

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/CS/HB 1181 — Bad Faith Assertions of Patent Infringement

by Judiciary Committee; Civil Justice Subcommittee; and Rep. Grant and others (CS/SB 1298 by Judiciary Committee and Senator Brandes)

The Patent Troll Prevention Act, enacted in 2015, was intended to deter the filing of bad-faith patent infringement claims. The act worked by allowing a defendant to pursue a private cause of action for damages, including punitive damages, against a claimant, a patent troll, making a bad-faith claim. The claimant could also be required to post a bond in the amount equal to the lesser of \$250,000 or a good faith estimates of the defendant's expenses of litigation, including attorney fees.

The bill eases the act's potential for deterring appropriate patent infringement lawsuits. The specific changes:

- Require that a demand letter be objectively baseless before it may be deemed a bad-faith assertion of patent infringement.
- Remove the act's bond-posting requirement for a plaintiff who may have made a bad-faith assertion of patent infringement.
- Limit the entitlement to and amount of punitive damages awards against a person who makes a bad-faith assertion of patent infringement.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 38-0; House 114-0