

## Delaware Powerhouse: Morris Nichols

By **Rose Krebs**

*Law360 (August 31, 2018, 4:11 PM EDT)* -- Morris Nichols Arshat & Tunnell LLP has earned its place in the high-stakes and demanding legal climate of Delaware by taking on major corporate cases during the past year, including those involving Dr Pepper Snapple Group and biopharma giant UCB.

With roots dating back to the Great Depression, the 90-member firm with an office in Wilmington continues to thrive by providing advice on complex cases with the firm's work during the past year, earning it a spot on Law360's list of Delaware Powerhouse firms.

Among cases earning the firm recognition was work advising Dr Pepper Snapple Group Inc. in its \$21 billion merger with Keurig Green Mountain Inc. and subsequent appraisal litigation and two wins for global biopharma client UCB SA the firm helped score in the past year.



In November, Chief Judge Leonard P. Stark of the District of Delaware ruled that a UCB patent for its transdermal patch to treat Parkinson's disease was valid and infringed by Actavis, which sought to market a generic version.

In May, the Federal Circuit upheld Chief Judge Stark's ruling on the validity of a patent covering UCB's epilepsy drug, as multiple drug companies sought to produce generic versions.

The firm also successfully represented biotechnology company Shire PLC and pharmaceutical giant Sanofi-Aventis U.S. LLC in Delaware federal court in litigation over an anti-inflammatory drug patent.

"More than anything, we are lawyers' lawyers," said Andrew M. Johnston, who has been a partner at the firm for 25 years and is chair of the firm's executive committee.

The firm prides itself on providing advice to clients and other firms on complicated corporate issues.

"They know the questions we are wrestling with, we may see five times a year," Johnston said. "They may see it once in a lifetime."

Johnston said the firm has developed a "special little niche practice" that can handle the high-stakes and

"cutting-edge" nature of law in Delaware.

In the past year, the firm also represented Zohar Funds in its successful bid in Delaware Chancery Court to remove investment manager Lynn Tilton as a director of three companies in which the distressed investment funds owned stock.

The firm also advised oil and natural gas producer Stone Energy Corp. in its roughly \$2 billion merger with Talos Energy LLC and represented a group of global automakers in the bankruptcy of Takata Corp.'s U.S. subsidiary TK Holdings Inc. An agreement in the bankruptcy filing freed up \$300 million in liquidity so the company could continue producing air bag replacement parts in connection with the largest auto safety recall in U.S. history.

In Delaware Chancery Court, the firm continues to tackle the highly specialized cases that are unique to the venue, including the continued representation of generic-drug maker Akorn Inc. in a battle over the company's busted \$4.3 billion merger with Fresenius Kabi AG.

"This is nirvana in the legal world," said William M. Lafferty, a partner who serves in the firm's corporate and business litigation group. "The people who do this, they are at the top of the game. It is such a privilege to get to work with the best lawyers in the country."

However, the atmosphere is demanding and challenging, Lafferty said.

"The questions aren't easy. It takes a lot of work and a lot of brainpower," said Lafferty, who has nearly 30 years of experience as a corporate litigator. "It's an adventure every single day because you don't know what problem is going to come next."

And given the expertise of the chancellors and desire of many Fortune 500 companies to have the court decide complex and high-risk corporate equity disputes, there is no shortage of cases, Lafferty said.

"If the Delaware court continues to be as good as it has been, and I have every expectation it will, the cases will continue to come," Lafferty said. "In a state like this, there is no anonymity, you put your credibility on the line every single day. You've got to be on your game."

Jack B. Blumenfeld, a partner with 40 years of patent litigation experience, has seen much evolution in his practice area and continued growth in its caseload.

"At some point in the 1990s, the patent litigation world just exploded," Blumenfeld said.

In addition to the Hatch-Waxman Act changing the landscape, more companies now seem to seek trials, according to Blumenfeld.

"I don't think there is any court in the country more dominated by patent litigation," Blumenfeld said of Delaware federal court. The U.S. Supreme Court ruling last year in the TC Heartland case that most patent litigation should be handled in an infringer's state of incorporation is having a major impact, according to Blumenfeld.

"It looks like we are on track for a thousand cases per year," Blumenfeld said.

The recent addition of two new judges to the Delaware federal court should help deal with an increasing

caseload that saw roughly 780 patent cases in 2017 and already about 545 as of July this year, Blumenfeld said.

"We clearly have more patent litigation than any other firm in town, and maybe in the country," Blumenfeld said, adding that the firm represents clients in about one-third of the patent cases filed in Delaware.

And the firm will continue to meet its clients' needs in the busy Delaware climate as it prepares to welcome a dozen new associates this fall, Johnston said.

The firm welcomed former Chancery Court Vice Chancellor Donald F. Parsons Jr. in 2016, but recently lost Maryellen Noreika, who became a judge with the U.S. District Court for the District of Delaware.

"Longer-term, our premier intellectual property litigation practice is expected to grow, our corporate counseling and litigation groups continue strong work on high-profile matters, our solid bankruptcy team stands out on business reorganization and restructuring matters, and our talented commercial law group provides sophisticated counsel on complex issues," Johnston said.

--Editing by Katherine Rautenberg.