



**Gina Durham**

**Partner**

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Gina Durham is an experienced trial attorney and strategist who focuses her practice in the areas of trademark, copyright, right of publicity, trade dress, and false advertising. Gina approaches matters from a global perspective, often coordinating multijurisdictional strategies to advance the interests of her multinational clients primarily in the technology, media and retail sectors.

Gina represents some of the most well-known companies in the world and has achieved favorable outcomes in consequential matters for clients such as NIKE, the Estate of Marilyn Monroe, and Harley Davidson. She brings her deep understanding of the full life cycle of rights creation, clearance, prosecution, and trends in enforcement and litigation to each matter. Gina also has two decades of experience in disputes surrounding questions 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.

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

- *Chicago Mercantile Exchange v. Intercontinental Exchange (N.D. IL)*- Lead trial lawyer defending Intercontinental Exchange (owner of the New York Stock Exchange) in a trademark infringement lawsuit filed by competitor seeking over \$1 billion in damages; trial conducted under pandemic circumstances, including completing a month-long hybrid remote/live trial
- *Lisa Frank v. The Orb Factory (D. AZ)*- Lead trial lawyer in jury trial defending toy company against copyright and trade dress infringement lawsuit involving multiple craft toy lines
- *Lontex v. NIKE (E.D. PA)* – Lead counsel defending NIKE in trademark infringement claim involving allegations of reverse and forward confusion; successful partial motion to dismiss
- *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

- *A.V.E.L.A. v. The Estate of Marilyn Monroe, LLC*, (S.D.N.Y.); Lead counsel for The Estate in Lanham Act dispute regarding use of Marilyn Monroe brand and image
- *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
- *Craig R. Bell d/b/a Destinee Eploriums v. Harley-Davidson Motor Company et. al.*, (S.D. Cal.); 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.*, (E.D. Cal.); 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
- *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.
- *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
- *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
- *Southwest Airlines Co. v. BoardFirst, LLC* (N.D. TX): Represented Southwest Airlines in successful enforcement of terms and conditions of airline's website under breach of contract theory

## CREDENTIALS

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### Admissions

- California
- Illinois

### Recognitions

- *Chambers USA*
  - Band 4, California Intellectual Property: Trademark, Copyright & Trade Secrets (2022)
- *The Legal 500 United States*
  - Recommended, Advertising and Marketing: Transactional and Regulatory (formerly Advertising and Marketing: Transactional) (2022)
  - Recommended, Private Equity Buyouts (2019-2020)
  - Recommended, Trademarks: Litigation (2018-2022)
  - Recommended, Trademarks: Non-Contentious (including Prosecution, Portfolio Management and Licensing) (2019-2022)
- The *California Daily Journal* named Gina to its list of Top IP Lawyers (2017)
- Commended in the *WTR 1000: The World's Leading Trademark Professionals* (2017-2020)
- Named to *The San Francisco Business Times*' "40 Under 40" List (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"

### 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

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### Publications

#### **Law à la Mode: Co-branding of wearable technologies; Internet of Things and the retail sector; 3D printing and more**

9 JUN 2015  
Law à la Mode

The US editorial team is delighted to bring you the sixteenth edition of Law à la Mode, the quarterly legal magazine produced by DLA Piper's Fashion, Retail and Design Group.

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

10 Mar 2010

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- "New York Just Made It Easier for Artists to Protect Their Image After They Die (Guest Column)," *Billboard* (December 11, 2020)

## Events

- Trials In the Time of Covid-19, ChIPs (February 2021)
- 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)