



STATE OF NEBRASKA
Office of the Attorney General

2115 STATE CAPITOL BUILDING
LINCOLN, NE 68509-8920
(402) 471-2682
TDD (402) 471-2682
FAX (402) 471-3297 or (402) 471-4726

JON BRUNING
ATTORNEY GENERAL

DAVID D. COOKSON
CHIEF DEPUTY ATTORNEY GENERAL

July 18, 2013

VIA CERTIFIED UNITED STATES MAIL

Farney Daniels LLP
Attn: M. Brett Johnson, Partner
800 South Austin Avenue, Suite 200
Georgetown, TX 78626-5845

Re: Possible Unfair/Deceptive Patent Enforcement Efforts Within the State of Nebraska

Dear Mr. Johnson:

It has come to the attention of this office that your firm has issued demand letters upon several entities based in or with a substantial presence in the State of Nebraska alleging the infringement of certain patents. It is our further understanding your firm or the entities on whose behalf your firm has made such allegations are non-practicing entities with regard to the vast majority of the patents in question, and that several of your infringement assertions are unsubstantiated and contain false, misleading, or deceptive statements. If the latter is true, it could constitute a violation of the Nebraska Consumer Protection Act, NEB. REV. STAT. § 59-1601 *et seq.* (Reissue 2010, Supp. 2012), and the Uniform Deceptive Trade Practices Act, NEB. REV. STAT. § 87-301 *et seq.* (Reissue 2008, Supp. 2010).

The protection of Nebraska consumers and businesses from baseless harassment, particularly that which bears the potential for costly and destructive litigation, is a top priority of this office. We view as especially egregious threats which serve to advance no valid legal purpose or the legitimate protection of productive intellectual property but, rather, seek only to extract quick settlements from those otherwise committed to building their businesses and providing positive value to society. We will use every means at our disposal to prevent such conduct and deter its future occurrence.

It is notable that this is not the first time your firm or an entity on whose behalf your firm ostensibly represents has been the subject of an investigation by this office. Accordingly, we are concerned that Farney Daniels has exhibited a pattern and practice within Nebraska of deceptively alleging patent infringement and subsequent litigation.

Unfair or deceptive acts or practices in the conduct of any trade or commerce are unlawful. *See* NEB. REV. STAT. § 59-1602 and NEB. REV. STAT. §§ 87-302 and 87-303.01.

Mr. M. Brett Johnson
July 18, 2013
Page 2

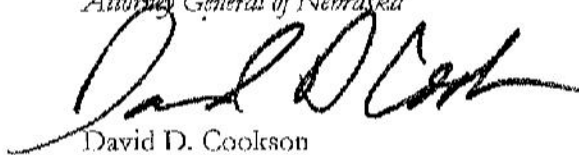
Violations of §§ 59-1602, 87-302, or 87-303.01 can subject an offender to civil penalties of up to \$2,000 (two thousand dollars) *per violation*. See §§ 59-1614 and 87-303.11. The Office of the Attorney General is empowered to bring an action in the name of the state to restrain and prevent violations of the Consumer Protection Act and the Uniform Deceptive Trade Practices Act. See §§ 59-1608 and 87-303.05.

This office is currently investigating whether your firm's activities within the State of Nebraska constituted violations of NEB. REV. STAT. §§ 59-1602, 87-302, and 87-303.01. Pursuant to §§ 59-1611 and 87-303.03, we hereby demand that you respond to the Civil Investigative Demand enclosed herein by **August 19, 2013**.

The possible violations specified in this letter are serious and require your immediate and unconditional cooperation. Given the significant ramifications posed to Nebraska consumers and businesses by your potentially unlawful conduct, I hereby demand that you immediately cease and desist the initiation of any and all new patent infringement enforcement efforts within the State of Nebraska pending the outcome of this office's investigation pursuant to § 87-303.03(1)(b).

Sincerely,

JON BRUNING
Attorney General of Nebraska



David D. Cookson
Chief Deputy Attorney General

Enclosure