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ARKANSAS SECRETARY OF STATE

Name Availability Guidelines

(Revised 9/6/2022)

In order to serve the business community, to attempt to preserve and protect the use of a previously registered or reserved name, and to attempt to avoid the registration of a name that is not distinguishable from or is confusingly similar to a current entity name registered or reserved with the Arkansas Secretary of State, the following criteria have been developed. A requested name will be searched against all entity names on file and all entity types (corp, LLC, partnership, nonprofit, etc.), except those entities in a dissolved status. Through the Business and Commercial Services Division, the Secretary of State will work with the business community to perform these duties. However, due to the voluminous records on file with the Secretary of State and the contextual nature of proposed names, the Secretary reserves the right to accept or deny any name, including without limitation any name containing a previously registered or trademarked name or a derivative of a previously registered or trademarked name.

Please note that under Arkansas law (§ 4-27-125) the filing of a document by the Secretary of State is a ministerial act and does not: (1) affect the validity or invalidity of the document in whole or in part; (2) relate to the correctness or incorrectness of information contained in the document; or (3) create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect. The reservation or acceptance of an entity name does not grant the right to use that name in this state if the use violates someone else's trade name, trademark, or service mark rights. The Secretary encourages all applicants to research proposed names and marks of other parties used by or registered in this state or registered with the United States Patent and Trademark Office, and/or consult an attorney to determine the existence of any conflicting rights. Arkansas law does not authorize the Secretary of State to resolve contending claims to any name and the Secretary should not be joined as a party to any suit to establish or deny the right to use a trademark or trade name.

The following factors typically do not distinguish a name:

- 1. The use of the name or a derivative of a previously registered trademark or trade name that is still active within the records of the Secretary of State.
2. Corporate/Entity name endings, abbreviated or spelled out (LLC, LP, LLP, LLLP, Corp, Inc., Co). This rule applies even if the corporate ending is part of the actual entity name. Ex: Central Broadcasting Company, LLC vs. Central Broadcasting Company Inc.
3. Use of the word Arkansas or any abbreviation or substitution (AR, ARK, ARKAN, ARKANSAW, A-STATE, NATURAL STATE, DIAMOND STATE, etc.). Ex: Outdoor Landscaping vs. Arkansas Outdoor Landscaping.

1 These records include entities in good standing or in pending or revoked status but not yet dissolved (as illustrated by the following chart:

Table with 11 columns: Entity Status, Good Standing, Not Current, Revoked, Dissolved/Withdrawn, Administratively dissolved, Forfeited Charter, Forfeited Charter Paid, Pending, Merged, Fictitious Name. Row 1: Name available, No, No, No, Yes, Yes, Yes, Yes, No, Yes, Yes.

4. Spaces, punctuation, underscores, apostrophes, inverted apostrophes, characters, marks, etc.
ex: (, / : - . \ ; _ ' ! ` #).
5. Uppercase and lowercase letters.
6. Articles of speech (a, an, the, and, &), prepositions (of, for, by, with, on, to, etc.), contractions (can't vs cannot), pronouns (I, you, we, me, etc.).
7. Abbreviations and commonly understood meanings. Ex: H2O Productions vs. Water Productions; Doctor's Building vs. Dr.'s Building; Pro vs. Professional.
8. Unique spelling. Ex: Quick Stop vs. Kwick Stop or Kidz vs. Kids.
9. Phonetically similar (Walmart vs. Wallmart).
10. Duplicative wording.
11. Numbers: The addition of one or more non-descriptive numbers (whether numerical or spelled out) to a name previously registered unless:
 - a. The name being requested is owned by the owner's current name on file. In this case, a letter of affiliation can be provided. Ex: Soul Food vs. Soul Food 2.
 - b. A Protected Series under a Series Limited Liability Company (ex. ABC SLLC and ABC1 PS or ABC PS1).
 - c. A street address (ex. 9800 University LLC) that is affiliated with the entity via a statement in the original articles, certificate of organization or via principal address.
 - d. The combination of the name, number, and additional wording/characters before or after the registered name forms key words that are both distinguishable and not likely to be confused by a consumer. Ex. First Baptist Church vs. Second Baptist Church; Cardinals Baseball, Inc. vs. 1967 World Champion Cardinals Baseball, Inc.
12. Addition or removal of letters. Ex: Going Fishing vs. Goin' Fishing or AA Tax Services vs. AAA Tax Services.
13. Changing the order of letters or words. Ex: LKN Construction vs. KNL Construction. DSS Auto vs. DDS Auto.
14. Possessive words. Little Rock Electric Services vs. Little Rock's Electric Services.
15. Plural words. Design in Mind vs. Designs in Mind.
16. Variations of a root, or similar, word. Ex: Magic Professions vs. Magical Professions.
17. Web address prefix or suffix.
18. The addition, in certain contexts, of "American," "America," "US," "USA," "National," "Global," and/or "International" to a registered or reserved name.
19. The addition, in certain contexts, the following words do not distinguish: "elite," "pro," "group," "essential," "better," "best," "supreme," "greater.," "custom"
20. The addition, without more, of an increase or reduction in quantity such as "more," "less," or "greater" to a registered or reserved name.
21. Inappropriate, vulgar, deceptive, or misleading language.
22. Direction such as north, south, east, west, up, down, left, right do not distinguish by themselves.

The following factors **may help distinguish** a name:

1. Geographic location unless both companies are in the same town. Ex: If Jon's Auto is a name already registered with SOS and located in LR, then Jon's Auto of Little Rock is not distinguishable. However, if Jon's Auto is a name already registered with SOS and located in LR, then Jon's Auto of Fayetteville would be distinguishable. SOS typically uses a 100-mile or more radius to distinguish.
2. Region such as NWA unless referring to the same region of the State such as Ozark vs. NWA
3. Distinction of service offered. Ex: A1 Plumbing vs. A1 Heating and Air.
4. Adding key words that make the name clearly distinguishable.

The following names **require approval** from another Arkansas Agency, Board, or Commission:

1. Use of the word "bank", "trust," or combination of the two, unless accompanied by a letter of approval from the Arkansas State Bank Department.

2. Use of the words “engineer”, “engineering”, or any modification or derivation thereof unless the State Board of Licensure for Professional Engineers and Professional Surveyors has issued the applicant a certificate of authorization or a letter indicating the eligibility of the applicant to receive such a certificate.
3. A limited liability company that will engage in the practice of medicine must obtain a certificate of registration from the Arkansas State Medical Board and must comply with the statutes of the Medical Corporation Act, § 4-29-301. A limited liability company that will engage in the practice of dentistry must obtain a certificate of registration and comply with the statutes in the Dental Corporation Act, § 4- 10 29-401 et seq.
4. Insurance companies must obtain permission from the Arkansas Insurance Department prior to forming an entity.
5. Use of the words “Razorback(s)” or “Arkansas Razorbacks(s),” unless accompanied by a letter of approval from the University of Arkansas System. Use of the words “Red Wolf” or “Red Wolves Arkansas State” unless a letter of approval from Arkansas State University.