

CORPORATE NAMING: WHAT IS IN A NAME?

“That which we call a rose by any other name would smell as sweet, so Romeo would were he not Romeo called retain such dear perfection to which he owes without that title”.

You may or may not agree with Juliet that a name has nothing to do with what your business offers or how it runs. If you choose to operate ‘nameless’, as a numbered corporation, then you will likely agree with her. If though, you have spent many sleepless nights agonizing over the perfect name, a name that represents your corporation’s identity, its products and its vision, then its name likely means so much more. It is not simply just a label to distinguish one entity from another.

You finally have the perfect name in mind and are ready to set up your corporation, but how do you make sure that no other corporation is using this name or a similar name? With a proper search and assessment of the search results, you can ensure that your name will be unique and comply with the existing rules. Done properly, you can avoid having to change your corporate name and all of the associated wasted time and expense that comes with revising your marketing, stationery and other identifying material.

Basic Rules

Practically speaking, a corporate name usually consists of three components: a distinctive (unique) part; a descriptive part that describes the type of business or industry and; a corporate suffix at the end. Another requirement, which may overlap with more than one of the above categories, is that the name must not cause confusion.

Distinctive

All corporate names are required to have some distinct or unique word(s) that can be used to differentiate a corporation from all others (as well as from trademarks, trade names, partnerships, and the like). If your name only describes the products or services offered by the corporation, it is not distinct. For example, “Snow Removal Ltd.” is likely not distinct or unique. “South Edmonton Snow Removal Ltd.” or “John Henry Snow Removal Ltd.” may be distinct enough for use. From a practical standpoint, there are an increasing number of corporate names in play each year and it becomes more and more difficult to choose a unique name. Consider a “made-up” word, an out of the ordinary location, or some other phrase to improve the chances that your corporate name is unique. A consequence, if you choose a name that is not distinctive or unique, can be the expensive requirement to change your name in the future (ie: changing your advertising, marketing and the like).

Descriptive

The descriptive word or phrase describes the type of activity or business that will be conducted by the corporation. It can be broad in nature depending on future plans. Some examples of descriptive words are: accounting services, gardening, plumbing, welding, developments, enterprises, holdings, consulting, management, etc. For example, if the descriptive word or phrase chosen is the broad word “trucking”, you are not

restricted in any way (provided your Articles of Incorporation are not restrictive), in terms of the services you can provide. For example, this descriptive word would allow for fish and chip sales. The only limitation of “trucking” and fish and chip sales might come from a branding or marketing perspective. From experience, initials such as “AA” as in “AA Consulting Ltd” are names that are common and should be avoided.

Corporate Suffix

This is the word at the end of the name that indicates that it is a corporation. Examples include: Ltd., Inc., Limited, Incorporated, Corporation, Corp., or the French version of those words. There is no significance to which of these that you choose and this cannot be the only difference between your proposed name and an existing name. “Ltd.” is the most commonly used suffix. The use of a less common suffix may result in mistakes being made that can cost time or money, for example, incorrect cheques being printed. The use of your exact legal name is important for certain legal processes such as land registration, bank financing, etc.

Confusion

One of the most common reasons that corporate names are not chosen for use or even rejected for registration is because they are too similar to existing registered corporate names, trade names or trademarks. Your corporation cannot have a name similar to another corporation. In Alberta, your name may still be approved even though it is arguably confusingly similar; there is a risk that you may be liable at a future date though if you are in the same industry as the other corporation or if the public might confuse your corporation for another. Alternatively, the corporation may be directed by the Registrar of Corporations on application by another corporation to change its name within 60 days.

Searching for Names

The first step that you will take after you have narrowed it down to one or two name choices that you feel meet the above criteria is to have a NUANS (Newly Updated Automated Name Search) report generated for you. Prior to requesting a NUANS, you may request a pre-search which is free or a nominal charge.

NUANS is a search system which searches corporate and business registries across Canada with over 8 million records or corporate names, trade names and trademarks. You are required to produce a NUANS Report before incorporating your business. This report determines the availability of a corporate name by listing any similar or possibly confusing names or trademarks already in existence. The pre-search and the NUANS report should be carefully reviewed by yourself or your lawyer to ensure that your proposed name fits the basic requirements.



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