



Gina Durham

Partner

CHAIR, US TRADEMARK, COPYRIGHT AND MEDIA PRACTICE

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Gina Durham litigates trademark, copyright, trade-dress, false advertising and right of publicity cases in multiple districts throughout the country. She has litigated cases in federal courts for clients such as Nike, The Estate of Marilyn Monroe, Southwest Airlines, United Airlines, and Harley Davidson.

Gina has led brand protection efforts for some of the most well-known companies in the world, including trying one of the first cases to go to trial under the amended Federal Trademark Dilution Act. During her time at DLA Piper, Gina spent an extended amount of time working "on loan" within a major software corporation advising on copyright infringement matters as well as large-scale pre-litigation efforts.

Gina has vast experience in the protection of proprietary rights on the Internet, having successfully litigated the enforceability of online terms of use, civil claims under the Computer Fraud and Abuse Act, and Internet crawling disputes. Gina also counsels clients on IP prosecution matters, brand clearance and intellectual property portfolio management, primarily in the technology, media and retail sectors.

EXPERIENCE

- *Glass Egg v. Gameloft SE, Vivendi, SA, et. al., (N.D. Cal.); Defending video game publisher and related companies in copyright infringement dispute involving Asphalt 8 games.*
- *Why Not Enterprises v. NIKE, Inc., (C.D. Cal.); Defending Nike in trademark litigation filed by a plaintiff asserting rights allegedly in conflict with Nike's WHY NOT apparel and shoe line endorsed by NBA MVP Russell Westbrook.*
- *Simoniz v. Dollar Shave Club, (D. Conn.); Represented Dollar Shave Club, Inc. in a pretrial victory attained with a successful motion to dismiss on standing issues in trademark infringement case.*
- *Sofia Vergara v. Venus Concept, (Los Angeles Superior Court); Defended beauty company in widely publicized right of publicity lawsuit.*
- *Williams, Jason et al. vs. Cavalli, Roberto, S.P.A. et al., No. 2:14-cv-06659 (Cd. Cal); Lead counsel for defendants, in litigation involving multiple claims of copyright infringement and DMCA violations*

RELATED SERVICES

- Intellectual Property and Technology
- Media, Sport, Gaming and Entertainment
- Trademark and Copyright
- Mergers and Acquisitions
- Litigation, Arbitration and Investigations
- Corporate

RELATED SECTORS

- Media, Sport and Entertainment
- Healthcare

- *A.V.E.L.A. v. The Estate of Marilyn Monroe, LLC*, 12-cv-(S.D.N.Y./pending); Lead counsel for The Estate in Lanham Act dispute regarding use of Marilyn Monroe brand and image.
- *Protect-A-Car Wash Sys v. Car Wash Partners* (D. MD.); Represented defendant, the largest national car wash chain, in trademark and unfair competition claims relating to MISTER CAR WASH mark.
- *Superpoints v. Rakuten Inc.* (N.D. Cal.); Represented Rakuten in trademark and unfair competition litigation over use of RAKUTEN SUPER POINTS.
- *Lights Out Holdings, LLC v. Nike*, (S.D. Cal.); Defended Nike against trademark infringement claims
- *Humantech v. Caterpillar et. al.*, (E.D. MI); Lead counsel for codefendant, resolving multiple copyright infringement claims following successful motion to dismiss involving DMCA count
- *The Estate of Marilyn Monroe v. Monroe*' of Palm Beach, 9 (S.D. Fla.); Lead counsel for The Estate in false endorsement and trademark infringement and dilution case
- *CMG Worldwide, Inc. v. The Estate of Marilyn Monroe, LLC*, (S.D.N.Y.); Lead counsel in action implicating complicated intellectual property rights related to the iconic Marilyn Monroe
- *Pfizer Inc. v. All USA et. al.* (N.D. IL); Represented Pfizer in a trademark infringement action involving alleged unauthorized distribution of pharmaceutical products
- *Pactiv Corporation v. The Glad Products Company*, (N.D. IL): Lead counsel for The Glad Products Company in defending a trademark infringement action
- *Southwest Airlines Co. v. CheckinSooner.com LLC*, (N.D. TX): Lead counsel for airline in case alleging breach of online terms of use and Computer Fraud and Abuse Act claims against a company alleged to have designed and sold access to a flight check-in tool which, through an automated process, circumvented Southwest's authorized check-in procedures
- *United Air Lines, Inc. v. Allen et. al.*, 716 F.Supp.2d 79 (D.Mass. 2010); 645 F.Supp.2d 34 (D. Mass. 2009): Represented airline in case involving alleged misappropriation of denied boarding compensation vouchers and dispute over application of Airline Deregulation Act preemption relating thereto
- *Truco Enterprises, L.P. v. N.F.B.Foods*, (S.D.N.Y.): Counsel for plaintiff in preliminary injunction proceeding involving alleged trade dress infringement of food packaging
- *Craig R. Bell d/b/a Destinee Eploriums v. Harley-Davidson Motor Company et. al.*, 539 F.Supp.2d 1249 (S.D. Cal. 2007): Represented Harley-Davidson in a successful summary judgment motion to dispose of trademark infringement claims based on fair use defense
- *Nike, Inc. v. Nikepal International, Inc.*, 84 USPQ2d 1820 (E.D. Cal. 2007): Successfully represented Nike in a trial for claims of trademark infringement and dilution. The case involved the famous NIKE mark and a rare appeal of a Trademark Office opposition to a district court and claims involving injunctive relief
- *Southwest Airlines Co. v. BoardFirst, LLC*, 2007 U.S. Dist LEXIS 96230 (N.D. TX): Represented Southwest Airlines in successful enforcement of terms and conditions of airline's website under breach of contract theory

CREDENTIALS

Admissions

- California
- Illinois

Recognitions

- The California Daily Journal named Gina to its 2017 list of Top IP Lawyers
- Commended in the *WTR 1000: The World's Leading Trademark Professionals 2017, 2018*
- Gina was named to *The San Francisco Business Times*' "40 Under 40" List in March 2014
- *World Trademark Review* recently ranked Gina in its listing of top practitioners, noting that "[she] is complimented for her 'fantastic ability' in trademark litigation and transactional work; she manages global trademark portfolios for numerous household-name brands."

- Recognized by *The Legal 500 United States* in 2019

Education

- J.D., DePaul University 1999
with honors
Order of the Coif
- B.A., Northwestern University 1996
with honors

Memberships

- International Trademark Association, service on several committees, including China Anti-Counterfeiting Committee and Internet Committee

INSIGHTS

Publications

Trade Dress Watch: A case for counterfeit trade dress

5 DEC 2013

Spiders, bots and other creepy crawlers: protecting your company website

10 Mar 2010

Events

Previous

13th annual Women in IP Law CLE luncheon

10 September 2019
East Palo Alto

12th Annual Women in IP Law CLE Program

8 NOV 2018
East Palo Alto

- Media Law Resource Center, Intersection of Right of Publicity & Social Media, November 2016
- To post or not to post: a global perspective on social media and celebrity (false) endorsement, May 2016

- Panelist, Bay Area iACC Conference, "Protecting Your Brand in China, What You Need to Know About The New Law" (April, 2014)
- Panel leader, IP Counsel Café, Palo Alto, "Monetization of Trademarks" (April 2014)
- Panelist, "Social Media, Compliance and Risk Management," Thomson Reuters Corporate Governance Seminar, Chicago (September 2012)
- Panelist, "Marketing and Selling on the Internet," Northwestern University Kellogg School of Management Business Law Conference (February 8, 2012)

NEWS

29 DLA Piper lawyers in 10 countries ranked among *The World's Leading Trademark Professionals*

12 FEB 2019

WTR 1000: The World's Leading Trademark Professionals 2018 has named 29 DLA Piper lawyers from nine countries to its list of top trademark professionals.

DLA Piper represents Securly in Series B financing led by Defy Partners and Owl Ventures

28 DEC 2018

DLA Piper represented Securly, Inc. in a US\$16 million round of Series B financing led by Defy Partners, along with participation by Owl Ventures.
