



## Nicholas B. Clifford

### Partner

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Nicholas Clifford handles intellectual property, commercial, and product liability litigation in state, federal, and appellate courts throughout the United States.

An accomplished trial lawyer, Nick has first-chair experience in numerous jury and bench trials and other proceedings. He prosecutes and defends litigation and counsels clients in patent, copyright, and trademark infringement matters, as well as trade secret misappropriation, along with advising clients on non-infringement and invalidity opinions, patentability, licensing, registration, and other due-diligence issues. Nick also regularly handles complex commercial litigation matters involving contract and business tort claims and defends manufacturers in product liability claims.

Nick's strategic, value-driven counsel benefits clients in dozens of technologies, such as automotive service products, biomass pretreatment, cable video on-demand, computer middleware and memory devices, diagnostic and educational software, electronic voting machines, financial trading platforms, LED warning signal lights, pharmaceutical packaging, retinal surgical devices, and telecommunication systems.

When he is not reading patents or taking depositions, Nick likes golf and paddle tennis, working out, cycling, trout fishing, and seeing live music.

### Education

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- Chicago-Kent College of Law, Illinois Institute of Technology (J.D., high honors, 1993); Order of the Coif; Chicago-Kent Law Review (staff member, 1991-1992; Notes & Comments editor, 1992-1993)
- Trinity College (B.A., 1988)

## State Admissions

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- Missouri, 1993
- Illinois, 1994

## Federal Admissions

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- United States Court of Appeals, Eighth Circuit
- United States District Court, Northern District of Illinois
- United States District Court, Southern District of Illinois
- United States District Court, Eastern District of Missouri
- United States District Court, Western District of Missouri
- United States District Court, Eastern District of Texas
- United States District Court, Eastern District of Wisconsin

## Service Areas

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- Intellectual Property
- IP Litigation
- Business Litigation
- Trademarks
- Patent Litigation
- Trade Secret Litigation
- Copyright Law
- Mass Tort & Product Liability
- Health & Life Sciences

## Experience

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- Won an appeal in the Eighth Circuit Court of Appeals, affirming the Western District of Missouri's grant of summary judgment and award of attorney's fees to the defendant in a copyright infringement lawsuit involving architectural plans
- Obtained a complete defense verdict in a two-week jury trial as lead trial counsel for a major pharmaceutical company in a case before the U.S. District Court for the Western District of Missouri involving claims of copyright infringement, breach of contract, the Missouri Computer Tampering Act, and civil conspiracy
- Obtained summary judgment in the Western District of Missouri in a copyright infringement lawsuit brought by a client's former vendor alleging that an online system developed by one of the client's vendors infringed its copyrights and seeking damages potentially in the hundreds of millions of dollars from the client and other users of the platform
- Won a preliminary injunction against defendants for violating the terms of a settlement agreement in a breach of contract case in the U.S. District Court for the Western District of Tennessee
- Obtained summary judgment of invalidity of all means-plus function claims for a payment provider in a patent infringement case involving telecommunications patents before the U.S. District Court for the Western District of Tennessee
- Won dismissal of complaint, leading to a favorable settlement in a patent infringement action involving a business method patent in the U.S. District Court for the Eastern District of Missouri
- Obtained a denial of a preliminary injunction following a bench trial in the U.S. District Court for the Eastern District of Missouri in a patent infringement litigation action involving concrete flooring technology
- As lead trial counsel for a major tobacco company, prevailed in a jury trial in a commercial negligence action in the U.S. District Court for the Eastern District of Missouri, resulting in an award of 97.5 percent of the damages sought plus interest
- Obtained reversal of a preliminary injunction for an IT maintenance provider in a bet-the-company case in which the U.S. Court of Appeals for the Federal Circuit ruled in the client's favor on copyright, Digital Millennium Copyright Act, and trade secret claims, approving the client's use of diagnostic software for computer maintenance
- Prevailed in a four-day bench trial for a freight-hauling railroad in a lease dispute in the U.S. District Court for the Eastern District of Missouri, resulting in the client's control of the property

## Publications & Events

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### **SPEAKING ENGAGEMENTS**

- “It’s No Secret, Trade Secrets Have to Be Protected,” 2019 In-House Counsel Summit, Tucker Ellis LLP, Cleveland, Ohio (November 2019)

### **PUBLICATIONS**

- “U.S. Supreme Court Rules PTO Attorney’s Fees Are Not Recoverable Under Patent Act § 145,” Tucker Ellis Client Alert (December 2019)
- “Two Years of Ex Parte Seizures Under the DTSA: Have We Fallen Down the Slippery Slope?,” DRI’s *The IP Update* (December 2018)
- “Remedies Under the Defend Trade Secrets Act,” DRI’s *Remedies in Intellectual Property Cases* (2018)

### **Honors**

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- 2021 Top Verdicts & Settlements, Missouri Lawyers Media
- The Best Lawyers in America® (2010-2022)
- Missouri & Kansas Super Lawyers® (2010-present)
- National Institute of Trial Advocacy, Certified Advocate
- Martindale-Hubbell® AV Preeminent® Peer Rating

### **In the Community**

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- The Missouri Bar
- Illinois State Bar Association
- Defense Research Institute
  - » Intellectual Property Litigation, Steering Committee
- Intellectual Property Owners Association
  - » Trade Secrets Committee
- Boys & Girls Clubs of Eastern Missouri, Board of Directors (2010-2017)
- Mentor St. Louis
  - » President (2006-2009)
  - » Board of Directors (2005-2009, 2016-present)
  - » Mentor (1996-2005)