

David Roberts, the ex-chief executive of EnerDel, spoke to *Batteries International* about his time at the once troubled firm and his switch back to his first love — corporate law. But corporate law with a difference.

Former EnerDel CEO recalls recovery strategy and how industry focus is changing



David Roberts joined EnerDel early in 2011, just months before parent company Ener1 — recipient of a \$118.5 million grant from the US government in 2009 — filed for bankruptcy. After joining the battery maker to work as in-house intellectual property counsel, he was perhaps as surprised as anyone to find himself appointed chief executive 15 months later, charged with leading the troubled company through some very difficult times.

That the company survived restructuring, new investors, and repositioning for new business opportunities was due in no small part to his understanding — backed by a leadership team that he helped assemble — of the company's strengths.

Having pulled off what some regarded as a minor miracle in a dire situation, Roberts surprised the industry this April when he left EnerDel to join

Gutwein Law, a firm specializing in strategic business counsel.

You started with a degree in engineering but after a few years in business, you went back to school. Why did you switch to law?

My parents were not college graduates, so there were no strong personalities in my early life that could give me much guidance in the matter of career choices. So I made a simple calculation about what degree would generate the greatest return on investment after four years of study. I was intrigued by the automotive industry, so an engineering degree seemed just the ticket.

After graduation, I was able to work for Lockheed Martin in its controls division, a business unit later sold to BAE. While I enjoyed my time there and gained invaluable experience, I

also began to realize how limited engineers are in their ability to affect the larger strategy of a business.

I wanted to do something that would have more impact on a business, and possibly even an industry, and law seemed a great way to parlay both my interests and technical knowledge into new opportunities.

What drew you, as an engineer, to intellectual property law?

My first job after law school was with Senniger Powers, a boutique intellectual property law firm in St Louis, Missouri where I worked with companies dealing in things like special metals, mining and manufacturing.

It was a great learning experience with some very skilled professionals, but as with engineering, it seemed as if most outside counsel were limited in the scope and depth of influence they could provide to their clients.

A little over four years later I moved to an in-house position for Caterpillar, where I was drawn to practical business applications of the law. A great benefit of going in-house is the ability to fully understand the vision behind the company's decisions.

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MIRACLE INGREDIENT 'X': IP SHARING



A key business model will hinge on sharing intellectual property rights and patents

What new kinds of business models do you see evolving as the energy revolution goes forward, particularly as utilities begin to incorporate energy storage?

A key business model will hinge on sharing intellectual property rights and patents. What's happening in energy storage is that companies are not enforcing their patents because they know the cost of litigation to do so is prohibitive. The result is almost a cold war, with mutual destruction the outcome if someone decides to push the litigation button. I strongly advocate

for setting up structures, such as a patent pool, where the major players can come together and negotiate an ecosystem that is beneficial to all the participants.

What such a pool might do is increase the speed at which we achieve the broader goals that have been set out, like higher energy density ratios or a particular cost target. That sort of collaborative, as opposed to insular or combative approach, would reduce legal costs to the industry overall while increasing the pace of innovation.

This is one reason you've seen Tesla open up their patent portfolio recently; Elon Musk understands the necessity to innovate more quickly and not be hampered by exceedingly high costs of something as inefficient as traditional legal strategies.

I predict that we will see more collaborative strategic alliances in energy storage than you typically see in other industries. We are approaching the point where the companies that have made it through the recent restructuring and consolidation phase are not only here to stay, but here to thrive.

Given the opportunity to become a trusted counselor and colleague, you can bring an aerial view of the issues that others on the team cannot always provide.

So how does a patent attorney become a CEO?

Well, that scenario wasn't necessarily part of any script you can write! Actually, I joined EnerDel at a particularly euphoric time, when the stock was at a several-year high.

The company had contracts with car manufacturers Think and Volvo. We had a contract to provide stationary backup power for the Sochi Winter Olympics, and just after I arrived, we announced a substantial joint venture with Wanxiang. However, three months later, Think announced bankruptcy and the entire publicly traded storyline began to unravel.

Ultimately, regulatory and associated funding issues forced EnerDel to initiate a pre-packaged restructuring in January of 2012.

The investors who came together to take the company private wanted to return the corporate strategy to core business fundamentals — like making sure we're bringing in more money than we're spending — that had been too easily obscured by grand but flawed plans for growth.

With that imperative, the board asked me to lead the company to rebuild

strategic relationships and execute a responsible business plan, rather than going out and trying to find some highly touted outside executive unfamiliar with the company's culture and challenges.

Moreover, the board understood that a key to saving the company was returning leadership to long time internal leaders who, having earned the trust of their coworkers, helped create a cohesive, effective local management team.

Immediately after assuming the position of CEO in April 2012, we were working by just those fundamentals. Essentially, we were executing the sort of strategic plan a small business would execute every week to rebuild important customer, vendor, and employee relationships.

In the end, we were able to create a team that could achieve things the industry thought were impossible. But the statistic I am most proud of from my time with EnerDel was that our annualized voluntary attrition went from over 60% — that was in November 2011 — to under 3% after our team took over.

Does the battery industry need more shopkeepers and fewer MBAs?

What you're asking is whether we need more leaders who exercise basic

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INTERVIEW: THE ENERGY ATTORNEY

common sense business principles, and avoid falling into a trap of complicated financial gymnastics with a flashy PR sheen.

This is a sensitive topic for leaders in the industry, in part fuelled by the pressure to show results in the face of extremely slow consumer adoption. But the short and simple answer is “Yes, I do.”

I also think it’s somewhat natural for leadership in our industry to become defined by a sense of entitlement and overconfidence born of some of our experiences in large corporate settings with bottomless budgets.

Maybe it’s time to consider that some of the industry’s problems derive at least in part from hubris that is encouraged by publicity and reliance on best-case projections. There is a pervasive and uncomfortable assumption that everything is going to turn out okay despite the past decade of evidence that the industry is facing serious technical and financial challenges.

Toward that point, the leaders in this industry need to get back to business basics and key leadership traits, chiefly integrity, commitment, energy, and trust.

When you are driven by those four core characteristics, it becomes much easier to run an organization, for example, managing teams, and nurturing talent and new ideas. Doing that leads to an actively engaged team, and when you have that, you’re well on your way to what everyone really wants from a results-oriented perspective: healthy cashflow and profits.

Why did you decide to leave EnerDel in particular and corporate management in general?

There were many reasons, both personal and professional, but what became clear to me was that it was time for someone else to take the helm and see things with fresh eyes. When you lead a company for a few years, especially through the challenging years EnerDel experienced, you need to realize when it’s time to step away.

The decision to leave was also rooted, in part, in my firm belief in this industry’s capacity to have a huge economic and social impact on our world.

I felt strongly that I could have more impact as a business consultant and legal counsel serving multiple companies within the broader industry, than I could as an executive working inside a single company.

I’ve also seen a lot of stagnation

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across the industrial spectrum, from OEMs to research to governments, utilities and venture capitalists.

I began to realize that if people are unwilling to act, it may be because traditional models of both business and legal counsel are no longer relevant to the way global business in the 21st century needs to be done, which is through partnerships and collaborative ventures. I want to help make those happen.

What attracted you to Gutwein Law?

I joined Gutwein primarily because I trusted them. The firm is also expanding into new industrial segments, such as high tech manufacturing and energy. I have the skill set and experiences they wanted, and the firm has the vision I was looking for.

Our team is entrepreneurial at heart. Because the partners all have other interests outside of the law, they’re not afraid to approach an industry differently than is considered usual for a law practice. Specifically, the legal industry is ripe for a fresh perspective.

We believe clients want lawyers to be their business partners, not just expensive mercenaries. While the traditional legal approach is adversarial

and transactional, ours is a collaborative, relational approach. And that fundamentally changes the kind of advice and encouragement you provide the client. 🚀

THE CV: IN BRIEF

Business and IP counsel, Gutwein Law	2014 –
CEO, EnerDel	2012 – 2014
President, general counsel, Ener1	2012 – 2014
Director, observer, Zhejiang Wanxiang Ener1 Power Systems	2012 – 2013
Deputy general counsel; chief IP counsel, Ener1	2011– 2012
Corporate counsel, patent attorney, Caterpillar	2007 – 2010
Associate, Senniger Powers	2002 – 2007
Indiana University School of Law	2000 – 2003
Failure analyst, Lockheed Martin Control Systems (BAE)	1998 – 2000
Failure Analyst, Lucent Technologies	1997 – 1998
Lehigh University, BS Materials Science & Eng	1994 – 1998