



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4052

by Rep. Keith R. Wheeler

SYNOPSIS AS INTRODUCED:

New Act

Creates the Ethics in Patent Litigation Act. Prohibits an attorney from receiving any compensation directly or indirectly for legal services related to litigation derived from a patent owned by the attorney, either individually or through an entity owned or controlled by the attorney. Provides, however, that an attorney may receive compensation for patent litigation derived from a patent owned by the attorney if the attorney or an entity owned or controlled by the attorney is actively engaged in producing a product or service for marketing and sale from the invention claimed by the patent.

LRB100 12894 JLS 26717 b

1 AN ACT concerning attorneys.

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

4 Section 1. Short title. This Act may be cited as the Ethics
5 in Patent Litigation Act.

6 Section 5. Public policy. The State of Illinois declares as
7 a matter of public policy the following:

8 (1) attorneys admitted to practice law in Illinois are
9 held to high ethical standards;

10 (2) current ethical standards prohibit attorneys from
11 taking a financial interest in an underlying case and from
12 splitting their fees with a non-attorney;

13 (3) the recent practice of attorneys personally
14 acquiring the legal rights of their clients' patents and
15 litigating on behalf of those patent rights in order to
16 earn personal remuneration above and beyond the
17 compensation for legal services is a violation of the high
18 ethical standards for attorneys; and

19 (4) these concerning practices are particularly
20 problematic in patent litigation where the threat of
21 litigation from attorneys who have acquired patent rights
22 from their clients have forced many of the country's most
23 innovative technology companies to pay in the aggregate

1 more than \$30,000,000,000 by some estimates to avoid the
2 cost and risk of litigation, no matter how spurious the
3 claim.

4 Section 10. Prohibition on certain compensation for
5 litigation services relating to patents. No attorney shall
6 receive any compensation directly or indirectly for any legal
7 services related to litigation derived from any patent owned by
8 the attorney, either individually or through an entity owned or
9 controlled by that attorney. However, an attorney may receive
10 compensation for patent litigation derived from a patent owned
11 by the attorney if the attorney or the entity owned or
12 controlled by the attorney is actively engaged in producing a
13 product or service for marketing and sale from the invention
14 claimed by the patent.