

.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

Merck KGaA ("Registry Operator"), in connection with the execution of the Registry Agreement for the .EMERCK TLD (the "Registry Agreement"), hereby applies for the .EMERCK TLD to be qualified by ICANN as a .Brand TLD.

The E. Merck Tradition and Merck Name

A successful pharmacist and industrialist, [REDACTED] undertook the mass production of alkaloid compounds 1827, and in 1850 formed the "E. Merck" partnership together with his sons. From these early beginnings, the multi-national corporation continues to draw its inspiration, reminding the company of its commitment to quality and tradition.

Today, the significance of the E. Merck name is even greater, as online communications have become an increasingly more important aspect of Merck's business. With the introduction of the ".EMERCK" TLD, Registry Operator is building a bridge from its unique tradition as the oldest pharmaceutical and chemical company in the world to the new opportunities presented by the digital age.

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, 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 this application is submitted respectively.

.EMERCK qualifies as a .Brand TLD

The .EMERCK TLD meets all requirements to be defined as a .Brand TLD and with its registration policy, attached as appendix B below, qualifies for Specification 13 to the New gTLD Registry Agreements as:

- The .EMERCK TLD string is identical to the textual elements protectable under applicable law, of the EMERCK registered trademark valid under applicable law;
- The EMERCK trademark is recorded with, and issued a signed mark data file by the Trademark Clearinghouse.
- The trademark is owned and used by Registry Operator in the ordinary course of its business in connection with the offering of goods and services claimed in the trademark registration.
- The trademark was issued to Registry Operator prior to the filing of its TLD registry application with ICANN.
- The trademark is used throughout the Term continuously in the ordinary course of business of Registry Operator in connection with the offering of goods and services identified in the trademark registration.
- The trademark does not begin with a period or a dot.
- The trademark is used by Registry Operator in the conduct of one or more of its businesses that are unrelated to the provision of TLD registry services
- Only Registry Operator is an eligible registrant of domain names in the TLD and controls the DNS records associated with domain names at any level in the TLD;
- The TLD is not a Generic String TLD (as defined in Specification 11);
- Registry Operator has provided ICANN with an accurate and complete copy of such trademark registration. See attachment A, Trademark Certificate below.

Registry Operator agrees to conduct internal reviews at least once per calendar year to ensure that the TLD meets the requirements of the definition of a .Brand TLD. Registry Operator will provide ICANN with the results of our internal review, along with a certification executed by one of our executive officers that the TLD meets the requirements of a .Brand TLD.

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 provided 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] (Primary Contact)
[REDACTED]

Submitted by:

Position:

Dated:

Email:

[REDACTED]

General Counsel, Trademarks

15 September 2014

[REDACTED]

Exhibit A

Trademark Registration

[to be attached by Registry Operator]

177006

2.4.2014

151 Date of the registration

14.05.1954

180 Expected expiration date of the registration/renewal

14.05.2014

270 Language of the application

French

Current Status

732 Name and address of the holder of the registration

MERCK Kommanditgesellschaft auf Aktien Frankfurter Strasse 250 64293 Darmstadt Germany

813 Contracting State or Contracting Organization in the territory of which the holder has his domicile

DE (Germany)

842 Legal nature of the holder (legal entity) and State, and, where applicable, territory within that State where the legal entity is organized

partnership limited by shares, Germany

770 Name and address of the previous holder

E. MERCK (firme) 250, Frankfurter Strasse, DARMSTADT Germany

540 Mark

E. Merck

511 International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification)

- 01 Produits pour conserver les aliments; produits chimiques pour l'industrie, les sciences et la photographie, produits extincteurs, trempes, soudures, résines, colles pour buts industriels, apprêts, matières à tanner, cire; amidon et préparations d'amidon (compris dans cette classe).
- 02 Vernis, laques, mordants, résines, préservatifs contre la rouille.
- 03 Cirages, matières à astiquer et à conserver le cuir, apprêts, cire à parquet; cire; produits de parfumerie, cosmétiques, huiles essentielles, savons, substances pour laver et blanchir, amidon et préparations d'amidon (compris dans cette classe), colorants pour la lessive, matières à détacher, matières à nettoyer et à polir (sauf pour le cuir), abrasifs.
- 04 Matières à conserver le cuir, cire, matières servant à l'éclairage, huiles et graisses industrielles, lubrifiants, benzine.
- 05 Médicaments, produits chimiques pour la médecine et l'hygiène, drogues et préparations pharmaceutiques, emplâtres, étoffes pour pansements, produits pour la destruction d'animaux et de végétaux, désinfectants, matières à empreintes pour dentistes, matières pour l'obturation des dents; amidon et préparations d'amidon (compris dans cette classe).

161 Earlier registration number(s) of the renewed registration

086496, 06.06.1934

822 Basic registration

DT (Germany (without the territory that prior to October 3, 1990, constituted the German Democratic Republic)), 08.02.1954, 464 877

831 Designation(s) under the Madrid Agreement

DZ (Algeria)

834 Designation(s) under the Madrid Protocol by virtue of Article 9sexies

AT (Austria), BX (Benelux), CH (Switzerland), CZ (Czech Republic), EG (Egypt), ES (Spain), FR (France), HR (Croatia), IT (Italy), LI (Liechtenstein), MA (Morocco), ME (Montenegro), MK (The

former Yugoslav Republic of Macedonia), PT (Portugal), RO (Romania), RS (Serbia), SI (Slovenia), SK (Slovakia)

Registration

450 Publication number and date

1974/5 LMi, 01.07.1974

831 Designation(s) under the Madrid Agreement

AT (Austria), BX (Benelux), CH (Switzerland), CS (Czechoslovakia), DD (Germany (without the territory that prior to October 3, 1990, constituted the Federal Republic of Germany)), DE (Germany), DZ (Algeria), EG (Egypt), ES (Spain), FR (France), IT (Italy), LI (Liechtenstein), MA (Morocco), PT (Portugal), RO (Romania), TN (Tunisia), YU (Serbia and Montenegro)

580 Date of recording (date of notification from which the time limit to notify the refusal starts)

21.06.1974

The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)

AT (Austria)

The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)

BX (Benelux)

The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)

CH (Switzerland)

The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)

CS (Czechoslovakia)

The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)

DD (Germany (without the territory that prior to October 3, 1990, constituted the Federal Republic of Germany))

The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)

DE (Germany)

The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)

DZ (Algeria)

The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)

EG (Egypt)

The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)

ES (Spain)

The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)

FR (France)

The refusal period has expired and no notification of provisional refusal has been recorded (application of Rule 5 preserved)

IT (Italy)

The refusal period has expired and no notification of provisional refusal has been recorded
(application of Rule 5 preserved)

LI (Liechtenstein)

The refusal period has expired and no notification of provisional refusal has been recorded
(application of Rule 5 preserved)

MA (Morocco)

The refusal period has expired and no notification of provisional refusal has been recorded
(application of Rule 5 preserved)

PT (Portugal)

The refusal period has expired and no notification of provisional refusal has been recorded
(application of Rule 5 preserved)

RO (Romania)

The refusal period has expired and no notification of provisional refusal has been recorded
(application of Rule 5 preserved)

TN (Tunisia)

The refusal period has expired and no notification of provisional refusal has been recorded
(application of Rule 5 preserved)

YU (Serbia and Montenegro)

Continuation of effect

450 **Publication number and date**

1993/3 LMi, 14.05.1993

833 **Interested Contracting Party(ies)**

HR (Croatia), SI (Slovenia)

580 **Date of recording**

23.03.1993

Continuation of effect

450 **Publication number and date**

1993/5 LMi, 16.07.1993

833 **Interested Contracting Party(ies)**

CZ (Czech Republic), SK (Slovakia)

580 **Date of recording**

29.04.1993

Continuation of effect

450 **Publication number and date**

1994/1 LMi, 21.03.1994

833 **Interested Contracting Party(ies)**

MK (The former Yugoslav Republic of Macedonia)

580 **Date of recording**

12.01.1994

Renewal

450 **Publication number and date**

1994/5 LMi, 19.07.1994

831 **Designation(s) under the Madrid Agreement**

AT (Austria), BX (Benelux), CH (Switzerland), CZ (Czech Republic), DZ (Algeria), EG (Egypt), ES (Spain), FR (France), HR (Croatia), IT (Italy), LI (Liechtenstein), MA (Morocco), MK (The former Yugoslav Republic of Macedonia), PT (Portugal), RO (Romania), SI (Slovenia), SK (Slovakia), YU (Serbia and Montenegro)

Designated contracting party(ies) which has not been the subject of a renewal (Rule 31(4)(b))

DE (Germany), TN (Tunisia)

Continuation of effect

450

Publication number and date

2007/49 Gaz, 10.01.2008

833

Interested Contracting Party(ies)

ME (Montenegro)

580

Date of recording

06.12.2007

Exhibit B

TLD Registration Policies

[to be attached by Registry Operator]

Domain Name Registration and Use Policy for “.EMERCK”

I. General principles

1. Purpose

The “.EMERCK” Top Level Domain (“TLD”) is established by and for the use of the Merck KGaA Corporation (“Merck KGaA”), the Registry Operator for the TLD space. Merck KGaA will, with the advice and assistance of the Registry Service Provider, Afiliis Limited, and relevant governmental bodies, develop, maintain and enforce effective TLD management strategies to manage the “.EMERCK” space.

This Policy is intended to be updated and revised regularly to reflect the needs of Merck KGaA and its TLD.

The registration of domain names within the “.EMERCK” TLD shall be restricted to Merck KGaA itself, thus following a single-registrant model. Merck KGaA may, in its sole discretion, elect to license the use of registrations within this space to, *inter alia*, authorized corporate divisions, employees or other affiliated entities.

2. Registration Policy

As indicated above, the “.EMERCK” space will follow a single-registrant model. Thus, Merck KGaA shall be the only entity eligible to register domain names within the “.EMERCK” TLD.

II. Domain Allocation Rules

3. String Requirements

Registry Operator, via Registry Service Provider, will not accept a Registration unless the applied-for Domain Name meets the applicable requirements as defined under the Registry Agreement, Specification 6, including the following technical and syntax requirements. The Domain Name Label must:

- if ASCII, consist exclusively of the letters A-Z, the numbers 0-9, and hyphens;
- if non-ASCII (e.g., IDN), consist of language scripts offered by the Registry;
- not exceed 63 characters;
- contains at least one character; and
- not contain hyphens, except where two consecutive hyphens (-) are used in the 3rd and 4th positions, when preceded by "xn" and followed by a label that corresponds with an IDN containing characters referred to above.

4. Reserved Names

Registry Operator may reserve, and not allow the Registration of any labels which appear or are referenced by the Schedule of Reserved Names set forth in Specification 5 of the Registry Agreement, including, but not limited to, the following:

- The label “EXAMPLE” shall be reserved at the second level and at all other levels within the TLD at which Registry Operator makes registrations.

- Two-character labels. All two-character labels shall be initially reserved. The reservation of a two-character label string may be released to the extent that Registry Operator reaches agreement with the government and country-code manager. The Registry Operator may also propose release of these reservations based on its implementation of measures to avoid confusion with the corresponding country codes.
- Second-Level Reservations for Registry Operations. The following names are reserved for use in connection with the operation of the registry for the TLD: NIC, WWW, IRIS and WHOIS.
- The List of Reserved Names shall be compiled by Merck KGaA and will be publicly posted online. Merck KGaA reserves the right to include new names in the list of reserved names.

Country and Territory Names

The country and territory names contained in the following internationally recognized lists shall be initially reserved at the second level and at all other levels within the TLD at which the Registry Operator provides for registrations:

- the short form (in English) of all country and territory names contained on the ISO 3166-1 list, as updated from time to time, including the European Union, which is exceptionally reserved on the ISO 3166-1 list, and its scope extended in August 1999 to any application needing to represent the name European Union;
- the United Nations Group of Experts on Geographical Names, Technical Reference Manual for the Standardization of Geographical Names, Part III Names of Countries of the World; and
- the list of United Nations member states in 6 official United Nations languages prepared by the Working Group on Country Names of the United Nations Conference on the Standardization of Geographical Names; provided, that the reservation of specific country and territory names may be released to the extent that Registry Operator reaches agreement with the applicable government(s), provided, further, that Registry Operator may also propose release of these reservations, subject to review by ICANN's Governmental Advisory Committee and approval by ICANN.

However, Merck KGaA may propose the release of any reservations, subject to review by ICANN's Governmental Advisory Committee and approval by ICANN (if applicable).

5. Name Collisions

If any ".EMERCK" domain name is identified by ICANN as a potential name collision risk, pursuant to the Registry Operator's rights and responsibilities under the Registry Agreement, Specification 6, § 6, the Registry Operator reserves the right to take all necessary and proper steps to resolve the conflict, including the blocking of any affected domain name.

III. Registration and Licensing Rules

6. Registration period and renewals

A ".EMERCK" domain name may be registered, and renewed at the end of each registration period, subject to the current terms and conditions offered by the concerned Registrar.

7. Licensing of domain name registrations

Merck KGaA may, in its sole discretion, elect to license the use of domain name registrations within the “.EMERCK” space to, inter alia, authorized corporate divisions, employees or other affiliated entities. In all cases, however, Merck KGaA will remain the registrant of record for all domain name registrations within the TLD, and shall retain the authority to modify or terminate such registrations at any time via the concerned registrar.

IV. Acceptable Usage Guidelines for “.EMERCK” Domain Names

8. Acceptable Use

The “.EMERCK” space is intended to function as Merck KGaA’s online corporate branding platform, and as such the registrations therein should generally support the goals and mission of the organization.

Merck KGaA intends that no domain name in the “.EMERCK” space shall be used in a manner which:

- infringes any other third parties rights
- is in breach with any applicable laws, government rules or requirements

or for the purposes of:

- undertaking any illegal or fraudulent actions, including spam or phishing activities, or
- defaming Merck KGaA or its businesses, affiliates, brokers, employees, etc.

Merck KGaA will routinely monitor the use of all domain names registered in the “.EMERCK” space to ensure that the content displayed thereon is in the best interests of the company and its business endeavors. Failure to comply with the terms and conditions set out in this Registration and Use Policy may result in the immediate cancellation, transfer, deletion or suspension of a registered “.EMERCK” domain. The Registry Operator reserves the right to make any necessary changes to a domain name registration in the event of breach of the provisions herein established.

9. Dispute Resolution

The Registry Operator for “.EMERCK” will comply with all dispute resolution mechanisms as defined in the Registry Agreement Specification 7 article 2, and as revised from time to time by ICANN consensus policies and procedures. Registrants of “.EMERCK” domain names hereby agree to be bound by all applicable domain name dispute policies, as outlined in this Registration and Use Policy.

These dispute mechanisms include, but are not limited to:

- the Trademark Post-Delegation Dispute Resolution Procedure (“PDDRP”);
- the Uniform Rapid Suspension system (“URS”); and
- the Uniform Domain Name Dispute Resolution Policy (“UDRP”).

Exhibit C

Signed Mark Data File ID Number

[REDACTED]