

## Privatizing Trademarks

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While trademarks are designed to promote competition and efficiency in the marketplace, the current system of trademark *registration* is run by the PTO monopolistically and inefficiently. The average length of time that it takes for the PTO to process a trademark application is fifteen months, and even applications that do not encounter legal issues often take about a year. As a result, trademark applicants risk investing a lot of money into a mark to find out quite a while later that the PTO will not register it. This Article considers a possible solution – a system of privatized trademark registration. The system would contain several efficiency-enhancing features: 1) Multiple “entities” serving as registrars. Various private entities would compete with each other and register trademarks while sharing one database for pending and registered trademarks. Market mechanisms would thus incentivize speedier and more efficient registrations. 2) Optional expedited process. Different entities could charge different sums of money calibrated to the speed with which a trademark applicant wants to use his mark. 3) Private quality control mechanisms. To ensure the quality of the registration process, one measure would be the introduction of a rating system through which clients could provide feedback after registration and years down the line. An entity providing ineffective services or issuing trademarks that later faced serious litigation would earn poor ratings while a reliable entity would fare well.

To explore the viability of trademark privatization, the Article relies on both the theoretical privatization literature and practical examples in which government exclusivity has been removed from intellectual property (and other) decision-making. By challenging assumptions about the status quo surrounding the PTO’s monopoly, the author seeks to open a more general discussion about improvements to the current trademark registration system.