

.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

Fresenius Immobilien-Verwaltungs-GmbH (“Fresenius”) (“Registry Operator”), in connection with the execution of the Registry Agreement for the .FRESENIUS TLD (the “Registry Agreement”), hereby applies for the .FRESENIUS TLD to be qualified by ICANN as a .Brand TLD.

The Fresenius brand

The Registry Operator is a wholly-owned subsidiary of Fresenius SE & Co. KGaA. The Registry Operator has entered into an agreement with Fresenius SE & Co. KGaA to apply for and operate “.FRESENIUS” for the benefit of Fresenius SE & Co. KGaA and its several corporate divisions.

Fresenius SE & Co. KGaA traces its beginnings to the opening of the Hirsch Pharmacy in 1462, and was established under the name Fresenius in 1912. Fresenius SE & Co. KGaA provides medical solutions and cutting-edge patient care through four major service divisions, and maintains trademark registrations for FRESENIUS and other related brands in over 120 countries.

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 which this application is submitted, respectively.

.FRESENIUS qualifies as a .Brand TLD

The .FRESENIUS 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 .FRESENIUS TLD string is identical to the textual elements protectable under applicable law, of the FRESENIUS registered trademark of Fresenius SE & Co. KGaA valid under applicable law;

- The FRESINIUS trademark is recorded with, and issued a signed mark data file by the Trademark Clearinghouse.
- The trademark is owned and used by Registry Operator's parent company, an affiliate within the meaning of Section 2.9(c) of the Registry Agreement, 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's parent company 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's parent company and subsidiaries 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's parent company 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 Exhibit 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 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:



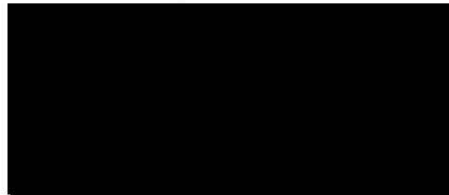
Submitted by:



Position:

Geschäftsführer

Dated:



Submitted by:



Position:

Geschäftsführer

Dated:

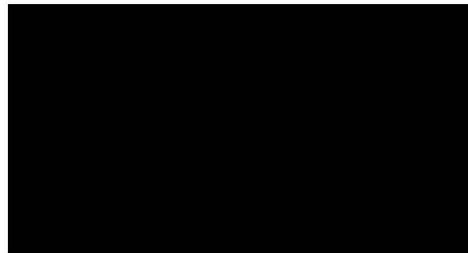


Exhibit A

Trademark Registration

[to be attached by Registry Operator]



CERTIFICATE OF REGISTRATION

The International Bureau of the World Intellectual Property Organization (WIPO) certifies that the indications appearing in the present certificate conform to the recording made in the International Register of Marks maintained under the Madrid Agreement and Protocol.

A handwritten signature in black ink, appearing to read 'J. Zahra'.

Judith ZAHRA
Officer-in-charge
International Registrations Department
International Registrations
Operations Division

Geneva, March 27, 2008

955 226

Registration date: **January 3, 2008**
Date next payment due: **January 3, 2018**

Fresenius SE
Else-Kröner-Strasse 1
61352 Bad Homburg
(Germany).

Legal nature of the holder (legal entity) and place of organization: SE (Societas Europaeae), European Union.

Address for correspondence: Fresenius SE, Trademark Department, 61346 Bad Homburg (Germany).

FRESENIUS

Classification of figurative elements:
26.11.

List of goods and services - NCL(9):

- 3 Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.
- 5 Pharmaceutical and veterinary preparations; sanitary preparations for medical purposes; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

- 10 Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; orthopedic articles; suture materials.
- 36 Insurance; financial affairs; monetary affairs; real estate affairs.
- 41 Education; providing of training; conducting seminars.
- 44 Medical and veterinary services; hygienic and beauty care for human beings.

Basic registration: Germany, 17.09.2007, 307 44 412.0/44.

Data relating to priority under the Paris Convention: Germany, 06.07.2007, 307 44 412.0/44.

Designations under the Madrid Agreement: Albania, Algeria, Armenia, Austria, Azerbaijan, Belarus, Benelux, Bosnia and Herzegovina, Bulgaria, China, Croatia, Cuba, Czech Republic, Egypt, France, Hungary, Islamic Republic of Iran, Italy, Kazakhstan, Kenya, Kyrgyzstan, Latvia, Liberia, Liechtenstein, Moldova, Monaco, Montenegro, Morocco, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, Slovakia, Slovenia, Spain, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Ukraine, Viet Nam.

Designations under the Madrid Protocol: Australia, Denmark, Estonia, Finland, Georgia, Greece, Iceland, Ireland, Japan, Lithuania, Norway, Republic of Korea, Singapore, Sweden, Turkey, United Kingdom, United States of America, Uzbekistan.

Declaration of intention to use the mark: United Kingdom, Ireland, Singapore, United States of America.

Date of notification: 27.03.2008

Language of the international application: English

Exhibit B

TLD Registration Policies

Domain Name Registration and Use Policy for “.FRESENIUS”

I. General principles

1. Purpose

The “.FRESENIUS” Top Level Domain (“TLD”) established by and for the use of Fresenius Immobilien-Verwaltungs-GmbH (“Fresenius”) and its Parent Company. Fresenius will, with the advice and assistance of the Registry Service Provider KSregistry GmbH and relevant governmental bodies, develop, maintain and enforce effective TLD management strategies to manage the “.FRESENIUS” space.

This Policy is intended to be updated and revised regularly to reflect the needs of Fresenius and its Parent Company.

The registration of domain names within the “.FRESENIUS” TLD shall be restricted to Fresenius itself, thus following a single-registrant model. Fresenius may, in its sole discretion, elect to license registrations within this space to, inter alia, its parent company, authorized corporate divisions, subsidiaries or other affiliated entities.

2. Registration Policy

As indicated above, the “.FRESENIUS” space will follow a single-registrant model. Thus, Fresenius shall be the only entity eligible to register domain names within the “.FRESENIUS” 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 5 and 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 in the third and fourth position, except if they represent valid internationalized domain names in their ASCII encoding, namely 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.

However, Fresenius may propose the release of any reservations, in compliance with applicable processes established by or in accordance with ICANN policies or procedures (if applicable).

5. Name Collisions

If any “.FRESENIUS” 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 “.FRESENIUS” 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

Fresenius may, in its sole discretion, elect to license domain name registrations within the “.FRESENIUS” space to, inter alia, its Parent Company and its subsidiaries or other affiliated entities. In all cases, however, Fresenius 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 “.FRESENIUS” Domain Names

8. Acceptable Use

The “.FRESENIUS” space is intended to function as the online corporate branding platform of Fresenius’ parent company, and as such the registrations therein should generally support the goals and mission of the organization.

Fresenius intends that no domain name in the “.FRESENIUS” 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 Fresenius, its Parent Company, their subsidiaries or other affiliates.

The Legal Department of Fresenius will routinely monitor the use of all domain names registered in the “FRESENIUS” 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 “.FRESENIUS” 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 “.FRESENIUS” 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 “.FRESENIUS” 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

