

***Effective 5/13/2014***

***Superseded 5/10/2016***

**78B-6-1904 Action -- Enforcement -- Remedies -- Damages.**

- (1) A target who has received a demand letter asserting patent infringement in bad faith, or a person aggrieved by a violation of this part, may bring an action in district court. The court may award the following remedies to a target who prevails in an action brought pursuant to this part:
  - (a) equitable relief;
  - (b) actual damages;
  - (c) costs and fees, including reasonable attorney fees; and
  - (d) punitive damages in an amount to be established by the court, of not more than the greater of \$50,000 or three times the total of damages, costs, and fees.
- (2) The attorney general may conduct civil investigations and bring civil actions pursuant to this part. In an action brought by the attorney general under this part, the court may award or impose any relief it considers prudent, including the following:
  - (a) equitable relief;
  - (b) statutory damages of not less than \$750 per demand letter distributed in bad faith; and
  - (c) costs and fees, including reasonable attorney fees, to the attorney general.
- (3) This part may not be construed to limit other rights and remedies available to the state or to any person under any other law.
- (4) A demand letter or assertion of a patent infringement that includes a claim for relief arising under 35 U.S.C. Sec. 271(e)(2) is not subject to the provisions of this part.
- (5) The attorney general shall report annually to the Executive Appropriations Committee regarding the number of investigations and actions brought under this part. The report shall include:
  - (a) the number of investigations commenced;
  - (b) the number of actions brought under the provisions of this part;
  - (c) the current status of actions brought under Subsection (5)(b); and
  - (d) final resolution of actions brought under this part, including any recovery under Subsection (2).