



# Trade Names Trademarks Service Marks



**June 2007**

*Welcome from the Arizona Capitol in Phoenix. The Secretary of State's Office publishes this booklet for those interested in how to register and file trade names, trademarks and service marks in Arizona. Your comments about any of our publications are appreciated.*

**JAN BREWER**  
Secretary of State

# Contact the Secretary of State's Office

*A publication of the Arizona Secretary of State's Office  
State Capitol, Phoenix, Arizona*

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Arizona Secretary of State

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Secretary of State - Trades  
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Phoenix, AZ 85007-2888

Phoenix Customer Service  
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Tucson Customer Service  
400 W. Congress, 2nd Floor, Room 252  
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State Regional Complex

**For additional copies of this booklet send your request to:**  
Secretary of State  
Attention: Business Services Division  
1700 W. Washington, 7th Fl.  
Phoenix, Arizona 85007

Visit us on the World Wide Web at [www.azsos.gov](http://www.azsos.gov)  
e-mail: [businessservices@azsos.gov](mailto:businessservices@azsos.gov)



JANICE K. BREWER  
SECRETARY OF STATE  
STATE OF ARIZONA

One of the functions of the Secretary of State's office is to serve and assist Arizona businesses. This booklet provides information regarding the registration of trade names and trademarks in the State of Arizona. The registration of trade names and trademarks is not legally required in Arizona, but is an accepted business practice. The following pages include helpful hints, guidelines and various forms used in the processing of Trade Names and Trademarks.

There are several ways of checking whether a trade name is in use as an active business in Arizona. You can check potential name availability online at [www.azsos.gov](http://www.azsos.gov). Please read the search instructions prior to performing the search. Additionally, the Phoenix Public Library provides Trade Name/Mark research and guidelines in their Business Section; this information may be accessed through their website [www.phoenixpubliclibrary.org/include/pathfinders/Tradenames&Trademarks.pdf](http://www.phoenixpubliclibrary.org/include/pathfinders/Tradenames&Trademarks.pdf)

If you have any questions on the interpretation of laws or need guidance in business decisions, it is suggested you seek the advice of an attorney. It is important to note that trade names are not officially approved until the application and fees are received by this office and the proposed name is carefully reviewed for potential conflicts with existing registered names. The same procedure applies to trademarks. As a precaution, it is suggested that you delay the purchase of business cards or other office supplies that might bear your potential trade name/trademark until you receive your certificate of registration in the mail.

Those individuals forming Corporations and LLC's should check name availability with the Corporation Commission online at [www.corporations.azcc.gov](http://www.corporations.azcc.gov) or by calling 602 542-3026. Construction companies should check name availability with the Registrar of Contractors at 602/542-1525. Mortgage companies should check with the Department of Banking by calling 602/255-4421.

Should you have questions concerning business-licensing requirements, the Arizona Department of Commerce Small Business Services online program guides you through the basics of what you need to know to start and operate a business in Arizona and creates a customized step-by-step checklist. Visit [www.azcommerce.com/smallbiz](http://www.azcommerce.com/smallbiz).

Please contact my office at 602/542-6187 with any questions or concerns. My staff and I look forward to assisting you in your business endeavors.

**JANICE K. BREWER**  
**ARIZONA SECRETARY OF STATE**

## **Trade Names, Trademarks and Service Marks Questions and Answers**

### **Q: HOW DO I FILE MY BUSINESS NAME?**

The registration of a trade name (business name, DBA) is not legally required in Arizona but is an accepted business practice. Trade names, also known as business names or DBA's, can be filed with the Office of the Secretary of State. Although the office will search its database for similar names on file, it is strongly recommended that customers follow the guidelines found at the Phoenix Public Library before submitting a trade name application. Registration forms are available to download at [www.sosaz.com](http://www.sosaz.com). The filing fee is \$10.00 and must be in the form of a check, cashiers' check, money order, or cash. At this time we do not accept credit card payments.

### **Q: HOW DO I PERFORM A PRELIMINARY SEARCH ON NAME AVAILABILITY?**

You may perform an online search of potential business names at [www.azsos.gov](http://www.azsos.gov) Please carefully read the search instructions prior to performing a name availability search. Please remember you are qualifying your name against a statewide database containing over three hundred thousand names. Trade names must be distinctive and distinguishable on the record from previous registrations.

Please note that trade names or trademarks are not officially approved until the application and fees are received by this office and the proposed name/mark is carefully reviewed for potential conflicts with existing registered names/marks. As a precaution, it is suggested that you delay the purchase of business cards or other office supplies that might bear your potential trade name/trademark until you receive your certificate of registration in the mail.

### **Q: HOW DO I REGISTER AT THE FEDERAL LEVEL?**

To file for a federal trademark, contact the U.S. Patent and Trademark Office located at 2021 Jefferson Davis Highway, Arlington, VA. General information requests should be addressed to General Information Services, U.S. Patent and Trademark Office, Crystal Plaza 3, Room 2C02, PO Box 1450, Alexandria, VA 22313-1450. Questions regarding federal trademark registration can be answered at 800/786-9199 or on the Internet at [www.uspto.gov](http://www.uspto.gov). Federal trademark searches may also be conducted online at [www.uspto.gov](http://www.uspto.gov).

**Q: WHAT IS THE PROCESS FOR FILING A TRADEMARK OR SERVICE MARK?**

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. Forms are available on our web site at [www.azsos.gov](http://www.azsos.gov) The filing fee is \$15.00. You will receive a certificate once the mark is registered.

**Q: WHERE CAN I FIND THE CLASSIFICATION NUMBERS FOR MY TRADEMARK?**

Classification numbers for trademarks are enclosed in this booklet and may be found online at [http://www.azsos.gov/Business\\_Services/TNT/TNTHBook.pdf](http://www.azsos.gov/Business_Services/TNT/TNTHBook.pdf)

**Q: WHERE DO I FILE FOR A TRADENAME/TRADEMARK?**

PHOENIX CUSTOMER SERVICE

Office of the Secretary of State  
Customer Service Center  
14 N. 18<sup>th</sup> Avenue  
Phoenix, AZ 85007

The facility is located on the west side of 18<sup>th</sup> Avenue between Jefferson and Adams on.

TUCSON CUSTOMER SERVICE

Office of the Secretary of State  
400 W. Congress, Suite 252  
Tucson, Arizona 85701

The facility is located in the State of Arizona Building on the corner of Congress and Granada.

Hours: Monday – Friday, 8am – 5pm, except holidays

**Q: WHAT IF MY TRADE NAME IS REJECTED?**

The general rule governing trade name acceptability is found in A.R.S. §44-1460.01(B). 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."

**Q: WHAT OTHER BUSINESS RELATED FUNCTIONS ARE OFFERED BY THE SECRETARY OF STATE?**

In addition to the registration of trade names and trade/service marks, the Office of the Secretary of State is the centralized filing office for the registration of Limited Partnerships, Charitable Organizations, Telephone Solicitors, Contracted Fundraisers, Advance Directives and Uniform Commercial Code filings. The agency also provides Notary Public Commissions, Apostilles, and the maintenance and publishing of the Administrative Code and Register. Forms and filing information are available on our website at [www.sosaz.com](http://www.sosaz.com).

## TRADE NAMES AND TRADEMARKS

Burton Barr Central Library  
Government Documents and Law, 2nd Floor  
1221 N. Central Ave.  
Phoenix, AZ 85004

The Phoenix Public Library has prepared this brochure to help you check the availability of a proposed business, product, or service name before using a trade name or registering a trademark. Although the library has prepared this brochure with the best information available, it is strongly suggested that you seek the advice of an attorney for any specific questions about the interpretation of laws or for guidance in any major business decisions. Library staff will be glad to assist you in researching proposed name availability, but cannot interpret the law for you or offer legal advice based on research done here.

A trade name is a name used to identify organizations, and generally their products and services as well. A trademark is any word, phrase, design, slogan, or symbol, which distinguishes certain products and services from those offered by competitors, such as "Jell-O" or "Kleenex". Although trademarks registered with the state and/or federal governments enjoy the highest degree of protection, even unregistered or "common law" trademarks may be somewhat protected.

Following the steps below may help you find potentially conflicting trade names and trademarks. Each step offers a higher degree of protection.

1. Check your proposed name against the list of directories on the other side of this sheet. This list has been designed to help you check trade names and trademarks, with particular emphasis on Arizona businesses. This check will take about 30 minutes.

2. Check your proposed name on the Arizona Secretary of State's database at [http://www.azsos.gov/business\\_services/tnt/](http://www.azsos.gov/business_services/tnt/)

3. Check your proposed name on the Arizona Corporation Commission's database of corporate information at <http://starpas.cc.state.az.us/instruct.html>.

4. Check your proposed name on the U.S. Patent & Trademark office's Trademark Database at <http://www.uspto.gov/main/trademarks.htm>. Read their explanations and disclaimer.

5. If your proposed name appears "clean" after step 1 through 3, you may want an online search conducted for you. This search will go beyond the preliminary screening for the first step and involve checks of common law trademarks throughout the country. Costs for this service vary. Contact *Facts to Go!* at (602) 256-3544 or ask at the Central Library Business desk for more information.

6. If you want more protection or advice or if you would like someone to handle the entire process for you, you may wish to use the services of a trademark attorney. The library has directories to help identify attorneys who offer these services.

## DIRECTORIES OF TRADE NAMES AND TRADEMARKS

This list is effective only when all listed directories are used. Please do not ask library staff to recommend one source over another, since they are all equally vital regardless of the type of name. Your time is precious, but so is the protection that only thorough research can provide.

### Directory

- Reference U.S.A.

### Location

Electronic Island and Library Catalogs; or from the Phoenix Public Library website using your borrower's card

- |  |   |
|--|---|
| • Brands and Their Companies   | Business Information<br>(Business Shelf A2)     |
| • Duns Regional Business Directory<br>(Metro Phoenix & Tucson)                                   | Business Information<br>(Reference Desk)        |
| • Million Dollar Directory<br>(Nationwide)   | Business Information<br>(Business Shelf A1)     |
| • Advertising Red Books<br>Advertisers Brand Name Index, vol. 2                                  | Business Information<br>(Business Shelf A2)     |
| • Thomas Register of American<br>Manufacturers<br>(trademark index and company profiles volumes) | Business Information<br>(Business Shelf A5, A6) |
| • Trademark Register of the<br>United States   | Business Information<br>(Business Shelf A3)     |

### Offices for Trade Name or Trademark Registration

**State:** Secretary of State  
Customer Service Center  
14 North 18th Ave.  
Phoenix, AZ 85007  
602-542-6187      -or-      trades@sos.state.az.us  
[http://www.azsos.gov/business\\_services/tnt/](http://www.azsos.gov/business_services/tnt/)

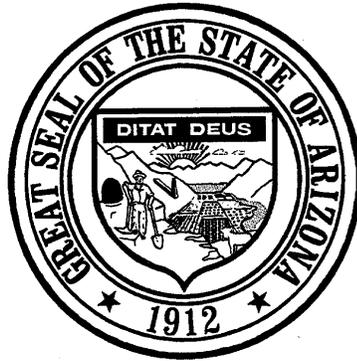
**Federal:** U.S. Department of Commerce  
Patent and Trademark Office  
Washington, DC 20231  
1-800-786-9199      -or-      703-308-4357

This publication can be provided in an alternative format upon request. Call 602-262-4636 (voice). TTY/TDD 602-254-8205 (libraries) or 602-534-5500 (city operator).

FAX 602-261-8836

Rev. 5/03

**TRADE NAME  
STATUTES AND FORMS**



## **ARIZONA REVISED STATUTES- TITLE 44**

### **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 22.

### **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](#)

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.

## TIPS FOR TRADE NAME REGISTRATION

This office does not register corporate names (e.g., ABC, Inc). Please remove any designations from your trade name such as INC, LLC, LTD., or LP. If you are filing as a corporation or LLC with the Arizona Corporation Commission, it is not necessary to register your corporate name as a trade name with this office as names are cross-referenced with the Corporation Commission. If you walk your application in notarization is not required. However, a form of United States government issued identification is required to process the application.

Trade names must be distinguishable from previous registrations on the record with the Secretary of State. It is highly recommended to include distinctive words in the name you wish to register. Please consider that we are qualifying the name against a statewide database.

This office cannot register a name that is not distinguishable on the record from any other name previously registered and on the record with the Secretary of State. It is highly recommended to register a name that is unique and distinct from other listings. Names are searched by the root word(s) of the name. As an example, if you are looking to add "professional" to your name, search for "pro." Remove all plural references and punctuation when searching.

**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 with the SOS does not grant rights or interests in that name. Under Arizona law the Secretary of State's 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 above criteria), 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 it's 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. Thus, names otherwise identical except for the presence of any of the following words or abbreviations shall not be considered distinguishable: "Corporation," "Company," "Incorporated," "Limited," "Co.," "Ltd.," "Corp.," "Inc.," "Limited Partnership," "Limited Liability Company," "Limited Company," "LLC," "LC," "Registered Limited Liability Partnership," "LLP," "Professional Service Corporation," "PSC," "PLLC," and "PLC."

**Examples of non-distinguishable names:** "Business Machine Company", "Business Machine Company, Inc.", "Business Machine Corporation", "Business Machine LLC", "Business Machine Limited Partnership".

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

**Example of non-distinguishable names:** “Los Gatos S.A., Inc.” v. “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.

**Examples of non-distinguishable names:** “Run and Gun Enterprises”, “Run & Gun Enterprises”, “Run 'N Gun Enterprises”, “Run Gun Enterprises”, “Run/Gun Enterprises”

3. **Articles:** Articles of speech (“a,” “an,” “the”) are disregarded when considering name availability. Thus, names otherwise identical expect for the presence of the words “a,” “an,” “the” shall not be considered distinguishable.

**Examples of non-distinguishable names:** “Carpet Universe” v. “The Carpet Universe”; “The Bates Motel” v. “Bates Motel”

4. **Plurals and Possessives:** The plurals and possessive forms of words are considered indistinguishable.

**Examples of non-distinguishable names:** “Hill’s Supermarket” v. “Hills Supermarket” or “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. Thus, names otherwise identical expect for the presence of any punctuation marks shall not be considered distinguishable.

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

**Examples of non-distinguishable names:** “CD Construction”, “C-D Construction”, “C & D Construction”, “CD’s Construction”, “C.D. Construction”, “Profit: Possible” v. “Profit Possible”, “Bob’s” v. “Bobs” “Let’s Sell” v. Let’s Sell!”

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

**Examples of non-distinguishable names:**

- “Two Guys with Hammers Co.” v. “2 Guys with Hammers”
- “Ink Holdings #3”; “Ink Holdings No. Three”
- “First Alert” v. “1<sup>st</sup> Alert”
- “Brian’s One to One Training”; “Brian’s 1-2-1 training”; “Brian’s 1 to 1 Training”; “Brian’s One 2 One Training”

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

**Examples of non-distinguishable names:**

- a. "Twin State Motors" v. "Twinstat Motors"
- b. "Mid Co" v. "MidCo"
- c. "Hilltop Stables" v. "Hill Top Stables"
- d. "Outbound Travel" v. "Out Bound Travel"
- e. "Northwest Homes" v. "North West Homes"
- f. "Sidewalk Sales" v. "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 of non-distinguishable names: "Azleads" vs. "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.** 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. that inappropriately promote abusive or unlawful activity;

will not be acceptable. 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 of non-distinguishable names:**

- a. "Whitehouse.com"; "Whitehouse.org", "Whitehouse.net"
- b. "WWW.Whitehouse.com" v. "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 of distinguishable names:** “Mary’s Creations” v. “Mary’s Delights”

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

**Example of distinguishable names:** “Landscape Action” v. “Action Landscape”

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

**Example of distinguishable names:** “Capital Builders” v. “Capitol Builders”

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

**Example of distinguishable names:** “Arizona Auto Detail Specialists” v. “Auto Detail Specialists”; “Phoenix Green Thumb Landscaping” v. “Green Thumb Landscaping”

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

**Example of distinguishable names:**

- a. “The Wizard of Oz. Measuring Cup” v. “The Wizard of Ounces Measuring Cup”  
b. “Mister Softy” v. “Mr. Softie”  
c. “St. Andrew’s Catering” v. “Saint Andrew’s Catering”  
d. “Mt. Washington Hotel & Resort” v. “Mount Washington Resorts”  
e. “Easy Technology” vs. “Easy Tech.”

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

**Examples of distinguishable names:**

- a. “Schmidt Tackle Shop” v. “Shmit Tackle Shop”  
b. “Saint Andrew’s Catering” v. “St. Andrew’s Catering”  
c. “Kelley’s Pub” v. “Kelly’s Pub”  
d. “Smith Construction”; “Smythe Construction”; “Smithe Construction”  
e. “Crispy Cream” v. “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 of distinguishable names:**

- a. “B-4 the Fall” v. “Before the Fall”  
b. “Kwik Kar Wash” v. “Quick Car Wash”  
c. “Brown Dog Crafts” v. “Brown Dawg Crafts”  
d. “Bow Hair Care” v. “Beau Hare Care”

5. **Prepositions and conjunctions** (except for “and”) are not eliminated prior to searching for name availability and are considered distinguishable.

**Examples of distinguishable names:**

- a. “Into the Deep Co.” v. “To the Deep Co.”
- b. “Of Mice and Men” v. “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 of distinguishable names:**

- a. “Dollar Store” v. “\$ Store”
- b. “Plus Value Market” v. “+ Value Market”

7. **Roman Numbers are distinguishable** from words representing the numbers.

**Example of a distinguishable name:**

- a. “Bookstore III” v. “Bookstore Three” or “Bookstore 3”

8. **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 of distinguishable names:**

- a. “Rio Verde” v. “Green River”
- b. “Evangelical Church” v. “Evangelico Church”
- c. “El Burrito” v. “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.

**Example of two names on an application:** “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 Ariz. Dept. of Banking.

"Bank"

"Banker"

"Banking"

"Banc"

"Banque"

"Banco"

"Savings Association"

"Building Association"

"Savings and Loan Assoc."

"Building and Loan Assoc."

"Savings Bank"

"Thrift"

"Credit Union"

**Please mail Registration to:**  
**Secretary of State Jan Brewer / Trade Name Division**  
**1700 West Washington 7th Fl. Phoenix, Arizona 85007**  
Walk-in service: 14 N. 18<sup>th</sup> Ave., Phoenix, Arizona  
Tucson Office: 400 W. Congress, Ste. 252  
(602) 542-6187  
(800) 458-5842 (within Arizona)  
**Filing Fee: \$10.00**



**APPLICATION FOR REGISTRATION OF TRADE NAME**  
(A.R.S. §44-1460)

The Registration of Trade Names and Trademarks is not legally required in Arizona, but is an accepted business practice. This is a registration for an Arizona Trade Name only in accordance with A.R.S. §44-1460. The registration of a trade name is a public record and does not constitute exclusive rights to the holder of the name. Names with a corporate ending (e.g., Inc., LLC or Ltd.) are not acceptable.

**Please clearly print or type your application to avoid registration errors.**

Name, title or designation to be registered: \_\_\_\_\_

Name of Applicant(s): \_\_\_\_\_  
(If more than 1 applicant, an "or" designation is assumed unless otherwise indicated)

**Your certificate and renewal notices are dependent on accurate address information including suite numbers. Remember to update your registration if you move.**

Business Address: \_\_\_\_\_  
Street or Box Number City State Zip

Phone (Optional): \_\_\_\_\_

**Applicant must check one. Do not select "Corporation" or "LLC" if you are not currently incorporated, or your application will be returned to you.**

- |                                      |   |
|--------------------------------------|---|
| <input type="checkbox"/> Individual  | <input type="checkbox"/> Foreign corporation licensed to do business in Arizona |
| <input type="checkbox"/> Partnership | <input type="checkbox"/> Association <input type="checkbox"/> Organization      |
| <input type="checkbox"/> Corporation | <input type="checkbox"/> LLC <input type="checkbox"/> Other _____               |

The date in which the name, title or designation was first used by the applicant within this state. This date must be today's date or prior to today's date: \_\_\_\_\_  
Month Day Year

General nature of business conducted: \_\_\_\_\_

\_\_\_\_\_  
Applicant's **Printed** Name

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Applicant's **Printed** Name

\_\_\_\_\_  
Applicant's Signature

State of Arizona  
County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_  
(Name of Applicant)

personally appeared before me and acknowledged that he/she signed this document for it's stated purpose.

\_\_\_\_\_  
Notary Public



Please mail Registration to:  
Secretary of State Jan Brewer/ Trade Name Division  
1700 West Washington 7th Fl. Phoenix, Arizona 85007  
Walk-in service: 14 N. 18<sup>th</sup> Ave., Phoenix, Arizona  
Tucson Office: 400 W. Congress, Ste. 25:  
(602) 542-6187  
(800) 458-5842 (within Arizona)  
**Filing Fee: \$10.00**



**ASSIGNMENT OF TRADE NAME**

(A.R.S. §44-1460.03)

**Please print clearly or type to avoid errors in registration.**

Trade Name: \_\_\_\_\_ Registration #: \_\_\_\_\_

Assignor: \_\_\_\_\_

Present Trade Name Owner on File

Mailing Address \_\_\_\_\_

Street or Box Number City State Zip

Assignee: \_\_\_\_\_

Name of individual or business entity to whom the name will be assigned

**Assignee: Please check one. Do not select "Corporation or L.L.C. if you are not currently incorporated or your application will be returned to you.**

- Individual
- Partnership
- Corporation
- Foreign corporation licensed to do business in Arizona
- Association
- LLC
- Organization
- Other \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Street or Box Number City State Zip

Phone number (optional): \_\_\_\_\_

Be it known for good and valuable consideration in hand paid, the receipt of which is hereby acknowledged, the identified Assignor together with the good will of the business in connection with which the said trade name is used by these present does sell, assign and transfer unto the identified Assignee the entire right, title and interest in and to the identified trade name.

\_\_\_\_\_  
Assignee's Printed Name

\_\_\_\_\_  
Assignor's Printed Name

\_\_\_\_\_  
Assignee's Signature

\_\_\_\_\_  
Assignor's Signature

State of Arizona

State of Arizona

County of \_\_\_\_\_

County of \_\_\_\_\_

Acknowledged before me on this \_\_\_\_\_ day of

Acknowledged before me on this \_\_\_\_\_ day of

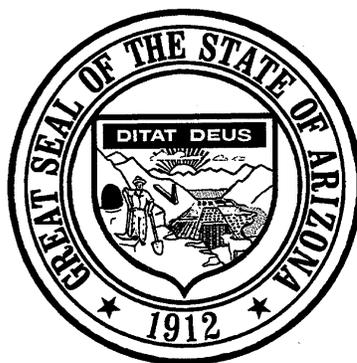
\_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Notary Public

# TRADEMARK & SERVICEMARK STATUTES AND FORMS



# **TRADEMARK/SERVICEMARK STATUTE** **ARIZONA REVISED STATUTES TITLE 44**

## 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.

#### 44-1444 . 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 three 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 three 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 NUMBERS**

## [44-1449](#). Classification of goods or services

A single application for registration of a mark may include any or all goods and services upon which the mark is actually being used comprised in a single class, but in no event shall a single application include goods or services upon which the mark is being used which fall within different classes of goods or services. 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 and C, 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 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 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. "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.

## TIPS FOR TRADEMARK/ SERVICEMARK REGISTRATION

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. If you are just filing the words, this would be a Trade name registration.

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

- ✓ Three samples of the mark are required at the time of filing. Samples should be on 8 ½ 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 ½ 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. Please see [www.azsos.gov](http://www.azsos.gov) for further information including the classification categories.

Please mail Registration to:  
Secretary of State Jan Brewer / Trade Name Division  
1700 West Washington 7th Fl. Phoenix, Arizona 85007  
Walk-in service: 14 N. 18<sup>th</sup> Ave., Phoenix, Arizona  
Tucson Office: 400 W. Congress, Ste. 252  
(602) 542-6187  
(800) 458-5842 (within Arizona)  
Filing Fee: \$15.00



Page 1 of 2

**APPLICATION FOR REGISTRATION OF TRADEMARK/SERVICE MARK**  
A.R.S. §44-1441 THROUGH 44-1455

**The registration of Trademark/Service Mark is not legally required in Arizona, but is an accepted business practice. The registration of a trademark is a public record and does not constitute exclusive rights to the holder of the mark. Please clearly print or type to avoid errors in registration.**

Provide an accurate written description of your mark (logo or symbol): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name of applicant(s): \_\_\_\_\_  
(If more than 1 applicant, an "or" designation is assumed unless otherwise indicated)

**Applicant must check one.**

- Individual                       LLC                       Association
- Arizona Corporation       Partnership       Other \_\_\_\_\_
- Foreign Corporation licensed in Arizona. State of Incorporation: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
Street or Box Number                      City                      State                      Zip

Phone (Optional): \_\_\_\_\_

Description of goods on which this mark is used: \_\_\_\_\_  
\_\_\_\_\_

Classification Number (Refer to the Trade Name & Trademark pamphlet.): \_\_\_\_\_

**Please attach three samples of your mark with this application on 8 1/2 by 11 inch paper that can be photocopied clearly. Examples include a letterhead, business card or advertisement, etc.**

Date Mark was first used: \_\_\_\_\_

Date Mark was first used in this State: \_\_\_\_\_

Please see page 2.

**Please mail Registration to:**  
**Secretary of State Jan Brewer / Trade Name Division**  
**1700 West Washington 7th Fl. Phoenix, Arizona 85007**  
Walk-in service: 14 N. 18<sup>th</sup> Ave., Phoenix, Arizona  
Tucson Office: 400 W. Congress, Ste. 252  
(602) 542-6187  
(800) 458-5842 (within Arizona)  
**Filing Fee: \$15.00**



Page 2 of 2

**APPLICATION FOR REGISTRATION OF TRADEMARK/SERVICE MARK  
CONTINUED**

A.R.S. §44-1441 THROUGH 44-1455

\_\_\_\_\_  
Applicant's Printed Name

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Applicant's Printed Name

\_\_\_\_\_  
Applicant's Signature

State of Arizona

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally  
appeared \_\_\_\_\_, (name of signer(s)) whose identity was  
proved to me on the basis of satisfactory evidence to be the person whose name is  
subscribed to this document, and who acknowledge that he/she signed the above  
document.

\_\_\_\_\_  
Notary Public



**Please mail Registration to:**  
**Secretary of State Jan Brewer / Trademark Division**  
**1700 West Washington 7th Fl. Phoenix, Arizona 85007**  
Walk-in service: 14 N. 18<sup>th</sup> Ave., Phoenix, Arizona  
Tucson Office: 400 W. Congress, Ste. 252  
(602) 542-6187  
(800) 458-5842 (within Arizona)  
**Filing Fee: \$15.00**



**ASSIGNMENT OF TRADEMARK**  
(A.R.S. §44-1446)

**Please print clearly or type. Renewal notices are dependent on accurate information.**  
**Please update your records if you relocate.**

Registration Number \_\_\_\_\_

Description of Mark \_\_\_\_\_

Assignor: \_\_\_\_\_  
Present Trademark owner on file.

Mailing Address: \_\_\_\_\_  
Street or Box Number City State Zip

Assignee: \_\_\_\_\_  
Name of individual or business entity to whom the Trademark is to be assigned

**Assignee must check one. Do not check "Corporation" or "LLC" if you are not currently registered as such in Arizona or your application will be returned to you.**

- Individual                       LLC                       Partnership
- Arizona Corporation         Association             Other \_\_\_\_\_
- Foreign Corporation licensed in Arizona. State of Incorporation: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
Street or Box Number City State Zip

Phone number (optional): \_\_\_\_\_

Be it known for good and valuable consideration in hand paid, the receipt of which is hereby acknowledged, the identified Assignor together with the good will of the business in connection with which the said trademark is used by these present does sell, assign and transfer unto the identified Assignee the entire right, title and interest in and to the identified trademark.

\_\_\_\_\_  
Assignee's Printed Name

\_\_\_\_\_  
Assignor's Printed Name

\_\_\_\_\_  
Assignee's Signature

\_\_\_\_\_  
Assignor's Signature

State of Arizona  
County of \_\_\_\_\_

State of Arizona  
County of \_\_\_\_\_

Acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_ 20\_\_\_\_

Acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Notary Public

**ADDITIONAL**

**TRADE NAME  
TRADEMARK**

**FORMS**

**Please mail Registration to:**  
**Secretary of State Jan Brewer / Trade Name Division**  
**1700 West Washington 7th Fl. Phoenix, Arizona 85007**  
Walk-in service: 14 N. 18<sup>th</sup> Ave., Phoenix, Arizona  
Tucson Office: 400 W. Congress, Ste. 252  
(602) 542-6187  
(800) 458-5842 (within Arizona)  
**Filing Fee: \$3.00**



AMENDMENT

TRADENAME  TRADEMARK

**Do not use this form for a change of ownership. Please use an Assignment form for such a change. Please print clearly as renewal notices are dependent on this information.**

File Number: \_\_\_\_\_

Trade Name or Trademark Description: \_\_\_\_\_

Owner Name(s): \_\_\_\_\_

CHECK ALL THAT APPLY:

- Address Change.  
Former Address: \_\_\_\_\_  
New Address: \_\_\_\_\_
- Phone Number: \_\_\_\_\_
- Nature of Business: \_\_\_\_\_

Legal Name Change of Applicant.

Former name: \_\_\_\_\_

New name: \_\_\_\_\_

Reason for name change (include copy):

- Marriage
- Divorce
- Other (Specify) \_\_\_\_\_

\_\_\_\_\_  
Applicant's Printed Name

\_\_\_\_\_  
Applicant's Signature

State of Arizona

County of \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, (name of signer) whose identity was proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this document, and who acknowledge that he/she signed the above document.

\_\_\_\_\_  
Notary Public

Office Use \_\_\_\_\_

**Please mail Registration to:**  
**Secretary of State Jan Brewer / Trade Name Division**  
**1700 West Washington 7th Fl. Phoenix, Arizona 85007**  
Walk-in service: 14 N. 18<sup>th</sup> Ave., Phoenix, Arizona  
Tucson Office: 400 W. Congress, Ste. 252  
(602) 542-6187  
(800) 458-5842 (within Arizona)  
**Filing Fee: None**



**CANCELLATION**

- TRADENAME
- TRADEMARK

File Number: \_\_\_\_\_

Trade Name or Trademark Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The individual, partner or officer, if a corporation or LLC, must sign and date the cancellation of the trade name or trademark.

\_\_\_\_\_  
APPLICANT'S **PRINTED** NAME

\_\_\_\_\_  
APPLICANT'S SIGNATURE

\_\_\_\_\_  
APPLICANT'S **PRINTED** NAME

\_\_\_\_\_  
APPLICANT'S SIGNATURE

State of Arizona

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, (name of signer) whose identity was proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this document, and who acknowledge that he/she signed the above document.

\_\_\_\_\_  
Notary Public



## Tradenames, Trademarks & Service Marks

*A publication of the Arizona Secretary of State's Office, Business Services Division*

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