Howard S. Hogan

Partner

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Washington, D.C.



Howard S. Hogan is a partner in the Washington, D.C. office of Gibson, Dunn & Crutcher and is chair of the Consumer and Retail practice group. Over the course of his career, Howard has handled numerous complex cases in a variety of federal and state courts in several different substantive areas including general commercial, securities and employment matters, and internal investigations.

Howard has been repeatedly recognized as a leading voice in the intellectual property legal community, including being highly ranked in *Chambers USA*, by *Managing IP* as an IP Star for both trademark and copyright matters, in *World Trademark Review*'s list of "World's Leading Trademark Professionals" and its "Global Leaders Guide," and in serving as a committee chair with the International Trademark Association. In 2024, *WTR* described Howard as a "tenacious litigator" who "knows how to deliver a convincing argument and makes all the right strategic moves to put an end to disputes swiftly."

Howard's practice focuses on IP litigation and counseling, including trademark, false advertising, copyright, right of publicity, licensing, trade secret, and patent matters. Howard has represented various corporations and individuals in a broad range of industries, including fashion, cosmetics, pharmaceuticals, financial services, sports, entertainment, transportation, and online services. A significant portion of Howard's practice involves computer, Internet, and new media-related issues. Many of Howard's matters have tested the application of traditional legal principles to the Internet and emerging technologies, such as in connection with issues of Internet jurisdiction, online contracting, and the application of trademark and copyright law to search engines, social media, mobile apps, and artificial intelligence. Howard has been involved in cutting edge matters concerning the protection of data, and he has assisted clients with several substantial trade secrets and information security matters. Howard also represents clients in connection with rights of publicity, Name Image and Likeness (NIL) rights, and the developing legal framework that governs uses of digital replicas.

Representative Matters

- Represented **TikTok** and **ByteDance Ltd.** in a seven-day trademark infringement trial where plaintiffs asked the jury to award $116 million in damages. Howard's direct and cross-examinations of expert witnesses helped convince the jury to unanimously reject the plaintiff's claims.
- Represented a real estate company in a trademark infringement case before the U.S. Court of Appeals for the Fifth Circuit. Howard and the Gibson Dunn team convinced the appellate court to reverse the district court's grant of judgment and to reinstate the plaintiff's claims.
- Served as lead counsel to **A SHOC Beverage, LLC** and **Keurig Dr Pepper Inc.** in a trade dress and false advertising lawsuit brought by the owner of the Celsius beverage brand that sought to ban the A SHOC Accelerator product from the

Capabilities

Intellectual Property
Appellate and Constitutional Law
Artificial Intelligence
Consumer Products and Retail
Consumer Protection
Emerging Companies / Venture Capital
Higher Education
Litigation
Media, Entertainment, and Technology
Privacy, Cybersecurity, and Data Innovation
Sports Law
Tech and Innovation
Technology Litigation
Trade Secrets
Transnational Litigation
Trials

Credentials

Education

New York University - 1999 Juris Doctor
Georgetown University - 1994 Bachelor of Science

Admissions

Connecticut Bar
New York Bar
District of Columbia Bar

Clerkships

USDC, Southern District of New York, Hon. Naomi Reice Buchwald, 1999 - 2000

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marketplace. The district court granted Gibson Dunn's motion to dismiss the claims with prejudice and ordered that plaintiff's counsel reimburse defendants for $249,357 in fees.

- Represented **Brooks Sports, Inc.** in a hotly contested trademark infringement suit in the Eastern District of Virginia against a prominent Chinese sporting goods company. Howard and the Gibson Dunn team built an extensive record of the defendant's extreme discovery misconduct, leading to a default judgment sanction in Brooks' favor. The parties then entered into a settlement agreement.
- Argued a high-profile copyright case before the U.S. Court of Appeals for the Third Circuit, which resulted in a published decision reversing an injunction that had purported to prohibit the sale and marketing of an allegedly infringing book written by Gibson Dunn's client.
- Served as lead counsel to **Kimberly-Clark Corporation** in a trademark infringement action seeking millions of dollars in damages because of Kimberly-Clark's alleged use of the plaintiff's registered phrase in online advertising. After eliciting testimony in which the plaintiff admitted that he could not meet his required burden of establishing a likelihood of confusion, the case was resolved on confidential terms.
- Represented **Heaven's Door Spirits LLC**, marketer of its "Heaven's Door" line of premium whiskeys in partnership with Bob Dylan, in connection with a trademark infringement action that sought an injunction banning the product. The parties entered into a confidential settlement agreement and "Heaven's Door" whiskey continues to be sold throughout the United States.
- Represented **Gucci America, Inc.**, **Balenciaga America, Inc.**, **Tiffany & Co.**, and other luxury brands in a series of trademark infringement actions against operators of websites that sell counterfeit goods, resulting in awards of millions of dollars in damages and broad injunctive relief. In 2009, Howard and the Gibson Dunn team brought claims in the Southern District of New York against Woodforest National Bank and others for their role in processing credit card orders for counterfeits. In June 2010, in a closely watched decision, the court denied the defendants' motion to dismiss, finding that Gucci's complaint sufficiently stated a contributory trademark liability claim. Later, in *Gucci America, Inc. v. Li*, a different court granted Gibson Dunn's motion to compel the Bank of China to produce counterfeiters' bank records, despite claims that the documents were protected under Chinese law, and denied the Bank's cross-motion to relieve its obligation to freeze the counterfeiters' accounts. The U.S. Court of Appeals for the Second Circuit affirmed that decision in relevant part and subsequently refused to stay the district court's further order holding the Bank of China in contempt of court and assessing daily fines of $50,000 per day. The matter settled on confidential terms.
- Represented **Capital One Financial Corporation** in a lawsuit against the most senior officers of BankUnited, Inc., for violation of non-competition agreements that they had entered into in connection with the sale of North Fork Bank to Capital One in 2006 for $13.2 billion. The case settled on favorable terms after Capital One prevailed in a number of discovery disputes, and after the district court denied Defendants' motion for summary judgment. Under the terms of the settlement agreement, Capital One received $20 million in cash, and Defendants agreed to additional non-monetary relief.
- Represented **American Airlines, Inc.** in a cutting-edge and hard-fought trademark dispute with Google seeking broad injunctive relief and extensive damages concerning the use of American's trademarks in Google's search advertising programs. After intense discovery battles, Gibson Dunn successfully argued to the Court that Google should be sanctioned by requiring Google to provide direct access to its extensive electronic databases so that American could show substantial trademark violations and extensive damages. The case was settled pursuant to a confidential settlement agreement. Gibson Dunn also represented American Airlines in a similar lawsuit against Yahoo alleging identical claims, and Yahoo also settled on the eve of an evidentiary hearing concerning Yahoo's alleged discovery misconduct.

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- Served as lead counsel for the **University of Southern California** in a case filed in the U.S. District Court for the District of Columbia by inventor Dennis Solomon asserting trademark, trade secrets, and other claims. In 2010, the Court of Appeals for the D.C. Circuit summarily affirmed the order of dismissal obtained in the District Court below.

Howard is a frequent lecturer and writer on intellectual property and technology-related issues. Howard is the lead author of *Fashion Law and Business: Brands and Retailers*, a treatise published by the Practising Law Institute and recognized as one of the "21 Best Fashion Books of All Time" by Fashionista in 2023. He is also author of the trademark and domain name chapters of the treatise, *Intellectual Property Law in Cyberspace.* Howard has also been a speaker at meetings of the South by Southwest (SXSW) Interactive Conference in Austin, Texas; the American Bar Association Section of Intellectual Property Law; and Comic-Con San Diego. Howard has provided commentary for CBS News, Bloomberg TV, and National Public Radio, and he has been quoted in publications such as *The New York Times*, *The Wall Street Journal*, and *The Washington Post*.

Howard has long served as the Pro Bono Partner for Gibson Dunn's Washington, D.C. office, and he devotes significant time to assisting not-for-profit organizations with different issues. In 2008, the Meals on Wheels Association of America honored Howard with its 'Friend of the Year Award' for his assistance to MOWAA's efforts to end senior hunger, and in 2019, the Jewish National Fund honored Howard and a Gibson Dunn team with the organization's inaugural Presidential Award for their pro bono contributions. Howard has served on the Boards of Directors for the Council for Court Excellence, the National Foundation to End Senior Hunger, and the Washington Lawyers' Committee for Civil Rights and Urban Affairs, among others.

From 1999-2000, Howard was Law Clerk to the Honorable Naomi Reice Buchwald, United States District Judge for the Southern District of New York. In 1994, Howard helped to initiate the AmeriCorps National Civilian Community Corps, where he served as a Team Leader until 1996 and received the organization's Outstanding Leadership Award in 1995.

Howard received his B.S.F.S., *magna cum laude*, from Georgetown University School of Foreign Service in 1994 in International Relations, Law, and Organization, Phi Beta Kappa with a European Studies Certificate. In 1999, he received his J.D., *cum laude*, from New York University School of Law, where he was Editor-in-Chief of *The Commentator* and Research and Writing Editor for the Moot Court Board. Howard is also an alumnus of Lady Margaret Hall, Oxford University, where he spent the 1992-93 academic term as a visiting student.

Howard is a member of the bars of New York, Connecticut, and the District of Columbia, and has been admitted to appear before the United States Supreme Court, the U.S. Courts of Appeals for the Second Circuit, the Third Circuit, the Fourth Circuit, the Fifth Circuit, the Ninth Circuit, the Eleventh Circuit, the D.C. Circuit and the Federal Circuit and the United States District Courts for the Southern, Eastern, and Northern Districts of New York, the District of Columbia, the District of Maryland, and the Eastern District of Texas.

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