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How to Tell if the Mail You Received is Actually from the United States Patent and Trademark Office

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One of the most common questions we get from clients whose trademarks we maintain is whether a recent piece of snail mail or an email they received are actually from the United States Patent and Trademark Office (the "USPTO") or whether they are from an unaffiliated third party trying to sell its services.

The reason for this is that most mail from the USPTO is sent directly to the attorney of record, rather than the applicant or owner of the trademark. However, despite federal mail fraud laws prohibiting a sender from claiming to be a government agency in order to convince the recipient to pay money to the sender, many companies that are unaffiliated with the USPTO or any governmental agency will send mail to owners of trademarks in a very "official" looking format. Our tongue-in-cheek answer is that if it looks too polished, clean or professional, it is not from the USPTO! Although such mailings do not state that they are from the USPTO and may even disclaim any affiliation, they can be very convincing and potentially misleading. These are some of the red flags to watch out for in mail that probably isn't from the USPTO:

- It doesn't contain the full, formal name of the USPTO, but something close such as "Patent & Trademark Office".
- The address is not Alexandria, VA. All official mail from the USPTO will come from this location.
- Fees charged for the services are above (sometimes substantially) USPTO filing fee amounts and/or average rates charged by lawyers.
- There may be a veiled or buried disclaimer that the sender is not associated with the USPTO or that the sender is a private business.
- It may contain bar codes and official looking boxes containing all of your trademark information. This isn't hard to do as private parties can mine the public USPTO database for such information. Further, the USPTO

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doesn't use bar codes, QR codes or similar machine-readable identifiers.
- The text may be worded to make it seem like a filing deadline is fast approaching, when in reality the date indicated is only when a filing window opens (many maintenance filings may be made during a one year window).

EXAMPLES OF TRADEMARK MAIL UNAFFILIATED WITH THE USPTO

With those red flags in mind, here are some actual examples of mailings that we and our clients have received that are not associated with the USPTO. Click each image to view full size.

Example 1 was sent to one of our clients recently from the "Patent & Trademark Office". This style is particularly convincing because many people refer to the USPTO in the vernacular as the Patent and Trademark Office. Even the disclaimer buried in the middle of the small text box does not go so far as to say that the sender is unaffiliated with the USPTO, only that it is a "private business that is not endorsed by the U.S. government".

Example 2 contains many of the same hallmarks as Example 1 and even includes the abbreviation of its name—USTMS—in the top left hand corner that bears a striking similarity to the USPTO abbreviation. At least this example breaks down the USPTO filing fee versus what USTMS charges, and such charges are more in line with industry standards. This example does not provide a disclaimer of its affiliation with the USPTO or federal government, but does note that the owner should complete the form if it is not represented by an attorney.

Example 3 is an email we received shortly after filing a trademark application for a client. Not as egregious as the two examples above, but it might convince an unsuspecting applicant to click and sign up for potentially unneeded or unwanted services.

EXAMPLES OF OFFICIAL USPTO MAIL

So what does an official USPTO mailing look like? Although it may come in any shape or size, the most common are large manila envelopes or postcards. They will contain the full agency name of "United Stated Patent and Trademark Office", sometimes abbreviated as "US Patent and Trademark Office" in the return address area. No private, unaffiliated party mailing should contain an abbreviation as close as that. It will never have an ampersand ("&") instead of the word "and". It may have the USPTO logo, but not always.

Any physical mail will come by the United States Postal Service and will be from Alexandria, VA. Any emails will be from an @uspto.gov address, often TMOfficialNotes@USPTO.GOV or TEAS@uspto.gov. No offense to the USPTO, but it won't look too pretty or too official. For example, the helpful informational sheet from the USPTO shown below has been photocopied a few too many times.

WHAT SHOULD I DO IF I'M UNSURE?

When in doubt, give your trademark attorney a call! We can usually tell very quickly if the piece of mail you received is an official notice from the USPTO, when the actual deadline

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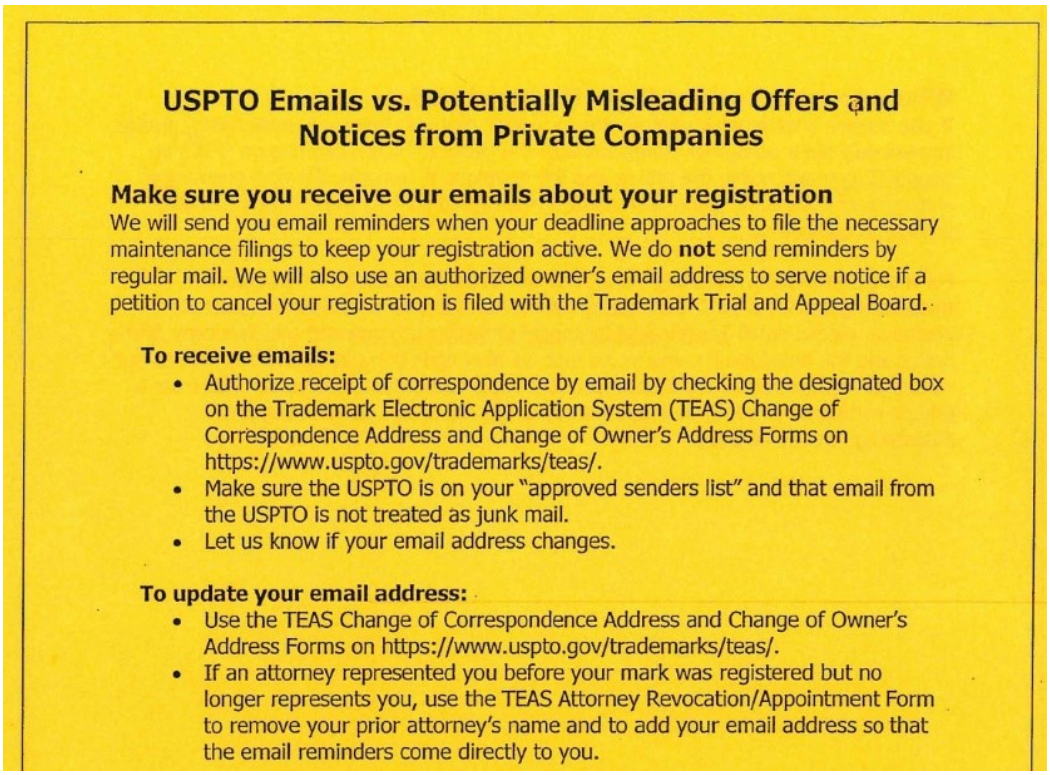
is, and also what the actual USPTO filing fee is and what reasonable industry rates are for our services in connection with such filings. Don't be shy or embarrassed – these third parties often design their mailings in this fashion. However, and to be clear, we are not saying that all such unofficial mail is a scam or that the examples shown here are scams. Rather, they are shown to give you some helpful tips to keep your Spidey senses tingling so that you do not pay a third party a large sum of money for a routine filing with the USPTO, or overpay for services that your trademark attorney could assist you with.



USPTO Emails vs. Potentially Misleading Offers and Notices from Private Companies

Make sure you receive our emails about your registration

We will send you email reminders when your deadline approaches to file the necessary maintenance filings to keep your registration active. We do **not** send reminders by regular mail. We will also use an authorized owner's email address to serve notice if a petition to cancel your registration is filed with the Trademark Trial and Appeal Board.

To receive emails:

- Authorize receipt of correspondence by email by checking the designated box on the Trademark Electronic Application System (TEAS) Change of Correspondence Address and Change of Owner's Address Forms on https://www.uspto.gov/trademarks/teas/.
- Make sure the USPTO is on your "approved senders list" and that email from the USPTO is not treated as junk mail.
- Let us know if your email address changes.

To update your email address:

- Use the TEAS Change of Correspondence Address and Change of Owner's Address Forms on https://www.uspto.gov/trademarks/teas/.
- If an attorney represented you before your mark was registered but no longer represents you, use the TEAS Attorney Revocation/Appointment Form to remove your prior attorney's name and to add your email address so that the email reminders come directly to you.

Disclaimer: This summary is provided for educational and information purposes only and is not legal advice. All information filed with the USPTO becomes public record, but our examples used above have been redacted to remove any personal client information. Any specific questions about these topics should be directed to attorney Arvid von Taube.

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