

# ALERT

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## **Beware: Scams Targeting U.S. Trademark Applicants and Owners Are Increasingly Persuasive**

*By: Michael J. Schwab*

One recent victim of scams preying on U.S. trademark filers and registrants answered a call that appeared to be from the United States Patent and Trademark Office (USPTO). It wasn't. The target of the scam was forced to change banks and monitor his credit card accounts for fraudulent transactions in the wake of that call.

Countless others have been defrauded as the result of e-mails, phone calls, fake invoices, correspondence and, in some cases, texts asking them to pay fees for trademark-related services. These bogus services include private registries or databases that seemed legitimate at the time but were actually cons.

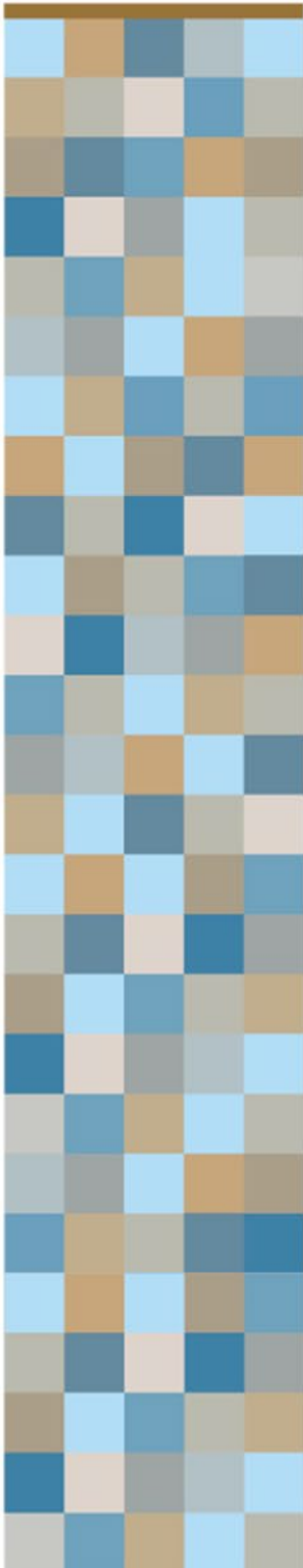
Moritt Hock and Hamroff advises all trademark applicants and owners to contact their attorneys before responding to, or spending money on, solicitations. Do not click any links or scan QR codes that may be provided, either.

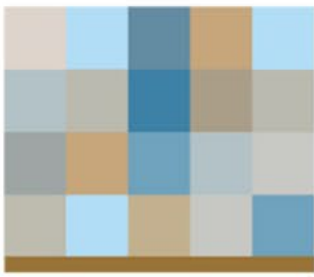
It pays to learn more about the types of scams that trademark application filers and trademark registrants are experiencing. The USPTO has noted that criminals are becoming increasingly creative and persuasive in their tactics, and scams are happening across all phases of the trademark process. Some scammers pretend to be law firms specializing in trademark matters, or trademark filing companies; others present themselves as representatives of the USPTO or similar-sounding entities. The scenarios described below are just a few of the scams that are being reported.

### **Scammers Posing as Law Offices or Filing Firms**

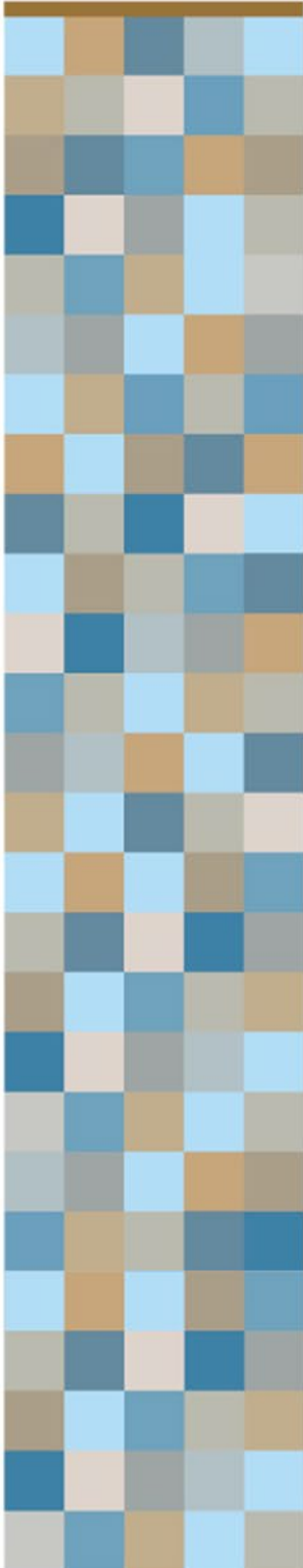
If you have filed for a trademark or are the registered owner of one, you may be contacted by someone who professes to be an attorney or staff member with a law firm experienced in trademark matters.

Often, they insist that it is imperative to register your brand or renew a trademark. The reason given might be that another business is trying to use your trademark or brand, or that the deadline for renewal or some other required action is close at hand.





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Wording may differ from scam to scam, but these contacts often contain common elements prompting the recipient to act quickly. One is a statement reinforcing that “the USPTO treats applications on a first-come, first-served basis.” Another is a declaration that “according to the Lanham Act of 1946 (§§ 1051 et seq.), federal registration is a prerequisite for securing ownership rights.” This Lanham Act statement is actually misleading, because, while trademark registration does offer important protections, it is not mandatory.

Further, a legitimate law firm will never contact you saying that they have received a competing application.

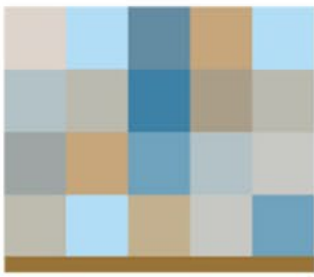
Other scammers may claim they are with companies that provide filing services, often for allegedly low fees. According to the USPTO, scammers pretending to be with filing firms may say that, while they do not have attorneys on staff, they have agents or specialists who can provide legal advice and represent clients to the USPTO. They may also assert that they are approved by the USPTO and can expedite the trademark application.

Both statements are false. Only U.S. licensed attorneys can represent someone to the USPTO, and the agency does not work with or endorse any private filing firms.

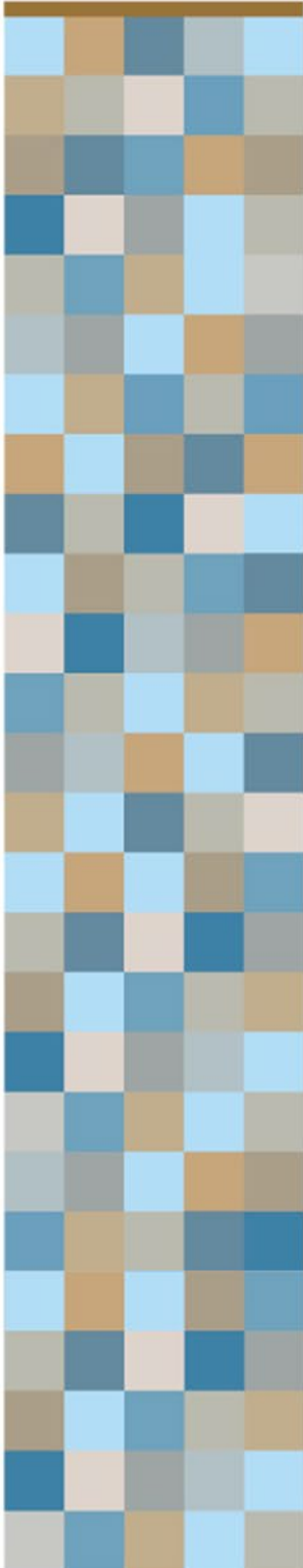
## **Scammers Posing as Government Agencies**

One scam that has evolved over the years involves con artists pretending to be with the USPTO. They often tell the recipient that a fast response is needed to protect their trademarks, and they must pay certain fees which, in actuality, are completely unnecessary. Less-sophisticated versions of this scam may include telltale errors, such as misspellings or official email addresses ending in a domain other than .gov. We have also read about a fake filing platform that sends out letters mimicking USPTO correspondence to businesses.

Some scammers may not say they are with the USPTO specifically, but instead offer a similar-sounding name that is easily confused with the real agency. Such is the case in a recent scam that has been reported by another law firm, in which the signatory for a trademark client was phoned by the “Federal Trademark Office.” The caller, whose phone number indeed appeared to be a division of the USPTO, said additional fees were necessary and even had the serial numbers of the filer’s applications handy. However, the scammer’s real number had been masked by caller ID spoofing software. Unfortunately, the scammer was able to convince the target to reveal her credit card number, birth date and last four digits of her social security number.



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With the increasingly sophisticated tactics of scammers like these, then, how can one verify whether a call or correspondence related to U.S. trademarks is a legitimate query?

One giveaway is that the USPTO contacts an applicant's authorized representatives. So, if your lawyers filed the application, not you, the USPTO will not contact you directly asking for payment. The agency also states that: "All official correspondence about your trademark application or registration will be from the United States Patent and Trademark Office in Alexandria, Virginia, and all emails will be from the domain @uspto.gov."

Additionally, application fees are paid at the time of the filing, not after. Another tip-off in the above-mentioned incident was that the scammer asked for the person's credit card, birthdate and last four digits of her social security number, which a real USPTO representative would never request.

## Be Skeptical

Knowing how scams like this work will help you avoid falling prey to similar cons. Trademark applicants and registrants are wise to be cautious when asked for fees from unknown parties, even if that contact seems to be a law firm or the USPTO. Contact your trademark lawyer for advice before responding, clicking links, or scanning QR codes, and be especially wary of revealing personal or payment information.

If you have any questions regarding the matter raised in this Alert, please feel free to contact **Michael J. Schwab** at [mschwab@moritthock.com](mailto:mschwab@moritthock.com) or (212) 239-5527.

*Founded in 1980, Moritt Hock & Hamroff is a 90-attorney full service, AV-rated commercial law firm that provides a wide range of legal services to businesses, corporations and individuals worldwide from its offices in New York City, Garden City and Fort Lauderdale. The firm's practice areas include: closely-held/family business practice; commercial foreclosure; commercial lending & finance; condominium and cooperative services; construction; copyrights, trademarks & licensing; corporate, mergers and acquisitions, & securities; COVID litigation; creditors' rights, restructuring & bankruptcy; privacy, cybersecurity & technology; dispute resolution; employment; healthcare; landlord & tenant; litigation; marketing, advertising & promotions; not-for-profit; real estate; secured lending, equipment & transportation finance; sports law; tax; and trusts & estates.*



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