

Before The
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

Complaint on Electronic Postmark®

Docket No. C2004-2

RESPONSES OF DIGISTAMP WITNESS RICK BORGERS TO
AUTHENTIDATE'S FIRST SET OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS
(AUTH/DS T1-1,5-8(a),11)
(June 9, 2006)

Digistamp witness Rick Borgers hereby files his responses to the following interrogatories and request for production of documents of Authentidate: AUTH/DS T1-1-11, filed on May 26, 2006. The interrogatories are stated verbatim and are followed by the responses.

Respectfully submitted,

Rick Borgers
Lead Technologist, CEO
DigiStamp, Inc.
<http://www.digistamp.com>

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AUTH/DS-T1-1. Describe the e-TimeStamp product. Please explain fully.

a. Does DigiStamp hold any patents related to the e-TimeStamp product? If so, provide the patent number.

RESPONSE:

DigiStamp provides an extensive website at <http://www.digistamp.com> that

describes the product. Specifically the page

<http://www.digistamp.com/timestamp.htm> then the title *How a digital time stamp*

works. There is a detailed technical description of the time stamp service in the

Internet Engineering Task Force document titled *Internet X.509 Public Key*

Infrastructure Time-Stamp Protocol (TSP) RFC 3161 August 2001 (copy is at:

<http://www.ietf.org/rfc/rfc3161.txt>).

a. DigiStamp does not hold any patents related to the e-TimeStamp product.

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AUTH/DS T1-5. Identify each customer that switched from using DigiStamp's e-TimeStamp to USPS' Electronic Postmark Service (EPM). Please explain fully.

DigiStamp does not know the answer to this question. In general, I do not think most merchants could answer this question. As an analogy: as a shoe repair shop owner, I would not know if a customer did not return because they took their business elsewhere; or the customer has not had the need for a shoe repair.

To overcome the inherent problem with answering this question, consider a more feasible approach: the Postal Service supplies a list of their customers so that DigiStamp can identify its customers from that reduced domain of EPM customers. This would be the list that Authentidate seeks.

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AUTH/DS-T1-6. Identify each prospective customer of DigiStamp's that became a user of the EPM instead of the DigiStamp e-TimeStamp product. Please explain fully.

a. For each such prospective customer, identify who DigiStamp had contact with at that prospective customer and when such contact was made.

DigiStamp does not know the answer to this question. For example, DigiStamp does not have information that allows us to count these events: a person visits the DigiStamp website, then visits the Postal Service's website and then chooses to sign-up for an EPM account. In general, I don't think any merchant could know the list of "prospective customers"; those that considered using their service.

To overcome the inherent problem in answering this question, consider a more feasible approach: the Postal Service supplies a list of their customers so that DigiStamp can identify those that may have contacted DigiStamp directly. This would be a portion of the list that Authentidate seeks.

As an alternative, consider that at a summary level, DigiStamp's transaction volumes increased annually from 1999 to 2003, with a 200% increase in 2003. In 2004 transaction volumes decreased for the first time and growth has stalled since then. Given that the EPM rollout was in early 2004 then Authentidate may be able to infer an answer to their question.

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AUTH/DS-T1-7. Describe your understanding of how the EPM works. Please explain fully.

a. Describe your understanding of how the EPM is being used in the marketplace.

RESPONSE:

I understand that the EPM works as described on this Postal Service website page: <http://www.uspsepm.com/info/about.adate>

A more technical description, my understanding is that the EPM uses a time stamp as is defined in the Internet Engineering Task Force document titled *Internet X.509 Public Key Infrastructure Time-Stamp Protocol (TSP) RFC 3161* August 2001 (a copy is at: <http://www.ietf.org/rfc/rfc3161.txt>).

a. My understanding of how the EPM is being used in the marketplace is based primarily on the Authentidate press releases and other public descriptions about EPM customers. In each document I've submitted in this docket, there are examples of EPM marketing materials and customer usage: In my testimony, on page 6, example of the Social Security Administration's Secure Transport Service; on page 7, states using the EPM to replace certified mail; at the bottom of page 10 and top of page 11 there are additional examples of EPM usage in the marketplace. I give additional information about the Liberty Mutual customer in my Postal Service interrogatory response USPS/DS-T1-5.

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AUTH/DS-T1-8. In how many time stamp transactions has DigiStamp's product been used? Please explain fully.

- a. What percentage of such transactions were communications?
- b. What was the total revenue derived from such transactions?

RESPONSE:

Objections filed to the predicate question (concerning the number of Digistamp time transactions), as well as item "b."

- a. As stated in my testimony, the percentage of transactions that involve communication is more than 90 percent at DigiStamp (unnumbered line 22 of page 8).

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AUTH/DS-T1-11. Identify each time that DigiStamp has demonstrated through a transmission to the USPS or a governmental identity that a person can “get a certified receipt from the USPS for a document that, in fact, was never received.” Please explain fully.

a. For each transmission, describe (i) the date of the transmission, (ii) the recipient of the transmission and (iii) what DigiStamp did to create the false certified receipt.

b. Have you or anyone else at DigiStamp ever attempted to obtain a certified receipt for a document that was, in fact, never received and failed to obtain the certified receipt?

RESPONSE:

a. For each transmission, what DigiStamp did to create the false certified receipt is described in this Docket named DIGISTAMP RESPONSE TO ORDER NO. 1455 (March 20, 2006). See pages 5 and 6 for the section titled “Here are the simple instructions to create an acknowledgement for a document that is not received”.

As background for Authentidate’s question, in a press release on May 17, 2005 the public was assured that the Postal Service had reviewed and approved this flawed receipt capability:

May 17, 2005 Authentidate Holding Corp. (NASDAQ: ADAT) today announced that the United States Postal Service has approved an updated version of the USPS Electronic Postmark(R) (USPS EPM) Service. The new version offers enhancements including an optional return-receipt capability that allows users to track delivery and acceptance of electronic content.

I note that Authentidate’s question is limited to examples of transmissions to “the USPS or a governmental identity”. There were 2 transmissions to people in government positions and about 20 others in non-government positions. The 2 government transmissions:

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1. A Postal Service “certified electronic communication”¹ email was sent using the USPS EPM service to Shelley Dreifuss, Director, Office of the Consumer Advocate at the Postal Rate Commission on 4/29/2008 to her email address dreifusss@prc.gov. This transmission is described in DIGISTAMP RESPONSE TO ORDER NO. 1455 (March 20, 2006) on page 5.

I was able to confirm by a phone call with Shelley Dreifuss that she had not actually opened or displayed the content of the Microsoft Word document that was sent to her by me using the USPS EPM service. But, I was easily able to create a certified receipt that is digitally signed by the Postal Service that said that the Word document that I emailed was acknowledged and then opened or displayed by her. If you would like to see Shelley’s false receipt, here is the Word document with the digitally signed receipt (www.digistamp.com/epm/ShelleyTest.doc), and you will need the USPS EPM Microsoft Word plug-in from the Postal Service web site www.uspsepm.com .

2. A Postal Service “certified electronic communication” email was sent using the USPS EPM service to Maryland Delegate Jeannie Haddaway on 05/08/2005 to her email address: jeannie_haddaway@house.state.md.us Additionally, at about the same time I sent another email to that same address not using the EPM service and got a response from postmaster@mail.state.md.us saying that the “User mailbox exceeds allowed size”. This means that no emails were being delivered to this email address. Even though, by using USPS EPM service I was easily able to get a digitally signed receipt from the United States Postal Service that falsely states:

¹ Postal Service web site at <https://www.uspsepm.com/info/main.adate>

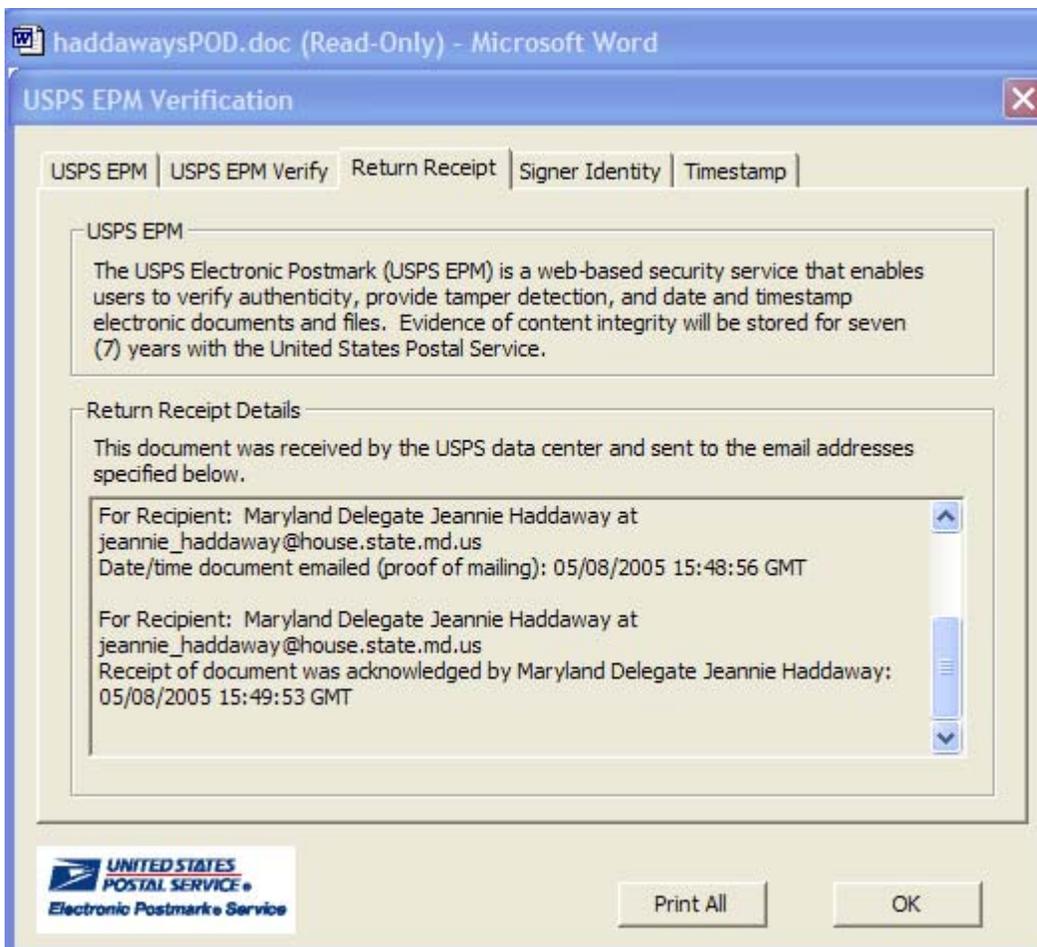
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You requested a return receipt notice from the United States Postal Service when your document was electronically delivered (opened or displayed).

Document Sender: Rick Borgers (rick.borgers@digistamp.com)

Document Recipient: Maryland Delegate Jeannie Haddaway (jeannie_haddaway@house.state.md.us)

Given that her mailbox was full and did not accept emails then clearly she had no opportunity to actually receive the email. The display of the signed receipt looks like this:



If you would like to see Delegate Haddaway's false receipt, here is the Word document with the digitally signed proof-of-delivery receipt (www.digistamp.com/epm/haddawaysPOD.doc), and you will need the USPS

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EPM Microsoft Word plug-in from the Postal Service web site

www.uspsepm.com .

As additional background to fully answer Authentidate's question, Maureen O'Gara, G2 News Editor, published an article titled "Rival Claims USPS-Authentidate EPM Upgrade Flawed" on May 20, 2005. I spoke with her about research for the article and she described to me that she had spoken with the Postal Service and Authentidate EPM support team members and they understood how I created the false receipts. I did another test about 3 months later and the flaw still existed.

b. No, to the best of my knowledge, no one at DigiStamp has tested the scenario that you describe in your question.