New & Improved

ARIZONA
Trade Name and Trademark Handbook

State Capitol
Phoenix, Arizona

Published by the Department of State
Office of the Secretary of State

January 2015

Arizona Secretary of State's Office
Business Services Division
1700 W. Washington St., 7th Floor
Phoenix, Arizona 85007

www.azsos.gov

About this publication >>
This publication can be used to familiarize yourself with the requirements for applying for a trade name or trademark registration. When a trademark is used in relation to service, rather than products, it is often called a service mark.

It is a publication of the Department of State, Office of the Secretary of State, Business Services Division.

This manual may be reproduced for private use. It shall not be used or reproduced for commercial purposes.

© 2015 ver. 1-5-2015

The office strives for accuracy in our publications. If you find an error, please contact us at (602) 542-6187.

Disclaimer >>
The Office cannot offer legal advice or otherwise offer recommendations on document preparation. The Office advises consultation with an attorney in such cases.

Contact us >>
Mailing address for all correspondence or filings:

The Honorable Michele Reagan
Secretary of State
1700 W. Washington Street, Fl. 7
Phoenix, AZ 85007-2808
Attention: Trade Names

Telephone: (602) 542-6187

Fax: (602) 542-4366

Web site: www.azsos.gov

e-mail:
businessservices@azsos.gov

MICHELE REAGAN
Secretary of State
State of Arizona

An Introduction from Secretary of State Michele Reagan

The Office of the Secretary of State files the registration of trade names and trademarks in the State of Arizona. The registration of trade names and trademarks is not legally required in our state, but is an accepted business practice.

It is important to note that trade names/trademarks are not officially approved at submission, rather until the application is reviewed and the proper filing fees are processed. Upon receipt, we then review the proposed name for potential conflicts with existing registered names. As a precaution we advise all those registering a trade name or trade mark to delay the purchase of business cards and other office supplies that might contain your proposed name or mark until you receive your "Certificate of Registration" in the mail.

If you have any questions on the interpretation of the laws in this handbook or need assistance in business decisions, we suggest you seek the advice of an attorney familiar with business formations.

All application forms needed for registration require notarial services. If mailing the forms, please make sure the documents are notarized beforehand. Notarial services are available at both of our in-person customer service centers listed on page 3. If notarization is needed, the signer(s) must be present, but if the document is notarized in advance, anyone can deliver the form.

If you have any questions about filing please call our office at (602) 542-6187.

Sincerely,

Michele Reagan

MICHELE REAGAN
Arizona Secretary of State

Table of Contents

An Introduction from Secretary of State Michele Reagan 2
Section 1. The Basics 3
Section 2. Secretary of State Standards 7
Section 3. The Law 13

Forms and Fees Schedule 22
How to Find Our Office 23

Key to Success

Check the name availability!
Start with us and perform an online search of potential business names at www.azsos.gov/tnt/. Names can also be searched elsewhere at the following agencies.

- Forming a corporation/LLC? Contact the Corporation Commission (602) 542-3026, www.azcc.gov, see also page 5, Tip to Avoid Rejection;
- Forming a construction company? Contact the Registrar of Contractors at (602) 542-1525, www.azroc.gov;
- Forming a mortgage company? Contact the Dept. of Financial Institutions at (602) 771-2800, www.azdfi.gov.

Section 1

Researching Names p. 4
The Filing Process p. 4
Approval or Rejection p. 5
Registration Renewals p. 5
Registration Amendments p. 5
Assignment Transfers p. 6
Cancellations p. 6

The Basics
An Introduction

In order for our office to process a registration we must receive these items:

The Application
1) Completely filled out according to the form's guidelines and be signed and notarized.

The Filing Fee
2) The trade name filing fee is $10; the trademark filing fee is $15 - in the form of a check, cashier's check, or money order made payable to the "Secretary of State," or cash if filing in person at one of our customer service centers. All other fees are listed on the filing forms.

Trademark Samples
3) Trademark applications must include three (3) samples of the mark. See page 4, Filing Information for more information.

An applicant may request expedited service for an ADDITIONAL $25 included with the application fee listed in item #2.

HOW TO FILE
You may file in person or by mail.
File by Mail:
Secretary of State Michele Reagan
Attn: Trade Name/Trademark Department
1700 W. Washington Street, Fl. 7
Phoenix, AZ 85007-2808

In-Person, Customer Service Centers:
Phoenix Office
State Capitol Executive Tower
1700 W. Washington Street
First Floor, Ste. 103 (See inside back page for directions and parking)
Tucson Office
Arizona State Complex Building
400 W. Congress
First Floor, Ste. 141
The building is located in the State of Arizona Building on the corner of Congress and Granada.
Our office hours are Monday through Friday, 8 a.m. to 5 p.m., except state holidays.

RESEARCHING NAMES

Before filing a trade name perform an online search of potential business names at www.azsos.gov. Search instructions are provided on the website. Remember qualification is made against the statewide database containing more than 300,000 names. The trade name must be distinctive and distinguishable from the recorded registrations.

As stated earlier in this handbook trade names or trademarks are not officially approved until the application and fees are not only received by this office; but when the proposed name/mark is reviewed for potential conflicts with existing registered names and marks. ♦

THE FILING PROCESS

Filing a Trade Name or Trademark in Arizona

The registration of a trade name (sometimes referred to as a "business name," "fictitious name" or Doing Business As referred to as a "DBA") is not legally required in Arizona but is an accepted business practice. In Arizona, trade names and trademarks can be filed in the Office of the Secretary of State.

Trademarks and service marks follow the same general procedure as trade names. You must provide a full written description of the mark describing your logo. Applications must include three (3) samples of the mark you wish to register on paper no larger than 8 1/2 by 11 inches and should be able to be photocopied clearly. The mark should reflect what you intend to display to the public.

More about Written Descriptions of Trademarks/Service Marks

You must provide a written description that fully describes your mark. In order for a trademark to be registered with the Secretary of State's office, the written description must be descriptive of the logo you are registering. The main reference for checking availability for the registration is the written description appearing in our database. Your description must accurately match the mark submitted in full detail. It is suggested that the name of the business be part of your description and attached to all trademarks.

- ☐ Fully describe your mark from top to bottom, left to right, on line 1 of the application. Should the allotted space on the application form not allow you to accurately describe the mark, you may attach an additional page.

A description of a mark for the seal of Arizona would be "A shield within two circles with the words 'Ditat Deus' in capital letters in a box above the picture of a miner on a cliff with a pick and shovel with a sun rising over a valley in the background. Between the circles are the words 'Great Seal of the State of Arizona' in capital letters followed by a star, the date '1912' and another star."

- ☐ Words used as a mark should include description of the font and any additional distinguishing factors regarding the style and layout.

A description of a mark for McDonald's would be "A large capital 'M' in yellow resembling an arch over a red rectangular box containing the word 'McDonald's in white lettering."

- ☐ Three samples of the mark are required at the time of filing. Samples should be on 8 1/2 by 11 inch paper and should be able to photocopy clearly.

Examples would be a proof or layout that you would send to a printing company. Letterhead, business card, advertisement, envelope, or the mark itself on an 8 1/2 by 11 inch paper is an example of what can be submitted.

- ☐ Please make sure the date of first use is prior to the date submitted and that the classification number is listed. The applicant's signature must be notarized.

State of Arizona classification numbers for trademarks are included in this booklet and should be included on the registration form for a trademark. See pages 17-18. Please see www.azsos.gov for further information including the classification categories.

All applicants must be at least 18 years old to register with our office. This application must be signed, dated and notarized. Registration forms are available:

- At one of our customer service centers listed on page 3;
- For download at www.azsos.gov; and
- By contacting our office at 602-542-6187.

Filing a Trademark at the Federal Level

Before filing a trademark at the federal level perform an online search of potential business names www.uspto.gov. Questions regarding federal trademark registration can be answered at 1-800-786-9199.

To file for a federal trademark, contact:
U.S. Patent and Trademark Office
Online at: www.uspto.gov

General information requests should be addressed to:
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

APPROVAL OR REJECTION

If the application passes the standards set for approval the applicant will receive a certificate once the trade name or trademark is registered. The general rule governing trade name acceptability is found in statute. It states "*The Secretary of State shall not file an application for the registration of any trade name, title or designation if it is not distinguishable on the record from any other name previously filed and on record with the Secretary of State*" A.R.S. § 44-1460.01(B). If the trade name is rejected, an applicant will receive a notice detailing the reason for a rejection. In some cases, the simple addition of another word to the trade name may make it acceptable for filing; or one of the items listed on page 3 may be missing.

Tips to Avoid Rejection

Laws 2005, Chapter 228, amended Arizona Revised Statutes governing trade names to require that a trade name be "distinguishable upon the record." Beginning with filings submitted on August 12, 2005, the new standard required that a trade name be distinguishable from other names already on file with the Secretary of State and the Arizona Corporation Commission.

The Secretary of State does not register corporate names, for example, "ABC, Inc". Please remove all designations from your trade name such as INC, LLC, LTD., Chtd., or LP. Applicants wanting to register as a corporation, LLC or other corporate entity should contact the Arizona Corporation Commission. If an owner has already registered their corporate name with the Arizona Corporation Commission, it is not necessary to also register a name with the Secretary of State, as the agencies use a shared database.

The Secretary of State cannot register a name that is not distinguishable upon the record from any other name previously registered and on the record with either the Secretary of State or the Arizona Corporation Commission. Names submitted for registration must be unique and distinct from all other listings. To determine if the name to register is distinguishable, search the database on either the Secretary of State's website or the Arizona Corporation Commission's website. Try searching using root words, and remove all plural endings, punctuation and articles ("a" or "the"). Remember, the name search is part of a statewide database. ♦

REGISTRATION RENEWALS

Trade name registrations are active for five years and trademark registrations last for ten years.

It is recommended that the owner of the trade name or trademark renew their registration beginning six months before its expiration date. Only the current owner can renew a trade name or trademark. At the time of renewal, if the ownership has changed, the applicant must also submit an Assignment of Trade name or Assignment of Trademark form along with the renewal. If the owner does NOT renew BEFORE the date of expiration, the owner risks losing the trade name or trademark, and it may be registered by another applicant.

If the registration has expired and no one else has registered the trade name or trademark, the applicant may submit a new form to re-register the trade name or trademark. The trade name registration renewal fee is $10 and the trademark renewal fee is $15.

The Renewal form is available:

- At one of our customer service centers listed on page 3;
- For download at www.azsos.gov; and
- By contacting our office at 602-542-6187.

This application must be signed, dated and notarized. ♦

REGISTRATION AMENDMENTS

Owner(s) already registered with the office shall use a Trade Name/Trademark Amendment form to AMEND a trade name or trademark. This form may be used to change:

- A legal name change;
- An address change;
- A phone number change; or
- A nature of business change;

The filing fee is $3. This application must be signed, dated and notarized.

The Registration Amendment form is available:

- At one of our customer service centers listed on page 3;
- For download at www.azsos.gov; and
- By contacting our office at 602-542-6187. ♦

ASSIGNMENT TRANSFERS

Owners of a trade name or trademark shall use an Assignment of a Trade Name or Assignment of a Trademark form to transfer a trade name or trademark already on file with the office to another person or entity. The filing fee is $10 for a trade name assignment and $15 for a trademark assignment. This application must be signed and dated by both the assignor(s) (current owner) and assignee(s) (new owner) and notarized.

Assignment of a Trade Name form is available:

- At one of our customer service centers listed on page 3;
- For download at www.azsos.gov; and
- By contacting our office at 602-542-6187. ♦

CANCELLATION

Owners of a trade name or trademark on file may cancel their registration at any time. There is no fee to cancel a registration. The submitted form must be signed and notarized. All current owners must sign the cancellation form.

Trade Name Trademark Cancellation form is available:

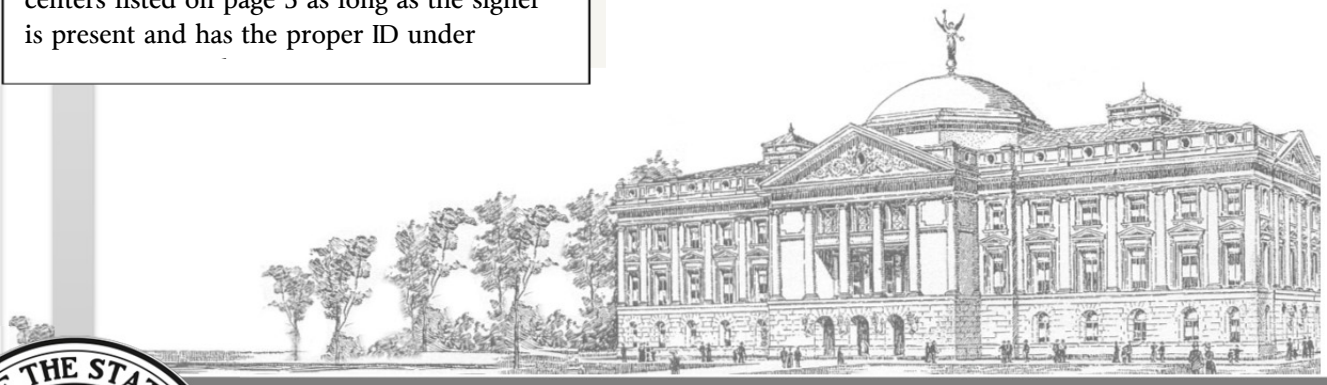
- At one of our customer service centers listed on page 3;
- For download at www.azsos.gov; and
- By contacting our office at 602-542-6187. ♦

Key to Success

Please note that applications for registration of a trade name or trademark that are mailed to the Secretary of State's Office MUST BE NOTARIZED before submission. However, notarizations are not required for those bringing an application in person. These services are available at our customer service centers listed on page 3 as long as the signer is present and has the proper ID under

Section 2

Secretary of State Trade Name and Trademark Standards
Effective 08/12/2005
Revised 5/8/2007



Secretary of State
Distinguishable Standards

Please be advised that the Secretary of State's role in determining whether or not a proposed trade name is "distinguishable" is ONLY ministerial.

Registering or filing a name in the secretary's office does not grant rights or interests in that name. Under Arizona law the Secretary of State does not have the authority to resolve contending claims to a name under other statutes or under common law.

Even though the Secretary of State approves a name as being distinguishable from previously registered names (based on the criteria on the following pages), the name may still infringe on the intellectual property rights of other parties.

For instance, if the name registered is similar to a name already protected by a U.S. Patent and Trademark Office trademark filing, consequences such as being forced to stop using the name, among other legal implications, could occur. In fact, the owner of the state registered trade name may be ordered to stop its use even if the name is not federally registered by another entity if a similar name is already being used in a related field. ♦

The following items will NOT make a name distinguishable from another name on the record:

1. **Entity Endings:** Words and abbreviations that are required to identify the type of business entity are disregarded when considering name availability and do NOT qualify a name as distinguishable. This includes abbreviated forms of the identifiers as well as foreign language equivalents. Thus, names otherwise identical except for the presence of any of the following words or abbreviations shall not be considered distinguishable:

Identifiers: "Corporation," "Company," "Incorporated," "Limited," "Co.," "Ltd.," Corp.," "Inc.," "Limited Partnership," "Limited Liability Company," "Limited Company," "LLC," "LC," "Registered Limited Liability Partnership," "LLP," "Professional Corporation," "Professional Service Corporation," "PSC," "PLLC," "PLC", "Professional Association", "P.A.", "Service Corporation", "S.C. ", "Chartered".

Examples of non-distinguishable names: "Business Machine Company", "Business Machine Company, Inc.", "Business Machine Corporation", "Business Machine LLC", "Business Machine Limited Partnership". **Please note**: A name may NOT be comprised only of identifiers listed above. For example, "Limited Service Company".

Foreign corporations. "Words or abbreviations of like import in another language".

Example: "Los Gatos S.A., Inc." is NOT distinguishable from "Los Gatos Inc".

2. **"&" and "And" are NOT distinguishable:** Names otherwise identical except for the presence of "and" or the ampersand symbol or just a space between words shall not be considered distinguishable.

Example:
"Run and Gun Enterprises" is NOT distinguishable from "Run & Gun Enterprises"

3. **Articles:** Articles of speech ("a," "an," "the") do NOT make a name distinguishable.

Examples:
"Carpet Universe" is NOT distinguishable from "The Carpet Universe";
"The Bates Motel" is NOT distinguishable from "Bates Motel"
"An Eagle's Talon" is NOT distinguishable from "Eagle's Talon"

4. **Possessives:** The possessive form of a word is NOT distinguishable from the plural.

Example:
"Hill's Supermarket" is NOT distinguishable from "Hills Supermarket"

5. **Marks of punctuation & Differences in the use of Special Characters:** Commas, periods, apostrophes, quotation marks, dashes, exclamation points, question marks, asterisk, backslash, left brace, right brace, caret, greater than, less than, number sign, underscore, tilde and all other marks of punctuation appearing in trade names are disregarded when considering name availability and do not qualify a name as being distinguishable.

"" (quotation marks)	. (period)	; (semicolon)	! (exclamation point)
` (apostrophe)	\ (back slash)	| (pipe)	? (question mark)
( ) (parenthesis)	/ (forward slash)	- (hyphen)	… (ellipsis)
, (comma)	~ (tilde)	[ ] { } <> (brackets)	__ (underscore)
* (asterisk)	>< (greater/less than)	--- (dotted line)	´ ` (accent marks)
^ (carrot)	: (colon)		

Examples:
"CD Construction" is NOT distinguishable from "C-D Construction"
"Profit: Possible" is NOT distinguishable from "Profit Possible"
"Bob's" is NOT distinguishable from "Bobs"
"Let's Sell" is NOT distinguishable from "Let's Sell!"

6. **Arabic numbers are NOT distinguishable** from words representing the numbers.

Examples:
"Two Guys with Hammers Co." is NOT distinguishable from "2 Guys with Hammers"
"Ink Holdings #3" is NOT distinguishable from "Ink Holdings No. Three"
"First Alert" is NOT distinguishable from "1st Alert"
"Brian's One to One Training" is NOT distinguishable from "Brian's 1-2-1 training".

7. **Word spacing or combining**: A proposed name is deemed not to be "distinguishable" to an existing registration if the addition or subtraction of spaces (" ") is the difference.

Examples:

a. "Twin State Motors" is NOT distinguishable from "Twinstate Motors"
b. "Mid Co" is NOT distinguishable from "MidCo"
c. "Hilltop Stables" is NOT distinguishable from "Hill Top Stables"
d. "Outbound Travel" is NOT distinguishable from "Out Bound Travel"
e. "Northwest Homes" is NOT distinguishable from "North West Homes"
f. "Sidewalk Sales" is NOT distinguishable from "Side Walk Sales"

8. **All names are reviewed in upper case letters**. The use of upper and lower case of letters within a trade name, as that name appears on any document filed with the Secretary of State, are disregarded when considering name availability. Thus, names otherwise identical except for difference in the use of upper and lower case shall not be considered distinguishable.

Example:

"Azleads" is NOT distinguishable from "AZLEADS"

9. **False implication of Government Affiliation**: The name may not be one that might falsely imply governmental affiliation, local, state, or federal or any sub-division thereof without authorization to register such a name.

Example of trade names that may falsely imply affiliation:

"Arizona State Troopers Association"; "I.R.S. Collections"

10. **Grossly Offensive, Obscene or Names that have an Illegal connotation will not be acceptable**. Names that contain words, phrases or references that:

a. are clearly derogatory to a particular group of people, such as a particular gender, ethnic group, religious group, race etc.
b. are commonly understood to have a profane meaning or usage.
c. inappropriately promote abusive or unlawful activity. Names that may legitimately be understood to have a meaning that is not grossly offensive, despite contextual double entendre, are acceptable (e.g., "Haulin' Ass" for an animal transportation business or "The Bitch Pound" for a kennel business will be acceptable; however "The Filthy Bitch Pub" for a bar would not be acceptable).

11. **World-wide web prefix or suffix**: The addition of a worldwide web prefix or suffix does not distinguish a proposed name from an existing registration

Examples:

a. "Whitehouse.com" is NOT distinguishable from "Whitehouse.org"
b. "www.Whitehouse.com" is NOT distinguishable from "HTTP//Whitehouse.org"

The following items DO make a name distinguishable from another name on the record:

1. **Key Words**

a. If one of the key words is different. A "key word" means any word other than articles, prepositions, conjunctions or entity identifiers such as "corporation," "incorporated," "company," etc.

Example:
"Mary's Creations" is distinguishable from "Mary's Delights"

b. If the key words are the same but are in a different order.

Example:
"Landscape Action" is distinguishable from "Action Landscape"

c. The key words have a marked difference in meaning in their contexts and the words are not literally identical.

Example:
"Capital Builders" is distinguishable from "Capitol Builders"

d. The use of geographical designations makes a name distinguishable.

Example:
"Arizona Auto Detail Specialists" is distinguishable from "Auto Detail Specialists"; "Phoenix Green Thumb Landscaping" is distinguishable from "Green Thumb Landscaping"

2. **Abbreviations**: Abbreviations and unabbreviated versions of the same words are considered to be distinguishable

Examples:
a. "The Wizard of Oz. Measuring Cup" is distinguishable from "The Wizard of Ounces Measuring Cup"
b. "Mister Softy" is distinguishable from "Mr. Softie"
c. "St. Andrew's Catering" is distinguishable from "Saint Andrew's Catering"
d. "Mt. Washington Hotel & Resort" is distinguishable from "Mount Washington Resorts"
e. "Easy Technology" is distinguishable from "Easy Tech."

3. **Different spellings** of proper names are considered distinguishable.

Examples:
a. "Schmidt Tackle Shop" is distinguishable from "Shmit Tackle Shop"
b. "Kelley's Pub" is distinguishable from "Kelly's Pub"
c. "Smith Construction" is distinguishable from "Smythe Construction"
d. "Crispy Cream" is distinguishable from "Krispy Kream"

4. **Unique or Improper Spelling**: A proposed name is deemed to be distinguishable from an existing registration if the unique, archaic, or improper spelling of a word or words makes up the difference.

Examples:
a. "B-4 the Fall" is distinguishable from "Before the Fall"
b. "Kwik Kar Wash" is distinguishable from "Quick Car Wash"
c. "Brown Dog Crafts" is distinguishable from "Brown Dawg Crafts"
d. "Bow Hair Care" is distinguishable from "Beau Hare Care"

5. **Prepositions and conjunctions** are not eliminated prior to searching for name availability and are considered distinguishable.

Examples:
a. "Into the Deep Co." is distinguishable from "To the Deep Co."
b. "Of Mice and Men" is distinguishable from "Mice and Men"

6. **The following letters and specific symbols** are NOT converted to the word/number equivalent and may make a name distinguishable.

A-Z % $ @
+ =

Examples:
a. "Dollar Store" is distinguishable from "$ Store"
b. "Plus Value Market" is distinguishable from "+ Value Market"

7. **Roman Numbers are distinguishable** from words representing the numbers.
Example:
"Bookstore III" is distinguishable from "Bookstore Three" or "Bookstore 3"
(note that "Bookstore Three" is NOT distinguishable from "Bookstore 3")

8. The plural form of a word may make a name distinguishable.
Example:
"Good Deed" is distinguishable from "Good Deeds".

9. **Foreign language trade names**. Words in a foreign language are not translated into English, but must consist of letters in the Roman alphabet, Arabic numerals (0, 1, 2, 3, etc.), or symbols capable of being readily reproduced by the Division.
Examples:
a. "Rio Verde" is distinguishable from "Green River"
b. "Evangelical Church" is distinguishable from "Evangelico Church"
c. "El Burrito" is distinguishable from "The Burrito" or "Burrito"

II. Other Requirements for Trade Names

A. **Single Name**
A trade name cannot connote more than one trade name in its title.
Examples of two names on an application:
"Bill's Repair Shop", "Lucy's Book Stop
"Bill's Repair Shop"/"Lucy's Book Stop"

B. **Accepted Characters of Print**
A trade name may contain only the types of letters, numbers, and other typographical figures and symbols that can be reproduced by the Agency:
1. Letters of the English alphabet, with no distinction made by the Secretary of State's Office as to upper case, lower case, typeface, or font.
2. Arabic numerals, i.e. 1, 2, 3, 4, 5, 6, 7, 8, 9, 0.
3. Roman numeral characters, i.e., I, V., X, L, C, D, M.
4. Symbols capable of being reproduced and recorded by the Secretary of State's Office, its record-keeping computer hardware and software: ! @ # % > & * ( ) - + " ' : ; / ?

III. Additional Rules

1. Applications that contain terms including, but not limited to, the following list of restricted words must obtain permission by the Arizona Department of Financial Institutions.

"Bank"	"Savings Association"
"Banker"	"Building Association"
"Banking"	"Savings and Loan Assoc."
"Banc"	"Building and Loan Assoc."
"Banque"	"Savings Bank"
"Banco"	"Thrift"
"Credit Union"	"Trust"
"Deposit"	"Trust Company"

Applicants are encouraged to file more descriptive names.

The Office of the Secretary of State strongly suggests that customers perform extensive, independent research before registering a trade name.

The Office of the Secretary of State does not warrant or guarantee that chosen names will not conflict with existing business names.

Customers are advised to seek legal counsel in the event of a name conflict. The Office of the Secretary of State is a filing agency and not authorized to resolve legal matters involving trade name conflicts.

Purchasing Trade Name and Trademark Data

The Arizona Secretary of State, Business Services Division (SOSAZ) maintains the database of over one hundred fifty thousand partnership, trade name and trademarks for the state of Arizona. These registrations are referred to as non-incorporated registrations and are used as certified name registrations. They are continuously updated through the process of filing Partnership, Trade name and Trademark applications (NIR) at the SOSAZ, where they are imaged and keyed into the NIR system. The NIR registrations, and soon the images of the registrations, are accessible and completely searchable to the public via the Internet at www.azsos.gov.

The Office of the Secretary of State, Business Services Division, provides the Non-Incorporated Registrations Index in two options:

- ☐ Full Index File
- ☐ Monthly Index File subscription

Included with each single request is a complete listing of the registrations, associated filings, service of process agents and owners. Each subscription will contain only those registrations entered during a calendar month time period. A "subscription," rather than a full file, enables the subscriber to receive twelve issues, each containing a calendar month's list of Non-Incorporated Registrations. The subscription is based upon receipt of the request, so it may be entered into at any time during the year.

Non-Incorporated Registration Index Options and Non-Incorporated Registrations Index descriptions are available online.

Requests for a NIR Index must be done in writing and must be accompanied by a check or money order. Written requests should be made on the public records request form.

Written requests should be submitted to:

Arizona Secretary of State
Business Services Division
Attn: Data Request
1700 W Washington, Fl. 7
Phoenix, AZ 85007

Call (602) 542-6187 for pricing information. ♦

Key to Success

Arizona Revised Statutes are referred to as A.R.S. with a section symbol denoted as §.

These statutes are made by the Arizona State Legislature and are available on its website, www.azleg.gov.

Arizona Revised Statutes

The Laws

The Following are Arizona's Trade Name and Trademark Laws

The Office of the Secretary of State cannot interpret the laws on the following pages. They are provided as a reference to applicants. Please consult an attorney with a background in such matters for interpretation and guidance. ♦

Arizona Revised Statutes – Secretary of State Duties

Title 44. TRADE AND COMMERCE
Chapter 10. COMPETITION AND COMPETITIVE PRACTICES
Article 3.1 Trade Names

§ 44-1460. Registration of trade name, title or designation

A. Any person, partnership, corporation, firm, association, society, foundation, federation or organization doing business in this state, or any foreign corporation licensed to exercise its corporate powers in this state, may register with the secretary of state, on a form to be furnished by him, the name, title or designation under which such applicant is operating, setting forth, but not limited to, the following information:
   1. The name and business address of the applicant for such registration. If the applicant is a corporation, the state of its incorporation shall be disclosed.
   2. The name, title or designation to be registered.
   3. The general nature of the business conducted by the applicant.
   4. The length of time during which the name, title or designation has been used by the applicant in his business operations in this state.

B. The applicant or a member or officer of the firm, partnership, corporation, association, society, foundation, federation or other organization shall sign and verify the application.

C. A single name, title or designation may be registered upon each application submitted under the provisions of this article.

§ 44-1460.01. Issuance of certificate; restrictions

A. Upon compliance by the applicant with the requirements of this article the secretary of state shall issue a certificate of registration. The certificate shall show the name and business address of the applicant, the name, title or designation registered, the date of first use claimed, the date of registration and the term of registration.

B. The secretary of state shall not file an application for the registration of any trade name, title or designation if it is not distinguishable on the record from any other name previously filed and on record with the secretary of state.

C. The secretary of state shall not file an application for the registration of any trade name, title or designation if it is not distinguishable on the record from an existing corporate name or a corporate name reserved pursuant to title 10, chapters 4, 19 and 24 through 40.

§ 44-1460.02. Effective term of registration; renewal; expiration notice

A. Registration of a name, title or designation under the terms of this article is effective for a term of five years from the date of registration. Upon application filed within six months prior to the expiration of such term, on a form furnished by the secretary of state, the registration may be renewed at the end of each five-year period for a like term.

B. The secretary of state shall notify registrants within the sixty days next preceding the expiration of the five years from the date of registration of the necessity of renewal by writing to the last known address of the registrants.

§ 44-1460.03. Assignment and recording of rights

Any name, title or designation and its registration may be assignable by an instrument in writing duly executed and may be recorded with the secretary of state who upon recording the assignment shall issue in the name of the assignee a new certificate for the remainder of the term of the registration or of the last renewal of the registration.

§ 44-1460.04. Public examination of records

The secretary of state shall keep for public examination a record of all trade names registered or renewed under the provisions of this article.

§ 44-1460.05. Exclusive rights; common law rights

A. The registration of a trade name if prior in time to the filing of articles of incorporation or the reservation of a corporate name shall give to the holder of the registered trade name exclusive right to the use of such name.

B. Nothing in this article shall adversely affect the rights or the enforcement of rights in trade names acquired in good faith at any time at common law.

§ 44-1460.06. Electronic filing; acceptance

A. Any document that is required to be filed pursuant to this article may be filed in an electronic format that is approved by the secretary of state.

B. Any document that is filed in accordance with this section is deemed to comply with:
   1. The filing requirements of this article.
   2. The requirement that a filing be verified or be submitted with a written signature.
   3. Any requirement that the filing be filed under the penalty of perjury.

C. The secretary of state may adopt rules requiring that any person that submits a document for filing pursuant to this section also submit a written or printed copy of the document as a prerequisite to the document being deemed filed.

D. Except as provided in this section, all civil and criminal statutes applicable to the filing of paper documents apply to all documents filed pursuant to this section.

§ 44-1460.07. Trade name registration cancellation; release for use

A. The secretary of state shall cancel a trade name registration if:

1. The secretary of state receives a voluntary request for cancellation from the registrant or the assignee of record.
2. The registration is not renewed in accordance with this article.
3. A court of competent jurisdiction orders the cancellation on any grounds.
4. The registration was obtained fraudulently by containing false or misleading information.

B. The secretary of state may release a trade name for use pursuant to this article six months after the trade name's corporate owner has been administratively dissolved.

Arizona Revised Statutes – Registration and Applicable Laws
Title 44. TRADE AND COMMERCE
Chapter 10. COMPETITION AND COMPETITIVE PRACTICES
Article 3. Registration and Protection of Trademarks and Service Marks

§ 44-1441. Definitions

A. In this article, unless the context otherwise requires:

1. "Applicant" means the person filing an application for registration of a mark under this article or the person's legal representatives, successors or assigns.
2. "Dilution" means the lessening of the capacity of a famous mark to identify and distinguish goods or services, regardless of the presence or absence of either:
   (a) Competition between the owner of the famous mark and other parties.
   (b) Likelihood of confusion, mistake or deception.
3. "Mark" means any trademark or service mark.
4. "Person" means any individual, firm, partnership, corporation, association, union or other organization.
5. "Registrant" means the person to whom the registration of a mark under this article is issued or the person's legal representatives, successors or assigns.
6. "Service mark" means any word, name, symbol or device or any combination of these items that is adopted and used by a person to identify services provided or sold by that person and to distinguish the services from services provided or sold by others.
7. "Trademark" means any word, name, symbol or device or any combination of these items that is adopted and used by a person to identify goods made or sold by that person and to distinguish the goods from goods made or sold by others.
8. "Use" or "used" means the bona fide use of a mark in the ordinary course of trade and not made merely to reserve a right in a mark.

B. A mark is in use:

1. On goods when it is placed in any manner on the goods or other containers or the displays associated with the goods or other containers or on the tags or labels affixed to the goods or other containers, or if the nature of the goods makes the placement impracticable, then on documents associated with the goods or their sale, and the goods are sold, transported or distributed in this state.
2. On services when it is used or displayed in the sale or advertising of services and the services are rendered in this state.

C. A mark is abandoned if either of the following occurs:

1. Its use has been discontinued with intent not to resume the use. Intent not to resume may be inferred from circumstances. Nonuse for three consecutive years constitutes prima facie evidence of abandonment.
2. Any course of conduct of the owner, including acts of omission as well as commission, causes the mark to lose its significance as a mark.

§ 44-1442. Registrability

A mark by which the goods or services of any applicant for registration may be distinguished from the goods or services of others shall not be registered if it:

1. Consists of or comprises immoral, deceptive or scandalous matter.
2. Consists of or comprises matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute.
3. Consists of or comprises the flag or coat of arms or other insignia of the United States, or of any state or municipality, or of any foreign nation, or any simulation thereof.

4. Consists of or comprises the name, signature or portrait of any living individual, except with his written consent.
5. Consists of a mark which:
   (a) When used on or in connection with the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of them.
   (b) When used on or in connection with the goods or services of the applicant, is primarily geographically descriptive or deceptively misdescriptive of them.
   (c) Is primarily merely a surname, but nothing in this paragraph shall prevent the registration of a mark which has become distinctive of the applicant's goods or services in this state. The secretary of state may accept as prima facie evidence that a mark has become distinctive of the applicant's goods in this state proof of substantially exclusive and continuous use of such mark in this state by the applicant during the five-year period preceding the execution of the application for registration.
6. Consists of or comprises a mark that so resembles a mark registered in this state or a mark or trade name previously used in this state by another and not abandoned, and that when applied to the goods or services of the applicant, is likely to cause confusion or mistake or to deceive.

§ 44-1443. Application for registration

A. Subject to the limitations set forth in this article, any person who is domiciled in this state and who adopts and uses a trademark or service mark, or any person who adopts and uses a trademark or service mark in this state, may file in the office of the secretary of state, on a form to be furnished by the secretary of state, an application for registration of that mark setting forth, but not limited to, the following information:
   1. The name and business address of the person applying for such registration and, if a corporation, the state of incorporation.
   2. The goods or services in connection with which the mark is used, the mode or manner in which the mark is used in connection with such goods or services and the class in which such goods or services fall.
   3. The date when the mark was first used anywhere, and the date when it was first used in this state by the applicant or his predecessor in business.
   4. A statement that the applicant is the owner of the mark and that no other person has the right to use such mark in this state either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive or to be mistaken therefor.

B. The application shall be:
   1. Signed and verified by the applicant, or by a member of the firm or any officer of the corporation or association applying.
   2. Accompanied by a specimen or facsimile of such mark in triplicate.

§ 44-1443.01. Electronic filing; acceptance

A. Any document that is required to be filed pursuant to this article may be filed in an electronic format that is approved by the secretary of state.

B. Any document that is filed in accordance with this section is deemed to comply with:
   1. The filing requirements of this article.
   2. The requirement that a filing be verified or be submitted with a written signature.
   3. Any requirement that the filing be filed under the penalty of perjury.

C. The secretary of state may adopt rules requiring that any person that submits a document for filing pursuant to this section also submit a written or printed copy of the document as a prerequisite to the document being deemed filed.

D. Except as provided in this section, all civil and criminal statutes applicable to the filing of paper documents apply to all documents filed pursuant to this section.

§ 44-1444. Certificate of registration; admissibility as evidence

A. Upon compliance by the applicant with the requirements of this article, the secretary of state shall cause a certificate of registration to be issued and delivered to the applicant. The certificate shall be issued under the signature of the secretary of state and the seal of the state, and it shall show:
   1. The name and business address and, if a corporation, the state of incorporation, of the person claiming ownership of the mark.
   2. The date claimed for the first use of the mark anywhere and the date claimed for the first use of the mark in this state.
   3. The class of goods or services and a description of the goods or services on which the mark is used.
   4. A reproduction of the mark.
   5. The registration date and the term of the registration.

B. A certificate of registration issued by the secretary of state under the provisions of this article or a copy thereof duly certified by the secretary of state shall be admissible in evidence as competent and sufficient proof of the registration of such mark in any action or judicial proceedings in any court of competent jurisdiction in this state.

§ 44-1445. Duration of registration; renewal notice; application and fee

A. Registration of a mark under the provisions of this article shall be effective for a term of ten years from the date of registration. Upon application filed within six months prior to the expiration of such term, on a form to be furnished by the secretary of state, the registration may be renewed for a like term. A mark registration may be renewed for successive periods of ten years in a like manner.

B. The secretary of state shall notify registrants of marks under this article of the necessity of renewal within the year next preceding the expiration of the ten years from the date of registration by writing to the last known address of the registrants.

C. Any registered mark expires ten years from the date of the registration, or of the last reregistration thereof, and may be reregistered by filing an application with the secretary of state on a form furnished by the secretary of state and paying the renewal fee therefor within six months prior to the expiration of the registration.

§ 44-1446. Assignment of mark and registration

Any mark and its registration under the provisions of this article shall be assignable with the goodwill of the business in which the mark is used or with that part of the goodwill of the business connected with the use of and symbolized by the mark. Assignment shall be by instruments in writing duly executed and may be recorded with the secretary of state who upon recording of the assignment shall issue in the name of the assignee a new certificate for the remainder of the term of the registration or of the last reregistration thereof. An assignment of any registration under this article shall be void as against any subsequent purchaser for valuable consideration without notice, unless it is recorded with the secretary of state within three months after the date thereof or prior to such subsequent purchase.

§ 44-1447. Records

The secretary of state shall keep for public examination a record of all marks registered or renewed under this article.

§ 44-1448. Cancellation of registrations

The secretary of state shall cancel from the register:

1. Any registration concerning which the secretary of state receives a voluntary request for cancellation thereof from the registrant or the assignee of record.
2. All registrations granted under this article and not reregistered in accordance with the provisions hereof.
3. Any registration concerning which a court of competent jurisdiction finds:
   (a) That the registered mark has been abandoned.
   (b) That the registrant is not the owner of the mark.
   (c) That the registration was granted improperly.
   (d) That the registration was obtained fraudulently.
   (e) That the registered mark is so similar to a mark registered by another person in the United States patent office, prior to the date of the filing of the application for registration by the registrant under this article, and not abandoned, that it might cause confusion or mistake, or a person to be deceived, but if the registrant proves that he is the owner of a concurrent registration of his mark in the United States patent office covering an area including this state, the registration under this article shall not be canceled.
   (f) That the mark is or has become the generic name for the goods or services, or a portion of the goods or services, for which it has been registered.
4. When a court of competent jurisdiction orders cancellation of a registration on any ground.

§ 44-1448.01. Injury to business reputation; dilution

A. The owner of a mark that is famous in this state shall be entitled, subject to the principles of equity and on terms as the court deems reasonable, to an injunction against another person's commercial use of a mark or trade name, if the use begins after the mark has become famous and causes dilution of the distinctive quality of the mark and to obtain other relief provided in this section. In determining whether a mark is distinctive and famous, a court may consider at least the following factors:

1. The degree of inherent or acquired distinctiveness of the mark in this state.
2. The duration and extent of use of the mark in connection with the goods and services with which the mark is used.
3. The duration and extent of advertising and publicity of the mark in this state.
4. The geographical extent of the trading area in which the mark is used.
5. The channels of trade for the goods or services with which the mark is used.
6. The degree of recognition of the mark in the trading areas and channels of trade in this state used by the mark's owner and the person against whom the injunction is sought.
7. The nature and extent of use of the same or similar mark by third parties.
8. Whether the mark is the subject of a state registration in this state or a federal registration under the act of March 3, 1881, or under the act of February 20, 1905, or on the principal register.

B. In an action brought under this section, the owner of a famous mark is entitled only to injunctive relief in this state, unless the person against whom the injunctive relief is sought wilfully intended to trade on the owner's reputation

or to cause dilution of the famous mark. If wilful intent is proven, the owner shall also be entitled to the remedies set forth in this chapter, subject to the discretion of the court and the principles of equity.

C. The following are not actionable under this section:
   1. Fair use of a mark by another person in comparative commercial advertising or promotion to identify the competing goods or services of the owner of the famous mark.
   2. Noncommercial use of the mark.
   3. All forms of news reporting and news commentary.

CLASSIFICATION STANDARDS

§ 44-1449. Classification of goods or services

A single application for registration of a mark may include all goods and services on which the mark is actually being used in one or multiple classes. The following general classes of goods and services are established for convenience of administration of this article, but not to limit or extend the applicant's or registrant's rights:

1. Chemical products used in industry, science, photography, agriculture, horticulture or forestry; artificial and synthetic resins; plastics for industrial use in the form of powders, liquids or pastes; natural and artificial manures; fire extinguishing compositions; tempering substances and chemical preparations for soldering; chemical substances for preserving foodstuffs; tanning substances; adhesive substances used in industry.
2. Paints, varnishes and lacquers; preservatives against rust and against deterioration of wood; coloring matters and dyestuffs; mordants; natural resins; metals in foil and powder form for painters and decorators.
3. Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics and hair lotions; dentifrices.
4. Industrial oils and greases except oils and fats and essential oils; lubricants; dust laying and absorbing compositions; fuels, including motor spirit and illuminants; candles, tapers, night-lights and wicks.
5. Pharmaceutical, veterinary and sanitary substances; infants' and invalids' food; plasters and material for bandaging; material for stopping teeth, dental wax and disinfectants; preparations for killing weeds and destroying vermin.
6. Unwrought and partly wrought common metals and the metals' alloys; anchors, anvils, bells and rolled and cast building materials; rails and other metallic materials for railway tracks; chains, except driving chains for vehicles; nonelectric cables and wires; locksmiths' work; metallic pipes and tubes; safes and cash boxes; steel balls; horseshoes; nails and screws; other goods in nonprecious metal that are not included in other classes; ores.
7. Machines and machine tools; motors, except motors for land vehicles; machine couplings and belting, except couplings and belting for land vehicles; large size agricultural implements; incubators.
8. Hand tools and instruments; cutlery, forks and spoons; side arms.
9. Scientific, nautical, surveying and electrical apparatus and instruments, including wireless apparatus and instruments; photographic, cinematographic, optical, weighing, measuring, signaling, checking, supervision, life-saving and teaching apparatus and instruments; coin or counterfreed apparatus; talking machines; cash registers; calculating machines; fire extinguishing apparatus.
10. Surgical, medical, dental and veterinary instruments and apparatus, including artificial limbs, eyes and teeth.
11. Installations for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.
12. Vehicles; apparatus for locomotion by land, air or water.
13. Firearms; ammunition and projectiles; explosive substances; fireworks.
14. Precious metals and the metals' alloys; goods in precious metals or coated with precious metals, except cutlery, forks and spoons; jewelry and precious stones; horological and other chronometric instruments.
15. Musical instruments except talking machines and wireless apparatus.
16. Paper and paper articles and cardboard and cardboard articles; printed matters, newspapers and periodicals and books; bookbinding material; photographs; stationery and stationery adhesive materials; artists' materials; paintbrushes; typewriters and office requisites, except furniture; instructional and teaching material, except instructional and teaching apparatus; playing cards; printers' type and cliches or stereotype.
17. Gutta percha, India rubber, balata and substitutes and articles made from these substances and not included in other classes; plastics in the form of sheets, blocks and rods for use in manufacturing; materials for packing, stopping or insulating; asbestos, mica and asbestos or mica products; nonmetallic hose pipes.
18. Leather, imitations of leather and articles made from leather and imitations of leather that are not included in other classes; skins and hides; trunks and traveling bags; umbrellas, parasols and walking sticks; whips, harnesses and saddlery.
19. Building materials, natural and artificial stone, cement, lime, mortar, plaster and gravel; pipes of earthenware or cement; roadmaking materials; asphalt, pitch and bitumen; portable buildings; stone monuments; chimney pots.
20. Furniture, mirrors and picture frames; articles of wood, cork, reeds, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum or celluloid, substitutes for all of these materials, or of plastics and that are not included in other classes.

21. Small domestic utensils and containers, except utensils and containers of precious metals or utensils and containers coated with precious metals; combs and sponges; brushes, except paintbrushes; brushmaking materials; instruments and material for cleaning purposes and steel wool; unworked or semiworked glass, except glass used in building; glassware, porcelain and earthenware that is not included in other classes.
22. Ropes, string, nets, tents, awnings, tarpaulins, sails and sacks; padding and stuffing materials, including hair, kapok, feathers and seaweed; raw, fibrous textile materials.
23. Yarns and threads.
24. Tissues that are piece goods; bed and table covers; textile articles that are not included in other classes.
25. Clothing, including boots, shoes and slippers.
26. Lace, embroidery, ribands and braid; buttons, press buttons, hooks, eyes, pins and needles; artificial flowers.
27. Carpets, rugs, mats and matting; linoleums and other materials for covering existing floors; nontextile wall hangings.
28. Games and playthings; gymnastic and sporting articles, except gymnastic and sporting clothes; ornaments and decorations for Christmas trees.
29. Meats, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies and jams; eggs, milk and other dairy products; edible oils and fats; preserves and pickles.
30. Coffee, tea, cocoa, sugar, rice, tapioca, sago and coffee substitutes; flour and preparations made from cereals; bread, biscuits, cakes, pastry and confectionery; ices; honey and treacle; yeast and baking powder; salt, mustard, pepper, vinegar, sauces and spices.
31. Agricultural, horticultural and forestry products and grains that are not included in other classes; living animals; fresh fruits and vegetables; seeds; live plants and flowers; foodstuffs for animals; malt.
32. Beer, ale and porter; mineral waters, aerated waters and other nonalcoholic drinks; syrups and other preparations for making beverages.
33. Wines, spirits and liqueurs.
34. Raw or manufactured tobacco; smokers' articles; matches.
35. Computers and computer software.
36. Advertising and business.
37. Insurance and financial.
38. Construction and repair.
39. Communication.
40. Transportation and storage.
41. Material treatment.
42. Education and entertainment.
43. Miscellaneous.

§ 44-1450. Fraudulent registration; damages

Any person who for himself, or on behalf of any other person, procures the filing or registration of any mark in the office of the secretary of state under the provisions of this article by knowingly making any false or fraudulent representation or declaration, verbally or in writing, or by any other fraudulent means, shall be liable to pay all damages sustained in consequence of such filing or registration, to be recovered by or on behalf of the party injured thereby in any court of competent jurisdiction.

§ 44-1451. Remedies for infringement

A. Subject to section 44-1452, the owner of a mark registered under this article may proceed by civil action against any person who, without the consent of the registrant:
1. Uses in this state the registered mark or a mark similar to the registered mark on or in connection with any goods or services or any container for goods in any manner that is likely to cause confusion, cause a mistake or deceive a person as to either:
   (a) The affiliation, connection or association of the person with another person.
   (b) The origin, sponsorship or approval of the goods, services or commercial activities by the owner of the registered mark.
2. Reproduces, counterfeits, copies or colorably imitates a registered mark in any manner whatsoever if such reproductions, counterfeits, copies or colorable imitations are for usage in contravention of paragraph 1 of this subsection.
3. Distributes or uses an unauthorized copy of computer software if the person knows that the copy is an unauthorized copy and when used the copy depicts, incorporates or displays or causes to be depicted, incorporated or displayed a mark that has been registered under this article for computer software. Unauthorized distribution or use is deemed to cause injury in this state.
4. Knowingly obliterates, covers, removes or otherwise alters the mark of another person.

B. In any such action, the court:
1. May grant injunctions to restrain any of such acts as the court deems just and reasonable.

2. May also require the defendant to pay to the plaintiff, subject to the principles of equity:
   (a) The defendant's profits.
   (b) Any damages sustained by the plaintiff.
   (c) The costs of the action, provided that no profits or damages shall be awarded in the case of an action brought under subsection A, paragraph 2 of this section, unless the acts were committed with knowledge that the usage would be in contravention of subsection A, paragraph 1 of this section.
3. If the use is a nonpersonal, commercial use, shall grant to a prevailing plaintiff in an action brought under subsection A, paragraph 3 of this section the plaintiff's reasonable attorney fees and, at the plaintiff's election and in lieu of the defendant's profits or actual damages, presumed damages that are equal to five hundred dollars for each copy or the manufacturer's suggested retail price for each copy, whichever is greater.
4. If the use is a personal, noncommercial use, may grant to a prevailing plaintiff in an action brought under this section the plaintiff's reasonable attorney fees and, at the plaintiff's election and in lieu of the defendant's profits or actual damages, presumed damages that are equal to five hundred dollars for each copy or the manufacturer's suggested retail price for each copy, whichever is greater.
5. May also order the cancellation or transfer of a registration or that any reproductions, copies, counterfeits, or colorable imitations of the registered mark in the possession or under the control of the defendant be destroyed or delivered for destruction.
6. May also order the confiscation or destruction of any unauthorized copy of computer software that when used depicts or displays or causes to be depicted or displayed a registered mark.

C. The enumeration of any right or remedy provided in this article shall not affect a registrant's right to prosecution under any penal law of this state.

§ 44-1452. Common law rights

Nothing in this article shall adversely affect the rights or the enforcement of rights in marks acquired in good faith at any time at common law.

§ 44-1453. Counterfeit marks; violation; classification; presumption; seizure; forfeiture; remedies; definitions

A. Except as provided in subsections B, C and D of this section, a person who knowingly and with intent to sell or distribute uses, displays, advertises, distributes, offers for sale, sells or possesses any item that bears a counterfeit mark or any service that is identified by a counterfeit mark is guilty of a class 1 misdemeanor.

B. A person who commits any act proscribed in subsection A of this section is guilty of a class 6 felony if either:
1. The person has one previous conviction under this section.
2. At least one of the following is true:
   (a) The violation involves more than one hundred but fewer than one thousand items that bear the counterfeit mark.
   (b) The total retail value of all of the items or services that bear or are identified by the counterfeit mark is more than one thousand dollars but less than ten thousand dollars.

C. A person who knowingly manufactures or produces with intent to sell or distribute any item that bears a counterfeit mark or any service that is identified by a counterfeit mark is guilty of a class 5 felony.

D. A person who commits any act proscribed by subsection A of this section is guilty of a class 5 felony if either:
1. The person has two or more previous convictions under this section.
2. At least one of the following is true:
   (a) The violation involves at least one thousand items that bear the counterfeit mark.
   (b) The total retail value of all of the items or services that bear or are identified by the counterfeit mark is at least ten thousand dollars.

E. A person who knowingly has possession, custody or control of at least twenty-six items that bear a counterfeit mark is presumed to possess the items with intent to sell or distribute the items.

F. In any criminal proceeding in which a person is convicted of a violation of this section, the court may order the convicted person to pay restitution to the intellectual property owner.

G. A law enforcement officer may seize any item that bears a counterfeit mark and all other personal property that is employed or used in connection with a violation of this section, including any items, objects, tools, machines, equipment, instrumentalities or vehicles. All personal property seized pursuant to this section shall be forfeited pursuant to title 13, chapter 39.

H. After a disposition or final judgment, on the request of the intellectual property owner, a law enforcement officer shall release all seized items that bear a counterfeit mark to the intellectual property owner for destruction or disposition. If the intellectual property owner does not request the release of the seized items that bear a counterfeit mark, the law enforcement officer shall destroy the items unless the intellectual property owner consents to another form of disposition.

I. Any certificate of registration pursuant to this article or federal law of any intellectual property is prima facie evidence of the facts stated in the certificate of registration.

J. In addition to the remedies provided in section 44-1451, an intellectual property owner who sustains a loss as a result of a violation of this section may file an action in superior court for recovery of up to treble damages and the costs of the suit including reasonable attorney fees.

K. The remedies provided in this section are cumulative to all other civil and criminal remedies provided by law.

L. For the purposes of this section, the quantity or retail value of items or services includes the aggregate quantity or retail value of all items that the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses and that bear a counterfeit mark or that are identified by a counterfeit mark.

M. For the purposes of this section:

1. "Counterfeit mark" means:
   (a) Any unauthorized reproduction or copy of intellectual property.
   (b) Intellectual property that is affixed to any item that is knowingly sold, offered for sale, manufactured or distributed or to any identifying services offered or rendered without the authority of the intellectual property owner.
2. "Intellectual property" means any trademark, service mark, trade name, label, term, device, design or word that is adopted or used by a person to identify that person's goods or services.
3. "Item" includes:
   (a) Any component that is designed, marketed or otherwise intended to be used on or in connection with any goods or services.
   (b) Any component of a finished product.
4. "Retail value" means:
   (a) For items that bear a counterfeit mark and that are components of a finished product, the counterfeiter's regular selling price of the finished product on or in which the component would be utilized.
   (b) For all other items that bear a counterfeit mark or services that are identified by a counterfeit mark, the counterfeiter's regular selling price for those items or services.

§ 44-1455. Use of unauthorized copy of computer software; violation; classification

A person who knowingly uses, other than for personal, noncommercial use, an unauthorized copy of computer software that when used depicts, incorporates or displays or causes to be depicted, incorporated or displayed a mark that has been registered under this article for computer software is guilty of a class 5 felony.

§ 44-1456. Use of trademarked container for other articles; violation; classification

A person who has or uses a cask, bottle, vessel, case, cover, label or other thing bearing or having in any way connected with it the duly filed trademark or name of another, for the purpose of disposing of, with intent to deceive or defraud, any article other than the article which such container or thing originally contained or was connected with by the owner of such trademark or name, is guilty of a class 2 misdemeanor.

Forms and Fees Schedule

If you relocate, please remember to update the new address with our office. Use the Amendment Application.

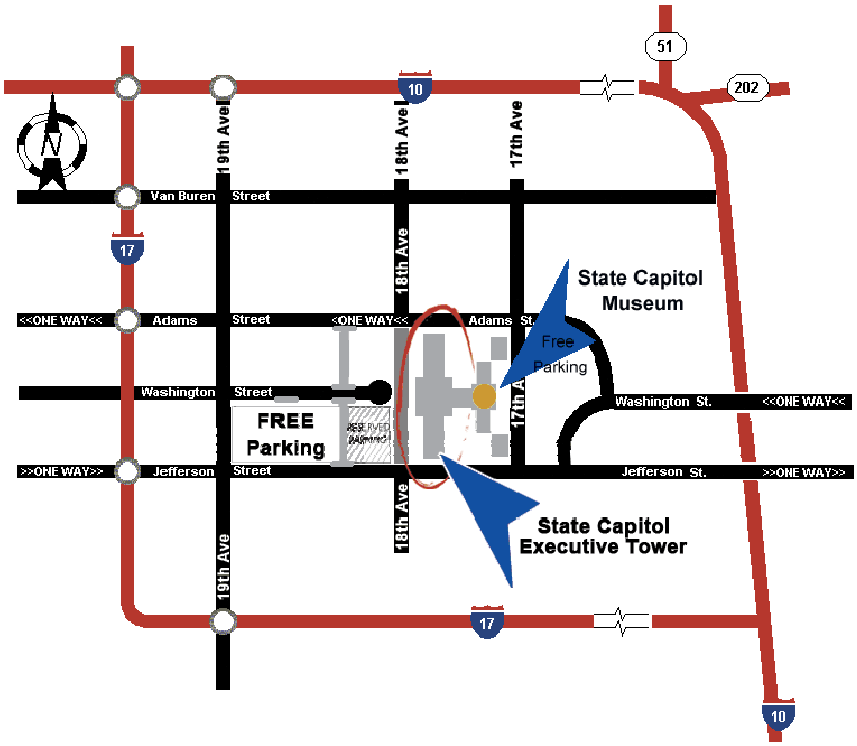
TRADE NAME FORMS A business name will be public record.			
Forms	**Purpose**	**Fee**	**Filing Time***
Brand New Filing			
Trade Name Registration Application	Initially files name for public record. Must be renewed every 5 years.	$10	2-3 weeks
Existing Trade Names on file			
Trade Name Renewal *Submit 6 months before expiration date*	Keeps trade name on file for another 5 years.	$10	2-3 weeks
Trade Name Assignment	Transfers ownership between separate entities.	$10	2-3 weeks
Trade Name Amendment	Updates addresses, phone number or legal name change of current owner on file.	$3	2-3 weeks
Trade Name Cancellation	Discontinues filing in system and public record.	none	2-3 weeks

TRADEMARK FORMS A logo or slogan displayed for goods or services will be public record.			
Forms	**Purpose**	**Fee**	**Filing Time***
Brand New Filing			
Trademark Registration Application**	Initially files logo or slogan for public record. Must be renewed every 10 years.	$15	2-3 weeks
Existing Trademarks on file			
Trademark Renewal** *Submit 6 months before expiration date*	Keeps trademark on file for another 10 years.	$15	2-3 weeks
Trademark Assignment	Transfers ownership between separate entities.	$15	2-3 weeks
Trademark Amendment	Updates addresses, phone number or legal name change of current owner on file.	$3	2-3 weeks
Trademark Cancellation	Discontinues filing in system and public record.	none	2-3 weeks

Miscellaneous Filings	Purpose	Fee
Duplicate trade name/trademark certificate	Sealed and signed certificate of filing	$3
Certificate of Non Existence	Sealed and signed certificate of non-filing	
Copies of Recorded Documents	Copies of submitted applications	10 cents per page; $3 extra for certified copies

Only ONE owner type can be selected for all trade name and trade mark forms. For example, if the owner is an LLC owned by a sole proprietor, both the "sole proprietor" and "LLC" options cannot be selected. One type must be decided before the form is notarized. If a form is submitted with two or more owner types, it will be returned and a new, corrected form must be submitted.
A trade name or trademark cannot be continued after it expires. A trade name registration application must be submitted instead.
If an assignment is to be filed, make sure that both the assignor and assignee sign in front of a notary. If one person is signing on behalf of both the assignor and assignee, that person must sign in both the assignor and assignee sections.
* All applications can be expedited by submitting the filing fee plus an additional $25 fee. This will speed up our processing time. If the form is mailed with both fees, it will be processed within 1-2 days of receipt. If the form is brought in with both fees in person to our Phoenix or Tucson offices, the form will be processed immediately.
** The trademark application asks for classification numbers, which refer to categories ("classes") on which the logo or slogan will appear. The owner may select from 43 different classes that fall under A.R.S. 44-1449, "Classification of goods or services". Page 18 lists the available classification numbers.
All forms must be notarized and can be notarized in any state. Should the applicant be outside Arizona, have the notary strike out "Arizona" in the notarial venue, initial the change, and complete the state and county where the notarization is taking place. Also make sure the notary reads the notarial language and completes it accurately.

Directions to the office



From I-17, Southbound
Exit I-17 onto Jefferson Street
East on Jefferson Street (one way)
First entrance past 19th Avenue on North (left) side of Jefferson Street

From I-17, Northbound
Exit I-17 onto 19th Avenue
North (right) onto 19th Avenue
East (Right) on Washington Street
Next right (South) into parking lot driveway

From I-10, Westbound
Exit I-10 Westbound at 19th Avenue
Left (South) on 19th Avenue to Washington Street
Left (East) on Washington Street
Next right (South) into parking lot driveway

From I-10, Eastbound
Exit I-10 Eastbound onto I-17 Southbound (truck route)
Exit I-17 Southbound onto Jefferson Street
East on Jefferson Street (one way)
First driveway past 19th Avenue on left (North) side

From Downtown Phoenix
West on Washington Street (one way)
Stay on Washington as it jogs North to Adams Street (approx. 15th Avenue)
Left (South) on 19th Avenue
Next left (East) on Washington Street
Next right (South) into parking lot driveway

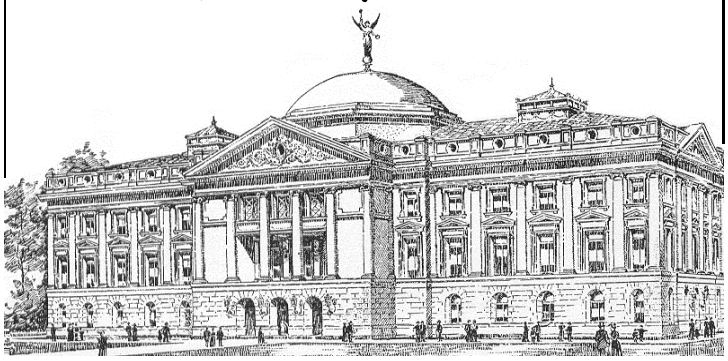
MICHELE REAGAN
Secretary of State
1700 W. Washington Street, FL 7
Phoenix, AZ 85007-2808

ARIZONA

DEPARTMENT OF STATE
Office of Secretary of State
A BUSINESS SERVICES DIVISION PUBLICATION

FOR INFORMATION ABOUT THE INFORMATION IN THIS REFERENCE MANUAL CALL BUSINESS SERVICES AT (602) 542-6187

ARIZONA
Trade Name and Trademark Reference Manual

Published by the Department of State
Office of the Secretary of State

Revision:
January 2015