

House Bill 194: Curbing Baseless Patent Infringement Claims

MAY 15, 2015

Authors: [Duncan H. Poirier](#)

House Bill 194 was introduced on May 11, 2015, by primary sponsor Representative Kristina Roegner (R), Ohio House District 37. As introduced, the new bill will prohibit persons from engaging in the widespread sending of bad faith, objectively baseless communications of patent infringement and will authorize the Attorney General to investigate and institute a civil action if the Attorney General believes a person has made such assertions of patent infringement. The Attorney General may seek injunctive relief to restrain or prevent continued bad faith or baseless assertions of patent infringement.

Communications made in bad faith include content that is likely to materially mislead a reasonable recipient because the content fails to identify:

- the person asserting the patent claim;
- the patent(s) alleged to have been infringed; and
- at least one product, service, or technology that is alleged to infringe the patent(s).

Also included are communications that falsely state that litigation has been instituted against the intended recipient or that falsely threaten that administrative or judicial relief will be sought if compensation is not paid or the infringement is not resolved.

Written communications will be considered objectively baseless if the assertions lack a reasonable basis in fact or law due to any of the following:

- the person asserting the patent is not the patent owner, licensee, or the representative of the patent owner or licensee;
- the communication seeks compensation for assertion of claims of infringement of a patent held to be invalid or unenforceable; or
- the communication seeks compensation for alleged infringing activities undertaken after expiration of the patent.

Legitimate patent rights owners may still advise others of their ownership or right of license enforcement, communicate to others that the patent is available for license or sale, notify others of

the infringement of the patent, and seek compensation on past or present infringement or for a license to the patent.

Link to House Bill 194:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-194>

For more information please contact attorney Michael D. Stovsky, paralegal Duncan H. Poirier or a member of Benesch's **Innovations, Information Technology & Intellectual Property (3iP) Practice Group**.

Michael D. Stovsky | mstovsky@beneschlaw.com | 216.363.4626

Duncan H. Poirier | dpoirier@beneschlaw.com | 216.363.4677