

Topic: Statutory change to name availability standard  
 Question by: Michael Powell  
 Jurisdiction: Texas  
 Date: April 8, 2015

Jurisdiction	Question(s)
	Texas is considering legislation which would change our name availability standard from the same, deceptively similar, or similar requiring consent to distinguishable upon the record. For any states that have changed their name standard to distinguishable upon the record, did you see a change in the amount of complaints from the public that a name was too similar to an existing name or an increase in the amount of trademark/name infringement litigation brought in your state?
<b>Manitoba</b>	
<b>Corporations Canada</b>	
<b>Alabama</b>	
<b>Alaska</b>	
<b>Arizona</b>	
<b>Arkansas</b>	
<b>California</b>	
<b>Colorado</b>	Colorado went to the distinguishable upon the record for entity names around July 1, 2000. We had a few customers concerned in the beginning but I'm not aware of getting questioned about it much anymore. We don't track litigation so I'm not aware if that has increased or not.
<b>Connecticut</b>	
<b>Delaware</b>	
<b>District of Columbia</b>	In DC we have changed that standard in 2012 and it has significantly simplified our filings. We have not had any issues other than occasional complaints from customers.
<b>Florida</b>	Florida has had the distinguishable standard for many years. We do not keep an official count of the complaints but we do have numerous calls about why we let a name go through. Our rejection rate is significantly lower but not sure is worth the additional phone calls.
<b>Georgia</b>	
<b>Hawaii</b>	

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Idaho	
Illinois	
Indiana	
Iowa	
Kansas	The best thing about having distinguishable on the record is the ability to fully automate name availability. It makes it virtually impossible to let a name through that doesn't meet the criteria.
Kentucky	
Louisiana	
Maine	Maine is like Ohio & Utah
Maryland	
Massachusetts	
Michigan	
Minnesota	Minnesota went to the distinguishable on the record standard some time ago (over 22 years ago).  I can't say that there was a noticeable increase in complaints or litigation, but we wouldn't necessarily have seen the litigation. And it has been in place so long now that the community is trained to this standard at this point.
Mississippi	
Missouri	
Montana	
Nebraska	
Nevada	
New Hampshire	
New Jersey	
New Mexico	
New York	

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<b>North Carolina</b>	
<b>North Dakota</b>	
<b>Ohio</b>	Ohio is similar to Utah. Distinguishable upon the record has been our standard for so long I am unable to compare the number of complaints, but we do get complaints about a business name being very similar, but I can direct them to the law as an explanation.
<b>Oklahoma</b>	
<b>Oregon</b>	
<b>Pennsylvania</b>	<p>Pennsylvania also went to the distinguishable on the record standard a while ago (in 2000). It opens up a lot of names and in theory is easier to administer.</p> <p>Filers are now used to it, but it took some education. We still get the occasional complaints that a name is "the same as or confusingly similar to" even though it fits the distinguishable standard. We simply need to explain the "new" standard.</p> <p>I also cannot say whether there was a noticeable increase in complaints or litigation, because we wouldn't necessarily have seen the litigation.</p>
<b>Rhode Island</b>	
<b>South Carolina</b>	
<b>South Dakota</b>	
<b>Tennessee</b>	<p>Tennessee has had the distinguishable standard for some time. It is much easier to comply with and helps us stay ministerial. We do get a decent number of calls each year from people complaining about a competitor using a similar name. I explain the distinguishability rules and tell them it would require a court order to force the other entity's name changed. Sometimes that's not enough and they contact a legislator to get involved and I have to explain everything again.</p> <p>Overall it's a pain to deal with those calls, but it's better than the alternative in my opinion.</p>
<b>Texas</b>	
<b>Utah</b>	Utah has been "distinguishable upon the record" for so long now that everyone is used to it. We do get the occasional complaints that a name is "the same" when in fact it fits the distinguishable standard. It is quickly resolved when we explain the standard.

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Vermont	
Virginia	
Washington	<p>Washington State has used distinguishable from the record for some time. We occasionally get a comment about similar names, or similar name requests, but not that often. Here is an example:</p> <p><a href="http://app.leg.wa.gov/rcw/default.aspx?cite=25.15.010">http://app.leg.wa.gov/rcw/default.aspx?cite=25.15.010</a></p> <p>(e) Must be distinguishable upon the records of the secretary of state from the names described in RCW 23B.04.010(1)(d) and 25.10.061(4), and the names of any limited liability company reserved, registered, or formed under the laws of this state or qualified to do business as a foreign limited liability company in this state.</p>
West Virginia	
Wisconsin	
Wyoming	

**Additional comments:**

**Full text of email:**

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Thanks in advance for your response.

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