

TITLE 75 SECRETARY OF STATE

Notice of First Public Comment Period

LSA Document #25-154

BUSINESS SERVICES DIVISION TRADEMARK RULE

PURPOSE OF NOTICE

The Secretary of State – Business Services Division (division) is soliciting public comment on adding rules at [75 IAC 9](#) concerning fees collected for trademark related services and reasons for rejecting trademark applications filed with the division, as required by House Enrolled Act 1623-2023 (HEA 1623). The division seeks comment on the affected citations listed and any other provisions of Title 75 that may be affected by this rulemaking.

ADDITIONAL DOCUMENTS

Regulatory Analysis: [20250326-IR-075250154RAA](#)

Notice of Public Hearing: [20250326-IR-075250154PHA](#)

CITATIONS AFFECTED: [75 IAC 9](#)

AUTHORITY: [IC 4-5-10-2](#); [IC 24-2-1-11](#)

OVERVIEW

Basic Purpose and Background

Under the directives of HEA 1623, the division is promulgating rules that specify the enhanced access (EA) fees authorized by [IC 4-5-10-2](#) for trademark related services and reasons the division may reject a trademark application. This rulemaking establishes in rule the exact EA fees already being collected by the division for online trademark transactions, as well as documenting the existing reasons the division may reject a trademark filing. These are not new fees nor new rejection reasons, but simply the promulgation in rule of already established fees and rejection reasons. As no changes in fees or rejection reasons are being made, no impact is expected for trademark customers. State-level trademark registrations are open to the general public and may be submitted by any person that owns a trademark being used in Indiana.

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Scott Willis
Business Services Director
Indiana Secretary of State
302 West Washington Street, Room E-018
Indianapolis, IN 46204
awillis@sos.in.gov
(317) 775-1769

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-6](#) is:

David Watkins
Small Business Ombudsman
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 607-9176
DWatkins@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-6](#), specifically [IC 5-28-17-6\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

REQUEST FOR PUBLIC COMMENT

The division is soliciting public comment on the proposed rule. Comments may be submitted in one of the following ways:

(1) By mail or common carrier to the following address:

LSA Document #25-154 Business Services Division Trademark Rule
Scott Willis, Director
Indiana Secretary of State
302 West Washington Street, Room E-018
Indianapolis, IN 46204

(2) By email to legal@sos.in.gov. PLEASE NOTE: Email comments will not be considered part of the official written comment period unless they are sent to the address indicated in this notice.

(3) Attend scheduled public hearing.

COMMENT PERIOD DEADLINE

All comments must be postmarked or time stamped not later than April 25, 2025.

The rule, Regulatory Analysis, appendices referenced in the Regulatory Analysis, and materials incorporated by reference (if applicable) are on file at the Indiana Secretary of State – Business Services Division, 302 West Washington Street, Room E-018, Indianapolis, Indiana and are available for public inspection. Copies of the rule, Regulatory Analysis, and appendices referenced in the Regulatory Analysis are available at the Secretary of State – Business Services Division office.

If the division does not receive substantive comments during the public comment period or public hearing, the rule may be adopted with text that is the same as or does not substantially differ from the text of the proposed rule published in this notice.

PROPOSED RULE

SECTION 1. [75 IAC 9](#) IS ADDED TO READ AS FOLLOWS:

ARTICLE 9. TRADEMARK APPLICATION GOVERNANCE

Rule 1.	Definitions
Rule 2.	Electronic Application
Rule 3.	Fees

Rule 1. Definitions

[75 IAC 9-1-1](#) Applicability

Authority: [IC 24-2-1-11](#)
Affected: [IC 23-0.5-1.5](#); [IC 24-2-1-2](#)

Sec. 1. The definitions in this rule, [IC 23-0.5-1.5](#), and [IC 24-2-1-2](#) apply throughout this article, unless the context clearly indicates otherwise.

(Secretary of State; [75 IAC 9-1-1](#))

[75 IAC 9-1-2](#) "Actual use specimen" defined

Authority: [IC 24-2-1-11](#)
Affected: [IC 24-2-1-4](#)

Sec. 2. "Actual use specimen" means an image showing the actual use of a mark.

(Secretary of State; [75 IAC 9-1-2](#))

[75 IAC 9-1-3](#) "Corporate indicator" defined

Authority: [IC 24-2-1-11](#)

Affected: [IC 23-0.5-3-2](#); [IC 24-2-1-4](#)

Sec. 3. "Corporate indicator" means a word, a phrase, or an abbreviation required to be included in the name of a filing entity under [IC 23-0.5-3-2](#) to describe or identify the type of filing entity. Corporate indicators include terms such as "LLC" and "INC".

(Secretary of State; [75 IAC 9-1-3](#))

[75 IAC 9-1-4](#) "Design mark" defined

Authority: [IC 24-2-1-11](#)

Affected: [IC 24-2-1-4](#)

Sec. 4. "Design mark" means a mark that includes a symbol, a design, or any nonstandard typeface as a major design feature. A mark that consists of only a name, words, or a phrase is not a design mark.

(Secretary of State; [75 IAC 9-1-4](#))

[75 IAC 9-1-5](#) "Drawing specimen" defined

Authority: [IC 24-2-1-11](#)

Affected: [IC 24-2-1-4](#)

Sec. 5. "Drawing specimen" means a drawing or proof demonstrating the major design elements of a mark.

(Secretary of State; [75 IAC 9-1-5](#))

Rule 2. Electronic Application

[75 IAC 9-2-1](#) Mark name

Authority: [IC 24-2-1-11](#)

Affected: [IC 24-2-1-4](#)

Sec. 1. (a) If a mark is not a design mark, the application must include a name for the mark. The mark name must consist of the words, name, or phrase being registered.

(b) The name of a mark may not consist of or include:

- (1) a corporate indicator;**
- (2) a symbol denoting the mark is a trademark or service mark, such as "TM" or "SM";**
- (3) a symbol denoting the mark is registered trademark "®"; or**
- (4) a symbol denoting other intellectual property rights, such as copyright "©".**

(Secretary of State; [75 IAC 9-2-1](#))

[75 IAC 9-2-2](#) Specimens

Authority: [IC 24-2-1-11](#)

Affected: [IC 24-2-1-4](#)

Sec. 2. (a) Applicants shall provide an actual use specimen demonstrating the mark as it is used in commerce to identify the source of the associated goods or services. If the actual use specimen shows the mark being used on a web page, the specimen must include the full web address and the date the web page was accessed. Specimens that demonstrate the mark is used in an ornamental or a decorative way are not acceptable.

(b) If the mark being registered is a design mark, a drawing specimen must be provided. The drawing specimen must demonstrate the major design features of the mark as described in the application.

(Secretary of State; [75 IAC 9-2-2](#))

[75 IAC 9-2-3](#) Mark classification

Authority: [IC 24-2-1-11](#)

Affected: [IC 24-2-1-4](#)

Sec. 3. An electronic application must include the class of goods or services to which the mark is associated. The secretary of state shall provide to applicants a list of classifications based on the classification system adopted by the United States Patent and Trademark Office.

(Secretary of State; [75 IAC 9-2-3](#))

[75 IAC 9-2-4](#) Email address

Authority: [IC 24-2-1-11](#)

Affected: [IC 24-2-1-4](#)

Sec. 4. The secretary of state may collect an email address on an electronic application. The email address may be used to send notifications and reminders related to the mark or application.

(Secretary of State; [75 IAC 9-2-4](#))

[75 IAC 9-2-5](#) Access to electronic application

Authority: [IC 24-2-1-11](#)

Affected: [IC 24-2-1-4](#)

Sec. 5. An application for registration of a mark under [IC 24-2-1-4](#) must be submitted on the secretary of state's website. Applicants must log in to the secretary of state's website through the Indiana office of technology's Access Indiana platform.

(Secretary of State; [75 IAC 9-2-5](#))

Rule 3. Fees

[75 IAC 9-3-1](#) Certificate of fact

Authority: [IC 4-5-10-2](#); [IC 24-2-1-11](#)

Affected: [IC 4-5-10-5](#); [IC 24-2-1-9](#)

Sec. 1. For an electronic request for information from the filing office, including for issuing a certificate showing whether a registration is on file or specific information related to a registration, the secretary of state shall collect fifteen dollars (\$15) for the enhanced access fund established by [IC 4-5-10-5](#).

(Secretary of State; [75 IAC 9-3-1](#))

[75 IAC 9-3-2](#) Bulk data download

Authority: [IC 4-5-10-2](#); [IC 24-2-1-11](#)

Affected: [IC 4-5-10-5](#); [IC 24-2-1-9](#)

Sec. 2. For bulk data requests, the secretary of state shall collect five hundred dollars (\$500) for the enhanced access fund established by [IC 4-5-10-5](#).

(Secretary of State; [75 IAC 9-3-2](#))

[75 IAC 9-3-3](#) Payment processing fee

Authority: [IC 4-5-10-2](#); [IC 24-2-1-11](#)

Affected: [IC 24-2-1-15.3](#)

Sec. 3. For electronic transactions, the secretary of state shall collect payment processing fees as follows:

- (1) For a credit card transaction, the greater of either one dollar (\$1) or two and fifteen-hundredths percent (2.15%) of the transaction total.
- (2) For a debit card transaction, the greater of either one dollar (\$1) or one and one-half percent (1.50%) of the transaction total.
- (3) For an e-check transaction, the greater of either one dollar and fifty cents (\$1.50) or one and twenty-five hundredths percent (1.25%) of the transaction total.

(Secretary of State; [75 IAC 9-3-3](#))

Posted: 03/26/2025 by Legislative Services Agency