

Dear Client, wow how to make this short?!

**Trademark Pearl** is the second trademark service I am taking a look at for their trademark practices.

Here's some quick comments, with 2 examples and here's a terrific write up by **SabiReviews**.

After several conversations with "attorneys" at **Trademark Pearl**, I decided to drive to their office 59 miles away to talk to them in person. On the drive there, I pulled over to double check the address. **See a bridge NOT traveled, above.** At my office Google had showed a building at 1800 Sutter Street in Concord, but now my car showed an empty lot. I called my son to double check and he found the **SabiReviews** @ [https://www.sabireviews.com/trademark-pearl-scam/?expand\\_article=1](https://www.sabireviews.com/trademark-pearl-scam/?expand_article=1). (More easily read via cell phone.)



We had received 2 complaints from our clients about **Trademark Pearl**. For the second I called with our client on the phone to inquire about the below, second email. Already, they had moved offices from Alameda, CA to Concord, CA. I called again on Dec 21 and was told by "attorney" Michael Grant that their office was actually at **1566 Meadowbrook Road, Altadena, CA** - but he lived in Concord. Actually, there really is a Michael Grant living at that house address, but the office building is clearly a non-residential structure.

On Dec 14, 2023, **Trademark Pearl's** web site said they had opened in 2014. Not quite! Whois says the .com domain was just purchased December 11th, 2023.

Here's an email snapshot of what I found in just :30 of digging about **Trademark Pearl**. This was sent to the first client who had complained about their possible scam.

Hey D, catching up on all my emails tonight. Thanks for the very odd email you received. It strikes me as a non-nonsensical attempt to scare you. I couldn't quite make out what the issue is, expect you have a very tight 1 day "deadline" to reply. But, about what? Lots of scare words. It looks like a re-invented scam we have seen from China over the past 10 years trying to sell Chinese trademarks or domain names, or else they will sell it to someone else. The twist here is they are supposedly a trademark service, but who is also threatening you for presumably infringing on someone without saying who the other company is, what type of business they are in - (ie their goods or services), how close in sound, appearance the name is, or if it an exact name conflict. Very odd!

I was thinking of driving over there until I did a search and found their address is in the **Alameda City Hall**. See: [https://www.google.com/maps/@37.766144,-122.2436888,3a,75y,23.34h,96.4t/data=!3m6!1e1!3m4!1sYnKAQlfakoV\\_W3sgDliPLA!2e0!7i16384!8i8192?entry=ttu](https://www.google.com/maps/@37.766144,-122.2436888,3a,75y,23.34h,96.4t/data=!3m6!1e1!3m4!1sYnKAQlfakoV_W3sgDliPLA!2e0!7i16384!8i8192?entry=ttu)  
[https://www.google.com/search?q=alameda+city+hall&oq=alameda+city+hall&gs\\_lcrp=EgZjaHJvbWUyBggAEEUYOdIBCDY5MzNqMGo3qAIAAsAIA&sourceid=chrome&ie=UTF-8](https://www.google.com/search?q=alameda+city+hall&oq=alameda+city+hall&gs_lcrp=EgZjaHJvbWUyBggAEEUYOdIBCDY5MzNqMGo3qAIAAsAIA&sourceid=chrome&ie=UTF-8)

I called **925-488-1965** and got a voice mail. Odd no company or person's name was given.

The web site is: <https://trademarkpearl.com/>  
It has the same address and phone #. See: <https://trademarkpearl.com/sm-contact-us/index.html>

They claim at the bottom of their web site in their copyright that they have been using the name since 2014 to 2023. However, **a Whois search found they just created the domain on Monday, December 11th 2023**. See: <https://www.whois.com/whois/trademarkpearl.com>.

The owner is in "Zuid-Holland". I guessed correctly. This is south of Amsterdam. [https://www.google.com/search?q=Zuid-Holland&oq=Zuid-Holland&gs\\_lcrp=EgZjaHJvbWUyBggAEEUYOdIBBzc5OWowajeoAgCwAgA&sourceid=chrome&ie=UTF-8](https://www.google.com/search?q=Zuid-Holland&oq=Zuid-Holland&gs_lcrp=EgZjaHJvbWUyBggAEEUYOdIBBzc5OWowajeoAgCwAgA&sourceid=chrome&ie=UTF-8)

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**Within 2 days of their web site creation on December 11, 2023, another of our clients received the following email, titled:**

**Legal Notice: Urgent Confirmation Required for Trademark Registration of "Business Name."**

Dear B,

Trust this correspondence finds you in good health.

This serves as our conclusive attempt to communicate with you regarding the formal registration of the business name "xxxxxxxxxxxx" **Failure to receive your confirmation for registration by the end of today will necessitate our progression with an alternative applicant by tomorrow, potentially resulting in the forfeiture of your entitlement to utilize the business name "xxxxxxxxxxxx"**

In adherence to **our meticulous trademark registration procedures, we conduct comprehensive assessments on search engines and social media platforms to ascertain the distinctiveness of the brand name. Absent confirmation from the current user within the specified 24 to 48 business hours, we will proceed with the interested party's registration.**

Trademark conflict constitutes a breach of civil laws, with potential repercussions involving court-ordered cessation of trademark usage. Furthermore, financial restitution may be mandated, encompassing the surrender of profits derived from the infringing use or payment of monetary damages. The penalties for trademark infringement may include

injunctive relief or the issuance of a cease-and-desist directive.

Recognizing your historical utilization of the brand for an extended period, we acknowledge the possibility of exercising discretion in refraining from legal proceedings with the alternate party, particularly if they represent a startup entity. **If your intention is to assert ownership of the business name "XXXXXXXXXXXX" a swift response is imperative to facilitate guidance through the registration process.**

Your immediate attention to this matter is appreciated, and we anticipate your expeditious response.

**Thanks & Regards,**

TRADEMARK PEARL

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PS: a search of the USPTO found NO trademarks ever filed or managed by any "attorney" named STEVE GLIGOROV or STEVEN GLIGOROV, Michael Grant or Michael Pearl.

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***Here's another email, sent to another of our clients 7 days later, on December 18, 2023***

**Dear Xxxxxx X,**

I trust this communication finds you in good health. This correspondence is issued on behalf of the Legal Department of Trademark Pearl, and its purpose is to apprise you of a **prospective trademark registration concerning the business name "XXXXXXXXXXXX" originating from a startup business.** Our extensive search has revealed that your details are associated with this brand name.

**Time sensitivity is imperative, as an additional party is currently indicating an interest in registering the same business name. Failure to progress with your registration may result in their acquisition of federal rights, thereby potentially exposing you to legal consequences** for the continued use of the aforementioned name. This scenario may escalate to the point where legal proceedings are initiated against you, with the aim of asserting ownership rights over your profits.

In the course of **our due diligence, it has come to our attention that your brand is presently unregistered with the United States Patent and Trademark Office (USPTO).** In light of this, we are reaching out to ascertain your intentions regarding the trademark registration of **"XXXXXXXXXXXX"** Please be advised that, **pursuant to the USPTO's first-come, first-served policy, another party may proceed with registration in the absence of objections from your end.**

**It is crucial to underscore that, as per the Lanham Act of 1946 (§§ 1051 et seq), federal registration is a prerequisite for establishing ownership rights.**

Your immediate attention to this matter is imperative to safeguard your rights and forestall potential legal complexities. We eagerly anticipate your expeditious response.

**Thanks & regards,**

TRADEMARK PEARL

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## **TRADEMARK PEARL SUMMARY**

The hook is that some educated, older people posing as trademark attorneys, no less, supposedly claiming to offer legitimate trademark services - are not who they seem.

Their purpose is scam you from your startup operating funds. They approach under false pretenses. They set the stage with a manufactured threat. To the untrained it seems plausible, rather than nonsensical. IF you press with pointed questions, they give up that they really do not know much about trademarks. They are not attorneys. Do people press? Maybe some do, but not enough based on the proliferation of these scam trademark services I have seen. The comments I hear in argument when we explain the need for comprehensive research to clear any name, logo or slogan before filing tell me people just want to save \$ and WANT to believe the less expensive trademark services.

False information, vanishing web site, multiple changing physical address are all red flags - they hope you do not notice. Trademarks are too serious and VALUABLE an asset to be devalued by such misinformation and deceptive information. It hurts TradeMark Express. It hurts you.

TRUST and GOOD FAITH is important when determining if a trademark is LEGALLY CLEAR, or not. Beginning with comprehensive legal clearance research, accurate analysis of said research and clean trademark application services all add up. The foundation of your trademark needs to be sound to whither against challenges that can happen up to 10 years in the future, just as much as enforcement against any infringers you may have in the future.

Have you come across one of these scam trademark services?

Call me, send an email - go onto my open Zoom, below.

Trademark Pearl didn't exist 16 days ago.

I figure to be exposing more of these all Winter & Spring.

Thank you,

Chris 650-948-0530 / Zoom Anytime - <https://bit.ly/TradeMarkZoomMeeting>

Calendly Meeting - <https://calendly.com/tmexpress/15min>

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**Sent December 14, 2023.**

**LegalZoom - Deceptive, Bait & Switch & Outright Dangerous Trademark Practices.**

LegalZoom is the first trademark service I am taking a look at for their trademark practices.

Please allow me to frame the situation with trademarks, so my findings over the past 2 months will make sense.

Let's start with the FACTS.

**1) When you contact a trademark service or attorney, their duty and responsibility is to actually help you.** They see the results of their work every day. Over time, they of all people KNOW when their work for their clients is effective or NOT. **We are talking your \$, your life savings, your business dream that has to start off on the right foot. Redoing a startup is hell.**

**2) Trademark law is broader in coverage than people realize.** Always. Marks need to be LEGALLY CLEAR under trademark law. Similar names in sound, appearance and meaning matter. Distribution channels matter. Customer types matter. Related goods and services matter. Famous names and aggressively litigious over reaching trademark owners matter.

**3) To do an accurate pre-trademark application** research literally thousands of paid databases must be accessed - including the USPTO, each State, full array of business, trade, corporate, fictitious name and yellow page compiled and updated databases. This work is critical for the foundation of your trademark and successful business. It takes us a year to fully train a person how to do a search. The research itself takes 3 hours for a trademark search and another 3 hours for a Common Law search. Applications, to get things just right for our client to submit, takes us another 3 hours. So, 8-10 hours.

**4) Risk of your trademark refusal is REAL.** Our clients are blocked 35%-40% of the time. Great names more. The USPTO - who by statute - can only research its own database, per my Zoom call to **Commissioner David Gooder**, seems to refuse 39% of their overall trademark applications. After 2 years of prodding, **Jason Lott**, of the USPTO, a couple weeks ago said they have a new page about COMPREHENSIVE CLEARANCE LEGAL RESEARCH - "And in news you might enjoy... Check out what just went live yesterday: <https://www.uspto.gov/trademarks/search/comprehensive-clearance-search-similar-trademarks>."

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**LegalZoom has the same problem as TradeMark Express.  
We are both "Malcom in the Competitive Middle" operations.**

Can you imagine being middle priced for your services, where the competitive range is \$35 to \$6000, for what the business owning public perceives as all being LIKE services?!

There are seemingly 2 dozen outright scams at the top of the Internet who's fees range from \$35 to \$300. Many are based in third World countries - beyond reach. They are hard to figure out because the one thing they have are great, well written web sites. Their prices are too good to be true. People who are thinking exact domain names and exact Google/Yahoo/Bing searches and don't want to hear any bad news are easy prey for these "services". It is all about the price. Even at \$35 and paying \$4 a click, it is profitable because it is so easy to sell an unknowingly BAD service. Think about it.

Here's a sample of trademark scams the USPTO has compiled, on their ever growing list: <https://www.uspto.gov/trademarks/protect/caution-misleading-notices>.

Then there are attorneys who unarguably have that "duty and responsibility" I mentioned above. The ones who do LIKE work with my TradeMark Express, (@ \$700), and Urgent Trademark, (@ \$1000), where most seem to in the \$2500-\$4000 range, per trademark. After all there is 8-10 hours of work, diligence, analysis and database costs. All these attorneys outsource the comprehensive research to specialty research companies like us, Corsearch and Thomson Compumark at \$900 and \$1225 per trademark. Yes, there is a group of attorneys who do their own research at the USPTO on a very recently diminished version TESS, as of November 30, as well as on the web. But, all that educated guessing to be able to attract small business startups amid all the bottom feeders at the top of the Internet, takes time too. I figure 90 to 120 minutes, but I cannot be sure. Even rural area trademark attorneys make ~\$200/hour. Big city trademark attorneys are at ~\$500/hour.

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## Specifically about LegalZoom....finally!

So, do you see the difficulty LegalZoom has in the trademark marketplace? They are forthright that they are not a law firm. In business since 2001, they have had to make sure the public knows they cannot give legal advice. It is all over their web site and when called they mention it then too. As a watchful competitor I can attest that LegalZoom has changed the way they handle trademarks many times.

The messy little fact is successful trademarks need scrutiny of critical analysis to figure out if any given trademark is in fact legally clear. Their low priced model does not work for trademarks. For trademarks, they have to give legal advice. So, they have a network of attorneys as we do, but on a much bigger scale. They operate under the name of Pulse or LZ Legal Services.

When you call to inquire about a trademark, you will meet someone who is very nice who will talk to you without interruption maybe because incoming calls are routed elsewhere. You may be on hold for a few minutes. Be ready to wait. They often close early too. They work from home. They will not transfer you to an attorney. You have to hire them first.

Besides a very short script, they are there to attempt to answer questions and get you back onto the web site to order the \$599 package - which is for a trademark application. The trouble is they do not know very much about trademarks. They never mention research at all. You have to ask. When asked they are off script and it shows. Answers vary widely. The process can take a ridiculous 30-60 days, or 4-6 weeks to submit a trademark. Then an even more ridiculous 4 to 14 months for USPTO approval. When asked the length of a report we got answers from "1 to 10, quite a few, to 10-20, to 27 to 50, 100 to 120 pages.

NOTE: as long as a client is responding, then processing a legally clear trademark should take from a few days to 2 weeks. Also, the USPTO is taking 8-9 months to register a mark. Report lengths should be 600 to 800 pages. LegalZoom reports used to be even more than ours, often times 800 to 1000 pages - BUT they were nonsensical in what they were producing. Their research strategies were way too broad, to puff up the report with irrelevant hits. Where they should have gone deeper where they should have, they never did. So, you can have a long bad report. Usually a tell of a bad service is short reports. This shows the cheaped out on the paid databases and they didn't devise enough search

strategies to cull out important information. Their attorneys charge extra fees to read more than 10 pages of data. We could not get an coherent answer if this was for analyzing legal research or something outside research.

Yes, they have the prices. So, it is a tactical decision NOT to talk about the needed comprehensive research. They were too consistent on this issue. If we didn't ask about research it wasn't ever going to be mentioned. FYI - their USA research is \$199 for just a Federal search, \$299 for a Federal, State and Common Law search. BTW, it is negligent to sell only a Federal trademark search to the public. It is only a 12% search. 3.5m/30m marks.

LegalZoom has become to be deceptive. I do not say this lightly.

The LegalZoom web site is wonderful, like their commercials. However in lots of places where they really should talk about the importance of research, they omit this information. See here:

### **I found a trademark similar to mine. Can I still register it?**

Oftentimes no, because it could create confusion.

But if the other mark is used for different products or services, it might be possible because consumers may not be confused about who sells what.

For example, Delta Dental, Delta Air Lines, and Delta Faucet Company coexist as business names because the products are different enough to prevent consumer confusion.

They make it seem like getting a trademark is as easy as going to the grocery store. It is odd that one page titled "**Trademark Registration**" has just 2 mentions of comprehensive research. There are 5 mentions of search/research. They do not differentiate between full legal research and a simple preliminary search on the UPSTO's TESS. See here:

### **We'll research it & report back**

Your attorney will perform a comprehensive trademark search to make sure nothing similar is in use. If there are potential issues, we'll search a second mark for free.

and

### **How to trademark a phrase**

Using a distinctive phrase connected with your business—such as a slogan, motto, or tagline—can help improve your brand recognition. To prevent other companies from using your phrase, you can register a trademark for it—starting with a comprehensive search. However, not every phrase can be trademarked, not everyone can trademark a phrase, and registration does not provide complete protection. A trademark attorney can advise you on the best next steps for registering a trademark for your particular phrase.

This page does not talk about the "comprehensive" research they offer at an extra price of \$299. In 5 places an order button to "Register a Trademark", all routed to to a summary page:

### **Trademark registration**

**\$599**

+ federal fees‡

### **Register a trademark**

Set up your mark for success. With attorney help, you have a **94% chance** of registering a trademark.†

- 
- If your first mark gets rejected, we'll cover our \$599 fee to register a different mark§
- 
- Have peace of mind knowing your attorney will research your mark, file for you, and deal with minor roadblocks
- 
- Get a free trademark search for a second mark if your attorney thinks there's an issue with your first choice

Again, no mention there is more to it than the \$599. No mentions of \$199, (Federal only), or \$299, (Federal, State and Common Law), are additional expenses. This you will learn later after you hire LZ. The web site is built to skirt the issue, and minimally mention the bulk of the work they should be doing for your new trademark prospect.

**PROBLEM 1 - DECEPTIVE** - The comprehensive clearance legal research is the key, the essence the absolute need of why you'd ever hire anyone to successfully secure your future trademark. NOT talking about it gives the impression it is not important, a luxury an add on, so therefore not really needed. It makes it seem that all there is too to getting a trademark is to hire them for \$599 and paying the USPTO filing fee of \$250 or \$350 - as some mentioned.

**PROBLEM 2 - BAIT & SWITCH** - The energy is to get you signed up for \$599 as fast as possible. There is really nothing to talk about, except to go ahead and hire LZ asap. That is all that is needed. Once hired, then they start to cover their exposure to you by having have a talk with one of the trademark attorneys. The attorney will go over all the already self submitted trademark. They then will recommend the \$299 Federal, State and Common Law research. Now research is suddenly important. No full disclosure here.

From experience most people do not read everything on a web site. When confirming information is intentionally omitted, then people will buck spending another \$299. The problem is that the normal small business startup isn't expecting this extra work, so IF they do not buy it in the first place they will not be in the mood for a 50% upcharge then didn't expect. Why wouldn't a person think to themselves if the research was so important then why wasn't it stressed all over the web site, a web site that SEEMED so thorough? Why wasn't the full actual fee stressed when I talked to the nice person? They were so nice. IF it was important why didn't they mention it. The attorney just wants to make money. It doesn't take a lot of imagination to envision the thought process of a startup going through a like thought process. A new business owner who wants to save every \$ they can.

It was unclear how many days it took to hear from a LZ trademark attorney. Se heard 3 to 5 days, but most just said soon. If the consultation wasn't immediate then you can see why someone would definitely refuse \$299 more for research.



Soooo, if the LZ web site and personnel said up front the actual fee was \$898, because research is needed too, how would that impact their sales? The answer is right in front of you. The way they are doing it, a half shuffle disingenuous "bait and switch" works best. Sales are higher when approached just in this way. It isn't about everyone being on the same page from day 1, it is about getting that \$599 where they can then sweep through a simple preliminary search - on USPTO's TESS then doesn't work anymore - and filing. Let the chips fall where they may. No certainty.

**PROBLEM 3 - Outright Dangerous Trademark Practices** - Lastly, which logically follows LegalZoom's initial under selling needed services and under performing their should be their resulting work is a curious claim of a 94% success rate, as you see from a clip above. A high success rate if it were true. All you have to do is scroll down to see the fine print. Take a look:

+Based on filing two applications, each having an independent 75% probability of registration because as of March 19, 2020, 75% of our attorney-led applications that have reached final disposition (registration, rejection, or withdrawal) at the USPTO were successfully registered as trademarks.

This statement may not bother you. But I know their lengthy, albeit scattered research reports 3.5 years ago in 2020, were what we estimated to be 80% accurate. Now from the lightness of today's research I can tell they are LESS accurate than in 2020. LZ is not paying for all the databases they should and the research strategies are not happening. Otherwise they'd have MORE than a mere 75% success rate. We could not get an answer when asked to explain the term "attorney led". Does this mean either preliminary research or comprehensive clearance legal research or just comprehensive research?

Just below that footnote is more fine print:

§If LZLS recommends proceeding with your trademark application and the application receives a 'final refusal' from the United States Patent and Trademark Office, LegalZoom will waive its service fees for preparing a second application for a different trademark. Government filing fees will still apply. Limit one waived service fee for a different mark per order. Trademark registration volume and success comparisons are to Trademark Engine, Trademarkia, RocketLawyer, and Trademark Elite, based on 2022 DocketTrak data.

This is yet more LZ double talk. What does "proceeding with your application" mean? Does this happen only IF you buy the \$299 comprehensive research and it is deemed to be clear, then your trademark is filed. Or, if just the poor Federal preliminary direct hit research is run at the \$599 price and the trademark is filed?

To get to a "final refusal", you have to fight the first refusal and lose your first argument to the USPTO Examining Attorney. This means you have to pay one of their attorneys to argue the USPTO Office Action refusal. Yes, there are easy fixable Office Actions, but Likelihood-of-Confusion refusals can take an attorney 3-5 hours to argue. What is the fee for that 3-5 hours of work? Since their attorneys are in house they must know the cost to argue. At \$250/hour, that is \$750 to \$1250 more in fees. Conservatively figured.

But wait, there's more! There could easily be a recommendation to argue the second USPTO Office Action, (as you can argue up to two Office Action refusals). This means another \$750 to \$1250 attorney fee to argue again. I suspect though, as research is the foundation of the mark - either skipped research or weak research - I'd conjecture the refusal was in fact a Likelihood-of-Confusion refusal. LegalZoom might just as soon recommend going to name #2, that they promise they'd do for free =when you pay the

new USPTO filing fee of \$350 or \$250 per class.

However, be aware we are talking 12 to 15 months of time passing since the initial filing to get to this point with the USPTO. You will be well invested in whatever name, logo or slogan you started with where changing the name would be a BIG PROBLEM. The new problem is that people don't realize how utterly devastating it is to change names. Logos and slogans, not at all. Who cares? It is the name that is critical never to change.

IF you choose to live under the radar, live in fear for the next ~9 years. Actual mark owners have 10 years to find you and cease and desist your product or service to take the name back. You certainly will not go back to LZ for a second name. You'll be frozen in time wondering what to do for 6 months. Again, name changes are absolutely devastating.

Oh yea, because you filed a Federal trademark you now are a LOT easier to find to get that cease and desist. There are trademarks on TESS from the 1700's. All posterity is going to see that failed mark Public record. Any possible buyer of your business is going to see the refusal when they do their diligence. Remember, this sad scenario happens to 25% of LegalZoom's clients.

LegalZoom does have its math right. A 25% failure x75% chance of another failure is 19%. Add 19% to the original 75% success rate, based on March 2020 stats, then = 94%. For those 19% it will be a rock road 2.5 years, double the USPTO filing fees and knowledge of the LZ attorney dog's name. If you are in the 6% then you will be so beat up you'll probably never open another business again. Nor will your kids, friends and ex-spouse.

## Capitalism loses.

BTW, LegalZoom has a subscription plan that is automatically charged monthly for either 6 months totally \$259 or 12 months for \$469. LOTS of people complained also on Trustpilot that this was very hard to cancel.

Additionally, when inquiring about incorporating, a non-profit and getting a fictitious name - none of the LegalZoom staff mentioned being clear at the trademark level first, before incorporation. There is nothing about this issue on the LZ website.

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**Sent November 13, 2023.**

**\$25 reward! Sample competitor trademark research reports needed!**

My study of the "not-so-great" small business trademarking experience needs some sample Trademark and Common Law legal research reports, (which may be called other names), to clear a name, logo or slogan before applying for a trademark.

I want offer an objective analysis.

If you don't mind sharing a legal search, done within the last 2 years, no matter how short, it would be very helpful to my study.

Help us, help other future small businesses.

Let's shine a light on what is really going on out there from newest \$35 trademarking service from Pakistan to the most credible law firm charging \$6000. How can there be such a difference? Why?

What is really going on out there?

Thank you!

Chris 650-948-0530 / Zoom Anytime - <https://bit.ly/TradeMarkZoomMeeting>

Calendly Meeting - <https://calendly.com/tmexpress/15min>

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Sent November 5, 2023

I am surveying trademark services and attorneys to do a true comparison. I do not consider some prior surveys to be as accurate as they could have been because they are conducted by people who are not versed in trademarks. They are culled from reading web sites, without also calling to talk to anyone. These surveys are a fair effort, and that is all that can be said.

Specifically, I mean the **Forbes** <https://www.forbes.com/advisor/business/trademark-services/> and the **Top Consumer Reviews** <https://www.topconsumerreviews.com/best-trademark-registration-services/detailed-reviews.php> articles.

So, I ask -

***What has been your past experience in getting a trademark?***

If you are getting this email, then you have at least inquired with TradeMark Express to get a trademark. Most people have NOT hired us - although you should have! We've noticed though most people did not go onto hire anyone else to get their trademark either. Of those who did hire someone else, we see a LOT, way too many flawed applications being filed and from attorneys and services alike who shortcutted the complex legal research needed BEFORE filing any trademark. Poorly written trademark applications are easy to find and critique, but IF your mark is truly infringing another trademark or someone with first use rights under Common Law, it may not be known for years. Up to 10 years in fact before acquiescence is gained. Fact is 65% of the people are really legally clear, so "being lucky" is a strategy too, I admit.

From what I know from being in the trademark business 31 years and dealing with trademarks for 35 years, (in my trademark case), I think this "head-in-the-sand" strategy for any REAL business is just plain foolish. Taking risk in business is an art, but at some point, early on, you are going to realize if your business is really a winner. At that point circling back to legally check the name of your business is a REALLY, REALLY good idea. With us, the cost is just \$200 for a Federal & State trademark search and IF clear then \$200 for a national Common Law search. Not very much. But, for what we all put into our company names, given domain names and social media - you have better be the FIRST to use your name under Common Law and even better to own it with expanded rights as a Federal or State trademark.

**I'd like to hear from those of you who chose not hire us, or those who had bad prior experiences before hiring us. What was your experience with the other trademark**

company or attorney like? Did you get a trademark? Did you have any office action refusals? Did they run an actual comprehensive legal search? If so, was it hundreds of pages or just a few? Please share it. Once you hired them, how did the process go?

Be aware it may take years before you can really be assured your trademark was really handled right. Some of you have long memories. Please share!

PS: remember we do free consultations, analysis and reviews of competitors work. Please call 650-948-0530, Calendly @ <https://calendly.com/tmexpress/15min> or screen share on Zoom Anytime @ <https://bit.ly/TradeMarkZoomMeeting>. Happy to help you.

Thank you!

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Sent October 28, 2023.

The Hidden Menace:  
How Poor Trademark Practices Damage Small Businesses and Capitalism.

In the ever changing wild world of business, trademarks are more than just symbols or logos; they're the embodiment of a brand's identity, reputation and success.

Protecting these valuable assets is crucial for the continued growth of small businesses and the health of capitalism as a whole. Small business is the foundation of capitalism. It encourages innovation and generates substantial wealth. When small business works, capitalism thrives. Everyone wins.

However, trademark predatory practices, perpetuated by negligent attorneys, non-attorneys, and trademark mill services that fail to conduct comprehensive legal research and file subpar trademark applications, are undermining the very foundations of small business and capitalism itself.

When a small business is damaged from the very outset with bad advice, bad services to launch their very company name, then they are less likely to ever start another small business. Their friends and family will be intimidated from ever taking the risk of starting a new business. The cost to existing businesses to enforce their intellectual property against willfully ignorant infringers increases their costs to do business. It is all about trust.

My Zoom call with USPTO Commissioner David Gooder reiterated what I am writing about today. Recent USPTO practices over the last few years to fight fraud are continuing. I cite the USPTO demand for foreign based businesses to have a USA based attorney file their trademark, (as we provide our clients with our 6 of our 10 trademark attorneys from the USA), because of fraud from China. Also, the USPTO unilateral termination of over 21,000 trademarks in 2022, filed by trademark mill scam services because of fraud. I'd wager most of these business owners still do not know their trademark filings are dead. Additionally, ever increasing USPTO efforts to audit seemingly exaggerated trademark filings.

It is a fact the USPTO denies 39% of the trademark applications they receive. TradeMark Express has not had a final trademark refusal since 2008.

## **Trademark Predatory Practices Unveiled**

Trademark attorneys and services are vital for helping small businesses protect their intellectual property. They navigate the complex legal landscape of trademarks, where similarities in sound, appearance and meaning must be investigated because they do very much matter, ensuring that businesses can continue to grow and innovate without the fear of being refused by the USPTO or CIPO, ever receiving a cease and desist over the next 10 years and being able to easily enforce against others exploiting their brand.

However, there exists a darker side to this industry, where predatory practices thrive.

**1. Inadequate Legal Research:** Some attorneys and non-attorneys fail to conduct the thorough legal research necessary to confirm the availability of a trademark. This negligence often results in filing applications for trademarks that are confusingly similar to existing ones.

**2. Trademark Mills:** Some trademark services operate as "mills," processing applications en masse without due diligence, potentially leading to trademark disputes and legal actions for the businesses they are supposed to protect.

## **The Toll on Small Businesses**

Small businesses are especially vulnerable to trademark predatory practices due to limited financial and time resources. When trademark applications are poorly prepared or trademarks are filed without proper legal research, the consequences can be devastating:

**1. Legal Battles:** Small businesses may become entangled in costly trademark disputes, with little financial room to wage these battles effectively.

**2. Reputation Damage:** A small business's reputation can be tarnished when it is perceived as the aggressor in a trademark dispute or as the negligent party when its trademark rights are violated.

**3. Stifled Growth:** Poorly filed trademark applications can result in delayed or denied trademark protection, hindering a small business's expansion.

## **Capitalism at Risk**

The core of capitalism is built on competition, innovation, and the protection of property rights. Trademark predatory practices undermine this foundation:

**1. Inhibiting Innovation:** Small businesses are less likely to innovate and invest in their brands if they fear their efforts will be in vain due to predatory trademark practices.

**2. Reducing Market Access:** When predatory practices harm small businesses, it reduces competition, limiting consumers' choices and the overall health of the market.

**3. Weakening Confidence:** If the public perceives trademark disputes as commonplace and unfair, it erodes trust in the market system, undermining the very essence of capitalism.

## **Seeking a Solution**

To protect small businesses and the principles of capitalism, we must address trademark

predatory practices. Businesses, lawmakers, and consumers all play a role:

**1. Businesses:** Due diligence is crucial when seeking trademark protection. Small businesses should carefully choose reputable attorneys and trademark services with a proven track record of success.

**2. Regulators:** Legal authorities and trademark offices should enforce stricter standards for trademark applications, penalizing those who engage in predatory practices.

**3. Consumer Awareness:** By supporting businesses that value ethics and transparency, consumers can encourage responsible trademark practices and discourage predatory ones.

In a world where trademarks are integral to branding and success, protecting these assets is essential. Trademark predatory practices pose a real threat to small businesses and capitalism. By acknowledging this issue, taking proactive steps, and demanding accountability, we can preserve the integrity of the market and secure a fair and competitive business landscape for all.

Small businesses are the backbone of capitalism, and protecting them from predatory practices is essential for the system's continued vitality.

At TradeMark Express, we specialize in helping start-ups protect their intellectual property rights. Our team of skilled attorneys understands the intricacies of trademark law and can provide you with expert advice tailored to your business needs. We offer a range of services, including trademark registration, monitoring, and enforcement.

Don't risk leaving your brand unprotected. Start your new business venture with legal clarity by securing a trademark. Contact us today for a free expert trademark consultation. Together, let's build a strong foundation for your business's success.

Thank you!

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Trademarks are company and product names, logos and slogans. They are way broader in coverage than a domain name search, a corporate name search or a web search on Google, Yahoo or Bing.

Rights go to those who use a mark first under Common Law and/or apply for a Federal or State trademark first.

Things that matter include SIMILARITIES in sound, appearance or meaning. Related goods/services. Channel of distribution. Customers. Famous names/marks. Over reaching litigious companies.

A legal comprehensive legal clearance Trademark and Common Law search can take 3 hours each. Trademark attorney review is needed.

Some people say - "I don't want a trademark!" Great, most companies do not need one. But to avoid a "failure to communicate", one must understand the 2 parts to a trademark. 1) Being LEGALLY CLEAR, under trademark law, and 2) Getting a Federal or State trademark. #1 every business needs - at least. #2 is advantageous as a mark gains

ownership and broadens rights in sound, appearance and meaning.

**Please note** - The USPTO and CIPO expect this work done before filing any trademark, as by statute, they cannot for you. If another company has rights, then they have 10 years to enforce against you.

**Trademark enforcement can be executed against infringers in a lot of ways** in addition to direct contact. Complaining where the infringer advertises - i.e. how they sell, where they sell - i.e. channels of distribution and where they manufacture. If their distribution crosses country borders, then a complaint to customs is effective for goods to be blocked or seized. If they have a trademark, a cancellation of their mark is an option. Where a complaint is disregarded, an attorney cease and desist has more power.

**Being 100% sure your mark has rights over any infringer** either under first use Common Law or your own registered or pending trademark is common sense. Being certain when they started using the mark is key. Competitive checks to ascertain reality are needed. The Internet Archive Wayback Machine is unparalleled. See: <https://archive.org/web/>.

**Trademarks need to be enforced evenly.** So, if you find one infringer, then you should run a comprehensive research to find if any more infringers exist in sound, appearance or meaning under trademark law. IF so, then your mark's rights need to be enforced against those companies as well. This is our 5-6 hour \$400 Start-Up Package, including attorney research review and consultation. Remember, we have 10 trademark attorneys in our network included in our low fees. Attorney work to enforce is not included in our Start-Up Package.

**The point is your trademarks have great value to your company.** When you have a trademark you are accepting the duties and obligations of enforcement. If you neglect, then you slowly lose rights against infringers. This is called acquiescence. If you allow too many company's to infringe, then you make it harder to enforce. When you ever buy or sell a business, a strong trademark shores up its goodwill.

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**Since we sent the following alert on April 30, 2023, we have had 10 more clients complain they too were contacted about the following scam. Here it is again.**

There is a new phone call trademark scam starting up - as if we needed another one.

The USPTO publishes a list of 85 documented scam examples. See - <https://www.uspto.gov/trademarks/protect/caution-misleading-notices>. (See more links about scams below.)

Personally, I'd add add all the trademark services and attorneys who do not do true comprehensive legal research as scams as well. On the border is LegalZoom who had tried to do comprehensive research before, but lately has dumbed down their Common Law searches to save \$. Most who don't try are definitely damaging their clients to make a quick buck. When you do as many trademarks as we do, you see all the people who have to change their business and product names because little to no research was ever done to avoid infringement and acceptance at the USPTO. Other firms have 10 years to move to cancel a registered trademark.

The new scam is done right after a new trademark is filed. The caller id spoofs the USPTO main phone #. The caller says they a USPTO trademark attorney. They say they will approve their trademark application for \$225, then the TM symbol can be used right away. They ask for a credit card payment on the spot to compete the scam.

One of our clients alerted us to this event. I reached out to Jason Lott, one of our contacts at the USPTO. Here's our LinkedIn exchange:

- **WEDNESDAY View Chris' profile**
- **Chris DeMassa** 3:28 PM
- Hi Jason, hope you are doing well. The person I was referring to above, in Sept, said she did not want to cooperate in providing any more details.
- 
- Today, I have another one. A client of ours who just filed April 2 just told me he has received 2 scam overtures. They seem very aggressive given he just filed a few weeks ago. One was the WTR \$1420 offer to publish in their directory. Isn't that World Trade Review? Our client is sending a copy.
- 
- The alarming one was a call he received from someone saying he was from the USPTO. The # on caller ID was 571-272-1000. Obviously a spoof #! They told our client they'd approve their trademark application for \$225, then he could use the TM symbol. Our client applied for a service mark in Class 42. Chase Bank flagged it as a possible fraud for 3 days, until our client approved it a few hours ago. I happened to call him about another trademark he had wanted.
- 
- Have you heard of these new fraud efforts?
- Usually I have only seen trademark renewals targeted.
- 
- Thank you!
- Chris 650-948-0530 -or- Zoom Anytime @ <https://bit.ly/TradeMarkZoomMeeting>

- **Chris DeMassa** 5:19 PM

## 042623 - xxxxxxxx - WTP scam letter.pdf

- Hi Jason. see attached. The WTP scam letter. Chris 650-948-0530
- 
- **THURSDAY Jason Lott sent the following message at 3:38 PM**
- **Jason Lott** 3:38 PM
- Yeah, it's getting really bad out there. We actually just had a scam awareness webinar today trying to get the word out about these scams. <https://www.uspto.gov/about-us/events/trademark-scams-how-avoid-them-and-what-do-if-you-get-fooled>
- 
- The phone spoofing one is fairly new, but has been circulating for a bit. <https://www.uspto.gov/trademarks/protect/spoofing-phone-numbers>
- 
- The WTP scam is older, but they might be using a new address. You can see PDFs of all the scam letters we've collected over the years (including two from WTP) on our "Caution: Scam alert" page: <https://www.uspto.gov/trademarks/protect/caution-misleading-notices>
- 
- It's good you're keeping an eye out for your clients. If it's helpful, be sure to direct them to our "Protect against trademark scams"



page: <https://www.uspto.gov/trademarks/protect>. There's lots of good information there.

- 
- All the best!

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This still is the best trademark video ever. Even if you have seen it before, take a look again. NOTHING is more important for your business than your intellectual property!

**Crash Course Trademark Primer Video:**

Trademarks and Avoiding Consumer Confusion: Crash Course Intellectual Property #5  
<https://www.youtube.com/watch?v=3gWaAJR5L18>

We have been using this copy for over 20 years:

***Comprehensive legal I.P. research is needed to make sure your trade name is LEGALLY CLEAR, before opening, before expansion, before incorporation or before designing your logo. Similarities in sound, appearance and meaning affect legal availability too.***

Talk to us!

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***July 31, 2023 was our 31 Year Anniversary!***

FACT - TradeMark Express has not had a final refusal at the USPTO in 15 years. We have never had a refusal in Canada, or any other country ever - in 30 years. Our work, and your heeding the advice of our network of 10 trademark attorneys has added up to ZERO trademark filing refusals at CIPO and the USPTO since 2008.

We wouldn't be the oldest, most successful trademarking service in North America without your business.

We also seem to be the last trademark service including some inexperienced trademark attorneys, who believe in ACTUAL COMPREHENSIVE legal research to determine if your trademark is LEGALLY CLEAR, before use and before filing any trademark application - just like the USPTO expects. Yes, this legal research work is needed - even if not trademarking. Trademarking is advantageous, but every mark must be LEGALLY CLEAR, based on trademark law.

IF a comprehensive clearance legal research report isn't 600-800 pages, then it simply is not done. When enough research strategies are done correctly, and enough databases are correctly accessed, then and only then will there be a sizable enough report to prove if any given mark is LEGALLY CLEAR or not.

The problem for most firms is that they rely way too heavily upon an exact name search on the Internet, and maybe a direct hit search on the CIPO or USPTO web sites.

They may have been infringing upon some other firms rights in the first place because comprehensive clearance legal research wasn't run before first use, or business start-up. I believe a vast majority of small businesses are totally unaware of the risk they take when they do not do a full legal search.

At a time when MANY competitors and attorneys are shying away from doing comprehensive clearance research, from what used to be a 100% practice in 2010, TradeMark Express has chosen to increase its talent in this critical area.

Additionally, we will continue to call out the negligent competitors who sell trademark "application only" services, based on light Google and direct hit TESS searches, including unethical attorneys who do not keep the promise to their clients to protect their best interests. Former USPTO Commissioner David Gooder called these people "trademark mills", who "damage" their clients.

It is wonderful to come to work without fear of an angry phone call when a trademark is refused, like our competitors tolerate every day just for their quick application only sales. BEWARE of "TRADEMARK MILLS", as described by USPTO Commissioner David Gooder, on a conference call with me on June 11, 2021.

Thank you! Chris DeMassa 650-948-0530 / Marcela & Erica 202-496-1600 / Heather 714-401-3030

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## Contact Us - Call - Anytime Zoom - Email



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***Since 1992***

**Contact**



Us

We are rated 4.9 out of 5



★ Trustpilot



Accredited Since: 6/1/1998

Years in Business: 29



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