



Taking Aim at Patent Troll Demand Letters

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Patent licensing company Conversant Intellectual Property Management today launched an educational campaign against the use of extortionist demand letters that are victimizing thousands of small and medium-sized businesses. The goal of Conversant's Stand Up to the Demand campaign is to help small businesses spot unscrupulous demand letters sent by patent trolls. Conversant's Stand Up to the Demand campaign follows the company's November 2013 release of a set of ethical patent licensing principles, which built upon the belief that patent licensing companies should take the lead in curbing patent abuses within their own industry.

Bad demand letters are a big problem for U.S. small businesses, costing them millions of dollars in settlement fees and legal costs annually. Patent trolls often operate through shell companies and these bad acting companies send form demand letters to hundreds or even thousands of small businesses at a time, claiming with little or no evidence that they are infringing on patents. These mass demand letters are often misleading and sometimes outright false. This type of activity has been characterized as "extortion-like" by the federal courts, and gives hard working innovators a bad name. See also Extortion Patent Style.

Earlier this year New York Attorney General Eric T. Schneiderman announced a groundbreaking settlement that sanctioned a patent troll that was engaged in abusive pre-litigation tactics by sending letters with the intent to deceive those receiving the demand letters, scaring them into settling. Additionally, recognizing the stakes involved, a dozen U.S. states have already enacted laws to curb extortionist demand letters, and 14 other states are actively considering such laws.

The misleading and deceptive demand letters often seek license payments ranging from \$1,000 to \$50,000, and often threaten a patent infringement lawsuit that would cost those businesses far more to defend against in court – even if the recipient is innocent of any infringement. Furthermore, in my experience these bad actors don't care whether those who receive the demand letters are infringing. Little or no due diligence is done.

Aside from the paltry sum (at least by patent infringement standards) of money demanded in the letters how do you know if you are likely dealing with a nefarious actor? Common features of demand letters from scammers include failing to provide any evidence that a business's product or service is infringing a particular patent and the threat of legal action rather than a request to negotiate. Legitimate demand letters from patent owners will almost always seek to negotiate in one way or another. Further, it is impossible for a patent



John Lindgren, President & CEO of Conversant IP

owner to know how much you should have to pay for a license without knowing a good deal about what you are doing, what you have done in the past and what you plan to do moving forward. So if you see a low fixed fee demand right off the bat without an invitation to negotiate you should be suspicious.

“Sending ill-founded patent demand letters may be legal, but it’s just plain wrong,” said John Lindgren, President and CEO of Conversant. “This practice is hurting small business owners financially. It’s giving legitimate patent licensing a bad name. And it’s seriously undermining the public’s belief in the U.S. patent system and the value of patents as stimulants to innovation and economic growth.”

The first phase of Conversant’s Stand Up to the Demand campaign includes a video, an infographic quiz, a comparison of a sample bad demand letter to a legitimate notice letter, and links to other resources that help people identify and respond to demand letters. Visitors to the campaign’s web site are invited to share their stories of dealing with demand letters.

For more information you can visit <http://www.standuptodemand.com>.