

Morris Discusses Intellectual Property Issues

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[Paul H. Morris](#), director and shareholder at [Martin Tate Morrow & Marston PC](#), provides general counsel to business clients and litigates in a variety of commercial areas, particularly in intellectual property. He has extensive experience in patent litigation and licensing, trademark, copyright, franchise and trade secret matters.

PAUL H. MORRIS

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Basics: Morris has experience in patent litigation and licensing, trademark, copyright, franchise and trade secret matters.



Morris received his juris doctorate degree from Vanderbilt University, after which he clerked for federal Judge [Julia Gibbons](#) of the U.S. District Court for the Western District of Tennessee. He then went into private practice in New York City, and later returned to Memphis to accept another clerkship with Gibbons, who had been appointed to the U.S. Court of Appeals for the Sixth Circuit.

Morris is the chairman of the Memphis Center City Commission and is the president of the board of directors for [Memphis Area Legal Services Inc.](#) He has been selected as a member of the

[Leo Bearman](#) Sr. American Inns of Court.

Q: In what areas of intellectual property do you practice the most?

A: One of the things in intellectual property is that it's sort of an intersection between law and technology and I have an engineering degree as well as a law degree. I got an engineering degree from Vanderbilt as well. So the intellectual properties I practice in are fairly general in terms of what IP is. I do patent litigation and licensing, trademarks and trade secrets, and copyrights and trade dress, and really any area of that. And it's even broader than that in that I work with business clients who have significant intellectual property assets, and I advise them on all matters of their business. One of my clients is a licensee of patent rights on a type of rice, and I work with him on all aspects of their business, but their business is basically producing and selling a patented rice product, and it actually accounts for probably 30 to 40 percent of all the rice that we eat.

Q: What are some of the most significant IP cases that have been heard recently?

A: The area of patent law has changed. The Supreme Court, in a case called (KSR v. Teleflex), really changed the rules for patent holders, and that's really affected my clients – good and bad, depending on whether they are on the defense side or the plaintiff side of a patent litigation. But the KSR case ... was basically the Supreme Court telling the Federal Circuit – which is the court of appeals with jurisdiction over patent cases – and the U.S. Patent and Trademark Office that they had gone too far in allowing too many patents and giving patents to things and upholding patents to things that really weren't inventive enough, and really didn't have a significant enough spark of inventiveness. Therefore, in KSR, the Supreme Court said

that that particular invention was obvious, and the standard that they set for determining that it was obvious really changed the rules, and therefore, the patent office is now facing all kinds of requests for re-examinations of patents that were issued before the KSR ruling. And (In Re) Bilski (a case heard by the U.S. Court of Appeals for the Federal Circuit that established business methods as not patentable) just followed, really, in my view, followed the trend that KSR set, which was to narrow the scope of inventions that can qualify for patents. KSR's the bigger story for most people; Bilski gets a lot of headlines with the business methods.

Q: You served twice as a clerk under Judge [Julia Gibbons](#). What was the motivation in taking a second clerkship?

A: It was a great opportunity to move back to Memphis. I had moved to New York with the idea that I'd move back to Memphis at some point, because I grew up here, it's my home – even though you can make a lot more money practicing law in New York. And I really enjoyed being in New York, and just had a great time, but I always felt like a tourist there. So when I moved there, I thought it would be five or so years, and was an interesting time, because it was 2000 to 2002. It was just a surreal time to work in Manhattan. What happened, basically, was I took the train to Washington, D.C., to watch Judge Gibbons' confirmation hearing in front of the U.S. Senate, and the committee that day was chaired by (former U.S. Sen.) [John Edwards](#), and after that hearing,

Judge Gibbons came up to me, and she said, "Well, are you ready to move back to Memphis yet?" And I said, "I don't know, someday." And she said, "Well, what if I offered you a job as one of my first clerks (on the Court of Appeals)?" And I said, "Well, that sounds great."

Since she was going to a new job, she wanted to start off with someone she knew and was familiar with. I thought about it for about a moment, and ... going through a one-year clerkship with the U.S. Court of Appeals for the Sixth Circuit is a great way to get back into the Memphis market. Working with Judge Gibbons was such a great learning experience, and she's so enjoyable to work for, and so it was a great opportunity, and the other side effect of it was I met my now-wife, who was also her clerk, and who I met that same day in D.C. Honestly, when I saw her – she was a beautiful woman who had just graduated from Yale Law School – I was like, "Wow, if she's going to be working there, I definitely want to work there." So I co-clerked with her for a year, and developed a long-term strategy to get her and it was interesting, because I wasn't sure about how Judge Gibbons would feel about us dating while clerking under her, but it turned out she was excited about it and highly encouraging of it.