

BAD-FAITH PATENT INFRINGEMENT CLAIMS ACT (EXCERPT)
Act 550 of 2016

446.165 Unlawful practice.

Sec. 5.

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 another person to send a written communication, including an electronic communication, that states in bad faith that the target is infringing or has infringed a patent and bears liability or owes compensation to another person, if 1 or more of the following apply:

(a) The communication falsely states that an action seeking administrative or judicial relief has been filed against the target or an affiliated person.

(b) The assertions contained in the communication lack a reasonable basis in fact or law because 1 or more of the following are true:

(i) The person asserting the patent does not have the current right, and does not represent a person that has the current right, to license the patent to or enforce the patent against the target or an affiliated person.

(ii) 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.

(iii) The communication seeks compensation because of activities undertaken after the patent has expired.

(c) The communication does not contain all of the following information necessary to inform the target or an affiliated person about the patent assertion:

(i) The identity of the person asserting a right to license the patent to or enforce the patent against the target or an affiliated person.

(ii) The number of the patent issued by the United States Patent and Trademark Office alleged to have been infringed.

(iii) The factual allegations concerning the specific areas in which the products or services obtained by the target or an affiliated person infringed the patent.

History: 2016, Act 550, Eff. Oct. 1, 2017