

Patent Marking In The UK: 6 Things You Should Know

Background



To maximise the prospects of being awarded financial remedies in the UK for patent infringement, it is essential to mark the corresponding product in such a way that an infringer could not claim that it was unaware of the existence of patent rights.

Below, we highlight **6 key things you should know about patent marking** to protect your rights in the UK.

1. It can act as a deterrent

If a competitor has explicit knowledge of the existence of patent rights then this can reduce the likelihood of copying.

2. False marking is a criminal offence

If a false claim is made that a product is patented, or a patent has been applied for, this is a criminal offence. This is the case even if the false marking is due to the fact that a patent has lapsed.

3. The number(s) needs to be shown

It is not sufficient to simply use the term "Patented" or "Patent Pending" without also indicating the relevant patent application number(s) or grant number(s).

We recommend using either "Patented #####" (where the corresponding patent(s) is granted) or "Patent Pending #####" (where the corresponding patent application(s) remains pending) and where ##### should be replaced with the number of the relevant patent application / published patent.



4. Virtual marking is possible

Until recently, it was a requirement for patent numbers to be physically applied to products. However, it is now possible to mark products with a publicly accessible website address which clearly links the patent rights to the relevant products.

This makes it easier to keep patent information up to date since it allows one webpage to be set up and updated on your website and listed on your products / literature rather than having to physically apply specific wording to each product (which can be especially difficult since patent numbers have a tendency to change over time).

Rather than simply listing all rights in a long list, it is also important to make sure that the relevant patents are clearly linked with the correct products - a good example of this can be found here: tivo.com/legal/patents

5. Different countries have different requirements

Although different countries have different requirements for patent marking, it is generally advisable to also adopt the above advice in respect of any foreign patent rights.

6. The number must be cross-referenced to the product

If you hold a number of different patent rights in respect of a number of different products then each patent right must be cross-referenced to its corresponding product(s).

Can we help you?

Please **contact Avir Patel** for further information or to arrange a free initial consultation.



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