

Deirdre A. Fox

dfox@scharfbanks.com

312-662-4999

Deirdre A. Fox concentrates her practice on complex litigation, intellectual property and employment. Ms. Fox has represented companies in many industries, including consumer products, building products, pharmaceuticals, petroleum, automobiles, and health insurance in federal and state courts nationwide. She had extensive experience developing strategy and managing all facets of large, complex cases including high stakes, multi-jurisdictional litigation involving novel legal theories, and has first-and second-chaired trials. Her experience extends to complex contract disputes, intellectual property, employment disputes, dealer and distribution disputes, class action defense, and product liability.

Ms. Fox's commercial and intellectual property litigation practice encompasses a wide array of disputes, claims and risk management. These disputes include breach of contract, dealer/franchise, copyright, trademark and patent infringement, misappropriation of trade secret, and false advertising. Ms. Fox defends consumer fraud claims and violations of the Telephone Consumer Protection Act and other consumer protection statutes, including class actions. Additionally, she counsels clients on protecting intellectual property rights, licensing, data privacy and security, advertising issues, art law. She regularly writes and speaks on intellectual property issues.

Ms. Fox's employment law practice includes counseling and representing companies on discharge and discrimination claims and the crossover of employment law and intellectual property protection including non-compete, non-solicitation and non-disclosure protections. She also counsels clients on developing employment policies. A recipient of a development fellowship from the American Bar Association Section on Labor and Employment, Ms. Fox has written on employment issues.

Ms. Fox has defended companies against product liability claims



Practice Areas:

Complex Litigation
Intellectual Property
Insurance
Entertainment & Sports
Employment

Education:

J.D., University of Chicago Law School with honors, 1990
B.S., Northwestern University, 1986
B.F.A., School of the Art Institute of Chicago, 2003

Admissions and Qualifications:

Illinois
U.S. District Court for the Northern District of Illinois
Northern District of Illinois Trial Bar
Registered Patent Attorney,
U.S. Patent & Trademark Office

Prior Experience:

Kirkland & Ellis, LLP - Partner (1996-2001) (Associate 1990-1996)
Schoeman, Updike, Kaufman & Scharf (2011-2012)

involving tobacco, asbestos, pharmaceuticals and building products. She defended landmark aggregated actions by asbestos companies/trusts and medical recoupment actions by state attorney generals involving novel and developing legal theories. Ms. Fox leverages both her sophisticated product liability experience and science background in developing scientific and other defenses to personal injury and property damage claims.

Ms. Fox received her B.S. from Northwestern University in Materials Science and Engineering in 1986. She graduated from the University of Chicago Law School with honors in 1990.

Experience

Complex Litigation

- Defended landmark aggregated actions by asbestos companies/trusts and medical recoupment actions by state attorneys general involving novel and developing legal theories. Second chaired seven-week trial on behalf of Brown & Williamson in *Falise et al. v. American Tobacco Co., et al.* Mistrial followed by plaintiffs' voluntary dismissal.
- Defended simultaneous nationwide and state class actions and individual actions alleging defective building product. Developed successful procedural strategy and coordinated proceedings before the Multi-district Litigation Panel, resulting in defeat of nationwide class certification in federal court.
- Represented municipality and police officers in high profile §1983 civil rights and Americans with Disabilities Act case.

Commercial Litigation

- First-chaired multi-day Temporary Restraining Order hearing on behalf U.S. telecommunications company in suit brought by cellular phone dealer to prevent termination. Case settled.
- Defended the City of Chicago in a multibillion dollar claim for injunctive relief filed by United Airlines and American Airlines to stop the O'Hare Modernization Program, a multi-year effort that is the largest civil construction program in the United States. After expedited motion practice and discovery, the litigation was successfully resolved, and the Program is proceeding to completion. *American Airlines et al. v. City of Chicago*, Circuit

Court of Cook County, Illinois.

- Defended petroleum company in multiple suits in multiple jurisdictions by multiple dealers challenging pricing practices. Suits dismissed on the law.
- Counseled major automobile manufacturer on developing and implementing uniform nationwide dealer agreement to manage risk and maximize objectives and defeated Florida dealers' state protest to declare dealer agreement void.
- Defended \$300 million plus RICO suits by multiple banks premised on alleged parent company guarantees of loans to real estate joint ventures of subsidiary. Case settled during trial.
- Represented global company sued under TCPA for invitation to educational seminar. Case dismissed after early briefing and fact-finding.

Intellectual Property & Technology

Intellectual Property Litigation

- Defended generic pharmaceutical manufacturer in an abbreviated new drug application ("ANDA") patent infringement action consolidated by the Multi-District Litigation Panel. Settled.
- Litigation over use of trademarks, trade name/likeness for a consumer food product, filed in the United States District Court for the Northern District of Illinois. The case was dismissed in the trial court under Rule 12 and affirmed on appeal by the Seventh Circuit. *Hunter v. Pinnacle Foods, et al.*, Seventh Circuit, No. 14-CV-6011.
- Represented manufacturer in action for infringement of copyright on packaging and labeling. Settled.
- Represented videographer in dispute with former employer over intellectual property ownership rights. Settled.

Trademarks, Trade Dress, and Designs

- Manage trademark portfolio for start-up food company and advise on and obtain intellectual property rights and protection.

- Counsel food manufacturer on international trademark portfolio, international and domestic licensing, trade dress and design rights, copyrights and advertising issues.
- Counsel client on trademarks and branding issues for music festival.

Privacy

- Counseled multinational food distributor on novel privacy issues and privacy best practices.

Product Liability

- Defended a global pharmaceutical company against failure-to-warn product liability claims in a wrongful death action in Illinois. The matter was resolved using early case assessment. *Phillips v. The University of Chicago Hospitals et al.*, Circuit Court of Cook County.
- Represented insurance company in multimillion dollar contribution action against dietary supplement maker. Case settled at trial during plaintiff's case.

Antitrust

- Represented food distributor in obtaining Hart-Scott-Rodino clearance of \$200 M plus transaction.

Professional Activities

Bar

- Illinois State Bar Association: (Chair, Intellectual Property Section Council, 2015-present; Vice Chair, Intellectual Property Section Council 2014-2015; Continuing Legal Education Coordinator, Intellectual Property Section Council, 2013-2014; Member Professional Conduct Standing Committee, 2014-present)
- Coalition of Women's Initiatives in the Law (Co-Chair, In-Person Programming, 2015-present)

- American Bar Association (Section on Labor and Employment Fellowship, 2011- 2014)
- American Intellectual Property Law Association: (Chair of Social Media Subcommittee of Trade Secrets Committee, 2012; Program Committee, 2012- 2013)
- The Richard Linn American Inn of Court University of Chicago Law School (Mentor) CARPLS Legal Aid Hotline

Community

- Ann Metzger Memorial National All Media Exhibition, 2012 (Juror: Marl Prather, Curator in the Department of Modern and Contemporary Art at the Metropolitan Museum of Art)
- New American Paintings Midwest Edition, 2012 (Juror: Lisa Freeman, Senior Curator and -Chair of the Department of Contemporary Art of the Indianapolis Museum of Art)
- City of Chicago/Illinois Arts Council CAAP Grant Awards, 2004, 2005, 2008, 2012
- Saatchi Online, Your Studio Competition Winner, 2008 (Juror: Alix Rule, Berlin) City of Chicago Chicago Artist Month Featured Artist, 2008
- Chicago Art Dealers Association Emerging Artists Showcase, 2005
- Palette & Chisel Academy of Fine Art Scholarship, 2004; Nippon Steel USA Award, 2002

PUBLICATIONS

- "A Discussion of Facial Recognition Technology, Interactive Displays and Recent Legal Developments," The Newsletter of the Illinois State Bar Association Section on Intellectual Property Law, November 2015.
- "A Few Words on Discovery of Social Media Evidence," Decalogue Tablets, The Decalogue Society of Lawyers, Spring 2015.

- "The Rise of Social Media and Its Role in Litigation," Co-Authored with Sarah Marmor, Virginia Kim, Cloud Computing and Electronic Discovery (Wiley) (ed. J. Martin, H, Cendrowski,), 2014.
- "Going Beyond Trade Secrets and Restrictive Covenants: Intellectual Property Protections in Employment Agreements," ERR Committee of the ABA Labor and Employment Law Section, March 2014.
- "Non-Compete Purgatory: You Know You are Leaving, But You Are Not Gone (Yet)," Co-Authored, Non-Competition, Trade Secrets, Proprietary Information, and Duty of Loyalty Subcommittee, ERR Committee of the ABA Labor and Employment Law Section, March 2014.
- "Stretching Beyond the Sea Shore: Non-Compete Geographic Restrictions In a Virtual World," Co-Authored, Non-Competition, Trade Secrets, Proprietary Information, and Duty of Loyalty Subcommittee, ERR Committee of the ABA Labor and Employment Law Section, March 2013. [Click here to read.](#)
- "A Harsh Reminder From U.S. Courts: Don't Let Your Marks Go Out Naked," International Law News, American Bar Association Section of International Law, Vol. 41, No. 1, Winter 2012.
- "Product Litigation over Defective Construction Products, in Product Liability Litigation, " Current Law, Strategies and Best Practices, Practising Law Institute, S. Scharf, L. Spacapan, T. Braun & S. Marmor, eds. 2012.

SPEAKING ENGAGEMENTS

- "Employment Agreements, NDAs, and Data Security," Illinois State Bar Association, Chicago, IL, February 1, 2017.
- "Mining Data and Privacy: A Primer," Illinois State Bar Association, Chicago, Illinois, September 14, 2015.
- "Copyrights on the Street: Creating and Preserving Graffiti and Other Art in Public Spaces," Copyright Society of the United States, Annual Meeting, Newport, Rhode Island, June 9, 2015.

- "Negotiating Executive Employment Agreements: Intellectual Property and Other Tips and Traps for the Unwary," Employment Rights and Responsibility Committee Midwinter Meeting, American Bar Association Labor & Employment Section, March 2015.
- "Fundamental Intellectual Property Law and Related Restrictive Covenants for Labor and Employment Lawyers," American Bar Association Labor & Employment Section, Annual Section Meeting, November 2014.
- "Navigating Social Media and the Law," The Decalogue Society of Lawyers, October 2014.
- "Identifying Intellectual Property Issues in Start-ups," Illinois State Bar Association, May 27, 2014.
- "Non-Compete Purgatory: Leaving But Not Yet Gone," Employment Rights and Responsibility Committee Midwinter Meeting, American Bar Association Labor & Employment Section, March 2014.
- "Legal Considerations of Crowdfunding: Intellectual Property, Consumer Protection and Securities Issues," LEXVID Continuing Professional Education, 2014.
- "Crowd Funding 101," Illinois State Bar Association, February 13, 2014.
- "Apple v. Samsung: Is it the Patent Case of the Year?" Illinois State Bar Association, December 10, 2012.
- "Can You Really Run a Practice from a Tablet?" Legal Trends for Non-Techies: Topics, Trends, and Tips to Help your Practice, Illinois State Bar Association, March 2012.