

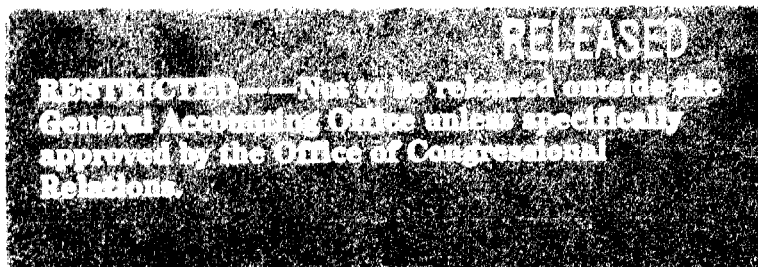
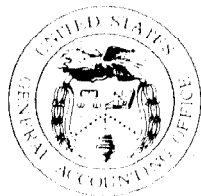
GAO

Report to the Chairman, Subcommittee
on Intellectual Property and Judicial
Administration, Committee on the
Judiciary, House of Representatives

September 1991

TRADEMARK
AUTOMATION

Search System
Improved But Funding
for Replacement
Should Be Deferred





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United States
General Accounting Office
Washington, D.C. 20548

Information Management and
Technology Division

B-245111

September 11, 1991

The Honorable William J. Hughes
Chairman, Subcommittee on
Intellectual Property and
Judicial Administration
Committee on the Judiciary
House of Representatives

Dear Mr. Chairman:

In February 1991 you requested that we obtain information on the Patent and Trademark Office's (PTO) actions and plans to improve and replace T-Search, an automated system used by the agency's attorneys and the public to determine if an applicant's trademark is confusingly similar to pending or registered trademarks. You also asked that we determine whether PTO had justification for the \$4.7 million requested in its fiscal year 1992 budget to further improve T-Search and acquire a replacement system. Last year we reported to you on users' dissatisfaction with several aspects of T-Search.¹ Users complained about slow search times, limited access to the system, and data inaccuracies.

As requested, this report discusses PTO's progress in improving current system performance to address users' complaints and discusses PTO's efforts to acquire a replacement system in the mid-1990s. On April 30, 1991, we briefed your office on our preliminary findings. As agreed with your office, this report updates that briefing with information available through July 1991.

Results in Brief

PTO has acted to address users' complaints by improving the existing T-Search system and users are pleased with the results. Trademark searches are now being completed about 20 percent faster than last year and access to the system and the hours of availability have increased. Further, PTO has initiated a series of projects to improve the accuracy and completeness of information in the system's data base. PTO has requested \$1.4 million in its budget proposal for fiscal year 1992 to upgrade T-Search. However, PTO funded the system upgrade effort during fiscal year 1991.

¹Trademark Automation: Information on System Problems and Planned Improvements (GAO/IMTEC-91-1, Oct. 9, 1990).

At the time of our previous report, PTO stated that it would issue a request for proposals for a replacement system in the spring of 1991. The T-Search replacement effort has been delayed by about 6 months because of slippage in completing studies needed to justify the request for proposals. PTO's budget proposal for fiscal year 1992 includes \$3.3 million to begin developing the replacement system. PTO officials stated that it would be fiscal year 1993 before PTO obligates any of these funds.

Background

Trademarks are words and designs used by manufacturers and merchants to identify their goods or services and distinguish them from those manufactured or sold by others. PTO's Trademark Office examines trademark applications to see that they comply with statutory requirements to prevent unfair competition and consumer deception. If approved, the trademarks are registered to help protect their owners' rights to them.

In 1980, the Congress directed PTO to identify its automation needs and, if necessary, develop an officewide automation system. PTO developed T-Search, an automated search and retrieval system intended to eventually replace the office's trademark registration paper files, which currently contain 1 million trademark records. PTO's examining attorneys and the public use T-Search to determine if an applicant's trademark is confusingly similar to pending or registered trademarks.

Since 1989, T-Search has been criticized by PTO examining attorneys and the public. Our previous report noted that PTO's examining attorneys and public searchers were dissatisfied with several aspects of the T-Search system. Users said it took too long to perform searches on the system, access to the system was constrained, and the data was often inaccurate and unreliable. The United States Trademark Association—an association representing trademark owners—sent a detailed critique of the system's performance to the Commissioner of Patents and Trademarks. During a public hearing before the Commissioner in 1989, some public users complained about slow search times and questioned the system's reliability.

At the time of our last report, PTO was planning to make short-term improvements to T-Search. The agency was also defining requirements for a replacement system that is to be developed in the mid-1990s to take advantage of advances in technology.

Progress in Improving T-Search

PTO officials have improved the system's search time and availability by moving T-Search to a different mainframe computer in January 1991. To determine the effect of the move on the mainframe, we examined monthly search time statistics for October 1990 (the time of our previous report) to June 1991. We also reviewed PTO's report summarizing a system performance test conducted shortly after the move to the mainframe. The move reduced the average time it takes to complete a search from about 17 minutes to about 14 minutes. This met the agency's goal of a 16-minute average search time for the system. The move also increased the number of users who can use the system at the same time from 43 to 68. To further improve access to T-Search, PTO officials extended the system's hours of operation by 2 hours each day and relocated terminals from individual offices into common areas so they can be shared by more people.

To improve the quality of information in the data base, PTO has instituted standards for data entry and improved the training provided to data entry staff. PTO also has several ongoing projects to correct errors in the data base and improve automated edits used to find data entry errors. PTO officials expect to complete these projects by September 1993. As of July 1991, PTO officials were unable to assess whether these projects have improved the quality of the data base because the agency had yet to perform any studies to measure this. According to the Deputy Assistant Commissioner for Trademarks, PTO intends to perform data quality studies when all the data base improvement projects are completed.

User satisfaction with the T-Search system is increasing. The Director of PTO's Trademark Examining Operations, who manages PTO's examining attorneys, indicated that attorneys are pleased with the recent improvements. In addition, the Director of PTO's Public Search Services Division said that public users have complained less about the system. Further, the United States Trademark Association said that search time has improved noticeably as a result of the move to the different mainframe.

\$1.4-Million Enhancement Project Already Funded

PTO's proposed budget request for fiscal year 1992 includes \$1.4 million to upgrade existing T-Search terminals and printers. Agency officials were concerned that the system's aging equipment could fail before the replacement system is installed. After the budget request was submitted to the Congress, PTO officials decided to fund this project during fiscal

year 1991 using carryover funds.² As a result, PTO's fiscal year 1992 budget request overstates the amount needed for T-Search enhancements. We concluded that PTO's fiscal year 1992 budget request could be reduced by \$1.4 million with no adverse affect on the T-Search enhancement effort.

Studies and Analyses Need to Be Completed Before Acquiring Replacement System

PTO has decided to replace the T-Search system because the agency believes a new system using modern technology will more effectively and efficiently meet user needs. In October 1990, PTO reported that it would issue a request for proposals in the spring of 1991 to acquire a new system after it finalized the functional requirements document and completed a feasibility study, cost/benefit analysis, acquisition plan, and market survey. As of July 1991, PTO had not yet prepared these documents. A PTO official responsible for managing these efforts attributed the delay to PTO's failure to commit the necessary staff resources. PTO officials now expect completion of these documents in time to issue a request for proposals in the fall of 1991.

PTO, in its fiscal year 1992 budget, requested \$3.3 million to hire a contractor to begin initial design and development of a replacement system. However, PTO officials said that it may be fiscal year 1993 before any of the funds requested for the replacement system in PTO's fiscal year 1992 budget request can be obligated. The Deputy Assistant Commissioner for Trademarks stated that the agency does not intend to obligate any funds for the replacement effort without the studies and analyses required to justify replacing the existing system. As a first step in completing these studies and analyses, PTO issued in July 1991, a request for an industry review of the agency's draft functional requirements document for the replacement system.

Conclusions

PTO has taken a number of actions to address the user complaints we previously reported. These actions appear to have minimized some of the earlier problems. However, the agency does not need the \$1.4 million it has requested in its fiscal year 1992 budget to further improve T-Search. Further, PTO has yet to complete the studies and analyses needed

²PTO is authorized to carry over unobligated funds from year to year based on a no-year authorization approved by the Congress. The purpose of the carryover is to provide funding flexibility for PTO's operations.

to justify the \$3.3 million requested for the T-Search replacement project. Without these studies and analyses the benefits of replacing the system cannot be determined.

Matters for Congressional Consideration

The Committee may wish to reduce PTO's budget request for fiscal year 1992 by \$1.4 million, the amount PTO requested to upgrade T-Search. The Committee may also wish to defer the \$3.3 million requested for the replacement system until PTO provides the Committee with the analyses and studies needed to justify replacing T-Search.

Recommendations

We recommend that the Secretary of Commerce direct the Commissioner of Patents and Trademarks to (1) ensure PTO completes the analyses and studies needed to justify T-Search replacement projects, and (2) provide the results of these analyses and studies to the Committee so it will have information on which to evaluate PTO's need for increased computer spending authority for fiscal year 1992 and beyond.

Agency Comments

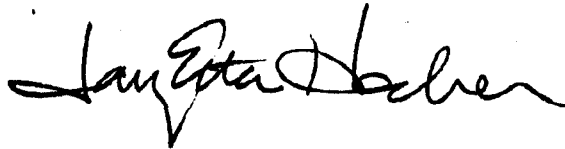
We discussed a draft of this report with PTO's Deputy Assistant Commissioners for Trademarks and Information Systems. They provided comments on its findings, conclusions, and recommendations. These officials agreed that PTO does not need the \$1.4 million requested in the agency's fiscal year 1992 budget request for T-Search enhancements. The officials also agreed to complete the studies and analyses to support the need for a replacement system and the specific requirements that should be met before embarking on the development of any replacement system.

We conducted our review between March and July 1991 in accordance with generally accepted government auditing standards. Our work was performed at PTO's national office in Arlington, Virginia. Further information on our objectives, scope, and methodology is presented in appendix I.

As arranged with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days after the date of this letter. We will then send copies to interested congressional committees; the Secretary of Commerce; the Commissioner of Patents and Trademarks; the Director, Office of Management and Budget; the Administrator of General Services; and other interested parties.

Should you have any questions about this report or require additional information, please contact me at (202) 275-9675. Major contributors to this report are listed in appendix II.

Sincerely yours,



JayEtta Z. Hecker
Director
Resources, Community, and Economic
Development Information Systems

Objectives, Scope, and Methodology

At the request of the Chairman of the Subcommittee on Intellectual Property and Judicial Administration, we followed up on our October 1990 review of T-Search in which we identified users' complaints about the system and obtained information on PTO's actions and plans to improve the system. As agreed, our objectives in this review were to determine PTO's progress in addressing users' complaints by improving system performance and evaluate the agency's plans for acquiring a replacement system. At your request, we also examined PTO's fiscal year 1992 budget request of \$4.7 million for efforts to improve T-Search and acquire a replacement system.

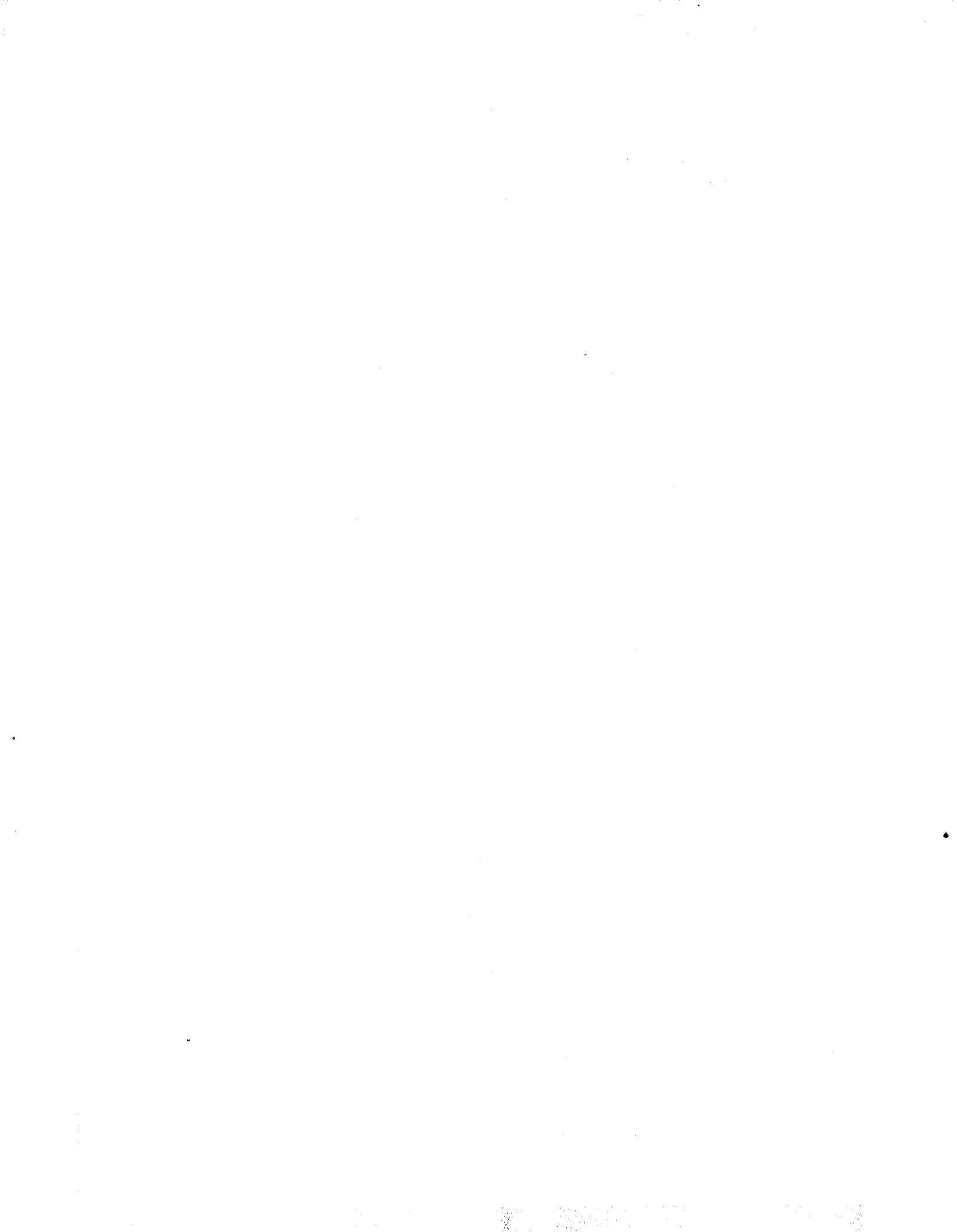
To determine PTO's progress in improving the existing system's performance, we examined monthly search time statistics collected by PTO's Office of the Assistant Commissioner for Information Systems. In addition, we interviewed officials in PTO's Offices of the Assistant Commissioner for Information Systems and the Assistant Commissioner for Trademarks to determine what progress had been made in planning for and implementing improvements to the current system. We also interviewed contractor staff on their involvement in improving T-Search performance. To obtain users' views on the effectiveness of actions taken by PTO, we interviewed examining attorneys and their supervisors, talked to PTO's Director for Public Search Services and the United States Trademark Association's Representative for Government Relations, and attended a meeting of the Trademark Affairs Public Advisory Committee.

To determine PTO's progress in acquiring a replacement system, we interviewed PTO's Deputy Assistant Commissioners for Trademarks and Information Systems, the Director of PTO's Long-Range Planning Office, and the Director of PTO's Budget Office. However, we could not review plans for acquiring the replacement system for they had yet to be completed. We met with PTO program and management officials to obtain documents supporting the agency's budget proposal for fiscal year 1992 and confirm our understanding of the underlying need for and justification of individual trademark automation projects.

Major Contributors to This Report

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