



SPECIAL CHARACTERS AND ARTICLE 9

For those involved with filing and searching UCC records, there may come a time when you are dealing with a debtor name containing a special character. For example, you may have a debtor with a unique name (e.g. when “Toys R Us” uses the backwards “R”) or a non-English letter (e.g. Rene’ Smith).

For the purposes of this article, the term “special character” means any character used in a debtor name that is not a letter, number, punctuation mark, or other character that is part of the standard keyboard. The good news is that debtor names containing a special character are relatively rare. The bad news is that when there is one, filing and searching can become a bit challenging.

While this article does not attempt to address every conceivable nuance of the topic, it will address three areas with which parties filing and searching UCC records should be aware. These are:

1. The rules of Article 9 and why debtor names with special characters are relatively rare
2. The Administrative rules applied by filing offices that address the issue
3. What you can do when dealing with a debtor name containing a special character

THE RULES OF ARTICLE 9, AND WHY DEBTOR NAMES WITH SPECIAL CHARACTERS ARE RELATIVELY RARE

After two decades of emphasizing the need to use the “correct debtor name” when filing or searching UCC records, most filers diligently follow the rules for identifying the correct debtor name. The majority of UCC filings involve a debtor that is a registered organization or an individual, for which Article 9 designates either the formation document (e.g. the Certificate of Incorporation) or the driver’s license be used as the source for the correct debtor name.



In addition, the business entity statutes generally limit the use of non-English names. The Model Business Corporation Act, for example, provides the following:

MBCA § 1.20 Requirements for Documents; Extrinsic Facts:

(e) The document must be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals.

While there are exceptions, most state agencies (the Secretary of State, the Bureau of Motor Vehicles, etc.) have standards that limit data to only those characters available using a standard QWERTY keyboard. Therefore, when the debtor is a registered organization or an individual, the use of special characters in the name is rare.

As a result, the issue of debtor names that contain a special character most frequently arises when dealing with a non-registered organization (e.g. a limited partnership) or a non-US entity that is filing in the United States.

THE ADMINISTRATIVE RULES APPLIED BY FILING OFFICES WHEN DEALING WITH SPECIAL CHARACTERS IN DEBTOR NAMES

Most state filing offices have procedures in place (both formal and informal) regarding the indexing of debtor names that contain a special character. Unfortunately, there is little consistency amongst filing offices.

The IACA Model Administrative Rules, which provide guidance to UCC filing offices regarding their implementation of Article 9, provide the following:

101.7 Means of Communication

Regardless of the method of delivery, information submitted to the UCC filing office must be communicated only in the form of characters that are defined in an acceptable character set.

Some filing offices have done a good job of defining their acceptable character set. For example, the Texas Secretary of State's Administrative Rules clearly state the acceptable characters set:

- See [https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=4&ch=95&rl=401](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=4&ch=95&rl=401)

Despite this guidance, there are still situations in which a filer may need to file against a debtor whose name contains a special character. There are some filing offices that will simply reject any filing that contains a special character, and their e-filing systems are designed to prevent a filing containing a special character from being submitted. Should the filing office choose to accept a UCC filing containing a debtor name with a special character, there are generally four options for indexing the name:

1. The filing office may try to substitute the standard character that looks/sounds most like the special character. For example, if the correct debtor name is “Eat Græk”, the filing office will enter “Eat Greek”.
2. The filing office may simply remove the special characters and index the remaining letters. For example, if the correct debtor name is “Eat Græk”, the filing office will enter “Eat Grk”.
3. The filing office may substitute an empty space for the special characters. For example, if the correct debtor name is “Eat Græk”, the filing office will enter “Eat Gr k”.
4. The filing office may substitute a “placeholder” character for each of the special characters. For example, if the correct debtor name is “Eat Græk”, the filing office will enter “Eat Gr**k”.

Absent a clear indication in their administrative rules or official practices, there is a risk that filing offices will be inconsistent in their approach to indexing such debtor names. In addition, a filing office may have a policy with a certain set of special characters but have a different policy regarding other special characters.

WHAT YOU CAN DO WHEN DEALING WITH A DEBTOR NAME CONTAINING A SPECIAL CHARACTER?

If you are conducting a UCC search, or filing a UCC financing statement, and the debtor name contains a special character, below are the options we recommend for the best possible result:

- a. Contact Do Diligence, LLC, and we will work with the filing office to ensure your search or filing is handled correctly! We have been doing this for decades and know how to get you the best results.



b. Contact the filing office (preferably in writing) and ask them to specify exactly what steps need to be taken, what actions their office will take when indexing, and what capabilities their search and filing system has regarding the indexing and searching of filings containing special characters.

c. File (or search) against each possible variations of the name. Since debtor names containing special characters are relatively rare, it might be worth the extra cost just to be sure. For example, if the correct debtor name is “Eat Græk”, file (and search) using each of the following variations of the name: Eat Græk, Eat Greek, Eat Grk, Eat Gr K, and Eat Gr**k.

d. After submitting your filing, always conduct a search to reflect! In any case, it is imperative that after you file your financing statement, you conduct a search to reflect to ensure it is indexed correctly and will be found when a search is conducted using the correct debtor name.



Do Diligence, LLC, is the only national service company dedicated exclusively to providing legal due diligence services to law firms. We'd love to hear from you! If you have any questions about UCCs with special characters, this article, or want 8 interesting facts about the umlaut please contact us at ILoveUCC@ddsimplified.com or visit our website at www.ddsimplified.com.

