

From: Emily Hinkens [EMAIL ADDRESS REDACTED]
Sent: Tuesday, July 08, 2014 9:40 AM
To: Virtual Marking
Subject: Marking of Products Covered by Pending Applications

One issue I have run into is whether a website may list pending application serial numbers and/or application publication numbers along with issued patents. Can the product associated with the pending application still be marked "Pat. www.company.com/patents" or is this attempting to deceive the public because use of the word "Pat." could be seen as implying a patent has issued? On the other hand, is intent to deceive negated by associating the article with a patent application publication number on the website?

It does not seem ideal to have to mark "Pat. Pending www.company.com/patents" as this would then require a change when the patent issues to "Pat. www.company.com/patents", defeating the expediency purpose of the virtual marking statute.

EMILY M. HINKENS

Attorney



Andrus Intellectual Property Law, LLP
100 East Wisconsin Avenue, Suite 1100
Milwaukee, WI 53202
p 414.271.7590 | f 414.271.5770
e [EMAIL ADDRESS REDACTED]