



## Sandra J. Wunderlich

### Partner

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Sandy Wunderlich has a diverse litigation background, with a particular emphasis on intellectual property litigation and consulting.

An experienced trial lawyer, Sandy has been lead trial counsel in more than a dozen jury and bench trials. Over the past 25 years, she has litigated patent, trademark, copyright, and domain name matters from the cease-and-desist stage through appeal.

Outside of litigation, Sandy provides intellectual property consulting on the likelihood of litigation and strategizes with clients on ways to avoid it. She also assists clients with online brand control and enforcement through cost-effective approaches to stopping unauthorized sales of products. A member of the Federal Circuit, she has successfully handled appeals in that court.

In addition to her IP expertise, Sandy has represented large pharmaceutical manufacturers, agricultural and industrial manufacturers, a Fortune 50 company, and large national banks and credit arms of Fortune 100 companies in areas including commercial litigation, class actions, medical device and pharmaceutical liability, and financial services litigation, among others.

While Sandy is particularly well-known in Missouri and Illinois state and federal courts, she litigates disputes nationwide, in states including Kansas, Delaware, Minnesota, Tennessee, California, Texas, Ohio, Florida, New York, and New Jersey. Sandy also handles appeals in the highest appellate courts at both the state and federal levels. As a former law clerk to the Honorable Elwood L. Thomas of the Missouri Supreme Court, she gained valuable insight into the appellate process.

“Recommended” in World Trademark Review’s *WTR 1000*, Sandy “knows what it takes to get difficult jobs done. Distinguished by her IP trial and appellate experience, she is a powerful weapon in the armoury of Tucker Ellis, a firm well reputed for its robust enforcement capabilities.”

### **Education**

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- University of Missouri School of Law (J.D., 1991); Order of the Coif; Missouri Law Review, Note and Comment Editor
- University of Missouri-Columbia (B.A. in Political Science, with honors, 1988)

### **State Admissions**

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- Missouri, 1991
- Kansas, 1992
- Illinois, 1995

### **Federal Admissions**

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- Supreme Court of the United States
- United States Court of Appeals, Third Circuit
- United States Court of Appeals, Eighth Circuit
- United States Court of Appeals, Tenth Circuit
- United States Court of Appeals, Federal Circuit
- United States District Court, Central District of Illinois
- United States District Court, Southern District of Illinois
- United States District Court, District of Kansas
- United States District Court, Eastern District of Missouri
- United States District Court, Western District of Missouri

### **Service Areas**

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- Intellectual Property
- IP Litigation
- Trademarks
- Copyright Law
- Patent Litigation
- Trade Secret Litigation
- Appellate & Legal Issues
- Business Litigation
- Class Action Litigation
- Broker-Dealers
- Financial Services Litigation
- Mass Tort & Product Liability
- Life Sciences Litigation
- Commercial Asset Recovery & Protection
- Health & Life Sciences
- Food, Cosmetics & Dietary Supplements

## Experience

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### INTELLECTUAL PROPERTY LITIGATION

#### PATENT

- Defending a pharmaceutical company against allegations of inequitable conduct in the patent procurement process
- Pursuing the recovery of unpaid royalties for innovative concepts developed in a joint venture concerning retail consumer goods
- Defended a hydraulic lift manufacturer against allegations of patent infringement and breach of a license agreement
- Defended a major sporting goods manufacturer in an action accusing it of infringement of knee saver; obtained summary judgment in favor of client; following appeal to the Federal Circuit, the court unanimously affirmed the decision within 24 hours of the oral argument
- Defended an international manufacturer of disc brakes after the lower court entered judgment against client for willful infringement and awarded treble damages and attorney's fees; after developing an effective strategy on appeal, the matter settled far more favorably than the judgment
- Defended an importer of pesticides in an infringement action related to the chemical formulation of pesticide; matter was resolved through a favorable settlement for client
- Defended a consumer appliance manufacturer in an action alleging infringement of six patents related to features of wet/dry vacuums; matter settled favorably for client days before trial

#### TRADEMARK AND DOMAIN NAMES

- Defended an international nutritional supplement manufacturer in trademark infringement litigation
- Represented a food and beverage manufacturer in trademark infringement and cybersquatting litigation against another beverage manufacturer
- Obtained an order of seizure of counterfeit goods, a permanent injunction, and damages on behalf of a clothing manufacturer
- Represented a consumer products company in trademark and domain name litigation related to an advertising campaign and tagline
- Obtained dismissal of claims of trademark infringement and counterfeiting related to tobacco products sold on Amazon.com
- Successfully defeated a request for a temporary restraining order against a sporting goods manufacturer based upon alleged trademark infringement, resulting in dismissal of all asserted claims for infringement
- Obtained summary judgment in favor of a custom motorcycle manufacturer in a trademark infringement action related to its branded clothing and logo; decision affirmed on appeal
- Defended a bank in a trademark infringement action in the U.S. District Court of the Middle District of Tennessee; the matter settled favorably for client with client able to continue using the

name

- Represented a charitable organization for families in crisis against claims of trademark infringement; matter resolved favorably for client with client able to continue using the brand
- Represented a charity asserting claims of trademark infringement; matter settled favorably for client with infringer agreeing to change its name
- Represented an international toy company in a claim of trade dress violation; case settled quickly after asserting the claim
- Defended a client against accusations of trademark infringement in use of domain name; matter resolved in favor of client, including payment of attorney's fees
- Prosecuted an action on behalf of a client in a dispute related to domain name through UDRP process, resulting in release of the domain name for client's use
- Represented an international toy company in a claim of infringement by a web-based seller that was allowing counterfeit goods to be sold; obtained a crucial ruling on the issue of jurisdiction and their liability for allowing the sale of infringing articles, leading to a favorable settlement for client
- Represented a healthcare company in defense of its trademark; judgment entered in favor of client that allowed for continued use of mark

#### **COPYRIGHT**

- Represented the producers of a blockbuster song against claims of copyright infringement
- Represented an international toy company in a dispute related to movie rights and copyright infringement
- Represented a charity asserting claims of copyright infringement; matter settled favorably for client with infringer agreeing to cease use of the written materials

#### **DOMAIN NAMES**

- Defended a client against accusations of trademark infringement in use of domain name; matter resolved in favor of client, including payment of attorney's fees
- Prosecuted an action on behalf of a client in a dispute related to domain name through UDRP process, resulting in release of the domain name for client's use

#### **FOOD, COSMETICS AND DIETARY SUPPLEMENTS**

- Counseled a cosmetics company through process of recalling product from the market and FDA's subsequent investigation of effectiveness of recall
- Developed recall protocol and procedures on behalf of multiple clients to ensure compliance with FDA guidelines and preparedness for recalls
- Counseled a food processing company through recall by supplier, including collection of damages resulting from recall
- Counseled a food manufacturer concerning potential liability for contaminated products, including FDA inspection and recalls, insurance coverage, and response to FDA 483 Report, resulting in warning of manufacturer rather than fines or other punishment
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Advised a can manufacturer related to risks associated with exploding cans; retained a chemist to evaluate product formula, testing results, and pasteurization process, and developed defenses to claims by the distributor

- Defended a food flavoring manufacturer against a claim for personal injuries resulting from the inhalation of a product by a bakery employee; obtained dismissal based upon the statute of limitations
- Represented a food manufacturer in a dispute with an ingredient supplier following a product recall due to the use of contaminated ingredients; the dispute centered around the amount of damages and the supplier's claims that the recall was overly broad; successfully argued that the scope of the recall was necessary due to the risk of harm to consumers and protection of the client's brand

#### **MEDICAL DEVICE & PHARMACEUTICAL LIABILITY/MASS TORT & PRODUCT LIABILITY**

- Serves as national coordinating counsel for a large international pharmaceutical company in alendronate sodium matters originally pending in two MDLs and two coordinated state court proceedings; all MDL claims dismissed and confirmed on appeal to Third Circuit; majority of state court actions dismissed
- Defending a large international pharmaceutical company against allegations of public nuisance, fraud, and unjust enrichment related to prescription opioid medications in multiple states
- Represented multiple generic pharmaceutical companies in mass actions seeking damages for alleged personal injuries resulting from ingestion of metoclopramide; obtained dismissal of claims based upon preemption initially; following appeal and remand of two claims, obtained dismissal for lack of personal jurisdiction
- Represents a brand name pharmaceutical company in mass actions alleging birth defects; cases still pending, subject to a stay
- Defended a pharmaceutical company in a class action alleging economic damages resulting from off-label promotion under Missouri Merchandising Practices Act; matter settled favorably for client shortly before trial
- Served on a national products liability trial team defending benzene cases for a Fortune 50 company
- Defended agricultural and industrial equipment manufacturers in product liability actions resulting in serious personal injury and/or death

#### **FINANCIAL SERVICES LITIGATION**

- Led the defense of a large national bank against allegations of fraud and breach of trust and seeking damages in excess of \$500 million; the case settled for a fraction of the damages sought just before trial
- Obtained defense verdicts in jury trials in favor of a credit services company against allegations of conversion and breach of contract in financing transactions
- Obtained a directed verdict in a jury trial in favor of the credit arm of a Big 3 automobile manufacturer against allegations of conversion, breach of contract, and fraud

Obtained a defense verdict in a bench trial in favor of a large national bank against allegations of fraud, misrepresentations, and promissory estoppel brought by borrowers and guarantors of the bank

- Obtained a TRO and deficiency judgment against a car dealership with over 150 financed cars in floorplan
- Obtained a TRO and deficiency judgment in an action against a purchaser of significant inventory of heavy equipment
- Successfully resolved a shareholder derivative action against bank officers and directors of a community bank in an action brought by a shareholder following the discovery of embezzlement at the bank
- Defended against a putative class action brought by consumers against a lender accused of abusive credit reporting procedures; class certification was denied

## Publications & Events

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### SPEAKING ENGAGEMENTS

- “Will We Ever Go Back to Normal? A Collaborative Conversation About the Impact of COVID on the Practice of Law and Litigation,” IADC Webinar (August 2021)
- “Crowdsourcing: What Is It, How Does It Work, and What Are the Risks?”, DRI 2021 Business Litigation Virtual Super Conference (May 2021)
- “Effective Leadership: Creating Champions in a Time of Change and Challenge,” Intellectual Property Owners Association Virtual Spring Summit (April 2021)
- “Leadership that Matters: Finding Your Own Success,” DRI Future Leaders Bootcamp (March 2021)
- “Taming the Email Dragon Before Your Client Gets Burned,” 2020 In-House Counsel Summit Webinar, Tucker Ellis LLP (December 2020)
- “The Myths and Dangers of Perfectionism for Women Lawyers,” International Trademark Association (INTA) 2020 Annual Meeting (November 2020)
- “2020 Top Trademark Tips for Avoiding Malpractice Lawsuits,” The Missouri Bar (November 2020)
- “Taming the Email Dragon Before Your Client Gets Burned,” DRI 24th Annual Meeting (October 2020)
- “Top Ten Rules for Avoiding Common Email Mistakes,” materials authored and published for DRI 24th Annual Meeting (October 2020)
- “The Use of Genetic Testing in the Courtroom,” Moderator, IADC 2020 Virtual Annual Meeting (July 2020)
- “The Intersection of Blockchain and IP,” IADC 2020 Midyear Meeting, Pebble Beach, California (February 2020)
- “The Intersection of Blockchain and Intellectual Property,” materials authored and published for IADC 2020 Midyear Meeting, Pebble Beach, California (February 2020)
- “Crowdsourcing: What Is It, How Does It Work, and What Are the Risks?”, 2019 In-House Counsel Summit, Tucker Ellis LLP, Cleveland, Ohio (November 2019)
- “Top Ten Things You Can Do to Prevent Trade Secret Theft,” IADC Webinar (October 2019)
- “The Scope of Common Law Trademarks in Cyberspace,” DRI 2019 Annual Meeting, New Orleans, Louisiana (October 2019)
- “Preservation, Discovery, and Presentation of Cyber Evidence,” IADC Webinar (June 2019)
- “Intellectual Property Issues Every Lawyer Should Know,” Missouri Bar Solo and Small Firm Conference, Osage Beach, Missouri (June 2019)
- “Crowdsourcing: What It Is, How It Works, and Its Implications for Corporate America,” IADC Corporate Counsel College, Chicago, Illinois (April 2019)
- “The Intersection of Diversity and Inclusion and Registration of Disparaging and/or Scandalous Trademarks,” IADC Diversity & Inclusion Committee, St. Louis, Missouri (March 2019)
- “Embracing Failure,” Webinar presented to the Intellectual Property Owners Association Women in the Law Committee (March 2019)
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- “The Music Industry: What Keeps In-House Counsel Up at Night?”, IADC 2019 Midyear Meeting, Santa Barbara, California (February 2019)
- “How to Get the Most Out of Your Mock Trial,” IADC Webinar (December 2018)
  - “Protecting Your Innovation from A to Z,” 2018 In-House Counsel Summit, Tucker Ellis LLP, Cleveland, Ohio (October 2018)
  - “How to Win Trademark Infringement Lawsuits and Influence Jurors,” IADC 2018 Annual Meeting, Lisbon, Portugal (July 2018)
  - “Commonly Missed IP Issues General Practitioners Cannot Afford to Miss,” Missouri Bar Solo and Small Firm Conference, Lake of the Ozarks, Missouri (June 2018)
  - “Advice from the Bench,” DRI 2018 Intellectual Property Seminar, Denver, Colorado (April 2018)
  - “Swinging for the Fences – Trademark Infringement TRO/Preliminary Injunction Proceedings,” Cleveland Intellectual Property Law Association, Cleveland, Ohio (April 2018)
  - “The Entertainment Industry: What Keeps In-House Counsel Up at Night?”, IADC 2018 Midyear Meeting, La Quinta, California (February 2018)
  - “Alternative Fee Arrangements – Bespoke or Broken?”, IADC Webinar (November 2017)
  - “‘Oh, the Places You’ll Find Intellectual Property!’ Commonly Missed IP Issues In-House Counsel Cannot Afford to Overlook,” 2017 In-House Counsel Summit, Tucker Ellis LLP, Cleveland, Ohio (October 2017)
  - “Civil Litigation with Magistrate Judges: Litigating Civil Consent Cases,” 2017 Federal Practice Seminar: Emerging Issues in 21st Century Federal Practice, The Bar Association of Metropolitan St. Louis, St. Louis, Missouri (October 2017)
  - “Food Fight: FSMA and the FDA’s New Era of Enforcement from the Perspective of Outside Counsel, In-House Counsel and a Former FDA Officer,” International Association of Defense Counsel 2017 Annual Meeting, Quebec City, Quebec (July 2017)
  - “The Sporting Goods Industry: What Keeps In House Counsel Up at Night,” International Association of Defense Counsel Mid-year Meeting, Scottsdale, Arizona (February 2017)
  - “Embracing Failure,” DRI Women in the Law Seminar, Scottsdale, Arizona (February 2017)
  - “Legal Project Management: The Greatest Thing Since Sliced Bread?” American Bar Association Tax Seminar, Orlando, Florida (January 2017)
  - “Innovate or Fail: New Strategies for Managing Litigation,” Association of Corporate Counsel, St. Louis, Missouri (August 2016)

## PUBLICATIONS

- [“How Female Lawyers Can and Should Prioritize Building Resiliency,”](#) law.com (March 2020)
- [“Trademark Protection in 2020: 10 Simple Things to Consider,”](#) Tucker Ellis Client Alert (January 2020)
- [“Advice for Building a Foundation of Resiliency,”](#) DRI’s *For The Defense* (March 2019)
- [“Overheard at the 2018 WITL Seminar ...,”](#) DRI’s *For The Defense* (April 2018)
- [“Closing the Leadership Gap in Law Firms,”](#) DRI’s *For The Defense* (November 2017)
- [“Chapter 3 – Pleadings,”](#) DRI’s *The Trial Compendium* (August 2017)
- [“The Proper Care and Feeding of Your Trademarks,”](#) *In-House Defense Quarterly* (Summer



2017)

- “The Numbers Tell It All: 2017 DRI Women in the Law Seminar,” DRI’s *For The Defense* (April 2017)
- “The Scarecrow, the Lion, and the Tin Man: What *The Wizard of Oz* Can Teach Lawyers About Client Service,” DRI’s *The Voice* (April 2017)
- “The LPM Revolution,” DRI’s *It’s Your Business* (March 2017)
- “Legal Project Management: The Greatest Thing Since Sliced Bread?,” DRI’s *Rx for the Defense* (October 2016)

#### **MEDIA**

- “Lloyd’s Settles Sales Co.’s \$5.5M Cyberattack Coverage Suit,” *Law360* (July 2021)

#### **Honors**

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- American Bar Foundation, Fellow
- *World Trademark Review 1000*
  - » United States: Missouri (2021)
- Missouri Bar Pro Bono Wall of Fame (2017)
- Outstanding Leader, DRI Women in the Law Committee (2016)
- Martindale-Hubbell® AV Preeminent® Peer Rating
- The Best Lawyers in America® (2019-2022)
- Missouri & Kansas Super Lawyers® (2008-2013)
- Award of Merit, Bar Association of Metropolitan St. Louis, Young Lawyers Division (1997)

## In the Community

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- The Missouri Bar
  - » Intellectual Property Law Committee, Chair
- Illinois State Bar Association
- Kansas Bar Association
- Missouri Organization of Defense Lawyers
- Defense Research Institute
  - » Intellectual Property Litigation Committee
    - » Diversity and Inclusion SLC Liaison (2017-2018)
    - » Seminar Planning Committee
  - » Women in the Law Committee, Vice Chair (2019-2021)
    - » Program Chair (2020)
    - » Program Vice Chair (2018-2019)
    - » Marketing Vice Chair (2017-2018)
    - » Activities Chair (2016-2017)
    - » Pathways to Leadership, Inaugural Class (2017-2018)
    - » Seminar Planning Committee (2016-present)
  - » DRI for Life
    - » Podcasts, Webinars and Digital Media Chair (2018)
    - » Women in the Law Committee Liaison (2015-present)
    - » Intellectual Property Litigation Committee Liaison (2016-present)
    - » Seminar Support Chair (2016-2017)
- International Association of Defense Counsel
  - » Annual Meeting, CLE Committee Chair (2021)
  - » Intellectual Property Committee, Program Chair (2016-2018)
  - » IP Litigation Committee, Chair (2018-2020)
  - » IADC 46th Annual Trial Academy Faculty, Stanford Law School (2018)
- Intellectual Property Owners Association
  - » U.S. Trademark Law Committee
  - » Women in IP Law Committee
- National Juvenile Defender Center
  - » Authored and filed *amicus brief* in United States Supreme Court on the Center's behalf (December 2017)
- Case Western Reserve University, Weatherhead School of Management
  - » Emotional Intelligence Training (November 2017)
- Court Appointed Special Advocate, Franklin County, Missouri (2017-present)
- St. Francis Borgia Regional High School Dinner, Auction Chair (2014-2016)
- Our Lady of Lourdes
  - » School Board, Secretary and President (2013-2016)
  - » Parish Council (2012-present)
- National Institute of Trial Advocacy, Trial Training Program Graduate (1999)
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Downtown Children's Center, Board Member (1998-2001)

- Tucker Ellis Litigation Institute Faculty (2017)
- Tucker Ellis Equity & Inclusion Committee
- Tucker Ellis Women's Initiative
- Tucker Ellis Nominating Committee (2018-2019)
- Tucker Ellis Partner Admission Committee (2017-2018)