

Virtual Patent Marking



May 28, 2021

Jitsuro Morishita

Morgan Lewis

VIRTUAL PATENT MARKING BASICS

Morgan Lewis

35 U.S. Code § 287

Patentees, and persons making, offering for sale, or selling within the United States any patented article for or under them, or importing any patented article into the United States, may give notice to the public that the same is patented, either by fixing thereon the word "patent" or the abbreviation "pat.", together with the number of the patent...



35 U.S. Code § 287 (AIA addition)

...or by fixing thereon 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...



Virtual Patent Marking: P&G



Patent Marking

Patent Marking Search – All Brands

Click on a brand below to view products and related patent numbers.

Patent Marking Notification

This database includes patents linked to the corresponding P&G products. This database provides free public access to patent information for particular products. P&G does not mark all of its patents.

Difficulty in viewing the contents of this website may be due to browser incompatibility. Maintain optimal viewing by using an updated or alternative browser.

Search the database by clicking the link to the right.

All listed patents are US, United States utility patents, or USD, United States design patents.



All Brands










































Notice: P&G does not mark all of its patents. Please consult the product link to the right for patent marking status. By listing various patents in the database, P&G makes no admission that other relevant patents do not exist.

Virtual Patent Marking: P&G

P&G Patent Marking

Patent Marking Search – All Brands

Click on the PDF symbol next to the brand name to view products and related patent numbers. [Patent Marking Home](#)

Always 	Head & Shoulders 	Align 	Febreze 
Aussie 	Herbal Essences 	Ariel 	Gain 
Braun 	Ivory Snow 	Bold 	Joy 
Crest 	Olay 	Bounty 	Luls 
Gillette Body 	Old Spice 	Cascade 	Metamucil 
Gillette Disposables 	Oral-B 	Charmin 	Mr. Clean 
Gillette Fusion 	Pantene 	Cheer 	Pampers 
Gillette Fusion ProGlide 	Safeguard 	Comet 	Pepto-Bismol 
Gillette Fusion ProShield 	Secret 	Dash 	Prilosec 
GilletteLabs Heated Razor 	SK-II 	Dawn 	Puffs 
Gillette TREO 	Tampax 	Downy 	Swiffer 
Gillette Mach3 	Venus 	Dreft 	The Art of Shaving 
	Vidal Sassoon 	Era 	Tide 
			Vicks 

Notice: P&G does not mark all of its patents. Please consult the product links to the right for patent marking status. By listing various patents in the database, P&G makes no admission that other relevant patents do not exist.

 [Contact Us](#) | [Privacy](#) | [CA Privacy](#) | [Do Not Sell My Personal Information](#) | [Terms and Conditions](#) | [PG.com](#) | [Adchoices](#)

© 2021 Procter & Gamble. All rights reserved.

Virtual Patent Marking: P & G

United States Patent Marking effective from October 29, 2019 until this list is revised.

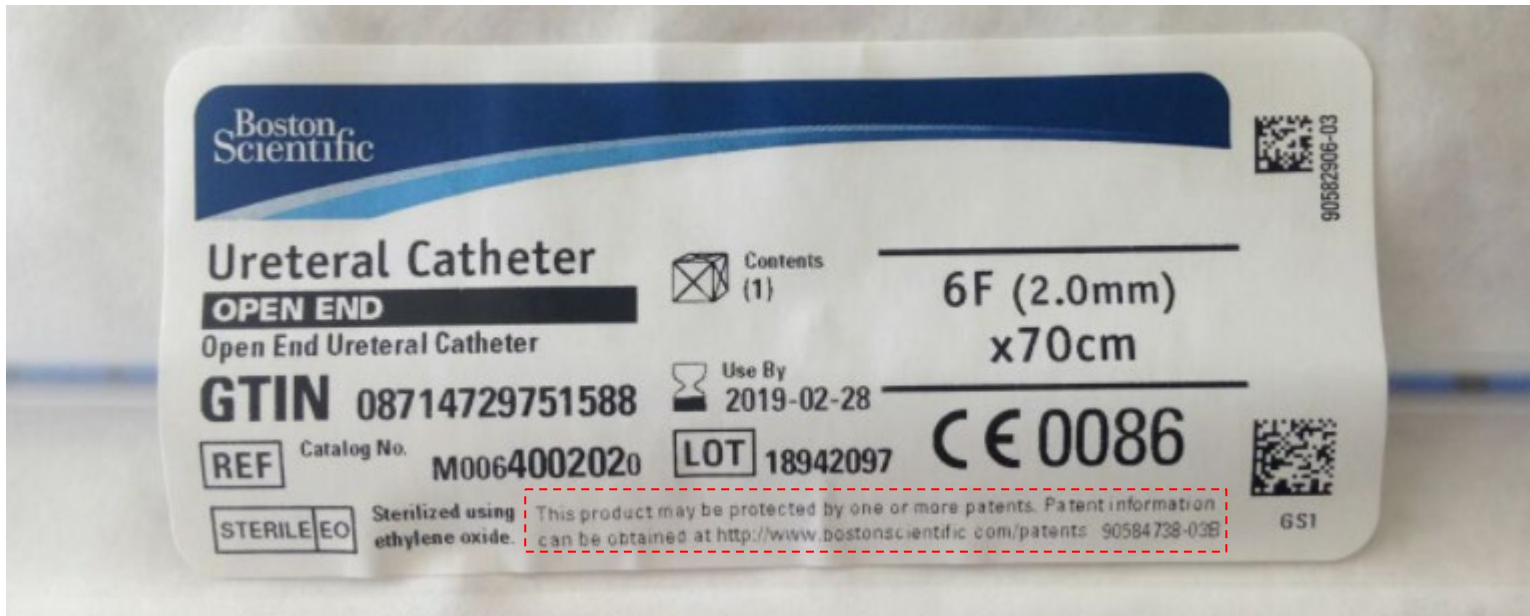
Gillette Fusion ProShield	
Product Name	Patent Number
ProShield Razor (including Chill)	
ProShield Cartridges	

Effective 2016 Sept 26
Effective 2016 Oct 25
Effective 2017 Apr 5
Effective 2018 Apr 6



35 U.S.C. § 287: Packaging

...or when, from the character of the article, this can not be done, by fixing to it, or to the package wherein one or more of them is contained, a label containing a like notice.



35 U.S.C. § 287: Packaging

“Because the purpose of the marking statute is to provide constructive notice to the public...we apply a **rule of reason analysis** in determining when substantial compliance may be found to satisfy the [marking] statute.”

“If the **public may be better notified** with marking on the packaging, as opposed to [on] the article itself, then marking the packaging amounts to ‘substantial compliance’ and § 287(a) is satisfied.”

See Global Traffic Technologies LLC v. Morgan (Fed. Cir. 2015)

Virtual Patent Marking: Boston Scientific



Professionals ▾

Patients ▾

Products ▾

About ▾



Boston Scientific Virtual Patent Marking



Our mission is to transform lives through innovative medical solutions that improve the health of patients around the world.

This is accomplished through the continuing refinement of existing products and procedures and the investigation and development of new technologies that are least- or less-invasive, reducing risk, trauma, cost, procedure time and the need for aftercare.

This Boston Scientific patent information is provided to satisfy the notice requirement for the virtual patent marking provision of the America Invents Act. The following list of Boston Scientific Corporation products may not be all inclusive, and other Boston Scientific Corporation products not listed here may be protected by one or more patents.

[Download Patent List >](#)

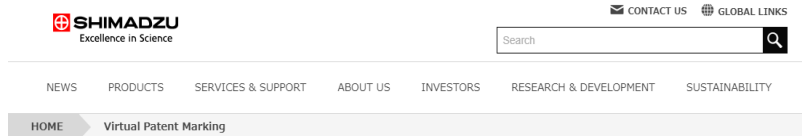
Virtual Patent Marking: Boston Scientific

Product Name	Patent #	UPN #(s) or Catalog #
Apex Push Monorail		H7493896108150, H7493896112150, H7493896115150, H7493896120150
Apex Flex Monorail		H7493895908150, H7493895912150, H7493895915150, H7493895920150
Capio RP Suture Capturing Device		M0068321010
Dreamwire Guidewire		M00556101, M00556111, M00556121, M00556131, M00556141, M00556151, M00556161, M00556171
Graspit Nitinol Stone Retrieval Forceps		M0063204000, M0063204010, M0063204020, M0063204030
Hurricane RX Balloon Dilatation Catheter		M00545890, M00545900, M00545910, M00545920, M00545930, M00545940, M00545950, M00545960
LithoCatch 12 Wire Helical Immobilization Device		M0068404120
Polaris Ultra Dual Durometer Percuflex Material Ureteral Stent		M0061921110, M0061921120, M0061921130, M0061921140, M0061921150, M0061921200, M0061921210, M0061921220, M0061921230, M0061921240, M0061921250, M0061921300, M0061921310, M0061921320, M0061921330, M0061921340, M0061921350, M0061921400, M0061921410, M0061921420, M0061921430, M0061921440, M0061921450, M0061921500, M0061921510, M0061921520, M0061921530, M0061921540, M0061921550, M0061931110, M0061931120, M0061931130, M0061931140, M0061931150, M0061931200, M0061931210, M0061931220, M0061931230, M0061931240, M0061931250, M0061931300, M0061931310, M0061931320, M0061931330, M0061931340, M0061931350, M0061931400, M0061931410, M0061931420, M0061931430, M0061931440, M0061931450, M0061931500, M0061931510, M0061931520, M0061931530, M0061931540, M0061931550
Precision Twist Transvaginal Anchor System		M0068201550
Prefix PPS Pre-Pubic System		M0068506001, M0068506000

Virtual Patent Marking: Other Companies

1. Broadcom: <https://www.broadcom.com/company/legal/licensing>
2. Boston Scientific: <http://www.bostonscientific.com/en-US/patents.html>
3. Dolby: <https://www.dolby.com/us/en/about/virtual-patent-marking.html>
4. Horiba: <http://www.horiba.com/about-horiba/virtual-patent-marking/>
5. HTC: <http://www.htc.com/us/virtual-patent-marking/>
6. Logitech: <http://www.logitech.com/assets/64202/logitechvirtualpatentmarkingprogram-111115.pdf>
7. OSI Optoelectronics: <http://www.osioptoelectronics.com/our-company/virtual-patent-marking.aspx>
8. Proctor & Gamble: <http://www.pg.com/patents/>
9. Rohm: <https://www.rohm.co.jp/patent-marking>
10. Shimadzu: <http://www.shimadzu.com/patents/>
11. Totani: <https://www.totani.co.jp/en/patent.html>
12. 23andMe: <https://www.23andme.com/patents/>

Virtual Patent Marking: Japanese Companies



SHIMADZU
Excellence in Science

CONTACT US GLOBAL LINKS

Search

NEWS PRODUCTS SERVICES & SUPPORT ABOUT US INVESTORS RESEARCH & DEVELOPMENT SUSTAINABILITY

HOME Virtual Patent Marking

Virtual Patent Marking

The following products are protected by patents in the U.S. and elsewhere. This website is provided to satisfy the virtual patent marking provisions of various jurisdictions including the virtual patent marking provisions of the America Invents Act and provide notice under 35 U.S.C. §287 (a).

The following list of products and patents may not be all inclusive. For example, some products listed here may be covered by patents in the United States and elsewhere that are not listed, and other products not listed here may be protected by one or more patents in the United States and elsewhere. The following list of products may be covered by one or more of the following U.S. Patents.

* Shimadzu U.S. Registered Trademarks or Trademarks – symbolized by ™

Analytical and Measuring Instruments	
Mass Spectrometry	
Product/Product Series Name	Patent Number
LCMS-2020/8040/8045/8050/8060	

HORIBA

Products Applications Technology Service Company Contact

Message

Company Profile

Culture

History

Technical Journal "Readout"

Virtual Patent Marking

Virtual Patent Marking

This website is provided to satisfy the virtual patent marking provisions of various jurisdictions including the America Invents Act and to provide notice under 35 U.S.C. §287 (a) of the patent laws of the United States of America and notice under §62(1) of UK Patents Act.

The patents in the following list may cover one or more of the products indicated.

While every effort is made to ensure completeness, due to the dynamic nature of the patent process and the product life cycles, the list may not be all inclusive at the time you visit it.

Other of our products may be associated with one or more patents in the list, and other of our patents may be associated with one or more products in the list.

The absence of any patent or product from this list does not preclude enforcement of our legal rights.

No.1 (2017-01-27)

 [Virtual patent marking list](#)

No.2 (2017-12-08)

 [Virtual patent marking list](#)

No.3 (2018-07-13)

 [Virtual patent marking list](#)

No.4 (2019-12-11)

 [Virtual patent marking list](#)

No.5 (2020-06-23)

 [Virtual patent marking list](#)

35 U.S. Code § 287: Effects

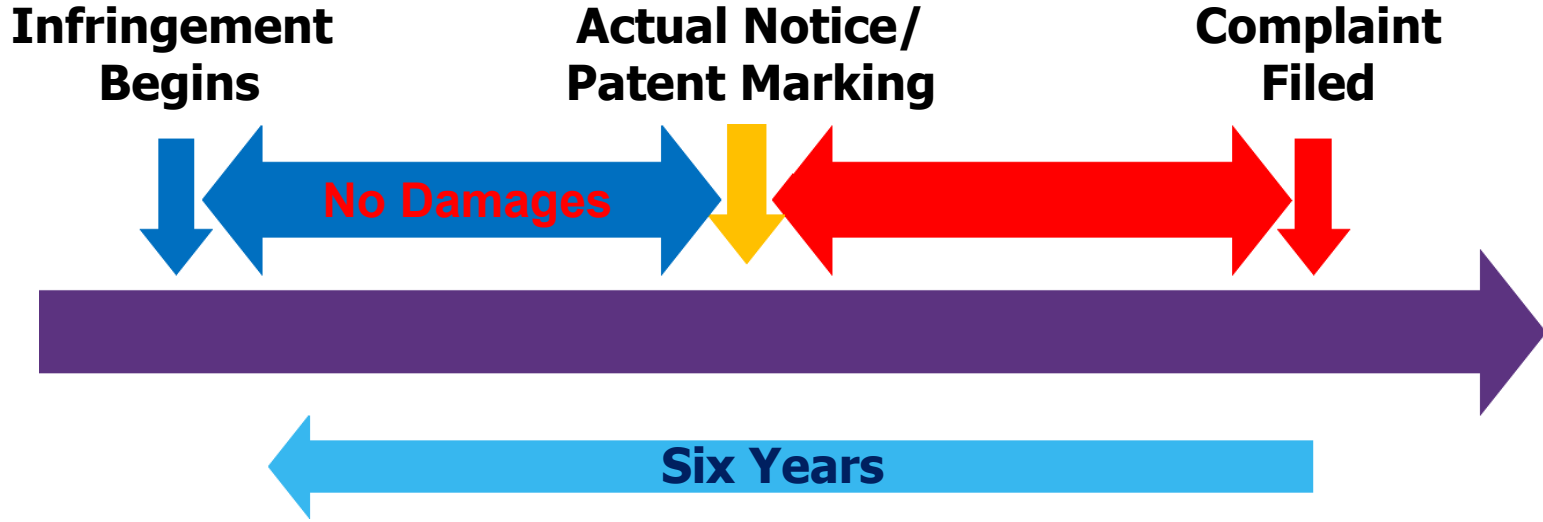
In the event of failure so to mark, **no damages shall be recovered by the patentee in any action for infringement**, except on proof that the infringer was **notified of the infringement** and continued to infringe thereafter, in which event damages may be recovered only for infringement occurring after such notice. Filing of an action for infringement shall constitute such notice.

“Actual Notice” requires “affirmative communication of a **specific charge of infringement by a specific accused product or device**,” regardless of how the accused infringer may have interpreted a communication about potential infringement.

See Amsted Indus. Inc. v. Buckeye Steel Castings Co. (Fed. Cir. 1994)

35 U.S. Code § 286: Effects

35 U.S. Code § 286 ...no recovery shall be had for any infringement committed more than **six years** prior to the filing of the complaint or counterclaim for infringement in the action.



VIRTUAL PATENT MARKING ADVANCED

Morgan Lewis

Association: Patent List

Fitbit Patent List



Last Update: December 4, 2020
[version 2.5]

Fitbit products are covered by one or more US patents, including, but not limited to:



Morgan Lewis

[W]ebsite itself must do more than simply list the patentee's patents.

Simply listing all patents that could possibly apply to a product or all patents owned by the patentee merely creates a research project for the public, as opposed to giving public notice.

See Mfg. Res. Int'l v. Civiq Smartscales (D. Del. 2019)

Method Claim v. Apparatus Claim

If the patentee asserts both apparatus and method claims, then the marking requirement needs to be met.

See Am. Medi. Sys., Inc. v. Medical Engineering Corp. (Fed. Cir. 1993)

If the patentee asserts only method claim in a patent that includes both apparatus and method claims, marking requirement need not be met.

See Crown Packaging Tech. Inc. v. Rexam Beverage Can Co. (Fed. Cir. 2009)

Patentee's Obligation

The notice requirement to which a patentee is subjected cannot be switched on and off as the patentee or licensee starts and stops making or selling its product.

[U]nmarked products remain on the market, incorrectly indicating to the public that there is no patent, while no corrective action has been taken by the patentee. Confusion and uncertainty may result.

Thus, *once a patentee begins making or selling a patented article*, the notice requirement attaches, and the obligation imposed by § 287 is discharged *only by providing actual or constructive notice*.

See Arctic Cat Inc. v. Bombardier Recreational Products Inc. (Fed. Cir. 2020)

Licensors' Obligation

[Marking] must be **substantially consistent and continuous** in order for the party to avail itself of the constructive notice provisions of the statute.

[W]hen **others than the patentee** are involved in sales to the public, a 'rule of reason' is applied, '**consistent with the purpose of the constructive notice provision** to encourage patentees to mark their products in order to provide notice to the public of the existence of the patent and to prevent innocent infringement.

See Am. Med. Sys., Inc. v. Med. Eng. Corp., (Fed. Cir. 1993)

Merits of Patent Marking

- Completes the prosecution of US patent rights
- Deterring effect by the constructive notice
- Effective licensing and cross-licensing
- Business Promotion (product/technology)

Demerits of Patent Marking

- Initial cost and efforts
- Continuous effort for updating/time stamping/licensee management
- Information disclosure
- Privacy concerns

False Marking is no longer a major issue

35 U.S.C. § 292(c): The marking of a product, in a manner described in subsection (a), with matter relating to a patent that covered that product **but has expired is not a violation of this section.**

Webinar Series~Better Safe than Sorry~

- No. 1: Introduction (2021.01.29)
- No. 2: Willful Infringement (2021.02.26)
- No. 3: Virtual Patent Marking (2021.05.28)
- No. 4: Jury Trial (2021.06.25)
- No. 5: Damages (2021.07.30)
- No. 6: Discovery (2021.09.24)
- No. 7: Doctrine of Equivalents (2021.10.29)
- No. 8: ITC (2021.11.26)



Presenter



Jitsuro Morishita

Tokyo: 03-4578-2530

Mobile: 070-1498-0066

jitsuro.morishita@morganlewis.com

Jitsuro Morishita devotes his practice to resolving complex global disputes in the areas of intellectual property, antitrust, governmental investigations, labor, and environmental issues.

Early in his career, he worked in-house for two global technology companies, Pioneer Corporation and Fujifilm Corporation, bringing unique expertise to advocate using profound understanding of Japanese company cultures.

Jitsuro is devoted to bringing his clients (i) easy communication using excellent communication skills, (ii) pleasant surprises from creative and out-of-the-box ways of thinking, and (iii) deep satisfaction through great results and client-friendly experiences.