

AN ACT concerning business.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Consumer Fraud and Deceptive Business Practices Act is amended by adding Section 2RRR as follows:

(815 ILCS 505/2RRR new)

Sec. 2RRR. Unfair or deceptive patent infringement demand letters.

(a) As used in this Section:

"Affiliated person" means a person affiliated with the intended recipient of a written or electronic communication.

"Intended recipient" means a person who purchases, rents, leases, or otherwise obtains a product or service in the commercial market that is not for resale in the commercial market and that is, or later becomes, the subject of a patent infringement allegation.

(b) It is an unlawful practice under this Act for a person, in connection with the assertion of a United States patent, to send or cause any person to send any written, including electronic, communication that states that the intended recipient or any affiliated person is infringing or has infringed a patent and bears liability or owes compensation to another person, if:

(1) the communication falsely threatens that administrative or judicial relief will be sought if compensation is not paid or the infringement issue is not otherwise resolved;

(2) the communication falsely states that litigation has been filed against the intended recipient or any affiliated person;

(3) the assertions contained in the communication lack a reasonable basis in fact or law because:

(A) the person asserting the patent is not a person, or does not represent a person, with the current right to license the patent to or enforce the patent against the intended recipient or any affiliated person;

(B) the communication seeks compensation for a patent that has been held to be invalid or unenforceable in a final, unappealable or unappealed, judicial or administrative decision; or

(C) the communication seeks compensation on account of activities undertaken after the patent has expired; or

(4) the content of the communication fails to include information necessary to inform an intended recipient or any affiliated person about the patent assertion by failing to include the following:

(A) the identity of the person asserting a right to

license the patent to or enforce the patent against the intended recipient or any affiliated person;

(B) the patent issued by the United States Patent and Trademark Office alleged to have been infringed;
and

(C) the factual allegations concerning the specific areas in which the intended recipient's or affiliated person's products, services, or technology infringed the patent or are covered by the claims in the patent.

(c) Nothing in this Section shall be construed to deem it an unlawful practice for any person who owns or has the right to license or enforce a patent to:

(1) advise others of that ownership or right of license or enforcement;

(2) communicate to others that the patent is available for license or sale;

(3) notify another of the infringement of the patent;

or

(4) seek compensation on account of past or present infringement or for a license to the patent.

Section 99. Effective date. This Act takes effect January 1, 2015.