

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 or

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

22 Section 99. Effective date. This Act takes effect January  
23 1, 2015.