

SS SCS SB 706 -- BAD FAITH ASSERTIONS OF PATENT INFRINGEMENT

SPONSOR: Cunningham (Cox)

COMMITTEE ACTION: Voted "Do Pass" by the Committee on Financial Institutions by a vote of 17 to 0.

This bill prohibits bad faith assertions of patent infringement and creates a seven factor test courts must consider when determining if a person has made a bad faith assertion of patent infringement or has not made a bad faith assertion of patent infringement.

If an individual believes that he or she has been a target of a bad faith assertion of patent infringement upon receiving a demand letter, the individual has a private right to a cause of action as specified in the bill. Upon a finding by a court that he or she has made a bad faith assertion of patent infringement, the court will determine damages that the target can recover as set forth in the bill.

This bill allows the Attorney General to investigate, restrain, and prosecute bad faith assertions of patent infringement claims. Any monetary awards recovered by the Attorney General must be credited to the Antitrust Revolving Fund for the payment of expenses incurred by the Attorney General in the course of investigation, prosecution, or enforcement of patent infringement claims.

This bill must not be construed to limit the rights and remedies available to any individual with regard to bad faith assertions of patent infringement and does not apply to a demand letter or assertion of patent infringement that includes a claim for relief.

PROPOSERS: Supporters say that the bill will stop people from making bad faith assertions of patent infringement. Litigation over patent infringement claims is expensive and there are people doing this to extort money for claims that have no value or merit.

Testifying for the bill were Representative Cox; Missouri Bankers Association; Missouri Retailers Association; and Missouri Grocers' Association.

OPPOSERS: There was no opposition voiced to the committee.