Trademark scams: How to spot them, avoid them, and protect your brand

June 09, 2026

Trademark scams are becoming increasingly common in Canada. Both the Canadian Intellectual Property Office (CIPO) and the College of Patent Agents and Trademark Agents (CPATA) have warned that business owners and trademark holders are being targeted by phishing emails, calls, and texts from people pretending to be intellectual property lawyers, agents, service providers, or even CIPO itself.

These messages often use details taken from public records, create urgency, and pressure recipients to act quickly. There was a wave of these in 2024 that was noted in a variety of publications, but after a client of ours was recently targeted with such a scam, we thought it would be prudent to provide an update on current developments and best practices for dealing with such matters.

What we saw: A trademark scam in action

The recent scam attempt our client encountered involved a sender falsely claiming to be an intellectual property lawyer.

The sender asserted that a third party, identified as the sender's client, was preparing to file a trademark application for the recipient's business name. The sender then urged the recipient to immediately file a trademark application through them, warning that, if the recipient failed to do so, the sender would proceed with filing a competing application on behalf of the alleged client.

The sender suggested that because the recipient had allegedly been using the business name for some time, they were being given an opportunity to file first (provided of course, that they paid the person impersonating a lawyer). The message relied heavily on urgency and time sensitivity to pressure the recipient into responding, paying money, or sharing information before verifying whether the message was real.

The message also used the name of a real lawyer with a valid licence to practice law to make the communication appear legitimate, but on further inspection, the phone number and email address provided did not match the public records for that lawyer. Upon contacting the lawyer's office, they confirmed that the message was not legitimate

and that they were aware of being impersonated, but were unable to do anything to stop the person impersonating them.

We knew that a legitimate lawyer acting for a client would not disclose a client's filing strategy to a third party in a way that would prejudice the client's interests. In Ontario, lawyers owe duties of confidentiality, loyalty, and conflict avoidance to their clients under our Rules of Professional Conduct. More plainly, no lawyer should ever "sell out" their existing client by offering the same services to a competitor at the expense of their original client.

What would happen if we did not catch it

If this type of scam is not identified early, the recipient may be pressured into paying unnecessary fees, sharing sensitive information, or retaining an unauthorized person to act on a trademark matter. CIPO explains that IP scams are often fraudulent attempts to obtain money or personal data by pretending to be a legitimate law firm, agent, or government body.

Red flags: Look for the signs

There are several warning signs that business owners should take seriously when assessing potential trademark scams.

1. **Urgency**. Scammers demand immediate action or payment, often saying things like "act now," and putting pressure on the recipient by stating that their trademark is about to expire or is under threat. The message may ask you to reply immediately, click a link, wire funds, send a PayPal payment, or use a third-party payment portal. CIPO identifies these as classic scam indicators.
2. **Use of real business information**. Scammers often use real business information to appear credible. CPATA warns that fraudulent messages may include your name, business name, trademark details, or other information drawn from public records or CIPO databases.
3. **Impersonation**. Scammers may impersonate a real lawyer, trademark agent, or government authority, but these are usually shallow impersonation attempts that do not hold up under scrutiny. As an example of the shallowness of these impersonation attempts, domain names referenced in correspondence from scammers have often been registered mere days or weeks before the correspondence was sent. Law firms have a variety of tools at their disposal to verify legitimate correspondence, and typically even their most basic tools will tell them if something is not right.
4. **Grammar**. Scam emails often contain grammatical errors, unprofessional formatting, and factual inaccuracies regarding the recipient's trademark registrations or lack thereof. One common red flag is a reference to the "Trade-marks Act," which is incorrect, as the hyphen was removed several years ago and the statute is now titled the "Trademarks Act." Another warning sign can be found in the footer or email signature, where the sender identifies themselves as an "Intellectual Property Attorney," a term typically used in the United States rather than in Canada.

What to look for if you are unsure whether something is a trademark scam

If you are unsure whether something is a scam, you should attempt to verify the legitimacy of the message, including its sender. BLG's Trademarks Group has extensive experience in this space, should you require assistance in assessing whether correspondence received is a scam.

Legitimate emails from individuals at CIPO end with "@ised-isde.gc.ca." If the sender claims to be a trademark agent, check whether the individual is listed on CPATA's Public Register, and confirm that the email address exactly matches the official contact information listed there. CIPO recommends verifying whether the correspondence appears in the Canadian Trademarks Database or the Trademarks Document Retrieval Service, because official CIPO trademark correspondence should appear there. If the communication does not appear in official records, that is a serious warning sign.

CPATA also recommends checking whether the sender's name, business, phone number or website appears on its public scam warning materials. CPATA has published guidance on IP scams, including lists of commonly used business names, phone numbers, registered agent names, and websites frequently associated with these schemes. If you are unsure about a sender's identity, you can verify whether their name or contact information appears on CPATA's list of flagged entities by consulting the CPATA website.

If you are uncertain whether someone claiming to be a lawyer is legitimate, you can independently verify their status by searching the public registry of the law society in the province where they claim to be licensed.

Most importantly, be cautious if the message uses fear, secrecy, or urgency. A demand for immediate action, a threat that someone else will "take" your business name unless you respond, or a message that appears to come from a real professional but asks you to deal through an unfamiliar email, phone number, or payment channel should be treated with caution.

If you are concerned that a trademark communication may be fraudulent, we encourage you to consult CIPO's IP Scam Awareness Zone and to verify the sender through CPATA's Public Register before responding. Suspicious messages can also be reported to CIPO at ic.contact-contact.ic@ised-isde.gc.ca with "IP scam" in the subject line.

Contact us

If, after reading this article, you are unsure about the status of your trademark portfolio, would like assistance reviewing it, or suspect you may the victim of a trademark scam attempt, please contact the professionals listed below, or any member of BLG's Trademarks Group.

The authors would like to thank Alexander Filip, student-at-law, for his contributions to this article.

By

Matthew Literovich, Kathleen Lemieux

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blg.com

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

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