

PUGET SOUND BUSINESS JOURNAL

Young Seattle lawyer gets a shot at Fitbit in court – and wins

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A Seattle lawyer argued the winning side of an intellectual property battle between rival fitness tracking heavyweights Fitbit and Jawbone.

The U.S. District Court of Northern California in San Jose on March 2 ruled invalid two patents Fitbit used to sue Jawbone in one of several intellectual property disputes between the companies.

Susman Godfrey, a Texas-based law firm with 18 Seattle-area lawyers, represented Jawbone. Lindsay Calkins, an associate attorney with the firm, argued Jawbone's case.

"It was an opportunity to dig into an evolving area of law," Calkins told the Puget Sound Business Journal. "We live in Seattle where there's a hotbed of technological innovation right now, and companies need to both protect the intellectual property work they work hard to develop and defend themselves against claims of infringement."

Fitbit and Jawbone have been arguing in a number of lawsuit for years. The court's decision invalidates two of Fitbit's three patents the company used to sue Jawbone for infringement in this particular case.

The Fitbit case is one in which a



Lindsay Calkins is an associate attorney at Susman Godfrey.

court chose to invalidate patents "because they are directed to abstract ideas and do not recite any inventive concepts," the decision said.

Fitbit said it's not done fighting yet.

"Jawbone's attempts to escape liability for its infringement of Fitbit's patents have failed in nearly every forum. Last month, another federal court in San Jose rejected a similar motion by Jawbone regarding three different patents," a Fitbit spokesperson emailed. "We plan to demonstrate the strength of our legal position with respect to the three patents in that case and the remaining patent in this case. Fitbit has successfully outcompeted Jawbone

in the market and we will continue to protect our IP and halt Jawbone's infringement of our patents."

While it's uncommon in the industry for associates to argue large cases, Calkins said it's typical at her firm for younger attorneys to argue large case because they complete the briefings and dig into the weeds. The practice helps the firm train young attorneys and recruit new ones.

"The opportunity to argue in court – especially in a case that's very large and involves a lot of money – I look at as something you can't excel at if you don't do," Calkins said. "You have to walk before you can run."

Calkins is a 2011 graduate of the University of Chicago Law School who worked as an attorney for the nonprofit Washington Appellate Project. She also was a law clerk to former U.S. Court of Appeal for the Ninth Circuit Judge Betty B. Fletcher. She joined Susman Godfrey as an associate in 2013.

Fitbit was represented in the case by Delaware firm Morris, Nichols, Arsht & Tunnell and California firm Gibson Dunn & Crutcher. Jawbone was represented by Susman and Godfrey and Delaware firm Phillips, Goldman & Spence. The dispute between the two companies is the subject of several court cases.