

Topic: Naming Standards

Question by: Brant Nyhart

Jurisdiction: Arizona

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Jurisdiction	Question(s)	
	What are the standards your state uses for determining if a name is distinguishable on record from names already registered (be they corporate names, trade names, partnerships or other)?	Are the above mentioned standards guided by statute, rule or simply internal policy?
Manitoba		
Corporations Canada	Federal corporate law in Canada does not use a “distinguishable upon the record” standard. Our standard is whether the proposed name is likely to cause confusion with other business names or trade-marks.	
Alabama		
Alaska		
Arizona		
Arkansas	Corporation: 4-27-404. Use of fictitious names. (a) No corporation (domestic or foreign) shall conduct any business in this state under a fictitious name unless it first files with the Secretary of State, and, in case of a domestic corporation, with the county clerk of the county in which the corporation's registered office is located	By statute

(unless it is located in Pulaski County), a form supplied or approved by the Secretary of State giving the following information:

(1) The fictitious name under which business is being or will be conducted by the applicant corporation;

(2) A brief statement of the character of business to be conducted under the fictitious name;

(3) The corporate name, state of incorporation, and location (giving city and street address) of the registered office in the state of the applicant corporation.

(b) Each such form shall be executed (without verification) in duplicate and filed with the Secretary of State. The Secretary of State shall retain one (1) counterpart; and the other counterpart, bearing the file marks of the Secretary of State, shall be returned to the corporation and, unless its registered office is in Pulaski County, filed by it with the county clerk. An index of such filings shall be maintained in each office. However, the Secretary of State shall not accept such filing unless the proposed fictitious name is distinguishable upon the records of the Secretary of State from the name of any domestic corporation, or any foreign corporation authorized to do business in the state or any name reserved or registered under §§ 4-27-402 and 4-27-403.

(c) Copies of such filed forms, certified by the respective filing officers, shall be admitted in evidence where the question of filing may be material.

(d) If, after a filing hereunder, the applicant corporation is dissolved, or (being a foreign corporation) surrenders or forfeits its rights to do business in Arkansas or (whether a domestic or foreign corporation) ceases to do business in Arkansas under the specified fictitious name, such corporation shall be obligated to file in each of the offices aforesaid a cancellation of its privilege hereunder. If such cancellation is not filed, the Secretary of State, upon satisfactory evidence, may cancel such privilege; in which event such cancellation shall be certified by the Secretary of State to the county clerk, who will file the same without fee.

(e) If a corporation which has not filed hereunder has heretofore or shall hereafter become a party to any contract, deed, conveyance, assignment or instrument of encumbrance in which such corporation is referred to exclusively by a fictitious name, the obligations imposed upon such corporation under said instrument and the right sought to be conferred upon third parties thereunder may be enforced against it; but the rights accruing to such corporation under said instrument may not be enforced by the corporation in the courts of this state until it complies with this section and pays to the Treasurer of State a civil penalty of three hundred dollars (\$300); and in any suit by a corporation upon an instrument executed on or after midnight, December 31, 1987, which identifies it exclusively by a fictitious name, the corporation shall be required to allege compliance with this section.

(f) Compliance with this section does not give a corporation an exclusive right to the use of the fictitious name; and the registration of a fictitious name hereunder will not bar the use of the same name as the corporate name of any domestic corporation or any foreign corporation authorized to do business in this state. But this chapter is not intended to bar any aggrieved party, in such a situation, from applying for equitable relief under principles of fair trade law.

LLC:

4-32-108. Use of fictitious names.

(a) No limited liability company, domestic or foreign, shall conduct any business in this state under a fictitious name unless it first files with the Secretary of State a form supplied or approved by the Secretary of State giving the following information:

(1) The fictitious name under which business is being or will be conducted by the applicant limited liability company;

(2) A brief statement of the character of business to be conducted under the fictitious name; and

(3) The name of the limited liability company, the state

	<p>of organization, and location, giving the city and street address, of the registered office in the state of the applicant limited liability company.</p> <p>(b) Each such form shall be executed, without verification, in duplicate and filed with the Secretary of State. The Secretary of State shall retain one (1) counterpart; and the other counterpart, bearing the file marks of the Secretary of State, shall be returned to the limited liability company. However, the Secretary of State shall not accept such filing if <u>the proposed fictitious name is the same as, or confusingly similar to, the name of any domestic corporation, limited liability company, limited partnership, limited liability partnership or any other entity registered with the Secretary of State,</u> or any foreign entity authorized to do business in the state or any name reserved or registered under §§ 4-27-402, 4-27-403, 4-32-104 or 4-47-109.</p> <p>(c) Copies of such filed forms, certified by the respective filing officers, shall be admitted in evidence where the question of filing may be material.</p> <p>(d) If, after a filing under this section, the applicant limited liability company is dissolved, or, being a foreign limited liability company, surrenders or forfeits its rights to do business in Arkansas or, whether a domestic or foreign limited liability company, ceases to do business in Arkansas under the specified fictitious name, such limited liability company shall be obligated to file with the Secretary of State a cancellation of its privilege hereunder. If such cancellation is not filed, the Secretary of State, upon satisfactory evidence, may cancel such privilege.</p> <p>(e) If a limited liability company which has not filed under this section has heretofore or shall hereafter become a party to any contract, deed, conveyance, assignment, or instrument of encumbrance in which such limited liability company is referred to exclusively by a fictitious name, the obligations imposed upon the limited liability company under said instrument and the right sought to be conferred upon third parties thereunder may be enforced against it, but the rights accruing to the limited liability</p>	
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	<p>company under said instrument may not be enforced by the limited liability company in the courts of this state until it complies with this section and pays to the Treasurer of State a civil penalty of three hundred dollars (\$300), and in any suit by a limited liability company upon an instrument which identified it exclusively by a fictitious name, the limited liability company shall be required to allege compliance with this section.</p> <p>(f) (1) Compliance with this section does not give a limited liability company an exclusive right to the use of the fictitious name, and the registration of a fictitious name under this section will not bar the use of the same name as the name of any domestic entity or any foreign entity authorized to do business in this state, but this chapter is not intended to bar any aggrieved party in such a situation from applying for equitable relief under principles of fair trade law.</p>	
<p>California</p>		
<p>Colorado</p>	<p>Entity names, reserved names and foreign true names must be distinguishable on the records. Trade names do not have to be distinguishable.</p> <p>Here is the relevant part of our FAQ on name distinguishability:</p> <p>Each character, except periods (.), commas (,), underscores (_), apostrophes (') and inverted apostrophes (`), may create a name that is distinguishable. Uppercase and lowercase letters are not distinguishable from each other.</p> <p>For example, the following pairs of names are not the same: ABC Inc is not the same as ABC Incorporated ABC Inc is not the same as ABCInc ABC Inc is not the same as A B C Inc ABC Inc is not the same as A-B-C Inc ABC Inc is not the same as (ABC) Inc ABC Inc is not the same as ABC LLC</p>	<p>The “distinguishable on the records” requirement is set by statute. (See below.) However, our implementation of the standard is based on policy since the statute does not spell out what is meant by “distinguishable on the records”.</p> <p>7-90-601. Entity name</p> <p>(1) An entity name shall not contain any term the inclusion of which would violate any statute of this state. (2) Except as provided in section 7-90-604 (4.5), each entity name shall be distinguishable on the records of the secretary of state from every: (a) Other entity name; and (b) Name that is reserved with the secretary of state for another person as an entity name pursuant to section 7-90-602. (c) (Deleted by amendment, L. 2004, p. 1544, § 5, effective May 30, 2006.) (d) (Deleted by amendment, L. 2003, p. 2298, § 212, effective July 1, 2004.) (Subsections 3-7 omitted.)</p>

	<p>For example, the following pairs of names are the same: ABC Inc is the same as abc inc ABC Inc is the same as A.B.C. Inc ABC Inc is the same as ABC, Inc.</p>	
Connecticut	Distinguishable on the record.	Statute.
Delaware		
District of Columbia	<p>We use the following two standards for corporate names:</p> <ol style="list-style-type: none"> 1 names can not be the same as the name of existing entity; 2 names can not be deceptively similar from existing names <p>We have not had "distinguishable on record" standard in the District.</p>	Corporate statute spells out those requirements. However, we determine and define "same" or "deceptively similar" as a part of our day-to-day operation.
Florida	<p>In Florida, names other than legal names of corporations, limited liability companies, and limited partnerships are known as "Fictitious Names". These include d/b/a names, a/k/a names, acronyms, and abbreviated versions of a business entity name.</p> <p>Fictitious Name Registrations are for public notice purposes only. Per statute, they are not checked against other names for prior use nor are they protected from use by another. They are housed on a separate database from corp., LLC, and LP names. The registration is good for 5 years. The filing fee is \$50.</p>	
Georgia		
Hawaii	<p>Hawaii Administrative Rule §16-36-15 <u>Registration of trademarks, service marks, prints, and labels; corporation names, partnership names, limited liability company names, and trade names.</u> (a) A proposed name or mark that is substantially identical to a registered name or mark shall be rejected and not accepted for registration. A name or mark is "substantially identical" if:</p> <ol style="list-style-type: none"> (1) The only variation from an existing name or mark is the spelling of a number instead of the numerical symbol for the number. For example, "Twenty-Seven, Inc.", "27, Inc.", and "XXVII, Inc."; (2) The names or marks are pronounced the same and 	<p>The standards are guided by statutes and rules. For example, this is the corporate statute, HRS 414-51 - PART V. NAME</p> <p>§414-51 Corporate name. (a) A corporate name:</p> <ol style="list-style-type: none"> (1) Must contain the word "corporation", "incorporated", or "limited", or the abbreviation "corp.", "inc.", or "Ltd."; and (2) May not contain language stating or implying that the corporation is organized for a purpose other than that permitted

	<p>the only variation is that a word (or words) is spelled differently. For example, "The Flour Shop, Inc." or "The Flower Shop, Inc."; "Waimanalo Suns, Inc." or "Waimanalo Sons, Inc."; or "Beach Days, Inc." or "Beach Daze, Inc.";</p> <p>(3) The only variation from an existing name or mark is the business entity suffix, affix, prefix, or the use of the word "partner" (except in the case of a subsidiary relationship, or where the entities are affiliated and the entity that registered the existing name or mark consents to the use of its name or mark). For example, "Sampson, Inc.", "Sampson Corporation", "Sampson, Incorporated", "Sampson Company", "Sampson Limited Liability Company", "Sampson Partnership", "Sampson Partners", "Sampson Limited Partnership", and "Sampson Limited Liability Partnership";</p> <p>(4) The only variation from an existing name or mark is the use of "n", "n-", or the use of the letter "n" between two or more words rather than two or more letters to connote "and", or the use of the letter "a" or the words "an", "and", "the", "of", "in", "at", "on", "to" or "for" or the Hawaiian language equivalent words of "da", "ka", "ke", "na", or "la". For example, "Oceanside Pier Honolulu, Inc.", "The Oceanside Pier of Honolulu, Inc.", and "An Oceanside Pier for Honolulu, Inc."; "Ka Hana Maiiau, Inc." and "Hana Maiiau, Inc."; or "Peaches and Cream, Inc.", "Peaches 'N Cream, Inc.", "Peaches-N-Cream, Inc.", and "Peaches 'N Cream, Inc.";</p> <p>(5) The only variation from an existing name or mark is the use of punctuation, spaces, or symbols. For example, "ABC, Inc." "A.B.C., Inc.", "A B C, Inc.", "AB&C, Inc.", and "A*B*C, Inc.";</p> <p>(6) The only variation from an existing name or mark is the double use of a business entity suffix or affix. For example, "Acme Construction, Inc." and "Acme Construction Company, Inc.";</p> <p>(7) The only variation from an existing name or mark is the use of a plural word or addition of a possessive "s". For example, "Acme Contractors, Inc.", "Acme's Contractor, Inc." and "Acmes Contractor, Inc.";</p>	<p>by section 414-41 and its articles of incorporation.</p> <p>(b) Except as authorized by subsections (c) and (d), a corporate name may not be the same as or substantially identical to:</p> <p style="padding-left: 40px;">(1) The name of any entity registered or authorized to transact business or conduct affairs under the laws of this State;</p> <p style="padding-left: 40px;">(2) A name the exclusive right to which is, at the time, reserved in this State;</p> <p style="padding-left: 40px;">(3) The fictitious name adopted by a foreign corporation authorized to transact business in this State because its real name is unavailable; and</p> <p style="padding-left: 40px;">(4) Any trade name, trademark, or service mark registered in this State.</p> <p>(c) A corporation may apply to the department director for authorization to use a name that is substantially identical, based upon the department director's records to one or more of the names described in subsection (b). The department director shall authorize use of the name applied for if:</p> <p style="padding-left: 40px;">(1) The other entity or holder of a reserved or registered name consents to the use in writing and one or more words are added to make the name distinguishable from the name of the applying corporation; or</p> <p style="padding-left: 40px;">(2) The applicant delivers to the department director a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this</p>
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	<p>(8) The only difference from an existing name or mark is a universally recognized abbreviation or shortened form of a word. For example, 36-9 §16-36-15 "Southeast Landscaping, Inc.", "S.E. Landscaping, Inc.", "SE Landscaping, Inc." and "S E Landscaping, Inc.";</p> <p>(9) The only variation from an existing name or mark is the use of the phrase "of Hawaii", or the word "Hawaii", or its recognized abbreviation "HI" at the end of the name, unless used by a subsidiary or associate entity, or unless the entity that registered the existing name or mark consents to the registration of the name or mark. For example, "Omni, Inc.", "Omni of Hawaii, Inc.", "Omni of HI, Inc.", "Omni Hawaii, Inc." and "Omni HI, Inc.";</p> <p>(10) The only variation from an existing name or mark is the use of the word "Hawaii" or "Hawaiian" at the beginning of the name. For example, "Hawaii Flower Bouquet, Inc." and "Hawaiian Flower Bouquet, Inc."; and</p> <p>(11) The only variation from an existing name or mark is the use of a number, or alphabetical or numerical symbol, in consecutive order indicating a close association with the name or mark currently on file. For example, "Acme Development I, Inc." and "Acme Development II, Inc."; or "Acme Development A, Inc.", and "Acme Development B, Inc.".</p>	<p>State.</p> <p>(d) A corporation may use the name (including the fictitious name) of another domestic or foreign corporation that is used in this State if the other corporation is incorporated or authorized to transact business in this State and the proposed user corporation:</p> <ol style="list-style-type: none"> (1) Has merged with the other corporation; (2) Has been formed by reorganization of the other corporation; or (3) Has acquired all or substantially all of the assets, including the corporate name, of the other corporation. <p>(e) This chapter does not control the use of fictitious names. [L 2000, c 244, pt of §1; am L 2001, c 129, §13]</p>
Idaho		
Illinois		
Indiana	<p>We use the practice distinguishable upon the record. A link to our guidelines: http://www.in.gov/sos/business/corps/na_guidelines.html</p>	<p>Statute drives the entity ending requirements – but our internal policy drives the guidelines.</p>
Iowa		
Kansas	<p>Kansas uses the standard of “distinguishable upon the record”, which requires that the entity’s name be distinguishable from other entity names already on file with the Secretary of State. This means that even though the proposed name may look or sound similar a small difference in spelling, or the addition of one extra letter or word, is enough to allow the name. There are two business entity types that are not required to have</p>	<p>For the most part this is internal policy. Our statutes do specify that a differentiation has to be able to be made between the different names, but not necessarily how to go about it. That is where the above rules come in that are our internal policy. The statutes also in many cases specify that for instance the word “Church” if they are filing as a church has to be included in their name, also Corporations have to include the word “Corporation” or “Inc.”, etc.</p>

distinguishable names; general partnerships and limited liability partnerships. The Kansas Secretary of State uses the following guidelines in determining if a name is available,

1. The plural form of a word is distinguishable from the singular word.

Example: "Cat" and "Cats"

2. Numbers are distinguishable from words representing the number.

Example: "10" and "ten"

3. The following words, or abbreviations thereof, are eliminated from the name prior to searching for availability, no matter where the words occur in the name

- Limited Liability Company
- Limited Company
- Limited Partnership
- Professional Association
- Association
- Chartered
- Church
- Club
- College
- Company
- Co
- Corporation
- Corp
- Foundation
- Fund
- Incorporated
- Inc
- Institute

4. The following prepositions, articles, and conjunctions are eliminated prior to searching for availability, no matter where the words occur in the name:

- An
- And
- &
- As
- At
- By
- For
- From
- In

5. The letter "a" is eliminated only if it appears as an article in the name.

6. The following words are not eliminated prior to a

search for name availability:

- About
- Above
- Across
- After
- Against
- Along
- Although
- Among
- Around
- Because
- Before
- Behind
- Below
- Beneath
- Beside
- Between
- Beyond
- But
- Despite
- Down
- During
- Except
- For
- How
- If
- Inside
- Into
- Like

7. The following symbols cannot be used in a name:

- Carrot ^
- Back slash \
- Tilda ~
- Pipe |
- Vertical Bar |
- Ellipsis ...
- Horizontal bar _____
- Underscore ____

8. The following symbols, punctuation marks, and special characters are eliminated prior to searching for availability, no matter where they occur in the name:

- Quotation Mark ""
- Apostrophe '
- Parenthesis ()
- Comma ,
- Period .
- Forward slash /
- Colon :
- Semicolon ;

9. The following symbols and marks are not eliminated, nor are they converted to the word equivalent:

- 0-9
- A-Z
- #
- \$
- %
- &
- *
- +
- <
- =
- >
- @

	<p>10. The following Roman numerals are entered by the Secretary of State as the alphabetic equivalent, not the number equivalent:</p> <ul style="list-style-type: none"> • I M C • X V D <p>11. Any space between words is eliminated.</p> <p>12. The Secretary of State follows the order given below in applying the guidelines:</p> <ul style="list-style-type: none"> • A. Strip prepositions, articles and conjunctions and words of incorporation • B. Keep characters listed in 5 only • C. Strip letter “a” if necessary • D. Delete spaces <p>Exceptions The Secretary of State may, at its discretion, accept a name for filing in the following instances:</p> <ol style="list-style-type: none"> 1. When initials are used in the name that, when the punctuation between the initials is disregarded, spell an article, preposition, conjunction or word of incorporation, and use of an article, preposition, conjunction, or word of incorporation is not intended; 2. When an alphabetical character that is intended to be a Roman numeral is used in a name and causes a conflict with another name using the same character as a letter; <p>When separate words are used in a name that constitute a name already on record when the space(s) between the words are disregarded.</p>	
Kentucky		
Louisiana	<p>Our standards are guided by statute R.S. 12:23 B which states the following:</p> <p>The corporate name shall be distinguishable from a</p>	Statute

	<p>name reserved pursuant to R.S. 12:23(G) and shall be distinguishable from the name of any other corporation, limited liability company, or trade name registered with the secretary of state</p> <p>This is also a link to the statute http://www.legis.state.la.us/lss/lss.asp?doc=76419</p>	
Maine		
Maryland		
Massachusetts		
Michigan	<p>Sole proprietorships and partnerships file their names and any assumed names with the county clerk in the counties in which they do business.</p> <p>Corporations, limited partnerships and limited liability companies file with our office. The entity statutes provide that the entity names and any assumed names must be "distinguishable" on the records of the administrator from other active names. A Guideline adopted under the APA describes criteria for determining if name is "distinguishable". The basic rule is a different sequence of letters or numbers. Guideline is available online. http://www.dleg.state.mi.us/bcsc/forms/corp/pub/nmeav2.pdf</p>	
Minnesota		
Mississippi		
Missouri	<p>Distinguishable on the record Missouri SOS does not register trade names; however, if you referring to the name of a business entity to be registered, Missouri uses distinguishable upon the record. Chapter 351.110.3 RSMo states: Shall be distinguishable from the name of any domestic corporation existing under any law of this state or any foreign corporation authorized to transact business in this state, or any limited partnership, limited liability partnership, limited liability limited partnership, or limited liability company existing or transacting business in this state under chapter 347, RSMo, chapter 358, RSMo, or</p>	Statute

	chapter 359, RSMo, or a name the exclusive right to which is, at the time, reserved in the manner provided in this chapter, chapter 347, RSMo, chapter 358, RSMo, or chapter 359, RSMo, or any other business entity organized, reserved, or registered under the law of this state. If the name is the same, a word shall be added to make such name distinguishable from the name of such other corporation, limited liability company, limited liability partnership, or limited liability limited partnership, or limited partnership.	
Montana		
Nebraska		
Nevada		
New Hampshire		
New Jersey		
New Mexico		
New York		
North Carolina		
North Dakota		
Ohio	<p>Ohio uses the statutory guidelines set forth in Ohio Revised Code section 1701.05 when determining whether or not a name is “distinguishable upon the record.” This section of the code refers specifically to a corporation name, however, by policy our office applies the standards below to all business names being registered.</p> <p>“The secretary of state shall determine for purposes of this section whether a name is “distinguishable” from another name upon the secretary of state’s records. Without excluding other names that may not constitute distinguishable names in this state, a name is not considered distinguishable from another name for purposes of this section solely because it differs from the other name in only one or more of the following manners:</p> <p>(1) The use of the word “corporation,” “company,” “incorporated,” “limited,” or any abbreviation of any of those words;</p> <p>(2) The use of any article, conjunction, contraction, abbreviation, or punctuation;</p>	Statute

	(3) The use of a different tense or number of the same word.”	
Oklahoma		
Oregon	<p>OAR 160-010-0010</p> <p>Definitions</p> <p>For the purposes of OAR 160-010-0010 through 160-010-0014:</p> <p>(1) "Distinguishable" means visually distinct, in writing, as opposed to a comparison of words as they sound. Thus, homonyms, such as "fair" and "fare" are permitted; whereas heteronyms such as "wind" and "wind" are not distinguishable.</p> <p>(2) "Entity identifier" means the words "corporation", "company", "incorporated", "limited", "limited liability company", "limited liability partnership", "business trust", "professional corporation" or "limited partnership" or any abbreviation or derivation thereof. An entity identifier must be separate from other words or parts of words in the business name to be considered an entity identifier. Example: "ProCorp" does not have an entity identifier. "ProCorp, Inc." does.</p> <p>(3) "Key Word" means a word other than an article, preposition, conjunction, or entity identifier at the end of a business name.</p> <p>160-010-0011</p> <p>General Guidelines</p> <p>This rule furnishes general guidelines to determine whether a proposed name is distinguishable on the active records of the Secretary of State Business Registry office. For the purposes of determining whether a name is available for registration, OAR 160-010-0010 through 160-010-0014 will be applied jointly.</p> <p>(1) The records consist of business, professional, cooperative and nonprofit corporations, limited liability companies, limited liability partnerships, limited partnerships, business trust names, reserved or registered names, and assumed business names.</p> <p>(2) Registration or filing of a name by the Secretary of State Business Registry office only advises the public that the name is registered to individuals or a particular</p>	Statute declares they must be distinguishable and Oregon Administrative Rule (above) details what "distinguishable" means.

entity. Registration or filing of a name does not grant exclusive rights or interests in that name. A name may be available for registration; however, someone else may hold a prior right to that name, or the name may be too similar to another, and may result in a case of legal action brought against the registrant for dilution or unfair competition of someone else's business.

(3) The Secretary of State's role is ministerial. The Secretary of State does not have the power to determine or settle competing claims to a name under other statutes or under the common law. Unresolved disputes between parties regarding ownership rights to a business name should be directed to the appropriate court of jurisdiction.

(4) Business entity, reserved, or registered names that become inactive through administrative or voluntary dissolution, cancellation, or failure to renew are not considered part of the active records, and inactive names will be considered available for purposes of registration.

(5) Names submitted for registration must be comprised of the English letters "a" through "z," and the Arabic and Roman numerals 0 through 9, in integers or spelled out.

(6) The following special characters and punctuation marks will also be allowed in the name, however they will not, by themselves, make a name distinguishable:

(a) Special Characters - asterisk (*); "at" sign (@); backslash (\); left brace ({); right brace (}); caret (^); dollar sign (\$); "equal to" sign (=); "greater than" sign (>); "less than" sign (<); number sign (#); percentage sign (%); plus sign (+); tilde (~); and underscore (_).

(b) Punctuation Marks - apostrophe ('); left bracket ([); right bracket (]); colon (:); comma (,); dash or hyphen (-); exclamation point (!); left parenthesis ((); right parenthesis ()); period (.); question mark (?); single quote mark ("); double quote mark (" "); semicolon (;); and slash (/).

160-010-0012

Distinguishable on Record

For purposes of the reservation, registration, or use of a name under ORS Chapters 58, 60, 62, 63, 65, 67, 70, 128, 554, and 648, a name is distinguishable on the

	<p>records of the Secretary of State Business Registry office from the name of any other active organized entity, and from a reserved or registered name, if:</p> <p>(1) Each name contains one or more different letters or numerals, or has a different sequence of letters or numerals, except that adding or deleting the letter "s" to make a word plural, singular, or possessive shall not cause a name to be distinguishable;</p> <p>(2) One of the key words is different;</p> <p>(3) The key words are the same, but they are in a different order; or</p> <p>(4) The key words are the same, but the spelling is creative or unusual.</p> <p>(5) The difference in key words is between how a number is expressed, as a numeral, Roman numeral, or word representing a numeral.</p> <p>160-010-0013 Not Distinguishable on Record A name is not distinguishable on the records of the Secretary of State Business Registry office from the name of any other active organized entity, or from a reserved or registered name, if the names only differ in one or more of the following ways:</p> <p>(1) Entity identifiers at the end of a name</p> <p>(2) Punctuation or special characters</p> <p>(3) Capitalization</p> <p>(4) Spacing</p> <p>(5) The presence or absence of an article, preposition, or conjunction, or a symbol for that word, including "a," "an," "and," "at," "by," "for," "in," "plus," "the," "to," and "with." Examples of symbols include "&," "@," and "+".</p> <p>(6) An "s" is added or deleted to make the word plural, singular, or possessive.</p>	
Pennsylvania		
Rhode Island		
South Carolina		
South Dakota		
Tennessee		
Texas	Texas SOS does not determine the availability of trade names. However, with respect to the names of	Statute and Rule

	<p>corporations, limited partnerships and limited liability companies, Texas law provides as follows:</p> <p>Sec. 5.053. IDENTICAL AND DECEPTIVELY SIMILAR NAMES PROHIBITED. (a) A filing entity may not have a name, and a foreign filing entity may not register to transact business in this state under a name, that is the same as, or that the secretary of state determines to be deceptively similar or similar to:</p> <p>(1) the name of another existing filing entity;</p> <p>(2) the name of a foreign filing entity that is registered under Chapter 9;</p> <p>(3) a name that is reserved under Subchapter C; or</p> <p>(4) a name that is registered under Subchapter D.</p> <p>(b) Subsection (a) does not apply if the other entity or the person for whom the name is reserved or registered, as appropriate, consents in writing to the use of the similar name.</p> <p>The Secretary of State adopted administrative rules to assist in determining whether a name is the same as, deceptively similar to or similar to that of an existing entity or name reservation or registration. These rules are found in Title 1, Part 4, Chapter 79, Subchapter C of the Texas Administrative Code. Chapter 79 is available online at: http://info.sos.state.tx.us/pls/pub/readtac\$ext.ViewTAC?ac_view=5&ti=1&pt=4&ch=79&sch=C&rl=Y.</p>	
Utah		
Vermont		
Virginia		
Washington	<p>Our office does not file trade names (Dept. of Licensing does) but our standards for determining if a corporate or partnership name is distinguishable from another are based on what is NOT considered to be distinguishable: endings or variations of endings, such as Co., Inc., LLC,</p>	Statutes

	<p>etc.; adding or deleting an article (the) or conjunction (and); punctuation, capitalization, or special characters or symbols in the name; use of abbreviation or the plural form of a word in the name. (Pam – Secretary of State)</p> <p>As noted by Pam, Washington's Trade Names are under a different agency. Trade Names do not have name protection in Washington. Anyone can register any trade name—any issues with the names go to civil court. (Nancy – Dept of Licensing)</p>	
West Virginia		
Wisconsin		
Wyoming		

Additional comments:

Full text of email:

Hi Everyone,

We're evaluating our trade name standards here in Arizona and are trying to see what guidelines other states use when determining whether a name presented for registration is "distinguishable on record" from other names. Here are my questions:

- 1) What are the standards your state uses for determining if a name is distinguishable on record from names already registered (be they corporate names, trade names, partnerships or other)?
- 2) Are the above mentioned standards guided by statute, rule or simply internal policy?

Thanks for your help!

Most sincerely,

Brant Nyhart

Assistant Director of Business Services

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