

Patent Marking and Patent Pending

A patentee who makes or sells patented articles, or a person who does so for or under the patentee is required to mark the articles with the word “Patent” and the number of the patent.

The penalty for failure to mark is that the patentee may not recover damages from an infringer unless the infringer was duly notified of the infringement and continued to infringe after the notice.

The marking of an article as patented when it is not in fact patented is against the law and subjects the offender to a penalty.

Some persons mark articles sold with the terms “Patent Applied For” or “Patent Pending.” These phrases have no legal effect, but only give information that an application for patent has been filed in the USPTO.

The protection afforded by a patent does not start until the actual grant of the patent. False use of these phrases or their equivalent is prohibited.