

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

ESSEX SUPERIOR COURT
CIVIL ACTION #

2477CV00605A

Commonwealth Diagnostics International, Inc.,

4 Technology Way
Salem, MA 01970

Plaintiff,

v.

YouTube, LLC,

901 Cherry Ave.
San Bruno, CA 94066

Defendant.

FILED
ESSEX SUPERIOR COURT
2024 JUN -6 P 3:59

COMPLAINT

Plaintiff, Commonwealth Diagnostics International, Inc. (hereinafter "CDI"), by and through its undersigned counsel, brings this action against Defendant, YouTube, LLC (hereinafter "YouTube"), and alleges as follows:

PARTIES

1. CDI is a Clinical Laboratory Improvement Amendments (CLIA)-certified, ISO13485 certified, FDA Registered medical device manufacturer and independent clinical laboratory specializing in diagnosing chronic gastrointestinal conditions. CDI is incorporated in Delaware and has its principal place of business and headquarters in the Commonwealth of Massachusetts, located at 4 Technology Way, Salem, MA 01970.
2. YouTube, LLC is a subsidiary of Alphabet Inc., which provides a platform for sharing and viewing videos. YouTube conducts business in the Commonwealth of Massachusetts. The defendant has purposely availed their business in the Commonwealth.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action pursuant to Massachusetts General Laws.
4. YouTube has caused CDI damages in excess of \$50,000.
5. Venue is proper in this Court because CDI's principal place of business is in Massachusetts, substantial parts of the events giving rise to these claims occurred in this Commonwealth of Massachusetts, and YouTube's actions and omissions have harmed and continue to endanger healthcare providers and patients ordering and receiving diagnostic care in the Commonwealth of Massachusetts.

INTRODUCTION

6. As a Clinical Laboratory Improvement Amendments (CLIA)-certified, ISO13485 certified, FDA Registered medical device manufacturer and independent clinical laboratory, CDI serves thousands of healthcare providers and tens of thousands of patients annually for their critical gastrointestinal diagnostic needs.
7. For years, an account impersonating CDI ("the Impersonating Account") has been active on YouTube, hosting seven (7) videos that misrepresent CDI's diagnostic breath tests, leading to patient confusion, negative patient health impacts, and severe problems for gastrointestinal healthcare providers and their patients attempting to take CDI's proprietary ISO 13485 Certified and FDA registered diagnostic breath tests.
8. For years, CDI has made repeated requests for YouTube to take down the Impersonating Account and videos and has provided YouTube and YouTube's legal team with substantial evidence of copyright and trademark infringement to YouTube. CDI has also repeatedly informed YouTube that its refusal to act is harming patients who are inadvertently viewing the Impersonating Account, which distorts CDI's Instructions for Use leading to improper test examination of patients.
9. CDI has received numerous complaints from patients and healthcare providers who unwittingly encountered the Impersonating Account.
10. Despite repeated requests, YouTube has failed and willfully refused to take appropriate action to remove the Impersonating Account and its videos, in violation of YouTube's own Terms of Service, including YouTube's "Impersonation Policy" detailed at <https://support.google.com/youtube/answer/2801947?hl=en>.¹

FACTUAL ALLEGATIONS

11. CDI owns and operates an official YouTube channel, which provides accurate instructional videos for its diagnostic breath tests. CDI's reputation as the national leader in at-home diagnostic breath testing is built on the accuracy and reliability of its tests and instructions.
12. CDI's YouTube official account is: "Commonwealth Diagnostics International Inc.-@commonwealthdx".
13. Since in or around 2016, an unauthorized YouTube account under the name "Commonwealth Diagnostics Int'l, Inc. - @commonwealthdiagnosticsint337" (hereinafter "the Impersonating Account") has been impersonating CDI's official YouTube channel.²
14. This Impersonating Account has posted seven (7) videos purporting to be official CDI instructional content, which are factually incorrect and have caused confusion and harm to CDI's patients and physician clients taking CDI's ISO-13485 certified, FDA registered breath tests.
15. After reporting the Impersonating Account numerous times via YouTube's "report" feature with no response, and after sending multiple correspondence to YouTube's legal team with no response, on February 2 and February 6, 2024, CDI, through its Chief Legal Officer, Gray W.


¹ A copy of YouTube's Impersonation Policy was attached to CDI's 93A Demand and will be filed with the court.

² Screen shots of the Impersonating Account claiming to be "Commonwealth Diagnostics Int'l, Inc." and videos are were attached to CDI's 93A Demand and will be filed with the court.

Rifkin, Esq., again notified YouTube of the Impersonating Account and the infringing videos, providing specific URLs to the infringing content, including but not limited to:

- <https://www.youtube.com/watch?v=PIFHOCNz80A>

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	<p><u>Taking a Fructose Intolerance / Fructose Malabsorption Breath Test</u></p> <p>www.youtube.com</p>
---	---

- <https://www.youtube.com/watch?v=-RjOISsj3ic>

?

	<p><u>Taking a Lactose Intolerance / Lactose Malabsorption Breath Test</u></p> <p>www.youtube.com</p>
--	---

- <https://www.youtube.com/watch?v=zflQdQ4BMdE>

?



Taking a Small Intestinal Bacterial Overgrowth (SIBO) Breath Test

www.youtube.com

- <https://www.youtube.com/watch?v=9zMrlqNi6-U>

2



Taking a Sucrose Intolerance / Sucrose Malabsorption Breath Test

www.youtube.com

- <https://www.youtube.com/watch?v=9zMrlqNi6-U>

2



Taking a Sucrose Intolerance / Sucrose Malabsorption Breath Test

www.youtube.com

- <https://www.youtube.com/watch?v=7q528elv-ts>

- <https://www.youtube.com/watch?v=CkvL26fpgYg>

16. Despite repeated requests for removal of the Impersonating Account and infringing videos, YouTube has failed to take appropriate action. On February 6, 2024, after YouTube requested evidence of CDI's trademark registration, CDI promptly provided YouTube with a copy of its trademark registration for "Commonwealth Diagnostics International, Inc.," registered with the USPTO, Registration Number 5,696,223 effective March 12, 2019, and valid and in effect through the present time. CDI also owns the registered trademark "Commonwealth Diagnostics International, Inc." registered with the USPTO, Registration Number 5,387,204, effective January 23, 2018, and valid and in effect through the present time.^{3 4}
17. In addition to CDI owning all rights to Commonwealth Diagnostics International, Inc.'s copyrighted and trademarked material, CDI is also the legal owner of Commonwealth Laboratories, LLC's (a permanently dissolved entity) digital assets and materials.
18. In April of 2024, CDI sent YouTube a MGL 93A legal demand. A copy of the 93 A Demand is attached as **Exhibit A**.
19. On April 24, 2024, in response to CDI's 93A Demand, YouTube sent CDI's counsel an email purporting to rectify this issue, stating, "We reviewed your legal complaint and restricted the content in question."
20. In fact, YouTube did not restrict the Impersonating Account, but instead willfully and recklessly terminated and restricted CDI's authorized YouTube account, including all of CDI's portfolio of authorized videos. Accordingly, CDI, its healthcare providers, and its patients have been without access to these vital materials for over a month. This has caused CDI substantial damages and further damaged and harmed CDI's healthcare providers and patients. CDI immediately contacted YouTube to advise YouTube of its reckless actions in terminating and restricting the wrong account. To date, despite numerous requests, YouTube has failed and refused to take corrective action, and CDI's authorized YouTube account has been totally suspended while YouTube has recklessly allowed the Impersonating Account to remain on the YouTube website.
21. Following YouTube's restriction and termination of CDI's authorized YouTube account instead of the Impersonating Account, CDI formally supplemented its MGL 93A Demand and provided notice of the addendum to CDI's 93A Demand to YouTube's legal team. A copy of CDI's addendum to the 93A Demand sent to YouTube is attached as **Exhibit B**.
22. CDI's directions as to what Impersonating Account, YouTube Channel, and Videos needed to be removed were extremely clear in both the email threads with YouTube's legal team as well as the 93A Legal Demand. YouTube's failure to follow those directions and terminate/restrict CDI's active account instead of the Impersonating Account is another reckless breach of YouTube's duties, terms and conditions, and failure to remedy the damages caused to CDI as outlined below and in the MGL 93 Demand.

³ Copies of CDI's registered trademarks were attached to CDI's 93A Demand, provided in email correspondence to YouTube's legal team, and will be filed with the court.

⁴ CDI's correspondence with YouTube's legal team was attached to CDI's 93A Demand, and will be filed with the court.

23. Upon the improper and wrongful termination of CDI's authorized YouTube account instead of the Impersonating Account, CDI immediately notified YouTube of these actions, and YouTube has failed and refused to respond or take any corrective action.
24. YouTube's failure to act on CDI's requests and its refusal to acknowledge CDI's trademark rights, copyright rights, and rights under YouTube's contractual Terms of Service, including YouTube's "Impersonation Policy" have caused substantial and ongoing damage to CDI's reputation, business, and the health and safety of its patients.

COUNT I: BREACH OF CONTRACT

25. CDI re-alleges and incorporates by reference the foregoing paragraphs.
26. YouTube's Terms of Service constitute a contract between YouTube and its users, including CDI. By failing to enforce these terms, including YouTube's Impersonation Policy in the face of clear evidence of impersonation and copyright infringement, YouTube has breached this contract.

COUNT II: COPYRIGHT INFRINGEMENT

27. CDI re-alleges and incorporates by reference the foregoing paragraphs.
28. The Impersonating Account has uploaded videos that unlawfully reproduce and display CDI's copyrighted material without authorization, constituting direct copyright infringement.

COUNT III: CONTRIBUTORY COPYRIGHT INFRINGEMENT

29. CDI re-alleges and incorporates by reference the foregoing paragraphs.
30. YouTube has materially contributed to the copyright infringement by failing to take down the Impersonating Account's videos after being notified of the infringement, thereby facilitating further infringement.

COUNT IV: TRADEMARK INFRINGEMENT

31. CDI re-alleges and incorporates by reference the foregoing paragraphs.
32. The Impersonating Account's use of CDI's name and likeness in its videos and channel name constitutes unauthorized use of CDI's registered trademark, likely to cause confusion, mistake, or deception as to the affiliation, connection, or association of the Impersonating Account with CDI, or as to the origin, sponsorship, or approval of its goods, services, or commercial activities by CDI.

COUNT V: VIOLATION OF MASSACHUSETTS GENERAL LAWS 93A

33. CDI re-alleges and incorporates by reference the foregoing paragraphs.
34. YouTube's refusal to remove the Impersonating Account and its videos, despite clear evidence of impersonation and infringement, constitutes unfair and deceptive trade practices under Massachusetts General Laws 93A.
35. On March 28, 2024, plaintiff sent a demand letter (attached as Exhibit A) pursuant to M.G.L. Ch. 93A and an Addendum dated April 25, 2024 via email (attached as Exhibit B).

36. By reasons of the above, the defendant is guilty of unfair and deceptive acts and practices pursuant to Massachusetts General Laws Chapter 93A.

Wherefore, the plaintiff demands judgment against the defendant in an amount set by this Honorable Court with jury together with reasonable costs and attorney's fees, and to multiply as permitted by law said damages.

PRAYER FOR RELIEF

WHEREFORE, CDI respectfully requests that this Court:

- a. Issue a judgment declaring that YouTube has breached its contract with CDI, infringed upon CDI's copyrights, contributed to copyright infringement, infringed upon CDI's trademarks, and engaged in unfair and deceptive trade practices under Massachusetts General Laws 93A.
- b. Award CDI damages, including up to treble damages for violations of Massachusetts General Laws 93A, and costs and attorneys' fees.
- c. Issue a permanent injunction requiring YouTube to remove the Impersonating Account and its videos from its platform.
- d. Grant such other and further relief as this Court deems just and proper.

**Respectfully submitted,
The Plaintiff by its Attorney,**


David W. Rifkin, BBO# 420100
David Rifkin Law Offices
81 Washington Street, Ste 31
Salem, MA 01970
(978) 745-9786
rifkinlaw@aol.com

Counsel for Plaintiff, Commonwealth Diagnostics International, Inc.

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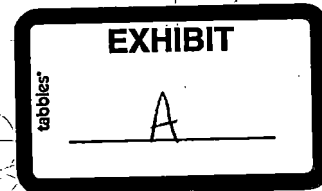
rifkinlaw@aol.com

DAVID W. RIFKIN

Of Counsel

GRAY W. RIFKIN

March 28, 2024



YouTube, LLC
Attn: YouTube Legal Support Team
901 Cherry Ave.
San Bruno, CA 94066

Email: legal@support.youtube.com
Fax: +1 650-253-0001

RE: Commonwealth Diagnostics International, Inc.
Massachusetts General Law Chapter 93A, §9, 11 Demand

Dear YouTube:

This is a formal demand letter pursuant to M.G.L. Chapter 93A, §9 and M.G.L. Chapter 93A, §11.

This firm represents Commonwealth Diagnostics International, Inc. ("CDI"), who is an active user on YouTube's platform under the name "Commonwealth Diagnostics International Inc" utilizing the handle "Inc.@commonwealthdx". For years, CDI has utilized the proper mechanisms under YouTube's Terms of Service to report an Impersonating Account and requested that YouTube comply with its own Terms of Service in removing the Impersonating Account. Despite CDI's numerous attempts to elicit an appropriate remedial response and action from YouTube, YouTube has failed to comply with its own Terms of Service causing substantial damage to CDI, its healthcare providers, and patients utilizing CDI's products and services.

Attached hereto is a chronology of events, with a full email chain collectively Exhibit "B" which is incorporated herein by reference, which details and evidences violations of G.L. Chapter 93A in the following respects, among others.

Unfair or Deceptive Acts or Practices in the Conduct of Trade

It is a violation of G.L.c. 93A to engage in unfair or deceptive trade practices including in the "furnishing or distributing any service" which directly and substantially affects the people of the commonwealth. 93A Sections 2, 9, 11.

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DAVID W. RIFKIN

Of Counsel
GRAY W. RIFKIN

As noted in the attached correspondence, despite incontrovertible evidence provided to YouTube, YouTube has engaged in unfair and deceptive trade practices by perpetuating and contributing to copyright infringement, trademark infringement, and willful and intentional refusal to comply with YouTube's own Terms of Service, including its "Impersonation Policy" stated on its website.

For years, CDI, its healthcare patients, and healthcare providers have been harmed by YouTube's failure and refusal to remove an Impersonating Account. CDI has formally "reported" this conduct on numerous occasions utilizing YouTube's own "report" features on its website and has also directly corresponded with YouTube's Legal Support Team to demonstrate the harm that has been caused and is continuing to CDI's reputation, good will, and separate harm that is occurring to CDI's patients and healthcare providers utilizing CDI's services. Despite clear evidence that CDI, its patients, and healthcare providers are being harmed by an Impersonating Account, YouTube has intentionally and recklessly failed and refused to remove the Impersonating Account. YouTube has blatantly and intentionally ignored evidence of CDI's ownership of the registered logos and trademarks protecting "CDI" and "Commonwealth Diagnostics International, Inc.". YouTube's actions and omissions constitute a clear violation of Chapter 93A, and suscept patients and healthcare providers to ongoing physical harm.

To date, there have been more than 40,000 views of the Impersonating Account and Impersonating Videos. Comments from user's on the Impersonating Videos confirm that these videos are not accurate to CDI's Instructions for Use and are causing CDI and its patients confusion and harm.

Demand for Relief

Upon all the information and belief, YouTube's unfair trade practices and breach of its own Terms of Service as detailed in Exhibit A were performed willingly, knowingly, unfairly and deceptively.

CDI hereby demands YouTube remove the Impersonating Account and all related videos from YouTube's site. To date, CDI has suffered reputational and direct damages in excess of \$100,000. CDI hereby demands \$50,000 to settle these claims at this juncture. If forced to proceed with litigation, CDI will seek the maximum damages permitted by law. CDI also demands attorney's fees in the amount of \$5,000 to date regarding the filing of this notice.

Under Chapter 93A you have thirty (30) days from the receipt of this letter to respond with a reasonable offer of settlement. If you fail to do so, that statute provides that you could be liable for multiple damages and the reasonable attorney fees incurred by CDI for the prosecution of this action.

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DAVID W. RIFKIN

Of Counsel
GRAY W. RIFKIN

Kindly govern yourself accordingly.

Cordially,


DAVID W. RIFKIN, ESQ.

DWR/b
Enc.

Impersonation policy

The safety of our creators, viewers, and partners is our highest priority. We look to each of you to help us protect this unique and vibrant community. It's important you understand our Community Guidelines, and the role they play in our shared responsibility to keep YouTube safe. **Take the time to carefully read the policy below.** You can also check out this page for a full list of our guidelines.

Content intended to impersonate a person or channel is not allowed on YouTube. YouTube also enforces trademark holder rights. When a channel, or content in the channel, causes confusion about the source of goods and services advertised, it may not be allowed.

If you see content that violates this policy, report it.

- If you feel that yours or another creator's channel is being impersonated, you can report the channel.

What these policies mean for you

If you're posting content

Don't post content on YouTube if it fits any of the descriptions noted below.

- **Channel impersonation:** A channel that copies another channel's profile, background, or overall look and feel in such a way that makes it look like someone else's channel. The channel does not have to be 100% identical, as long as the intent is clear to copy the other channel.
- **Personal impersonation:** Content intended to look like someone else is posting it.

If you operate a fan channel, make sure you state so explicitly in your channel name or handle. It should be obvious to your viewers that your channel doesn't represent the original creator, artist or entity your channel is celebrating.

Examples

Here are some examples of content that's not allowed on YouTube.

- Channels with the same identifier (channel name or handle) and image as another channel, with the only difference being a space inserted into the name or a zero replacing the letter O.
- Using someone else's real name, user name, image, brand, logo, or other personal information to trick people into believing you are that person.
- Setting up a channel using the same identifier (channel name or handle) and image of a person, and then pretending that person is posting content to the channel.
- Setting up a channel using the name and image of a person, and then posting comments on other channels as if they were posted by the person.
- Channels claiming to be a 'fan account' in the channel description, but not stating so clearly in the channel name or handle, or posing as another's channel and reuploading their content.
- Channels impersonating an existing news channel.

Remember these are just some examples, and don't post content if you think it might violate this policy.

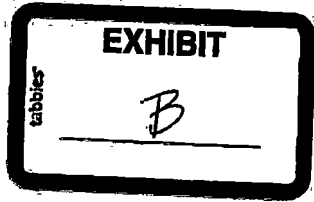
What happens if content violates this policy

If your content violates this policy, we may terminate your channel or account. Learn more about channel or account terminations.

Need more help?
Try these next steps:

Post to the help community
Get answers from community members

Contact us
Tell us more and we'll help you get there



https://www.youtube.com/channel/UC3376

YouTube

- Home
- Shorts
- Subscriptions

You >

- Your channel
- History
- Your videos
- Watch later
- Show more

Subscriptions

- Loft G+1
- The Doucance
- Metland Church
- Fight Hub TV
- Health Law Sector
- Top Rank Boxing
- The Wall Street J...
- Show 23 more

Explore

- Trending
- Shorts



Commonwealth Diagnostics Int'l, Inc.

Commonwealth Diagnostics Int'l, Inc. 124 subscribers

More about this channel

Subscribe

Home Videos Community

Uploads ▶ Playlist

A row of video thumbnails from the "Uploads" section. Each thumbnail shows a person in a suit, likely a representative of the company, in various settings. The thumbnails are partially obscured by a grid overlay.

From: Gray Rifkin
To: legal@support.youtube.com
Cc: Drew Connors
Subject: Re: Unauthorized Impersonation of Commonwealth Diagnostics International, Inc. on YouTube
Date: Tuesday, August 22, 2023 12:15:00 PM
Attachments: image001.png
image002.png
image003.png

Gray W. Rifkin, Esq
Chief Legal Officer
Commonwealth Diagnostics International, Inc.
39 Norman Street
Salem, MA 01970
grifkin@commdx.com
978-828-4479

August 22, 2023

YouTube Legal Department
901 Cherry Ave.
San Bruno, CA 94066
United States

Re: Unauthorized Impersonation of Commonwealth Diagnostics International, Inc. on YouTube

Dear YouTube Legal Team,

I am writing to you as the Chief Operating Officer of Commonwealth Diagnostics International, Inc. (CDI), a state and federally licensed, CLIA certified laboratory and ISO 13485-certified/FDA registered medical device manufacturer. It has come to our attention that there exists an unauthorized YouTube channel under the name "Commonwealth Diagnostics Int'l, Inc.@commonwealthdiagnosticsint337" which is impersonating our official channel "Commonwealth Diagnostics International Inc.@commonwealthdx".

This unauthorized channel is causing significant confusion among our healthcare patients and potential clients, tarnishing our reputation, and potentially leading to misinformation about our services. We have reported this channel on numerous occasions through the YouTube reporting system, but to date, no action has been taken to remove or address this impersonation.

We hereby demand the following:

- 1. Immediate Removal of the Impersonating Channel:** The unauthorized channel "Commonwealth Diagnostics Int'l, Inc.@commonwealthdiagnosticsint337" should be removed from YouTube immediately.
- 2. Confirmation of Action:** Once the channel is removed, we request written confirmation from

YouTube, ensuring that such impersonation will not recur.

Impersonation is a clear violation of YouTube's terms of service, and we trust that YouTube will take swift action to rectify this situation. If the unauthorized channel is not removed promptly, we will have no choice but to consider legal action to protect our brand, reputation, and the well-being of our patients.

Please understand the gravity of this situation. Every moment this impersonating channel remains active, it poses a risk to our patients, damages our brand's reputation, and undermines the trust we have worked hard to establish in the healthcare community.

We expect to hear back from you with a resolution to this matter within [specific time frame, e.g., "seven (7) business days"]. If we do not receive a satisfactory response within this period, we will proceed with further legal actions.

Thank you for your immediate attention to this critical matter.

Sincerely,
Gray W. Rifkin, Esq.
Chief Legal Officer

Gray W. Rifkin, Esq.

Chief Operating Officer | Chief Legal Officer
Commonwealth Diagnostics International, Inc.
39 Norman Street
Salem MA 01970
Office (888) 258-5966 | Fax (888) 258-5973



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From: Gray Rifkin
To: YouTube Legal Support Team
Subject: Re: Unauthorized Impersonation of Commonwealth Diagnostics International, Inc. on YouTube
Date: Wednesday, February 7, 2024 10:02:41 AM

Dear You[T]ube Legal Team-

CDI demands YouTube provide a substantive response supporting your arbitrary and absurd conclusion that you "are unable to determine the merits." Please explain specifically what measures YouTube has taken to investigate this claim.

CDI will be filing suit and holding YouTube accountable for its insane actions and violations of its own policies, and the continuing damages caused to CDI, our healthcare providers, our thousands of patients, and the healthcare system as a whole. YouTube should be ashamed of itself. Apparently you only involve yourselves in politics.

Be prepared for litigation and defense of claims for your unfair and deceptive trade practices. CDI deserves all rights.

Best regards,

Gray W. Rifkin, Esq.
Chief Operating Officer
Chief Legal Officer

On Feb 6, 2024, at 11:32 PM, YouTube Legal Support Team
<trademark+1r7ryzr53x5nh0c@support.youtube.com> wrote:

[EXTERNAL]

Hello,

Thank you for submitting your complaint. As a preliminary matter, please note that YouTube is not in a position to mediate trademark disputes between users and trademark owners. As a courtesy we have considered your claim, but are unable to determine its merits. As a result, we are unable to comply with your request to remove the content at issue. If you have continued concerns, we encourage you to resolve the dispute with the uploader. Some users list ways they can be contacted in their channel. [Learn more about how to contact other users here.](#)

Regards,

The YouTube Legal Support Team

On February 6, 2024 grifkin@commdx.com wrote:

Dear Youtube Legal Team--

Please see attached Trademark Registration with the USPTO.

Per our correspondence below, please immediately remove the unauthorized channel and seven (7) Youtube Videos from your website and provide confirmation of their removal.

YouTube's continued failure and refusal to comply with this good faith request will inevitably result in unnecessary litigation in the Commonwealth of Massachusetts, where CDI will seek treble damages from Youtube Pursuant to MA GL 93A.

CDI has attempted to resolve this matter in good faith and has been ignored and stonewalled by YouTube along the way. With evidence of CDI's ownership and registered trademark, we expect YouTube will immediately cooperate and stop the ongoing damages to CDI's products, services, and reputation caused by YouTube's failure to follow its own policies regarding unauthorized impersonation content and channels.

CDI demands a response and confirmation within 48 hours.

Best regards,

Gray W. Rifkin, Esq.

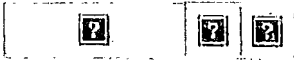
Chief Operating Officer | Chief Legal Officer

Commonwealth Diagnostics International, Inc.

4 Technology Way

Salem MA 01970

Office (888) 258-5966 | Fax (888) 258-5973



www.CommDX.com

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From: YouTube Legal Support Team
<trademark+1r7ryzr53x5nh0c@support.youtube.com>
Sent: Tuesday, February 6, 2024 3:52 AM
To: Gray Rifkin <grifkin@commdx.com>
Subject: Re: Re: Unauthorized Impersonation of Commonwealth Diagnostics International, Inc. on YouTube

[EXTERNAL]

Hello,

We are unable to confirm your ownership of the trademark in question. Please provide us with a copy of your registration certificate from your country's trademark office asserting your ownership of the trademark.

After we receive this documentation, we will reconsider your request and take any appropriate action.

Regards,

The YouTube Legal Support Team

On February 6, 2024 grifkin@commdx.com wrote:

Dear Youtube Legal Team:

Thank you for your response. The following seven (7) videos are not authorized impersonations of Commonwealth Diagnostics International, Inc.. They were posted by the unauthorized account previously provided (Account @commonwealthdiagnosticsint3376). Full links are provided below:

1. <https://www.youtube.com/watch?v=PIFHOCNz80A>

Commonwealth
Laboratories
LLC: Taking a

Fructose

Intolerance /

Fructose

Malabsorption

Breath Test

www.youtube.com



2. <https://www.youtube.com/watch?v=R!OISSj3ic>

Commonwealth
Laboratories
LLC: Taking a

Lactose

Intolerance /

Lactose

Malabsorption

Breath Test

www.youtube.com



3.

4. <https://www.youtube.com/watch?v=z7l0dQ4BMdE>

Commonwealth
Laboratories
LLC: Taking a
Small Intestinal
Bacterial

Overgrowth
(SIBO) Breath
Test

www.youtube.com

5.

6. <https://www.youtube.com/watch?v=9zMr1qNi6-U>

Commonwealth
Laboratories
LLC: Taking a
Sucrose
Intolerance /
Sucrose
Malabsorption
Breath Test

www.youtube.com

7.

8. <https://www.youtube.com/watch?v=9zMr1qNi6-U>

Commonwealth
Laboratories
LLC: Taking a
Sucrose
Intolerance /
Sucrose
Malabsorption
Breath Test

www.youtube.com

9.

10. <https://www.youtube.com/watch?v=7q528elv-ts>

11. <https://www.youtube.com/watch?v=CkvL26fpgYg>

Per our previous correspondence below. Please immediately remove all seven (7) unauthorized videos and remove the Account @commonwealthdiagnosticsint337.

9.

Thank you for your prompt attention to this matter. CDI reserves all rights.

Best regards,

Gray W. Rifkin, Esq.

Chief Operating Officer | Chief Legal Officer

Commonwealth Diagnostics International, Inc.

4 Technology Way

Salem MA 01970

Office (888) 258-5966 | Fax (888) 258-5973



www.CommDX.com

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From: YouTube Legal Support Team
<trademark+1r7ryzr53x5nh0c@support.youtube.com>
Sent: Friday, February 2, 2024 10:56 PM
To: Gray Rifkin <grifkin@commdx.com>
Subject: Re: Re: Unauthorized Impersonation of Commonwealth Diagnostics International, Inc. on YouTube

[EXTERNAL]

Hello,

We were unable to locate the video in question because the URL you included contained a malformed video ID. This sometimes occurs if you try to manually type the entire link of a video and enter a typo in the process. Please copy and paste the link instead. If you did copy and paste or even clicked a link to the video, please clear your browser's cache and cookies.

Regards,

The YouTube Legal Support Team

On February 3, 2024 grifkin@commdx.com wrote:

Dear Youtube Legal Team--

I am following up on our correspondence below. Please respond promptly. We hope to resolve this without unnecessary litigation. CDI reserves all rights.

YouTube Legal Department
901 Cherry Ave.
San Bruno, CA 94066
United States

Re: Unauthorized Impersonation of Commonwealth Diagnostics International, Inc. on YouTube

Dear YouTube Legal Team,

I am writing to you as the Chief Operating Officer of Commonwealth Diagnostics International, Inc. (CDI), a state and federally licensed, CLIA certified laboratory and ISO 13485-certified/FDA registered medical device manufacturer. It has come to our attention that there exists an unauthorized YouTube channel under the name "Commonwealth Diagnostics Int'l, Inc.@commonwealthdiagnosticsint337" which is impersonating our official channel "Commonwealth Diagnostics International Inc.@commonwealthdx".

This unauthorized channel is causing significant confusion among our healthcare patients and potential clients, tarnishing our reputation, and potentially leading to misinformation about our services. We have reported this channel on numerous occasions through the YouTube reporting system, but to date, no action has been taken to remove or address this impersonation.

We hereby demand the following:

1. **Immediate Removal of the Impersonating Channel:** The unauthorized channel "Commonwealth Diagnostics Int'l, Inc.@commonwealthdiagnosticsint337" should be removed from YouTube immediately.
2. **Confirmation of Action:** Once the channel is removed, we request written confirmation from YouTube, ensuring that such impersonation will not recur.

Impersonation is a clear violation of YouTube's terms of service, and we trust that YouTube will take swift action to rectify this situation. If the unauthorized channel is not removed promptly, we will have no choice but to consider legal action to protect our brand, reputation, and the well-being of our patients.

Please understand the gravity of this situation. Every moment this

impersonating channel remains active, it poses a risk to our patients, damages our brand's reputation, and undermines the trust we have worked hard to establish in the healthcare community.

We expect to hear back from you with a resolution to this matter within [specific time frame, e.g., "seven (7) business days"]. If we do not receive a satisfactory response within this period, we will proceed with further legal actions.

Thank you for your immediate attention to this critical matter.

Gray W. Rifkin, Esq.

Chief Operating Officer | Chief Legal Officer

Commonwealth Diagnostics International, Inc.

4 Technology Way

Salem MA 01970

Office (888) 258-5966 | Fax (888) 258-5973



www.CommDX.com

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From: Gray Rifkin

Sent: Tuesday, August 22, 2023 12:15 PM
To: legal@support.youtube.com <legal@support.youtube.com>
Cc: Drew Connors <dconnors@commdx.com>
Subject: Re: Unauthorized Impersonation of Commonwealth Diagnostics International, Inc. on YouTube

Gray W. Rifkin, Esq
Chief Legal Officer
Commonwealth Diagnostics International, Inc.
39 Norman Street
Salem, MA 01970
grifkin@commdx.com
978-828-4479

August 22, 2023

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901 Cherry Ave.
San Bruno, CA 94066
United States

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Thank you for your immediate attention to this critical matter.

Sincerely,
Gray W. Rifkin, Esq.
Chief Legal Officer

Gray W. Rifkin, Esq.

Chief Operating Officer | Chief Legal Officer

Commonwealth Diagnostics International, Inc.

39 Norman Street

Salem MA 01970

Office (888) 258-5966 | Fax (888) 258-5973



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United States of America

United States Patent and Trademark Office

Commonwealth Diagnostics International Inc

Reg. No. 5,387,204

Registered Jan. 23, 2018

Int. Cl.: 10

Trademark

Principal Register

Commonwealth Diagnostics International, Inc. (MASSACHUSETTS CORPORATION)
39 Norman St
Salem, MASSACHUSETTS 01970

CLASS 10: medical devices for use in treating or diagnosing gastrointestinal disorders

FIRST USE 8-30-2017; IN COMMERCE 8-30-2017

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

No claim is made to the exclusive right to use the following apart from the mark as shown:
"DIAGNOSTICS INTERNATIONAL INC."

SER. NO. 86-830,890, FILED 11-24-2015



Joseph Matol

Performing the Functions and Duties of the
Under Secretary of Commerce for
Intellectual Property and Director of the
United States Patent and Trademark Office

REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION

WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.

Requirements in the First Ten Years*

What and When to File:

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.

United States of America

United States Patent and Trademark Office

CDI

Commonwealth
Diagnostics
International
INC.

Reg. No. 5,696,223

Registered Mar. 12, 2019

Int. Cl.: 10

Trademark

Principal Register

Commonwealth Diagnostics International, Inc. (DELAWARE CORPORATION)
39 Norman Street
Salem, MASSACHUSETTS 01970

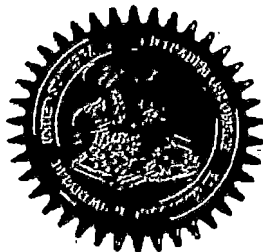
CLASS 10: Medical devices for use in treating or diagnosing functional gastrointestinal disorders

FIRST USE 7-15-2015; IN COMMERCE 9-1-2015

The mark consists of the letters "CDI" in a stylized format directly above the company name, "Commonwealth Diagnostics International Inc."

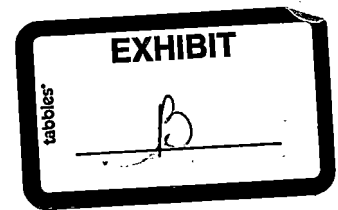
No claim is made to the exclusive right to use the following apart from the mark as shown: "DIAGNOSTICS INTERNATIONAL INC."

SER. NO. 88-035,276, FILED 07-12-2018



Andrei Iancu

Director of the United States
Patent and Trademark Office



From: Gray Rifkin

Sent: Thursday, April 25, 2024 10:40 PM

To: YouTube Legal Support Team <trademark+1r7ryzr53x5nh0c@support.youtube.com>;
trademark+3v4ecuowjba2w0c@support.youtube.com

Cc: rifkinlaw@aol.com

Subject: 93A Legal Complaint and Demand - Unauthorized Impersonation of Commonwealth Diagnostics International, Inc. on YouTube

YouTube Legal Department—

Your correspondence below to David Rifkin Law Offices is both inexplicable and disingenuous. CDI and its legal counsel (cc'd here - David Rifkin Law Office) have both provided you with Registered Trademarks from the USPTO on numerous occasions.

By your own admission in your correspondence below on Wednesday, April 24, 2024 1:19 PM, YouTube reviewed CDI's legal complaint and Mass General Law 93A Demand letter and determined that remedial action was necessary. Unfortunately, however, YouTube administratively blundered and terminated/restricted the wrong channel, and instead of restricting the Impersonating Account, YouTube messed up once again and restricted CDI's active authorized account.

Your suggestion that you have not been provided with evidence of CDI's trademarks is preposterous. CDI and David Rifkin Law Offices is once again attaching the 93A Demand Letter and USPTO registered trademarks. See pages 20-23 of the attached 93A Demand Letter, which contains official Trademark Certificates from the USPTO. CDI is also hereby attaching, once again, its Trademark Certificates from the USPTO for both the logo and the word marks protecting Commonwealth Diagnostics International, Inc. See Exhibit D and D2 attached.

We hereby demand that YouTube immediately reinstate CDI's active authorized account that was improperly deactivated: <https://www.youtube.com/channel/UC-LQHf3A4s7dGFVUKFbiQkg/videos> (channel name = @commonwealthdx)

We hereby demand YouTube immediately terminate/restrict the Impersonating Account previously described: <https://www.youtube.com/@commonwealthdiagnosticsint3376>

YouTube continues to be in violation of Massachusetts General Laws 93A, as well as in breach of its own Terms of Service.

We demand a substantive response and corrective action and reinstatement of CDI's authorized account within 24 hours or we will bring suit. YouTube may be liable for treble damages in addition to CDI's attorneys fees and costs in accordance with MGL 93A.

CDI reserves all rights.

Best regards,

Gray W. Rifkin, Esq.

Chief Operating Officer | Chief Legal Officer

Commonwealth Diagnostics International, Inc.
4 Technology Way
Salem MA 01970
Office (888) 258-5966 | Fax (888) 258-5973



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From: Gray Rifkin <grayrifkin@gmail.com>

Sent: Thursday, April 25, 2024 8:33 PM

To: Gray Rifkin <grifkin@commdx.com>

Subject: Fwd: 93A Legal Complaint and Demand - Unauthorized Impersonation of Commonwealth Diagnostics International, Inc. on YouTube

[EXTERNAL]

Begin forwarded message:

From: YouTube Legal Support Team

<trademark+3v4ecuowjba2w0c@support.youtube.com>

Date: April 25, 2024 at 2:44:07 PM EDT

To: rifkinlaw@aol.com

Subject: Fw: 93A Legal Complaint and Demand - Unauthorized Impersonation of Commonwealth Diagnostics International, Inc. on YouTube

Reply-To: YouTube Legal Support Team

<trademark+3v4ecuowjba2w0c@support.youtube.com>

Hello,

We are unable to confirm your ownership of the trademark in question. Please provide us with a copy of your registration certificate from your country's trademark office asserting your ownership of the trademark.

After we receive this documentation, we will reconsider your request and take any appropriate action.

Regards,

The YouTube Legal Support Team

On April 25, 2024 rifkinlaw@aol.com wrote:

You should have received the below email from CDI this morning. Consider this an addendum to our Chapter 93A demand previously sent to you on March 28, 2024.

Kindly govern yourself accordingly.

David W. Rifkin

DWR/b

David Rifkin Law Offices
81 Washington Street, Suite 31
Salem, MA 01970
(978) 745-9786 Phone
(978) 745-9811 Fax
rifkinlaw@aol.com
davidrifkinlaw.com

----- Forwarded Message -----

From: Gray Rifkin <grifkin@commdx.com>

To: rifkinlaw@aol.com <rifkinlaw@aol.com>

Sent: Thursday, April 25, 2024 at 01:45:04 PM EDT

Subject: FW: 93A Legal Complaint and Demand - Unauthorized Impersonation of Commonwealth Diagnostics International, Inc. on YouTube

From: Gray Rifkin

Sent: Thursday, April 25, 2024 7:17 AM

To: YouTube Legal Support Team <trademark+1r7ryzr53x5nh0c@support.youtube.com>

Subject: RE: 93A Legal Complaint and Demand - Unauthorized Impersonation of Commonwealth Diagnostics International, Inc. on YouTube

Dear YouTube Legal Team—

After receiving CDI's MGL 93A Legal Demand and Complaint, we received the below message from YouTube yesterday purporting to resolve the issue.

PLEASE BE ADVISED THAT YOUTUBE HAS RECKLESSLY AND IMPROPERLY DISABLED CDI'S AUTHORIZED, ACTIVE YOUTUBE CHANNEL AND FAILED TO REMOVE THE IMPERSONATING, UNAUTHORIZED ACCOUNT AND VIDEOS.

Put more simply, you did not follow any of the instructions in our email thread below or the 93A Legal Demand, but instead terminated/restricted the wrong account, causing CDI, our patients, and our healthcare community substantial additional damage as our patients now cannot access the proper videos on CDI's authorized channel and the unauthorized, impersonating channel and videos remains accessible and on YouTube's platform.

You removed the wrong account and improperly deactivated CDI's active channel: <https://www.youtube.com/channel/UC-LQHf3A4s7dGfVUKFbiQkg/videos> (channel name = @commonwealthdx)

You should have removed: <https://www.youtube.com/@commonwealthdiagnosticsint3376>

CDI's directions as to what Channel and Videos needed to be removed are extremely clear in both the email thread below as well as the 93A Legal Demand. YouTube's failure to follow those directions and terminate/restrict CDI's active account instead of the Impersonating Account is another reckless breach of YouTube's duties, terms and conditions, and failure to remedy the damages caused to CDI as outlined below and in the MGL 93 Letter and Complaint (attached).

YOUTUBE MUST IMMEDIATELY COMPLY WITH CDI'S DEMAND TO REINSTATE OUR AUTHORIZED CURRENT YOUTUBE CHANNEL AND REMOVE THE IMPERSONATING CHANNEL.

Any failure to immediately rectify this will result in litigation where CDI will pursue additional damages, attorneys fees, and costs against YouTube.

CDI reserves all rights.

Gray W. Rifkin, Esq.

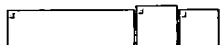
Chief Operating Officer | Chief Legal Officer

Commonwealth Diagnostics International, Inc.

4 Technology Way

Salem MA 01970

Office (888) 258-5966 | Fax (888) 258-5973



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Sent: Wednesday, April 24, 2024 1:19 PM
To: Gray Rifkin <grifkin@commdx.com>
Subject: Re: Unauthorized Impersonation of Commonwealth Diagnostics International, Inc. on YouTube

[EXTERNAL]

Hello,

We reviewed your legal complaint and restricted the content in question.

For more information about our removal processes, please check out [this educational video](#).

Regards,

The YouTube Legal Support Team

From: Gray Rifkin
Sent: Thursday, April 25, 2024 7:17 AM
To: YouTube Legal Support Team <trademark+1r7ryzr53x5nh0c@support.youtube.com>
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