

Fitbit Hit

By Reg P. Wydeven
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My wife loves to exercise. If she doesn't exercise every day, she goes a little crazy. She usually power walks four miles a day. To mix it up, she will also bike, snowshoe, or kayak. That's why she was so excited when she got a Fitbit Tracker.

Her Fitbit is a bracelet that contains an accelerometer, which is a device that senses its wearer's movements. After inputting some of her personal data, such as gender, height, weight and age, my wife's Fitbit counts her steps and then calculates how far she's walked and how many calories she's burned. Her goal is to walk 10,000 steps a day and her bracelet vibrates when she hits it. This is when she startles us by yelping "Woo-hoo!" to celebrate her accomplishment.

Fitbit Trackers also measure sleep patterns. Her bracelet can tell if she's slept soundly, like she did last Thursday night after a full day at school and a long night of parent-teacher conferences. Likewise, it can also tell if she's had a restless night, like she did last Wednesday after our son sleepwalked outside.

Every few days my wife syncs her Fitbit with the computer and it compiles all of this information so she can gauge her habits.

Because devices like Fitbits are so effective at gathering personal data, one Canadian law firm hopes to use them as evidence in the courtroom.

McLeod Law in Calgary is representing a young woman who was hurt in an accident four years ago. Because she was a personal trainer, her attorneys are contending that she led an active lifestyle. To demonstrate the extent of her injuries, the firm intends to use a Fitbit to measure her activity level. They are confident the results will reflect that because of the accident, her activity level will be less than an average woman of her age and profession.

For years, lawyers have bolstered their cases using electronic discovery, or "e-discovery," which is the collection of emails, photos, videos, electronic documents and databases. McLeod is the first known firm to attempt to use personal data collected from an activity tracker as evidence in a personal injury lawsuit. However, many suspect Fitbits will quickly be the hottest trend in e-discovery.

Because they are the first trailblazers to try it, McLeod doesn't know if Canadian courts will accept data from a Fitbit as evidence. If they do, will the use cut both ways – while McLeod's accident victim is willingly sharing her Fitbit data to help her case, surely insurance companies will ask for this data to show the people they are insuring aren't hurt as badly as they say.

If McLeod is successful in their suit, it's a safe bet that the use of Fitbit data in lawsuits will migrate south. I just hope a polar vortex doesn't come with it.