DILUTION AT THE U.S. TRADEMARK OFFICE

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This project examines whether, and to what extent, federal trademark dilution law has affected registration practice and outcomes at the U.S. Patent and Trademark Office. Using the PTO’s recently released bulk trademark applications and assignments data, I hope to determine whether opposition and registration rates for potentially dilutive marks differ from those of other marks, and whether the existence of any such difference has changed over time as federal dilution law was enacted and developed.

As a proxy for potentially dilutive marks, I will analyze registration rates on applications for word marks that meet the following criteria:

- The applied-for word mark is identical to a previously registered and still-live word mark;
- The previously registered word mark is owned by someone other than the applicant; and
- The previously registered word mark covers a different class of goods than the application in question.

My analysis will compare both opposition rates and grant rates for applications that meet all three of these criteria against opposition rates and grant rates for applications that meet the first two criteria but fail the third criteria (a proxy for confusing marks), as well as applications for word marks that do not meet any of the three criteria (a control group). Using a difference-in-differences methodology, I will determine whether the enactment of federal trademark dilution rights coincides with any changes in either trademark owner behavior (in terms of the decision whether to file an opposition) or PTO behavior (in terms of grant rates).