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## Inside Susman Godfrey's Multigenerational Approach That Led to \$31.5M Jury Verdict

Veteran litigator Alexandra “Lexie” White saw to it that younger partners and two associates got significant standup opportunities in Koninklijke KPN’s jury trial against Ericsson. That’s the Susman Godfrey culture, White said, but “the truth is these guys can hold their own against partners many years their senior from other firms.”

BY SCOTT GRAHAM

### What You Need to Know

- The reasonable royalty awarded by the jury could amount to \$100 million in past and future damages.
- Two associates had standup roles, and junior partner Tamar Lusztig put on the entire damages case.
- Partner Andres Healy used an Ericsson expert witness’s own book to bolster KPN’s infringement case.

A multi-generational Susman Godfrey team powered Koninklijke KPN to a \$31.5 million jury verdict against Swedish telcom giant Ericsson in the Eastern District of Texas.

“It’s a great result for a great client,” said partner Andres Healy, who co-led the Dutch wireless company’s trial team with partner Alexandra “Lexie” White.

White is a veteran trial lawyer and member of the firm’s executive committee. She handled openings

and closings, among other duties. Healy, who’s been a partner for four years, was “the captain of the ship,” White said, and cross-examined Ericsson technical expert Stephen Wicker. Another newer partner, Tamar Lusztig, put on the firm’s damages case, resulting in the jury awarding every dollar KPN requested—including potentially tens of millions more in future royalties.

And associates Russell Rennie and Adam Tisdall got stand-up roles too. White said it’s part of the culture of the firm that traces to the late founder Stephen Susman. Susman was capable of trying any case from start to finish, but was “so generous with opportunities to speak in front of a jury,” White said. “All of us feel a tremendous responsibility and debt, to kind of pay that forward to the next generation.”



Courtesy photo.

**Susman Godfrey partner Alexandra “Lexie” White.**

KPN accused Ericsson of infringing its patents on assessing and improve 4G and 5G network coverage by pinging user cellphones, rather than paying people to drive all around the country with antennas on their cars. The process is known as minimization of drive tests, or MDT.

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Ericsson, represented by McKool Smith and Baker Botts, argued that KPN was asking for a \$31 million “windfall” for technology that Ericsson doesn’t even use. That’s because US carriers can’t track user phones without first obtaining their consent, and the patents don’t provide for that consent, Ericsson argued.

White said in her closing that all major U.S. carriers require consumers to consent as part of their contracts. She mocked the notion that carriers have been collecting the information by mistake. “Sixty-thousand base stations enabling MDT, that’s a lot of oopsies,” she told jurors.

Plus, under cross-examination from Healy, Ericsson’s technical expert Wicker acknowledged he’d written a book about the pervasive tracking phenomenon.

“Everything I was able to say in closing about Dr. Wicker was from something that Andres got,” White said.

Third-year associate Russell Rennie put on KPN’s infringement expert. It was the first time for both of them before a jury, White said. Associate Adam Tisdall cross-examined another Ericsson technical expert, and Lusztig did the direct of KPN’s damages expert and cross-examined Ericsson’s damages expert. “The fact that they gave us every single penny that we asked for is 100 percent because of the work that she did,” White said.

The patents have eight years of life remaining, so with future royalties the damages could ultimately reach \$100 million, White added. Jurors also found Ericsson’s infringement to be willful, which raises the possibility of enhanced damages

White said the talent level across firm “makes it really easy for me to look like the good guy who’s giving everybody lots of standup opportunities. The truth is these guys can hold their own against

partners many years their senior from other firms.”

White also credited the efforts of Ward, Smith & Hill, which provided local counsel. “Trying this case with Johnny Ward was a highlight of my career,” White said.

Ericsson still has a couple of cards to play. For one thing, the USPTO’s Patent Trial and Appeal Board has agreed to review the validity of two of the three patents in the case. The PTAB described Ericsson’s threshold showing of invalidity as “reasonably strong on the merits.” A final decision isn’t expected until next spring.

KPN holds a portfolio of 1,500 patents. White said the company’s preference would be to strike a voluntary license with Ericsson, as it has done in years past. “We are still hopeful that we will be able to negotiate a portfolio license that would end all litigation between the parties,” she said. “But as of yet we have not been able to.”