

THE IP EDITION

FunkkOFF!®

In the world of entrepreneurship, where ideas meet innovation, there's a story of persistence, teamwork, and the impact of patents. It all started with a simple problem: **Joelle Flynn** loved red wine but hated how it stained her teeth. Carrying around a toothbrush and toothpaste everywhere she went was inconvenient. So, she decided to find a solution.

Joelle and Co-Founder **Sonia Hounsell** teamed up with **Justin Krieger**, now Managing Partner of Kilpatrick's Denver office, to protect her idea. They faced challenges, but their collaboration helped them navigate the complexities of patent law. As **FunkkOFF!®** went from idea to market, Sonia brought her expertise in brand marketing and product innovation.

Their journey wasn't easy, but with multiple patents secured and trademarks registered, FunkkOFF!® became a leader in their space. Their success attracted investors and customers, including a deal with **Robert Herjavec** on **ABC's Shark Tank**, solidifying their position in the industry.

At what point did you start thinking about protecting your technology? How did Kilpatrick play a role in that?

Joelle: After a lot of exhaustive market research trying to find a reusable all-in-one toothbrush and toothpaste, I didn't find anything. Then Justin and I were connected in 2011 or 12 through a mutual friend. We sat in the sunroom of her house and talked about all things FunkkOFF!®. From what I saw, I knew there wasn't a product out there like it.

I also knew I needed professional help. So, Justin and the Kilpatrick team have been working with us since then to help navigate our journey to protect our IP.

Sonia: I remember sitting at the kitchen table in 2011 and talking about the products with you, Joelle, because you had come to the East Coast for a visit. There were some early designs, and I remember hearing about Justin and being very excited about this.

My background is in brand marketing and product innovation, so I got excited about



the potential of creating a new brand and introducing a new product that was so innovative in the oral care category. In fact, the reason why you came to town was we were going into New York City to meet a potential investor.

What were some of the biggest hurdles you faced when working on protecting your tech/creating your patents? Were there any unexpected challenges?

Joelle: Justin and the Kilpatrick team have been exceptional in really navigating this whole patent process. To date, we have 11 patents: ten U.S. and one China.

We began by filing for the patents after all the exhaustive research that was done on prior art. Then the examining attorney came back with any curve balls of other art that we didn't know about. But Kilpatrick has always been brilliant in helping to navigate and respond back to these office actions and to getting our patents issued. We're very, very grateful for that.

Even when we get a curve ball, the team always comes to the meetings knowing exactly how we're going to respond, and we always get our patents issued. The nice thing about working with a firm like Kilpatrick is that the curve balls are manageable because we have this massive team behind us to help us navigate a sea of patents, which is not our forte. We have certainly become very educated on them because of the knowledge base that Kilpatrick has.

Justin: When I first met with [Joelle], we had no prototypes. But she had all these tremendous ideas, and we placed everything we could in this patent application. There was so much there, from single-use to multi-use embodiments. We had the squeeze tube; we had the twist bottom concept.

There were many different options and ways of putting the device together. The sheer creativity in terms of coming up with all these alternative designs was amazing. It was the ability to pull from these alternative designs and different ways of implementing the invention that gave us so many different fallbacks during prosecution.

When the examiner would cite something that perhaps threw us that curve ball that Joelle was talking about, we had options and different directions that we could go because Joelle had the forethought of putting all these different embodiments and ideas and tweaks into the patent application. We were then able to amend claims and ensure that the claims provided real world value for Team FunkkOFF!®. I think she had that name right out of the gate too. That was great.

What was the process like turning your IP into a commercialized consumer product?

Sonia: When Joelle and I got together, it was really fun to think through the product, like the consumer features, benefits, and the business plan—including the marketing and selling strategy. But first what we had to do was get to a commercialized, usable product.

Joelle had been working with a design company out in California and I remember we had our first tooled prototype that we took to our first investor. It was great; beautiful, actually! We met with him and talked through the features, but the design still needed some work. There were some challenges, so we ended up working with another designer out of Toronto to get the final product.



Nearly ten years in the making, we had our first product we could launch in 2020/early 2021. It's a testament to the persistence that's required.

Joelle had a lot of persistence with working through the patents. Then we came together to turn it into a consumer product, and it was a fun but very long road.

How has your IP strategy evolved over the years?

Joelle: It's still evolving! I think we're on patent number 12. In fact, we were recently in

Chicago at an inventor's convention, and we were asked about our best piece of advice.

Nothing's ever going to be perfect. It's a constant evolving work in progress with new enhancements and new ways to protect different iterations of how to make the product even better.

Sonia and I call her [FunkkOFF!®] our baby. She was just a baby before going off to high school with little temper tantrums going on. Now, she's off to college and is putting on other hats. So, we are constantly evolving.

Sonia: With the help of Justin and the team, we keep learning how to continue to protect the IP. We recently did a continuation application and that was extremely valuable. I can see us potentially needing to do more of those kinds of things going forward, and we are grateful to have Justin and the team to get through all of that. Once we got into market it was thrilling but scary because from there it really took off, and there were concerns about knockoffs and IP infringement.

In just the past few weeks, a company started using our Trademark name, FunkkOFF!®, in an online marketplace listing. Our partner recognized it, and we submitted a complaint; the product was very quickly pulled down shortly after. Now that is happening, it's flattering and exciting but also worrisome. However, because we have Justin and the Kilpatrick team, we have protections and people behind us to help us in these situations.

Given that patent work can be unique to the technology and/or client, what made this specific client stand out?

Justin: The personalities! It was so much fun; the energy, the nonstop barrage of ideas, and trying to make sure that we had everything covered. It was just fun from beginning to end, working with these ladies. So, from my perspective, that was what really stood out to me.

Joelle: Fun is in our name! Justin has been super fun to work with and is also extremely capable. I feel like you have our back. We have this huge support system with Justin and Kilpatrick. Everybody we've come in touch with has been truly phenomenal.

But we need to have fun. Why work if you don't have fun? Life is too short.

How did you approach building a patent strategy for FunkkOFF!®? Were there any special considerations that had to be made to ensure success?

Justin: It was the continuous changing of the product and trying to stay on top of that with the patent portfolio and making sure that we had all of it protected. That was the most dynamic aspect of it all.

Since working with Justin and a team of Kilpatrick patent attorneys, do you have any advice for women founders who are looking to break ground with new tech?

Joelle: I believe under 4% of all patents have been issued to single female inventors, which

is phenomenal when you think about how many patents have been issued. Sonia and I are very involved in a lot of female organizations. We're Certified Women-Owned and want to support women to move the needle in the patent space.

If you have a unique idea or a different way to approach a problem, start! Go for it. Do your research, ask around, and of course, get an amazing patent attorney and team to support you along the way.

Sonia: There are a lot of resources out there and with the internet and groups like the **United Inventors Association (UIA), which is a great resource to join. They offer a lot of free events and webinars and provide a community for like-minded inventors. Finding this kind of community of inventors who are founders and entrepreneurs is really valuable because then you can connect with them and learn from them.**

Stick with it. It's easy to give up. But if you have the passion and you really believe in what you're doing, just keep going because it's worth it.

Joelle: You also can't do it alone. You really need a partner, and not just a patent attorney partner, which is very important. It's very hard to have all the skill sets that you need.

Sonia and I have a great foundation. We've known each other since seventh grade so we have the same work ethic, honesty, and integrity. We bring different skill sets to the table but share a lot of the same qualities. Don't try it alone; because it's a scary path, entrepreneurship.

How do you convince yourself or others (investors, etc.) that implementing a robust IP strategy is truly a smart and important move for an entrepreneur, considering its strategic advantage and long-term benefits in shaping the company, building its brand, and safeguarding innovations?

Joelle: I knew IP was important. I knew patents were important. We found a way early on start filing patents. We just protect as best we can. Right now, I feel like our most valuable asset is our patents. Our IP right now is solid.

It's the locks on your doors. Everybody can have a house but at the end of the day, there's actually true value in having those locks.

Sonia: It's a very delicate balance of risks and reward and it happens over time. Thankfully all those bills don't come all at once! As you are going through the process, you are investing, but you're also mitigating risk as you go. That risk mitigation helps me as an investor because the IP supports the business and makes it worth investing in.

In fact, having the IP has been extremely helpful in fundraising and was helpful in getting [FunkkOFF!®] onto Shark Tank.

I think Shark Tank producers look for inventions and patented products.

The word "patent" is so telegraphic. It means it's really, truly new. Everybody can say "new and innovative," but you only can say patented if you have a patent. It's a hard question, but it's just a balancing act at the end of the day.

Justin: When you're seeking investors, the first thing they're going to ask is what's stopping somebody from copying this product? They don't want to invest all this money only to have somebody swoop in and copy it and then everything is in the tank. Having those patents is so helpful and puts everybody's mind at ease. **I think that's a testament to everything that they've done as a team as a success on Shark Tank. I think all of it kind of ties together in that it was a big part of all their success.**



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