

## IP Group Of The Year: Erise

By Jack Rodgers

*Law360 (January 18, 2023, 2:02 PM EST)* -- Erise IP's intellectual property group secured several consecutive victories in the Eastern District of Texas this past year, successfully defending major companies like Sony and NetScout Systems against millions in potential damages and earning the group a spot among Law360's 2022 Intellectual Property Groups of the Year.

Erise shareholders Adam Seitz and Eric Buresh had left Shook Hardy & Bacon LLP in February 2012 after more than a decade to begin Erise. The firm has grown considerably since its initial launch, from nine total staff members to its current count of 55, which includes 20 attorneys and 13 patent agents — professionals who are patent-barred but are not attorneys.

Erise's growth has been achieved in part thanks to the firm's victories in court, Seitz said. The firm has seen 20% growth from 2021 to 2022 in its overall revenue, with Erise's litigation successes having been a key contributor to that gain. The firm's undefeated record in IP work since 2019 has also helped with that growth, he said.

"With the exception of 2020 — nobody went to trial in 2020 — we've had two trials a year in 2021, we've had two so far this year, and we have been on a tear where we haven't lost one yet," Seitz said. "That really has been one of our best spots for growth, because these cases are, you know, \$150 million damages requests, \$500 million damages requests, and that kind of sets us apart ... where people started saying, 'These guys can legitimately try big-time cases.'"

Some of the firm's major successes include securing a summary judgment in June for one of the largest satellite navigation technology companies, Garmin International Inc., and the successful defense of Sony Interactive Entertainment LLC in a case involving the company's video games and PlayStation console.

In October 2021, Erise helped defend Sony from allegations that it ripped off a method of simulating light in games like Spider-Man and God of War, the latter of which won the Game Awards' Game of the Year selection in 2018.

Infernal Technology LLC and Terminal Reality Inc. sought \$100 million in damages from Sony, but after a three-day trial, an Eastern District of Texas jury sided with Sony, finding the patent was well understood, routine and conventional.



Buresh and his team focused less on the technology associated with the patent Sony was accused of infringing and more on what the company's patents led to, he said.

"In the real world, the patent we had in this case was associated with a project that ended up in a game that sold a grand total of 11,000 copies. It was a dismal failure," Buresh said. "So we then start building a story around, just from a common sense perspective, would the most successful video game in the world utilize technology from a failed video game? Does that make sense?"

He added, "If you were building a car in your garage, would you want to follow after someone who built a car in their garage, and it didn't make it out of the driveway?"

Buresh said that, in part, the firm's successes in litigation are a product of the partners' ability to connect with juries and judges. Marshall, Texas, where a number of Erise's wins have come in the past year, is a small town, meaning lawyers needed to be prepared to have familiarity with a rural town's way of thinking, he said.

"We've both grown up in that middle part of the country, we know what that rural part of the country is like," Buresh said. "We go down there, we're very comfortable in that setting both in the Waco setting and the Marshall setting, and it gives us a real advantage to be able to know how to talk to people in a way that connects with them, and tell stories in ways that connect with them. That's been the key to our trial success."

Erise's Eastern District of Texas trial successes include its defense of NetScout Systems against Longhorn HD, a company that accused Erise's client of infringing on a cybersecurity-related patent. The company sought \$62 million in damages, claiming that three of NetScout's products related to cyberattack prevention software copied claims in Longhorn's patent.

It was the first of several suits Longhorn brought in relation to the patent that went to trial, according to Erise, with the previous ones having been settled in Longhorn's favor. The trial spanned four days, and the jury deliberated for less than an hour before returning a full defense verdict in NetScout's favor.

Erise's success in the case again hinged on its patent attorneys' ability to relate to juries, Seitz said.

"There's an inability for patent attorneys to connect with juries — they're too technical, and it's too scientist-based if you look at it that way," he said. "When folks throw that to the wind, there's thinning stories that can't hold up. What you're seeing on appeal is a lot of patent verdicts get overturned because they weren't done in the right way."

--Additional reporting by Jasmin Jackson. Editing by Daniel King.