

From: James W. Burnes [e-mail address redacted]
Sent: Tuesday, November 15, 2011 1:19 PM
To: ai_implementation
Subject: Virtual Marks

Hello,

I am inquiring to the application of virtual marks made available in Sec. 16 of the AIA. We are excited to see this option become available, but I am unable to find any guidelines to what the USPTO finds appropriate for the mark.

The quick questions I have are:

1. Would a domain mark such as "patent.companyname.com" be considered adequate marking or does the USPTO expect that a www.companyname.com/patent/ or www.companynamepatents.com address required?

Note: Web Addresses that do not include "www." work on all Internet browsers, but are not as common as www.domainname.suffix.

2. Can the company use a single mark for all products and patents, with the resulting page (such as patent.companyname.com) then having a searchable directory of all marks, listed by model number be acceptable? Or does the company have to list a specific URL for EACH mark such as "patent.companyname.com/modelx/" with all patent marks applicable to that mark?

It would seem inefficient for companies to have to specifically mark specific urls for every mark - as that would effectively be the same as using traditional mark

3. Could items that are patent pending be marked with the virtual mark (Such as patent.companyname.com) even if no live marks exist yet? IE, could the company go ahead and mark an item that is patent pending with their virtual mark such that if the USPTO approves the application, that patent could then be made live on the site and the product would already be adequately marked?

4. Could a company mark a product with their virtual mark (such as patent.companyname.com) (including patent pending items) and if no patents are accepted and thereby no patent protection offered, would that be considered false marking? (Even if the resulting web site page specifically states "this item has not current applicable patents.")

I look forward to any feedback on the above four questions you can offer.

Onward, upward,

- James

James W. Burnes
Principal, Senior Digital Strategist

Project Brilliant®