

.Brand TLD Designation Application for .NEXUS

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 .NEXUS 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 .NEXUS TLD string is identical to the textual elements protected by United States Trademark Registration for NEXUS (Reg. No. [REDACTED] (the “NEXUS 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 NEXUS. See [REDACTED]
 - a. **Trademark Clearinghouse Entry.** Registry Operator’s Affiliate Google Inc. owns and recorded the NEXUS 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 [REDACTED] [REDACTED] issued by the Trademark Clearinghouse for the NEXUS mark is attached hereto as Exhibit C.
 - b. **Trademark Ownership.** As detailed in its new gTLD application for the .NEXUS 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 NEXUS mark.

- c. **Registration Timing.** The application to register the NEXUS mark was filed on December 16, 2010, well before ICANN opened its new gTLD application window on January 12, 2012, and its registration was issued before the new gTLD application window closed on May 30, 2012. See Exhibit A.
 - d. **Continuous Trademark Use.** Registry Operator’s Affiliate Google Inc. and its predecessors have continuously used the NEXUS mark in connection with all of the services identified in the submitted trademark registration since at least as early as 2009, and Registry Operator 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 NEXUS 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 predecessors have continuously used the NEXUS mark in connection with all of the services identified in the submitted trademark registration since at least as early as 2009, and Registry Operator 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 NEXUS 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. “Nexus” 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] Registry Operator’s Affiliate, Google Inc., holds a presumptively valid United States trademark registration (Reg. No. [REDACTED]) for the NEXUS mark, meaning that it is the opinion of the United States Patent and Trademark Office that the word NEXUS 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 NEXUS 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 NEXUS 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: [REDACTED]

Exhibit A

Trademark Registration

United States of America
United States Patent and Trademark Office

NEXUS

Registered Apr. 17, 2012

Int. Cl.: 9

TRADEMARK

PRINCIPAL REGISTER

GOOGLE INC. (DELAWARE CORPORATION)
1600 AMPITHEATRE PARKWAY
MOUNTAIN VIEW, CA 94043

FOR: MOBILE PHONES, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 12-0-2009; IN COMMERCE 1-5-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

PRIORITY CLAIMED UNDER SEC. 44(D) ON TONGA APPLICATION NO. TO/M/10/0228, FILED 11-18-2010.

OWNER OF U.S. REG. NO. 3,554,195.

SN 85-200,061, FILED 12-16-2010.

RONALD AIKENS, EXAMINING ATTORNEY



David J. Kyros

Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. [REDACTED]. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. § [REDACTED].

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

Exhibit B

.Nexus TLD Registration Policies

Mission

The proposed gTLD will provide Google with direct association to the term "nexus," a Google trademark. Nexus is a Google brand associated with Google's mobile product offerings, e.g. the Nexus-S, a smartphone co-developed by Google and Samsung that runs the Android operating system. The mission of the proposed gTLD, .nexus, is to provide a dedicated domain space in which Google can enact second-level domains that relate to Nexus-related products and/or services. Specifically, the new gTLD will provide Google with greater ability to categorize its Nexus offerings online, and in-turn provide a more recognizable, branded, trusted web space to the general Internet population.

In addition, the .Nexus 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 .Nexus 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.