

Patent Marking Goes Virtual: Are You Ready?

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<http://www.eyeonip.net/>

As part of efforts to improve the [patent process](#), the Leahy-Smith America Invents Act modernizes the ways that patent holders may mark their products. It specifically allows patent owners to mark their products with an Internet address that provides the patent numbers associated with the product.

The Importance of Patent Marking

Patent marking is important because, without it, a patent holder may have a more difficult time proving infringement. Under 35 U.S.C. 287 (a), if a patent holder fails to properly mark an apparatus or system, “no damages shall be recovered by the patentee in any action of infringement, except on proof that the infringer was notified of the infringement and continued to infringe thereafter, in which event damages may be recovered only for the infringement occurring after such notice.”

The Practice of Patent Marking

Under the existing statute, patentees marked their products by fixing on the article the word “patent” or the abbreviation “pat.” together with the number of the patent. If this is not easily done, notice could be provided by fixing a label containing a similar notice to the article or to the package containing the article.

The AIA allows a patent holder to virtually mark the article “by fixing on the article the word ‘patent’ or the abbreviation ‘pat.’ together with an address of a posting on the Internet, accessible to the public without charge for accessing the address, that associates the patented article with the number of the patent.”

As the amended statute highlights, listing patents on a company’s website, by itself, is not sufficient to comply with the virtual marking permitted under § 287(a). A patent holder must still mark its product with the word “patent” in order to be afforded protection under the law.

How Can We Help?

As highlighted above, patent marking is an important part of the patent process. In fact, it is integral to protecting your rights. We work with clients in all phases of patent procurement, including patent marking. Contact us today to learn more about how virtual marking may help streamline your patent process.

About Sheldon Mak & Anderson

At [Sheldon Mak & Anderson](#), we recognize that innovation is your competitive edge – and it needs protection. As a full-service intellectual property firm with more than two decades of experience, we provide local, regional, national, and international legal services in the following areas: patents, trademarks, copyrights, trade secrets, IP

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