLE mark. See Exhibit A.

Registry Operator agrees that if Registry Operator makes any changes to its registration policies for the TLD (whether before or after this application has been approved) that may disqualify the TLD as a .Brand TLD, it will promptly provide ICANN with a complete and accurate copy of the revised registration policies. In addition, if Registry Operator fails to maintain the trademark registration underlying its .Brand TLD application, it shall promptly notify ICANN of such failure. Registry Operator also agrees to maintain the criteria required to qualify as a .Brand TLD and to immediately notify ICANN of any changes in circumstances that could alter the statements made, and supporting materials provide with, this application.

Registry Operator acknowledges and agrees that this letter is binding on Registry Operator and, if any of the foregoing representations and agreements becomes untrue or not complied with, it shall be deemed a breach of the Registry Agreement by Registry Operator, and ICANN may assert its rights under the Registry Agreement, including by determining that the TLD no longer qualifies as a .Brand TLD pursuant to the terms of Specification 13.

Questions about this request should be directed to Sarah Falvey.

Submitted by:

Position:

Dated:

Email:



Exhibit A

Trademark Registration

प्रारूप ओ 2
FORM O-2



सत्यमेव जयते

भारत सरकार

GOVERNMENT OF INDIA

व्यापार चिन्ह रजिस्ट्री

TRADE MARKS REGISTRY

क्रमांक

No. 908471



व्यापार चिन्ह अधिनियम, 1999

Trade Marks Act, 1999

व्यापार चिन्ह के रजिस्ट्रीकरण का प्रमाणपत्र, धारा 23 (2) नियम 62 (I)

Certificate of Registration of Trade Mark, Section 23 (2), Rule 62 (1)

व्यापार चिन्ह संख्या/Trade Mark No. 1618466

दिनांक/Date 05/11/2007

ज.संख्या/ J.No.1432

यह प्रमाणित किया जाता है कि जिस प्रकार चिन्ह की साक्षात्कृत इराके साथ संलग्न है, यह
के बारे में दिवांक साग से रजिस्ट्रीकृत हो चुका है।

Certified that the Trade Mark / a representation is annexed hereto, has been registered in the name(s) of
GOOGLE INC., A COMPANY INCORPORATED AND DULY ORGANIZED AND EXISTING UNDER THE LAW OF THE
STATE OF DELAWARE, UNITED STATES OF AMERICA, 1600 AMPHITHEATRE PARKWAY, MOUNTAIN VIEW,
CALIFORNIA - 94043, USA. (Body Incorporate)
Priority claimed: from 31/10/2007 Priority Application No. 77/318,565 Country : United States of America

In Class 9 Under No. 1618466
COMPUTER HARDWARE; COMPUTER SOFTWARE

as of the Date 05 November 2007 in respect of



आवक

मेरे निदेश पर आज 17th के तारीख के January, 2011 के दिन को इस पर मुद्रा लगायी गई।

Sealed at my direction, this day of

DELHI

व्यापार चिन्ह रजिस्ट्री
Trade Marks Registry

व्यापार चिन्ह रजिस्ट्रार
Registrar of Trade Marks

रजिस्ट्रीकरण आवेदन की तारीख से 10 वर्ष के लिए है और तदुपरोक्त वह 10 वर्ष की कालावधि के लिए और प्रत्येक 10 वर्ष की कालावधि के अवसान पर भी नवीनीकृत किया जा सकेगा।
Registration is for 10 years from the date of application and may then be renewed for a period of 10 years and also at the expiration of each period of 10 years.
यह प्रमाणपत्र किसी कानूनी कार्य में प्रयोग के लिये या विवाद में रजिस्ट्रीकरण अभिप्राय करने के लिये नहीं है।
This certificate is not for use in Legal proceedings or for obtaining Registration abroad.

टिप्पणी : इस व्यापार चिन्ह के स्वामिन में कोई परिवर्तन होने पर, या कारखाने के मुख्य स्थान के बारे में या भारत में कामकाज के लिये पते में परिवर्तन होने पर परिवर्तन के लिये आवेदन
पुनः किया जाना चाहिए।

Note : Upon any change of ownership of this Trade Mark, or change in address, of the principal place of business or address for service in India a request should
AT ONCE be made to register the change.

Trade Mark No. 1618456

Annexure of Certificate No. 908471
Date 05/11/2007

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ANDROID



[Handwritten signature]

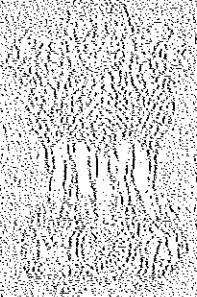


Exhibit B

.Android TLD Registration Policies

Mission

The proposed gTLD will provide the marketplace with direct association to the term, "android." The mission of this gTLD, .android, is to provide members of the Open Handset Alliance with a dedicated domain space in which to enact relevant second-level domains. Members of the Open Handset Alliance have committed to drive innovation in the mobile space by supporting the open source Android platform and the open Android ecosystem. The .android gTLD will enhance consumer choice by facilitating the aggregation of such content and promoting further innovation. It will also provide new availability in the second-level domain space, create new layers of organization on the Internet, and signal the kind of content available in the domain.

In addition, the .Android gTLD will clearly be differentiated from other gTLDs due to its purposefully limited scope. This differentiation includes:

- (1) A clear indicator that second-level domains within the gTLD offer a particular, targeted content; and
- (2) The ability for Registry Operator's Affiliates to affix Google's well-known brand to second-level domains, which will result in Internet users immediately knowing the source of the gTLD.

Registration Policies

Registry Operator believes that the .Android gTLD will best add value to the gTLD space by remaining completely closed for use by Google. Second-level domain names within the proposed gTLD are intended for registration by Registry Operator, its affiliates and its trademark licensees.

Google's existing business and marketing decision-making channels will define policies and manage decisions, in accordance with the technical specifications in Registry Operator's agreement with ICANN, regarding the reservation, activation, allocation, registration and DNS Records of all domain names within the TLD. Once a name considered for reservation, activation, and/or registration has been reviewed and deemed in compliance with internal rules and procedures, the name will be approved by authorized employees of Google and submitted for reservation, activation, and/or registration through an ICANN-accredited registrar in accordance with the Registry Agreement. The registration and use of domain names in the gTLD will also be shaped by Registry Operator's:

(1) Abuse prevention policy (available at <http://www.google.com/registry/policies/domainabuse/>); and

(2) Privacy policy (available at <http://www.google.com/registry/privacy.html>).

If multiple parties affiliated with the Registry Operator express an interest in registering the same domain name, the designated personnel will make the decision regarding which party's registration and use of the domain name is a higher business priority.