Trademark scams: how to avoid them and what to do if you get fooled

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Discussion topics

• Introduction
• Representation before the USPTO
• Trademark filing firm scams
• False solicitation scams
• Phone spoofing scams
• Post-registration solicitation scams
• ID verification scams
• Tips for attorneys, applicants, and registrants
Discussion topic

Introduction
Introduction

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

• Trademark register protection tools used by the USPTO include:
  – Administrative sanctions program
  – Director-initiated expungement and reexamination proceedings
  – Post-registration audit and maintenance filing deletion fees
Introduction

• USPTO continues to increase public awareness of scams to help protect our customers
  – Revamped webpages on scams
  – Refreshed application filing receipts and registration notice emails to raise scam awareness
  – Social media posts to reach more USPTO customers
  – Webinars
Discussion topic

Representation before the USPTO
• U.S. applicants or registrants may appear in trademark matters on behalf of themselves or a business in which they are an officer.
  – If represented, services must be provided by U.S.-licensed attorney.

• Generally, applicants or registrants domiciled outside the U.S. must hire a U.S. licensed attorney.

• Applying for a trademark is a legal proceeding.
  – Failure to adhere to USPTO statutes, rules, or procedures can impact your application or registration.
  – In some cases, the resulting defect cannot be cured.
Discussion topic

Trademark filing firm scams
Trademark filing firm scams

• Generally advertise ultra low-cost services, but not clearly involving identifiable attorneys
• Logo design services and “conflicting marks” notices
• Fake USPTO correspondence or cease and desist letters
• Individuals impersonating attorneys and misusing bar information
• Attorney "cooperation" solicitations
• See our filing firms page for more information.
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
  - Advertised suspiciously-low flat rate pricing, often advertising via search engines:
    - Found to be overcharging filing fees, misleading customers about goods and services in applications, falsifying applicant signatures, and doctoring office actions
- Result: thousands of trademark application proceedings terminated
Discussion topic

False solicitation scams
False solicitation scams

• Unsolicited email, text, or phone call
• Relating to logo, trademark application or registration
• Demands urgent action be taken to protect rights
• Often requires payment
• May use false attorney name or information, or falsely identify USPTO as sender
Cover sheet for alleged search report

The USPTO does not prepare search reports or issue Office actions with the logo on top.

Nonsensical references to laws or regulations.

Note the false urgency.

Look for strange disclaimers.

Clear typographical errors and grammatical errors.

Incorrect contact information.
False solicitation about "conflicting marks"

A real law firm will not contact you to say they have received a competing application.

Registering a mark with the USPTO is never mandatory.

There is no "IP Protocol" to change priority in this manner.

False urgency is a common theme in scams.

From: 
Date: Wed, Feb 
Subject: Please register your trademark & protect your intellectual property
To: 

Hi [Name],

This is [Name] from [Law Firm]. We are an IP Agency that works to protect intellectual property such as Trademark, Copyright, and Patent for our customers. Whenever we receive an application for filing, we do comprehensive research given the USPTO Standards, and if we find out that someone already uses a similar business name so we send them a courtesy notice.

We would like to bring to your knowledge that we have received the Trademark application for the same business name [Business Name] from The United States of America. If we proceed with their application and if they get the federal ownership and protection for the same name then you'll be required to cease all use of this name as per the Trademark Law. The application is being filed with the United States Patent & Trademark Office for trademark registration. Upon doing the research on IP Databases regarding the business name [Business Name], your information popped up. USPTO and IP protocols suggest giving priority to the business name/mark user over the new applicant. Therefore, we are reaching out to you for confirming whether you would be interested in reserving the federal trademark rights under your ownership for your business name.

If you’re not willing to register the trademark, then we’ll have to register the federal trademark for the other applicant with the United States Patent & Trademark Office, as Trademarks are provided on a first come-first serve basis, not on first use.

As per the Act of 1946 §§ 1051 et seq., it is mandatory to register your mark to hold the ownership rights federally. We would appreciate your prompt response, as the other applicant is still on hold until we receive your response. In case of no contact from you within the next 2 business days, the other applicant will be given the opportunity to begin their registration following the standard examination and filing procedure with the United States Patent & Trademark Office.

Please do let us know by reply back to us on this email if you are interested so that we can guide you through the complete process.

Please ignore this email if you have already responded.

Thank you,
Letterhead impersonating the USPTO

Wrong Office.

Nonsense fees!

Typographical errors!

Misuse of government seal!
Email impersonating the USPTO

Email comes from "uspto.org" and not "uspto.gov." Legitimate agency domain names always end in ".gov."

The USPTO does not correspond with filing firms or agencies. U.S. domiciled applicants may file on their own behalf, or may be represented by a qualified attorney.

Typographical error and reference to nonexistent rule on refileing.
Phony registration certificates

Certificate uses an incorrect seal and lacks any reference to the owner or the goods/services.

Look for signs of digital tampering. Here the mark appears to have been digitally added to the document.

Incorrect title. "Q. Todd Dickinson" allegedly signed as "Acting Commissioner for Patents and Trademarks."
Certificates are signed by the Director of the USPTO or individuals “Performing the function of” rather than “Acting.”
Invoices impersonating the USPTO

Misuse of the USPTO logo.

The USPTO does not issue invoices! The USPTO accepts payments when forms are filed, and payments are processed via Pay.gov or via deposit accounts.

These are not real fees. The USPTO does not issue, save, or use EIN numbers. There is no "attestation" required to file a trademark application.

Bad actors commonly try to extract "just one more fee" several times. There is no such thing as a lifetime trademark registration, periodic fees will be due if your mark registers.
Individuals impersonating attorneys

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,

Beware that bad actors can claim to be attorneys! In this case, the photograph was edited to combine two different people, and the bad actor set up a fake law firm website.

Bad actors claim to be able to expedite registration through an undefined process.

Be cautious of "text only" or "email only" instructions from an attorney.

Be skeptical of "review" websites. In this case, the bad actor appears to be the only "attorney" reviewed, and we suspect the bad actor controls this website.
Foreign agents and attorneys often refer work to U.S. attorneys as "local counsel," not "a partner."

Attorney foreign "cooperation" solicitation

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]
Vechet/Phone: [Redacted]
This is our company’s Web site: [Redacted]

It is unethical for an attorney to permit others to "borrow" or "rent" a license to practice law in the manner suggested here.

Attorneys are held to the ethical and professional standards of their own states, as well as the USPTO's Rules of Professional Conduct (37 C.F.R. §§ 11.100 et seq.).

Non-attorney support staff, working under the direct supervision of an attorney, may assist the attorney in practicing before the USPTO in trademark matters, but an attorney may not sponsor USPTO.gov accounts for foreign counsel or allow unlicensed individuals to practice law. Doing so violates USPTO.gov account agreements and may also violate relevant professionalism rules.
**Misleading texts**

The USPTO does not currently use text messages to send reminders of deadlines.

Bad actors can spoof real USPTO phone numbers when they call you, but you can call the USPTO directly. Always call the phone numbers listed on the USPTO.gov website.

Websites for U.S. government agencies always end in ".gov" and not ".com."

The USPTO will not direct a registrant to file a particular form, but will send courtesy email reminders about an upcoming deadline.
Discussion topic

Caller ID spoofing scams
Caller ID spoofing scams

• What is caller ID spoofing?
  – Spoofing is when a caller deliberately falsifies the information transmitted to your caller ID display to disguise their identity.
  – Scammers often spoof a number from a company or a government agency that you may already know and trust.
  – If you answer, they use scam scripts to try to steal your money or valuable personal information, which can be used in fraudulent activity.
Caller ID spoofing scams

- Targets **current trademark applicants** and **potential applicants** who have never filed with USPTO before (typically individuals or a small business).

- Scammers often **impersonate real USPTO employees and phone numbers** (for example, examining attorneys).

- 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 scams

• 571-272-1000 or 800-786-9199 are spoofed most frequently.
  – Falsely appear to be coming from Alexandria, VA (location of USPTO headquarters)

• Scams are often accompanied by fake letters/office actions on "USPTO letterhead."

• Scammers may request excessive fees for unnecessary or nonsensical services.
  – Fees not charged by USPTO or for multiple classes when not necessary
  – E.g., no USPTO trademark application requires “attestation” from the 50 states
Caller ID spoofing scams

• Please report spoofed calls to the Federal Communications Commission (FCC).
• The FCC is also working on steps to end this type of practice via mandatory Caller ID authentication.
Avoiding caller ID spoofing scams

• USPTO employees do not request payment over the phone, via email or text.

• You can verify the identity of any USPTO staff member and request to call them back.
  – USPTO employee phone numbers are listed in the employee directory on the USPTO website.
  – Please see the scam prevention resources flyer for more information and resources related to this scam.
Post-registration solicitation scams
Post-registration solicitation scams

• Registrant receives correspondence directing them to act urgently to maintain registration.
  – Correspondence is often received well before any actual USPTO deadline.

• USPTO fees are required to maintain registrations.
  – But fees requested may be higher than USPTO fees
  – Often “disguised” to appear as if related to USPTO
  – Sometimes unclear if services are being provided by U.S.-licensed counsel
Misleading post-registration solicitations

Confusingly similar names to the actual USPTO. The USPTO is located in Alexandria, VA.

Websites for U.S. government agencies always end in ".gov" and not ".us."

Beware of QR codes, which can lead to malicious websites.

False urgency. Bad actors frequently misrepresent deadlines.

Always check the maintenance dates on TSDR.USPTO.GOV by entering the serial or registration number, selecting "Status" and clicking "Maintenance."

Look for and carefully read disclaimer statements. Here, the fine print indicates that this entity is "a private business that is not endorsed by the U.S. government."
Avoiding post-registration solicitation scams

• Check the status of your registration and the due dates of any filings or fees via the Trademark Status & Document Retrieval (TSDR) system.

• Contact the Trademark Assistance Center (TAC) with any questions about post-registration maintenance requirements.
Discussion topic

ID verification scams
ID verification

• Mandatory for filing through TEAS and TEASi since August 2022

• Two methods: electronic (ID.me) and paper (USPTO)
ID verification

A one-time process with lasting security benefits

Identity verification helps our online trademark filing system and staff that help our customers. Starting August 1, 2023, customers using out filing system must verify their identity. Learn more about identity verification benefits.

Frequently asked questions

For questions and help with the ID verification process, contact Support.

ID verification system

Verify online

In most cases, online verification through our contracted technology provider, ID.me, takes about 15 minutes. The only information the USPTO receives back from ID.me is your verified full name.

You'll need

- A government issued photo ID
- A government issued photo ID
- A government issued photo ID

Learn more about ID.me

About ID.me

ID.me is a leading identity verification service. It uses state-of-the-art technology to safeguard your data.

Learn more about ID.me and ID.me.
ID verification scams

• ID verification scams
  – Applicant or registrant asked to verify their identity using an email address under control of a scammer.
  – Scammer uses applicant or registrant’s identity to conduct business with the USPTO.

• Identifying documents scam
  – Scammers request copies of identification documents (driver's license, passport, etc.) for use in ID verification.
  – Sometimes pretend to be affiliated with USPTO.
Avoiding ID verification scams

• 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.

• USPTO employees will not ask for copies of identification documents.

• USPTO employees will not set up a USPTO.gov account on your behalf.
Discussion topic

Tips for attorneys, applicants, and registrants
Tips for attorneys

• Beware of "cooperation" solicitations.
• Unauthorized use of your name, bar number, and/or law firm name
  – USPTO filings, correspondence
  – Contact USPTO immediately.
  – Ethics questions? Contact the Office of Enrollment and Discipline.
• Educate your clients about scams.
  – Correspondence about application or registration should be directed to you, not your client.
    • For example, cease and desist letters and renewal notices
    • Note: The USPTO sends courtesy reminders about registration maintenance deadlines to all email addresses of record, including the registrant’s.
      – Registrants can check TSDR to verify that any filing reminders came from the USPTO.
Tips for applicants and registrants

• USPTO employees will not ask you to provide payment information.
  – Fees paid via the TEAS system

• Verify fees and deadlines.

• Be wary if you receive a communication requiring you to immediately take an action.
  – Particularly if payment involved

• Questions about a document or communication?
  – Contact TAC (or if you are represented, your attorney).
If you’ve been scammed

• Remember the big 5:
  – Report financial scams to your bank.
  – Submit a fraud complaint to the Federal Trade Commission (FTC).
  – Contact your local Federal Bureau of Investigation (FBI) field office.
  – Contact your local attorney general.
What the USPTO is doing about scams

• When you provide trademark-related tips about potential scams to the USPTO at TMScams@uspto.gov, experienced attorneys review them.

• 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.
    • We protect the use of the USPTO name and logo, where possible (e.g. Reg. No. 6832052).
  – The USPTO cannot provide financial relief or restitution when money is paid to a scammer.
Thank you!

TMPolicy@uspto.gov
TMScams@uspto.gov

www.uspto.gov