

SB3405



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB3405

Introduced 2/14/2014, by Sen. Daniel Biss

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2RRR new

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that it is an unlawful practice to claim that another has infringed upon a United States patent if the claim falsely threatens adverse administrative or judicial action, the assertions lack a reasonable basis in fact or law, the person making the assertion is not, or does not represent, a person with a current right to license the patent, or the claim fails to make certain other disclosures. Effective January 1, 2015.

LRB098 19175 JLS 54327 b

A BILL FOR

1 AN ACT concerning business.

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

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

6 (815 ILCS 505/2RRR new)

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

9 (a) As used in this Section, "affiliated person" means a
10 person affiliated with the intended recipient of a written
11 communication.

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

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

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

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

6 (B) the communication seeks compensation on
7 account of activities undertaken after the patent has
8 expired;

9 (3) the content of the communication fails to include
10 information necessary to inform a recipient or any
11 affiliated person about the patent assertion by failing to
12 include the following:

13 (A) the identity of the person asserting a right to
14 license the patent to or enforce the patent against the
15 intended recipient or any affiliated person;

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

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

24 (4) the communication is deceptive.

25 Section 99. Effective date. This Act takes effect January
26 1, 2015.