

STATE OF NEW YORK

1009

2023-2024 Regular Sessions

IN SENATE

January 9, 2023

Introduced by Sen. OBERACKER -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to deceptive acts and practices in the conduct of any business, trade or commerce

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 349 of the general business law is amended by adding a new subdivision (k) to read as follows:

(k) For purposes of this article, in addition to any other deceptive act or practice determined by law, it shall also constitute a deceptive act or practice in the conduct of any business, trade or commerce, for any person, firm, corporation or association or agent or employee thereof, to make an unsolicited threat concerning an alleged violation of intellectual property rights.

(1) For purposes of this subdivision, an unsolicited threat concerning an alleged violation of intellectual property rights shall consist of:

(i) threatening civil litigation, where such threat relates to an alleged violation of intellectual property rights, unless the party so threatened makes a payment of money to a person, firm, corporation or association or agent or employee thereof, by a date certain; or

(ii) demanding payment from a person by a date certain, where such demand relates to an alleged violation of intellectual property rights, unless the person so demanded makes a payment of money by a date certain, and that unless such initial demanded payment is made by the demandee by such date certain, then such demanded payment will increase to a higher demanded amount after such date certain.

(2) This subdivision shall not apply to an attorney licensed to practice law before the courts of the state of New York, and/or licensed to practice intellectual property law before the federal courts of the United States, where such attorney has been duly retained and employed by the registered holder of intellectual property rights, in accordance

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 with federal law, and is making such demand consistent with ethical
2 guidelines governing the conduct of attorneys, in the course of such
3 attorney's representation of such registered holder, during a non frivo-
4 lous dispute for an alleged violation of such registered holder's intel-
5 lectual property rights.

6 § 2. This act shall take effect immediately.