

Dear Senators MCKENZIE, Fulcher, Malepeai, and  
Representatives LOERTSCHER, Crane, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of  
the Secretary of State:

IDAPA 34.04.02 - Rules Pertaining To The Corporate Name Availability (Docket No. 34-0402-1101).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 12/22/2011. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 01/23/2012.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4845, or send a written request to the address or FAX  
number indicated on the memorandum enclosed.



Jeff Youtz  
Director

# Legislative Services Office Idaho State Legislature

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*Serving Idaho's Citizen Legislature*

## MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate State Affairs Committee and the House State Affairs Committee  
**FROM:** Principal Legislative Research Analyst - Eric Milstead  
**DATE:** December 05, 2011  
**SUBJECT:** Secretary of State

IDAPA 34.04.02 - Rules Pertaining To The Corporate Name Availability (Docket No. 34-0402-1101)

The Secretary of State submits notice of temporary and proposed rulemaking at IDAPA 34.04.02 - Corporate Name Availability. The temporary and proposed rule includes changes to reflect changes to Idaho Code that were implemented during the 1999 Legislative Session but which were not reflected in rule until this time. Among the various changes reflected in the temporary and proposed rule are the following highlights:

- Provides new and updated contact information, definitions and other general information;
- Establishes new provisions governing issues "not distinguishable on the record" as well as those "distinguishable on the record" (Sections 200 and 300); and
- Revises provisions governing matters that will not be considered (Section 400).

The effective date of the temporary rule was October 6, 2011.

The temporary and proposed rule appears to be authorized pursuant to section 67-903(9), Idaho Code.

cc: Jeff Harvey, Office of the Secretary of State

## IDAPA 34 - SECRETARY OF STATE

### 34.04.02 - CORPORATE NAME AVAILABILITY

DOCKET NO. 34-0402-1101

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is October 6, 2011.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-903(9), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 16, 2011.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

In 1999, the language used to determine business name similarity changed (House Bill No. 222). Business names became “distinguishable on the record,” rather than “deceptively similar.” This chapter of administrative rules was never amended to reflect that change. Furthermore, advancements in technology have provided alternatives that were not considered in 1999. Therefore, this chapter of rules needs to be amended as soon as possible to clarify business entity name requirements. These rule changes remove outdated language about “deceptively similar” business names (as required by prior legislative amendments), and provide requirements and examples that coincide with current statutes regarding business names that are “distinguishable on the record of the Secretary of State.”

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These rule changes are necessary to reflect statutory changes made by the 1999 Idaho Legislature. Additionally, these rule changes will confer a benefit on the business filing public, as it will simplify and clarify the business naming conventions required to make a name “distinguishable on the record of the Secretary of State.”

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before November 23, 2011.

DATED this 19th day of October, 2011.

Jeff Harvey, UCC Supervisor  
Office of the Secretary of State  
450 N. 4th St.  
P. O. Box 83720  
Boise, ID 83720-0080  
Phone: (208) 332-2849  
Facsimile: (208) 334-2847

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**THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT OF DOCKET NO. 34-0402-1101**

**IDAPA 34**  
**TITLE 04**  
**CHAPTER 02**

**34.04.02 CORPORATE NAME AVAILABILITY RULES GOVERNING BUSINESS ENTITY NAMES**

**000. LEGAL AUTHORITY.**

In accordance with Section 67-903(9), Idaho Code, the Secretary of State is authorized under Section 67-903, Idaho Code, has authority to adopt promulgate administrative rules in order to execute the duties of the office.  
(7-1-93)(10-6-11)T

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as IDAPA 34.04.02, "Rules Governing Business Entity Names," IDAPA 34, Title 04, Chapter 02. (10-6-11)T

**02. Scope.** These rules shall apply to business entity name registration and business entity name reservation as provided for in Title 30, Chapters 1, 3 and 6, and Title 53, Chapter 2, Idaho Code. (10-6-11)T

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201, Idaho Code, documents relating to the interpretation of these rules, or to the documentation of compliance with the rules of this chapter, if any, are available for public inspection and copying at the Office of the Secretary of State. (10-6-11)T

**003. ADMINISTRATIVE APPEALS.**

This chapter does not provide for appeal. (10-6-11)T

**004. INCORPORATION BY REFERENCE.**

No documents are incorporated by reference into these rules. (10-6-11)T

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Secretary of State's office is located at 700 W. Jefferson, Room E205, Boise, Idaho 83720-0080. The Commercial Division is located at 450 N. 4th Street, Boise, Idaho 83720-0080. Office hours are 8 a.m. to 5 p.m., Monday through Friday, except for legal holidays. The mailing address is P. O. Box 83720, Boise, Idaho 83720-0080. The telephone number for the office is (208) 334-2300. The telephone number for business entity inquiries is (208) 334-2301. The facsimile number is (208) 334-2080. The website address is http://

[www.sos.idaho.gov/](http://www.sos.idaho.gov/).

(10-6-11)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

The rules contained herein have been promulgated in accordance with the provisions of Title 67, Chapter 52, Idaho Code, and are public records.

(10-6-11)T

~~007.~~ -- ~~049.~~ (RESERVED)

**010. DEFINITIONS.**

**01. Arabic Numerals.** 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9.

(10-6-11)T

**02. Business Entity Identifiers.** Company, Corporation, Incorporated, Limited, Chartered, Professional Association, Professional Company, Limited Liability Company, Limited Liability Partnership, Professional Limited Liability Company, Limited Partnership, Limited Liability Limited Partnership, and the abbreviations, Co., Corp., Inc., Ltd., P.A., P.C., Chtd., L.L.C., L.L.P., P.L.L.C., L.P., and L.L.L.P.

(10-6-11)T

**03. English Alphabet.** Letters A through Z.

(10-6-11)T

**04. Key Word.** Any word that is not an article, preposition, conjunction, or Business Entity Identifier.

(10-6-11)T

**05. Special Characters.** Any special characters, such as ! " \$ % ( ) \* @ ? +, and -, that are readily available on a standard English language keyboard.

(10-6-11)T

~~0121.~~ -- ~~099.~~ (RESERVED)

~~0100.~~ GENERAL INFORMATION.

**01. Determination by Secretary of State.** The Secretary of State shall determine whether a proposed business entity name is distinguishable on the records of the Secretary of State from the names of existing business entities by comparing the proposed business entity name to the names of existing business entity names.

(10-6-11)T

**02. Existing Business Entity Names Considered.** The names of business entities in good standing or business entities which have been administratively dissolved for less than six (6) months will be considered in determining whether a proposed business entity name is distinguishable on the records of the Secretary of State from existing business entity names.

(10-6-11)T

**03. Alphabet Names.** Where a name or a unit of a name consists of initials only or letters of the alphabet, the combination of initials will be considered as one (1) word for the purpose of determining if the business entity name is distinguishable.

EXAMPLE: The "words" AA – AAA – AAAA – A & B – AAB – AAC are different words and are distinguishable from one another.

(10-6-11)T

~~014.~~ **Characters of Print Acceptable in Business Entity Names.** Business entity names may shall consist of letters of the English Alphabet, Arabic Numerals, and certain symbols capable of being reproduced on a standard English language typewriter, or combination thereof or Special Characters.

(7-1-93)(10-6-11)T

*a. Letters of the English Alphabet includes only upper case, or capital letters; no distinction as to type face or font is recognized.*

(7-1-93)

*b. Arabic Numerals includes 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9.*

(7-1-93)

*c. The symbols recognized as part of a name may include ! " \$ % ( ) \* @ ? , and . A space or spaces after words, letters, numerals or symbols may be considered as part of the name.*

(7-1-93)

~~02. **False Implication of Government Affiliation.** The corporate name may not be one that might falsely imply governmental affiliation. (7-1-93)~~

~~05. **Foreign Words.** Although business entity names may include words in a foreign language, such words will not be translated for the purpose of determining if a business entity name is distinguishable. (10-6-11)T~~

~~036. **Grossly Offensive Name.** The corporate business entity name may not be one that is deemed to be so grossly offensive as to be unacceptable as a corporate name. (7-1-93)(10-6-11)T~~

~~04. **“Words of Incorporation.”** “Words of incorporation” include Company, Corporation, Incorporated, Limited and their acceptable abbreviations. The acceptable abbreviations are respectively: Co., Corp., Inc., and Ltd. The acceptable “words of incorporation” for a professional corporation are Chartered, Professional Association, and the abbreviation P.A. (7-1-93)~~

~~05. **Written Comparison of Names.** A comparison of names to determine similarity is made by writing the names to be compared, using upper case letters of the English Alphabet and acceptable numerals and acceptable symbols. (7-1-93)~~

~~06. **Categories of Name Similarity.** There are three (3) categories of name similarity: (7-1-93)~~

~~a. Same. (7-1-93)~~

~~b. Deceptively similar. (7-1-93)~~

~~c. Acceptable. (7-1-93)~~

~~012. **(RESERVED)**~~

~~013. **SAME.**~~

~~01. **Defined.** Corporate names are the “same” if a comparison of the names, written as above provided, reveals no difference except for punctuation and symbols, spacing, articles of speech, conjunctions, the word “of,” plural or possessive endings, and words of incorporation. (7-1-93)~~

~~02. **Consent.** “Same” name not acceptable without consent and distinguishing words. A proposed corporate name which is the same as a corporate name already on file in this office cannot be accepted or filed, unless the holder of the name already on file gives its written consent to use of the name by the applicant, and the applicant adds one or more words to the name to make it distinguishable from the name on file. (7-1-93)~~

~~03. **Form of Consent.** No particular form of consent is required. The consent must be in writing and signed by an officer or authorized agent. Consent given orally or by telegraph cannot be accepted. Consent from more than one (1) corporation may be required in some instances. (7-1-93)~~

~~014. **DECEPTIVELY SIMILAR.**~~

~~01. **Defined.** Corporate names are deceptively similar if on comparison of the names, written as above, there exist striking similarities so that a person who did not know the exact name or did not know the full name of a corporation about which he was giving or receiving information would be likely to give or be given information about a different corporation having a similar name. In making the comparison, consideration will not be given to punctuation and symbols, spacing, articles of speech, conjunctions, the word “of,” plural or possessive endings, and words of incorporation. (7-1-93)~~

~~02. **Consent.** “Deceptively similar” not acceptable without consent and, if required, distinguishing words. A proposed corporate name which is deemed to be deceptively similar cannot be accepted or filed, unless the holder of the name already on file gives its written consent to the use of the name by the applicant, and, if the holder of the name already on file and the legal staff of the Secretary of State find it necessary, the applicant adds one or more words to the name to make it distinguishable from the name on file. (7-1-93)~~

~~03. Form of Consent. Same as Subsection 013.03. (7-1-93)~~

~~04. “Deceptively Similar,” When. A proposed corporate name is deemed to be deceptively similar to a name already on file if: (7-1-93)~~

~~a. The proposed corporate name is the same as a corporate name on file except for a geographical designation.~~

~~EXAMPLE: Bull and Bear Club of Boise, Inc. is deceptively similar to Bull and Bear Club, Inc. (7-1-93)~~

~~b. The first two (2) words of a proposed corporate name are the same or virtually the same as the first two (2) words of a corporation name already on file, if at least one (1) of the first two (2) words is significant.~~

~~EXAMPLE: Janitorial Service and Supply, Inc. is deceptively similar to Janitorial Service, Inc. (7-1-93)~~

~~e. For purposes of Subsection 014.04.b., the following limitations shall apply: (7-1-93)~~

~~i. Commonly used two word terms or expressions shall be deemed to comprise one word; i.e. “Silver Dollar” would be deemed to be one (1) word.~~

~~EXAMPLE: “Silver Dollar Mining Co.” is not deceptively similar to “Silver Dollar Cafe, Inc.”, but is deceptively similar to “Silver Dollar Mining & Milling, Inc.” (7-1-93)~~

~~ii. Words which are not considered to be significant are those which occur so commonly in corporate names as to add no distinctiveness to a name. They include, but are not limited to the points of the compass and derivations thereof, geographical and topographical designations in common use in Idaho, and ordinal designations.~~

~~EXAMPLE: Northwest, Sawtooth, Palouse Empire, Magic Valley, and First. (7-1-93)~~

~~iii. Exception: When a directional, geographical or topographical term precedes a common generic term and they comprise the whole corporate name exclusive of the word of incorporation, the directional, geographical or topographical term will be deemed to be significant and sufficient to distinguish the name from another name consisting of the generic term or the generic term preceded by a directional, geographical or topographical term.~~

~~EXAMPLE: “Boise Camera, Inc.,” “Idaho Camera Co.,” and “The Camera Company” are all acceptable when compared with one another. (7-1-93)~~

~~iv. A combination in series of two (2) or more words which are not significant will be deemed to be one significant word.~~

~~EXAMPLE: “First Idaho” would be deemed to be one (1) significant word. Therefore, “First Idaho Widget Co.” is not deceptively similar to “First Idaho Capital Co.,” but “First Idaho Capital Widget Co.” is deceptively similar to “First Idaho Capital Co.” (7-1-93)~~

~~v. If the first word of a name is not significant and the second word is significant, the comparison will be based on the second and the third words.~~

~~EXAMPLE: “Northwest Paint & Glass Co.” is not deceptively similar to “Northwest Paint Supply Co.,” but is deceptively similar to “Northwest Paint & Glass Supply Co.” (7-1-93)~~

~~d. Names containing a fictitious, fanciful, or arbitrary word may be deemed deceptively similar to a name on file which contains the same word, although the name might seem to be available under other rules.~~

~~EXAMPLE: Entex Production Company is deceptively similar to Entex, Inc. (7-1-93)~~

~~e. The difference consists in inverted order of substantially the same words.~~

~~EXAMPLE: Van Lines of North America, Inc. is deceptively similar to North American Van Lines, Inc.~~

~~EXAMPLE: Club Caravan, Inc. is deceptively similar to Caravan Club, Inc.~~

~~EXAMPLE: Boise Electronics Supply, Inc. is deceptively similar to Electronics Supply of Boise, Inc. (7-1-93)~~

~~f. The difference consists in the presence or absence of letters which do not alter the names sufficiently to make them readily distinguishable.~~

~~EXAMPLE: Exxon — Exon — Exxon — Exxons. (7-1-93)~~

~~05. **Exception for Churches.** Where the name of a proposed incorporated church is deceptively similar to that of an incorporated church already on file by reason of the fact that the names are the same except for different geographical designations at the end of the name, nevertheless a letter of consent will not be required.~~

~~EXAMPLE: Persons proposing to incorporate a church named First Baptist Church of Lewiston would not be required to obtain a letter of consent from First Baptist Church of Twin Falls. (7-1-93)~~

~~015. **ACCEPTABLE.**~~

~~01. **Defined.** A proposed corporate name is acceptable for filing if it is not significantly similar to a corporate name already on file or if it is similar, but not to the extent that it is deemed to be deceptively similar. (7-1-93)~~

~~02. **“Acceptable,” When.** A proposed corporate name may be deemed to be acceptable if an existing corporate name on file has only one (1) significant word and the proposed corporate name consists of the same word followed by another word which does not imply that the proposed corporation is an affiliate of or in a series with the corporation having a similar name on file.~~

~~EXAMPLE: The following names are acceptable when compared to the name United, Inc.: United Sales, Inc. — United Enterprises, Inc. — United International, Inc.~~

~~EXAMPLE: The following names are deceptively similar to the name United, Inc.: — United of Idaho, Inc. — United Phase Two, Inc. (7-1-93)~~

~~03. **Surnames.** A surname is considered to be a “word.” Where proposed corporate name contains a surname as the second “word” and contains a given name or initials as the first “word” which is different from the first “word” of an existing corporation, the name is acceptable. (7-1-93)~~

~~04. **Alphabet Names.** Where a name or a unit of a name consists of initials only or letters of the alphabet, the combination of initials will be considered as one word for the purpose of applying name availability rules.~~

~~EXAMPLE: The following are different “words” and are not considered to be similar: A & A — AAA — AAAA — A & B — AAB — AAC.~~

~~EXAMPLE: A & B Supply is acceptable when compared to A & B, Inc.~~

~~EXAMPLE: A & B Electric Supply is deceptively similar when compared to A & B Electric Co. (7-1-93)~~

~~016~~**101. -- 199. (RESERVED)**

**200. NOT DISTINGUISHABLE ON THE RECORD.**

**01. Abbreviations.** The abbreviation of a word or Special Character is considered the equivalent of the complete word or Special Character. Such an abbreviation shall not make a name distinguishable.

**EXAMPLE: DOE BROTHERS, LLC is not distinguishable from DOE BROS., LLC. (10-6-11)T**



**02. Business Entity Identifiers.** The addition, removal, or alteration of Business Entity Identifiers and their applicable abbreviations shall not make a name distinguishable.

EXAMPLE: DOE BROTHERS CORPORATION is not distinguishable from DOE BROTHERS, INC. (10-6-11)T

**03. Numbers.** The use of a word or Roman numeral for a number instead of the Arabic Numeral shall not make a name distinguishable.

EXAMPLE: FOUR TURTLES, LLC is not distinguishable from 4 TURTLES, LLC, nor is it distinguishable from IV TURTLES, LLC. (10-6-11)T

**04. Other Words.** The presence or absence of an article, preposition, conjunction, or pronoun shall not make a name distinguishable.

EXAMPLE: THE DOE BROTHERS, LLC is not distinguishable from DOE BROTHERS, LLC. (10-6-11)T

**05. Punctuation.** Differences in punctuation shall not make a name distinguishable.

EXAMPLE: U.S.A. STEEL, LLC is not distinguishable from USA STEEL, LLC. (10-6-11)T

**06. Spaces.** Spaces, or the absence of spaces, shall not make a name distinguishable.

EXAMPLE: USA STEEL, LLC is not distinguishable from USASTEEL, LLC. (10-6-11)T

**07. Special Characters.** Differences created by use of Special Characters shall not make a name distinguishable.

EXAMPLE: AMERICAN PISTOLS, LLC is not distinguishable from AMER!CAN P!\$TOL\$, LLC. (10-6-11)T

**08. The Letter "S".** The addition or removal of the letter "s" to make a word singular, plural, or possessive shall not make a name distinguishable.

EXAMPLE: GOLDEN APPLE, LLC is not distinguishable from GOLDEN APPLES, LLC. (10-6-11)T

**09. Typeface, Font, or Case.** The use of a different typeface, font, or case shall not make a name distinguishable.

EXAMPLE: SISTERS' DINER is not distinguishable from *Sisters' Diner*. (10-6-11)T

**201. -- 299. (RESERVED)**

**300. DISTINGUISHABLE ON THE RECORD.**

**01. Key Word Difference.** If one (1) of the Key Words is different, the name is distinguishable.

EXAMPLE: WIDGET WONDER, LLC is distinguishable from WIDGET ELITE, LLC. (10-6-11)T

**02. Key Word Order.** If the Key Words are in a different order, the name is distinguishable.

EXAMPLE: WIDGET WONDER, LLC is distinguishable from WONDER WIDGET, LLC. (10-6-11)T

**03. Key Word Addition.** The addition of one (1) or more Key Words shall make a name distinguishable.

EXAMPLE: AMAZING WONDER WIDGET, INC. is distinguishable from WONDER WIDGET, INC. (10-6-11)T

**04. Difference in Meaning.** If the Key Words are significantly different in meaning, and the Key

Words are not identical, the name may be distinguishable.

EXAMPLE: CAPITAL WIDGET, LLC is distinguishable from CAPITOL WIDGET, LLC. (10-6-11)T

**301. -- 399. (RESERVED)**

**017400. MATTERS NOT CONSIDERED.**

*Only the proposed corporate name and the names of active corporations (corporations which are in good standing or have been forfeited for less than six (6) months) are considered in determining name availability. When determining whether a business entity name is distinguishable on the records of the Secretary of State from another business entity name, the following are ~~A~~among the matters not considered~~are~~:* (7-1-93)(10-6-11)T

**01. Purpose.** Whether ~~or not~~ the purpose of the proposed ~~corporation~~ business entity is the same as or similar to the purpose of an existing ~~corporation~~ business entity. (7-1-93)(10-6-11)T

**02. Location.** Whether ~~or not~~ the ~~corporations~~ business entities will be carrying out activities in the same or nearby locations. (7-1-93)(10-6-11)T

**03. Prior Actions.** Whether ~~or not~~ an analogous situation has previously been acted on ~~in this office by the Secretary of State~~. (7-1-93)(10-6-11)T

~~04. Opinion.~~ *Whether or not an "opinion" as opposed to a "ruling" has already been expressed by an employee of the Secretary of State in response to an oral or written request (see Section 019).* (7-1-93)

**054. Activity.** Whether ~~or not~~ an existing ~~corporation~~ business entity is actively engaged in business, or has a telephone listing, or a location of a place of business. (7-1-93)(10-6-11)T

**065. Intent.** Whether ~~or not~~ an existing ~~corporation~~ business entity is about to change its name or be dissolved or merged out of existence. (7-1-93)(10-6-11)T

**076. Reliance.** Whether ~~or not~~ the applicant has ordered stationery, opened a bank account, signed a contract, or otherwise altered his position in the expectation, hope or belief that the proposed name would be available. (7-1-93)(10-6-11)T

**087. Influence.** Whether ~~or not~~ the applicant is more or less important, extensive, widely known, or influential than an existing ~~corporation~~ business entity. (7-1-93)(10-6-11)T

**098. Common Law.** Whether ~~or not~~ infringement or unfair trade practice has occurred or might occur. (7-1-93)(10-6-11)T

**018. (RESERVED)**

**019. "RULING" VS. "OPINION."**

~~01. Definitions.~~ *An "opinion" on name availability is a statement by an employee of the Secretary of State made prior to the time an instrument is accepted for filing. A "ruling" on name availability is a final determination made by the legal staff whether or not to accept an instrument for filing.* (7-1-93)

~~02. Who May Express "Opinions."~~ *Any employee of the Corporation Division may express an "opinion" on name availability in response to written or telephone, or other oral requests; but such an "opinion" is not a "ruling" or final determination that the name will be "available" or that the name will be "not available" or that an instrument containing such will or will not be accepted for filing.* (7-1-93)

~~03. Form of "Opinion."~~ *An "opinion" may be expressed orally or in writing. "Opinion" as to name availability will be stated as follows for the various name similarity categories:* (7-1-93)

~~a. Same.~~ (7-1-93)

~~b. Deceptively similar. (7-1-93)~~

~~c. Acceptable. (7-1-93)~~

~~04. "Opinion" Not Final. All "opinions" that a name is acceptable are merely advisory and are not final unless and until a proper legal instrument employing the name has been accepted for filing. (7-1-93)~~

~~05. Who May Make "Ruling." "Rulings" are made by members of the legal staff of the Corporate Division, except on name reservations. The corporation clerks consult the legal staff on all name availability questions involving any degree of similarity which arise in connection with a name reservation. The legal staff will make no "ruling" as to name availability prior to the submission of an instrument for filing. (7-1-93)~~

~~020~~401. -- 999. (RESERVED)