

UNITED STATES  
PATENT AND TRADEMARK OFFICE



# The Rise in Trademark Fraud

Office of Enrollment and Discipline (OED)

Images used in this presentation are for educational purposes only.



UNITED STATES  
PATENT AND TRADEMARK OFFICE ®

# Discussion Topics

- Introduction
- Role of OED
- USPTO Rules
- Solicitation Scams
- Impersonation Scams
- How to Protect Yourself and Your Clients



Discussion topic

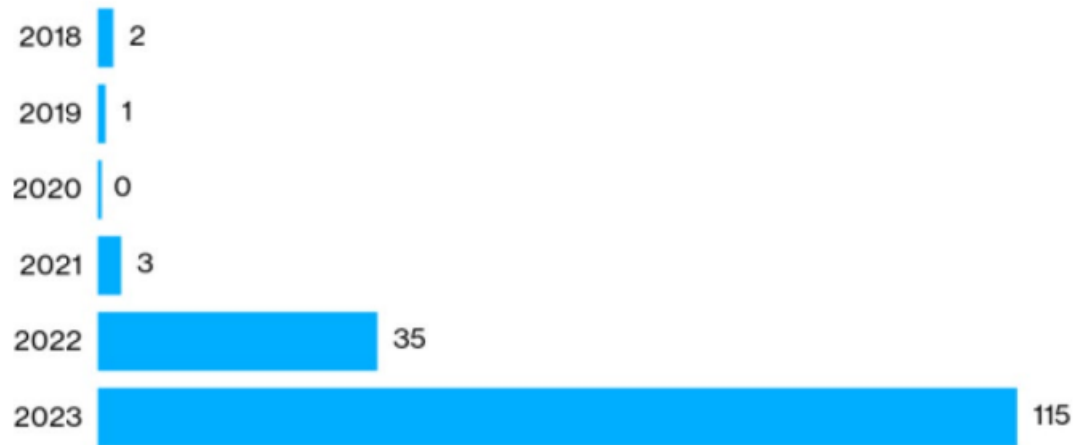
# I. Introduction

# Introduction

- Steady increase in scams related to trademark registration and maintenance
  - Constantly evolving and growing in sophistication
  - Happening across all phases of the trademark registration process

# Uptick in Trademark Sanctions

**Trademark related sanctions issued by USPTO orders  
(January 2018 – April 2023)**



Source: Bloomberg Law



# Impacts to Clients

- Financial loss
- Exposure of sensitive information
- Invalidation of mark
- Impairs integrity of trademark register

# Consequences for Practitioners who are Complicit in Scams

- Disbarment or suspension
- Civil liability
- Criminal liability



Discussion topic

## **II. Role of OED**

# USPTO Rules of Professional Conduct

- Trademark attorneys engaged in practice before the United States Patent and Trademark Office (“USPTO”) are subject to the agency’s disciplinary jurisdiction, *see* 37 C.F.R. § 11.19 (37 CFR 11.19)
- USPTO Rules of Professional Conduct apply to trademark attorneys who practice before the USPTO



# OED: Discipline

- Mission
  - Protect the public and integrity of the patent and trademark system
- Statutory authority
  - 35 U.S.C. sections 2(b)(2)(D) and 32
- Disciplinary jurisdiction (37 C.F.R. section 11.19)
  - All practitioners engaged in practice before the USPTO
  - Non-practitioners who engage in or offer to engage in practice before the USPTO
- Governing regulations
  - USPTO Rules of Professional Conduct 37 C.F.R. sections 11.101-11.901
  - Procedural rules: 37 C.F.R. sections 11.19-11.60



# OED: Investigation

- Receipt of a grievance by OED Director
  - Grievance: written submission from any source received by OED Director that presents possible grounds for discipline of a specified practitioner
  - Self-reporting often considered a mitigating factor in the disciplinary process
- Time period for filing formal complaint
  - One year from receipt of grievance or 10 years from date of misconduct
- After investigation, OED may do any of the following:
  - Terminate investigation with no action
  - Issue a warning to the practitioner
  - Institute formal charges with approval of committee on discipline
  - Enter into a settlement agreement and submit to USPTO Director for approval

# OED: Role in Addressing Trademark Scams

- **OED protects the public by investigating scams that involve practitioner bad behavior**
- No authority in cases that do not involve an identifiable practitioner
  - OED refers these scams to another USPTO business unit, the Registration Protection Office, that investigates suspicious trademark filing activity (TMScams@uspto.gov) as well as other agencies
- Not an enforcement agency
  - The USPTO has no legal authority to sue or prosecute entities that defraud or attempt to defraud our applicants and registrants
  - Consumers who feel that a company may have participated in unfair, deceptive, or fraudulent business practices may contact the Federal Trade Commission ("FTC")



# Other USPTO Business Units

- Trademarks Register Protection Office
  - Directs administrative sanctions process
  - Monitor and investigate reports of scams and suspicious filing behavior: [TMScams@uspto.gov](mailto:TMScams@uspto.gov)
- Trademarks Legal Policy Office
  - Provides guidance on trademark statutes, regulations, policies, and practices



# Trademark Sanction Orders

- Administrative orders issued under the authority of the Director of the USPTO against parties who have violated the USPTO Trademark Rules or terms of use for USPTO websites and filing systems
  - Can be issued against entities, non-practitioners, etc.
- Process Steps
  - Information sharing – Suspicious submissions or behavior patterns identified by customers or USPTO attorneys
  - Evaluation – RPO reviews for evidence of a rule violation and can suspend affected application(s) while the investigation is ongoing
  - Show cause order – Details violations, affected applications/registrations, and possible sanctions
  - Response to order – Parties must respond explaining why USPTO should not impose sanctions
  - Order for sanctions – Details the investigative findings, affected applications/registrations (appears in TSDR), and describes imposed sanctions



# Trademark Sanction Orders

- Possible sanctions
  - Not considering/giving weight to affected submission
  - Terminating the proceeding, which can include terminating the application
  - Precluding a person from submitting documents in trademark matters before the USPTO
  - Deactivating affected USPTO.gov accounts
- Show cause and sanction orders are publicly viewable:
  - <https://developer.uspto.gov/tm-decisions/search/administrative>





Discussion topic

## **III. USPTO Rules**

# Signatures on Trademark Documents

- USPTO Trademark Manual of Examining Procedure ("TMEP") Section 611.01(c) – prohibits anyone other than the named signatory signing a trademark
- Person(s) identified as the signatory must **personally** sign the printed form or personally enter signatory's electronic signature (37 CFR 2.193(a), (d))
- Cannot delegate authority to sign, and no person may sign or enter the name of another
- Another person may not use document-signing software to create or generate the electronic signature of the named signatory

# Verified and Sponsored Accounts

- ID verified USPTO.gov accounts – Mandatory for electronic filing since August 2022
  - Two methods: electronic (ID.me) and paper (USPTO)
- Sponsored accounts
  - ID Verification required for sponsored account users since January 20, 2024
  - An attorney must sponsor paralegals and support staff.



# Account Agreement - Sponsorship of Attorney Support Staff Accounts

- **Directly** employed or retained by you, your company, or your law firm
- Under your **direct** supervision
- **Immediately** remove sponsorship if no longer employed or supervised by you

<https://www.uspto.gov/sites/default/files/documents/TM-verified-account-agreement.pdf>

# Sponsored Accounts

- Attorneys are "personally, professionally, and ethically responsible" for conduct of staff while using USPTO.gov accounts
- Failure to adequately supervise use of sponsored accounts may result in, *inter alia*:
  - Sponsored Account Shutdown Order (SASO)
  - OED referral



# Certifications when Presenting Trademark Papers to the USPTO

- By presenting (filing, submitting, advocating) any document to the USPTO, an attorney makes certifications pursuant to 37 C.F.R. 11.18
- In part, attorney certifies that to the best of his or her knowledge, information and belief ***formed after an inquiry reasonable under the circumstances***, the factual contentions or denials have evidentiary support.
  - 37 C.F.R. 11.18(b)(2)(iii) and (iv).
- Improper certifications may jeopardize the probative value of the filing and may subject the attorney to an ethics investigation and discipline
  - 37 C.F.R. sections 11.18(c) and 11.19 to 11.60



# U.S. Counsel Rule

- Effective August 3, 2019
- Any foreign-domiciled trademark applicant or registrant must be represented before the USPTO by an attorney licensed to practice law in the United States
- Rule is intended to:
  - Increase compliance with U.S. trademark law and USPTO regulations
  - Improve the accuracy of trademark submissions to the USPTO
  - Safeguard the integrity of the U.S. trademark register



Discussion topic

## **IV. Solicitation Scams**



# Solicitation Scams Targeting Attorneys

- Sponsorship Scams
- Filing Mill Scams
- Fake Correspondence Scams

# Sponsorship Scams

- Attorney is “hired” by a firm or trademark filing business
- Attorney is asked to sponsor accounts for individuals they may or may not supervise
- Accounts used to file submissions, sometimes without knowledge or consent of attorney
- Sponsored accounts may continue to be used even after arrangement has ended



# Avoiding Sponsorship Scams

- Follow the rules as set forth in the account agreement
  - Make sure you are allowed to sponsor individuals under the Agreement
  - Plan to supervise users you are sponsoring
  - Remove sponsorships if you are unable or no longer supervising users



# Filing Mill Scams

- Legal services or legal work often advertised on "gig work" sites or via direct email correspondence
- Attorneys are often paid per submission
- Use of attorney's name and bar information
  - May appear on submissions without attorney's knowledge or consent
  - May appear after arrangement has ended
  - Impersonation of attorneys and misusing bar information
- Foreign filing mill scams – similar to other filing mills, but with a twist – Solicit U.S.-licensed attorneys in an attempt to evade U.S. Counsel Rule

# Filing Mill Scams - Example

----- Forwarded message -----

From: [REDACTED]  
Date: Sun, [REDACTED]  
Subject: Find a partner for a trademark application  
To: [REDACTED]

Dear,

My name is [REDACTED]. We are China [REDACTED] company. We help Chinese customers register US trademarks due to policy changes. We are now looking for a partner to use their US federal attorney license and mailing address. We can sign a confidentiality agreement and pay a reasonable fee for use. The above information is only used on registered US trademarks. If there are other uses, the lawyer will be informed in advance and the corresponding fees will be paid. We will keep the lawyer's information confidential and will pay liquidated damages if it defaults.

If you are interested, please contact

Email: [REDACTED]

Wechat/Phone: [REDACTED]

This is our company's Web site : [REDACTED]

# Avoiding Filing Mill Scams

- Do your research!
  - Know who you are doing business with
  - **Trademark Decisions and Proceedings search tool**  
(<https://www.uspto.gov/trademarks/trademark-updates-and-announcements/orders-issued-commissioner-trademarks>)
- Monitor the use of your name and bar number using [TMSearch](#)



# U.S. Counsel Rule Decisions (2024)

- **Yue Niu, USPTO Jan. 03, 2024**
  - New York and California licensed attorney contracted with a foreign entity and relied on assistance from a suspended practitioner
- **Grace Lee Huang, USPTO Jan. 08, 2024**
  - Missouri licensed attorney contracted with foreign entity
- **Francis Huisuk Koh, USPTO Feb. 7, 2024**
  - Virginia licensed attorney contracted with several foreign entities
- **Julian Arnold Haffner, USPTO May 21, 2024**
  - Maryland licensed attorney contracted with foreign entity
- **Qinghe Liu, USPTO Nov. 21, 2024**
  - New York licensed attorney contracted with several foreign entities



# Grace Lee Huang, USPTO Jan. 08, 2024

- Missouri licensed sole attorney contracted with Lyptus Partners, an Indian law firm providing trademark services
- Huang opened a USPTO.gov account for herself and sponsored Indian-based employees of Lyptus Partners
- Lyptus Partners used USPTO.gov credentials to file over 400 trademark applications over a 2-month period, many on behalf of Chinese-domiciled applicants
  - Each application included declaration naming applicant as signatory, but was signed from India using DIRECT signature method
  - Huang did not review the applications personally or take steps to ensure Lyptus Partners was following the signature rules
- Huang suspended from practice before the USPTO for 90 days, followed by 12 month probationary period





# Fake Correspondence Scams

- Attorney's name and bar information is used in correspondence with victims of a scam to lend credibility
- May be without attorney's knowledge or consent
- Submissions to USPTO may not include attorney's name



# Fake Correspondence Scams - Example

Hello

I am Attorney Donna, and I will try to be as short as possible.

You just filed your trademark application and it can take up to two years for the process to be complete and your trademark certificate issued, especially during this Covid period.

Fortunately, there is a mechanism we can use to accelerate the process and get your mark registered in just a few months. I'd be glad to help with that and get it done correctly.

Please get in touch and rest assured I do not use any automated bot or AI and personally respond to your emails. I looked at your case already before sending you this email so I can respond promptly.

Sincerely,

Donna [redacted]



# Avoiding Fake Correspondence Scams

- Difficult to detect – attorneys often contacted by a "client"
- If you become aware of this, please contact the USPTO and law enforcement
- Consider notifying your state bar
- Check your name on TM Search periodically



Discussion topic

# **V. Impersonation Scams**

# Impersonation Scams

- Federal Trade Commission reports a rise in Government Impersonation Scams
  - primarily SSA, IRS, Medicare, or fake agencies
  - "They'll . . . give you some reason why you need to send money or give them your personal information **immediately** . . . [but] government agencies will never call, email, text, or message you on social media to ask for money or personal information. Only a scammer will do that."

See <https://consumer.ftc.gov/articles/how-avoid-government-impersonation-scam>



# Impersonation Scams

- The Trademark Office is seeing "spoofing" or government impersonation via:
  - Caller ID Phone Spoofing
  - Trademark filing firms scams and impersonation
    - Fake Office actions/letterhead
    - Fake conference calls with USPTO Employees

The FTC has set up a special website for reporting USPTO-related impersonation scams:

<https://reportfraud.ftc.gov/#/?orgcode=USPTO>



# Caller ID Spoofing

- Targets both **current trademark applicants** and **potential applicants** who have never filed with USPTO before (typically individuals or a small business).
- Scammers **impersonate real USPTO employees and phone numbers**.
- Scammers try to create **false urgency**.
  - For example, claiming that another party is seeking to file for the same mark
  - Often accompanied by threat to delay application if not paid immediately



# Caller ID Spoofing

- Legitimate USPTO phone numbers are often spoofed, including regional offices.
  - Most calls appear to be coming from Alexandria, VA (location of USPTO headquarters), Denver, CO (location of USPTO regional office), etc.
  - Most commonly spoofed (in 2024):
    - 571-272-1000 (Trademark Assistance Center)
    - 571-272-4000 (Patent Application Assistance Unit)
    - 571-272-6500 (Finance Receipts Accounting Division)





# Filing Firm Example: Abtach Ltd.

- January 25, 2022 - USPTO issued an order for sanctions against Abtach Ltd. and its subsidiaries
- Abtach operated dozens of logo design and trademark registration websites
- Found to be overcharging filing fees, misleading customers about goods and services in applications, falsifying applicant signatures, and doctoring office actions
- Abtach Final Order: <https://www.uspto.gov/sites/default/files/documents/TM-Sanctions-Order-Abtach-et-al.pdf>

# Anatomy of the Scam

- Victim is sent a convincing email explaining that somebody else is going to register their logo, mark, or business name with the USPTO, and, if they do not **act immediately**, they will lose rights to their mark.
- The email could be from:
  - a logo or web design website the victim is familiar with;
  - an alleged "trademark specialist" from an official-looking domain;
  - an alleged "attorney," sometimes using the name of a real licensed attorney, but using false phone and email information; or
  - a combination of these, which could include false USPTO correspondence, too.



# Anatomy of the Scam

- To make the fees seem legitimate, scammers create fake letters and office actions on "USPTO letterhead"
- Fees are either:
  - Completely made up (e.g. "attestation") or
  - Inappropriate for the situation ("Section 8 & 9" due during prosecution of an application)
- Bad actors will also call victims and then "conference in" USPTO examining attorneys to help "confirm" the need to make payment.



# Letterhead Impersonating the USPTO



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office

Address: P.O. Box 1450  
Alexandria, Virginia 22313-1450

Typographical errors!

Wrong office.

This is to notify ( ) with reference to successful examination and completion of the Trademark Application – Serial No. below:

The Patent's office has successfully received required office to actions, legal affidavits and attested copies/documentations as to the supporting documentations for the application mentioned above.

mits and attested  
entioned above.

the Registration ID, in order for the Registration No. to be issued to the respective application, after which in the 30 – 45 business days' time, the Registration No. would be issued and the Owner/Applicant can Legally use the R sign/symbol along with the Business Name.

Below are the associated registration fees along with federal taxes for you to go ahead and submit your respective fee for the application to your Attorney/Legal Agency.

Registration ID Issuance Fee: \$1800.00 (Per Application)

Federal Taxes: 13%

Nonsense fees!

Once the fee is submitted, kindly have the scanned copy of the receipt submitted to your Attorney/Legal Agency in order to be submitted along with paperwork for final processing.  
Final Paperwork would be sent out to the registered mailing address on the application.

Regards,  
United States Patent and Trademark Office



Misuse of government seal!

uspto®

Discussion topic

## **VI. How to Protect Yourself and Your Clients**

# Protecting Yourself: USPTO.gov

- ID Verification:
  - Use your own email address
  - If you have verified an account using an email address not under your control, contact the USPTO and ID.me.
- Know the rules for sponsoring accounts
  - Remove sponsorship *immediately* if support staff are no longer under your direction
- Report account security concerns and change your password *immediately*.



# Protecting Your Client: USPTO.gov

- ID Verification:
  - Verification is not necessary for clients who are merely e-signing.
  - Clients who need or want accounts should ID-verify themselves and not share accounts.
- USPTO employees will not set up a USPTO.gov account on your client's behalf.



# Protecting Yourself: UPL

- Regularly monitor the use of your name and bar number using [TMSearch](#)
- Beware of "cooperation" solicitations.
- Unauthorized use of your name, bar number, and/or law firm name on USPTO submissions
  - Report to USPTO immediately via [TMScams@uspto.gov](mailto:TMScams@uspto.gov).
- Ethics questions? – Contact OED
  - [OED@uspto.gov](mailto:OED@uspto.gov)



# Protecting Your Client: UPL

- Correspondence about applications/registrations will be directed to you, not your client.
- USPTO employees will not ask them to provide payment information.
- Verify fees and deadlines.
- Be wary if you receive a communication requiring immediate action.
- Questions about a document or communication?
  - Contact TAC (attorneys can contact TAC too!).
- Has your client been directed to a scam webpage via an ad?
  - If so, consider reporting the ad.

# Protecting Your Client:

## The client has already been scammed

- Remember the big 5:
  - Report financial scams to the financial institution.
  - Submit a fraud complaint to the Federal Trade Commission (FTC).
  - Contact the Federal Bureau of Investigation (FBI)'s Internet Crime Complaint Center (IC3).
  - Consider reporting to the local attorney general.
  - Report phone scams to the Federal Communications Commission (FCC).

# Protecting Your Client:

## The client has already been scammed

- Review the record carefully and discuss the scam with the client.
  - If the application contains fake information, false signatures, fictitious specimens of use, or other potentially-fatal defects, consider counseling the client to refile the application quickly.
  - If the issue is with another submission, notify the Office as soon as practicable and file a corrective/superseding submission, if possible.
  - False declarations are particularly concerning because they could be used as evidence of non-use in expungement and reexamination proceedings. See 37 C.F.R. § 2.92(c)(9)(v) ("evidence suggesting the verification accompanying a relevant allegation of use was improperly signed" may support a *prima facie* case of nonuse).
- You can inform the USPTO by contacting [TMScams@uspto.gov](mailto:TMScams@uspto.gov).



# What the USPTO is Doing about Scams

- Provide trademark-related tips about potential scams to the USPTO at [TMScams@uspto.gov](mailto:TMScams@uspto.gov)
- Contact OED about ethics questions – [OED@uspto.gov](mailto:OED@uspto.gov)
- Where appropriate we:
  - Warn the public about the scams with the goal of preventing others from being scammed.
  - Issue appropriate sanctions directed at trademark submissions that violate USPTO rules (e.g. fraudulent signatures).
- Keep in mind:
  - The USPTO is not a law enforcement agency
  - The USPTO cannot provide financial relief or restitution when money is paid to a scammer



# Resources

- Monitor use of your name and bar number:
  - [TMSearch](#)
- FOIA Reading Room for OED decisions
  - [foiadocuments.uspto.gov/oed/](https://foiadocuments.uspto.gov/oed/)
- Trademark sanctions orders
  - <https://developer.uspto.gov/tm-decisions/search/administrative>
- Report a trademark scam
  - [TMScams@uspto.gov](mailto:TMScams@uspto.gov)
- Report fraud
  - <https://reportfraud.ftc.gov/#/?orgcode=USPTO>
- Ethical questions and practitioner bad behavior
  - [OED@uspto.gov](mailto:OED@uspto.gov)





# Thank you!

[OED@uspto.gov](mailto:OED@uspto.gov)

[TMScams@uspto.gov](mailto:TMScams@uspto.gov)

[www.uspto.gov](http://www.uspto.gov)