

# Richard Simpson Discusses U.S. Supreme Court Ruling on Patent Malpractice Jurisdiction

---

*Law360*

February 21, 2013

Richard A. Simpson, a partner in Wiley Rein's Appellate and Insurance Practices, was quoted yesterday in a *Law360* article on the U.S. Supreme Court's unanimous ruling that legal malpractice suits involving patents should almost always be heard in state court.

The case, *Gunn v. Minton*, stems from a malpractice suit in which attorneys were accused of mishandling a patent infringement case. The Texas Supreme Court ruled last year that it lacked jurisdiction over the \$100 million suit because while malpractice is typically a state law issue, federal courts have exclusive jurisdiction over patent law.

The patent attorneys accused in the malpractice suit appealed to the U.S. Supreme Court, which yesterday reversed the Texas Supreme Court's ruling. State legal malpractice claims based on underlying patent matters will rarely, if ever, need to be heard in federal court, the U.S. Supreme Court said in an opinion written by Chief Justice John Roberts.

It is difficult to imagine a patent malpractice case that would have such deep importance to the patent system that it would meet the U.S. Supreme Court's test for federal jurisdiction, Mr. Simpson told *Law360*.

"Under this standard, it would have to be a pretty extraordinary case," Mr. Simpson said. "In virtually all cases, that will no longer be an option."

## Related Professionals

---

Richard A. Simpson  
Partner  
202.719.7314  
rsimpson@wiley.law

## Practice Areas

---

Issues and Appeals  
Insurance  
Insurance Appellate  
E&O for Lawyers, Accountants and Other Professionals  
Patent