

## **Illinois Prohibits Deceptive Patent Troll Communications**

Patent trolls will need to provide basic information to Illinois businesses concerning the patent in question and how the patent is being infringed beginning in January 2015 as the result of new legislation signed into law.

The amendment to the Illinois Consumer Fraud and Deceptive Business Practices Act (Act) is designed to target patent trolls, which are persons who attempt to enforce patent rights but themselves do not manufacture products or supply services covered by the patent. The amendment to the Act makes it an unlawful practice for anyone to send a letter or email to a person that:

- Falsely threatens that administrative or judicial relief will be sought if compensation is not paid;
- Falsely states that litigation has been filed against the recipient, or
- Contains assertions that lack a reasonable basis in fact or law because the person sending the letter neither owns nor represents the person who has a right to enforce the patent or where the patent has been held invalid or is expired.

The new law also requires the sender to provide the recipient with the identity of the person asserting the right to license or enforce the patent, provide the actual patent, and contain “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.”

It is not an unlawful practice for an owner of a patent or who has the right to enforce a patent to send a letter or email that advises a party of the ownership interest, states that the patent is available for licensing or sale, or notifies a party of an infringement and seeks compensation for the infringement.

The Act is enforced by the state’s Attorney General, who helped in crafting the amendment.