

.Brand TLD Designation Application for .GOOGLE

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 .GOOGLE TLD (the "Registry Agreement"), hereby applies for the [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.** The GOOGLE TLD string is identical to the textual elements protected by United States Trademark Registration for GOOGLE (Reg. No. [REDACTED]) (the "GOOGLE mark"). See Exhibit A. In the United States, standard character marks consist only of words, letters, numbers, or combination thereof without claim to any particular font style, size, or color and thus consist only of textual elements, which in this case is GOOGLE. See [REDACTED]
 - a. **Trademark Clearinghouse Entry.** Registry Operator's Affiliate Google Inc. owns and recorded the GOOGLE 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 .GOOGLE 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 United States trademark registration for the GOOGLE mark.

- c. **Registration Timing.** The trademark registration for the GOOGLE mark was issued on January 20, 2004 (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. has continuously used the GOOGLE mark in connection with all of the services identified in the submitted trademark registration since at least as early as 1997, and intends to maintain such use through the Term of the Registry Agreement. Specimens showing Google Inc.'s use of the mark for the services identified in the submitted trademark registration are attached hereto as Exhibit D.
 - e. **No Punctuation.** The GOOGLE 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. has continuously used the GOOGLE mark in connection with all of the services identified in the submitted trademark registration since at least as early as 1997, and intends to maintain such use through the Term of the Registry Agreement. See Exhibits A, D. The services 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 GOOGLE 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. "Google" is not a general class of goods or services, but is a specific brand of goods or services offered by Google Inc. At the United States Patent & Trademark Office, Trademark Examining Attorneys substantively analyze trademark applications to determine if they are unregistrable for being generic in relation to the applied-for goods and services under Sections 2(e) and 23 of the Trademark Act. See Trademark Manual of Examining Procedure (TMEP) [REDACTED] Operator's Affiliate, Google Inc., holds a presumptively valid United States trademark registration (Reg. No. [REDACTED]) for the GOOGLE mark, meaning that it is the opinion of the United States Patent and Trademark Office that the word GOOGLE is not generic, and that it distinguishes a specific brand of services from the services of others. Indeed, no court of law has ever held that GOOGLE 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 a United States 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 [REDACTED]

Submitted by:
Position:
Dated:
Email:

[REDACTED]

Exhibit A

Trademark Registration

Int. Cls.: 38 and 42

Prior U.S. Cls.: 100, 101 and 104

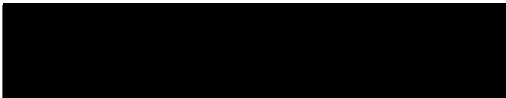
United States Patent and Trademark Office

Reg. No. 2,806,075

Registered Jan. 20, 2004

**SERVICE MARK
PRINCIPAL REGISTER**

GOOGLE



FOR: PROVIDING ELECTRONIC MAIL AND WORKGROUP COMMUNICATIONS SERVICES OVER COMPUTER NETWORKS; PROVIDING MULTIPLE USER ACCESS TO PROPRIETARY COLLECTIONS OF INFORMATION BY MEANS OF GLOBAL COMPUTER INFORMATION NETWORKS, IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 9-0-1997; IN COMMERCE 9-0-1997.

FOR: COMPUTER SERVICES, NAMELY, PROVIDING SOFTWARE INTERFACES AVAILABLE OVER A NETWORK IN ORDER TO CREATE A PERSONALIZED ON-LINE INFORMATION SERVICE; EXTRACTION AND RETRIEVAL OF INFOR-

MATION AND DATA MINING BY MEANS OF GLOBAL COMPUTER NETWORKS; CREATING INDEXES OF INFORMATION, INDEXES OF WEB SITES AND INDEXES OF OTHER INFORMATION SOURCES IN CONNECTION WITH GLOBAL COMPUTER NETWORKS; PROVIDING INFORMATION FROM SEARCHABLE INDEXES AND DATABASES OF INFORMATION, INCLUDING TEXT, ELECTRONIC DOCUMENTS, DATABASES, GRAPHICS AND AUDIO VISUAL INFORMATION, BY MEANS OF GLOBAL COMPUTER INFORMATION NETWORKS, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 9-0-1997; IN COMMERCE 3-0-1997.

SER. NO. 75-978,469, FILED 9-16-1999.

APRIL L. RADEMACHER, EXAMINING ATTORNEY

Exhibit B

.Google TLD Registration Policies

Mission

The .Google gTLD will help to make the world's information universally accessible and useful through the streamlined provision of Google services. The purpose of the proposed gTLD is to provide a dedicated Internet space in which Google can continue to innovate on its Internet offerings. The proposed gTLD will augment Google's online presence in other new gTLD registries, provide Google with greater ability to categorize its present online locations around the world, and in turn, deliver a more recognizable, branded, trusted web space to both the general Internet population and Google employees. It will also generate efficiencies and increase security by reducing Google's current dependence on third-party infrastructure.

In addition, the .Google 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 .Google 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.