



## United States Patent and Trademark Office

Office of the General Counsel  
Office of the Solicitor

June 9, 2023

VIA ECF

The Honorable Jarrett B. Perlow  
Acting Clerk of Court  
United States Court of Appeals for the Federal Circuit  
717 Madison Place, NW  
Washington, DC 20005

**Re: In re Chestek PLLC, Appeal No. 22-1843**

Dear Mr. Perlow:

Appellee, Director of the United States Patent and Trademark Office (“USPTO”), submits this letter to inform the Court that, after filing its brief, the USPTO became aware of a data security incident that rendered inaccurate certain, non-material statements in its brief concerning the availability of domicile address information in USPTO systems. The subject representations, discussed below, do not form the substantive basis for the USPTO’s defense of the Trademark Trial and Appeal Board’s (“TTAB”) decision, nor does the correction of the representations call the TTAB’s decision into question. Nevertheless, having been made aware that the incident, the USPTO wishes to inform the Court of the issue to correct the record.

In its brief, the USPTO represented that a February 2020 Systems of Records Notice “specifies that the USPTO will not make domicile address information publicly available if it is entered in the appropriate form field or requested to be hidden from public view.” Dir. Br. at 10. The USPTO further explained if certain forms are used by a trademark applicant or filer to provide a separate domicile address, the address “will not be publicly viewable and also will not be retrievable in bulk-data downloads.” *Id.*

On February 24, 2023, the USPTO discovered through its own checks of its systems that domicile address information was accessible through some application programming interfaces (“APIs”) of the Trademark Status and Document Review (“TSDR”) system. These APIs allow different software applications in and outside the USPTO to programmatically retrieve data. Further investigation showed that the same domicile addresses also appeared in bulk data products found on <https://bulkdata.uspto.gov>. These bulk data files are typically used in academic and economic research. At no point did the impacted domicile addresses turn up in regular TSDR searches on the USPTO website.

Today, after completing its investigation, the USPTO sent a notice to the affected trademark parties explaining what happened and what the USPTO did to address the issue. A copy of the notice is attached to this letter.

Upon discovering that domicile addresses were available in some APIs and in bulk data, the USPTO immediately took steps to investigate and address the issue. As of April 1, 2023, domicile addresses were properly masked and all vulnerabilities have been corrected. Thus, the representations in the USPTO's brief are accurate as of that date, but, unbeknownst to the USPTO, were not accurate as to the time period discussed in the attached notice.

The USPTO respectfully submits that the TTAB's decision should be affirmed for all of the reasons set forth in the USPTO's brief.

Respectfully submitted,

/s/ Mary Beth Walker

THOMAS W. KRAUSE  
Solicitor  
FARHEENA Y. RASHEED  
Deputy Solicitor  
CHRISTINA J. HIEBER  
Senior Counsel for Trademark Policy and  
Litigation  
MARY BETH WALKER  
Associate Solicitor

Mail Stop 8, P.O. Box 1450  
Alexandria, Virginia 22313-1450  
(571) 272-9035

*Attorneys for the Director of the  
United States Patent and Trademark Office*

Enclosure: Notice of Data Security Incident

# USPTO Alert



## Notice of Data Security Incident

Dear valued customer,

The United States Patent and Trademark Office (USPTO) recently identified a data security incident that impacted domicile information in certain trademark filings between February 2020 and March 2023. You are receiving this notice because your email address is listed as the contact for the trademark owner in at least one of these applications.

There is no action you need to take with the USPTO, but in the interest of full transparency, we are bringing this matter to your attention.

## What happened and what information was involved?

U.S. trademark law requires applicants to include their domicile addresses in trademark applications. This helps us determine if applicants are required to hire a U.S.-licensed attorney to represent them before the USPTO. The U.S. counsel requirement is an important tool in combatting fraudulent trademark filing activity.

On February 24, 2023, we discovered that domicile addresses that should have been hidden from public view appeared in records retrieved through some application programming interfaces (APIs) of the Trademark Status and Document Review system (TSDR). These APIs allow different software applications in and outside the USPTO to programmatically retrieve data.

Further investigation showed that the same domicile addresses also appeared in bulk data products found on <https://bulkdata.uspto.gov>. These data files are typically used in academic and economic research.

At no point did the impacted domicile addresses turn up in regular TSDR searches on the USPTO website.

Importantly, this incident was not the result of malicious activity, and we have no reason to believe that your domicile information has been misused. Nevertheless, we take all data security concerns seriously, and we apologize for our mistake.

## How we addressed the issue

When we discovered the issue, we blocked access to all USPTO non-critical APIs and took down the impacted bulk data products until a permanent fix could be implemented.

By March 31, 2023, we had fully fixed the issue by:

- Replacing the affected bulk data files with new versions that omit domicile addresses
- Identifying the data masking deficiency that caused the exposures, correcting it, and successfully testing the fix

Since April 1, 2023, domicile addresses are properly masked, and all vulnerabilities have been corrected.

## What you should be aware of

We will not send additional notices or communications regarding this incident. If you're contacted about the incident by anyone you believe is impersonating the USPTO or is otherwise trying to scam you, please report it to [TMdomicile@uspto.gov](mailto:TMdomicile@uspto.gov).

## For more information

If you have any questions or concerns, please email [TMdomicile@uspto.gov](mailto:TMdomicile@uspto.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Jamie Holcombe". The signature is stylized and written over a horizontal line.

Jamie Holcombe  
USPTO Chief Information Officer and Chief Privacy Officer