

.Brand TLD Designation Application for .谷歌

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 .谷歌 TLD (the “Registry Agreement”), hereby applies for the .谷歌 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 China Trade Mark Registration for 谷歌 (Reg. No. [REDACTED]) (the “谷歌 mark”), which Registry Operator submits to support this application. The 谷歌 mark consists only of the textual elements “谷歌”. The applied-for 谷歌 TLD string is thus identical to the textual elements protected by the attached China Trade Mark Registration for the 谷歌 mark. See Exhibit A.
 - a. **Trademark Clearinghouse Entry.** Registry Operator’s Affiliate Google Inc. owns and recorded the 谷歌 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] 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 .谷歌 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 谷歌 mark.
- c. **Registration Timing.** The trademark registration for the 谷歌 mark was issued on December 7, 2009 (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 谷歌 mark in connection with all of the services identified in the submitted trademark registration since at least as early as 2005, 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 谷歌 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 谷歌 mark in connection with all of the services identified in the submitted trademark registration since at least as early as 2005, 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 谷歌 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. “谷歌” is not a general class of goods or services, but is a specific brand of goods or services offered by Google Inc. At the China Trademark Office, trademark applications are substantively analyzed to determine if they are unregistrable for being generic in relation to the applied-for goods and services. Registry Operator’s Affiliate, Google Inc., holds a presumptively valid China trademark registration (Reg. No. [REDACTED]) for the 谷歌 mark, meaning that it is the opinion of the China Trademark Office that the word 谷歌 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 谷歌 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 China trademark registration (Reg. No. [REDACTED]) for the 谷歌 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:

[REDACTED]

Exhibit A

Trademark Registration

English Translation

No. 5558973

**THE PEOPLE'S REPUBLIC OF CHINA
CERTIFICATE OF TRADEMARK REGISTRATION**

Trademark : 谷歌 (Guge, official Chinese name of Google)
(see attached registration certificate)

Goods / Services approved for the registration (Class 36):

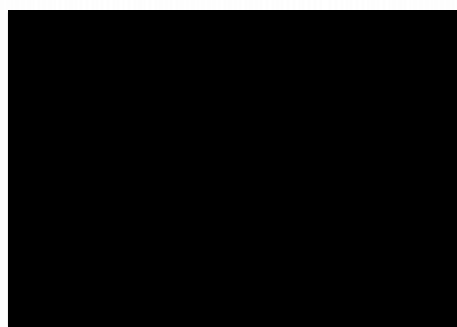
Charitable fundraising; providing grants to charitable organizations; financial services;
financial transaction processing services; electronic funds transfer, payment and billing
services.

Registrant :

Address :

Duration of validity :

Signed by the director general :



Seal of the Trademark Office
of the State Administration for Industry &
Commerce
of P.R.C.

No

5558973

THE PEOPLES REPUBLIC OF CHINA CERTIFICATE OF TRADEMARK REGISTRATION

Trademark

Guge

official

Chinese name

of Google

see attached

registration certificate

Goods Services approved for the

registration

36

Charitable fundraising providing grants

Class

to charitable organizations

financial services

financial transaction processing services electronic

payment and

billing

services

Registrant

G000LE INC

Address

funds

transfer

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Duration of

validity

December 2019

Signed by the

From December 2009

to

director general

LI Jianchang

Seal of the

Trademark Office

of

the State

Administration for Industry

Commerce

of

P.R.C



第 5558973 号



商标注册证

谷歌

核定服务项目(第 36 类)

募集慈善基金；为慈善团体提供捐款；金融服务；金融事务处理服务；电子转帐和付款服务（截止）

注册人 谷歌公司
GOOGLE INC.

注册地址 美国加利福尼亚山景城半圆剧场大道 1600 号

注册有效期限 自公元 2009 年 12 月 07 日 至 2019 年 12 月 06 日

局长签发

李建昌



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Exhibit B

.谷歌 TLD Registration Policies

Mission

"谷歌" is the Chinese equivalent of the English term, "Google." The mission of the proposed gTLD, .谷歌, is 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, and specifically reach an audience of Chinese-speaking Internet users. Charleston Road Registry will also support IDNs at the second-level for the Chinese language within the proposed gTLD. The proposed gTLD will augment Google's offerings through existing registries, provide Google with greater ability to categorize its present online locations around the world, and provide a more recognizable, branded, trusted web space to both the general Internet population and Google employees.

In addition, the .谷歌 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 .谷歌 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.