Erik Fountain

Partner

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Dallas



Erik Fountain is a partner in Gibson Dunn's Dallas office and a member of the firm's Intellectual Property Practice Group. He litigates intellectual property cases and patent licensing disputes, appearing for both plaintiffs and defendants.

Erik has substantial experience in patent licensing disputes. In 2019, he was on the trial team that won the first breach-of-FRAND case put before a jury in the Eastern District of Texas. In the same court, he defended a base-station manufacturer against more than 20 patents asserted as essential to the 4G/LTE wireless standard. Erik also advises clients negotiating licenses to standard-essential patent portfolios in a range of technical fields.

In August, Erik and his trial team obtained a complete defense verdict for AT&T, Verizon, T-Mobile, Ericsson and Nokia in a consolidated 5G patent case in the Eastern District of Texas, defeating $436 million in claimed damages. The jury found no infringement, invalidated all nine asserted claims across all three patents, and held that the plaintiffs had breached their own FRAND licensing obligations.

Erik also is adept at litigating trade secret disputes. In the District of Delaware, he represented Nevro for several years in a trade secret and patent dispute with Boston Scientific. He also represented I-Mab Biopharma in a trade secret case against Inhibrx involving preclinical and clinical-stage bispecific antibodies that resulted in Inhibrx withdrawing its competitive product from clinical development. Erik also successfully represented Ernst & Young in a trade secret suit brought by a data analytics firm, Motista LLC in the Eastern District of Texas and arbitration.

Erik has briefed and argued motions on procedure, discovery, evidence, and dispositive issues in courts around the country. He has tried cases to verdict, examining both fact and expert witnesses. He has also litigated commercial and intellectual property claims to final resolution in private arbitration. His matters have involved software, cellular, oil field, automotive, and medical device technologies.

Texas *Super Lawyers* named Erik a Rising Star (2019, 2021-2024). *Best Lawyers in America* selected him for its inaugural Ones to Watch edition in Intellectual Property Law, Commercial Litigation (2021-2022), and Litigation — Intellectual Property (2021).

Erik previously clerked for Chief Judge J. Rodney Gilstrap of the U.S. District Court for the Eastern District of Texas, Marshall Division, which handles one of the busiest civil trial dockets in the country.

Representative Matters

- **AT&T, Verizon, T-Mobile, Nokia, and Ericsson.** Secured a complete defense verdict for AT&T, Verizon, T-Mobile, Ericsson and Nokia in a consolidated 5G patent case in the Eastern District of Texas, defeating $436 million in claimed

Capabilities

Intellectual Property
Technology Litigation
Trade Secrets
Trials

Credentials

Education

Southern Methodist University - 2015 Juris Doctor

Brigham Young University - 2011 Bachelor of Arts

Admissions

Texas Bar

Clerkships

USDC, Eastern District of Texas, Hon. J. Rodney Gilstrap, 2016 - 2017

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damages. The jury found no infringement, invalidated all nine asserted claims across all three patents, and held that the plaintiffs had breached their own FRAND licensing obligations.

- **Nokia (ITC).** Counsel for complainants Nokia Corporation and Nokia Technologies Oy in a pair of actions regarding video coding standards including H.264, H.265, and AV1. The Initial Determination found infringement of five of seven asserted patents. The ALJ separately recommended that the ITC issue an exclusion order against products that infringed Nokia's essential video coding patents. Erik subsequently represented Nokia in its assertion those same video coding portfolios against ASUS, Acer, and Hisense.
- **Nevro v. Boston Scientific (D. Del.)** — In 2022, Erik completed a set of sprawling litigations defending Nevro against Boston Scientific in a series of cases spanning over 20 patents and 60 asserted trade secrets related to spinal cord stimulation devices. These litigations ultimately resolved in the plaintiff Boston Scientific paying defendant Nevro $85 million.
- **Mab Biopharma v. Inhibrx (D. Del.)** — Erik represents I-Mab in its ongoing trade secret litigation against competitor Inhibrx related to misappropriated trade secrets related to bispecific antibodies in the field of immuno-oncology.
- **Magna Electronics v. Panasonic (W.D. Tex.)** — Erik represented Magna as a defendant and counterclaim-plaintiff in a patent disputes against Panasonic related to automotive radar and camera systems.
- **Green Source v. Halliburton Energy Services, Inc. (E.D. Tex.)** – Obtained successful dismissal for Halliburton in a patent infringement suit related to the use of terpenes in downhole stimulation and production. Erik argued at the Markman hearing on behalf of Halliburton and obtained case-dispositive preliminary constructions on more than 100 claims.
- **TCL v. Ericsson (C.D. Cal.)** – Represented Ericsson in a long-running licensing dispute against TCL related to unpaid royalties and breach-of-FRAND allegations. After an initial bench trial, Ericsson obtained reversal on appeal, where the Federal Circuit held that the Seventh Amendment guaranteed Ericsson a jury trial to determine the amount of royalties TCL owed Ericsson.
- **Rovi/TiVo v. Comcast (ITC)** – Represented Rovi and TiVo in a series of investigations related to Rovi's patented interactive program guides and related technology. Erik argued on behalf of Rovi at the Markman hearing before the Administrative Law Judge. At the conclusion of the investigation, the Commission found that Comcast infringed Rovi's patents and entered an exclusion order.
- **Zenimax Media v. Samsung (N.D. Tex.)** – Represented Zenimax in a trade secret misappropriation and copyright infringement case related to Samsung's "Gear VR" virtual reality headset.
- **Freddie Mac v. Large Accounting Firm (S.D. Fla.)** – Represented Freddie Mac in litigation against a large accounting firm in which Freddie Mac alleged over US$1 billion in damages resulting from flawed audits of Taylor Bean & Whitaker Mortgage Corp., which was the largest independent mortgage lender in the United States that collapsed into bankruptcy in 2009. The litigation settled on the eve of trial.
- **Sperlonga v. Associa –** Defended America's largest homeowners association management company against breach-of contract claims in Texas state court. Obtained summary judgment in favor of Associa barring recovery of more than $100 million in alleged lost profits.

Rankings & Honors

- Recognized as an "IP Star" by *Managing IP*
- Named a Texas "Rising Star" by *Super Lawyers* (2019, 2021, 2022 - present)
- Recognized in *Best Lawyers in America* as "Ones to Watch" for Intellectual

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Property and Commercial Litigation (2020-2027)

- Named a "Rising Star" by *Managing IP* (2024)

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