

.CALVINKLEIN .Brand TLD Designation Application

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

PVH gTLD Holdings LLC ("Registry Operator"), in connection with the execution of the Registry Agreement for the .CALVINKLEIN TLD (the "Registry Agreement"), hereby applies for the .CALVINKLEIN TLD 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, the registration policies attached hereto as Exhibit B, and the SMD file ID number attached hereto as Exhibit C are complete and accurate copies of the official trademark registration, Registry Operator's registration policies for the TLD, and the SMD file ID for the TLD for which the application is submitted 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. .CALVINKLEIN TLD string is identical to the textual elements protected by Registry Operator's United States Service Mark Registration for CALVIN KLEIN (Reg. No. 2238099 (the "CALVIN KLEIN Mark")). See Exhibit A.
 - a. Trademark Clearinghouse Entry. Registry Operator recorded the CALVIN KLEIN Mark with proof of use within the Trademark Clearinghouse.
 - b. A copy of the Signed Mark Data file (ID [REDACTED]) issued by the Trademark Clearinghouse for the CALVIN KLEIN Mark is attached hereto as Exhibit C.
 - c. Trademark Ownership. The CALVIN KLEIN Mark is owned and used by Registry Operator's Affiliate, Calvin Klein, Inc., in connection with the offering of designing for others in the field of clothing services claimed in the submitted service mark registration, as demonstrated by the submitted service mark registration attached as Exhibit A and the specimen attached as Exhibit D.

- d. **Registration Timing.** The submitted trademark registration for the CALVIN KLEIN Mark was issued on April 13, 1999 (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.
 - e. **Continuous Trademark Use.** Registry Operator has continuously used the CALVIN KLEIN Mark in connection with the services identified in the submitted trademark registration since at least as early as October 31, 1996 and intends to maintain such use throughout the Term of the Registry Agreement.
 - f. **No Punctuation.** The CALVIN KLEIN Mark does not begin with a period or dot. See Exhibits A, D.
 - g. **Trademark Unrelated to Registry Services.** Registry Operator has continuously used the CALVIN KLEIN Mark in connection with at least some of the designing for others in the field of clothing services identified in the submitted service mark registration since at least as early as October 31, 1996 and intends to maintain such use throughout the Term of the Registry Agreement. See Exhibits A, D. The Services identified in the submitted trademark registration and supporting specimen 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 or its Affiliates (as defined in the Registry Agreement) will 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 CALVIN KLEIN TLD 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. “CALVIN KLEIN” is not a dictionary term or general class of goods or services, but is a specific brand of goods or services offered by Registry Operator’s Affiliate.

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 [REDACTED].

Submitted by:	[REDACTED]
Position:	VP Enforcement and Assistant General Counsel, Calvin Klein, Inc.
Dated:	August 29, 2014
Email:	[REDACTED]

Exhibit A

Trademark Registration

Please see the attached trademark registration.

Exhibit B

TLD Registration Policies

The mission and purpose of the .CALVINKLEIN gTLD is to serve as a trusted, hierarchical, and intuitive namespace provided by PVH gTLD Holdings LLC ("Registry Operator") to register or control the DNS records associated with domain names. Only Registry Operator and its qualified Affiliates and Trademark Licensees will be allowed to register or control the DNS records associated with domain names at any level in the .CALVINKLEIN gTLD. Registry Operator will implement an internal process to determine which second-level domain names will be registered and which Affiliates and Trademark Licensees will be eligible to register second-level domains. All domain name registrations will be managed by the Registry Operator.

For the purposes of this proposed Registration Policy, Registry Operator utilizes the following definitions*:

Affiliate – 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.

Control – 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 management or otherwise.

Trademark Licensee – Trademark Licensee means any corporation, partnership, limited liability company or similar legal entity (and not a person) that has a written trademark license agreement with Registry Operator or its Affiliate, for use of the registered trademark owned by Registry Operator or its Affiliate, the textual elements of which correspond exactly to the .BRAND TLD string operated by Registry Operator, where:

- (i) such license is valid under applicable law;
- (ii) such license is for the use of such trademark in the regular course of that entity's business outside of the provision of TLD Registry Services, and is not primarily for the purpose of enabling registration or use of domain names in the TLD;
- (iii) such trademark is used continuously in that entity's business throughout the Term; and
- (iv) the domain names in the TLD registered to the Trademark Licensee are required to be used for the promotion, support, distribution, sales or other services reasonably related to any of the goods and/or services identified in the trademark registration.

Registry Operator will review each second-level domain name at the time of registration to ensure that the name complies with internal policies governing the registration

of .CALVINKLEIN domain names, including this Registration Policy. The TLD's domain name registration and use policies will be subject to its abuse prevention and rights protection policies discussed in its new gTLD application, and Applicant will strive to avoid registering domain names that are confusingly similar to third-party's trademarks and related rights. Obscene, explicit, and offensive domain names will not be entitled to registration. Additionally, Registry Operator will conduct ongoing reviews of each second-level domain at least once per calendar year namely to ensure compliance with the terms of the .CALVINKLEIN Registry Agreement, as well as with ICANN Consensus or Temporary Policies.

Registry Operator reserves the right to amend its registration policy.

*Definitions for "Affiliate" and "Control" are taken from Section 2.9(c) of the Registry Agreement. The definition of "Trademark Licensee" is taken from Section 6.2 of Specification 13 of the Registry Agreement.

Exhibit C

Signed Mark Data File ID Number



Exhibit D

Specimens of Use

Please see attached specimen of use.

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Corrected

Reg. No. 2,238,099

Registered Apr. 13, 1999

OG Date Jan. 16, 2001

**SERVICE MARK
PRINCIPAL REGISTER**

Calvin Klein

CALVIN KLEIN TRADEMARK TRUST
(DELAWARE BUSINESS TRUST),
C/O CALVIN KLEIN, INC
205 WEST 39TH STREET
NEW YORK, NY 10018

OWNER OF U.S. REG. NOS. 1,418,226,
2,059,996 AND OTHERS.

"CALVIN KLEIN" IDENTIFY A LIVING
INDIVIDUAL, WHOSE CONSENT IS OF
RECORD.

FOR: DESIGNING FOR OTHERS IN THE
FIELD OF CLOTHING, IN CLASS 42 (U.S.
CLS. 100 AND 101).
FIRST USE 10-31-1996; IN COMMERCE
10-31-1996.


SER. NO. 75-275,698, FILED 4-14-1997.

*In testimony whereof I have hereunto set my hand and
caused the seal of The Patent and Trademark Office to
be affixed on Jan. 16, 2001.*

COMMISSIONER OF PATENTS AND TRADEMARKS

Calvin Klein

24 September 2009


Paul Weiss Rifkind Wharton & Garrison
1285 6th Avenue
New York, NY 10019-6064

Re: Design Services

Dear Doug:

As you know Calvin Klein, Inc. is engaged in providing design services generally in connection with the licensing program we have and occasionally on a straight fee single job basis.

On a single job basis, we generally contract for a specific number of designs or design for a specific number of items as described for a fixed fee.

In a license context, we provide seasonally, design boards with details as to sketches, fabrics, trim, and based on an agreed upon merchandising plan which details the number and type of styles for a collection of goods for a particular season. On various occasions we include patterns, specifications, trim detail, fabric sources, even in certain circumstances the specific contractors or sources for suppliers.

Compensation is generally based on a Guaranteed Fee, as well as a Percentage Fee derived from sales of the goods.

Thank you.

Calvin Klein, Inc.



Declaration

Section 8: Declaration of Use in Commerce

Unless the owner has specifically claimed excusable nonuse, the mark is in use in commerce on or in connection with the goods and/or services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

Section 9: Application for Renewal

The registrant requests that the registration be renewed for the goods and/or services identified above.

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature Section

Signature: _____

Date: _____

Signatory's Name: _____

Signatory's Position: VP of Licensing & Business Affairs for Calvin Klein, Inc. under Power of Attorney from Calvin Klein Trademark Trust

NOTE TO APPLICANT: When filed as part of the electronic form (i.e., scanned and attached as an image file), the signature page **must** include both the signature information **and** the boilerplate declaration language. Do **not** include the entire application, but do ensure that the boilerplate declaration language actually appears; *a signature by itself will not be acceptable*. If, due to browser limitations, the boilerplate declaration language appears on a previous page when printed, you must "merge" the declaration and signature block onto a single page prior to signing, so that the *one complete page* can be scanned to create an acceptable image file. It is recommended that you copy-and-paste the entire text form into another document, manipulate the spacing there to move the declaration and signature section to a separate page, and then print this new version of the text form to send to the signatory.