

Kurt B. Gerstner

Senior Attorney Admitted to New York,
Massachusetts and DC Bars



Senior Attorney Admitted to New York, Massachusetts and DC Bars

Seoul

D +82 2 2262 6078

kurt.gerstner@dentons.com

Overview

Kurt Gerstner is a senior foreign attorney at Dentons Lee, where he advises and helps clients prevent and resolve disputes. He does this, using his more than 37 years of experience as a trial lawyer and the more than 1,000 civil litigation and international arbitration matters he has handled during his career.

His litigation and arbitration experience encompasses a wide variety of disputes involving many different types of businesses and industries. Kurt's product liability defense experience is particularly extensive, covering such industries as automotive, aviation and maritime products, consumer products and appliances, construction equipment and materials, industrial equipment, drug and medical devices, chemicals, sports and recreation products, clothing, food products, firearms and others. He has served as national, regional, state and local counsel for many of the largest and most well-known companies in the world. Many of the cases he has defended have involved deaths, very serious life-altering injuries and/or enormous property damage claims.

In relation to his product liability practice, Kurt also consults on managing risks related to AI, IoT and other connected products that are currently under development. His work in this area includes helping clients to develop strategies to prevent product liability and breach of privacy claims, compliance with regulatory requirements and creation of practical programs to prepare for and defend claims related to connected products.

Kurt's commercial litigation and arbitration experience is broad, including contract actions, shareholder disputes, false advertising, property disputes, bankruptcy, labor and employment, lender liability, construction disputes and debt collection actions. His intellectual property work includes patent infringement and invalidation litigation, trademark enforcement, copyright enforcement including software copyrights, unfair competition, trade secrets litigation, domain name disputes and intellectual property licensing agreement disputes.

Kurt is also active helping Asian companies comply with their discovery obligations and avoid sanctions in US litigation and government investigations.

In addition to litigation work, Kurt advises and consults on contract negotiation matters including government and defense contracting, responding to government investigations, licensing of intellectual property rights, entertainment contracts, government regulatory matters, labor and employment, general corporate matters and managing risk. He leverages his significant dispute resolution experience and knowledge of what can go wrong in business activities, to help clients avoid the mistakes of others and to prevent litigation from occurring.

Experience

- **Korean company:** Representing the plaintiff company in a lawsuit against a guarantor to collect money owed for consumer products sold to a bankrupt US company. The defendant denied that he guaranteed the US company's debt and claimed that a two-sentence broken English document he signed was not a guarantee. A jury found in favor of the Korean company, resulting in a judgment of US\$1.6 million (full amount claimed) against the defendant. USDC NY.
- **Korean company:** Representing the claimant in an international arbitration against a foreign company for breach of an intellectual property license agreement, resulting in an award of US\$1.9 million (full amount claimed). Korea Commercial Arbitration Board.
- **US medical device manufacturer:** Defending a medical device product liability lawsuit, brought by a Korean citizen, alleging that a medical device was defective. The original suit, filed in the US, was dismissed and then re-filed in Korea where it was successfully resolved. Seoul District Court.
- **Israel communication software application developer:** Managing the defense of multiple claims of patent infringement and patent invalidation counterclaims. Invalidated multiple patents of the plaintiff that were alleged to have been infringed and minimized the scope of the remaining infringement claim to successfully resolve the claim. Seoul District Court, Seoul High Court and the Korean Intellectual Property Office Tribunal.
- **US and European software developers:** Managing multiple copyright infringement actions on behalf of various clients, including preparation of criminal and civil complaints and coordination of police raids to enforce copyrights and stop infringing activities. Seoul District Court.
- **Major US automobile manufacturer:** Assisting US counsel in defense of damages claims involving paraplegic Korean citizen plaintiff who brought product liability lawsuit against the manufacturer. Hawaii District Court.
- **Major US engine manufacturer:** Defending the client in defense of a class action product liability case. The plaintiff alleged that large marine engines were defectively designed and the plaintiff sought economic damages for engine repairs and the alleged reduced value of the engines. The class certification was denied and the case dismissed. USDC Michigan.
- **Business jet manufacturer:** Representing the manufacturer in an international arbitration raising product liability claims. The plaintiff alleged that multiple business jets he purchased from the manufacturer were defectively and he sought multiple economic damages for downtime. International Centre for Dispute Resolution.
- **US commercial airline:** In re 9/11 Litigation – Representing a commercial airline in multiple death and massive property damage litigation arising from terrorist attacks involving the hijacking of airplanes and crashing them into the World Trade Center towers. The plaintiffs alleged that the airline and others were negligent in allowing the terrorist attacks to occur. The property damage claims exceeded US\$20 billion and included claims for destruction of the World Trade Center towers and numerous surrounding buildings. USDC SDNY.
- **National US retail store chain:** Advising on product recall. Assisting the client with designing and implementing a recall campaign for products imported from Asia that had exploded, causing property damage and potential personal injuries. Worked with the client and reported and obtained US Consumer Product Safety Commission consent to the recall plan.
- **Major US product manufacturer:** Representing the manufacturer in a product liability lawsuit alleging that aircraft engines were defective, causing a crash in Europe that killed multiple European senior business leaders. USDC MA.
- **Major US consumer product/appliance manufacturers:** Representing manufacturers in defense of product liability claims alleging defective home appliances. Claims included allegations that certain appliances caused fire damage and certain appliances leaked, causing water damage. Various courts.

- **Major US agrochemical company:** Representing the manufacturer as a plaintiff in false advertising litigation. Sued a company for misrepresenting the safety and wholesomeness of products supplied by the client, through the defendant company's use of misleading television, radio, internet and other print advertisements and in the defendant's product labels. The lawsuit sought injunctive relief and resulted in the defendant changing its misleading labeling and ceasing its misleading advertising. USDC MA.
- **Major US and Asian automobile manufacturers:** Representing and advising the manufacturers in defense of numerous automotive product liability litigation matters and in business disputes with dealers. The product liability lawsuits covered a wide range of automotive components and systems, including electrical and computer systems. The suits also included toxic substances claims, alleging that consumers, employees and repair persons were caused to develop cancer from exposure to chemicals and asbestos contained in automotive friction products. The lawsuits were filed in courts located in many different states around the US.
- **US fire suppression equipment manufacturer:** Defending multiple product liability actions alleging that fire suppression systems and sensors manufactured by the company were defective and failed to operate properly to suppress and contain fires, causing very significant property damage. Various courts.
- **US Recycling company:** Representing the recycling company as a plaintiff in a multimillion dollar lawsuit against an insurance company for bad faith in failing to pay a covered insurance claim, after a fire severely damaged the plaintiff recycling company's business. USDC MA.
- **Major US chemical company:** Defending a chemical company in a multimillion dollar product liability and negligence action, alleging that a water treatment/anti-corrosion chemical system was defective, leading to the explosion and destruction of a factory. MA.
- **Major US chemical company:** Defending a chemical company in multiple product liability lawsuits alleging that construction products used in major office buildings were defective. Various courts.
- **Major US office supply retailer:** Defending the retailer in an adversary litigation matter filed in Bankruptcy Court, where the debtor manufacturing company alleged that the retailer failed to properly market and merchandise the debtor's products, causing the debtor's business to fail. US Bankruptcy Court MA.
- **Multiple major US commercial airlines:** Advising on and defending airline AED litigation – Defending the airlines in lawsuits alleging that the airlines were negligent in failing to provide automatic external defibrillators (AEDs) and other medical services on their flights. Suits in various courts around the US.
- **Multiple major US medical device manufacturers:** Advising on and defending medical device litigation – Defending the manufacturers in product liability lawsuits alleging that various medical devices designed and manufactured by those companies were defective. Various courts around the US.
- **US firearms manufacturers:** Advising on and defending firearms litigation - Defending product liability litigation against US firearms manufacturers alleging that various model firearms were defective, leading to personal injuries and deaths. Various courts around the US.
- **Numerous US companies:** Advising on corporate litigation – Representing companies in numerous lawsuits involving corporate and commercial disputes related to M&A activities, shareholder and partner disputes and other corporate governance disputes. Lawsuits in various US courts.

Recognition

Thomas Reuters legal division recognized Kurt as a "Massachusetts Super Lawyer" when he was practicing in Massachusetts.

Kurt has also been recognized consistently over many years as a Global Leader and a National Leader in Product Liability Defense by Who's Who Legal. In 2019, Who's Who Legal wrote: "Kurt Gerstner is a distinguished practitioner with a top-notch practice that sees him involved in issues relating to product mislabeling and personal injury claims."

Insights

- “Korea promotes a new regulatory ‘sandbox’ system to fuel innovation,” *Asian-MENA Counsel Magazine*, May, 2019
- “Korea Developments in Patent Practice,” *Asian Business Law Journal*, August, 2018
- “Product Liability Defence 2018 : Roundtable,” *Who’s Who Legal*, July, 2018
- “Defending Against Economic Damages Claims,” *International Association of Defense Counsel (IADC) Trial Techniques and Tactics Committee Newsletter*, May, 2018
- “Strategies for Keeping Foreign Defendants Out of ‘Discovery Trouble’,” *DRI*, April, 2018
- “New Liability Imposed by U.S. Government for U.S. Dollar Transactions Made with Business Partners in U.S.-Sanctioned Countries,” *DRI: Corporate Integrity Newsletter*, September, 2017
- Co-author, “Foreign Government Agencies May Restrict U.S. Companies from Exercising Their IP Rights in the United States,” *The Defense* (a DRI publication), August, 2017
- “Obtaining Statutory Damages For Trademark Infringement – A Cross Border Approach Under The Trademark Act Of The Republic Of Korea,” *DRI Intellectual Property Committee Newsletter*, Vol.4, Issue 1, April, 2017
- “Hanjin Shipping's Bankruptcy: Is it sailing toward liquidation?,” *ASIAN MENA COUNSEL MAGAZINE FOR THE IN-HOUSE COMMUNITY*, 2017
- “Defending Damages Claims Involving Foreign Plaintiffs,” *International Association of Defense Counsel (IADC) Trial Techniques and Tactics Committee Newsletter*, March, 2017
- “Staying Afloat When There is an International Shipping Company Bankruptcy - Hanjin Shipping: A Case Study,” *The Transportation Lawyer*, Vol. 18, No. 3, December, 2016
- “The New Normal: International Litigation and Its Implications for Trial Lawyers,” *DEFENSE COUNSEL JOURNAL*, July, 2016
- “Turning a Sow’s Ear into a Silk Purse: Converting Software Copyright Infringers into Paying Licensees,” *DRI: The IP Update*, December, 2015
- “Proof of Patent Damages: A Korean Approach,” *International Association of Defense Counsel (IADC) Intellectual Property Committee Newsletter*, June, 2015
- “Transportation Lawyers: Anticorruption Statute Violations Can Stop Your Client Cold,” *The Transportation Lawyer*, Vol. 16, No. 4, February, 2015
- “Foreign Companies – Beware of Violating Korean Criminal Laws That You Didn’t Know Existed,” *Business Korea*, Nov, 2014
- “Class Action Lawsuits in the US Related to Food and Beverage Mislabeling,” *Global Window*, KOTRA-Korea Trade-Investment Promotion Agency, 2014
- “How to ‘Bet the Company’ Without Even Trying,” *For the Defense, DRI*, July, 2014
- “The FBPA: South Korea’s Act to prevent bribery of foreign officials,” *ASIAN MENA COUNSEL MAGAZINE FOR THE IN-HOUSE COMMUNITY*, 2014
- “Ten Tips for Obtaining Expert Discovery, The Business Suit,” *DRI Commercial Litigation Committee Newsletter*, July, 2013
- “Jury Focus Groups Without Breaking the Bank: Alternatives to Jury Consultants,” *International Association of*

- “Shocking News: Absence of a Defibrillator May Lead to Liability for Failure to Treat Victims of Sudden Cardiac Arrest,” *Medical Defense and Health Law Committee Newsletter*, International Association of Defense Counsel, 2010
- “Accident Investigations by the National Transportation Safety Board,” *Aviation and Space Law Committee Newsletter*, International Association of Defense Counsel, 2009

Activities and Affiliations

Presentations

- “U.S. Discovery in Competition Cases: Tips for Asian Companies to Manage Discovery Obligations and Avoid Sanctions,” 8th Annual Korea Summit 2019 on Competition Law, Seoul 2019
- “Internet of Things: Risks and Tips to Manage Them,” International Association of Korean Attorneys, Annual Meeting, Seoul 2019
- “The Ties That Bind: Tariffs and Trade Wars and Their Impact on Supply Chains and the Transportation Industry,” Transportation Lawyers Association, Annual Conference, Austin, TX 2019
- “The Sun Never Sets on Product Defect Claims: Worldwide Liability – An Asian Perspective,” International Association of Defense Counsel (IADC), Asia Meeting, Hong Kong 2018
- “Help! I’m Representing an Asian Company in US Litigation - What Do I Need to Know,” International Association of Defense Counsel (IADC), Annual Meeting, Quebec City, 2017
- “Internet of Things: The Risks and How to Manage Them,” AMCHAM Legal Affairs Committee Meeting, 2017
- “Potential Liability Arising from Mass Epidemics,” International Association of Defense Counsel (IADC), Midyear Meeting, Scottsdale, Arizona, 2017
- “The Challenges Faced by Transportation Lawyers When Clients Are Shipping Goods Worldwide: ‘We’re Not in Kansas Anymore!’,” Transportation Lawyers Association Annual Conference, Destin, FL, 2016
- “Around the World: How Litigation Strategy is Going Global,” International Association of Defense Counsel, Mid-Year Meeting, Pebble Beach, CA, 2016
- “Criminalization of Corporate Conduct in Asia,” Asia Regional Meeting of the International Association of Defense Counsel, Hong Kong, 2015
- “IP Law in Korea: Patent Infringement Litigation and Trademark and Copyright Enforcement,” Asia Regional Meeting of the IADC, Hong Kong, 2014
- “The 9/11 Attacks: Defending Complex Commercial and Property Damage Claims,” International Association of Defense Counsel, Annual Meeting, Maui, Hawaii, 2013
- “Risk Management Best Practices for College Fraternities,” Sigma Phi Society, University of Vermont, Burlington, VT, 2013
- “Defending Commercial Class Actions: Recent Cases May Be Giving the Defense an Edge,” International Association of Defense Counsel, Mid-Year Meeting, Boca Raton, FL, 2013
- “Innovative Techniques for Defending Damages Claims in High Stakes Commercial Litigation,” International Association of Defense Counsel, Mid-Year Meeting, Boca Raton, FL, 2013
- “Identifying, Managing and Insuring the Risk of Sexual Abuse of Minors on Campus,” University Risk Management and Insurance Association Annual Conference, Providence, RI, 2012

- “Imbuing Effective Risk Management Practices in Today’s Millennial Students,” University Risk Management and Insurance Association Annual Conference, Providence, RI, 2012
- “Mock Trial: Smart Strategies for Managing Difficult Risks - Student Group Alcohol Use and Hazing,” University Risk Management and Insurance Association Annual Conference, Portland, OR, 2011
- “Risk Management: Alcohol and Hazing Mock Trial,” Balfour Leadership Training Workshop, Sigma Chi International Fraternity, Chapel Hill, NC, 2011
- “Fraternity Legal Liabilities: How to Stay Out of Trouble,” Kappa Eta Chapter, Sigma Chi Fraternity, Harvard University, 2010
- “New Reporting Requirements under the Medicare Secondary Payer Statute,” International Association of Defense Counsel Midyear Meeting, Naples, FL, 2010
- “Alcohol/Drug Risk Mitigation, Sigma Chi Fraternity Connecticut/ Rhode Island Province Conference,” New Haven, CT, 2010
- “International Discovery: Do You Need It and How Do You Obtain It.,” American Bar Association, Washington, D.C., 2009
- “Behind The Curtain: Insight into the Aviation Practice from Go-Team to Trial,” Aviation & Space Law Committee, Tort Trial & Insurance Practice Section, American Bar Association, Washington, D.C., 2009
- “Avoiding Legal Liabilities for Fraternities,” Sigma Chi Fraternity North Atlantic Province Conference, Boston, MA, 2009
- “Party Risk Management: Mock Trial,” Balfour Leadership Training Workshop, Sigma Chi International Fraternity, Chapel Hill, NC, 2009
- “New Reporting Requirements under Medicare Secondary Payer Statute: Settling/Paying Party Beware,” IADC Webinar, 2009
- Program Chair, “Damages in Complex Commercial Litigation,” DRI, Boston, MA, 2008
- “Consumer Surveys in False Advertising and Trademark Infringement Cases,” DRI Annual Meeting, Chicago, IL, 2008
- “Electronic Presentations Prior to and During Trial,” Kansas Association of Defense Counsel Annual Conference, Kansas City, KS, 2008
- “Party Risk Management: Mock Trial,” Balfour Leadership Training Workshop, Sigma Chi International Fraternity, Columbia, MO, 2008
- “Consumer Confusion under the Lanham Act and the Use of Survey Evidence,” Intellectual Property Litigation, DRI, Chicago, IL, 2008
- “Where and How to Use Electronic Presentations Prior to and During Trial,” Linking Technology to Victory, Massachusetts Continuing Legal Education, Boston, MA, 2008
- Program Chair, “Complex Commercial Litigation, Smart Strategies for Hard Cases,” DRI, Phoenix, AZ, 2007
- “Practicing in the District Court,” District Court Survival Guide Seminar, Massachusetts Bar Association, Boston, MA, 2006
- “September 11th Litigation after Closure of VCF and Issuance of Kean Commission Report: What’s Left and What’s Next,” DRI Annual Meeting, Washington, DC, 2005
- “Prosecution and Defense of False Advertising Claims under the Lanham Act,” DRI Intellectual Property and Litigation Seminar, Chicago, IL, 2004
- “Developments In Professional Malpractice Litigation Part II: Accountant Auditor Malpractice Litigation,” D&O

and E&O Liability: The New Environment (Defense Research Institute), Boston, MA, 2003

- “Payment Bonds and Performance Bonds,” Construction Issues In Massachusetts (Lorman Educational Services), Boston, MA, 2002
- “Packaging Software Contracts,” For The Defense (Defense Research Institute), June, 2002 International Discovery for Commercial Litigation, DRI Annual Meeting, San Francisco, CA, 2002

Memberships

- International Association of Defense Counsel (IADC)
 - Past Chair of Business Litigation Committee
 - Member of Product Liability, Intellectual Property, **International**, Transportation, Medical Device and ADR Committees
- Defense Research Institute (DRI)
 - Product Liability Committee member
 - Commercial Litigation Committee Steering Committee member
 - Intellectual Property Committee member
- Transportation Lawyers Association
 - International Trade and Transportation Committee Co-Chair
- Sigma Chi Bar Association
 - President

Prior and Present Employment

- Senior Attorney, Dentons Lee (formerly, Lee International law office), 2014-present
- Campbell Campbell Edward & Conroy, 1989-2014
- Peabody & Arnold LLP, 1984-1988
- Modrall Sperling Law Firm, 1982-1984

Areas of focus

Practices

- Anti-Counterfeiting
- Civil Litigation Arbitration
- Corporate Restructuring/Bankruptcy
- Intellectual Property
- International Litigation / Arbitration
- Labor and Employment
- Litigation Discovery

Industry sectors

- Sports / Entertainment
- Pharmaceuticals / Medical Supplies / Foods / Cosmetics

Education

- Boston College Law School, 1982, JD, *cum laude*
- University of Rochester, 1979, BA, History and Psychology

Admissions and qualifications

- Admitted to the bar, District of Columbia, 1984
- Admitted to the bar, Massachusetts, 1983
- Admitted to the bar, New Mexico, 1982
- Admitted to the bar, New York, 1995
- US District Court, New York, Massachusetts, Connecticut, Michigan, Vermont, New Mexico

Languages

- English