

§ 75-142. Definitions.

The following definitions apply in this Article:

- (1) **Affiliate.** – A business establishment, business, or other legal entity that wholly or substantially owns, is wholly or substantially owned by, or is under common ownership with another entity.
- (2) **Demand.** – A letter, e-mail, or other communication asserting or claiming that a target has engaged in patent infringement or should obtain a license to a patent.
- (3) **Institution of higher education.** – Defined in 20 U.S.C. § 1001(a).
- (4) **Interested party.** – A person, other than the party alleging infringement, that
 - (i) is an assignee of the patent or patents at issue;
 - (ii) has a right, including a contingent right, to enforce or sublicense the patent or patents at issue; or
 - (iii) has a direct financial interest in the patent or patents at issue, including the right to any part of an award of damages or any part of licensing revenue. A "direct financial interest" does not include either of the following:
 - a. An attorney or law firm providing legal representation in the civil action alleging patent infringement if the sole basis for the financial interest of the attorney or law firm in the patent or patents at issue arises from the attorney or law firm's receipt of compensation reasonably related to the provision of the legal representation.
 - b. A person whose sole financial interest in the patent or patents at issue is ownership of an equity interest in the party alleging infringement, unless such person also has the right or ability to influence, direct, or control the party alleging infringement.
- (5) **Operating entity.** – A person primarily engaged in, when evaluated with its affiliates over the preceding 24-month period and when disregarding the selling and licensing of patents, one or more of the following activities:
 - a. Research and technical or experimental work to create, test, qualify, modify, or validate technologies or processes for commercialization of goods or services;
 - b. Manufacturing; or
 - c. The provision of goods or commercial services.
- (6) **Target.** – A North Carolina person that meets one or more of the following:
 - a. The person has received a demand or is the subject of an assertion or allegation of patent infringement.
 - b. The person has been threatened with litigation or is the defendant of a filed lawsuit alleging patent infringement.
 - c. The person has customers who have received a demand asserting that the person's product, service, or technology has infringed a patent. (2014-110, s. 2.1.)