ESTTA Tracking number:	**ESTTA1346186**
Filing date:	**03/14/2024**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

Petitioner information

Name	GMD12, LLC		
Entity	Limited Liability Company	Incorporated or registered in	FL
Address	2055 WOOD ST. SUITE 102 SARASOTA, FL 34237 UNITED STATES		

Attorney information	JEFFREY FABIAN SHUMAKER, LOOP & KENDRICK, LLP 101 E. KENNEDY BLVD., SUITE 2800 TAMPA, FL 33602 UNITED STATES Primary email: jfabian@shumaker.com Secondary email(s): ldyer@shumaker.com, sregala@shumaker.com 8132272243
Docket no.	

Registration subject to cancellation

Registration no.	5935648	Registration date	12/17/2019
Register	Principal		
Registrant	LabSolutions LLC 1451 NORTHSIDE DR NW ATLANTA, GA 30318 UNITED STATES		

Goods/services subject to cancellation

Class 044. First Use: Oct 2, 2018 First Use In Commerce: Oct 2, 2018
All goods and services in the class are subject to cancellation, namely: Genetic testing for medical purposes; Medical testing of urine, blood, hair follicles and breath

Grounds for cancellation

Mark never used in commerce	Trademark Act Section 14(6)
Abandonment	Trademark Act Section 14(3)

Attachments	Petition for Cancellation .pdf(351900 bytes) Ex 1 - DoJ Article.pdf(902007 bytes) Ex 2 - Criminal Judgment.pdf(338428 bytes)

	Ex 3 - Indictment.pdf(1164881 bytes) Ex 4 - superseding indictment.pdf(1198503 bytes) Ex 5 - Jury Verdict.pdf(193742 bytes) Ex 6 - LabSolutions GA Secretary of State.pdf(156796 bytes) Ex 7 - Ident Word Mark.pdf(2224849 bytes) Ex 8 - Identifyn Word Mark.pdf(2715384 bytes) Ex 9 - Identifyn Design Mark 97939947.pdf(4381428 bytes) Ex 10 - Identify Registration.pdf(45171 bytes) Ex 11 - Identify File History.pdf(317044 bytes) Ex 12 - Dec of B. Bennett.pdf(63680 bytes) Ex 13 - Order of Default.pdf(196118 bytes) Ex 14 - Order denying motion to release seized funds.pdf(609546 bytes)

Signature	/Jeffrey Fabian/
Name	Jeffrey Fabian
Date	03/14/2024

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 5,935,648
For the mark: IDENTIFY
Registered: Dec. 17, 2019

GMD12, LLC Petitioner, v. LABSOLUTIONS, LLC Respondent.	Cancellation No. _____

PETITION FOR CANCELLATION

GMD12, LLC ("Petitioner"), will be damaged by the continued registration of U.S. Trademark Registration No. 5,935,648 for the mark IDENTIFY for "genetic testing for medical purposes," which is owned by the defunct company, Labsolutions, LLC ("Respondent") whose owner, Minal Patel, was sentenced to twenty-seven (27) years in federal prison for his role in a massive $463 million scheme to defraud Medicare. *See* **Exhibit 1**, U.S. Department of Justice, Office of Public Affairs, *Lab Owner Convicted in $463 Million Genetic Testing Scheme to Defraud Medicare*; *see also* **Exhibit 2**, Judgement in a Criminal Case (sentencing Patel), *United States v. Patel*, 19-CR-80181, ECF No. 544 (Aug. 21, 2023).

Patel was indicted on September 25, 2019 for being a key player in a scheme that obtained $463 million Medicare reimbursements for performing genetic tests that patients did not need and that were not actually covered by Medicare. *See* **Exhibit 3**, *United States v. Patel*, 19-CR-80181, ECF No. 1, Indictment (Sept. 25, 2019). Patel, as the

owner of Respondent LabSolutions, directed Respondent to pay kickbacks to patient recruiters in exchange for referrals for genetic testing. *See* **Exhibit 4**, Superseding Indictment ¶¶ 27-28, Count 1, ¶ 5, Counts 2-4, ¶ 3.

The kickbacks paid by Respondent were disguised through the use of sham contracts and other documents that gave the false appearance recruiters were performing legitimate marketing. *Id.* ¶ 6. In reality, the recruiters preyed upon Medicare beneficiaries with bogus marketing campaigns designed to induce patients to undergo genetic tests that they did qualify for. *Id.* at ¶¶ 5-7. The recruiters then paid kickbacks to telemedicine companies in exchange for fraudulent physician orders authorizing the genetic testing. *Id.* ¶ 8.

On December 14, 2022, a jury in south Florida returned a verdict convicting Patel of ten counts of health care fraud. *See* **Exhibit 5**, Jury Verdict. Patel was later sentenced to 324 months (27 years) in prison. *See* Exhibit 2, Judgement. As part of the fallout, LabSolutions is subject to a judgment of over $600 million. *United States of America ex rel. Grant & Ferguson*, Case No. 18-CV-2341, ECF No. 88 (D.S.C. Apr. 21, 2023). In light of Patel's conviction and the massive burden to his company, Petitioner does not believe that LabSolutions is an ongoing business concern.

Petitioner conducted a reasonable investigation, as described below, and concluded that Respondent is no longer in business and no longer using the IDENTIFY Registration. Petitioner also does not believe that the IDENTIFY mark was ever used in commerce as defined under the Lanham Act, or if the mark was used, such use was unlawful in light of the fraud scheme for which Patel was convicted. Accordingly, Petitioner hereby petitions for cancellation of the Registration pursuant to 15 U.S.C. §§ 1051(a), 1064(3), (6), and 1127 on the grounds of nonuse and abandonment.

THE PARTIES

1. GMD12, LLC is a Florida limited liability company with a principal place of business at 2055 Wood St. Suite 102, Sarasota, FL 34237.

2. Labsolutions, LLC is a Georgia limited liability company having an address of 1451 Northside Dr. NW Atlanta, GA 30318. *See* **Exhibit 6**, Georgia Corporations Division Printout.

3. Respondent's Registered Agent is listed as Minal Patel.

PETITIONER'S IDENTIFYN MARKS

4. Petitioner is the owner of U.S. Trademark Application Serial Nos. 97/939807 and 98/185398 for the IDENTIFYN word mark, and U.S. Trademark Application Serial No. 97/939,947 for the IDENTIFYN design mark, as shown below (collectively the "IDENTIFYN Marks" or the "Applications").

IDENTiFYN

5. Application Serial Nos. 97/939807 and 97/939,947 both seek registration in:

> International Class 1 for "Reagents and kits comprised of reagents for life science research use, biological specimen collection, drug development, diagnostic services, and predictive medicine to predict treatment efficacy and patient outcomes, and biological product development; reagents for clinical or medical laboratory use."
>
> -- and --
>
> International Class 42 for "Microscopy imaging services in the fields of microbiology, life sciences research, drug development, diagnostic services, predictive medicine to predict treatment efficacy and patient outcomes, and biological product development, namely, imaging services for use in the study and analysis of biological tissue samples, biopsy samples, tissue cultures, cell cultures, antibodies, antigens, and internal cellular components."

6. Application Serial No. 98/185398 seeks registration in:

> International Class 42 for "Providing reagent sample testing and diagnostic services for others for scientific research purposes; Research and development services in the field of antibodies."
>
> -- and --
>
> International Class 44 for "Antibody testing for medical diagnostic or treatment purposes; Medical diagnostic testing, monitoring and reporting services; Medical imaging service."

7. Petitioner filed the Applications as intent to use applications under Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b).

8. The Applications are pending, and copies of the file histories are attached hereto as **Exhibits 7-9**.

RESPONDENT'S REGISTRATION

9. Respondent is the record owner of U.S. Trademark Registration No. 5,935,648 for IDENTIFY in connection with "genetic testing for medical purposes; medical testing of urine, blood, hair follicles and breath" in international class 44 ("Registration"). *See* **Exhibit 10**, Registration Certificate; **Exhibit 11**, File History.

THE OFFICE ACTIONS

10. In three office actions dated February 15, 2024 and February 16, 2024 ("Office Actions"), the USPTO cited Respondent's Registration against the Applications as part of a § 2(d) likelihood of confusion rejection of Petitioner's Applications. *See* Exhibits 7-9 (including copies of the Office Actions).

11. The rejection of Petitioner's Applications based on the Registration constitutes interference with Petitioner's Applications and causes harm to Petitioner. Because this harm to Petitioner is within the zone of interests protected by the Lanham

Act and is proximately caused by the Registration, Petitioner is entitled to bring this petition for cancellation.

GROUNDS FOR CANCELLATION AND RESPONDENT'S NON-USE OF THE IDENTIFY REGISTRATION

12. On February 19, 2019, Respondent filed the application for IDENTIFY on the basis of use in commerce under Section 1(a) of the Lanham Act, 15 U.S.C. 1051(a). Respondent filed the trademark application *pro se* and was not represented by counsel before the USPTO.

13. In its application, Respondent alleged and represented to the USPTO that it was actively using the IDENTIFY mark in U.S. commerce in connection with the described goods and/or services and that Respondent commenced use of the mark as early as October 1, 2018 ("Representation").

14. In support, Respondent submitted a website advertisement as its specimen evidencing alleged use of the mark. On September 11, 2019, a Notice of Publication was issued, and the mark ultimately registered.

15. On information and belief, the Representation was false at the time Respondent made it because Respondent was not actually using the mark in commerce in satisfaction of Section 1(a) of the Lanham Act.

16. The specimen of use that Respondent filed was a webpage displaying the IDENTIFY mark on it. Petitioner attempted to locate the webpage online and was unable to find it.

17. Respondent's website, labsolutions.com ("Website"), currently does not use the IDENTIFY mark. Respondent's Website does not offer any goods and/or services in connection with the Registration.

18. Petitioner's principal, Brian Bennett, Ph.D. ("Dr. Bennett"), reviewed Respondent's Website. Based on Dr. Bennett's review, his opinion is that Respondent's Website appears to be a template with no real data or connections. Additionally, the Website has not been active since at least 2022. Further, the Website is a PHP website, meaning it is a server-side scripting language embedded in HTML. As a PHP, the Website requires updates, none of which have been made since at least 2022.*See* **Exhibit 12**, Declaration of Brian T. Bennett, Ph.D. ¶¶ 1-5 ("Bennett Decl."). The lack of activity and updates likely corresponds Respondent's cessation of business due to the events stated herein.

19. Dr. Bennett called the phone number listed on Respondent's Website and found that the phone number was out of service. *Id.* ¶ 6.

20. Dr. Bennett also emailed Respondent at the email address listed on Respondent's website, info@labsolutions.com. Dr. Bennett received no response from any representative or Respondent. *Id.* ¶ 7.

21. Dr. Bennett also searched for the mailing address listed on Respondent's website: 1451 Northside Dr. NW Atlanta, GA 30318. Dr. Bennett found contact information for a realtor associated with the address. Dr. Bennett contacted the realtor and was notified that the building located at that address is currently unoccupied, and the building is listed for sale or lease. *Id.* ¶ 8.

22. A search of court records shows that on or about April 23, 2023, a default judgment was entered against Respondent in the United States District Court for the District of South Carolina in the amount of **$616,431,296.00**. *See* **Exhibit 13**, Order of Judgment Against LabSolutions and Minal Patel. Respondent did not appear to defend that action and is jointly and severally liable for a judgment of over $600 million. *United*

States of America ex rel. Grant & Ferguson, Case No. 18-CV-2341 (D.S.C. Apr. 21, 2023).

23. On December 14, 2022, Patel was found guilty of 10 counts in the United States District Court for the Southern District of Florida for his role in a scheme to defraud Medicare by submitting over $463 million in unnecessary tests performed by Respondent. *See* Exhibit 1, Department of Justice Article; Exhibit 2, Judgment in a Criminal Case; Exhibit 4, Superseding Indictment; Exhibit 5, Jury Verdict.

24. Patel caused Respondent to seek out patients using an illegal kickback scheme where Respondent paid recruiters in exchange for referrals for genetic testing. *See* Exhibit 4, Superseding Indictment ¶¶ 27-28, Count 1, ¶ 5, Counts 2-4, ¶ 3. Respondent attempted to disguise and conceal the kickbacks through the use of sham contracts and other documents.

25. The recruiters then paid kickbacks to telemedicine companies in exchange for fraudulent physician orders that authorized genetic testing even though the physicians were not the patient's treating physician and even though the patients did not need the testing. *Id.* at ¶¶ 5-7.

26. Respondent obtained payment from Medicare for the genetic tests even though the testing was not actually covered by Medicare. *See* Exhibit 3, Indictment.

27. On August 21, 2023 the United States District Court for the Southern District of Florida entered judgment against Patel for healthcare fraud and sentenced him to 324 months of imprisonment. *See* Exhibit 2, Judgment in a Criminal Case.

28. On information and belief, Patel is currently serving his sentence at the Federal Correction Institution in Jesup, Georgia. Mr. Patel's address at the prison is: 2600 Highway 301 South, Jesup, GA 31599, as determined from the Federal Bureau of

Prisons *Find an inmate* website: https://www.bop.gov/inmateloc/ and the Webpage for the Jesup prison location: https://www.bop.gov/locations/institutions/jes/.

29. Respondent's Registration is directed to "Genetic testing for medical purposes." *See* Exhibit 11. On information and belief, the IDENTIFY mark was used as part of the above-described scheme for which Patel was convicted. Accordingly, Respondent's use of the IDENTIFY mark, if any, was unlawful.

30. As part of the criminal investigation into Patel's activities, his bank accounts were seized by the government. Patel sought return of the seized funds and claimed that the seizure would result in Respondent having to terminate "120 salaried employees and scores of independent contractors" and would preclude Respondent from performing "laboratory analysis for hundreds and perhaps thousands of blood and urine samples submitted by [doctors]." *See* **Exhibit 14**, Order Denying Motion for Return of Seized Funds. Patel's request was denied by the court. Patel's representations concerning the effects of denying return of the seized funds indicate that the seizure itself may have put Respondent out of business.

31. Respondent has abandoned several applications with the USPTO for failure to respond to an office action. *See* Serial No. 88256678 (BLOOD PATHOLOGY and design), Serial No. 88256693 (design), Serial No. 88252048 (RESPONSE), Serial No. 88256680 (CLINICAL CHEMISTRY and design), Serial No. 88252028 (DISCOVER), Serial No. 88252032 (LABSOLUTIONS), Serial No. 88252042 (LABSOLUTIONS DEDICATED TO HELPING PHYSICIANS PROVIDE SUPERIOR HEALTHCARE LABSOLUTIONS.COM and design), Serial No. 88252046 (LABSOLUTIONS PREDICT), and Serial No. 88252050 (LABSOLUTIONS REVEAL).

32. The failure to respond to each application's office action aligns with the time period in which Respondent and Patel were being investigated and ultimately found guilty of fraud against the Federal Government. The failure to respond to each application's office action also likely reflects Respondent's cessation of business due to the previously stated events.

33. On information and belief, Respondent is no longer an operating business.

34. Even if Respondent did in fact properly and sufficiently use the IDENTIFY mark in U.S. commerce at some point, Respondent has discontinued use of the IDENTIFY mark in connection with the goods and/or services identified in the Registration.

COUNT I – VOID *AB INITIO*

35. Petitioner realleges the allegation set forth above, including the introduction and numbered paragraphs 1-34.

36. Trademark Act Section 1(a), 15 U.S.C. § 1051(a), requires that an applicant for a used-based trademark application make a verified statement that the applied-for mark is in use in commerce for the covered goods and/or services as of the application's filing date.

37. On February 19, 20219, Respondent filed a trademark application for IDENTIFY under Section 1(a) of the Lanham Act, 15 U.S.C. 1051(a) alleging a date of first use as early as October 2, 2018. The application included a specimen of use in support of Respondent's application for the Registration.

38. Upon information and belief, Respondent was not using the IDENTIFY mark in commerce on or in connection with some or all of Respondent's services as of the October 1, 2018 alleged first use date asserted in the application, as required under Trademark Act Sections 1(a) and 45, 15 U.S.C. §§ 1051(a) and 1127.

39. On information and belief, Respondent's mark was never in proper and sufficient use in U.S. commerce and Respondent knew it was not in proper use in U.S. commerce when the application was filed. The only reasonable inference from the foregoing is that Respondent made the Representation to mislead the USPTO and to cause the USPTO to issue Respondent's Registration.

40. The false Representation was material because, but for the false Representation, the USPTO would not have granted the Registration. However, in reliance on the false Representation, the USPTO issued the Registration.

41. Petitioner has been and will continue to be harmed by the issuance of the Registration because it is preventing Petitioner from obtaining registration for its IDENTIFYN mark.

42. The Registration is thus void *ab initio* and must therefore be cancelled under 15 U.S.C. § 1051(a).

COUNT II – ABANDONMENT

43. Petitioner realleges the allegation set forth above, including the introduction and numbered paragraphs 1-34.

44. On information and belief, Respondent has discontinued use of the IDENTIFY mark in U.S. commerce in connection with all of the Respondent's services.

45. On information and belief, Respondent has discontinued use of the IDENTIFY mark in U.S. commerce for a period exceeding three (3) years.

46. Upon further information and belief, Respondent intends not to resume use of the mark in connection with these goods and/or services in U.S. commerce.

47. Accordingly, Respondent has abandoned the IDENTIFY mark in connection with these goods and/or services, and the Registration is subject to cancellation pursuant to 15 U.S.C. § 1064(3).

48. Based on the foregoing, Respondent has abandoned the Registration, which is grounds for cancellation of the Registration in its entirety.

COUNT III – UNLAWFUL USE

49. Petitioner realleges the allegation set forth above, including the introduction and numbered paragraphs 1-34.

50. On information and believe, Respondent used the IDENTIFY mark as part of the scheme to defraud Medicare alleged herein.

51. A registration is subject to cancellation if the registrant's use is not lawful use in commerce under federal law. *See* Trademark Trial and Appeal Board Manual of Procedure ("TBMP") § 309.03(c)(1)(27).

52. Here, Respondent's use of the IDENTIFY mark was in violation of 18 U.S.C. §§ 1349 (Conspiracy to commit health care fraud and wire fraud), 1347 (Health Care Fraud), 371 (Conspiracy to defraud the United States), 1956(h) (Conspiracy to commit money laundering), and 42 U.S.C. § 1320a-7b(b)(2)(A) (Payment of kickbacks in connection with a Federal health care program). *See* Exhibit 2, Judgment in a Criminal Case; Exhibit 4, Superseding Indictment; Exhibit 5, Jury Verdict.

53. Based on the foregoing, Respondent's use of the mark was unlawful under federal law, which is grounds for cancellation of the Registration in its entirety.

PRAYER FOR RELIEF

WHEREFORE, Petitioner believes that it is being damaged, and will continue to be damaged, by the continued registration of Respondent's IDENTIFY mark as reflected in the Registration and respectfully requests that the Registration be cancelled pursuant to 15 U.S.C. §§ 1051(a), 1064(3), and 1127. This Petition for Cancellation is filed according to the rules governing electronic submissions to the Trademark Trial and Appeal Board, including payment of the requisite fee.

Respectfully submitted,

DATED: March 14, 2024

SHUMAKER, LOOP & KENDRICK, LLP

/s/*Jeff Fabian*

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Attorney for Petitioner

PRESS RELEASE

Lab Owner Convicted in $463 Million Genetic Testing Scheme to Defraud Medicare

Wednesday, December 14, 2022

For Immediate Release

Office of Public Affairs

A federal jury in the Southern District of Florida convicted a Georgia man today for his role in a scheme to defraud Medicare by submitting over $463 million in genetic and other laboratory tests that patients did not need and that were procured through the payment of kickbacks.

According to court documents and evidence presented at trial, Minal Patel, 44, of Atlanta, owned LabSolutions LLC (LabSolutions), a lab enrolled with Medicare that performed sophisticated genetic tests. Patel conspired with patient brokers, telemedicine companies, and call centers to target Medicare beneficiaries with telemarketing calls falsely stating that Medicare covered expensive cancer genetic tests. After the Medicare beneficiaries agreed to take a test, Patel paid kickbacks and bribes to patient brokers to obtain signed doctors' orders authorizing the tests from telemedicine companies. To conceal the kickbacks, Patel required patient brokers to sign contracts that falsely stated that they were performing legitimate advertising services for LabSolutions.

The telemedicine doctors approved the expensive testing even though they were not treating the beneficiaries and often did not even speak with them. From July 2016 through August 2019, LabSolutions submitted more than $463 million in claims to Medicare, including for medically unnecessary genetic tests, of which Medicare paid over $187 million. In that timeframe, Patel personally received over $21 million in Medicare proceeds.

Patel was convicted of one count of conspiracy to commit health care fraud and wire fraud, three counts of health care fraud, one count of conspiracy to defraud the United States and to pay and receive illegal health care kickbacks, four counts of paying illegal health care kickbacks, and one count of conspiracy to commit money laundering. He is scheduled to be sentenced on March 7, 2023, and faces a maximum penalty of 20 years in prison on the first conspiracy count, 10 years on each health care fraud count, five years on the second conspiracy count, 10 years on each kickback count, and 20 years on the third conspiracy count. A federal district court judge will determine any sentence after considering the U.S. Sentencing Guidelines and other statutory factors.

Assistant Attorney General Kenneth A. Polite, Jr. of the Justice Department's Criminal Division; Assistant Director Luis Quesada of the FBI Criminal Investigative Division; Special Agent in Charge Robert M. DeWitt of the FBI Miami Field Office; and Special Agent in Charge Omar Pérez Aybar of the Department of Health and Human Services, Office of Inspector General (HHS-OIG) Miami Regional Office made the announcement.

The FBI and HHS-OIG investigated the case.

Trial Attorneys Jamie de Boer, Emily Gurskis, Reginald Cuyler Jr., and Katherine Rookard of the Criminal Division's Fraud Section are prosecuting the case.

The case was brought as part of Operation Double Helix, a federal law enforcement action led by the Health Care Fraud Strike Force, under the supervision of the Criminal Division's Fraud Section, focused on fraudulent genetic cancer testing that has resulted in charges against dozens of defendants associated with telemedicine companies and cancer genetic testing laboratories for their alleged participation in one of the largest health care fraud schemes ever charged.

Updated December 14, 2022

Topics

FINANCIAL FRAUD | **HEALTH CARE FRAUD**

Components

Criminal Division | Criminal - Criminal Fraud Section | Federal Bureau of Investigation (FBI)

Press Release Number: 2-1362

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A federal jury convicted an Ohio pharmacist and his operations manager, a pharmacy technician, yesterday for conspiring to defraud Ohio's Medicaid program.

February 28, 2024

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February 20, 2024

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

UNITED STATES OF AMERICA	§	**JUDGMENT IN A CRIMINAL CASE**
	§	
v.	§	
	§	Case Number: **9:19-CR-80181-RAR(s)(1)**
MINAL PATEL	§	USM Number: **20565-104**
	§	
	§	Counsel for Defendant: **Tama Beth Kudman**
	§	Counsel for United States: **Marx Calderon**

THE DEFENDANT:

☒	was found guilty on Counts after a plea of not guilty	**1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of the Superseding Indictment**

The Defendant is adjudicated guilty of these offenses:

Title & Section / Nature of Offense	**Offense Ended**	**Count**
18 U.S.C. § 1349 - Conspiracy to commit health care fraud and wire fraud	08/31/2019	1s
18 U.S.C. § 1347 - Health Care Fraud	08/31/2019	2s, 3s, 4s
18 U.S.C. § 371 - Conspiracy to defraud the United States and to pay and receive health care kickbacks	08/31/2019	5s
42 U.S.C. § 1320a-7b(b)(2)(A) - Payment of kickbacks in connection with a Federal health care program	08/31/2019	6s, 7s, 8s, 9s
18 U.S.C. § 1956(h) - Conspiracy to commit money laundering	08/31/2019	10s

The Defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the Defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the Defendant must notify the court and United States Attorney of material changes in economic circumstances.

August 18, 2023
Date of Imposition of Judgment

Signature of Judge

RODOLFO A. RUIZ II
UNITED STATES DISTRICT JUDGE
Name and Title of Judge

August 18, 2023
Date

DEFENDANT: MINAL PATEL
CASE NUMBER: 9:19-CR-80181-RAR(1)

IMPRISONMENT

The Defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of **324 months.** This term consists of 240 months as to each of Counts 1s and 10s to run concurrently with each other and to run consecutively to Counts 2s through 9s; 60 months as to each of Counts 2s, 3s, 4s, 6s, 7s, 8s and 9s to run concurrently with each other and consecutively to Counts 1s and 10s; and 24 months as to Count 5s, to be served consecutive to Counts 1s, 2s, 3s, 4s, 6s, 7s, 8s, 9s, and 10s.

☒ The Court makes the following recommendations to the Bureau of Prisons:

- Designation in or as near to FCI Butner or any Level Four Care Facility as possible or in or as near to FCI Jesup if FCI Butner or another Level Four Care facility are not available.
- Placement in the Residential Drug Abuse Treatment Program (i.e. 500-hour drug treatment program) at a designated Bureau of Prisons institution.
- Any mental health treatment available at a designated Bureau of Prisons institution.

☒ The Defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this judgment as follows:

_____

_____

_____

_____

_____

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

_____
UNITED STATES MARSHAL

_____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: MINAL PATEL
CASE NUMBER: 9:19-CR-80181-RAR(1)

SUPERVISED RELEASE

Upon release from imprisonment, the Defendant shall be on supervised release for a term of **three (3) years.** This term consists of three years as to each of Counts 1s through 10s, all such terms to run concurrently.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
   - ☐ The above drug testing condition is suspended, based on the Court's determination that you pose a low risk of future substance abuse. (*check if applicable*)
4. ☒ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. (*check if applicable*)
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. (*check if applicable*)
7. ☐ You must participate in an approved program for domestic violence. (*check if applicable*)

You must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

DEFENDANT: MINAL PATEL
CASE NUMBER: 9:19-CR-80181-RAR(1)

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand additional information regarding these conditions is available at www.flsp.uscourts.gov.

Defendant's Signature _____ Date _____

DEFENDANT: MINAL PATEL
CASE NUMBER: 9:19-CR-80181-RAR(1)

SPECIAL CONDITIONS OF SUPERVISION

Financial Disclosure Requirement: The Defendant shall provide complete access to financial information, including disclosure of all business and personal finances, to the U.S. Probation Officer.

Health Care Business Restriction: The Defendant shall not own, directly or indirectly, or be employed, directly or indirectly, in any health care business or service, which submits claims to any private or government insurance company, without the Court's approval.

Permissible Search: The Defendant shall submit to a search of his/her person or property conducted in a reasonable manner and at a reasonable time by the U.S. Probation Officer.

Relinquishment of Licensure: Upon request of the appropriate regulatory agency, the Defendant shall relinquish his/her license to said agency. The Defendant is on notice that such relinquishment is permanent and will be considered disciplinary action.

Self-Employment Restriction: The Defendant shall obtain prior written approval from the Court before entering into any self-employment.

Substance Abuse Treatment: The Defendant shall participate in an approved treatment program for drug and/or alcohol abuse and abide by all supplemental conditions of treatment. Participation may include inpatient/outpatient treatment. The Defendant will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment.

Mental Health Treatment: The defendant shall participate in an approved inpatient/outpatient mental health treatment program. The defendant will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment.

Unpaid Restitution, Fines, or Special Assessments: If the Defendant has any unpaid amount of restitution, fines, or special assessments, the Defendant shall notify the probation officer of any material change in the Defendant's economic circumstances that might affect the Defendant's ability to pay.

DEFENDANT: MINAL PATEL
CASE NUMBER: 9:19-CR-80181-RAR(1)

CRIMINAL MONETARY PENALTIES

The Defendant must pay the total criminal monetary penalties under the schedule of payments page.

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	$1,000.00	$187,369,693.38	$.00		

☒ The Defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the Defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

NAME OF PAYEE	TOTAL LOSS***	RESTITUTION ORDERED
Clerk, U.S. District Court	$187,369,693.38	$187,369,693.38

Restitution with Imprisonment - It is further ordered that the Defendant shall pay restitution in the amount of **$187,369,693.38**. Restitution is owed on a joint and several basis, in part, in the amount of $167,402,795.75 with co-conspirators. The Defendant is solely responsible for the remaining restitution amount of $19,966,897.63. During the period of incarceration, payment shall be made as follows: (1) if the Defendant earns wages in a Federal Prison Industries (UNICOR) job, then the Defendant must pay 50% of wages earned toward the financial obligations imposed by this Judgment in a Criminal Case; (2) if the Defendant does not work in a UNICOR job, then the Defendant must pay a minimum of $25.00 per quarter toward the financial obligations imposed in this order. Upon release of incarceration, the Defendant shall pay restitution at the rate of 10% of monthly gross earnings, until such time as the court may alter that payment schedule in the interests of justice. The U.S. Bureau of Prisons, U.S. Probation Office and U.S. Attorney's Office shall monitor the payment of restitution and report to the court any material change in the Defendant's ability to pay. These payments do not preclude the government from using other assets or income of the Defendant to satisfy the restitution obligations.

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, 18 U.S.C. §2259.
** Justice for Victims of Trafficking Act of 2015, 18 U.S.C. §3014.
*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: MINAL PATEL
CASE NUMBER: 9:19-CR-80181-RAR(1)

SCHEDULE OF PAYMENTS

Having assessed the Defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A ☒ Lump sum payments of $1,000.00 due immediately.

It is ordered that the Defendant shall pay to the United States a special assessment of **$1,000.00** for Counts 1s, 2s, 3s, 4s, 5s, 6s, 7s, 8s, 9s and 10s, which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court. Payment is to be addressed to:

U.S. CLERK'S OFFICE
ATTN: FINANCIAL SECTION
400 NORTH MIAMI AVENUE, ROOM 8N09
MIAMI, FLORIDA 33128-7716

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.
The Defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☒ Joint and Several

Defendant and Co-Defendant Names and Case Numbers *(including Defendant number)*, Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

CASE NUMBER DEFENDANT AND CO-DEFENDANT NAMES (INCLUDING DEFENDANT NUMBER)	TOTAL AMOUNT	JOINT AND SEVERAL AMOUNT
9:19-CR-80197-RAR(1), Brett Hirsch	$187,369,693.38	$4,624,456.00
9:21-CR-80059-DMM(1), Gregory Orr	$187,369,693.38	$26,610,359.00
9:21-CR-80062-AMC(1), Christian McKeon	$187,369,693.38	$27,461,764.00
9:21-CR-80062-AMC(2), Athanasios Ziros	$187,369,693.38	$27,461,764.00
9:21-CR-80137-KAM(1), Michael W. Dinnen	$187,369,693.38	$3,461,662.00
9:21-cr-80138-AHS(1), Shawn Griner	$187,369,693.38	$8,974,245.00
9:22-cr-80007-DMM(1), Marc Sporn	$187,369,693.38	$5,167,962.00
1:18-cr-20710-CMA(1), Senthil Ramamurthy	$187,369,693.38	$3,322,006.00

☒ The Defendant shall forfeit the Defendant's interest in the following property to the United States:
The Defendant's right, title and interest to the property identified in the preliminary order of forfeiture dated August 17, 2023 [ECF No. 536], which has been entered by the Court and is incorporated by reference herein, is hereby forfeited.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 19-80181-CR-RUIZ/REINHART

18 U.S.C. § 1349
18 U.S.C. § 1347
18 U.S.C. § 371
42 U.S.C. § 1320a-7b(b)(2)(A)
18 U.S.C. § 2
18 U.S.C. § 1956(h)
18 U.S.C. § 982(a)(1), (a)(7)

UNITED STATES OF AMERICA

vs.

MINAL PATEL,

Defendant.
_____/

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times material to this Indictment:

MEDICARE PROGRAM

1. The Medicare Program ("Medicare") was a federally funded program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. The benefits available under Medicare were governed by federal statutes and regulations. The United States Department of Health and Human Services ("HHS"), through its agency, the Centers for Medicare and Medicaid Services ("CMS"), oversaw and administered Medicare. Individuals who received benefits under Medicare were commonly referred to as Medicare "beneficiaries."

2. Medicare was a "health care benefit program," as defined by Title 18, United States

Code, Section 24(b) and a "Federal health care program," as defined by Title 42, United States Code, Section 1320a-7b(f).

3. Medicare programs covering different types of benefits were separated into different program "parts." "Part A" of the Medicare program covered health services provided by hospitals, skilled nursing facilities, hospices and home health agencies. "Part B" of the Medicare Program was a medical insurance program that covered, among other things, medical services provided by physicians, medical clinics, laboratories and other qualified health care providers, such as office visits, minor surgical procedures, and laboratory testing, that were medically necessary and ordered by licensed medical doctors or other qualified health care providers. The Medicare Advantage Program, formerly known as "Part C" or "Medicare+Choice," is described in further detail below.

4. Physicians, clinics and other health care providers, including laboratories, that provided services to Medicare beneficiaries were able to apply for and obtain a "provider number." A health care provider that received a Medicare provider number was able to file claims with Medicare to obtain reimbursement for services provided to beneficiaries.

5. A Medicare claim was required to contain certain important information, including: (a) the Medicare beneficiary's name and Health Insurance Claim Number ("HICN"); (b) a description of the health care benefit, item, or service that was provided or supplied to the beneficiary; (c) the billing codes for the benefit, item, or service; (d) the date upon which the benefit, item, or service was provided or supplied to the beneficiary; and (e) the name of the referring physician or other health care provider, as well as a unique identifying number, known either as the Unique Physician Identification Number ("UPIN") or National Provider Identifier ("NPI"). The claim form could be submitted in hard copy or electronically.

PART B COVERAGE AND REGULATIONS

6. CMS acted through fiscal agents called Medicare administrative contractors ("MACs"), which were statutory agents for CMS for Medicare Part B. The MACs were private entities that reviewed claims and made payments to providers for services rendered to Medicare beneficiaries. The MACs were responsible for processing Medicare claims arising within their assigned geographical area, including determining whether the claim was for a covered service.

7. Novitas Solutions Inc. ("Novitas") was the MAC for the consolidated Medicare jurisdictions that covered Louisiana, Mississippi, Oklahoma, Texas, and Pennsylvania. Palmetto GBA ("Palmetto") was the MAC for the consolidated Medicare jurisdictions that included Georgia, Alabama, Tennessee, South Carolina, North Carolina, Virginia, and West Virginia.

8. To receive Medicare reimbursement, providers had to make appropriate application to the MAC and executed a written provider agreement. The Medicare provider enrollment application, CMS Form 855B, was required to be signed by an authorized representative of the provider. CMS Form 855B contained a certification that stated:

> I agree to abide by the Medicare laws, regulations, and program instructions that apply to this provider. The Medicare laws, regulations, and program instructions are available through the Medicare contractor. I understand that payment of a claim by Medicare is conditioned upon the claim and the underlying transaction complying with such laws, regulations and program instructions (including, but not limited to, the federal anti-kickback statute and the Stark law), and on the provider's compliance with all applicable conditions of participation in Medicare.

9. CMS Form 855B contained additional certifications that the provider "will not knowingly present or cause to be presented a false or fraudulent claim for payment by Medicare and will not submit claims with deliberate ignorance or reckless disregard of their truth or falsity."

10. Payments under Medicare Part B were often made directly to the health care

provider rather than to the patient or beneficiary. For this to occur, the beneficiary would assign the right of payment to the health care provider. Once such an assignment took place, the health care provider would assume the responsibility for submitting claims to, and receiving payments from, Medicare.

THE MEDICARE ADVANTAGE PROGRAM

11. The Medicare Advantage Program, formerly known as "Part C" or "Medicare+Choice," provided Medicare beneficiaries with the option to receive their Medicare benefits through a wide variety of private managed care plans, including health maintenance organizations ("HMOs"), provider sponsored organizations ("PSOs"), preferred provider organizations ("PPOs"), and private fee-for-service plans ("PFFS"), rather than through the original Medicare program (Parts A and B).

12. Private health insurance companies offering Medicare Advantage plans were required to provide Medicare beneficiaries with the same services and supplies offered under Parts A and B of Medicare. To be eligible to enroll in a Medicare Advantage plan, a person had to have been entitled to benefits under Part A and Part B of the Medicare Program.

13. A number of companies, including UnitedHealth Group, Inc. ("UnitedHealth"), Humana Inc. ("Humana"), WellCare Health Plans, Inc. ("WellCare") and CVS Health Corporation ("CVS Health"), along with their related subsidiaries and affiliates, contracted with CMS to provide managed care to Medicare Advantage beneficiaries through various plans.

14. UnitedHealth, Humana, WellCare and CVS Health were "health care benefit programs," as defined by Title 18, United States Code, Section 24(b).

15. These companies, through their respective Medicare Advantage programs, often made payments directly to physicians, medical clinics, or other health care providers, rather than

to the Medicare Advantage beneficiary that received the health care benefits, items, and services. This occurred when the provider accepted assignment of the right to payment from the beneficiary.

16. To obtain payment for services or treatment provided to a beneficiary enrolled in a Medicare Advantage plan, physicians, medical clinics, and other health care providers had to submit itemized claim forms to the beneficiary's Medicare Advantage plan. The claim forms were typically submitted electronically via the internet. The claim form required certain important information, including the information described above in paragraph 5 of this Indictment.

17. When a provider submitted a claim form to a Medicare Advantage program, the provider party certified that the contents of the form were true, correct, complete, and that the form was prepared in compliance with the laws and regulations governing the Medicare program. The submitting party also certified that the services being billed were medically necessary and were in fact provided as billed.

18. The private health insurance companies offering Medicare Advantage plans were paid a fixed rate per beneficiary per month by the Medicare program, regardless of the actual number or type of services the beneficiary received. These payments by Medicare to the insurance companies were known as "capitation" payments. Thus, every month, CMS paid the health insurance companies a pre-determined amount for each beneficiary who was enrolled in a Medicare Advantage plan, regardless of whether or not the beneficiary utilized the plan's services that month. CMS determined the per-patient capitation amount using actuarial tables, based on a variety of factors, including the beneficiary's age, sex, severity of illness, and county of residence. CMS adjusted the capitation rates annually, taking into account each patient's previous illness diagnoses and treatments. Beneficiaries with more illnesses or more serious conditions would

rate a higher capitation payment than healthier beneficiaries.

CANCER GENOMIC TESTS

19. Cancer genomic ("CGx") testing used DNA sequencing to detect mutations in genes that could indicate a higher risk of developing certain types of cancers in the future. CGx testing was not a method of diagnosing whether an individual presently had cancer.

20. Medicare did not cover diagnostic testing that was "not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member." Title 42, United States Code, Section 1395y(a)(1)(A). Except for certain statutory exceptions, Medicare did not cover "examinations performed for a purpose other than treatment or diagnosis of a specific illness, symptoms, complaint or injury." Title 42, Code of Federal Regulations, Section 411.15(a)(1). Among the statutory exceptions Medicare covered were cancer screening tests such as "screening mammography, colorectal cancer screening tests, screening pelvic exams, [and] prostate cancer screening tests." *Id.*

21. If diagnostic testing were necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member, Medicare imposed additional requirements before covering the testing. Title 42, Code of Federal Regulations, Section 410.32(a) provided, "All diagnostic x-ray tests, diagnostic laboratory tests, and other diagnostic tests must be ordered by the physician who is treating the beneficiary, that is, the physician who furnishes a consultation or treats a beneficiary for a specific medical problem and who uses the results in the management of the beneficiary's specific medical problem." "Tests not ordered by the physician who is treating the beneficiary are not reasonable and necessary." *Id.*

22. Because CGx testing did not diagnose cancer, Medicare only covered such tests in limited circumstances, such as when a beneficiary had cancer and the beneficiary's treating physician deemed such testing necessary for the beneficiary's treatment of that cancer. Medicare did not cover CGx testing for beneficiaries who did not have cancer or lacked symptoms of cancer.

TELEMEDICINE

23. Telemedicine provided a means of connecting patients to doctors by using telecommunications technology, such as the internet or telephone, to interact with a patient.

24. Telemedicine companies provided telemedicine services to individuals by hiring doctors and other health care providers. Telemedicine companies typically paid doctors a fee to conduct consultations with patients. In order to generate revenue, telemedicine companies typically either billed insurance or received payment from patients who utilized the services of the telemedicine company.

25. Medicare Part B covered expenses for specified telehealth services if certain requirements were met. These requirements included that (a) the beneficiary was located in a rural or health professional shortage area; (b) services were delivered via an interactive audio and video telecommunications system; and (c) the beneficiary was a practitioner's office or a specified medical facility – not at a beneficiary's home – during the telehealth consultation with a remote practitioner.

THE DEFENDANT AND RELATED ENTITIES

26. LabSolutions, LLC ("LabSolutions"), a corporation organized under the laws of Georgia, was a laboratory that purportedly provided CGx testing to Medicare beneficiaries.

27. Defendant **MINAL PATEL**, a resident of Georgia, was the owner of LabSolutions.

28. Company A was a company incorporated under the laws of Florida, with its principal place of business in Palm Beach, Florida.

29. Individual A, a resident of Bay County, Florida, was one of two managers and members of Company A.

30. Company B was a company incorporated under the laws of Florida, with its principal place of business in Palm Beach County, Florida.

31. Individual B, a resident of Bay County, Florida, was the sole manager and member of Company B.

32. Company C was a company incorporated under the laws of Florida, with its principal place of business in Palm Beach County, Florida.

33. Individual C, a resident of Palm Beach County, was one of two managers and members of Company C.

COUNT 1
Conspiracy to Commit Health Care Fraud and Wire Fraud
(18 U.S.C. § 1349)

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around July 2016, through in or around August 2019, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

MINAL PATEL,

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate and agree with Individual A, Individual B, Individual C and others known and unknown to the Grand Jury, to commit offenses against the United States, that is:

a. to knowingly and willfully execute a scheme and artifice to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare and Medicare Advantage plans, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, said health care benefit programs, in connection with the delivery of and payment for health care benefits, items, and services, in violation of Title 18, United States Code, Section 1347; and

b. to knowingly and with the intent to defraud, devise and intend to devise a scheme and artifice to defraud, and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing the pretenses, representations, and promises were false and fraudulent when made, and for the purpose of executing the scheme and artifice, did knowingly transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, certain writings, signs, signals, pictures and sounds, in violation of Title 18, United States Code, Section 1343.

PURPOSE OF THE CONSPIRACY

3. It was a purpose of the conspiracy for the defendant and his co-conspirators to unlawfully enrich themselves by, among other things: (a) paying and receiving kickbacks in exchange for the referral of Medicare beneficiaries, so that LabSolutions could bill Medicare for CGx tests, without regard to whether the beneficiaries needed the test; (b) paying kickbacks to telemedicine companies in exchange for ordering and arranging for the ordering of CGx tests for Medicare beneficiaries, without regard for medical necessity for the prescribed CGx tests; (c) submitting and causing the submission, via interstate wire communication, of false and fraudulent claims to Medicare and Medicare Advantage plans through LabSolutions for CGx tests that were

not medically necessary and not eligible for reimbursement; (d) concealing the submission of false and fraudulent claims to Medicare and Medicare Advantage plans; and (e) diverting fraud proceeds for their personal use and benefit, the use and benefit of others and to further the fraud.

MANNER AND MEANS

The manner and means by which the defendant and his co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among other things:

4. **MINAL PATEL** falsely certified to Medicare that he, as well as LabSolutions, would comply with all Medicare rules and regulations, and federal laws, including that they would not knowingly present or cause to be presented a false and fraudulent claim for payment by Medicare and that they would comply with the Anti-Kickback Statute.

5. **MINAL PATEL** and co-conspirators, through LabSolutions, paid kickbacks and bribes to co-conspirators, including Individual A, Individual B, Individual C and others, in exchange for CGx test samples from Medicare beneficiaries and Medicare-required documents (collectively referred to as "doctors' orders") that were used to submit claims, via interstate wire communication, to Medicare and Medicare Advantage plans for those tests from LabSolutions.

6. **MINAL PATEL**, Individual A, Individual B, Individual C and other co-conspirators, created sham contracts and documentation that disguised the kickbacks and bribes as payments from LabSolutions for marketing services. In the contracts, **PATEL**, through LabSolutions, agreed to pay co-conspirators, including Individual A, Individual B, Individual C and others, a percentage – as much as 50% – of the gross revenues paid by Medicare in exchange for their recruitment and referral of Medicare beneficiaries, CGx tests and doctor's orders to LabSolutions, regardless of whether the CGx tests were medically necessary.

7. **MINAL PATEL**, Individual A, Individual B, Individual C and other co-conspirators, obtained access to thousands of Medicare beneficiaries by targeting them with telemarketing campaigns and health fairs, and inducing them to accept CGx tests regardless of medical necessity.

8. **MINAL PATEL,** Individual A, Individual B, Individual C and other co-conspirators, obtained doctor's orders for the CGx tests by paying telemedicine companies for doctor's orders written by doctors contracted with the telemedicine companies, even though those doctors were not treating the beneficiaries for cancer or symptoms of cancer, did not use the test results in the treatment of the beneficiaries, did not conduct a proper telemedicine visit and often never communicated with the beneficiaries at all.

9. **MINAL PATEL,** Individual A, Individual B, Individual C and other co-conspirators, caused LabSolutions to submit false and fraudulent claims to Medicare and Medicare Advantage plans in at least the approximate amount of $494 million, via interstate wire communication.

13. As the result of these false and fraudulent claims, Medicare and Medicare Advantage plans made payments to LabSolutions in at least the approximate amount of $154 million.

14. **MINAL PATEL,** Individual A, Individual B, Individual C and other co-conspirators used the fraud proceeds received from LabSolutions to benefit themselves and others, and to further the fraud.

All in violation of Title 18, United States Code, Section 1349.

COUNTS 2-6
Health Care Fraud
(18 U.S.C. § 1347)

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around July 2016 and continuing to in or around August 2019, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

MINAL PATEL,

in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute a scheme and artifice to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is Medicare and Medicare Advantage plans, and to obtain by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, said healthcare benefit programs.

PURPOSE OF THE SCHEME AND ARTIFICE

3. It was a purpose of the scheme and artifice for the defendant and his accomplices to unlawfully enrich themselves by, among other things: (a) paying and receiving kickbacks in exchange for the referral of Medicare beneficiaries, so that LabSolutions could bill Medicare for CGx tests, without regard to whether the beneficiaries needed the test; (b) paying kickbacks to telemedicine companies in exchange for ordering and arranging for the ordering of CGx tests for Medicare beneficiaries, without regard for medical necessity for the prescribed CGx tests; (c) submitting and causing the submission of false and fraudulent claims to Medicare and Medicare Advantage plans through LabSolutions for CGx tests that were not medically necessary and not eligible for reimbursement; (d) concealing the submission of false and fraudulent claims to

Medicare and Medicare Advantage plans; and (e) diverting fraud proceeds for their personal use and benefit, the use and benefit of others and to further the fraud.

THE SCHEME AND ARTIFICE

4. The Manner and Means section of Count 1 of this Indictment is re-alleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

ACTS IN EXECUTION OR ATTEMPTED EXECUTION OF THE SCHEME AND ARTIFICE

5. On or about the dates specified below as to each count, in Palm Beach County, in the Southern District of Florida and elsewhere, the defendant,

MINAL PATEL,

in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, the above-described scheme and artifice to defraud a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), that is, Medicare and Medicare Advantage plans, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, said health care benefit programs, in that the defendant submitted and caused the submission of false and fraudulent claims, which sought the identified dollar amounts, representing that such services were medically necessary, eligible for Medicare reimbursement, and provided to Medicare beneficiaries as claimed:

Count	Medicare Beneficiary	Approx. Date of Submission of Claim	Claim No.	First CGx Test Claimed; Total Approx. Amount Billed
2	D.L.	8/5/2018	161118285725880	Gene analysis (breast cancer 1); $6,470

Count	Medicare Beneficiary	Approx. Date of Submission of Claim	Claim No.	First CGx Test Claimed; Total Approx. Amount Billed
3	G.C.	9/14/2018	161118257426250	Gene analysis (breast cancer 1); $6,470
4	J.P.	9/24/2018	161118267908850	Gene analysis (cytochrome P45); $940
5	R.D.	10/12/2018	161118285723810	Gene analysis (breast cancer 1); $6,470
6	W.W.	11/29/2018	161118333535410	Gene analysis (breast cancer 1); $6,470

In violation of Title 18, United States Code, Sections 1347 and 2.

COUNT 7
Conspiracy to Defraud the United States and to Pay and Receive Health Care Kickbacks (18 U.S.C. § 371)

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around July 2016, through in or around August 2019, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

MINAL PATEL,

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate and agree with Individual A, Individual B, Individual C and others, known and unknown to the Grand Jury,

a. to defraud the United States by impairing, impeding, obstructing, and defeating through deceitful and dishonest means, the lawful government functions of the HHS in its administration and oversight of the Medicare program; and

b. to commit an offense against the United States, that is, to violate Title 42, United States Code, Section 1320a-7b(b)(2)(A), by knowingly and willfully offering and paying any remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by wire transfer, to a person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part by a Federal health care program, that is, Medicare and Medicare Advantage plans.

PURPOSE OF THE CONSPIRACY

3. It was a purpose of the conspiracy for the defendant and his co-conspirators to unlawfully enrich themselves by: (a) soliciting, receiving, offering and paying kickbacks and bribes in return for recruiting and referring Medicare beneficiaries to LabSolutions; (b) submitting and causing the submission of claims to Medicare and Medicare Advantage plans for CGx tests that LabSolutions purported to provide to those Medicare beneficiaries; (d) concealing the submission of false and fraudulent claims to Medicare and Medicare Advantage plans; and (e) diverting fraud proceeds for their personal use and benefit, the use and benefit of others and to further the fraud.

MANNER AND MEANS

The manner and means by which the defendant and his co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among other things, the following:

4. Co-conspirators, including Individual A, Individual B, Individual C and others, recruited and referred Medicare beneficiaries to LabSolutions, knowing that LabSolutions would bill Medicare for CGx tests purportedly provided to the recruited Medicare beneficiaries.

5. **MINAL PATEL**, through LabSolutions, offered and paid kickbacks to co-conspirators, including Individual A, Individual B, Individual C and others, in exchange for the recruitment and referral of Medicare beneficiaries to LabSolutions.

6. **MINAL PATEL**, Individual A, Individual B, Individual C and other co-conspirators, created sham contracts and documentation that disguised the kickbacks and bribes as payments from LabSolutions for marketing services. In the contracts, **PATEL**, through LabSolutions, agreed to pay co-conspirators, including Individual A, Individual B, Individual C and others, a percentage – as much as 50% – of the gross revenues paid by Medicare in exchange for their recruitment and referral of Medicare beneficiaries, CGx tests and doctor's orders to LabSolutions, regardless of whether the CGx tests were medically necessary.

7. Co-conspirators, including Individual A, Individual B, Individual C and others, offered and paid kickbacks to telemedicine companies and others in exchange for the ordering and arranging for ordering CGx tests for Medicare beneficiaries, who were paid, at least in part, to authorize the CGx tests.

8 **MINAL PATEL**, Individual A, Individual B, Individual C and other co-conspirators, caused LabSolutions to submit CGx claims to Medicare and Medicare Advantage plans in at least the approximate amount of $494 million.

9. As the result of these claims, Medicare and Medicare Advantage plans made payments to LabSolutions in at least the approximate amount of $164 million.

10. **MINAL PATEL** paid his co-conspirators, including Individual A, Individual B, Individual C and others, at least approximately $19 million, and used the fraud proceeds received from LabSolutions to benefit himself and others, and to further the fraud.

OVERT ACTS

In furtherance of the conspiracy, and to accomplish its objects and purpose, at least one co-conspirator committed and caused to be committed, in the Southern District of Florida, at least one of the following overt acts, among others:

1. On or about July 22, 2016, **MINAL PATEL** negotiated a contract between a company controlled by Individual C and LabSolutions, providing that LabSolutions would pay Company C 50% of the monthly revenue LabSolutions received from Medicare for CGx tests referred by Individual C or Company C, minus certain costs, and that Individual C would receive a 5% "over-ride" commission of any reimbursements LabSolutions received from Medicare for CGx tests referred by other marketers Individual C recruited to LabSolutions, also known as "downlines" of Individual C.

2. On or about February 14, 2017, **MINAL PATEL** transferred approximately $35,738 from an account ending in 5593 in the name of LabSolutions at BB&T to an account ending in 6891 in the name of Individual C at Wells Fargo in exchange for Individual C's referral of Medicare beneficiaries to LabSolutions.

3. On or about May 1, 2017, **MINAL PATEL** executed a contract with Company A pursuant to which LabSolutions agreed to pay Company A 45% of the monthly revenue LabSolutions received from Medicare for CGx tests referred by Company A, minus certain costs.

4. On or about January 4, 2018, **MINAL PATEL** transferred approximately $402,848 from an account ending in 5593 in the name of LabSolutions at BB&T to an account in the name of Company B ending in 1659 at Wells Fargo in exchange for Individual B's referral of Medicare beneficiaries to LabSolutions.

5. On or about January 14, 2019, **MINAL PATEL** transferred approximately $51,380

from an account ending in 5593 in the name of LabSolutions at BB&T to an account in the name of Company A ending in 3990 at Wells Fargo in exchange for Individual A's referral of Medicare beneficiaries to LabSolutions.

6. On or about August 9, 2019, **MINAL PATEL** called Individual C and suggested that Individual C hire a compliance person because "say they come in an interview you, they're going to ask who is your compliance officer. It gives you a level of separation where you can say you're doing it compliantly."

All in violation of Title 18, United States Code, Section 371.

COUNTS 8-12
Payment of Kickbacks in Connection with a Federal Health Care Program
(42 U.S.C. § 1320a-7b(b)(2)(A))

1. Paragraphs 1 through 33 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. On or about the dates enumerated below, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant, **MINAL PATEL**, did knowingly and willfully offer and pay any remuneration, that is, kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by wire transfer, as set forth below, to a person, to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part under a Federal health care program, that is, Medicare and Medicare Advantage plans:

Count	Approx. Date of Kickback Payment	Approx. Amt. of Kickback Payment	Description of Payment
8	2/14/2017	$35,738	Wire transfer from account at BB&T in the name of LabSolutions ending in 5953 to account in name of Individual C at Wells Fargo ending in 6891.

Count	Approx. Date of Kickback Payment	Approx. Amt. of Kickback Payment	Description of Payment
9	1/4/2018	$402,848	Wire transfer from account at BB&T in the name of LabSolutions ending in 5953 to account in name of Company A at Wells Fargo ending in 1659.
10	7/12/2018	$656,068	Wire transfer from account at BB&T in the name of LabSolutions ending in 5953 to account in control of Individual A at Wells Fargo ending in 4045.
11	11/14/2018	$150,251	Wire transfer from account at BB&T in the name of LabSolutions ending in 5953 to account in name of Individual C at Wells Fargo ending in 7575.
12	12/13/2018	$728,972	Wire transfer from account at BB&T in the name of LabSolutions ending in 5953 to account in name of Company B at Wells Fargo ending in 3990.

In violation of Title 42, United States Code, Section 1320a-7b(b)(2)(A) and Title 18, United States Code, Section 2.

COUNT 13
Conspiracy to Commit Money Laundering
(18 U.S.C. § 1956(h))

From in or around January 2017, through in or around August 2019, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

MINAL PATEL,

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, and agree with others, known and unknown to the Grand Jury, to violate Title 18, United States Code, Section 1956, that is,

a. to knowingly conduct a financial transaction affecting interstate and foreign commerce, which transaction involved the proceeds of specified unlawful activity, knowing that the property involved in the financial transaction represented the proceeds of some form of unlawful activity, and knowing that the transaction was designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i); and

b. to knowingly engage in a monetary transaction by, through, and to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than $10,000, such property having been derived from specified unlawful activity, in violation of Title 18, United States Code, Section 1957.

It is further alleged that the specified unlawful activity is conspiracy to commit health care fraud, in violation of Title 18, United States Code, Section 1349; health care fraud, in violation of Title 18, United States Code, Section 1347; and wire fraud, in violation of Title 18, United States Code, Section 1343.

All in violation of Title 18, United States Code, Section 1956(h).

FORFEITURE ALLEGATIONS
(18 U.S.C. § 982(a)(1), (a)(7))

1. The allegations of this Indictment are re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeiture to the United States of certain property in which the defendant, **MINAL PATEL,** has an interest.

2. Upon conviction of a violation of Title 18, United States Code, Section 1347 or 1349, or a violation of, or criminal conspiracy to commit a violation of, Title 42, United States Code, Section 1320a-7b, as alleged in this Indictment, the defendant shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross

proceeds traceable to the commission of the offense, pursuant to Title 18, United States Code, Section 982(a)(7).

3. Upon conviction of a violation of Title 18, United States Code, Section 1956, as alleged in this Indictment, the defendant shall forfeit to the United States any property, real or personal, involved in such offense, and any property traceable to such property, pursuant to Title 18, United States Code, Section 982(a)(1).

4. The property subject to forfeiture as a result of the alleged offenses includes, but is not limited to, the following:

Forfeiture Money Judgment

(i) The sum of at least $144,333,297.73 in U.S. currency, which amount is equal to the gross proceeds traceable to the commission of the violations alleged in this Indictment and which the United States may seek as a forfeiture money judgment;

BB&T Account x5945

(ii) Up to and including $262,821.05 in U.S. currency on deposit in in account number 0005245165945 held in the name of LabSolutions LLC at BB&T Bank;

(iii) Approximately $13,896,134.78 in U.S. currency formerly on deposit in account number 0005245165945 held in the name of LabSolutions LLC at BB&T Bank;

BB&T Account x6011

(iv) Approximately $440,730.20 in U.S. currency previously on deposit in account number 0005245166011 held in the name of LabSolutions LLC at

BB&T Bank;

BB&T Account x5953

(v) Approximately $534,093.52 in U.S. currency previously on deposit in account number 0005245165953 held in the name of LabSolutions LLC at BB&T Bank;

BB&T Account x0767

(vi) Approximately $5,842,046.79 in U.S. currency previously on deposit in account number 1374000767 held in the name of LabSolutions LLC at BB&T Bank;

BB&T Account x8788

(vii) Approximately $1,129,562.62 in U.S. currency previously on deposit in account number 0005244918788 held in the name of **MINALKUMAR PATEL** at BB&T Bank;

BB&T Account x0219

(viii) Approximately $4,000,000.00 in U.S. currency previously on deposit in account number 0005248710219 held in the name of **MINALKUMAR PATEL** at BB&T Bank;

BB&T Account x0065

(ix) Approximately $4,000,000.00 in U.S. currency previously on deposit in account number 0005248710065 held in the name of **MINALKUMAR PATEL** at BB&T Bank;

Range Rover

(x) One 2019 black Land Rover Range Rover, Vehicle Identification Number

("VIN") SALGW5SE2KA545805;

Ferrari

(xi) One 2018 red Ferrari 488 Spider, VIN ZFF80AMA6J0236067;

Real Property

(xii) Real property located at 548 and 552 Ponce De Leon Avenue, NE, Atlanta, GA; and

(xiii) Real property located at 1118 Blackshear Drive, Decatur, GA.

5. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be divided without difficulty,

the United States shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), and such property includes, but is not limited to, the real property located 2881 Peachtree Road, NE, #1903, Atlanta, GA.

All pursuant to Title 18, United States Code, Sections 982(a)(1) and (a)(7), and the procedures set forth in Title 21, United States Code, Section 853, as incorporated by Title 18, United States Code, Section 982(b)(1).

A TRUE BILL

GRAND JURY FOREPERSON

ARIANA FAJARDO ORSHAN
UNITED STATES ATTORNEY

ALLAN MEDINA
ACTING DEPUTY CHIEF
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE

TIMOTHY F. LOPER
TRIAL ATTORNEY
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

v.

MINAL PATEL,

Defendant.

CASE NO. _____

CERTIFICATE OF TRIAL ATTORNEY*

Superseding Case Information:

Court Division: (Select One)
___ Miami ___ Key West
___ FTL ✓ WPB ___ FTP

New defendant(s) Yes ____ No ____
Number of new defendants ____
Total number of counts ____

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.

2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) No
List language and/or dialect _____

4. This case will take 15 days for the parties to try.

5. Please check appropriate category and type of offense listed below:

	(Check only one)		(Check only one)	
I	0 to 5 days	____	Petty	____
II	6 to 10 days	____	Minor	____
III	11 to 20 days	✓	Misdem.	____
IV	21 to 60 days	____	Felony	✓
V	61 days and over	____		

6. Has this case previously been filed in this District Court? (Yes or No) No
If yes: Judge Case No. _____
(Attach copy of dispositive order)
Has a complaint been filed in this matter? (Yes or No) No
If yes: Magistrate Case No. _____
Related miscellaneous numbers: _____
Defendant(s) in federal custody as of _____
Defendant(s) in state custody as of _____
Rule 20 from the District of _____

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to August 9, 2013 (Mag. Judge Alicia O. Valle)? Yes ____ No ✓

8. Does this case originate from a matter pending in the Northern Region U.S. Attorney's Office prior to August 8, 2014 (Mag. Judge Shaniek Maynard)? Yes ____ No ✓

_____
TIMOTHY P. LOPER
DOJ TRIAL ATTORNEY
COUTR ID NO. A5502016

*Penalty Sheet(s) attached

REV 8/13/2018

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: MINAL PATEL

Case No:

Count #: 1

Conspiracy to Commit Health Care Fraud and Wire Fraud

Title 18, United States Code, Section 1349

***Max Penalty**: Twenty (20) years' imprisonment

Counts #: 2 – 6

Health Care Fraud

Title 18, United States Code, Section 1347

***Max Penalty**: Ten (10) years' imprisonment as to each count

Count #: 7

Conspiracy to Defraud The United States and to Pay and Receive Health Care Kickbacks

Title 18, United States Code, Section 371

*Max Penalty: Five (5) years' imprisonment

Counts #: 8 – 12

Payment of Kickbacks in Connection with a Federal Health Care Program

Title 42, United States Code, Section 1320a-7b(b)(2)(A)

*Max Penalty: Ten (10) years' imprisonment as to each count

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: MINAL PATEL

Case No:

Count #: 13

Conspiracy to Commit Money Laundering

Title 18, United States Code, Section 1956(h)

***Max Penalty**: Twenty (20) years' imprisonment

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 19-80181-CR-RUIZ/REINHART(s)
18 U.S.C. § 1349
18 U.S.C. § 1347
18 U.S.C. § 371
42 U.S.C. § 1320a-7b(b)(2)(A)
18 U.S.C. § 2
18 U.S.C. § 1956(h)
18 U.S.C. § 982(a)(1), (a)(7)

UNITED STATES OF AMERICA

vs.

MINAL PATEL, a/k/a "Minalkumar Patel,"

Defendant.
_____/

SUPERSEDING INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times material to this Superseding Indictment:

MEDICARE PROGRAM

1. The Medicare Program ("Medicare") was a federally funded program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. The benefits available under Medicare were governed by federal statutes and regulations. The United States Department of Health and Human Services ("HHS"), through its agency, the Centers for Medicare and Medicaid Services ("CMS"), oversaw and administered Medicare. Individuals who received benefits under Medicare were commonly referred to as Medicare "beneficiaries."

2. Medicare was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b), and a "Federal health care program," as defined by Title 42, United States Code, Section 1320a-7b(f).

3. Medicare covered different types of benefits and was separated into different program "parts." Medicare "Part A" covered health services provided by hospitals, skilled nursing facilities, hospices, and home health agencies. Medicare "Part B" was a medical insurance program that covered, among other things, medical services provided by physicians, medical clinics, laboratories, and other qualified health care providers, such as office visits, minor surgical procedures, and laboratory testing, that were medically necessary and ordered by licensed medical doctors or other qualified health care providers. Medicare Advantage, formerly known as "Part C," is described in further detail below.

4. Physicians, clinics, laboratories, and other health care providers (collectively, "providers") that provided services to Medicare beneficiaries were able to apply for and obtain a "provider number." A provider that received a Medicare provider number was able to file claims with Medicare to obtain reimbursement for services provided to beneficiaries.

5. A Medicare claim was required to contain certain important information, including: (a) the Medicare beneficiary's name and Health Insurance Claim Number ("HICN"); (b) a description of the health care benefit, item, or service that was provided or supplied to the beneficiary; (c) the billing codes for the benefit, item, or service; (d) the date upon which the benefit, item, or service was provided or supplied to the beneficiary; and (e) the name of the referring physician or other provider, as well as a unique identifying number, known either as the Unique Physician Identification Number ("UPIN") or National Provider Identifier ("NPI"). The claim form could be submitted in hard copy or electronically via interstate wire.

6. When submitting claims to Medicare for reimbursement, providers were required to certify that: (a) the contents of the forms were true, correct, and complete; (b) the forms were prepared in compliance with the laws and regulations governing Medicare; and (c) the items and services that were purportedly provided, as set forth in the claims, were medically necessary.

7. Medicare claims were required to be properly documented in accordance with Medicare rules and regulations. Medicare would not reimburse providers for claims that were procured through the payment of kickbacks and bribes.

PART B COVERAGE AND REGULATIONS

8. CMS acted through fiscal agents called Medicare administrative contractors ("MACs"), which were statutory agents for CMS for Medicare Part B. The MACs were private entities that reviewed claims and made payments to providers for services rendered to Medicare beneficiaries. The MACs were responsible for processing Medicare claims arising within their assigned geographical area, including determining whether the claim was for a covered service.

9. Novitas Solutions, Inc. ("Novitas") was the MAC for the consolidated Medicare jurisdictions that covered Louisiana, Mississippi, Oklahoma, Texas, and Pennsylvania. Palmetto GBA ("Palmetto") was the MAC for the consolidated Medicare jurisdictions that included Georgia, Alabama, Tennessee, South Carolina, North Carolina, Virginia, and West Virginia.

10. To receive Medicare reimbursement, providers had to make appropriate application to the MAC and executed a written provider agreement. The Medicare provider enrollment application, CMS Form 855B, was required to be signed by an authorized representative of the provider. CMS Form 855B contained a certification that stated:

> I agree to abide by the Medicare laws, regulations, and program instructions that apply to this provider. The Medicare laws, regulations, and program instructions are available through the Medicare contractor. I understand that payment of a claim by

> Medicare is conditioned upon the claim and the underlying transaction complying with such laws, regulations and program instructions (including, but not limited to, the federal anti-kickback statute and the Stark law), and on the provider's compliance with all applicable conditions of participation in Medicare.

11. CMS Form 855B contained additional certifications that the provider "will not knowingly present or cause to be presented a false or fraudulent claim for payment by Medicare and will not submit claims with deliberate ignorance or reckless disregard of their truth or falsity."

12. Payments under Medicare Part B were often made directly to the provider rather than to the beneficiary. For this to occur, the beneficiary would assign the right of payment to the provider. Once such an assignment took place, the provider would assume the responsibility for submitting claims to, and receiving payments from, Medicare.

THE MEDICARE ADVANTAGE PROGRAM

13. Medicare Advantage provided Medicare beneficiaries with the option to receive their Medicare benefits through a wide variety of private managed care plans, including health maintenance organizations ("HMOs"), provider sponsored organizations ("PSOs"), preferred provider organizations ("PPOs"), and private fee-for-service plans ("PFFS"), rather than through original Medicare (Parts A and B).

14. Private health insurance companies offering Medicare Advantage plans were required to provide Medicare beneficiaries with the same services and supplies offered under Medicare Parts A and B. To be eligible to enroll in a Medicare Advantage plan, a person had to have been entitled to benefits under Medicare Parts A and B.

15. A number of companies, including UnitedHealth Group, Inc. ("UnitedHealth"), Humana Inc. ("Humana"), WellCare Health Plans, Inc. ("WellCare"), and CVS Health

Corporation ("CVS Health"), along with their related subsidiaries and affiliates, contracted with CMS to provide managed care to Medicare Advantage beneficiaries through various plans.

16. UnitedHealth, Humana, WellCare, and CVS Health were "health care benefit programs," as defined by Title 18, United States Code, Section 24(b).

17. These companies, through their respective Medicare Advantage plans, often made payments directly to providers, rather than to the Medicare beneficiary that received the health care benefits, items, and services. This occurred when the provider accepted assignment of the right to payment from the beneficiary.

18. To obtain payment for services or treatment provided to a beneficiary enrolled in a Medicare Advantage plan, providers had to submit itemized claim forms to the beneficiary's Medicare Advantage plan. The claim forms were typically submitted electronically via interstate wire. The claim form required certain important information, including the information described above in paragraph 5 of this Superseding Indictment

19. When a provider submitted a claim form to a Medicare Advantage plan, the provider certified that the contents of the form were true, correct, complete, and that the form was prepared in compliance with the laws and regulations governing Medicare. The provider also certified that the services being billed were medically necessary and were in fact provided as billed.

20. The private health insurance companies offering Medicare Advantage plans were paid a fixed rate per beneficiary per month by CMS, regardless of the actual number or type of services the beneficiary received. These payments by Medicare to the insurance companies were known as "capitation" payments. Thus, every month, CMS paid the health insurance companies a pre-determined amount for each beneficiary who was enrolled in a Medicare Advantage plan,

regardless of whether the beneficiary utilized the plan's services that month. CMS determined the per-patient capitation amount using actuarial tables, based on a variety of factors, including the beneficiary's age, sex, severity of illness, and county of residence. CMS adjusted the capitation rates annually, taking into account each beneficiary's previous diagnoses and treatments. Beneficiaries with more illnesses or more serious conditions would rate a higher capitation payment than healthier beneficiaries.

GENETIC TESTS

21. Various forms of genetic testing existed using DNA sequencing to detect mutations in genes that could indicate a higher risk of developing certain diseases or health conditions in the future. For example, cancer genomic ("CGx") testing used DNA sequencing to detect mutations in genes that could indicate a higher risk of developing certain types of cancers in the future. CGx testing was not a method of diagnosing whether an individual presently had cancer. Pharmacogenetic ("PGx") testing used DNA sequencing to assess how the body's genetic makeup would affect the response to certain medications.

22. Medicare did not cover laboratory testing that was "not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member." 42 U.S.C. § 1395y(a)(1)(A). Except for certain statutory exceptions, Medicare did not cover "examinations performed for a purpose other than treatment or diagnosis of a specific illness, symptoms, complaint or injury." 42 C.F.R. § 411.15(a)(1). Among the statutory exceptions Medicare covered were cancer screening tests such as "screening mammography, colorectal cancer screening tests, screening pelvic exams, [and] prostate cancer screening tests." *Id.*

23. If laboratory testing was necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member, Medicare imposed additional requirements before covering the testing. Title 42, Code of Federal Regulations, Section 410.32(a) provided, "All diagnostic x-ray tests, diagnostic laboratory tests, and other diagnostic tests must be ordered by the physician who is treating the beneficiary, that is, the physician who furnishes a consultation or treats a beneficiary for a specific medical problem and who uses the results in the management of the beneficiary's specific medical problem." "Tests not ordered by the physician who is treating the beneficiary are not reasonable and necessary." *Id.*

TELEMEDICINE

24. Telemedicine provided a means of connecting patients to doctors by using telecommunications technology, such as the internet or telephone, to interact with a patient.

25. Telemedicine companies provided telemedicine services to individuals by hiring doctors and other health care providers. Telemedicine companies typically paid doctors a fee to conduct consultations with patients. In order to generate revenue, telemedicine companies typically either billed insurance or received payment from patients who utilized the services of the telemedicine company.

26. Medicare Part B and Medicare Advantage covered expenses for specified telehealth services if certain requirements were met. These requirements included that: (a) the beneficiary was located in a rural or health professional shortage area; (b) services were delivered via an interactive audio and video telecommunications system; and (c) the beneficiary was at a practitioner's office or at a specified medical facility—not at a beneficiary's home—during the telehealth consultation with a remote practitioner.

THE DEFENDANT AND RELATED ENTITIES

27. LabSolutions, LLC ("LabSolutions"), a company formed under the laws of Georgia, was a laboratory that purportedly provided CGx, PGx, and other forms of laboratory testing to Medicare and Medicare Advantage beneficiaries.

28. Defendant **MINAL PATEL, a/k/a "Minalkumar Patel,"** a resident of Georgia, was the owner of LabSolutions and a signatory on LabSolutions's bank account ending in 5953 at Bank 1 ("LabSolutions Account").

29. XGEN Marketing, LLC ("XGEN") was a company formed under the laws of Florida, with its listed place of business in Palm Beach County, Florida.

30. Christian McKeon, a resident of Palm Beach County, Florida, was a manager and member of XGEN and a signatory on XGEN's bank account ending in 3990 at Bank 2 ("XGEN Account").

31. Alite Medical Solutions, LLC ("Alite Medical") was a company formed under the laws of Florida, with its listed place of business in Nassau County, New York.

32. Brett Hirsch, a resident of Palm Beach County, Florida, was one of two managers and members of Alite Medical and a signatory on bank accounts ending in 7575 and 6891 at Bank 2 ("Hirsch Account 1" and "Hirsch Account 2," respectively).

COUNT 1
Conspiracy to Commit Health Care Fraud and Wire Fraud
(18 U.S.C. § 1349)

1. The General Allegations section of this Superseding Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around July 2016, and continuing through in or around August 2019, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

MINAL PATEL, a/k/a "Minalkumar Patel,"

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate, and agree with Christian McKeon, Brett Hirsch, and others known and unknown to the Grand Jury, to commit offenses against the United States, that is:

a. to knowingly and willfully execute a scheme and artifice to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare and Medicare Advantage plans, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, said health care benefit programs, in connection with the delivery of and payment for health care benefits, items, and services, in violation of Title 18, United States Code, Section 1347; and

b. to knowingly and with the intent to defraud, devise and intend to devise a scheme and artifice to defraud, and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing the pretenses, representations, and promises were false and fraudulent when made, and for the purpose of executing the scheme and artifice, did knowingly transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, certain writings, signs, signals, pictures, and sounds, in violation of Title 18, United States Code, Section 1343.

PURPOSE OF THE CONSPIRACY

3. It was a purpose of the conspiracy for the defendant and his co-conspirators to unlawfully enrich themselves by, among other things: (a) paying and receiving kickbacks in exchange for the referral of Medicare beneficiaries, so that LabSolutions could bill Medicare for genetic tests, without regard to whether the beneficiaries needed the test; (b) paying kickbacks to

telemedicine companies in exchange for ordering and arranging for the ordering of genetic tests for Medicare beneficiaries, without regard for the medical necessity of the prescribed genetic tests; (c) submitting and causing the submission, via interstate wire communication, of false and fraudulent claims to Medicare and Medicare Advantage plans through LabSolutions for genetic tests that were not medically necessary and not eligible for reimbursement; (d) concealing the submission of false and fraudulent claims to Medicare and Medicare Advantage plans; and (e) diverting fraud proceeds for their personal use and benefit, the use and benefit of others and to further the fraud.

MANNER AND MEANS

The manner and means by which the defendant and his co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among other things:

4. **MINAL PATEL** falsely certified to Medicare that he, as well as LabSolutions, would comply with all Medicare rules and regulations, and federal laws, including that they would not knowingly present or cause to be presented a false and fraudulent claim for payment by Medicare and that they would comply with the Federal Anti-Kickback Statute.

5. **MINAL PATEL** and his co-conspirators, through LabSolutions, paid kickbacks and bribes to co-conspirators, including Christian McKeon, Brett Hirsch, and others, in exchange for genetic test samples from Medicare beneficiaries and Medicare-required documents (collectively referred to as "doctors' orders") that were used to submit claims, via interstate wire communication, to Medicare and Medicare Advantage plans for those tests from LabSolutions.

6. **MINAL PATEL**, Christian McKeon, Brett Hirsch, and other co-conspirators created sham contracts and documentation that disguised the kickbacks and bribes as payments from LabSolutions for marketing services. In the contracts, **PATEL**, through LabSolutions,

agreed to pay co-conspirators, including McKeon, Hirsch, and others, a percentage—as much as 50%—of the gross revenues paid by Medicare in exchange for their recruitment and referral of Medicare beneficiaries, genetic tests, and doctors' orders to LabSolutions, regardless of whether the genetic tests were medically necessary.

7. **MINAL PATEL**, Christian McKeon, Brett Hirsch, and other co-conspirators obtained access to thousands of Medicare beneficiaries by targeting them with telemarketing campaigns and health fairs and inducing them to accept genetic tests regardless of medical necessity.

8. **MINAL PATEL**, Christian McKeon, Brett Hirsch, and other co-conspirators obtained doctors' orders for the genetic tests by paying telemedicine companies for doctors' orders written by doctors contracted with the telemedicine companies, even though those doctors were not treating the beneficiaries for cancer or symptoms of cancer or other diseases, did not use the test results in the treatment of the beneficiaries, and did not conduct a proper telemedicine visit.

9. **MINAL PATEL**, Christian McKeon, Brett Hirsch, and other co-conspirators caused LabSolutions to submit false and fraudulent claims to Medicare and Medicare Advantage plans in at least the approximate amount of $463,889,078, via interstate wire communication, including approximately $269,480,736 for CGx testing.

10. As the result of these false and fraudulent claims, Medicare and Medicare Advantage plans made payments to LabSolutions in at least the approximate amount of $187,369,693, including approximately $128,163,945 for CGx testing.

11. **MINAL PATEL**, Christian McKeon, Brett Hirsch, and other co-conspirators used the fraud proceeds to benefit themselves and others, and to further the fraud.

All in violation of Title 18, United States Code, Section 1349.

COUNTS 2-4
Health Care Fraud
(18 U.S.C. § 1347)

1. The General Allegations section of this Superseding Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around July 2016, and continuing through in or around August 2019, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

MINAL PATEL, a/k/a "Minalkumar Patel,"

in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is Medicare, and to obtain by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, said healthcare benefit programs.

PURPOSE OF THE SCHEME AND ARTIFICE

3. It was a purpose of the scheme and artifice for the defendant and his accomplices to unlawfully enrich themselves by, among other things: (a) paying and receiving kickbacks in exchange for the referral of Medicare beneficiaries, so that LabSolutions could bill Medicare for genetic tests, without regard to whether the beneficiaries needed the test; (b) paying kickbacks to telemedicine companies in exchange for ordering and arranging for the ordering of genetic tests for Medicare beneficiaries, without regard for medical necessity for the prescribed genetic tests; (c) submitting and causing the submission of false and fraudulent claims to Medicare through LabSolutions for genetic tests that were not medically necessary and not eligible for reimbursement; (d) concealing the submission of false and fraudulent claims to Medicare; and (e)

diverting fraud proceeds for their personal use and benefit, the use and benefit of others and to further the fraud.

THE SCHEME AND ARTIFICE

4. The Manner and Means section of Count 1 of this Superseding Indictment is re-alleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

ACTS IN EXECUTION OR ATTEMPTED EXECUTION OF THE SCHEME AND ARTIFICE

5. On or about the dates specified below as to each count, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

MINAL PATEL, a/k/a "Minalkumar Patel,"

in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, the above-described scheme and artifice to defraud a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), that is, Medicare, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, said health care benefit program, in that the defendant submitted and caused the submission of false and fraudulent claims, which sought the identified dollar amounts, representing that such services were medically necessary, eligible for Medicare reimbursement, and provided to Medicare beneficiaries as claimed:

Count	Medicare Beneficiary	Approx. Date of Submission of Claim	Claim No.	Most Expensive Genetic Test Claimed; Total Approx. Amount Billed
2	V.H.	9/24/2018	161118267915670	Gene analysis (breast cancer 1); $6,470

Count	Medicare Beneficiary	Approx. Date of Submission of Claim	Claim No.	Most Expensive Genetic Test Claimed; Total Approx. Amount Billed
3	E.G.	9/24/2018	161818267031920	Gene analysis (breast cancer 1); $5,820
4	H.K.	9/24/2018	161818267031710	Gene analysis (breast cancer 1); $5,820

In violation of Title 18, United States Code, Sections 1347 and 2.

COUNT 5
Conspiracy to Defraud the United States and to Pay and Receive Health Care Kickbacks (18 U.S.C. § 371)

1. The General Allegations section of this Superseding Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around July 2016, and continuing through in or around August 2019, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

MINAL PATEL, a/k/a "Minalkumar Patel,"

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate, and agree with Christian McKeon, Brett Hirsch, and others known and unknown to the Grand Jury,

a. to defraud the United States by impairing, impeding, obstructing, and defeating through deceitful and dishonest means, the lawful government functions of the HHS in its administration and oversight of Medicare and Medicare Advantage; and

b. to commit an offense against the United States, that is, to violate Title 42, United States Code, Section 1320a-7b(b)(2)(A), by knowingly and willfully offering and paying any remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by wire transfer, to a person to induce such person to refer an individual to

a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part by a Federal health care program, that is, Medicare and Medicare Advantage plans.

PURPOSE OF THE CONSPIRACY

3. It was a purpose of the conspiracy for the defendant and his co-conspirators to unlawfully enrich themselves by: (a) soliciting, receiving, offering, and paying kickbacks and bribes in return for recruiting and referring Medicare and Medicare Advantage beneficiaries to LabSolutions; (b) submitting and causing the submission of claims to Medicare and Medicare Advantage plans for genetic tests that LabSolutions purported to provide to those beneficiaries; (d) concealing the kickback and bribes, among other things; and (e) diverting fraud proceeds for their personal use and benefit, the use and benefit of others and to further the fraud.

MANNER AND MEANS

The manner and means by which the defendant and his co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among other things, the following:

4. Co-conspirators, including Christian McKeon, Brett Hirsch, and others, recruited and referred Medicare and Medicare Advantage beneficiaries to LabSolutions, knowing that LabSolutions would bill Medicare and Medicare Advantage for genetic tests purportedly provided to the recruited beneficiaries.

5. **MINAL PATEL**, through LabSolutions, offered and paid kickbacks to co-conspirators, including Christian McKeon, Brett Hirsch, and others, in exchange for the recruitment and referral of Medicare and Medicare Advantage beneficiaries to LabSolutions.

6. **MINAL PATEL**, Christian McKeon, Brett Hirsch, and other co-conspirators created sham contracts and documentation that disguised the kickbacks and bribes as payments

from LabSolutions for marketing services. In the contracts, **PATEL**, through LabSolutions, agreed to pay co-conspirators, including McKeon, Hirsch, and others, a percentage—as much as 50%—of the gross revenues paid by Medicare and Medicare Advantage in exchange for their recruitment and referral of Medicare and Medicare Advantage beneficiaries, genetic tests and doctors' orders to LabSolutions, regardless of whether the genetic tests were medically necessary.

7. Co-conspirators, including Christian McKeon, Brett Hirsch, and others, offered and paid kickbacks to telemedicine companies and others in exchange for the ordering and arranging for ordering genetic tests for Medicare and Medicare Advantage beneficiaries, who were paid, at least in part, to authorize the genetic tests.

8 **MINAL PATEL**, Christian McKeon, Brett Hirsch, and other co-conspirators caused LabSolutions to submit claims, including claims for CGx testing, to Medicare and Medicare Advantage plans in at least the approximate amount of $463,889,078.

9. As the result of these claims, Medicare and Medicare Advantage plans made payments to LabSolutions in at least the approximate amount of $187,369,693.

10. **MINAL PATEL** paid his co-conspirators, including Christian McKeon, Brett Hirsch, and others, at least approximately $14,200,685, and used the fraud proceeds received from LabSolutions to benefit himself and others, and to further the fraud.

OVERT ACTS

In furtherance of the conspiracy, and to accomplish its objects and purpose, at least one co-conspirator committed and caused to be committed, in the Southern District of Florida, at least one of the following overt acts, among others:

1. On or about July 5, 2016, **MINAL PATEL**, through LabSolutions, entered into a contract with Brett Hirsch, through Alite Medical, providing that LabSolutions would pay Alite

Medical 50% of the monthly revenue LabSolutions received from Medicare and Medicare Advantage for genetic tests referred by Hirsch or Alite Medical, minus certain costs, and that Hirsch would receive a 5% "over-ride" commission of any reimbursements LabSolutions received from Medicare and Medicare Advantage for genetic tests referred by other marketers Hirsch recruited to LabSolutions, also known as "downlines" of Hirsch.

2. On or about January 1, 2017, **MINAL PATEL** caused an employee of LabSolutions to execute a contract with XGEN pursuant to which LabSolutions agreed to pay XGEN 45% of the monthly revenue LabSolutions received from Medicare and Medicare Advantage for genetic tests referred by XGEN, minus certain costs.

3. On or about February 14, 2017, **MINAL PATEL** transferred approximately $35,738 from the LabSolutions Account to the Hirsch Account 2 in exchange for Hirsch's referral of Medicare and Medicare Advantage beneficiaries to LabSolutions.

4. On or about January 14, 2019, **MINAL PATEL** transferred approximately $365,043 from the LabSolutions Account to the XGEN Account in exchange for XGEN's referral of Medicare and Medicare Advantage beneficiaries to LabSolutions.

5. On or about February 14, 2019, **MINAL PATEL** transferred approximately $800,000 from the LabSolutions Account to the XGEN Account in exchange for XGEN's referral of Medicare and Medicare Advantage beneficiaries to LabSolutions.

6. On or about February 14, 2019, **MINAL PATEL** transferred approximately $150,000 from the LabSolutions Account to the Hirsch Account 1 in exchange for Hirsch's referral of Medicare and Medicare Advantage beneficiaries to LabSolutions.

7. On or about April 30, 2019, **MINAL PATEL** transferred approximately $600,000 from the LabSolutions Account to the XGEN Account in exchange for XGEN's referral of Medicare and Medicare Advantage beneficiaries to LabSolutions.

All in violation of Title 18, United States Code, Section 371.

COUNTS 6-9
Payment of Kickbacks in Connection with a Federal Health Care Program
(42 U.S.C. § 1320a-7b(b)(2)(A))

1. The General Allegations section of this Superseding Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. On or about the dates enumerated below, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant, **MINAL PATEL, a/k/a "Minalkumar Patel,"** did knowingly and willfully offer and pay remuneration, that is, kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by wire transfer, as set forth below, to a person, to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part under a Federal health care program, that is, Medicare and Medicare Advantage plans:

Count	Approx. Date of Kickback Payment	Approx. Amount of Kickback Payment	Description of Payment
6	2/14/2017	$35,738	Wire transfer from the LabSolutions Account to Hirsch Account 2.
7	11/14/2018	$150,251	Wire transfer from the LabSolutions Account to Hirsch Account 1.
8	12/13/2018	$728,972	Wire transfer from the LabSolutions Account to the XGEN Account.
9	4/30/2019	$600,000	Wire transfer from the LabSolutions Account to the XGEN Account.

In violation of Title 42, United States Code, Section 1320a-7b(b)(2)(A) and Title 18, United States Code, Section 2.

COUNT 10
Conspiracy to Commit Money Laundering
(18 U.S.C. § 1956(h))

From in or around January 2017, and continuing through in or around August 2019, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

MINAL PATEL, a/k/a "Minalkumar Patel,"

did knowingly and voluntarily combine, conspire, and agree with others, known and unknown to the Grand Jury, to commit offenses under Title 18, United States Code, Sections 1956 and 1957, that is,

a. to knowingly conduct a financial transaction affecting interstate and foreign commerce, which transaction involved the proceeds of specified unlawful activity, knowing that the property involved in the financial transaction represented the proceeds of some form of unlawful activity, and knowing that the transaction was designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i); and

b. to knowingly engage in a monetary transaction by, through, and to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than $10,000, such property having been derived from specified unlawful activity, in violation of Title 18, United States Code, Section 1957.

It is further alleged that the specified unlawful activity is conspiracy to commit health care fraud, in violation of Title 18, United States Code, Section 1349; health care fraud, in violation of Title 18, United States Code, Section 1347; and wire fraud, in violation of Title 18, United States Code, Section 1343.

All in violation of Title 18, United States Code, Section 1956(h).

FORFEITURE ALLEGATIONS

1. The allegations of this Superseding Indictment are hereby re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeiture to the United States of certain property in which the defendant, **MINAL PATEL, a/k/a "Minalkumar Patel,"** has an interest.

2. Upon conviction of a violation of Title 18, United States Code, Sections 371, 1347, or 1349, or a violation of, or criminal conspiracy to commit a violation of, Title 42, United States Code, Section 1320a-7b, as alleged in this Superseding Indictment, the defendant shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense, pursuant to Title 18, United States Code, Section 982(a)(7).

3. Upon conviction of a violation of Title 18, United States Code, Section 1956, as alleged in this Superseding Indictment, the defendant shall forfeit to the United States any property, real or personal, involved in such offense, and any property traceable to such property, pursuant to Title 18, United States Code, Section 982(a)(1).

4. The property subject to forfeiture as a result of the alleged offenses includes, but is not limited to, the following:

a. Approximately $13,896,134.78 seized, on or about August 16, 2019, from account number 0005245165945, held in the name of LabSolutions LLC at Bank 1;

b. Approximately $440,730.20 seized, on or about August 16, 2019, from account number 0005245166011, held in the name of LabSolutions LLC at Bank 1;

c. Approximately $534,093.52 seized, on or about August 16, 2019, from account number 0005245165953, held in the name of LabSolutions LLC at Bank 1;

d. Approximately $5,842,046.79 seized, on or about August 20, 2019, from account number 1374000767, held in the name of LabSolutions LLC at Bank 1;

e. Approximately $1,129,562.62 seized, on or about August 16, 2019, from account number 0005244918788, in the name of **MINALKUMAR PATEL** at Bank 1;

f. Approximately $4,000,000.00 seized, on or about August 16, 2019, from account number 0005248710219, in the name of **MINALKUMAR PATEL** at Bank 1;

g. Approximately $4,000,000.00 seized, on or about August 16, 2019, from account number 0005248710065, in the name of **MINALKUMAR PATEL** at Bank 1;

h. One 2019 black Land Rover Range Rover, VIN # SALGW5SE2KA545805, seized on or about August 16, 2019;

i. One 2018 red Ferrari 488 Spider, VIN # ZFF80AMA6J0236067, seized on or about August 16, 2019;

j. Real property located at 548 and 552 Ponce De Leon Avenue, NE, Atlanta, GA; and

k. Real property located at 1118 Blackshear Drive, Decatur, GA.

5. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be divided without difficulty,

the United States shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), and such property includes, but is not limited to, the real property located 2881 Peachtree Road, NE, #1903, Atlanta, GA.

All pursuant to Title 18, United States Code, Sections 982(a)(1) and (a)(7), and the procedures set forth in Title 21, United States Code, Section 853, as incorporated by Title 18, United States Code, Section 982(b)(1).

A TRUE BILL

[redacted]

GRAND JURY FOREPERSON

JUAN ANTONIO GONZALEZ
UNITED STATES ATTORNEY

LORINDA I. LARYEA, ACTING CHIEF
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE

JAMIE DE BOER
PATRICK J. QUEENAN
REGINALD CUYLER JR.
KATHERINE ROOKARD
TRIAL ATTORNEYS
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

v.

MINAL PATEL,
a/k/a "Minalkumar Patel,"
_____/
Defendant.

CASE NO.: 19-80181-CR-RUIZ/REINHART(s)

CERTIFICATE OF TRIAL ATTORNEY*

Superseding Case Information:

New Defendant(s) (Yes or No) **No**
Number of New Defendants **0**
Total number of New Counts **6**

Court Division (select one)
☐ Miami ☐ Key West ☐ FTP
☐ FTL ☑ WPB

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. §3161.
3. Interpreter: (Yes or No) **No**
   List language and/or dialect: _____
4. This case will take **15** days for the parties to try.
5. Please check appropriate category and type of offense listed below:

(Check only one)		(Check only one)
I	☐ 0 to 5 days	☐ Petty
II	☐ 6 to 10 days	☐ Minor
III	☑ 11 to 20 days	☐ Misdemeanor
IV	☐ 21 to 60 days	☑ Felony
V	☐ 61 days and over	

6. Has this case been previously filed in this District Court? (Yes or No) **Yes**
   If yes, Judge **Ruiz** Case No. **19-CR-80181**
7. Has a complaint been filed in this matter? (Yes or No) **No**
   If yes, Magistrate Case No. _____
8. Does this case relate to a previously filed matter in this District Court? (Yes or No) **No**
   If yes, Judge _____ Case No. _____
9. Defendant(s) in federal custody as of _____
10. Defendant(s) in state custody as of _____
11. Rule 20 from the _____ District of _____
12. Is this a potential death penalty case? (Yes or No) **No**
13. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to August 8, 2014 (Mag. Judge Shaniek Maynard? (Yes or No) **No**
14. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to October 3, 2019 (Mag. Judge Jared Strauss? (Yes or No) **No**

By: _____
JAMIE DE BOER
DOJ Trial Attorney
Court ID No. A5502601

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name MINAL PATEL, a/k/a "Minalkumar Patel"

Case No: 19-80181-CR-RUIZ/REINHART(s)

Count #: 1

Conspiracy to Commit Health Care Fraud and Wire Fraud

Title 18, United States Code, Section 1349

* **Max. Term of Imprisonment: 20 years**
* **Mandatory Min. Term of Imprisonment (if applicable): N/A**
* **Max. Supervised Release: 3 years**
* **Max. Fine: $250,000 or twice the gross gain or loss from the offense**

Counts #: 2 – 4

Health Care Fraud

Title 18, United States Code, Section 1347

* **Max. Term of Imprisonment: 10 years per count**
* **Mandatory Min. Term of Imprisonment (if applicable): N/A**
* **Max. Supervised Release: 3 years**
* **Max. Fine: $250,000 or twice the gross gain or loss from the offense**

Count #: 5

Conspiracy to Defraud the United States and to Pay and Receive Health Care Kickbacks

Title 18, United States Code, Section 371

* **Max. Term of Imprisonment: 5 years**
* **Mandatory Min. Term of Imprisonment (if applicable): N/A**
* **Max. Supervised Release: 3 years**
* **Max. Fine: $250,000 or twice the gross gain or loss from the offense**

***Refers only to possible term of incarceration, supervised release and fines. It does not include restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name MINAL PATEL, a/k/a "Minalkumar Patel"

Case No: 19-80181-CR-RUIZ/REINHART(s)

Counts #: 6 – 9

Payment of Kickbacks in Connection with a Federal Health Care Program

Title 42, United States Code, Section 1320a-7b(b)(2)(A)

* **Max. Term of Imprisonment: 10 years per count**
* **Mandatory Min. Term of Imprisonment (if applicable): N/A**
* **Max. Supervised Release: 3 years**
* **Max. Fine: $250,000 or twice the gross gain or loss from the offense**

Count #: 10

Conspiracy to Commit Money Laundering

Title 18, United States Code, Section 1956(h)

* **Max. Term of Imprisonment: 20 years**
* **Mandatory Min. Term of Imprisonment (if applicable): N/A**
* **Max. Supervised Release: 3 years**
* **Max. Fine: $500,000 or twice the value of the property involved in the offense**

***Refers only to possible term of incarceration, supervised release and fines. It does not include restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 19-CR-80181-RUIZ/REINHART

UNITED STATES OF AMERICA

v.

MINAL PATEL, a/k/a "Minalkumar Patel,"

Defendant.
_____/

VERDICT FORM

We, the jury, unanimously find as follows as to the charges against Defendant MINAL PATEL:

1. As to Count 1, conspiracy to commit health care fraud and wire fraud,

✓ GUILTY _____ NOT GUILTY

If your verdict is GUILTY, indicate which Object(s) of the conspiracy (choose one):

✓ Both Health Care Fraud and Wire Fraud

_____ Only Health Care Fraud

_____ Only Wire Fraud

2. As to Count 2, health care fraud,

✓ GUILTY _____ NOT GUILTY

3. As to Count 3, health care fraud,

✓ GUILTY _____ NOT GUILTY

EXHIBIT 5

4. As to Count 4, health care fraud,

✓ GUILTY _____ NOT GUILTY

5. As to Count 5, conspiracy to defraud the United States and pay health care kickbacks,

✓ GUILTY _____ NOT GUILTY

If your verdict is GUILTY, indicate which Object(s) of the conspiracy (choose one):

✓ Both Defraud the United States and Pay Health Care Kickbacks

_____ Only Defraud the United States

_____ Only Pay Health Care Kickbacks

6. As to Count 6, payment of health care kickbacks,

✓ GUILTY _____ NOT GUILTY

7. As to Count 7, payment of health care kickbacks,

✓ GUILTY _____ NOT GUILTY

8. As to Count 8, payment of health care kickbacks,

✓ GUILTY _____ NOT GUILTY

9. As to Count 9, payment of health care kickbacks,

✓ GUILTY _____ NOT GUILTY

10. As to Count 10, conspiracy to commit money laundering,

✓ GUILTY _____ NOT GUILTY

If your verdict is GUILTY, indicate which Object(s) of the conspiracy (choose one):

✓ Both Concealment Money Laundering and Laundering Proceeds over $10,000

_____ Only Concealment Money Laundering

_____ Only Laundering Proceeds over $10,000

SO SAY WE ALL

[redacted]
FOREPERSON'S PRINTED NAME

[redacted]
FOREPERSON'S SIGNATURE

Dated: Dec. 14-22

GEORGIA
CORPORATIONS DIVISION

GEORGIA SECRETARY OF STATE
BRAD RAFFENSPERGER

HOME (/)

BUSINESS SEARCH

BUSINESS INFORMATION

Business Name:	**LABSOLUTIONS LLC**	Control Number:	**13210199**
Business Type:	**Domestic Limited Liability Company**	Business Status:	**Active/Owes Current Year AR**
Business Purpose:	**NONE**		
Principal Office Address:	**1451 Northside Dr NW, Atlanta, GA, 30318, USA**	Date of Formation / Registration Date:	**2/13/2013**
State of Formation:	**Georgia**	Last Annual Registration Year:	**2023**

REGISTERED AGENT INFORMATION

Registered Agent Name:	**Minal Patel**
Physical Address:	**1451 Northside Dr. NW, atlanta, GA, 30318, USA**
County:	**Fulton**

Back

Filing History Name History

Return to Business Search

Generated on: This page was generated by TSDR on 2024-03-03 13:12:34 EST

Mark: IDENTIFYN

IDENTIFYN

US Serial Number: 97939807

Application Filing Date: May 16, 2023

Register: Principal

Mark Type: Trademark, Service Mark

TM5 Common Status Descriptor:

LIVE/APPLICATION/Under Examination

The trademark application has been accepted by the Office (has met the minimum filing requirements) and that this application has been assigned to an examiner.

Status: A non-final Office action has been sent (issued) to the applicant. This is a letter from the examining attorney requiring additional information and/or making an initial refusal. The applicant must respond to this Office action. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

Status Date: Feb. 15, 2024

Mark Information

Mark Literal Elements: IDENTIFYN

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:
The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [..] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Reagents and kits comprised of reagents for life science research use, biological specimen collection, drug development, diagnostic services, and predictive medicine to predict treatment efficacy and patient outcomes, and biological product development; reagents for clinical or medical laboratory use

International Class(es): 001 - Primary Class

U.S Class(es): 001, 005, 006, 010, 026, 046

Class Status: ACTIVE

Basis: 1(b)

For: Microscopy imaging services in the fields of microbiology, life sciences research, drug development, diagnostic services, predictive medicine to predict treatment efficacy and patient outcomes, and biological product development, namely, imaging services for use in the study and analysis of biological tissue samples, biopsy samples, tissue cultures, cell cultures, antibodies, antigens, and internal cellular components

International Class(es): 042 - Primary Class

U.S Class(es): 100, 101

Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Filed Use: No

Currently Use: No

Filed ITU:	Yes	**Currently ITU:**	Yes
Filed 44D:	No	**Currently 44D:**	No
Filed 44E:	No	**Currently 44E:**	No
Filed 66A:	No	**Currently 66A:**	No
Filed No Basis:	No	**Currently No Basis:**	No

Current Owner(s) Information

Owner Name: GMD12, LLC

Owner Address: 6857 Gulf of Mexico Drive
Longboat Key, FLORIDA UNITED STATES 34228

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: FLORIDA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Jeffrey Fabian

Attorney Primary Email Address: jfabian@shumaker.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: JEFFREY FABIAN
101 E. KENNEDY BLVD, SUITE 2800
TAMPA, FLORIDA UNITED STATES 33602

Phone: 813-676-7212

Correspondent e-mail: jfabian@shumaker.com ldyer@shumaker.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Feb. 15, 2024	NOTIFICATION OF NON-FINAL ACTION E-MAILED	
Feb. 15, 2024	NON-FINAL ACTION E-MAILED	
Feb. 15, 2024	NON-FINAL ACTION WRITTEN	
Feb. 08, 2024	ASSIGNED TO EXAMINER	
Jun. 15, 2023	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED	
May 19, 2023	NEW APPLICATION ENTERED	

TM Staff and Location Information

TM Staff Information

TM Attorney: ADEJUNMOBI, AKIN T

Law Office Assigned: LAW OFFICE 105

File Location

Current Location: TMEG LAW OFFICE 105 - EXAMINING ATTORNEY ASSIGNED

Date in Location: Feb. 15, 2024

To:	Jeffrey Fabian(jfabian@shumaker.com)
Subject:	U.S. Trademark Application Serial No. 97939807 - IDENTIFYN
Sent:	February 15, 2024 01:49:56 PM EST
Sent As:	tmng.notices@uspto.gov

Attachments

5935648
screencapture-www-toxicology-abbott-us-en-solutions-reagents-html-17080181776411
screencapture-www-toxicology-abbott-us-en-lab-services-urine-lab-testing-html-17080182123781
screencapture-www-bio-techne-com-p-small-molecules-peptides-pei-transfection-reagent_7854-17080182494951
screencapture-www-bio-techne-com-applications-imaging-17080183030971
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screencapture-biopharma-labcorp-com-services-discovery-nonclinical-imaging-image-analysis-services-html-17080183773681
screencapture-womenshealth-labcorp-com-17080184181101
screencapture-www-labcorp-com-organizations-employers-workplace-drug-testing-urine-lab-drug-testing-17080184569151

United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application Serial No. 97939807

Mark: IDENTIFYN

Correspondence Address:
JEFFREY FABIAN
101 E. KENNEDY BLVD, SUITE 2800
TAMPA FL 33602
UNITED STATES

Applicant: GMD12, LLC

Reference/Docket No. N/A

Correspondence Email Address: jfabian@shumaker.com

NONFINAL OFFICE ACTION

Response deadline. File a response to this nonfinal Office action within three months of the "Issue date" below to avoid abandonment of the application. Review the Office action and respond using one

of the links to the appropriate electronic forms in the "How to respond" section below.

Request an extension. For a fee, applicant may request one three-month extension of the response deadline prior to filing a response. The request must be filed within three months of the "Issue date" below. If the extension request is granted, the USPTO must receive applicant's response to this letter within six months of the "Issue date" to avoid abandonment of the application.

Issue date: February 15, 2024

Introduction

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

Summary of Issues

- Section 2(d) - Likelihood of Confusion Refusal
- Identification of Goods and Services - Amendment Required

Section 2(d) - Likelihood of Confusion Refusal

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 5935648. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the attached registration.

Trademark Act Section 2(d) bars registration of an applied-for mark that is so similar to a registered mark that it is likely consumers would be confused, mistaken, or deceived as to the commercial source of the goods and/or services of the parties. *See* 15 U.S.C. §1052(d). Likelihood of confusion is determined on a case-by-case basis by applying the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973) (called the "*du Pont* factors"). *In re i.am.symbolic, llc*, 866 F.3d 1315, 1322, 123 USPQ2d 1744, 1747 (Fed. Cir. 2017). Any evidence of record related to those factors need be considered; however, "not all of the *DuPont* factors are relevant or of similar weight in every case." *In re Guild Mortg. Co.*, 912 F.3d 1376, 1379, 129 USPQ2d 1160, 1162 (Fed. Cir. 2019) (quoting *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1406, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997)).

Although not all *du Pont* factors may be relevant, there are generally two key considerations in any likelihood of confusion analysis: (1) the similarities between the compared marks and (2) the relatedness of the compared goods and/or services. *See In re i.am.symbolic, llc*, 866 F.3d at 1322, 123 USPQ2d at 1747 (quoting *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002)); *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976) ("The fundamental inquiry mandated by [Section] 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods [or services] and differences in the marks."); TMEP §1207.01.

Similarity of the Marks

Applicant's mark is IDENTIFYN.

Registrant's mark is IDENTIFY.

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). “Similarity in any one of these elements may be sufficient to find the marks confusingly similar.” *In re Inn at St. John’s, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014)), *aff’d per curiam*, 777 F. App’x 516, 2019 BL 343921 (Fed. Cir. 2019); TMEP §1207.01(b).

In the present case, the marks are identical in part because they contain the identical term "IDENTIFY". Applicant's mark simply adds the letter "N" at the end.

Incorporating the entirety of one mark within another does not obviate the similarity between the compared marks, as in the present case, nor does it overcome a likelihood of confusion under Section 2(d). *See Wella Corp. v. Cal. Concept Corp.*, 558 F.2d 1019, 1022, 194 USPQ 419, 422 (C.C.P.A. 1977) (holding CALIFORNIA CONCEPT and surfer design and CONCEPT confusingly similar); *Coca-Cola Bottling Co. v. Jos. E. Seagram & Sons, Inc.*, 526 F.2d 556, 557, 188 USPQ 105, 106 (C.C.P.A. 1975) (holding BENGAL LANCER and design and BENGAL confusingly similar); *Double Coin Holdings, Ltd. v. Tru Dev.*, 2019 USPQ2d 377409, at *6-7 (TTAB 2019) (holding ROAD WARRIOR and WARRIOR (stylized) confusingly similar); *In re Mr. Recipe, LLC*, 118 USPQ2d 1084, 1090 (TTAB 2016) (holding JAWS DEVOUR YOUR HUNGER and JAWS confusingly similar); TMEP §1207.01(b)(iii). Here, the entirety of registrant's mark, IDENTIFY, is incorporated in applicant's mark, IDENTIFYN.

Thus, because the marks are identical in part and create the same commercial impression, the marks are considered similar for likelihood of confusion purposes.

Relatedness of the Goods and/or Services

Applicant's services are identified as "Reagents and kits comprised of reagents for life science research use, biological specimen collection, drug development, diagnostic services, and predictive medicine to predict treatment efficacy and patient outcomes, and biological product development; reagents for clinical or medical laboratory use" in Class 001, and "Microscopy imaging services in the fields of microbiology, life sciences research, drug development, diagnostic services, predictive medicine to predict treatment efficacy and patient outcomes, and biological product development, namely, imaging services for use in the study and analysis of biological tissue samples, biopsy samples, tissue cultures, cell cultures, antibodies, antigens, and internal cellular components" in Class 042.

Registrant's services are identified as "Genetic testing for medical purposes; Medical testing of urine, blood, hair follicles and breath".

The goods and/or services are compared to determine whether they are similar, commercially related, or travel in the same trade channels. *See Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-71, 101 USPQ2d 1713, 1722-23 (Fed. Cir. 2012); *Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165, 64 USPQ2d 1375, 1381 (Fed. Cir. 2002); TMEP §§1207.01, 1207.01(a)(vi).

The compared goods and/or services need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000); TMEP §1207.01(a)(i). They need only be "related in some manner and/or if the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source." *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i); *see Made in Nature, LLC v. Pharmavite LLC*, 2022 USPQ2d 557, at *44 (TTAB 2022) (quoting *In re Jump Designs LLC*, 80 USPQ2d 1370, 1374 (TTAB 2006)).

The attached Internet evidence from ***toxicology.abott***, ***bio-techne.com***, and ***labcorp.com*** establishes that the same entity commonly manufactures, produces, or provides and markets applicant's goods and services, "Reagents and kits comprised of reagents for life science research use, biological specimen collection, drug development, diagnostic services, and predictive medicine to predict treatment efficacy and patient outcomes, and biological product development; reagents for clinical or medical laboratory use" and "Microscopy imaging services in the fields of microbiology, life sciences research, drug development, diagnostic services, predictive medicine to predict treatment efficacy and patient outcomes, and biological product development, namely, imaging services for use in the study and analysis of biological tissue samples, biopsy samples, tissue cultures, cell cultures, antibodies, antigens, and internal cellular components", and registrant's services, "Medical testing of urine, blood, hair follicles and breath", under the same mark. Thus, applicant's and registrant's goods and/or services are considered related for likelihood of confusion purposes. *See, e.g.*, *In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-04 (TTAB 2009); *In re Toshiba Med. Sys. Corp.*, 91 USPQ2d 1266, 1268-69, 1271-72 (TTAB 2009).

Accordingly, the goods and/or services are considered related for purposes of the likelihood of confusion analysis.

Conclusion

Therefore, because the marks are identical in part and the goods and/or services are related, there is a likelihood of confusion as to the source of applicant's goods and/or services, and registration is refused pursuant to Section 2(d) of the Trademark Act.

Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration. However, if applicant responds to the refusal(s), applicant must also respond to the requirement(s) set forth below.

Identification of Goods and Services – Amendment Required

Applicant must clarify the wording "Reagents and kits comprised of reagents for life science research use, biological specimen collection, drug development, diagnostic services, and predictive medicine to predict treatment efficacy and patient outcomes, and biological product development; reagents for clinical or medical laboratory use", and "Microscopy imaging services in the fields of microbiology, life sciences research, drug development, diagnostic services, predictive medicine to predict treatment efficacy and patient outcomes, and biological product development, namely, imaging services for use in the study and analysis of biological tissue samples, biopsy samples, tissue cultures, cell cultures, antibodies, antigens, and internal cellular components",in the identification of goods and/or services in

International Class(es) 001 and 042 because it is indefinite and too broad. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03. This wording is indefinite because it does not make clear the nature of the goods and services. Further, this wording could identify goods and/or services in more than one international class. For example, diagnostic reagents for clinical or medical laboratory use are in International Class 005 and Diagnostic reagents, other than for medical or veterinary purposes are in International Class 001.

Applicant may substitute the following wording, if accurate (changes in **bold**):

- International Class 001: Reagents **for medical and life sciences research**; kits comprised of reagents for life science research use **and for** biological specimen collection for the collection of **tissue in laboratory use**

- **International Class 005: Diagnostic** reagents for clinical or medical laboratory use

- International Class 042: **Non-medical** microscopy imaging services **in the nature of** providing microbiology research and life sciences research, drug development **research**, predictive medicine **research** to predict treatment efficacy and patient outcomes**; Non-medical microscopy** imaging services for use in the study and analysis of biological tissue samples, biopsy samples, tissue cultures, cell cultures, antibodies, antigens, and internal cellular components; **Pharmaceutical** drug development **services; development of** predictive medicine to predict treatment efficacy and patient outcomes; biological product development; diagnostic services **in the field of disease diagnoses for non-medical, research purposes**

Applicant may amend the identification to clarify or limit the goods and/or services, but not to broaden or expand the goods and/or services beyond those in the original application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06. Generally, any deleted goods and/or services may not later be reinserted. *See* TMEP §1402.07(e).

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO's online searchable *U.S. Acceptable Identification of Goods and Services Manual*. *See* TMEP §1402.04.

Multiple Class Application Requirements for a Section 1(b) Application

The application identifies goods and/or services in more than one international class; therefore, applicant must satisfy all the requirements below for each international class based on Trademark Act Section 1(b):

(1) **List the goods and/or services by their international class number** in consecutive numerical order, starting with the lowest numbered class.

(2) **Submit a filing fee for each international class** not covered by the fee(s) already paid (view the USPTO's current fee schedule). The application identifies goods and/or services that are classified in at least three classes; however, applicant submitted a fee(s) sufficient for only two class(es). Applicant must either submit the filing fees for the classes not covered by the submitted fees or restrict the application to the number of classes covered by the fees already paid.

See 37 C.F.R. §2.86(a); TMEP §§1403.01, 1403.02(c).

For an overview of the requirements for a Section 1(b) multiple-class application and how to satisfy the requirements online using the Trademark Electronic Application System (TEAS) form, see the Multiple-class Application webpage.

Response guidelines. For this application to proceed, applicant must explicitly address each refusal and/or requirement in this Office action. For a refusal, applicant may provide written arguments and evidence against the refusal, and may have other response options if specified above. For a requirement, applicant should set forth the changes or statements. Please see the Responding to Office Actions webpage for more information and tips on responding.

Please call or email the assigned trademark examining attorney with questions about this Office action. Although an examining attorney cannot provide legal advice, the examining attorney can provide additional explanation about the refusal(s) and/or requirement(s) in this Office action. *See* TMEP §§705.02, 709.06.

The USPTO does not accept emails as responses to Office actions; however, emails can be used for informal communications and are included in the application record. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

How to respond. File a **response form to this nonfinal Office action** or file a **request form for an extension of time to file a response**.

/Akin Adejunmobi/
Akin Adejunmobi
Examining Attorney
LO105--LAW OFFICE 105
(571) 270-0817
Akin.Adejunmobi@uspto.gov

RESPONSE GUIDANCE

- **Missing the deadline for responding to this letter will cause the application to abandon.** A response or extension request must be received by the USPTO before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Trademark Electronic Application System (TEAS) system availability could affect an applicant's ability to timely respond. For help resolving technical issues with TEAS, email TEAS@uspto.gov.

- **Responses signed by an unauthorized party** are not accepted and can **cause the application to abandon.** If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with legal authority to bind a juristic applicant. If applicant has an attorney, the response must be signed by the attorney.

- If needed, **find contact information for the supervisor** of the office or unit listed in the signature block.

5935648

Identify

Word Mark	IDENTIFY
Goods/Services	IC 044 US 100 101 Genetic testing for medical purposes; Medical testing of urine, blood, hair follicles and breath.
Register	PRINCIPAL
Serial Number	88306855
Filing Date	2019-02-19T00:00:00
Original Filing Basis	1a
Current Filing Basis	1a
Publication Date	2019-10-01
Registration Number	5935648
Date Registered	2019-12-17
Owner	(REGISTRANT) LabSolutions LLC (LIMITED LIABILITY COMPANY; GEORGIA, USA); 1451 Northside Dr NW, Atlanta, GEORGIA 30318, UNITED STATES
Type of Mark	SERVICE MARK
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Live Dead Indicator	LIVE
Status	REGISTERED

Print: February 12, 2024 9:54 AM

REAGENTS

The Abbott reagent portfolio allows easy screening for relevant substances. Our complete line of assays, calibrators and controls enables implementation of an efficient drug testing system.

Prescription drug misuse and illicit drug abuse are growing public health challenges worldwide. Building a test profile that covers highly misused drugs has never been so vital. The Abbott reagent portfolio allows easy screening for relevant substances. Our complete line of assays, calibrators, and controls enables implementation of an efficient drug testing system.

We offer the following reagent formats for multiple matrices: HEIA™, SEFRIA™ and ELISA.

SEFRIA™ AND HEIA™ REAGENTS ELISA REAGENTS

SEFRIA™ AND HEIA™ REAGENTS

Our comprehensive reagent menu includes illicit compounds, opiates, opioids, synthetic cannabinoids and other drugs.

HEIA (homogeneous enzyme immunoassay) reagents are intended for the qualitative or semi-quantitative screening of drugs in human urine and oral fluid. HEIA formats are designed to be rapid and inexpensive, since the assays require no incubation or separation steps, and the reactions occur entirely in solution.

SEFRIA™ REAGENTS

The next generation immunoassay utilizing β-galactosidase enzyme.

LEARN MORE

HEIA™ REAGENTS

Intended for the qualitative or semi-quantitative screening of drugs.

LEARN MORE

ELISA REAGENTS

Enzyme Linked Immunosorbent Assay (ELISA) screening techniques are widely utilized by toxicologists to screen forensic specimens for drugs of abuse. These immunoassays are extremely flexible and have adequate sensitivity to go down to the drug levels found in most forensic matrices.

ELISA REAGENTS

Quality products with the accuracy, reliability and confidence you expect.

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CONTACT US

Leverage our comprehensive portfolio of solutions to provide the critical results you need. Contact us to discuss your organization's drug and alcohol testing needs today.

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A LEADER IN TOXICOLOGY

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Alere Toxicology is now Abbott Toxicology

YOUR PRIVACY CHOICES

URINE DRUGS OF ABUSE LABORATORY TESTING

Our objective is to help clients detect and prevent drug and alcohol abuse by providing convenient, reliable and accurate urine tests.

BENEFITS

Our professional laboratory staff performs screening and confirmation with state-of-the-art technology and equipment. After initial screening for presumptive positives, quantitative/qualitative confirmation can be performed by gas chromatography-flame ionization detector, gas chromatography-mass spectrometry, or liquid chromatography-tandem mass spectrometry.

- Urine screening and confirmation with fast, accurate results
- Wide range of drug test panels available
- Lab analysis provides confirmative evidence of use and defensible results

- Fast turnaround time from receipt of specimen
- Toll-free customer support services with access to licensed toxicologists

Numerous report options available, including web-based test management solution for all clients

TEST TYPES

ROUTINE TESTING

Abbott utilizes some of the most sophisticated, sensitive and specific equipment and technology available to screen, confirm and quantitate drugs of abuse in urine. Our methodologies provide highly accurate, legally defensible results. As with all of our testing options, full customer support is provided.

- STANDARD DRUG TESTS +

SYNTHETIC/ESOTERIC TESTING

We also offer a wide range of specialized tests including: comprehensive drug testing, designer stimulants (bath salts), ethyl glucuronide/ethyl sulfate (EtG/EtS), fentanyl, gabapentin, γ-hydroxybutyric acid (GHB), kratom, steroid/sports drugs, synthetic cannabinoids, tramadol, and heroin/6-MAM.

- DESIGNER STIMULANT TESTING +
- SYNTHETIC CANNABINOIDS URINE TESTING +
- COMPREHENSIVE DRUG TESTING +
- ETG/ETS ALCOHOL METABOLITE TESTING +
- FENTANYL DRUG TESTING +
- GHB TESTING +

KRATOM DRUG TESTING +

STEROID/SPORTS DRUG TESTING +

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Abbott - A Global Leader in Toxicology.

PEI STAR™ transfection reagent

Catalog # **7854** | Tocris Bioscience a Bio-Techne Brand

TOCRIS

COA / SDS

Polyethylenimine (PEI) transfection reagent, chemically-defined

(4)

Catalog #	Availability	Size / Price	Qty
7854/100	In Stock - Arrives in 1 - 2 Business Days	100 mg / $124.00	0
7854/1G	In Stock - Arrives in 1 - 2 Business Days	1 g / $674.00	0

Print Quote | Bulk Order | Add To Cart

Order Information

Bio-Techne Corporation
tel: (800) 343-7475 (free phone)
tel: (612) 379-2956
Contact Us »

Shipping Information
$35 to United States

View Distributors

Key Product Details

Description: Polyethylenimine (PEI) transfection reagent, chemically-defined

Chemical Name: Poly[imino(1,2-ethanediyl)] hydrochloride

View Full Technical Details for PEI STAR™ transfection reagent

Technical Data

Biological Activity for PEI STAR™ transfection reagent

PEI STAR™ is a chemically-defined, high-performance polyethylenimine (PEI) transfection reagent for cost-effective, affordable and scalable transient gene expression. PEI is a synthetic polymer with an exceptionally high positive charge density in pH-neutral solutions. Positively charged PEI binds strongly to negatively charged DNA and imparts a net cationic charge, allowing the DNA to enter cells. PEI is a non-viral vector commonly used to transfect HEK293 and CHO cells. Applications include production of recombinant proteins, antibodies and viruses.

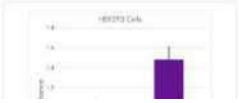
PEI STAR is a trademark of Bio-Techne Corp.

Protocols

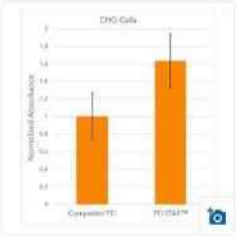
Please see the links below for protocols relating to the use of PEI STAR™

Protocol Name	Cell Type
PEI STAR™ Transfection Reagent preparation	
Gene Expression in Adherent HEK293 cells	Adherent
rAAV Production in Adherent HEK293 Cells	Adherent
Lentivirus Production in Adherent HEK293T Cells	Adherent
Gene Expression in HEK293 Cell Suspensions	Suspension
rAAV Production in Suspension HEK293 Cells	Suspension
Gene Expression in CHO Suspensions	Suspension

Scientific Data Examples for PEI STAR™ transfection reagent



Application of PEI STAR™ transfection reagent. PEI STAR™ performance data comparison (HEK293): HEK 293 - 20 mL cultures containing HEK293 suspensions were transfected with a CMV-SEAP plasmid at optimized PEI/DNA ratios using either PEI STAR™ (3:1) or leading competitor PEI. SEAP expression levels were quantified 5 days post-transfection using phosphatase reporter dye and UV/Vis absorbance.



Application of PEI STAR™ transfection reagent. PEI STAR™ performance data comparison (CHO): CHO - 20 mL cultures containing CHO suspensions were transfected with a CMV-SEAP plasmid at optimized PEI/DNA ratios using either PEI STAR™ (5:1) or leading competitor PEI. SEAP expression levels were quantified 5 days post-transfection using phosphatase reporter dye and UV/Vis absorbance.

Transfection of a reporter GFP construct using a leading competitor PEI and PEI STAR™. HEK293 cells grown in DMEM/10% FBS to 75% confluency in a 24 well plate. 1 µg of DNA + 25 µL optimem and 2 µg of PEI (1 mg/mL) + 25 µL optimem were incubated for 8 minutes before addition to cells. PEI STAR™ showed significantly higher expression of GFP in imaged cells.

Technical Data for PEI STAR™ transfection reagent

Storage	Store at RT
CAS Number	49553-93-7

The technical data provided above is for guidance only. For batch specific data refer to the Certificate of Analysis.

Dilution Calculator

Calculate the dilution required to prepare a stock solution.

Concentration 1 (C1)		Volume 1 (V1)		Concentration 2 (C2)		Volume 2 (V2)	
conc.	mM	volume	mL	conc.	mM	volume	mL

Calculate

Reconstitution Calculator

The reconstitution calculator allows you to quickly calculate the volume of a reagent to reconstitute your vial. Simply enter the mass of reagent and the target concentration and the calculator will determine the rest.

Volume (to add to vial)		Mass (in vial)		Desired Reconstitution Concentration	
volume	µl	mass	ug	conc.	µg/ml

Calculate

References for PEI STAR™ transfection reagent

References are publications that support the biological activity of the product.

- **Trivedi** Comparison of highly pure rAAV9 vector stocks produced in suspension by PEI transfection or HSV infection reveals striking quantitative and qualitative differences. Mol.Ther.Methods Clin.Dev. 2021 PMID: 35071688
- **Han** Aberrant role of pyruvate kinase M2 in the regulation of gamma-secretase and memory deficits in Alzheimer's disease. Cell Rep. 2021 PMID: 34879266
- **Longo** Transient mammalian cell transfection with polyethylenimine (PEI). Methods Enzymol. 2013 PMID: 24011049
- **Huang** AAV2 production with optimized N/P ratio and PEI-mediated transfection results in low toxicity and high titer for *in vitro* and *in vivo* applications. J.Virol.Methods 2013 PMID: 23791963
- **Boussif** A versatile vector for gene and oligonucleotide transfer into cells in culture and *in vivo*: polyethylenimine. Proc.Natl.Acad.Sci.U.S.A 1995 PMID: 7638184

Product Documents for PEI STAR™ transfection reagent

COA

Certificate of Analysis

To download a Certificate of Analysis, please select a batch below.

Select Your Batch | View Batch

SDS

Bio-Techne Brands

Which Brands are Currently Available on bio-techne.com? R&D Systems, Novus Biologicals, Tocris Bioscience and ProteinSimple branded products are available to purchase through bio-techne.com. ProteinSimple branded instruments are available to quote. ACD branded products will be available on bio-techne.com in the near future.

R&D SYSTEMS
Setting the standard in quality research reagents for over 30 years

NOVUS BIOLOGICALS
A trusted leader in quality life science reagents

TOCRIS
Your trusted supplier for innovative and high performance life science reagents

ProteinSimple
Proprietary systems and consumables for simpler, more quantitative and affordable protein analysis

ACD
Proprietary RNAscope® technology capable of detecting and quantifying RNA biomarkers in situ at single molecule sensitivity

exosomedx
A world leader in developing liquid biopsy based diagnostics

bio-techne

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Toll-free 800 343 7475
FAX 612 656 4400

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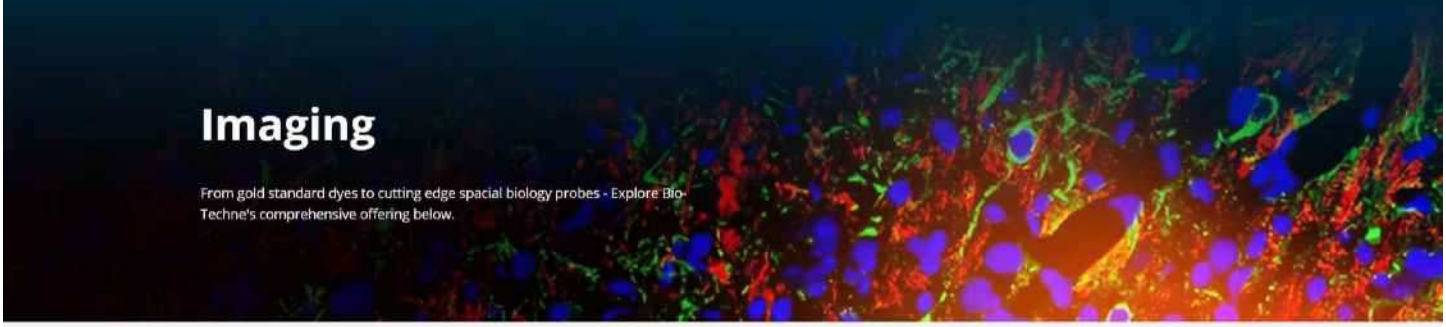
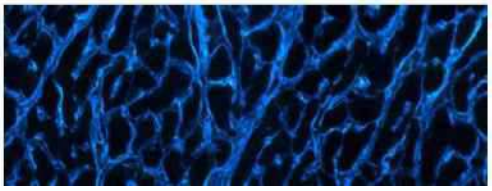


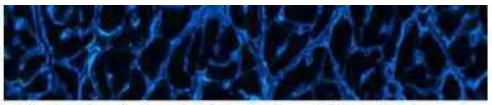
Imaging

From gold standard dyes to cutting edge spacial biology probes - Explore Bio-Techne's comprehensive offering below.

Imaging

Bio-Techne offers a comprehensive range of antibodies, fluorescent probes, dyes, and more to facilitate the visualization of sub-cellular components in both live and fixed cells as well as organoids. Search for your product type or target in the search bar above or browse imaging methods and product types below. Can't find what you're looking for, please contact us and we'll be happy to help.





Application of Janelia Fluor® 549 Dye (Cat. No. 6147) in Cardiac Tissue.

Imaging Applications

Select your application below and explore the associated product ranges and workflow solutions

Immunocytochemistry (ICC) - coming soon	Immunohistochemistry (IHC)	RNAscope™ ISH Technology	Super-Resolution Microscopy

Imaging Products and Services

Antibodies

Primary Antibodies	Secondary Antibodies	Recombinant Monoclonal Antibodies	Knockout Validated Antibodies
Conjugated Primary Antibodies	Epitope Tag Antibodies	Isotype Control Antibodies	Biosimilar Antibodies
Anti-idiotype Antibodies			

Dyes & Probes

Fluorescent Dyes	Fluorescent Probes	Janelia Fluor® Dyes	Labels and Stains
Near Infrared (NIR) Fluorescent Dyes	Photoactivatable Dyes		

Slides and Microarrays (found at Novus.com, coming soon to Bio-Techne.com)

IHC Tissue Slides	IHC Microarrays

Imaging Reagents

Antifade Reagents	Aptamer-based RNA Imaging	Bioluminescent Substrates	Tissue Clearing Reagents
TR-FRET and FP Assay Reagents	Tyramide Signal Amplification (TSA) Reagents & Kits		

Imaging Kits

Antibody Labeling Kits	Flow Cytometry Kits	Organoid Tissue Clearing Kit	Tissue Clearing Kit

Imaging Services

Custom Antibody Services	Custom LlaMABody™ Services	Professional Assay Services (found at acdbio.com)

Related Products and Services

Simple Western

Western Blotting

ELISA Kits

Flow Cytometry

Immunoassay Workflow Solutions

Simple Western Database

Imaging Tools & Resources

Spectra Viewer

Spectra Viewer »

Flow Cytometry Panel Builder

Flow panel Cytometry Builder

Protocols

Protocols »

Brochures & Scientific Articles

- Fluorescent Dyes and Probes Product Listing
- Flow Cytometry eHandbook
- Immunohistochemistry (IHC) Handbook
- Spatial RNA Profiling in the Nervous System with the RNAscope™ Technology

View all literature - and filter by interest.

Imaging Protocols

Visit Tocris.com for imaging related protocols

- Protocols for Cell Counting Kit-8
- Protocols for Fluorescent Dye Conjugation
- Protocols for MitoBrilliant™ Probes

- Protocols for Phalloidin Dyes
- Protocols for Janelia Fluor® Dyes
- Protocols for TSA Vivid Fluorophore Kits

Bio-Techne Brands

Which Brands are Currently Available on bio-techne.com? R&D Systems, Novus Biologicals, Tocris Bioscience and ProteinSimple branded products are available to purchase through bio-techne.com. ProteinSimple branded instruments are available to quote. ACD branded products will be available on bio-techne.com in the near future.

R&D SYSTEMS
Setting the standard in quality research reagents for over 30 years

NOVUS BIOLOGICALS
A trusted leader in quality life science reagents

TOCRIS
Your trusted supplier for innovative and high performance life science reagents

ProteinSimple
Proprietary systems and consumables for simpler, more quantitative and affordable protein analysis

ACD
Proprietary RNAscope® technology capable of detecting and quantifying RNA biomarkers in situ at single molecule sensitivity

exosomed
A world leader in developing liquid biopsy based diagnostics

bio-techne®

614 McKinley Place NE
Minneapolis, MN 55413
USA

TEL 612 379 2956
Toll-free 800 343 7475
FAX 612 656 4400

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Custom Antibody Reagents

Gain cost and time savings, developmental efficiencies and flexibility with our integrated critical reagent solution backed by over 45 years' of experience.

Request Quote

- Integrated critical reagent solution
- High-quality reagents with reproducible performance
- Deep and multidisciplinary expertise

Antibody Reagent Capabilities

Tool Reagents →

Critical Reagents (ADA, Anti-Id, Anti-HCP) →

Reagent Portfolio Management →

Monoclonal Antibody Production →

Polyclonal Antibody Services →

Scientific Spotlights →

You need quality antibody reagents in consistent supply to avoid delays and optimize your workflow when developing your biotherapeutic. In some cases, an expensive "off-the-shelf" antibody isn't available or your sources aren't reliable. Trust in custom-made antibodies by Labcorp to eliminate lot-to-lot variation and produce better results than generic, catalog antibodies. Our custom, integrated solution backed by leading experts is tailored to your goals and the intended use of the antibody, resulting in high-quality reagents with reproducible performance.

Integrated critical reagent solution

We offer a variety of services for a broad range of antibody reagents against a variety of antigen host species. As a single global entity, we integrate the generation, characterization, storage and distribution of your antibody critical reagents to support your nonregulated and regulated nonclinical data for discovery and safety assessment. Plus, because we offer a comprehensive drug development portfolio in addition to antibody reagent solutions, you can partner with us throughout your development journey.

High-quality reagents with reproducible performance when you need them

Our comprehensive toolbox of bioanalytical methods, including our purpose-built facilities, allows us to customize our approach to your project resulting in high-quality, reproducible, sustainable reagents throughout the development life cycle. Rely on a joined-up inventory management system, built-in risk mitigation strategies and innovation technology platforms such as Gyros™, MSD, ELISA, AB Sciex, Hamilton Star® and Bio-Plex® to deliver efficient results.

Deep and multidisciplinary expertise

Our bioanalytical experts from discovery, nonclinical and clinical will help you anticipate regulatory challenges and offer strategic solutions to guide and enable you to make informed decisions faster. Our committed staff has decades of experience supporting large and small molecule development and work in an integrated manner to proactively communicate and plan your projects.

Request a Quote

ENHANCING VACCINES AND ANTIBODY RESEARCH

Lab expansions to match your growing needs

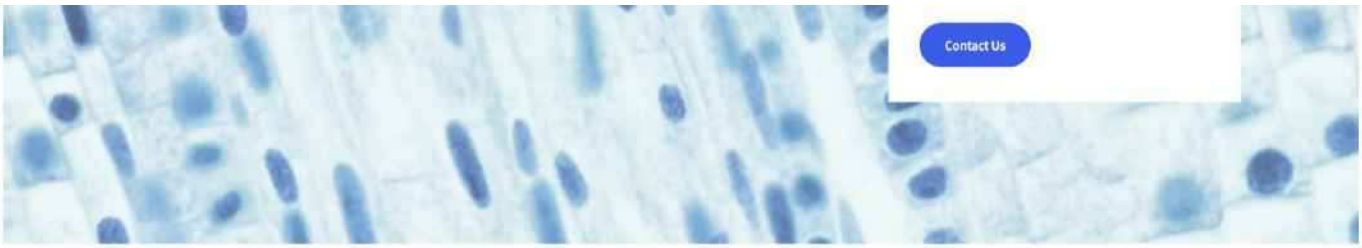
Equipped with state-of-the-art technology, our new sample analysis lab space in Denver, Pa., provides one-stop service for *in vivo* testing and *in vitro* analysis so you can receive faster results for your vaccine and antibody research and development.

Read the blog

Antibody Reagent Capabilities From the Online Catalog

Antibody labeling/conjugation services
Antibody purification services
Anti-hcp antibody generation services
Immune response monitoring/screening
Immunogenicity testing (cut-point determination)
Immunogenicity testing (clinical)
Monoclonal antibody (Mab) scale-up services
Neutralizing antibody (nAb) development
Octet analysis services for pairing and affinity ranking
T cell dependent antibody response assay
Antibody pairs (for assay development)
Immunogenicity assay: Anti-drug antibody
Hybridoma development
Immunization schedule development
Immunogenicity testing (nonclinical)
Monoclonal antibody (mAb) development
Monoclonal antibody development
Non-GLP sample analysis (ELISA)
PandA (PEG and acid) assay

View All



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labcorp

Labcorp is a leading global life sciences company that includes contract research and developmental services to the pharmaceutical, medical technology, crop protection and chemical industries.

Quick Links

- Nonclinical R&D
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Image Analysis

Contact Us

We do not deliver just images and numbers—we also offer scientific solutions using imaging to address a customer's business needs. We feel the development of an image analysis protocol is thus equally important as development of an imaging method; as it dictates the data deliverables for customers. With smart design, an image analysis protocol allows us to fully exploit the capability of the imaging system and in turn, our customers receive more meaningful information from their study to help them make informed decisions. To that end, we have invested in the development of the following in-house tools to increase automation of image analysis.

Our Tumor Image Analysis Applications include:

DISCOVERY SECTION

Non-GLP Safety

Disease Models

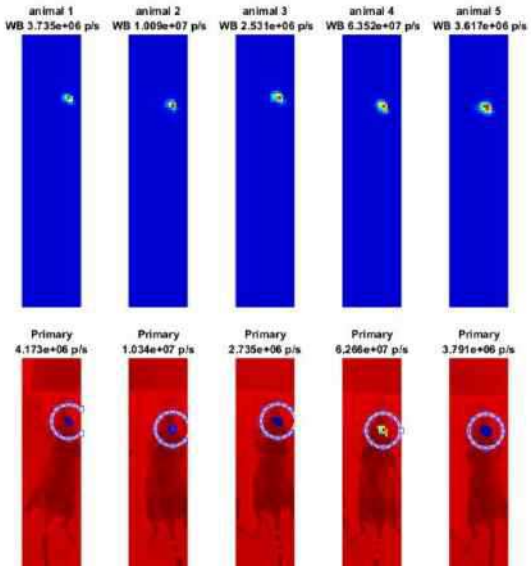
PK/TK

BLIZZARD™ for BLI Analysis

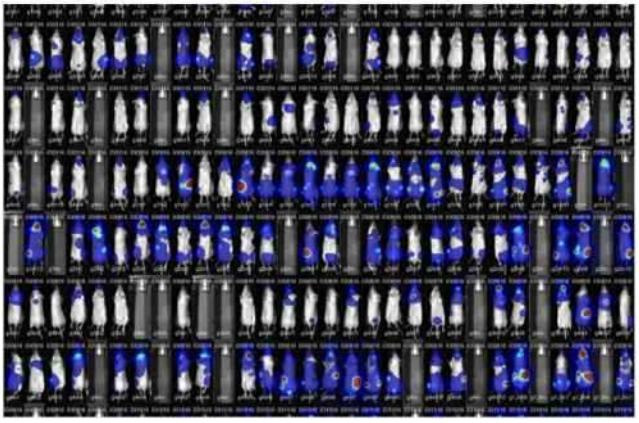
Fully Automatic, High-throughput Signal Analyzer with Multiple Disease Model Support

Automation of image analysis does not just boost our throughput; it substantially increases the accuracy of analysis since human bias is eliminated. Both are showcased in our fully automated BLI data analysis using our BLIZZARD™ tool. Users only need to specify a folder containing raw data to be analyzed, and BLIZZARD™ automatically identifies and analyzes it, performs whole-body signal and/or localized signal based on the tumor model, then writes results with subject information into an Excel data sheet. Analysis of hundreds of subjects only takes a few minutes. No manual creation of region of interest (ROI) over signal is needed, greatly reducing analysis time. The human side of BLIZZARD™ offers a result inspection view for quality assurance, and a representative image feature enabling a user to quickly export results across different time-points in a study on a global scale for review and comparison purposes. Since its release, BLIZZARD™ has made our already successful BLI imaging service even more compelling.

Fully Automated BLI Flux Analysis of Whole-body and Primary Tumor Using Blizzard™



Fully Automated BLI Flux Analysis of Whole-body and Primary Tumor Using Blizzard™



Representative Image Exporting View in BLIZZARD™

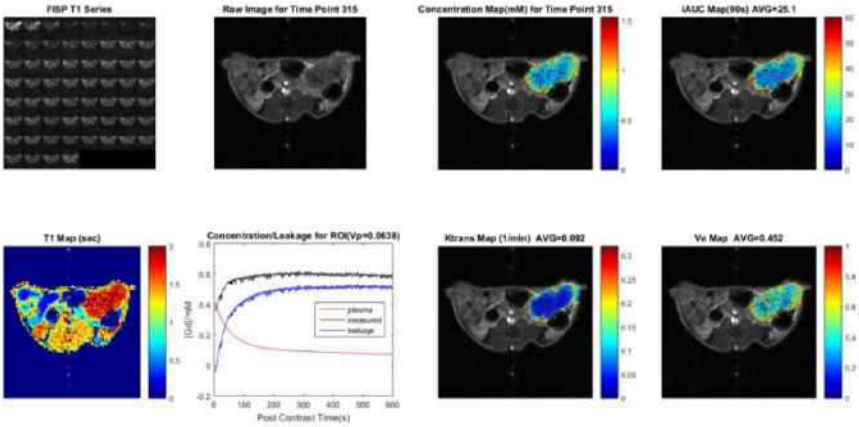
REDCAT™ for DCE MRI Analysis

Fully Automatic Tofts Model solver with Pre-contrast T1 Map Support

A fully quantitative dynamically contrast enhanced (DCE) MRI analysis procedure requires fitting a pre-contrast T1 map, converting signal intensity into actual tissue concentration of contrast agent, and finally, solving a pharmacokinetic model. It generates a series of results including T1, contrast concentration, initial area under curve (iAUC), volume transfer constant (Ktrans), fractional extracellular extravascular space volume (Ve) and fractional plasma volume (Vp). These procedures and outputs have been long established in clinical studies. Our in-house developed REDCAT™ tool is capable of performing such an analysis with just a few mouse clicks, and offers the results in both ROI-based numerical values and pixel-based parametric maps. REDCAT™ does not just simplify our

analysis; it extracts more accurate and clinically-relevant information from a classical MRI method used extensively in oncology imaging.

Tumor Permeability Analysis using REDCAT™ for DCE MRI Analysis

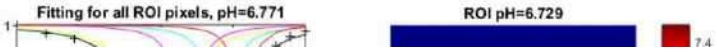


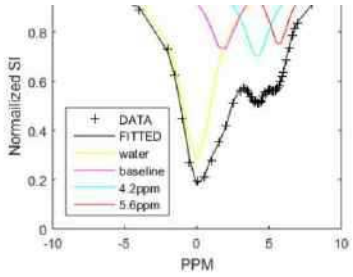
OASIS™ for CEST MRI Analysis

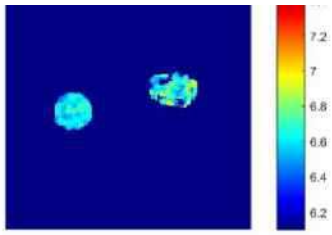
Fully Automatic Z-spectrum Analyzer Covering CEST-based pH Measurement and Asymmetrical Magnetization Transfer Ratio

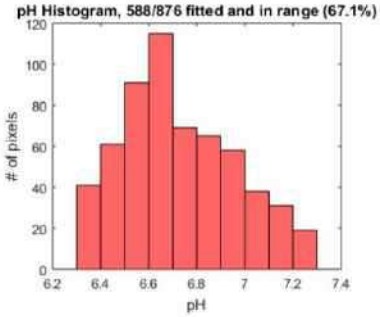
Another handy tool we've developed, called OASIS™, increases efficiency of our imaging development process and enables us to focus on imaging sequence design and agent application. For example, when we apply our new tissue pH measurement method using Chemical Exchange Saturation Transfer (CEST) MRI, our OASIS™ tool runs in parallel with the scanner, so that the effect of a parameter change can be evaluated in real-time. *In vivo* measurement of tissue pH using CEST MRI is very sensitive to tissue uptake of contrast agent and response to radio frequency pulses. OASIS™ does not just report pH values; it also visualizes more perspectives of the data collected, thus offering us more insights into the complex interrelation among imaging sequence, contrast agent, and tissue physiology. Use of this tool is instrumental in our effort to maximize the capability of a novel imaging approach.

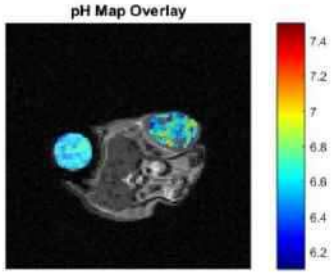
Tumor pH Measurement using OASIS™ for CEST MRI Analysis







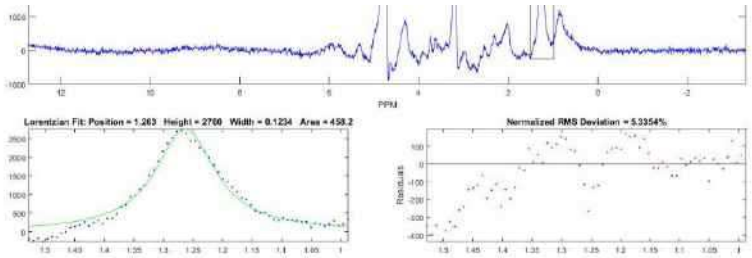


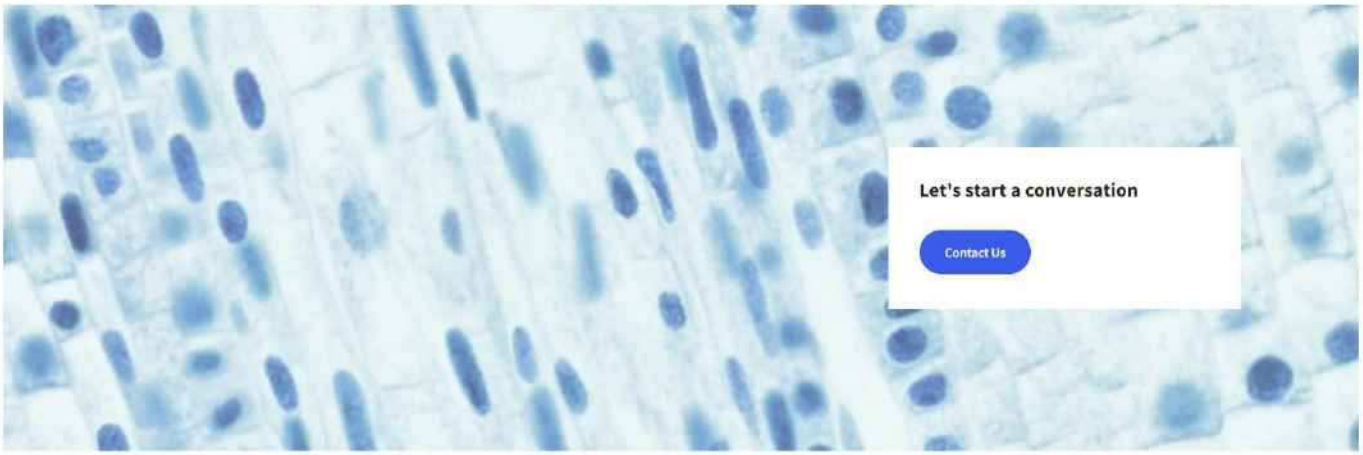


SIFT™ for MRS Analysis

Fast and Intuitive NMR Spectrum Quantification

Interactive Measurement of Brain Metabolites Using SIFT™ for MRS Analysis


PPM
Lorentzian Fit: Position = 1.263 Height = 2700 Width = 0.1234 Area = 458.2
Normalized RMS Deviation = 5.3354%
Residuals


Let's start a conversation
Contact Us

Labcorp is a leading global life sciences company that includes contract research and developmental services to the pharmaceutical, medical technology, crop protection and chemical industries.

Regulatory & Compliance

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Trial Participation

Locations

Investors

 | Terms and Conditions | Privacy Policy | Animal Welfare | Combating Modern Slavery & Human Trafficking Statement

HERE FOR EVERYONE

Women's health and genetic testing

We aspire to be the lab that supports women's needs wherever they are in their lives, whatever their health and personal situation, wherever they go for their testing and whomever they see.

For Patients

Advancing Health for All

Everyone has different healthcare needs throughout their life. One of the ways that you can be proactive about your health is by learning about testing and screening that can help you be as healthy as possible. With our decades of commitment to women's health, we are here for you.

Patient Services

For Providers

Advancing Women's Health

Whether supporting your patient's pregnancy, offering insights to help understand issues related to infertility or helping women live healthier lives, we provide an industry-leading portfolio of tests combined with the excellent support, services and ease-of-use you can rely on.

Provider Services

Welcome to Labcorp Women's Health and Genetics

The Ovia® apps: Health support for every stage
Daily health tracking and clinically backed guidance for the fertility, pregnancy and parenting journey.

Learn More »

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RPR false-positivity observed during the current SARS-CoV-2 pandemic.

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Genetic Counseling
Genetics is complicated. Navigating the world of genetics doesn't have to be.

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Home / Health Systems & Organizations / Employers / Workplace Drug Testing / Urine Lab Drug Testing
Urine Lab Drug Testing

Labcorp is an industry-leading provider of urine drug testing services.

Our Substance Abuse and Mental Health Services Administration (SAMHSA)-certified laboratories conduct urine drug analyses in accordance with Department of Health and Human Services and Department of Transportation **requirements**. Testing of nonregulated specimens is conducted using comparable stringent protocols.

Our strategically located laboratories offer a full range of testing services and provide prompt turnaround times nationwide. Uniform laboratory processes and a single computer platform provide standardized reporting regardless of testing location. We are also the first SAMHSA-certified laboratory system to offer a fully digital chain of custody form that simplifies and improves the testing experience start to finish.

Standard urine drug testing panels range from five to 10 drugs. Specimen validity testing is available to detect adulterants or specimen substitution resulting from a donor's attempts to mask drug use. Expanded profiles for medical professional monitoring are also available.

Testing Lab Locations

SAMHSA-Certified Laboratories

The Labcorp workplace toxicology testing laboratory network consists of the following SAMHSA-certified laboratories.

Laboratory Corporation of America Holdings
7207 N. Gessner Road
Houston, TX 77040
713-856-8288 / 800-800-2387

Laboratory Corporation of America Holdings
69 First Avenue
Raritan, NJ 08869
908-526-2400 / 800-437-4986

Laboratory Corporation of America Holdings
1904 TW Alexander Drive
Research Triangle Park, NC 27709
919-572-6900 / 800-833-3984

Laboratory Corporation of America Holdings
1120 Main Street
Southaven, MS 38671
866-827-8042 / 800-233-6339

Laboratory Corporation of America Holdings (dba MedTox Laboratories, Inc.)
402 W County Road D, St. Paul, MN 55112

651–636–7466 / 800–832–3244

The **Drugs of Abuse Reference Guide** provides common drugs of abuse that may be included in a urine drug screening panel. Labcorp encourages the use of an independent medical review officer (MRO) to review all non-negative test results. Information contained in the Drugs of Abuse Reference Guide is to be used as general guidelines only. Many variables may affect duration of detectability, such as drug metabolism and half-life, subject's physical condition, fluid balance and state of hydration, and route and frequency of ingestion.

To set up a urine drug testing program, **contact Labcorp sales**.

United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on February 15, 2024 for
U.S. Trademark Application Serial No. 97939807

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action to avoid your application abandoning. Follow the steps below.

(1) Read the Office action. This email is NOT the Office action.

(2) Respond to the Office action by the deadline using the Trademark Electronic Application System (TEAS). Your response, or extension request, must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Otherwise, your application will be abandoned. See the Office action itself regarding how to respond.

(3) Direct general questions about using USPTO electronic forms, the USPTO website, the application process, the status of your application, and whether there are outstanding deadlines to the Trademark Assistance Center (TAC).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

GENERAL GUIDANCE

- **Check the status of your application periodically** in the Trademark Status & Document Retrieval (TSDR) database to avoid missing critical deadlines.

- **Update your correspondence email address** to ensure you receive important USPTO notices about your application.

- **Beware of trademark-related scams**. Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. Verify the correspondence originated from us by using your serial number in our database, TSDR, to confirm that it appears under the "Documents" tab, or contact the Trademark Assistance Center.

- **Hiring a U.S.-licensed attorney.** If you do not have an attorney and are not required to

have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.

5935648

Identify

Word Mark	IDENTIFY
Goods/Services	IC 044 US 100 101 Genetic testing for medical purposes; Medical testing of urine, blood, hair follicles and breath.
Register	PRINCIPAL
Serial Number	88306855
Filing Date	2019-02-19T00:00:00
Original Filing Basis	1a
Current Filing Basis	1a
Publication Date	2019-10-01
Registration Number	5935648
Date Registered	2019-12-17
Owner	(REGISTRANT) LabSolutions LLC (LIMITED LIABILITY COMPANY; GEORGIA, USA); 1451 Northside Dr NW, Atlanta, GEORGIA 30318, UNITED STATES
Type of Mark	SERVICE MARK
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Live Dead Indicator	LIVE
Status	REGISTERED

Print: February 12, 2024 9:54 AM

REAGENTS

The Abbott reagent portfolio allows easy screening for relevant substances. Our complete line of assays, calibrators and controls enables implementation of an efficient drug testing system.

Prescription drug misuse and illicit drug abuse are growing public health challenges worldwide. Building a test profile that covers highly misused drugs has never been so vital. The Abbott reagent portfolio allows easy screening for relevant substances. Our complete line of assays, calibrators, and controls enables implementation of an efficient drug testing system.

We offer the following reagent formats for multiple matrices: HEIA™, SEFRIA™ and ELISA.

SEFRIA™ AND HEIA™ REAGENTS ELISA REAGENTS

SEFRIA™ AND HEIA™ REAGENTS

Our comprehensive reagent menu includes illicit compounds, opiates, opioids, synthetic cannabinoids and other drugs.

HEIA (homogeneous enzyme immunoassay) reagents are intended for the qualitative or semi-quantitative screening of drugs in human urine and oral fluid. HEIA formats are designed to be rapid and inexpensive, since the assays require no incubation or separation steps, and the reactions occur entirely in solution.

SEFRIA™ REAGENTS

The next generation immunoassay utilizing β-galactosidase enzyme.

LEARN MORE

HEIA™ REAGENTS

Intended for the qualitative or semi-quantitative screening of drugs.

LEARN MORE

ELISA REAGENTS

Enzyme Linked Immunosorbent Assay (ELISA) screening techniques are widely utilized by toxicologists to screen forensic specimens for drugs of abuse. These immunoassays are extremely flexible and have adequate sensitivity to go down to the drug levels found in most forensic matrices.

ELISA REAGENTS

Quality products with the accuracy, reliability and confidence you expect.

LEARN MORE

CONTACT US

Leverage our comprehensive portfolio of solutions to provide the critical results you need. Contact us to discuss your organization's drug and alcohol testing needs today.

CLICK HERE

URINE DRUGS OF ABUSE LABORATORY TESTING

Our objective is to help clients detect and prevent drug and alcohol abuse by providing convenient, reliable and accurate urine tests.

BENEFITS

Our professional laboratory staff performs screening and confirmation with state-of-the-art technology and equipment. After initial screening for presumptive positives, quantitative/qualitative confirmation can be performed by gas chromatography-flame ionization detector, gas chromatography-mass spectrometry, or liquid chromatography-tandem mass spectrometry.

- Urine screening and confirmation with fast, accurate results
- Wide range of drug test panels available
- Lab analysis provides confirmative evidence of use and defensible results
- Fast turnaround time from receipt of specimen
- Toll-free customer support services with access to licensed toxicologists

Numerous report options available, including web-based test management solution for all clients

TEST TYPES

ROUTINE TESTING

Abbott utilizes some of the most sophisticated, sensitive and specific equipment and technology available to screen, confirm and quantitate drugs of abuse in urine. Our methodologies provide highly accurate, legally defensible results. As with all of our testing options, full customer support is provided.

- STANDARD DRUG TESTS +

SYNTHETIC/ESOTERIC TESTING

We also offer a wide range of specialized tests including: comprehensive drug testing, designer stimulants (bath salts), ethyl glucuronide/ethyl sulfate (EtG/EtS), fentanyl, gabapentin, γ-hydroxybutyric acid (GHB), kratom, steroid/sports drugs, synthetic cannabinoids, tramadol, and heroin/6-MAM.

- DESIGNER STIMULANT TESTING +
- SYNTHETIC CANNABINOIDS URINE TESTING +
- COMPREHENSIVE DRUG TESTING +
- ETG/ETS ALCOHOL METABOLITE TESTING +
- FENTANYL DRUG TESTING +
- GHB TESTING +
- KRATOM DRUG TESTING +
- STEROID/SPORTS DRUG TESTING +

CONTACT US

Leverage our comprehensive portfolio of solutions to provide the critical results you need. Contact us to discuss your organization's drug and alcohol testing needs today.

CLICK HERE

PEI STAR™ transfection reagent

TOCRIS

COA / SDS

Catalog #	Availability	Size / Price	Qty

Print Quote | Bulk Order | Add To Cart

Order Information

Shipping Information

Key Product Details

Description	
Chemical Name	

Technical Data

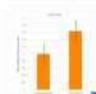
Biological Activity for PEI STAR™ transfection reagent

Protocols

Protocol Name	Cell Type
PEI STAR™ Transfection Reagent preparation	
	Adherent
	Adherent
	Adherent
	Suspension
	Suspension
	Suspension

Scientific Data Examples for PEI STAR™ transfection reagent

Application of PEI STAR™ transfection reagent.



Application of PEI STAR™ transfection reagent.

Transfection of a reporter GFP construct using a leading competitor PEI and PEI STAR™.

Technical Data for PEI STAR™ transfection reagent

Storage	
CAS Number	

Dilution Calculator

Concentration 1 (C1) | Volume 1 (V1) | Concentration 2 (C2) | Volume 2 (V2)

Calculate

Reconstitution Calculator

Volume (to add to vial) | Mass (in vial) | Desired Reconstitution Concentration

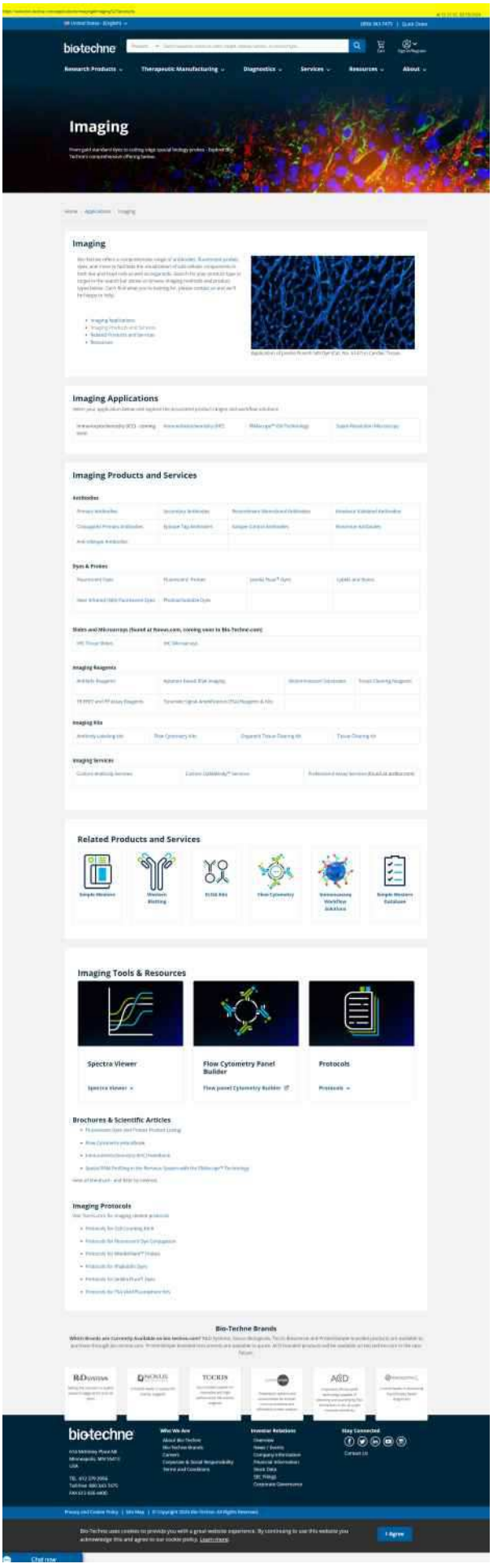
Calculate

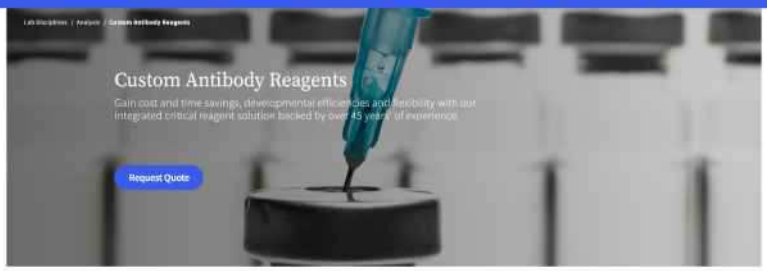
References for PEI STAR™ transfection reagent

Product Documents for PEI STAR™ transfection reagent

Certificate of Analysis

View Batch


bio-techne
Research Products
Therapeutic Manufacturing
Diagnostics
Services
Resources
About
Imaging
Imaging
Imaging Applications
Imaging Products and Services
Antibodies
Dyes & Probes
Imaging Reagents
Imaging Kits
Imaging Services
Related Products and Services
Imaging Tools & Resources
Spectra Viewer
Flow Cytometry Panel Builder
Protocols
Brochures & Scientific Articles
Imaging Protocols
Bio-Techne Brands
bio-techne
Who We Are
Investor Relations
Stay Connected
Chat now



- Integrated critical reagent solution
- High-quality reagents with reproducible performance
- Deep and multidisciplinary expertise

Antibody Reagent Capabilities

- Tool Reagents
- Critical Reagents (ADA, Anti-Id, Anti-HCP)
- Reagent Portfolio Management
- Monoclonal Antibody Production
- Polyclonal Antibody Services
- Scientific Spotlights

You need quality antibody reagents in consistent supply to avoid delays and optimize your workflow when developing your biotherapeutic. In some cases, an expensive "off-the-shelf" antibody isn't available or your sources aren't reliable. Trust in custom-made antibodies by Labcorp to eliminate lot-to-lot variation and produce better results than generic, catalog antibodies. Our custom, integrated solution backed by leading experts is tailored to your goals and the intended use of the antibody, resulting in high-quality reagents with reproducible performance.

Integrated critical reagent solution

We offer a variety of services for a broad range of antibody reagents against a variety of antigen host species. As a single global entity, we integrate the generation, characterization, storage and distribution of your antibody critical reagents to support your nonregulated and regulated nonclinical data for discovery and safety assessment. Plus, because we offer a comprehensive drug development portfolio in addition to antibody reagent solutions, you can partner with us throughout your development journey.

High-quality reagents with reproducible performance when you need them

Our comprehensive toolbox of bioanalytical methods, including our purpose-built facilities, allows us to customize our approach to your project resulting in high-quality, reproducible, sustainable reagents throughout the development life cycle. Rely on a proven up inventory management system, built-in risk mitigation strategies and innovation technology platforms such as Gyrolab™, MSD, ELISA, ABSciex, Hamilton Star® and Bio-Plex® to deliver efficient results.

Deep and multidisciplinary expertise

Our bioanalytical experts from discovery, nonclinical and clinical will help you anticipate regulatory challenges and offer strategic solutions to guide and enable you to make informed decisions faster. Our committed staff has decades of experience supporting large and small molecule development and work in an integrated manner to proactively communicate and plan your projects.

Request a Quote

ENHANCING VACCINES AND ANTIBODY RESEARCH

Lab expansions to match your growing needs

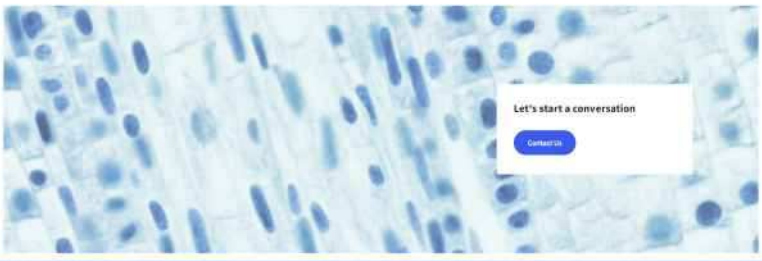
Equipped with state-of-the-art technology, our rare sample analysis lab space in Denver, Pa., provides one-stop service for in vitro testing and in vivo analysis so you can receive faster results for your vaccine and antibody research and development.

Read the blog

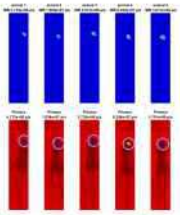
Antibody Reagent Capabilities From the Online Catalog

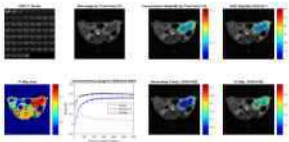
- Antibody labeling/conjugation services
- Antibody purification services
- Anti-Id/-Id antibody generation services
- Immune response monitoring (screening)
- Immunogenicity testing (cut point determination)
- Immunogenicity testing (clinical)
- Monoclonal antibody (Mab) scale-up services
- Neutralizing antibody (nAb) development
- Octet analysis services for kinetic and affinity ranking
- T cell dependent antibody response assay
- Antibody pairs for assay development
- Immunogenicity Assay, Anti-drug antibody
- In-process development
- Immunization schedule development
- Immunogenicity testing (nonclinical)
- Monoclonal antibody (mAb) development
- Monoclonal antibody development
- Non-GLP sample analysis (ELISA)
- Rapid (PEG and acid) assay

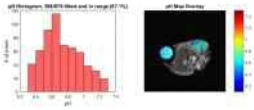
View All

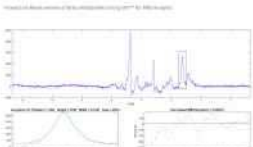


Our Tumor Image Analysis Applications include:









https://womenshealth.labcorp.com/ at 12:33:43, 02/15/2024

labcorp | Women's Health

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HERE FOR EVERYONE

Women's health and genetic testing

We aspire to be the lab that supports women's needs wherever they are in their lives, whatever their health and personal situation, wherever they go for their testing and whomever they see.

For Patients

Advancing Health for All

Everyone has different healthcare needs throughout their life. One of the ways that you can be proactive about your health is by learning about testing and screening that can help you be as healthy as possible. With our decades of commitment to women's health, we are here for you.

Patient Services

For Providers

Advancing Women's Health

Whether supporting your patient's pregnancy, offering insights to help understand issues related to infertility or helping women live healthier lives, we provide an industry-leading portfolio of tests combined with the excellent support, services and ease-of-use you can rely on.

Provider Services

Welcome to Labcorp Women's Health and Genetics

The Ovia® apps: Health support for every stage
Daily health tracking and clinically backed guidance for the fertility, pregnancy and parenting journey.

Learn More »

Latest News & Insights
RPR false-positivity observed during the current SARS-CoV-2 pandemic.

Read Article »

Genetic Counseling
Genetics is complicated. Navigating the world of genetics doesn't have to be.

Learn More »

Urine Lab Drug Testing

Labcorp is an industry-leading provider of urine drug testing services.

Our Substance Abuse and Mental Health Services Administration (SAMHSA)-certified laboratories conduct urine drug analyses in accordance with Department of Health and Human Services and Department of Transportation requirements. Testing of nonregulated specimens is conducted using comparable urinalysis protocols.

Our strategically located laboratories offer a full range of testing services and provide prompt turnaround times nationwide. Uniform laboratory processes and a single computer platform provide standardized reporting regardless of testing location. We are also the first SAMHSA-certified laboratory system to offer a fully digital chain of custody form that simplifies and improves the testing experience start to finish.

Standard urine drug testing panels range from five to 10 drugs. Specimen validity testing is available to detect adulterants or specimen substitution resulting from a donor's attempts to mask drug use. Expanded profiles for medical professional monitoring are also available.

Testing Lab Locations

SAMHSA-Certified Laboratories

The Labcorp workplace toxicology testing laboratory network consists of the following SAMHSA-certified laboratories.

Laboratory Corporation of America Holdings
7207 N. Gessner Road
Houston, TX 77040
713-856-8288 / 800-800-2387

Laboratory Corporation of America Holdings
69 First Avenue
Raritan, NJ 08869
908-526-2400 / 800-437-4986

Laboratory Corporation of America Holdings
1904 TW Alexander Drive
Research Triangle Park, NC 27709
919-572-6900 / 800-833-3984

Laboratory Corporation of America Holdings
1120 Main Street
Southaven, MS 38671
866-827-8042 / 800-233-6339

Laboratory Corporation of America Holdings (dba MedTox Laboratories, Inc.)
402 W County Road D, St. Paul, MN 55112
651-636-7466 / 800-832-3244

The Drugs of Abuse Reference Guide provides common drugs of abuse that may be included in a urine drug screening panel. Labcorp encourages the use of an independent medical review officer (MRO) to review all non-negative test results. Information contained in the Drugs of Abuse Reference Guide is to be used as general guidelines only. Many variables may affect duration of detectability, such as drug metabolism and half-life, subject's physical condition, fluid balance and state of hydration, and route and frequency of ingestion.

To set up a urine drug testing program, contact Labcorp sales.

User: Akin Adejunmobi

Statistics for Case 97939807						
#	**Search**	**Total Marks**	**Dead Marks**	**Live Viewed Docs**	**Live Viewed Images**	**Status/Search Duration**
1	SN:98185398	1	0	1	1	
2	OW:"GMD12, LLC"	5	0	5	5	
3	CM:"identifyn" AND LD:true	3	0	3	3	
4	CM:/.*iden{1,2}t{1,2}[aiey]{1,2}[fph]{1,2}[iey].*/ AND LD:true	677	0	0	0	0:00
5	4 AND CC:001	282	0	282	282	

Session started 02/12/2024 9:17 am
Session ended 02/12/2024 11:51 am
Total search duration 0.00
Session duration 34 minutes 8 seconds
Adjacency Level 1
Near Level 1

Trademark/Service Mark Application, Principal Register

Serial Number: 97939807
Filing Date: 05/16/2023

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	97939807
MARK INFORMATION	
***MARK**	IDENTIFYN
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	IDENTIFYN
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
***OWNER OF MARK**	GMD12, LLC
***MAILING ADDRESS**	6857 Gulf of Mexico Drive
***CITY**	Longboat Key
***STATE** **(Required for U.S. applicants)**	Florida
***COUNTRY/REGION/JURISDICTION/U.S. TERRITORY**	United States
***ZIP/POSTAL CODE** **(Required for U.S. and certain international addresses)**	34228
***EMAIL ADDRESS**	XXXX
LEGAL ENTITY INFORMATION	
TYPE	limited liability company
STATE/COUNTRY/REGION/JURISDICTION/U.S. TERRITORY WHERE LEGALLY ORGANIZED	Florida
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	001
***IDENTIFICATION**	Reagents and kits comprised of reagents for life science research use, biological specimen collection, drug development, diagnostic services, and predictive medicine to predict treatment efficacy and patient outcomes, and biological product development; reagents for clinical or medical laboratory use.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	042

*IDENTIFICATION	Microscopy imaging services in the fields of microbiology, life sciences research, drug development, diagnostic services, predictive medicine to predict treatment efficacy and patient outcomes, and biological product development, namely imaging services for use in the study and analysis of biological tissue samples, biopsy samples, tissue cultures, cell cultures, antibodies, antigens, and internal cellular components.
FILING BASIS	SECTION 1(b)
ATTORNEY INFORMATION	
NAME	Jeffrey Fabian
ATTORNEY BAR MEMBERSHIP NUMBER	XXX
YEAR OF ADMISSION	XXXX
U.S. STATE/ COMMONWEALTH/ TERRITORY	XX
STREET	101 E. Kennedy Blvd, Suite 2800
CITY	Tampa
STATE	Florida
COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
ZIP/POSTAL CODE	33602
PHONE	813-676-7212
EMAIL ADDRESS	jfabian@shumaker.com
CORRESPONDENCE INFORMATION	
NAME	Jeffrey Fabian
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	jfabian@shumaker.com
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	ldyer@shumaker.com
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Standard
NUMBER OF CLASSES	2
APPLICATION FOR REGISTRATION PER CLASS	350
*TOTAL FEES DUE	700
*TOTAL FEES PAID	700
SIGNATURE INFORMATION	
SIGNATURE	/Brian T. Bennett/
SIGNATORY'S NAME	Brian T. Bennett
SIGNATORY'S POSITION	Principal
SIGNATORY'S PHONE NUMBER	9417794859
DATE SIGNED	05/16/2023
SIGNATURE METHOD	Sent to third party for signature

Trademark/Service Mark Application, Principal Register

Serial Number: 97939807
Filing Date: 05/16/2023

To the Commissioner for Trademarks:

MARK: IDENTIFYN (Standard Characters, see mark)
The literal element of the mark consists of IDENTIFYN. The mark consists of standard characters, without claim to any particular font style, size, or color.
The applicant, GMD12, LLC, a limited liability company legally organized under the laws of Florida, having an address of
6857 Gulf of Mexico Drive
Longboat Key, Florida 34228
United States
XXXX

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 001: Reagents and kits comprised of reagents for life science research use, biological specimen collection, drug development, diagnostic services, and predictive medicine to predict treatment efficacy and patient outcomes, and biological product development; reagents for clinical or medical laboratory use.
Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 042: Microscopy imaging services in the fields of microbiology, life sciences research, drug development, diagnostic services, predictive medicine to predict treatment efficacy and patient outcomes, and biological product development, namely imaging services for use in the study and analysis of biological tissue samples, biopsy samples, tissue cultures, cell cultures, antibodies, antigens, and internal cellular components.
Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

The owner's/holder's proposed attorney information: Jeffrey Fabian. Jeffrey Fabian, is a member of the XX bar, admitted to the bar in XXXX, bar membership no. XXX, is located at
101 E. Kennedy Blvd, Suite 2800
Tampa, Florida 33602
United States
813-676-7212(phone)
jfabian@shumaker.com

Jeffrey Fabian submitted the following statement: The attorney of record is an active member in good standing of the bar of the highest court of a U.S. state, the District of Columbia, or any U.S. Commonwealth or territory.
The applicant's current Correspondence Information:

Jeffrey Fabian
PRIMARY EMAIL FOR CORRESPONDENCE: jfabian@shumaker.com
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES): ldyer@shumaker.com

Requirement for Email and Electronic Filing: I understand that a valid email address must be maintained by the applicant owner/holder and the applicant owner's/holder's attorney, if appointed, and that all official trademark correspondence must be submitted via the Trademark Electronic Application System (TEAS).
A fee payment in the amount of $700 has been submitted with the application, representing payment for 2 class(es).

Declaration

☑ **Basis:**
If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):

- The signatory believes that the applicant is the owner of the trademark/service mark sought to be registered;
- The mark is in use in commerce and was in use in commerce as of the filing date of the application on or in connection with the goods/services in the application;
- The specimen(s) shows the mark as used on or in connection with the goods/services in the application and was used on or in connection with the goods/services in the application as of the application filing date; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

And/Or
If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e):

- The signatory believes that the applicant is entitled to use the mark in commerce;
- The applicant has a bona fide intention to use the mark in commerce and had a bona fide intention to use the mark in commerce as of the application filing date on or in connection with the goods/services in the application; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

☑ To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.

☑ To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.

☑ The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Brian T. Bennett/ Date: 05/16/2023
Signatory's Name: Brian T. Bennett
Signatory's Position: Principal
Signatory's Phone Number: 9417794859
Signature method: Sent to third party for signature
Payment Sale Number: 97939807
Payment Accounting Date: 05/16/2023

Serial Number: 97939807
Internet Transmission Date: Tue May 16 21:25:51 ET 2023
TEAS Stamp: USPTO/BAS-XX.XXX.XX.XXX-2023051621255149
1335-97939807-86023acbca6bc6db8d5dd95396
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DA-25517101-20230516000535618128

IDENTIFYN

IDENTIFYN

Generated on: This page was generated by TSDR on 2024-03-03 13:14:03 EST

Mark: IDENTIFYN

IDENTIFYN

US Serial Number: 98185398

Application Filing Date: Sep. 18, 2023

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Service Mark

TM5 Common Status Descriptor:

LIVE/APPLICATION/Under Examination

The trademark application has been accepted by the Office (has met the minimum filing requirements) and that this application has been assigned to an examiner.

Status: A non-final Office action has been sent (issued) to the applicant. This is a letter from the examining attorney requiring additional information and/or making an initial refusal. The applicant must respond to this Office action. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

Status Date: Feb. 16, 2024

Mark Information

Mark Literal Elements: IDENTIFYN

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:
The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [..] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Providing reagent sample testing and diagnostic services for others for scientific research purposes; Research and development services in the field of antibodies

International Class(es): 042 - Primary Class

U.S Class(es): 100, 101

Class Status: ACTIVE

Basis: 1(b)

For: Antibody testing for medical diagnostic or treatment purposes; Medical diagnostic testing, monitoring and reporting services; Medical imaging services

International Class(es): 044 - Primary Class

U.S Class(es): 100, 101

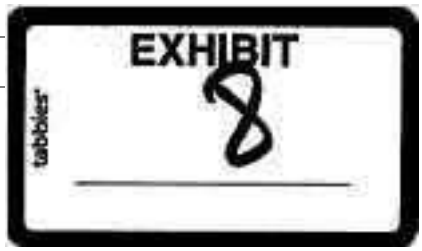
Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Filed Use: No

Currently Use: No



Filed ITU:	Yes	**Currently ITU:**	Yes
Filed 44D:	No	**Currently 44D:**	No
Filed 44E:	No	**Currently 44E:**	No
Filed 66A:	No	**Currently 66A:**	No
Filed No Basis:	No	**Currently No Basis:**	No

Current Owner(s) Information

Owner Name: GMD12, LLC

Owner Address: 6857 Gulf of Mexico Drive
Longboat Key, FLORIDA UNITED STATES 34228

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: FLORIDA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Erik S. Ericksen

Docket Number: 4869-003.TM

Attorney Primary Email Address: trademarkdocket@tnw.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Erik S. Ericksen
Thorpe North & Western, LLP
8180 South 700 East, Suite 350
Sandy, UTAH UNITED STATES 84070

Phone: 801-566-6633

Fax: 8015660750

Correspondent e-mail: trademarkdocket@tnw.com ericksen@tnw.com jazmin.garcia@tnw.com lindsi.walker@tnw.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Feb. 16, 2024	NOTIFICATION OF NON-FINAL ACTION E-MAILED	
Feb. 16, 2024	NON-FINAL ACTION E-MAILED	
Feb. 16, 2024	NON-FINAL ACTION WRITTEN	
Feb. 08, 2024	ASSIGNED TO EXAMINER	
Dec. 03, 2023	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED	
Sep. 18, 2023	NEW APPLICATION ENTERED	

TM Staff and Location Information

TM Staff Information

TM Attorney: ADEJUNMOBI, AKIN T

Law Office Assigned: LAW OFFICE 105

File Location

Current Location: TMEG LAW OFFICE 105 - EXAMINING ATTORNEY ASSIGNED

Date in Location: Feb. 16, 2024

To:	Erik S. Ericksen(trademarkdocket@tnw.com)
Subject:	U.S. Trademark Application Serial No. 98185398 - IDENTIFYN - 4869-003.TM
Sent:	February 16, 2024 10:30:08 AM EST
Sent As:	tmng.notices@uspto.gov

Attachments

5935648
screencapture-www-ondemand-labcorp-com-lab-tests-covid-19-antibody-test-17080244333941
screencapture-www-ondemand-labcorp-com-lab-tests-urine-analysis-17080244659471
screencapture-www-hopkinsmedicine-org-radiology-17080245084871
screencapture-www-hopkinsmedicine-org-genetic-medicine-patient-care-testing-services-17080245818601
screencapture-www-questdiagnostics-com-patients-covid-19-17080246193431
screencapture-www-questdiagnostics-com-healthcare-professionals-about-our-tests-genetics-17080246710861

United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application Serial No. 98185398

Mark: IDENTIFYN

Correspondence Address:
Erik S. Ericksen
Thorpe North & Western, LLP
8180 South 700 East, Suite 350
Sandy UT 84070
UNITED STATES

Applicant: GMD12, LLC

Reference/Docket No. 4869-003.TM

Correspondence Email Address: trademarkdocket@tnw.com

NONFINAL OFFICE ACTION

Response deadline. File a response to this nonfinal Office action within three months of the "Issue date" below to avoid abandonment of the application. Review the Office action and respond using one of the links to the appropriate electronic forms in the "How to respond" section below.

Request an extension. For a fee, applicant may request one three-month extension of the response deadline prior to filing a response. The request must be filed within three months of the "Issue date" below. If the extension request is granted, the USPTO must receive applicant's response to this letter within six months of the "Issue date" to avoid abandonment of the application.

Issue date: February 16, 2024

Introduction

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

Summary of Issues

- Section 2(d) - Likelihood of Confusion Refusal

Section 2(d) - Likelihood of Confusion Refusal

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 5935648. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the attached registration.

Trademark Act Section 2(d) bars registration of an applied-for mark that is so similar to a registered mark that it is likely consumers would be confused, mistaken, or deceived as to the commercial source of the goods and/or services of the parties. *See* 15 U.S.C. §1052(d). Likelihood of confusion is determined on a case-by-case basis by applying the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973) (called the "*du Pont* factors"). *In re i.am.symbolic, llc*, 866 F.3d 1315, 1322, 123 USPQ2d 1744, 1747 (Fed. Cir. 2017). Any evidence of record related to those factors need be considered; however, "not all of the *DuPont* factors are relevant or of similar weight in every case." *In re Guild Mortg. Co.*, 912 F.3d 1376, 1379, 129 USPQ2d 1160, 1162 (Fed. Cir. 2019) (quoting *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1406, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997)).

Although not all *du Pont* factors may be relevant, there are generally two key considerations in any likelihood of confusion analysis: (1) the similarities between the compared marks and (2) the relatedness of the compared goods and/or services. *See In re i.am.symbolic, llc*, 866 F.3d at 1322, 123 USPQ2d at 1747 (quoting *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002)); *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976) ("The fundamental inquiry mandated by [Section] 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods [or services] and differences in the marks."); TMEP §1207.01.

Similarity of the Marks

Applicant's mark is IDENTIFYN in standard characters.

Registrant's mark is IDENTIFY in standard characters.

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). "Similarity in any one of these elements may be sufficient to find the marks confusingly similar." *In re Inn at St. John's, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014)), *aff'd per curiam*, 777 F. App'x 516, 2019 BL 343921 (Fed. Cir. 2019); TMEP §1207.01(b).

In the present case, the marks are identical in part because they contain the identical term "IDENTIFY". Applicant's mark simply adds the letter "N" at the end.

Incorporating the entirety of one mark within another does not obviate the similarity between the compared marks, as in the present case, nor does it overcome a likelihood of confusion under Section 2(d). *See Wella Corp. v. Cal. Concept Corp.*, 558 F.2d 1019, 1022, 194 USPQ 419, 422 (C.C.P.A. 1977) (holding CALIFORNIA CONCEPT and surfer design and CONCEPT confusingly similar); *Coca-Cola Bottling Co. v. Jos. E. Seagram & Sons, Inc.*, 526 F.2d 556, 557, 188 USPQ 105, 106 (C.C.P.A. 1975) (holding BENGAL LANCER and design and BENGAL confusingly similar); *Double Coin Holdings, Ltd. v. Tru Dev.*, 2019 USPQ2d 377409, at *6-7 (TTAB 2019) (holding ROAD WARRIOR and WARRIOR (stylized) confusingly similar); *In re Mr. Recipe, LLC*, 118 USPQ2d 1084, 1090 (TTAB 2016) (holding JAWS DEVOUR YOUR HUNGER and JAWS confusingly similar); TMEP §1207.01(b)(iii). Here, the entirety of registrant's mark, IDENTIFY, is incorporated in applicant's mark, IDENTIFYN.

Thus, because the marks are identical in part and create the same commercial impression, the marks are considered similar for likelihood of confusion purposes.

Relatedness of the Goods and/or Services

Applicant's services are identified as "Providing reagent sample testing and diagnostic services for others for scientific research purposes; Research and development services in the field of antibodies" in Class 042, and "Antibody testing for medical diagnostic or treatment purposes; Medical diagnostic testing, monitoring and reporting services; Medical imaging services" in Class 044.

Registrant's services are identified as "Genetic testing for medical purposes; Medical testing of urine, blood, hair follicles and breath".

The goods and/or services are compared to determine whether they are similar, commercially related, or travel in the same trade channels. *See Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-71, 101 USPQ2d 1713, 1722-23 (Fed. Cir. 2012); *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165, 64 USPQ2d 1375, 1381 (Fed. Cir. 2002); TMEP §§1207.01, 1207.01(a)(vi).

The compared goods and/or services need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000); TMEP §1207.01(a)(i). They need only be "related in some manner and/or if the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source." *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83

USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i); *see Made in Nature, LLC v. Pharmavite LLC*, 2022 USPQ2d 557, at *44 (TTAB 2022) (quoting *In re Jump Designs LLC*, 80 USPQ2d 1370, 1374 (TTAB 2006)).

The attached Internet evidence from ***labcorp.com***, ***hopkinsmedicine.org***, and ***questdiagnostic.com***, establishes that the same entity commonly manufactures, produces, or provides and markets applicant's services, "Research and development services in the field of antibodies; Antibody testing for medical diagnostic or treatment purposes; Medical diagnostic testing, monitoring and reporting services; Medical imaging services", and registrant's services, "Genetic testing for medical purposes; Medical testing of urine", under the same mark. Thus, applicant's and registrant's goods and/or services are considered related for likelihood of confusion purposes. *See, e.g.*, *In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-04 (TTAB 2009); *In re Toshiba Med. Sys. Corp.*, 91 USPQ2d 1266, 1268-69, 1271-72 (TTAB 2009).

Accordingly, the goods and/or services are considered related for purposes of the likelihood of confusion analysis.

Conclusion

Therefore, because the marks are identical in part and the goods and/or services are related, there is a likelihood of confusion as to the source of applicant's goods and/or services, and registration is refused pursuant to Section 2(d) of the Trademark Act.

Response guidelines. For this application to proceed, applicant must explicitly address each refusal and/or requirement in this Office action. For a refusal, applicant may provide written arguments and evidence against the refusal, and may have other response options if specified above. For a requirement, applicant should set forth the changes or statements. Please see the Responding to Office Actions webpage for more information and tips on responding.

Please call or email the assigned trademark examining attorney with questions about this Office action. Although an examining attorney cannot provide legal advice, the examining attorney can provide additional explanation about the refusal(s) and/or requirement(s) in this Office action. *See* TMEP §§705.02, 709.06.

The USPTO does not accept emails as responses to Office actions; however, emails can be used for informal communications and are included in the application record. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

How to respond. File a **response form to this nonfinal Office action** or file a **request form for an extension of time to file a response**.

/Akin Adejunmobi/
Akin Adejunmobi
Examining Attorney
LO105--LAW OFFICE 105
(571) 270-0817
Akin.Adejunmobi@uspto.gov

RESPONSE GUIDANCE

- **Missing the deadline for responding to this letter will cause the application to abandon.** A response or extension request must be received by the USPTO before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Trademark Electronic Application System (TEAS) system availability could affect an applicant's ability to timely respond. For help resolving technical issues with TEAS, email TEAS@uspto.gov.

- **Responses signed by an unauthorized party** are not accepted and can **cause the application to abandon.** If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with legal authority to bind a juristic applicant. If applicant has an attorney, the response must be signed by the attorney.

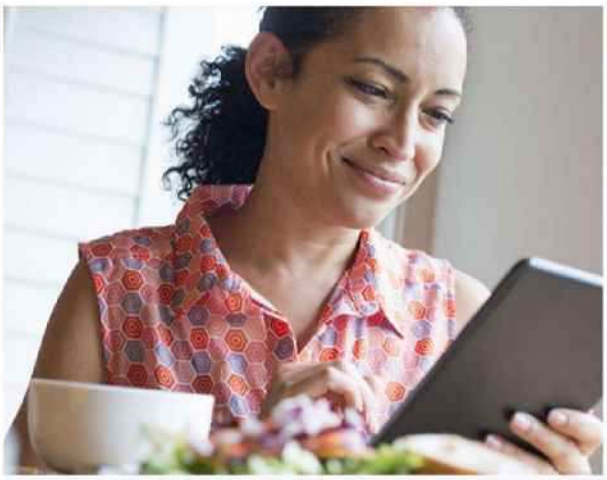
- If needed, **find contact information for the supervisor** of the office or unit listed in the signature block.

5935648

Identify

Word Mark	IDENTIFY
Goods/Services	IC 044 US 100 101 Genetic testing for medical purposes; Medical testing of urine, blood, hair follicles and breath.
Register	PRINCIPAL
Serial Number	88306855
Filing Date	2019-02-19T00:00:00
Original Filing Basis	1a
Current Filing Basis	1a
Publication Date	2019-10-01
Registration Number	5935648
Date Registered	2019-12-17
Owner	(REGISTRANT) LabSolutions LLC (LIMITED LIABILITY COMPANY; GEORGIA, USA); 1451 Northside Dr NW, Atlanta, GEORGIA 30318, UNITED STATES
Type of Mark	SERVICE MARK
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Live Dead Indicator	LIVE
Status	REGISTERED

Print: February 12, 2024 9:54 AM



COVID-19 Antibody Test

$69

Add To Cart

Learn if you've been exposed to COVID-19 or if you've built antibodies from vaccine or infection.

If you've been exposed to COVID-19 or vaccinated, your body produces antibodies as part of your immune response. This test checks for antibodies to COVID-19 after exposure or vaccination and provides a numerical value that indicates the level of antibodies present.

This COVID-19 semi-quantitative test is for individuals who think they may have antibodies from infection or vaccination but who do not currently have symptoms of COVID-19.

COVID-19 Antibody Test $69 Add To Cart

When should I get the antibody test?

It can take up to 3 weeks for your body to develop antibodies after SARS-CoV-2 infection or after receiving the COVID-19 vaccine or boosters, so you should wait to get an antibody test until 3 weeks after your symptoms started, after testing positive or receiving a vaccine or booster.

You should also wait until your symptoms have improved and you have not had a fever or felt feverish for 24 hours without taking fever-reducing medicine.

Current research shows that antibody testing 3 to 4 weeks after symptom onset or known exposure to COVID-19 may provide the most reliable results. Talk to your healthcare provider for more information.

Test Details

- Sample Type: Blood
- Collection Method: In person at a Labcorp location
- **Preparation:** No special preparation needed.
- Age: 18+
- Results: 1-3 days from when your sample arrives at our lab
- HSA/FSA: Accepted
- Test must be taken by purchaser

What's Tested

SARS-CoV-2 Semi-Quantitative Total Antibody

How It Works

Purchase Your Test

Simply purchase this test online. A healthcare provider will review and approve your test requests; no healthcare provider visit is required.

Provide Your Sample

Visit a Labcorp location near you for sample collection. Visits may be scheduled online.

Get Your Results

View your easy-to-read results online in your Labcorp Patient™ account, including Linked Accounts. For certain results that require prompt attention, you will also be contacted by phone or mail.

PATIENT SERVICE CENTERS

Labs in more than 2,000 locations across the country.

Find a Location Near You

FAQ

- Who should take the test?
- What does an FDA Emergency Use Authorization (EUA) mean?
- Are there limitations to the COVID-19 antibody tests?
- Can I use this COVID-19 Ab test to determine my antibody levels or track over time?
- How does Labcorp OnDemand work?
- Are my test results private and confidential?
- How accurate is this testing?

See More FAQs

Other Recommended Tests




COVID-19 Test (At-Home Collection Kit)

Get a COVID-19 PCR home collection kit to find out if you have COVID-19.

$79 Add To Cart

Fatigue Test

Tired of feeling tired? Investigate your chronic fatigue symptoms.

$159 Add To Cart

Blood Type Test

There are eight common blood types. This Blood Type Test will help you discover yours.

$39 Add To Cart

Comprehensive Health Test

Start feeling your best with a comprehensive health blood test.

$169 Add To Cart

Help

Urine Analysis Test

$49

Add To Cart

A urine analysis can pinpoint a variety of conditions including kidney disease or diabetes.

Produced as a waste product by the kidneys, your urine can tell you a lot about the state of your health. Many disorders may be detected in their early stages by identifying substances that are generally not present in the urine or by measuring abnormal levels of certain substances including glucose, protein, bilirubin and bacteria.

A routine urine analysis can aid in the detection of a variety of health conditions including urinary tract infections (UTI), kidney diseases and diabetes.

Note: This is not a drug test or pregnancy test. While pregnancy tests and drug screenings often include urine samples, those tests look for substances that are not included in this routine urinalysis.

Urine Analysis Test	$49	Add To Cart
Urine Analysis Test	$49	Add To Cart

Sample Type: Urine | Collection Method: In person at a Labcorp | Preparation: No special preparation is needed

Sample Type: Urine

Collection Method: In person at a Labcorp location

Age: 18+

Results: 1 day from when your sample arrives at our lab

HSA/FSA: Accepted

Test must be taken by purchaser

Preparation: No special preparation is needed.

Why Consider This Test

Monitoring your overall health?

A routine urine analysis is often ordered by a healthcare provider to monitor your general health and, in conjunction with other tests and a clinical examination, to help screen for a variety of conditions including urinary tract infection, kidney disease and diabetes.[1]

Concerned about your kidneys?

A urine analysis can be an excellent tool to determine if any symptoms you may be having (such as back pain and urinary difficulties) could be a result of an abnormality, which you could discuss with your healthcare provider in the pursuit of diagnosis and treatment.[1]

Curious about the clues your urine can provide?

Characteristics of your urine can provide insight into a variety of health conditions.

Read More

References:

What's Tested

- Nitrite (Urine)
- Occult Blood
- Ketones
- Protein (Urine)
- pH
- Specific Gravity
- Urobilinogen
- Urine Appearance
- Urine Color
- WBC (white blood cell) Esterase
- Red Blood Count

- White Blood Count
- Epithelial Cells (Non Renal)
- Epithelial Cells (Renal)

How It Works

Purchase Your Test

Simply purchase this test online. A healthcare provider will review and approve your test requests; no healthcare provider visit is required.

Provide Your Sample

Visit a Labcorp location near you for sample collection. Visits may be scheduled online.

Get Your Results

View your easy-to-read results online in your Labcorp Patient™ account, including Linked Accounts. For certain results that require prompt attention, you will also be contacted by phone or mail.

PATIENT SERVICE CENTERS

Labs in more than 2,000 locations across the country.

Find a Location Near You

FAQ

- How often should I take a urinalysis test?
- Why might my provider order a urinalysis for me?
- What will my urine analysis test results tell me?
- How accurate is this testing?
- Are my test results private and confidential?
- How does Labcorp OnDemand work?

See More FAQs

Other Recommended Tests

Kidney Health Test

This kidney function test provides a picture of your overall health.

$99 Add To Cart

Complete Blood Count (CBC) Test

This CBC blood test detects illnesses that can affect overall health.

$29 Add To Cart

Comprehensive Health Test

Start feeling your best with a comprehensive health blood test.

$169 Add To Cart

Standard Health Test

This panel provides screenings commonly ordered at an annual physical.

$99 Add To Cart

Allergy

Diabetes

General Health

Immunity & Infectious Disease

Help

Radiology and Radiological Science

The Russell H. Morgan Department of Radiology and Radiological Science is committed to providing the highest quality medical care. Our world-renowned physicians and staff members, led by Karen Horton, M.D., focus on combining the latest in radiological technology with specialized expertise to diagnose and treat patients.

REQUEST AN APPOINTMENT

Request An Appointment

Schedule online through MyChart

Log into MyChart | Learn about MyChart

Schedule by phone

New and existing patients: 443-997-7237

Exams and Procedures

Learn what types of exams our experts provide and how to prepare for your appointment.

Locations

See our convenient locations in suburban Baltimore and Washington, D.C. area with weekday, weekend and evening appointment hours.

Our Experts

Meet our specialists in the Department of Radiology and Radiological Science.

2022-2023 U.S. NEWS & WORLD REPORT

Ranked #1 in the Nation

Ranked #1 in the nation according to U.S. News & World Report's 2023 Best Research-Oriented Medical School rankings.

About our residency programs ›

Learn about the ranking ›

Johns Hopkins is hiring for technologists to join our team

Johns Hopkins is hiring for technologists to join our team of expert radiologists, technologists, nurses and patient care coordinators to deliver high-quality imaging and compassionate patient care. For those interested in pursuing advanced training in MRI, CT, interventional radiology, or mammography, we offer on-the-job training programs where you can maintain full-time salary and benefits while learning on state-of-the-art equipment plus eligibility for obtaining advanced certification. We strive to cultivate a strong learning environment to advance career growth wherever

possible.

Apply Today >

Molecular Radiotherapy | Bob's Story

Robert "Bob" Charnley's carcinoid syndrome symptoms forced him to be homebound and despite multiple surgeries, give up his favorite activities. After multiple opinions, Bob came to Johns Hopkins and was referred to the Department of Radiology for a novel cancer therapy using theranostics. Watch Bob's journey as molecular radiotherapy allows him to return to his everyday life and make a long awaited dream trip come true. Please note parts of this video were filmed before the COVID-19 pandemic.

Learn about the Center >

SPECIALTY AREAS

Find specialized care

- Body Imaging (CT, MRI, Ultrasound) >
- Breast Imaging >
- Community Radiology Division of the Greater D.C. Region >
- Interventional Radiology (including Oncology, Neuroradiology, Spine) >
- Musculoskeletal Imaging >
- Neuroradiology >
- Nuclear Medicine and Molecular Imaging >
- Pediatric Radiology >

PROVIDER INFORMATION

Appropriate Use Criteria for Advanced Imaging

On January 1, 2020, Congress imposed new requirements for ordering advanced imaging services (MRI, CT, PET and Nuclear Medicine services) for Medicare beneficiaries.

See our FAQs >

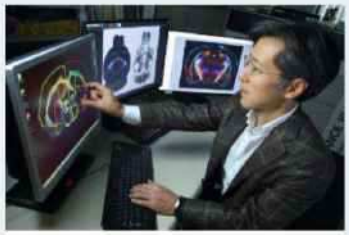
Our Tripartite Mission

Clinical

The world-renowned physicians and staff of the Russell H. Morgan Department of Radiology and Radiological Sciences combine the latest in treatment and medical imaging with the highest level of patient care.

Education

We impart the highest quality education through a combination of theoretical training and practical hands-on clinical experience that prepares its students to become leaders in their chosen fields of specialty.



Research

Research advances and innovations happening in our laboratories foster the development of new medical imaging techniques, disease treatments and interventional procedures.

Faculty Kudos

Kelvin Hong

Named to the board of the Society of Interventional Radiology

Haris Sair

Recently published "Recommended Resting-State fMRI Acquisition & Reprocessing Steps for Preoperative Mapping of Language & Motor & Visual Areas in Adult & Pediatric Patients with Brain Tumors and Epilepsy" in The American Journal of Neuroradiology

George Sgouros

Awarded a five-year, $15 million grant from the National Center Institute for work on alpha-particle emitter radiopharmaceutical therapy

Clifford Weiss

Elected to the position of vice-chair of the 2023 - 2024 Society of Interventional Radiology Foundation

Radiology and Radiological Science

Testing Services

When our experts order genetic testing, our facilities are close at hand. On the Johns Hopkins East Baltimore Medical Campus is Johns Hopkins Genomics, a joint effort of the McKusick-Nathans Institute of Genetic Medicine and the Department of Pathology.

With approximately 200 staff, including clinical molecular geneticists, bioinformaticists, statistical geneticists, clinical geneticists and molecular pathologists, Johns Hopkins Genomics incorporates research and clinical services, including:

- Center for Inherited Disease Research (CIDR)

Department of Genetic Medicine > Patient care

Testing Services

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With approximately 200 staff, including clinical molecular geneticists, bioinformaticists, statistical geneticists, clinical geneticists and molecular pathologists, Johns Hopkins Genomics incorporates research and clinical services, including:

- Center for Inherited Disease Research (CIDR)
- Genetic Resources Core Facility (GRCF)
- DNA Diagnostic Laboratory
- Molecular Pathology Laboratory
- Clinical Genome Laboratory

Services include:

- genotyping and sequencing for basic and clinical research projects
- clinical exome and custom targeted sequencing for Mendelian variants and somatic mutations
- phenotype-specific multigene panels for inherited disorders
- oncologic gene panels for detection of somatic mutations in cancer
- clinical cytogenetics services
- next-generation sequencing applications including RNA-seq, ChIP-seq and

microbiome sequencing

- sample processing, including live cell immortalization and a CAP-certified LN2 biorepository
- DNA isolation
- methylation testing
- cell line authentication
- mycoplasma detection
- custom DNA assay design
- single cell genomics
- digital PCR and qPCR assays

COVID-19 testing for patients

While SARS-CoV-2 (COVID-19) is no longer at pandemic levels, it is still a major health concern and cases are expected to rise during the fall and winter. Plus, it can be easy to mix up COVID-19 symptoms with other seasonal respiratory illnesses like the flu or an RSV sinus infection. Whether you're ready to get tested right away or need to review your testing options, **Quest has the information you're looking for.**

Make an appointment for COVID-19 tests

If you have an order for COVID-19 testing through your doctor, schedule your appointment at a Quest location near you.

Book now

COVID-19

Active infection

2-in-1 COVID-19 and flu

3-in-1 COVID-19, flu, and RSV

Get tested for COVID-19

Learn about COVID-19 tests

Antibody

Rapid Antigen

Long COVID

FAQs

No-cost COVID-19 tests

Purchase tests online

Schedule an appointment

How to get COVID-19 testing

Choose from 3 paths to get tested for COVID-19 at Quest Diagnostics.

Doctor's order

Most health plans cover COVID-19 testing, as well as flu and RSV testing. Check with your insurance provider for coverage details.
Schedule an appointment

Purchase online

Shop online for COVID-19 tests to check for active infections or immunity antibodies, or to check if it could be the flu instead.
Buy now

Uninsured

You may qualify for no-cost testing at select Quest locations if you don't have insurance and you are symptomatic or were exposed to COVID-19. It's funded by the Department of Health and Human Services (HHS).
Get started

COVID-19 symptoms and test information

Is it COVID-19, flu, or RSV?

Influenza and respiratory syncytial virus (RSV) sinus infections have similar symptoms to COVID-19 and are most common during the same time of year—late fall through winter. Plus, they are all contagious viruses that can be spread easily through person-to-person contact, including coughing and sneezing.

That's where the similarities end. COVID-19, flu, and RSV respond best to different treatments, so it's important to pinpoint the specific illness you have through testing. **Talk to your doctor** about your symptoms and what test option may be best for you.

× **Compare COVID-19 test options**

Active infection | 2-in-1 COVID-19 and flu | 3-in-1 COVID-19, flu, and RSV | Long COVID | Antibody | Rapid anti

Why choose this test? This test is to help check if you have COVID-19.

Test overview: Checks for genetic material produced by the virus (viral RNA) to determine if someone is currently infected

Accuracy: Highly accurate and usually does not need to be repeated

Turnaround time for results: Typically end of next day

Test method: Nasal swab

How to get tested:

- With an order from your doctor, make an appointment at a Quest Patient Service Center near you.
- Purchase the test for yourself online at questhealth.com. You can choose to make an in-person appointment at a Quest near you, or have an at-home collection kit mailed to you.
- If you are uninsured, see if you qualify for no-cost testing at select Quest locations.

Important COVID-19 testing statements

- The Quest Diagnostics molecular test, the other authorized molecular tests and the self-collection kit (together the "molecular tests"), the COVID/Flu molecular test and self-collection kit, the COVID/Flu/RSV test, the antigen test and the antibody test (together "the tests") have not been FDA cleared or approved;
- The tests have been authorized by FDA under an EUA for use by authorized laboratories;
- The molecular tests have been authorized only for the unsupervised self-collection and maintenance of nasal specimens for the detection of nucleic acid from SARS CoV-2, not for any other viruses or pathogens;
- The COVID/Flu molecular test and self-collection kit have been authorized only for the unsupervised self-collection and maintenance of nasal specimens for as an aid in detection of nucleic acid from SARS-CoV-2 and influenza A virus and influenza B virus, not for any other viruses or pathogens;
- The COVID/Flu/RSV test has been authorized only for the simultaneous qualitative detection and differentiation of nucleic acids from SARS-CoV-2, influenza A, influenza B, and respiratory syncytial virus (RSV), and not for any other viruses or pathogens;
- The antigen test has been authorized only for the detection of proteins from SARS- CoV-2, not for any other viruses or pathogens;

- The antibody test has been authorized only for the detection of IgG antibodies against SARS-CoV-2, not for any other viruses or pathogens; and,
- The tests are only authorized for the duration of the declaration that circumstances exist justifying the authorization of emergency use of in vitro diagnostics for detection and/or diagnosis of COVID-19 under Section 564(b)(1) of the Act, 21 U.S.C. § 360bbb-3(b)(1), unless the authorization is terminated or revoked sooner.

+ Compare COVID-19, flu, RSV, cold, long COVID, and allergy symptoms

Testing for long COVID

Long COVID, also known as post-COVID, is when symptoms linger for several weeks or months after a COVID-19 infection has run its course. Quest offers testing to help you and your doctor determine if you have long COVID or if another underlying health problem is causing your symptoms.

View post-COVID test panels

Post–COVID-19 test panels

Quest's test panels for long COVID measure:

- C-Reactive Protein (CRP)
- Thyroid Function Test
- Vitamin B12 Test
- Vitamin D Test
- And more

Note: These tests do NOT test for or diagnose COVID-19.

Getting COVID-19 test results

The quickest way to get your test results is having them sent automatically through your secure MyQuest® online portal. If you don't already have a MyQuest account, signing up is free and easy.

Open MyQuest

Frequently asked questions about COVID-19 testing at Quest

About COVID-19

About COVID-19

+ What is COVID-19?
+ Is COVID-19 still a threat?
+ What are the symptoms of COVID-19?
+ How long am I contagious if I have COVID-19?

About Quest COVID-19 testing options

+ Why should I get tested for COVID-19?
+ Is there a lab test for COVID-19?
+ Can I get tested for COVID-19, flu, and RSV at the same time?
+ Can I order COVID-19 tests online for myself?
+ Can I get an at-home COVID-19 test?
+ What are the instructions for an at-home COVID-19 test?
+ How long will I test positive for COVID-19 after I've been infected?

+ Which COVID-19 tests are FDA approved?

About long COVID testing

+ What is long COVID?
+ Can I be tested for long COVID if I have never been infected?
+ Can a long COVID test panel diagnose COVID-19?
+ Does Quest Diagnostics offer long COVID testing?

How to get COVID-19 testing through Quest

+ Does Quest take walk-ins for COVID-19 testing?
+ Can I schedule a COVID-19 test in advance?
+ Do I need a doctor's order to get COVID-19 testing at Quest?
+ Can I get routine blood work after receiving the COVID-19 vaccine?
+ Do Quest locations require masks?
+ What are the health safety measures at Quest locations?

COVID-19 test results

+ How do I get COVID-19 test results?
+ How do I read COVID-19 test results?
+ What is the turnaround time for COVID-19 test results?
+ Does blood on the swab affect COVID-19 test results?
+ Does having a sinus infection affect COVID-19 test results?

COVID-19 test costs

+ How much do COVID-19 tests cost?
+ Does Medicaid cover COVID-19 testing?
+ Can I use my HSA or FSA account to pay for COVID-19 testing, including at-home tests?
+ How do I get COVID-19 testing if I am uninsured?
+ Why can't insured patients qualify for "no-cost to you" COVID-19 testing?

References

[1] Symptoms of COVID-19.

Centers for Disease Control and Prevention. Updated October 26, 2022. Accessed August 9, 2023. https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html

[2] Flu symptoms & complications.

Centers for Disease Control and Prevention. Reviewed October 3, 2022. Accessed August 9, 2023. https://www.cdc.gov/flu/symptoms/symptoms.htm

[3] Respiratory syncytial virus infection (RSV) symptoms and care.

Centers for Disease Control and Prevention. Reviewed July 27, 2023. Accessed August 9, 2023. https://www.cdc.gov/rsv/about/symptoms.html

[4] Cold versus flu.

Centers for Disease Control and Prevention. Reviewed September 29, 2022. Accessed August 9, 2023. https://www.cdc.gov/flu/symptoms/coldflu.htm

[5] Long COVID or post-COVID conditions.

Centers for Disease Control and Prevention. Updated July 20, 2023. Accessed August 9, 2023. https://www.cdc.gov/coronavirus/2019-ncov/long-term-effects/index.html

[6] Allergens and pollen.

Centers for Disease Control and Prevention. Reviewed August 21, 2020. Accessed August 9, 2023. https://www.cdc.gov/climateandhealth/effects/allergen.htm

Footnotes

[a] Positive results with the antibody test may occur after COVID-19 vaccination, but the clinical significance is not yet known. How long antibodies remain detectable after infection or vaccination and how long protection, if any, may last is not yet known. The results of this test should not be interpreted as an indication of degree of immunity or protection.

[b] Rapid antigen tests are less accurate than molecular tests, so your doctor may recommend a molecular test when your antigen test result does not make sense with your symptoms and exposure history. For example, when the antigen test says you are infected, but you do not have symptoms (and have not been exposed recently). Another example is when your antigen test says you are not infected, but you have symptoms. Rapid antigen tests have their best accuracy within 7 days of symptoms starting. Accuracy and the clinical significance of results beyond the 7 days is not known.

About the FDA Emergency Use Authorization (EUA) Status

This test has been authorized by the FDA under an Emergency Use Authorization (EUA). This means that while Quest Diagnostics has validated the test and has the data to believe the test and the collection kit are accurate, this test has not been FDA cleared or approved; this test has been authorized by FDA under an EUA for use by authorized laboratories; this test has been authorized only for the detection of IgG antibodies against SARS-CoV-2, not for any other viruses or pathogens; and, this test is only authorized for the duration of the declaration that circumstances exist justifying the authorization of emergency use of in vitro diagnostics for detection and/or diagnosis of COVID-19 under Section 564(B)(1) of the Act, 21 U.S.C. § 360BBB-3(B)(1), unless the authorization is terminated or revoked sooner. Additional studies need to be conducted for this test and others like it to be FDA cleared or approved.

Quest Diagnostics®

Our company

About us

How we operate

What we do

Corporate responsibility

Inclusion and diversity

Actions and insights

Suppliers

Shop tests

Locations

Careers

Investors

Specialty labs

Newsroom

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Genetics

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OHeart® carrier screening more than what you eat!

Familial hypercholesterolemia (FH) is a genetic condition that causes high cholesterol. It is common and can be life-

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You can get answers, assistance, and advice from board-certified genetic counselors, medical geneticists, and medical directors. Call 1.866.GENE.INFO (1.866.436.3463).

Email us

About our tests

- Allergy & asthma
- Arthritis & rheumatoid arthritis
- Autoimmune diseases

threatening. As many as 1 in 300 to 500 help you understand patient risk, and is the first step in our approach to patient care.

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Genetic testing offerings by specialty

- + Cardiology
- + Genetic Insights
- + Hereditary oncology
- + Pediatrics
- + Pregnancy and fertility
- + Somatic oncology

Bleeding & thrombosis
Cancer
Cardiometabolic disease
Cardiovascular disease
Chronic kidney disease
Clinical drug monitoring
Diabetes & prediabetes
Endocrine disorders
Gastrointestinal & digestive diseases
Genetics
Infectious diseases
Micronutrients
Neurology
Nonalcoholic fatty liver disease
Quest Advanced™ Specialized Transplant Services
Women's health
liver-diseases

Additional testing resources

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Call 1.866.GENE.INFO (1.866.436.3463).
For your patients who need a comprehensive genetic counseling session, there is a tool to find a clinical genetic counselor near you OR a list of some telemedicine genetic counseling services for your use.

Family history tool for hereditary cancer

Learn how family history may impact the health of your patients. This secure tool allows Quest Diagnostics to help determine genetic risk factors and increase insurance coverage for lab testing needs.
Click here to access the family history tool

Blog

Genomic Services publishes
Genomic Services publishes blogs to address hot topics in genetics and common testing questions, and raise awareness of various genetic conditions. Because genetics impacts many areas of healthcare, our topics range from oncology, neurology, women's health and more.
See our most recent blogs on Sickle cell disease and Familial hypercholesterolemia.

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Our c

About u operate
How we do
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United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on February 16, 2024 for
U.S. Trademark Application Serial No. 98185398

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action to avoid your application abandoning. Follow the steps below.

(1) Read the Office action. This email is NOT the Office action.

(2) Respond to the Office action by the deadline using the Trademark Electronic Application System (TEAS). Your response, or extension request, must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Otherwise, your application will be abandoned. See the Office action itself regarding how to respond.

(3) Direct general questions about using USPTO electronic forms, the USPTO website, the application process, the status of your application, and whether there are outstanding deadlines to the Trademark Assistance Center (TAC).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

GENERAL GUIDANCE

- **Check the status of your application periodically** in the Trademark Status & Document Retrieval (TSDR) database to avoid missing critical deadlines.

- **Update your correspondence email address** to ensure you receive important USPTO notices about your application.

- **Beware of trademark-related scams**. Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. Verify the correspondence originated from us by using your serial number in our database, TSDR, to confirm that it appears under the "Documents" tab, or contact the Trademark Assistance Center.

- **Hiring a U.S.-licensed attorney.** If you do not have an attorney and are not required to

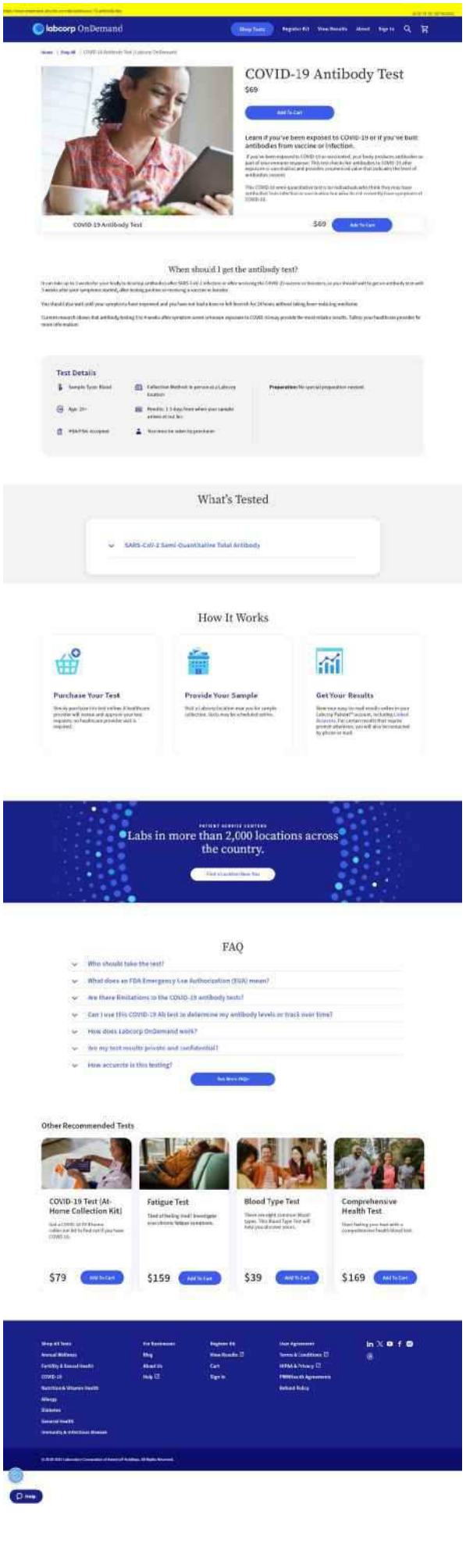
have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.

5935648

Identify

Word Mark	IDENTIFY
Goods/Services	IC 044 US 100 101 Genetic testing for medical purposes; Medical testing of urine, blood, hair follicles and breath.
Register	PRINCIPAL
Serial Number	88306855
Filing Date	2019-02-19T00:00:00
Original Filing Basis	1a
Current Filing Basis	1a
Publication Date	2019-10-01
Registration Number	5935648
Date Registered	2019-12-17
Owner	(REGISTRANT) LabSolutions LLC (LIMITED LIABILITY COMPANY; GEORGIA, USA); 1451 Northside Dr NW, Atlanta, GEORGIA 30318, UNITED STATES
Type of Mark	SERVICE MARK
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Live Dead Indicator	LIVE
Status	REGISTERED

Print: February 12, 2024 9:54 AM


labcorp OnDemand
Shop Tests
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COVID-19 Antibody Test
$69
Add To Cart
Learn if you've been exposed to COVID-19 or if you've built antibodies from vaccine or infection.
COVID-19 Antibody Test
$69
Add To Cart
When should I get the antibody test?
Test Details
What's Tested
SARS-CoV-2 Semi-Quantitative Total Antibody
How It Works
Purchase Your Test
Provide Your Sample
Get Your Results
PATIENT SERVICE CENTERS
Labs in more than 2,000 locations across the country.
FAQ
Who should take the test?
What does an FDA Emergency Use Authorization (EUA) mean?
Are there limitations to the COVID-19 antibody tests?
Can I use this COVID-19 Ab test to determine my antibody levels or track over time?
How does Labcorp OnDemand work?
Are my test results private and confidential?
How accurate is this testing?
Other Recommended Tests
COVID-19 Test (At-Home Collection Kit)
$79
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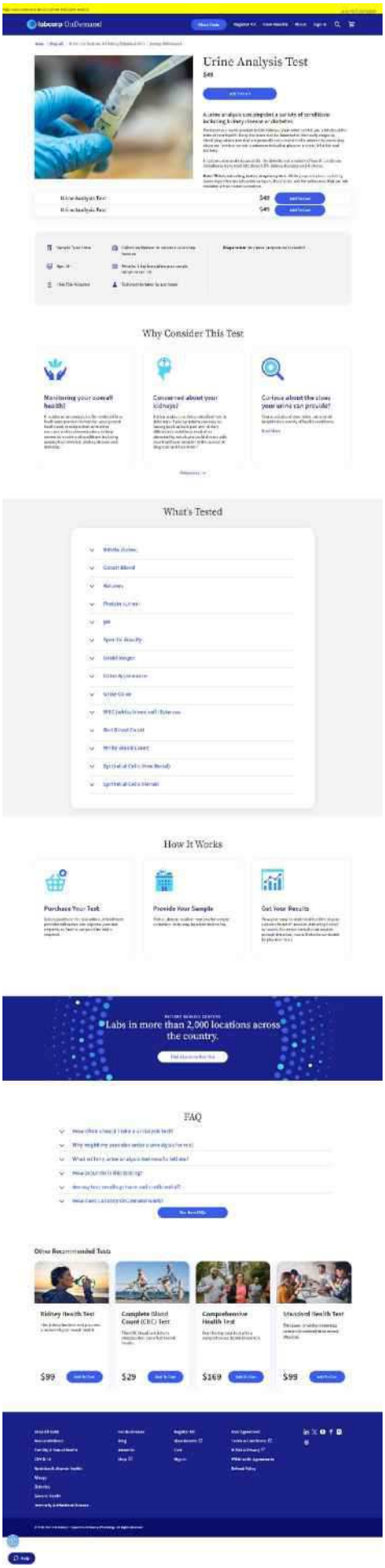
Fatigue Test
$159
Add To Cart
Blood Type Test
$39
Add To Cart
Comprehensive Health Test
$169
Add To Cart
Help


Urine Analysis Test
Why Consider This Test
What's Tested
How It Works
Labs in more than 2,000 locations across the country.
FAQ
Other Recommended Tests
Kidney Health Test
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Complete Blood Count (CBC) Test
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Comprehensive Health Test
$169
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$99


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Advancing Medical Imaging Care, Education and Research
Research
Research
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Appropriate Use Criteria for Advanced Imaging
Our Tripartite Mission
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Research
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Testing Services

When our experts order genetic testing, our facilities are close at hand. On the Johns Hopkins East Baltimore Medical Campus is Johns Hopkins Genomics, a joint effort of the McKusick-Nathans Institute of Genetic Medicine and the Department of Pathology.

With approximately 200 staff, including clinical molecular geneticists, bioinformaticists, statistical geneticists, clinical geneticists and molecular pathologists, Johns Hopkins Genomics incorporates research and clinical services, including:

- Center for Inherited Disease Research (CIDR)

Department of Genetic Medicine > Patient care

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- Center for Inherited Disease Research (CIDR)
- Genetic Resources Core Facility (GRCF)
- DNA Diagnostic Laboratory
- Molecular Pathology Laboratory
- Clinical Genome Laboratory

Services include:

- genotyping and sequencing for basic and clinical research projects
- clinical exome and custom targeted sequencing for Mendelian variants and somatic mutations
- phenotype-specific multigene panels for inherited disorders
- oncologic gene panels for detection of somatic mutations in cancer
- clinical cytogenetics services
- next-generation sequencing applications including RNA-seq, ChIP-seq and microbiome sequencing
- sample processing, including live cell immortalization and a CAP-certified LN2 biorepository
- DNA isolation
- methylation testing
- cell line authentication
- mycoplasma detection
- custom DNA assay design
- single cell genomics
- digital PCR and qPCR assays

COVID-19 testing for patients

How to get COVID-19 testing

COVID-19 symptoms and test information

Is it COVID-19, flu or RSV?

Important COVID-19 testing statements

Testing for long COVID

Post-COVID-19 test panels

Getting COVID-19 tests made

Frequently asked questions about COVID-19 testing at Quest

About COVID-19

About Quest COVID-19 testing options

About long COVID testing

How to get COVID-19 testing through Quest

COVID-19 test results

COVID-19 test basics

References

Footnotes

About the CDC Emergency Use Authorization (EUA) Status

Genetics

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FEATURED TEST

more than what you eat!

Familial hypercholesterolemia (FH) is a genetic condition that causes high cholesterol. It is common and can be life-threatening. As many as 1 in 200 to 500 ... help you understand patient risk, and is the first step in our approach to patient care.

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Genomic Services publishes blogs to address hot topics in genetics and common testing questions, and raise awareness of various genetic conditions. Because genetics impacts many areas of healthcare, our topics range from oncology, neurology, women's health and more. See our most recent blogs on Sickle cell disease and Familial hypercholesterolemia.

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- Cardiovascular disease
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- Infectious diseases
- Micronutrients
- Neurology
- Nonalcoholic fatty liver disease
- Quest Advanced™ Specialized Transplant Services
- Women's health
- liver diseases

User: Akin Adejunmobi

Statistics for Case 98185398						
#	Search	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/Search Duration
1	SN:98185398	1	0	1	1	
2	OW:"GMD12, LLC"	5	0	5	5	
3	CM:"identifyn" AND LD:true	3	0	3	3	
4	CM:/.*iden{1,2}t{1,2}[aiey]{1,2}[fph]{1,2}[iey].*/ AND LD:true	677	0	0	0	0:00
5	4 AND CC:001	282	0	282	282	

Session started 02/12/2024 9:17 am
Session ended 02/12/2024 11:51 am
Total search duration 0.00
Session duration 34 minutes 8 seconds
Adjacency Level 1
Near Level 1

IDENTIFYN

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 98185398
Filing Date: 09/18/2023

NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	**YES**
MARK INFORMATION	
***MARK**	IDENTIFYN
***STANDARD CHARACTERS**	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	IDENTIFYN
***MARK STATEMENT**	The mark consists of standard characters, without claim to any particular font style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
***OWNER OF MARK**	GMD12, LLC
***MAILING ADDRESS**	6857 Gulf of Mexico Drive
***CITY**	Longboat Key
***STATE** **(Required for U.S. applicants)**	Florida
***COUNTRY/REGION/JURISDICTION/U.S. TERRITORY**	United States
***ZIP/POSTAL CODE** **(Required for U.S. and certain international addresses)**	34228
***EMAIL ADDRESS**	XXXX
LEGAL ENTITY INFORMATION	
***TYPE**	LIMITED LIABILITY COMPANY
***** **STATE/COUNTRY/REGION/JURISDICTION/U.S. TERRITORY WHERE LEGALLY ORGANIZED**	Florida
GOODS AND/OR SERVICES AND BASIS INFORMATION	
***INTERNATIONAL CLASS**	042
***IDENTIFICATION**	Providing reagent sample testing and diagnostic services for others for scientific research purposes; Research and development services in the field of antibodies

***FILING BASIS**	SECTION 1(b)
***INTERNATIONAL CLASS**	044
***IDENTIFICATION**	Antibody testing for medical diagnostic or treatment purposes; Medical diagnostic testing, monitoring and reporting services; Medical imaging services
***FILING BASIS**	SECTION 1(b)
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
ATTORNEY INFORMATION	
NAME	Erik S. Ericksen
ATTORNEY DOCKET NUMBER	4869-003.TM
ATTORNEY BAR MEMBERSHIP NUMBER	XXX
YEAR OF ADMISSION	XXXX
U.S. STATE/ COMMONWEALTH/ TERRITORY	XX
FIRM NAME	Thorpe North & Western, LLP
STREET	8180 South 700 East, Suite 350
CITY	Sandy
STATE	Utah
COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
ZIP/POSTAL CODE	84070
PHONE	801-566-6633
FAX	8015660750
EMAIL ADDRESS	trademarkdocket@tnw.com
OTHER APPOINTED ATTORNEY	Garron M. Hobson, Peter M. de Jonge, Steve M. Perry, Gary P. Oakeson, David W. Osborne, Jason R. Jones, Christopher L. Johnson, Mark Bettilyon, Alex W. Haymond, Todd B. Alder, Jed H. Hansen, Randy M. Braegger, David Armantrout, Alicia M. Lewis, Jillaine Chaston, Kurt Hendricks, Joseph Harmer, Brett J. Davis, Cody Winchester, Jonathan Mena, Justin Johanson
CORRESPONDENCE INFORMATION	
NAME	Erik S. Ericksen
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	trademarkdocket@tnw.com
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	ericksen@tnw.com; jazmin.garcia@tnw.com; lindsi.walker@tnw.com

FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	2
APPLICATION FOR REGISTRATION PER CLASS	250
*TOTAL FEES DUE	500
*TOTAL FEES PAID	500
SIGNATURE INFORMATION	
* SIGNATURE	/ErikSEricksen/
* SIGNATORY'S NAME	Erik S. Ericksen
* SIGNATORY'S POSITION	Attorney of record, Utah Bar member
SIGNATORY'S PHONE NUMBER	801-566-6633
* DATE SIGNED	09/18/2023
SIGNATURE METHOD	Sent to third party for signature

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 98185398
Filing Date: 09/18/2023

To the Commissioner for Trademarks:

MARK: IDENTIFYN (Standard Characters, see mark)
The literal element of the mark consists of IDENTIFYN. The mark consists of standard characters, without claim to any particular font style, size, or color.
The applicant, GMD12, LLC, a limited liability company legally organized under the laws of Florida, having an address of
6857 Gulf of Mexico Drive
Longboat Key, Florida 34228
United States
XXXX

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.
International Class 042: Providing reagent sample testing and diagnostic services for others for scientific research purposes; Research and development services in the field of antibodies
Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services. (15 U.S.C. Section 1051(b)).

For specific filing basis information for each item, you must view the display within the Input Table.
International Class 044: Antibody testing for medical diagnostic or treatment purposes; Medical diagnostic testing, monitoring and reporting services; Medical imaging services
Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services. (15 U.S.C. Section 1051(b)).

The owner's/holder's proposed attorney information: Erik S. Ericksen. Other appointed attorneys are Garron M. Hobson, Peter M. de Jonge, Steve M. Perry, Gary P. Oakeson, David W. Osborne, Jason R. Jones, Christopher L. Johnson, Mark Bettilyon, Alex W. Haymond, Todd B. Alder, Jed H. Hansen, Randy M. Braegger, David Armantrout, Alicia M. Lewis, Jillaine Chaston, Kurt Hendricks, Joseph Harmer, Brett J. Davis, Cody Winchester, Jonathan Mena, Justin Johanson. Erik S. Ericksen of Thorpe North & Western, LLP, is a member of the XX bar, admitted to the bar in XXXX, bar membership no. XXX, and the attorney(s) is located at
8180 South 700 East, Suite 350
Sandy, Utah 84070
United States
801-566-6633(phone)
8015660750(fax)
trademarkdocket@tnw.com
The docket/reference number is 4869-003.TM.
Erik S. Ericksen submitted the following statement: The attorney of record is an active member in good standing of the bar of the highest court of a U.S. state, the District of Columbia, or any U.S. Commonwealth or territory.
The applicant's current Correspondence Information:
Erik S. Ericksen
PRIMARY EMAIL FOR CORRESPONDENCE: trademarkdocket@tnw.com
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES): ericksen@tnw.com; jazmin.garcia@tnw.com; lindsi.walker@tnw.com

Requirement for Email and Electronic Filing: I understand that a valid email address must be maintained by the applicant owner/holder and the applicant owner's/holder's attorney, if appointed, and that all official trademark correspondence must be submitted via the Trademark Electronic Application System (TEAS).
A fee payment in the amount of $500 has been submitted with the application, representing payment for 2 class(es).

Declaration

☑ **Basis:**
If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):

- The signatory believes that the applicant is the owner of the trademark/service mark sought to be registered;
- The mark is in use in commerce and was in use in commerce as of the filing date of the application on or in connection with the goods/services in the application;
- The specimen(s) shows the mark as used on or in connection with the goods/services in the application and was used on or in connection with the goods/services in the application as of the application filing date; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

And/Or
If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e):

- The signatory believes that the applicant is entitled to use the mark in commerce;
- The applicant has a bona fide intention to use the mark in commerce and had a bona fide intention to use the mark in commerce as of the application filing date on or in connection with the goods/services in the application; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

☑ To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.

☑ To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.

☑ The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /ErikSEricksen/ Date: 09/18/2023
Signatory's Name: Erik S. Ericksen
Signatory's Position: Attorney of record, Utah Bar member
Signatory's Phone Number: 801-566-6633
Signature method: Sent to third party for signature
Payment Sale Number: 98185398
Payment Accounting Date: 09/18/2023

Serial Number: 98185398
Internet Transmission Date: Mon Sep 18 19:41:04 ET 2023
TEAS Stamp: USPTO/FTK-XX.XXX.XXX.XX-2023091819410549
5471-98185398-86047fec9732a28a40a63515f4
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-41046612-20230918190020534346

IDENTIFYN

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Mark: IDENTIFYN

IDENTIFYN

US Serial Number: 97939947

Application Filing Date: May 16, 2023

Register: Principal

Mark Type: Trademark, Service Mark

TM5 Common Status Descriptor: LIVE/APPLICATION/Under Examination

The trademark application has been accepted by the Office (has met the minimum filing requirements) and that this application has been assigned to an examiner.

Status: A non-final Office action has been sent (issued) to the applicant. This is a letter from the examining attorney requiring additional information and/or making an initial refusal. The applicant must respond to this Office action. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

Status Date: Feb. 15, 2024

Mark Information

Mark Literal Elements: IDENTIFYN

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S) /NUMBER(S)

Description of Mark: The mark consists of the stylized word "IDENTIFYN" with a lower case letter "I" and an airy disc forming the dot over the lower case letter "I".

Color(s) Claimed: Color is not claimed as a feature of the mark.

Design Search Code(s): 29.01.07 - Inconspicuous designs functioning as punctuation or parts of letters; Small, inconspicuous design elements functioning as punctuation or parts of letters
26.01.18 - Circles, three or more concentric; Concentric circles, three or more; Three or more concentric circles
26.01.21 - Circles that are totally or partially shaded.

Goods and Services

Note:
The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [..] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Reagents and kits comprised of reagents for life science research use, biological specimen collection, drug development, diagnostic services, and predictive medicine to predict treatment efficacy and patient outcomes, and biological product development; reagents for clinical or medical laboratory use

International Class(es): 001 - Primary Class

U.S Class(es): 001, 005, 006, 010, 026, 046

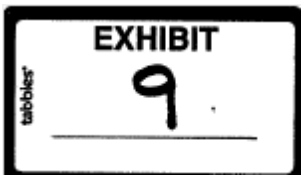
Class Status: ACTIVE

Basis: 1(b)

For: Microscopy imaging services in the fields of microbiology, life sciences research, drug development, diagnostic services, predictive medicine to predict treatment efficacy and patient outcomes, and biological product development, namely, imaging services for use in the study and analysis of biological tissue samples, biopsy samples, tissue cultures, cell cultures, antibodies, antigens, and internal cellular components

International Class(es): 042 - Primary Class

U.S Class(es): 100, 101



Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Filed Use:	No	**Currently Use:**	No
Filed ITU:	Yes	**Currently ITU:**	Yes
Filed 44D:	No	**Currently 44D:**	No
Filed 44E:	No	**Currently 44E:**	No
Filed 66A:	No	**Currently 66A:**	No
Filed No Basis:	No	**Currently No Basis:**	No

Current Owner(s) Information

Owner Name: GMD12, LLC

Owner Address: 6857 Gulf of Mexico Drive
Longboat Key, FLORIDA UNITED STATES 34228

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: FLORIDA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Jeffrey Fabian

Attorney Primary Email Address: jfabian@shumaker.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: JEFFREY FABIAN
SHUMAKER, LOOP & KENDRICK, LLP
101 E. KENNEDY BLVD, SUITE 2800
TAMPA, FLORIDA UNITED STATES 33602

Phone: 813-676-7212

Correspondent e-mail: jfabian@shumaker.com ldyer@shumaker.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Feb. 15, 2024	NOTIFICATION OF NON-FINAL ACTION E-MAILED	
Feb. 15, 2024	NON-FINAL ACTION E-MAILED	
Feb. 15, 2024	NON-FINAL ACTION WRITTEN	
Feb. 08, 2024	ASSIGNED TO EXAMINER	
Jun. 17, 2023	NOTICE OF DESIGN SEARCH CODE E-MAILED	
Jun. 16, 2023	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED	
May 19, 2023	NEW APPLICATION ENTERED	

TM Staff and Location Information

TM Staff Information

TM Attorney: ADEJUNMOBI, AKIN T

Law Office Assigned: LAW OFFICE 105

File Location

Current Location: TMEG LAW OFFICE 105 - EXAMINING ATTORNEY ASSIGNED

Date in Location: Feb. 15, 2024

To: Jeffrey Fabian(jfabian@shumaker.com)
Subject: U.S. Trademark Application Serial No. 97939947 - IDENTIFYN
Sent: February 15, 2024 02:08:10 PM EST
Sent As: tmng.notices@uspto.gov

Attachments

5935648
screencapture-www-toxicology-abbott-us-en-solutions-reagents-html-17080235185061
screencapture-www-toxicology-abbott-us-en-lab-services-urine-lab-testing-html-17080236603321
screencapture-www-bio-techne-com-p-small-molecules-peptides-pei-transfection-reagent_7854-17080236834341
screencapture-www-bio-techne-com-applications-imaging-17080237117521
screencapture-biopharma-labcorp-com-services-analytical-services-custom-antibody-reagents-html-17080237394661
screencapture-biopharma-labcorp-com-services-discovery-nonclinical-imaging-image-analysis-services-html-17080237672301
screencapture-womenshealth-labcorp-com-17080239802021
screencapture-www-labcorp-com-organizations-employers-workplace-drug-testing-urine-lab-drug-testing-17080240194921

United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application Serial No. 97939947

Mark: IDENTIFYN

Correspondence Address:
JEFFREY FABIAN
SHUMAKER, LOOP & KENDRICK, LLP
101 E. KENNEDY BLVD, SUITE 2800
TAMPA FL 33602
UNITED STATES

Applicant: GMD12, LLC

Reference/Docket No. N/A

Correspondence Email Address: jfabian@shumaker.com

NONFINAL OFFICE ACTION

Response deadline. File a response to this nonfinal Office action within three months of the "Issue

date" below to avoid abandonment of the application. Review the Office action and respond using one of the links to the appropriate electronic forms in the "How to respond" section below.

Request an extension. For a fee, applicant may request one three-month extension of the response deadline prior to filing a response. The request must be filed within three months of the "Issue date" below. If the extension request is granted, the USPTO must receive applicant's response to this letter within six months of the "Issue date" to avoid abandonment of the application.

Issue date: February 15, 2024

Introduction

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

Summary of Issues

Section 2(d) - Likelihood of Confusion Refusal
Identification of Goods and Services - Amendment Required

Section 2(d) - Likelihood of Confusion Refusal

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 5935648. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the attached registration.

Trademark Act Section 2(d) bars registration of an applied-for mark that is so similar to a registered mark that it is likely consumers would be confused, mistaken, or deceived as to the commercial source of the goods and/or services of the parties. *See* 15 U.S.C. §1052(d). Likelihood of confusion is determined on a case-by-case basis by applying the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973) (called the "*du Pont* factors"). *In re i.am.symbolic, llc*, 866 F.3d 1315, 1322, 123 USPQ2d 1744, 1747 (Fed. Cir. 2017). Any evidence of record related to those factors need be considered; however, "not all of the *DuPont* factors are relevant or of similar weight in every case." *In re Guild Mortg. Co.*, 912 F.3d 1376, 1379, 129 USPQ2d 1160, 1162 (Fed. Cir. 2019) (quoting *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1406, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997)).

Although not all *du Pont* factors may be relevant, there are generally two key considerations in any likelihood of confusion analysis: (1) the similarities between the compared marks and (2) the relatedness of the compared goods and/or services. *See In re i.am.symbolic, llc*, 866 F.3d at 1322, 123 USPQ2d at 1747 (quoting *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002)); *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976) ("The fundamental inquiry mandated by [Section] 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods [or services] and differences in the marks."); TMEP §1207.01.

Similarity of the Marks

Applicant's mark is IDENTIFYN with a design.

Registrant's mark is IDENTIFY in standard characters.

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). "Similarity in any one of these elements may be sufficient to find the marks confusingly similar." *In re Inn at St. John's, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014)), *aff'd per curiam*, 777 F. App'x 516, 2019 BL 343921 (Fed. Cir. 2019); TMEP §1207.01(b).

In the present case, the marks are identical in part because they contain the identical term "IDENTIFY". Applicant's mark simply adds the letter "N" at the end.

Incorporating the entirety of one mark within another does not obviate the similarity between the compared marks, as in the present case, nor does it overcome a likelihood of confusion under Section 2(d). *See Wella Corp. v. Cal. Concept Corp.*, 558 F.2d 1019, 1022, 194 USPQ 419, 422 (C.C.P.A. 1977) (holding CALIFORNIA CONCEPT and surfer design and CONCEPT confusingly similar); *Coca-Cola Bottling Co. v. Jos. E. Seagram & Sons, Inc.*, 526 F.2d 556, 557, 188 USPQ 105, 106 (C.C.P.A. 1975) (holding BENGAL LANCER and design and BENGAL confusingly similar); *Double Coin Holdings, Ltd. v. Tru Dev.*, 2019 USPQ2d 377409, at *6-7 (TTAB 2019) (holding ROAD WARRIOR and WARRIOR (stylized) confusingly similar); *In re Mr. Recipe, LLC*, 118 USPQ2d 1084, 1090 (TTAB 2016) (holding JAWS DEVOUR YOUR HUNGER and JAWS confusingly similar); TMEP §1207.01(b)(iii). Here, the entirety of registrant's mark, IDENTIFY, is incorporated in applicant's mark, IDENTIFYN.

Thus, because the marks are identical in part and create the same commercial impression, the marks are considered similar for likelihood of confusion purposes.

Relatedness of the Goods and/or Services

Applicant's services are identified as "Reagents and kits comprised of reagents for life science research use, biological specimen collection, drug development, diagnostic services, and predictive medicine to predict treatment efficacy and patient outcomes, and biological product development; reagents for clinical or medical laboratory use" in Class 001, and "Microscopy imaging services in the fields of microbiology, life sciences research, drug development, diagnostic services, predictive medicine to predict treatment efficacy and patient outcomes, and biological product development, namely, imaging services for use in the study and analysis of biological tissue samples, biopsy samples, tissue cultures, cell cultures, antibodies, antigens, and internal cellular components" in Class 042.

Registrant's services are identified as "Genetic testing for medical purposes; Medical testing of urine, blood, hair follicles and breath".

The goods and/or services are compared to determine whether they are similar, commercially related, or travel in the same trade channels. *See Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-71, 101 USPQ2d 1713, 1722-23 (Fed. Cir. 2012); *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165, 64 USPQ2d 1375, 1381 (Fed. Cir. 2002); TMEP §§1207.01, 1207.01(a)(vi).

The compared goods and/or services need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000); TMEP §1207.01(a)(i). They need only be "related in some manner and/or if the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source." *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i); *see Made in Nature, LLC v. Pharmavite LLC*, 2022 USPQ2d 557, at *44 (TTAB 2022) (quoting *In re Jump Designs LLC*, 80 USPQ2d 1370, 1374 (TTAB 2006)).

The attached Internet evidence from ***toxicology.abott***, ***bio-techne.com***, and ***labcorp.com*** establishes that the same entity commonly manufactures, produces, or provides and markets applicant's goods and services, "Reagents and kits comprised of reagents for life science research use, biological specimen collection, drug development, diagnostic services, and predictive medicine to predict treatment efficacy and patient outcomes, and biological product development; reagents for clinical or medical laboratory use" and "Microscopy imaging services in the fields of microbiology, life sciences research, drug development, diagnostic services, predictive medicine to predict treatment efficacy and patient outcomes, and biological product development, namely, imaging services for use in the study and analysis of biological tissue samples, biopsy samples, tissue cultures, cell cultures, antibodies, antigens, and internal cellular components", and registrant's services, "Medical testing of urine, blood, hair follicles and breath", under the same mark. Thus, applicant's and registrant's goods and/or services are considered related for likelihood of confusion purposes. *See, e.g.*, *In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-04 (TTAB 2009); *In re Toshiba Med. Sys. Corp.*, 91 USPQ2d 1266, 1268-69, 1271-72 (TTAB 2009).

Accordingly, the goods and/or services are considered related for purposes of the likelihood of confusion analysis.

Conclusion

Therefore, because the marks are identical in part and the goods and/or services are related, there is a likelihood of confusion as to the source of applicant's goods and/or services, and registration is refused pursuant to Section 2(d) of the Trademark Act.

Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration. However, if applicant responds to the refusal(s), applicant must also respond to the requirement(s) set forth below.

Identification of Goods and Services – Amendment Required

Applicant must clarify the wording "Reagents and kits comprised of reagents for life science research use, biological specimen collection, drug development, diagnostic services, and predictive medicine to predict treatment efficacy and patient outcomes, and biological product development; reagents for clinical or medical laboratory use", and "Microscopy imaging services in the fields of microbiology, life sciences research, drug development, diagnostic services, predictive medicine to predict treatment efficacy and patient outcomes, and biological product development, namely, imaging services for use in the study and analysis of biological tissue samples, biopsy samples, tissue cultures, cell cultures,

antibodies, antigens, and internal cellular components",in the identification of goods and/or services in International Class(es) 001 and 042 because it is indefinite and too broad. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03. This wording is indefinite because it does not make clear the nature of the goods and services. Further, this wording could identify goods and/or services in more than one international class. For example, diagnostic reagents for clinical or medical laboratory use are in International Class 005 and Diagnostic reagents, other than for medical or veterinary purposes are in International Class 001.

Applicant may substitute the following wording, if accurate (changes in **bold**):

International Class 001: Reagents **for medical and life sciences research**; kits comprised of reagents for life science research use **and for** biological specimen collection for the collection of **tissue in laboratory use**

International Class 005: Diagnostic reagents for clinical or medical laboratory use

International Class 042: **Non-medical** microscopy imaging services **in the nature of** providing microbiology research and life sciences research, drug development **research**, predictive medicine **research** to predict treatment efficacy and patient outcomes**; Non-medical microscopy** imaging services for use in the study and analysis of biological tissue samples, biopsy samples, tissue cultures, cell cultures, antibodies, antigens, and internal cellular components; **Pharmaceutical** drug development **services; development of** predictive medicine to predict treatment efficacy and patient outcomes; biological product development; diagnostic services **in the field of disease diagnoses for non-medical, research purposes**

Applicant may amend the identification to clarify or limit the goods and/or services, but not to broaden or expand the goods and/or services beyond those in the original application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06. Generally, any deleted goods and/or services may not later be reinserted. *See* TMEP §1402.07(e).

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO's online searchable *U.S. Acceptable Identification of Goods and Services Manual*. *See* TMEP §1402.04.

Multiple Class Application Requirements for a Section 1(b) Application

The application identifies goods and/or services in more than one international class; therefore, applicant must satisfy all the requirements below for each international class based on Trademark Act Section 1(b):

(1) **List the goods and/or services by their international class number** in consecutive numerical order, starting with the lowest numbered class.

(2) **Submit a filing fee for each international class** not covered by the fee(s) already paid (view the USPTO's current fee schedule). The application identifies goods and/or services that are classified in at least three classes; however, applicant submitted a fee(s) sufficient for only two class(es). Applicant must either submit the filing fees for the classes not covered by the submitted fees or restrict the application to the number of classes covered by the fees already paid.

See 37 C.F.R. §2.86(a); TMEP §§1403.01, 1403.02(c).

For an overview of the requirements for a Section 1(b) multiple-class application and how to satisfy the requirements online using the Trademark Electronic Application System (TEAS) form, see the Multiple-class Application webpage.

Response guidelines. For this application to proceed, applicant must explicitly address each refusal and/or requirement in this Office action. For a refusal, applicant may provide written arguments and evidence against the refusal, and may have other response options if specified above. For a requirement, applicant should set forth the changes or statements. Please see the Responding to Office Actions webpage for more information and tips on responding.

Please call or email the assigned trademark examining attorney with questions about this Office action. Although an examining attorney cannot provide legal advice, the examining attorney can provide additional explanation about the refusal(s) and/or requirement(s) in this Office action. *See* TMEP §§705.02, 709.06.

The USPTO does not accept emails as responses to Office actions; however, emails can be used for informal communications and are included in the application record. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

How to respond. File a **response form to this nonfinal Office action** or file a **request form for an extension of time to file a response**.

/Akin Adejunmobi/
Akin Adejunmobi
Examining Attorney
LO105--LAW OFFICE 105
(571) 270-0817
Akin.Adejunmobi@uspto.gov

RESPONSE GUIDANCE

- **Missing the deadline for responding to this letter will cause the application to abandon.** A response or extension request must be received by the USPTO before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Trademark Electronic Application System (TEAS) system availability could affect an applicant's ability to timely respond. For help resolving technical issues with TEAS, email TEAS@uspto.gov.

- **Responses signed by an unauthorized party** are not accepted and can **cause the application to abandon.** If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with legal authority to bind a juristic applicant. If applicant has an attorney, the response must be signed by the attorney.

- If needed, **find contact information for the supervisor** of the office or unit listed in the

signature block.

5935648

Identify

Word Mark	IDENTIFY
Goods/Services	IC 044 US 100 101 Genetic testing for medical purposes; Medical testing of urine, blood, hair follicles and breath.
Register	PRINCIPAL
Serial Number	88306855
Filing Date	2019-02-19T00:00:00
Original Filing Basis	1a
Current Filing Basis	1a
Publication Date	2019-10-01
Registration Number	5935648
Date Registered	2019-12-17
Owner	(REGISTRANT) LabSolutions LLC (LIMITED LIABILITY COMPANY; GEORGIA, USA); 1451 Northside Dr NW, Atlanta, GEORGIA 30318, UNITED STATES
Type of Mark	SERVICE MARK
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Live Dead Indicator	LIVE
Status	REGISTERED

Print: February 12, 2024 9:54 AM

REAGENTS

The Abbott reagent portfolio allows easy screening for relevant substances. Our complete line of assays, calibrators and controls enables implementation of an efficient drug testing system.

Prescription drug misuse and illicit drug abuse are growing public health challenges worldwide. Building a test profile that covers highly misused drugs has never been so vital. The Abbott reagent portfolio allows easy screening for relevant substances. Our complete line of assays, calibrators, and controls enables implementation of an efficient drug testing system.

We offer the following reagent formats for multiple matrices: HEIA™, SEFRIA™ and ELISA.

SEFRIA™ AND HEIA™ REAGENTS ELISA REAGENTS

SEFRIA™ AND HEIA™ REAGENTS

Our comprehensive reagent menu includes illicit compounds, opiates, opioids, synthetic cannabinoids and other drugs.

SEFRIA reagents comprise the next generation immunoassay utilizing β-galactosidase enzyme allowing for lower cutoffs, wider assay span and enhanced precision in a ready-to-use liquid format.
HEIA (homogeneous enzyme immunoassay) reagents are intended for the qualitative or semi-quantitative screening of drugs in human urine and oral fluid. HEIA formats are designed to be rapid and inexpensive, since the assays require no incubation or separation steps, and the reactions occur entirely in solution.

SEFRIA™ REAGENTS

The next generation immunoassay utilizing β-galactosidase enzyme.

LEARN MORE

HEIA™ REAGENTS

Intended for the qualitative or semi-quantitative screening of drugs.

LEARN MORE

ELISA REAGENTS

Enzyme Linked Immunosorbent Assay (ELISA) screening techniques are widely utilized by toxicologists to screen forensic specimens for drugs of abuse. These immunoassays are extremely flexible and have adequate sensitivity to go down to the drug levels found in most forensic matrices.

ELISA REAGENTS

Quality products with the accuracy, reliability and confidence you expect.

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Leverage our comprehensive portfolio of solutions to provide the critical results you need. Contact us to discuss your organization's drug and alcohol testing needs today.

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YOUR PRIVACY CHOICES

URINE DRUGS OF ABUSE LABORATORY TESTING

Our objective is to help clients detect and prevent drug and alcohol abuse by providing convenient, reliable and accurate urine tests.

BENEFITS

Our professional laboratory staff performs screening and confirmation with state-of-the-art technology and equipment. After initial screening for presumptive positives, quantitative/qualitative confirmation can be performed by gas chromatography-flame ionization detector, gas chromatography-mass spectrometry, or liquid chromatography-tandem mass spectrometry.

- Urine screening and confirmation with fast, accurate results
- Wide range of drug test panels available
- Lab analysis provides confirmative evidence of use and defensible results
- Fast turnaround time from receipt of specimen
- Toll-free customer support services with access to licensed toxicologists

Numerous report options available, including web-based test management solution for all clients

TEST TYPES

ROUTINE TESTING

Abbott utilizes some of the most sophisticated, sensitive and specific equipment and technology available to screen, confirm and quantitate drugs of abuse in urine. Our methodologies provide highly accurate, legally defensible results. As with all of our testing options, full customer support is provided.

- STANDARD DRUG TESTS +

SYNTHETIC/ESOTERIC TESTING

We also offer a wide range of specialized tests including: comprehensive drug testing, designer stimulants (bath salts), ethyl glucuronide/ethyl sulfate (EtG/EtS), fentanyl, gabapentin, γ-hydroxybutyric acid (GHB), kratom, steroid/sports drugs, synthetic cannabinoids, tramadol, and heroin/6-MAM.

- DESIGNER STIMULANT TESTING +
- SYNTHETIC CANNABINOIDS URINE TESTING +
- COMPREHENSIVE DRUG TESTING +
- ETG/ETS ALCOHOL METABOLITE TESTING +
- FENTANYL DRUG TESTING +
- GHB TESTING +
- KRATOM DRUG TESTING +
- STEROID/SPORTS DRUG TESTING +

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YOUR PRIVACY CHOICES

PEI STAR™ transfection reagent

Catalog # **7854** | Tocris Bioscience a Bio-Techne Brand

TOCRIS

COA / SDS

Polyethylenimine (PEI) transfection reagent, chemically-defined

(4)

Catalog #	Availability	Size / Price	Qty
7854/100	In Stock - Arrives in 1 - 2 Business Days	100 mg / $124.00	0
7854/1G	In Stock - Arrives in 1 - 2 Business Days	1 g / $674.00	0

Print Quote | Bulk Order | Add To Cart

Order Information

Bio-Techne Corporation
tel: (800) 343-7475 (free phone)
tel: (612) 379-2956
Contact Us »

Shipping Information
$35 to United States

View Distributors

Key Product Details

Description: Polyethylenimine (PEI) transfection reagent, chemically-defined

Chemical Name: Poly[imino(1,2-ethanediyl)] hydrochloride

View Full Technical Details for PEI STAR™ transfection reagent

Technical Data

Biological Activity | Scientific Data | Technical Data | Calculators | References | Product Datasheets

Biological Activity for PEI STAR™ transfection reagent

PEI STAR™ is a chemically-defined, high-performance polyethylenimine (PEI) transfection reagent for cost-effective, affordable and scalable transient gene expression. PEI is a synthetic polymer with an exceptionally high positive charge density in pH-neutral solutions. Positively charged PEI binds strongly to negatively

charged DNA and imparts a net cationic charge, allowing the DNA to enter cells. PEI is a non-viral vector commonly used to transfect HEK293 and CHO cells. Applications include production of recombinant proteins, antibodies and viruses.

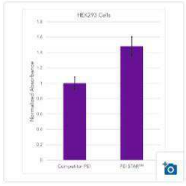
PEI STAR is a trademark of Bio-Techne Corp.

Protocols

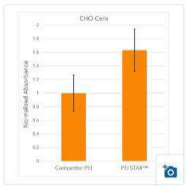
Please see the links below for protocols relating to the use of PEI STAR™

Protocol Name	Cell Type
PEI STAR™ Transfection Reagent preparation	
Gene Expression in Adherent HEK293 cells	Adherent
rAAV Production in Adherent HEK293 Cells	Adherent
Lentivirus Production in Adherent HEK293T Cells	Adherent
Gene Expression in HEK293 Cell Suspensions	Suspension
rAAV Production in Suspension HEK293 Cells	Suspension
Gene Expression in CHO Suspensions	Suspension

Scientific Data Examples for PEI STAR™ transfection reagent

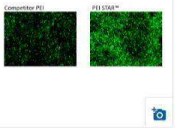


Application of PEI STAR™ transfection reagent. PEI STAR™ performance data comparison (HEK293): HEK 293 - 20 mL cultures containing HEK293 suspensions were transfected with a CMV-SEAP plasmid at optimized PEI/DNA ratios using either PEI STAR™ (3:1) or leading competitor PEI. SEAP expression levels were quantified 5 days post-transfection using phosphatase reporter dye and UV/Vis absorbance.



Application of PEI STAR™ transfection reagent. PEI STAR™ performance data comparison (CHO): CHO - 20 mL cultures containing CHO suspensions were transfected with a CMV-SEAP plasmid at optimized PEI/DNA ratios using either PEI STAR™ (5:1) or leading competitor PEI. SEAP expression levels were quantified 5 days post-transfection using phosphatase reporter dye and UV/Vis absorbance.

Transfection of a reporter GFP construct using a leading competitor PEI and PEI STAR™. HEK293 cells grown in



optimem were incubated for 8 minutes before addition to cells. PEI STAR™ showed significantly higher expression of GFP in imaged cells.

Technical Data for PEI STAR™ transfection reagent

Storage	Store at RT
CAS Number	49553-93-7

The technical data provided above is for guidance only. For batch specific data refer to the Certificate of Analysis.

Tocris products are intended for laboratory research use only, unless stated otherwise.

Dilution Calculator

Calculate the dilution required to prepare a stock solution.

Concentration 1 (C1) conc. mM x **Volume 1 (V1)** volume mL = **Concentration 2 (C2)** conc. mM x **Volume 2 (V2)** volume mL

Calculate

Reconstitution Calculator

The reconstitution calculator allows you to quickly calculate the volume of a reagent to reconstitute your vial. Simply enter the mass of reagent and the target concentration and the calculator will determine the rest.

Volume (to add to vial) volume µl = **Mass (in vial)** mass ug ÷ **Desired Reconstitution Concentration** conc. µg/ml

Calculate

References for PEI STAR™ transfection reagent

References are publications that support the biological activity of the product.

- **Trivedi** Comparison of highly pure rAAV9 vector stocks produced in suspension by PEI transfection or HSV infection reveals striking quantitative and qualitative differences. Mol.Ther.Methods Clin.Dev. 2021 PMID: 35071688
- **Han** Aberrant role of pyruvate kinase M2 in the regulation of gamma-secretase and memory deficits in Alzheimer's disease. Cell Rep. 2021 PMID: 34879266

- **Hall** Aberrant rote of pyruvate kinase M2 in the regulation of gamma-secretase and memory deficits in Alzheimer's disease. Cell Rep. 2021 PMID: 34879266
- **Longo** Transient mammalian cell transfection with polyethylenimine (PEI). Methods Enzymol. 2013 PMID: 24011049
- **Huang** AAV2 production with optimized N/P ratio and PEI-mediated transfection results in low toxicity and high titer for *in vitro* and *in vivo* applications. J.Virol.Methods 2013 PMID: 23791963
- **Boussif** A versatile vector for gene and oligonucleotide transfer into cells in culture and *in vivo*: polyethylenimine. Proc.Natl.Acad.Sci.U.S.A 1995 PMID: 7638184

Product Documents for PEI STAR™ transfection reagent

COA

Certificate of Analysis

To download a Certificate of Analysis, please select a batch below.

Select Your Batch | View Batch

SDS

Bio-Techne Brands

Which Brands are Currently Available on bio-techne.com? R&D Systems, Novus Biologicals, Tocris Bioscience and ProteinSimple branded products are available to purchase through bio-techne.com. ProteinSimple branded instruments are available to quote. ACD branded products will be available on bio-techne.com in the near future.

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protein simple — Proprietary systems and consumables for simpler, more quantitative and affordable protein analysis

ACD — Proprietary RNAscope® technology capable of detecting and quantifying RNA biomarkers in situ at single molecule sensitivity

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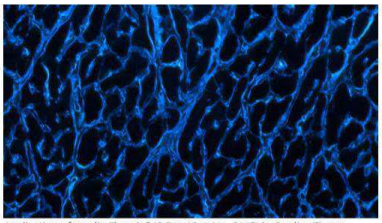

Application of Janelia Fluor® 549 Dye (Cat. No. 6147) in Cardiac Tissue.

Imaging Applications

Select your application below and explore the associated product ranges and workflow solutions

Immunocytochemistry (ICC) - coming soon	Immunohistochemistry (IHC)	RNAscope™ ISH Technology	Super-Resolution Microscopy

Imaging Products and Services

Antibodies

Primary Antibodies	Secondary Antibodies	Recombinant Monoclonal Antibodies	Knockout Validated Antibodies
Conjugated Primary Antibodies	Epitope Tag Antibodies	Isotype Control Antibodies	Biosimilar Antibodies
Anti-idiotype Antibodies			

Dyes & Probes

Fluorescent Dyes	Fluorescent Probes	Janelia Fluor® Dyes	Labels and Stains
Near Infrared (NIR) Fluorescent Dyes	Photoactivatable Dyes		

Slides and Microarrays (found at Novus.com, coming soon to Bio-Techne.com)

IHC Tissue Slides	IHC Microarrays

Imaging Reagents

Antifade Reagents	Aptamer-based RNA Imaging	Bioluminescent Substrates	Tissue Clearing Reagents
TR-FRET and FP Assay Reagents	Tyramide Signal Amplification (TSA) Reagents & Kits		

Imaging Kits

Antibody Labeling kits	Flow Cytometry Kits	Organoid Tissue Clearing Kit	Tissue Clearing Kit

Imaging Services

Custom Antibody Services	Custom LlaMABody™ Services	Professional Assay Services (found at acdbio.com)

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- Simple Western
- Western Blotting
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- Flow Cytometry
- Immunoassay Workflow Solutions
- Simple Western Database

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Spectra Viewer »

Flow Cytometry Panel Builder

Flow panel Cytometry Builder

Protocols

Protocols »

Brochures & Scientific Articles

- Fluorescent Dyes and Probes Product Listing
- Flow Cytometry eHandbook
- Immunohistochemistry (IHC) Handbook
- Spatial RNA Profiling in the Nervous System with the RNAscope™ Technology

View all literature - and filter by interest.

Imaging Protocols

Visit Tocris.com for imaging related protocols

- Protocols for Cell Counting Kit-8
- Protocols for Fluorescent Dye Conjugation
- Protocols for MitoBrilliant™ Probes
- Protocols for Phalloidin Dyes
- Protocols for Janelia Fluor® Dyes
- Protocols for TSA Vivid Fluorophore Kits

Bio-Techne Brands

Which Brands are Currently Available on bio-techne.com? R&D Systems, Novus Biologicals, Tocris Bioscience and ProteinSimple branded products are available to purchase through bio-techne.com. ProteinSimple branded instruments are available to quote. ACD branded products will be available on bio-techne.com in the near future.

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USA

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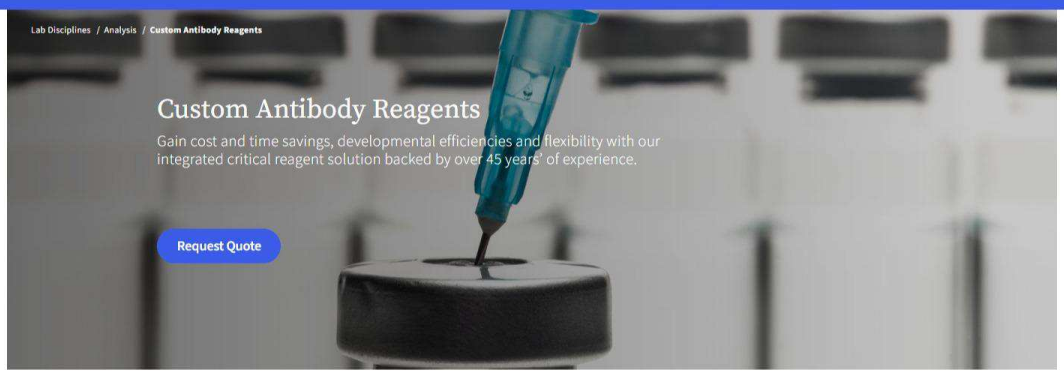

- Integrated critical reagent solution
- High-quality reagents with reproducible performance
- Deep and multidisciplinary expertise

Antibody Reagent Capabilities

- Tool Reagents
- Critical Reagents (ADA, Anti-Id, Anti-HCP)
- Reagent Portfolio Management
- Monoclonal Antibody Production
- Polyclonal Antibody Services
- Scientific Spotlights

You need quality antibody reagents in consistent supply to avoid delays and optimize your workflow when developing your biotherapeutic. In some cases, an expensive "off-the-shelf" antibody isn't available or your sources aren't reliable. Trust in custom-made antibodies by Labcorp to eliminate lot-to-lot variation and produce better results than generic, catalog antibodies. Our custom, integrated solution backed by leading experts is tailored to your goals and the intended use of the antibody, resulting in high-quality reagents with reproducible performance.

Integrated critical reagent solution

We offer a variety of services for a broad range of antibody reagents against a variety of antigen host species. As a single global entity, we integrate the generation, characterization, storage and distribution of your antibody critical reagents to support your nonregulated and regulated nonclinical data for discovery and safety assessment. Plus, because we offer a comprehensive drug development portfolio in addition to antibody reagent solutions, you can partner with us throughout your development journey.

High-quality reagents with reproducible performance when you need them

Our comprehensive toolbox of bioanalytical methods, including our purpose-built facilities, allows us to customize our approach to your project resulting in high-quality, reproducible, sustainable reagents throughout the development life cycle. Rely on a joined-up inventory management system, built-in risk mitigation strategies and innovation technology platforms such as Gyros™, MSD, ELISA, AB Sciex, Hamilton Star® and Bio-Plex® to deliver efficient results.

Deep and multidisciplinary expertise

Our bioanalytical experts from discovery, nonclinical and clinical will help you anticipate regulatory challenges and offer strategic solutions to guide and enable you to make informed decisions faster. Our committed staff has decades of experience supporting large and small molecule development and work in an integrated manner to proactively communicate and plan your projects.

Request a Quote

ENHANCING VACCINES AND ANTIBODY RESEARCH

Lab expansions to match your growing needs

Equipped with state-of-the-art technology, our new sample analysis lab space in Denver, Pa., provides one-stop service for *in vivo* testing and *in vitro* analysis so you can receive faster results for your vaccine and antibody research and development.

Read the blog

Antibody Reagent Capabilities From the Online Catalog

Antibody labeling/conjugation services
Antibody purification services
Antibody pairs (for assay development)
Immunogenicity assay: Anti-drug antibody

Anti-hcp antibody generation services
Immune response monitoring/screening
Immunogenicity testing (cut-point determination)
Immunogenicity testing (clinical)
Monoclonal antibody (Mab) scale-up services
Neutralizing antibody (nAb) development
Octet analysis services for pairing and affinity ranking
T cell dependent antibody response assay

Hybridoma development
Immunization schedule development
Immunogenicity testing (nonclinical)
Monoclonal antibody (mAb) development
Monoclonal antibody development
Non-GLP sample analysis (ELISA)
PandA (PEG and acid) assay

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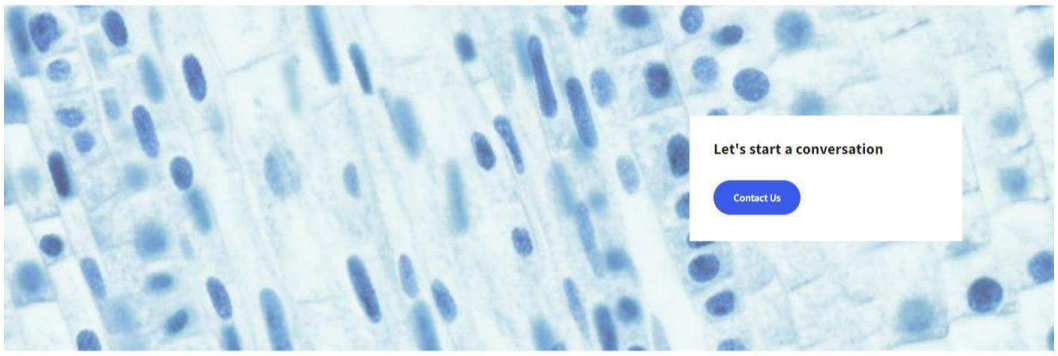

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Labcorp is a leading global life sciences company that includes contract research and developmental services to the pharmaceutical, medical technology, crop protection and chemical industries.

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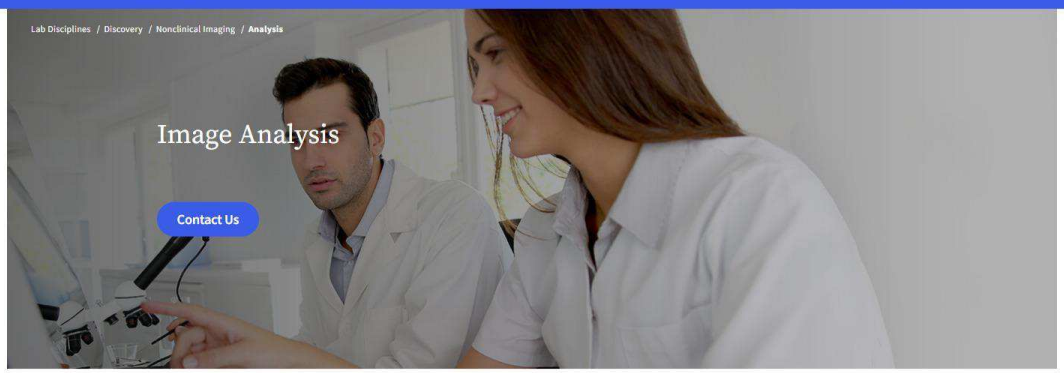


Image Analysis

Contact Us

We do not deliver just images and numbers—we also offer scientific solutions using imaging to address a customer's business needs. We feel the development of an image analysis protocol is thus equally important as development of an imaging method; as it dictates the data deliverables for customers. With smart design, an image analysis protocol allows us to fully exploit the capability of the imaging system and in turn, our customers receive more meaningful information from their study to help them make informed decisions. To that end, we have invested in the development of the following in-house tools to increase automation of image analysis.

Our Tumor Image Analysis Applications include:

BLIZZARD™ for BLI Analysis
Fully Automatic, High-throughput Signal Analyzer with Multiple Disease Model Support

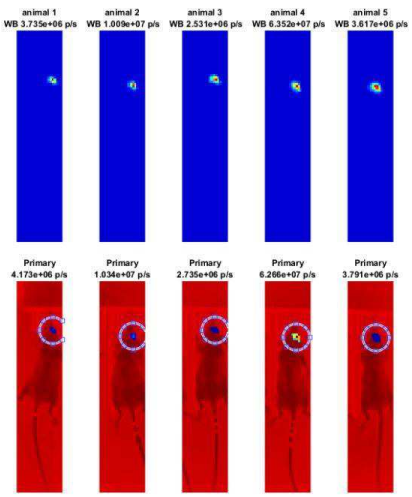
Automation of image analysis does not just boost our throughput; it substantially increases the accuracy of analysis since human bias is eliminated. Both are showcased in our fully automated BLI data analysis using our BLIZZARD™ tool. Users only need to specify a folder containing raw data to be analyzed, and BLIZZARD™ automatically identifies and analyzes it, performs whole-body signal and/or localized signal based on the tumor model, then writes results with subject information into an Excel data sheet. Analysis of hundreds of subjects only takes a few minutes. No manual creation of region of interest (ROI) over signal is needed, greatly reducing analysis time. The human side of BLIZZARD™ offers a result inspection view for quality assurance, and a representative image feature enabling a user to quickly export results

DISCOVERY SECTION

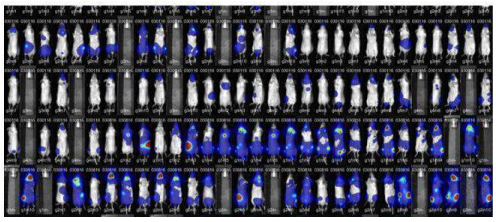
- Non-GLP Safety
- Disease Models
- PK/TK
- Nonclinical Imaging
  - Computed Tomography
  - Bioluminescence
  - Analysis
  - Positron Emission

across different time-points in a study on a global scale for review and comparison purposes. Since its release, BLIZZARD™ has made our already successful BLI imaging service even more compelling.

Fully Automated BLI Flux Analysis of Whole-body and Primary Tumor Using Blizzard™



Fully Automated BLI Flux Analysis of Whole-body and Primary Tumor Using Blizzard™



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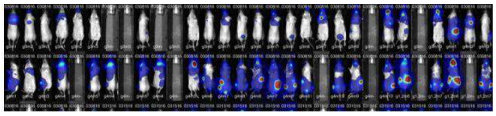


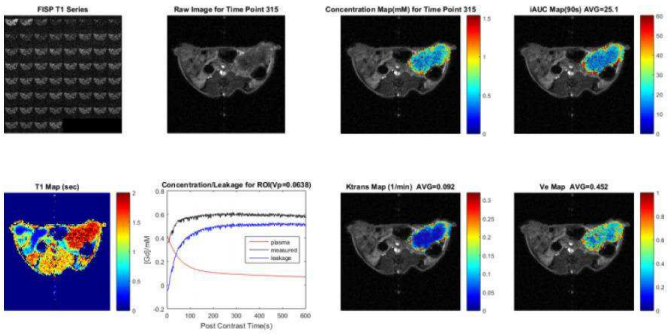
Representative Image Exporting View in BLIZZARD™

REDCAT™ for DCE MRI Analysis

Fully Automatic Tofts Model solver with Pre-contrast T1 Map Support

A fully quantitative dynamically contrast enhanced (DCE) MRI analysis procedure requires fitting a pre-contrast T1 map, converting signal intensity into actual tissue concentration of contrast agent, and finally, solving a pharmacokinetic model. It generates a series of results including T1, contrast concentration, initial area under curve (iAUC), volume transfer constant (Ktrans), fractional extracellular extravascular space volume (Ve) and fractional plasma volume (Vp). These procedures and outputs have been long established in clinical studies. Our in-house developed REDCAT^{TM} tool is capable of performing such an analysis with just a few mouse clicks, and offers the results in both ROI-based numerical values and pixel-based parametric maps. REDCAT^{TM} does not just simplify our analysis; it extracts more accurate and clinically-relevant information from a classical MRI method used extensively in oncology imaging.

Tumor Permeability Analysis using REDCAT™ for DCE MRI Analysis



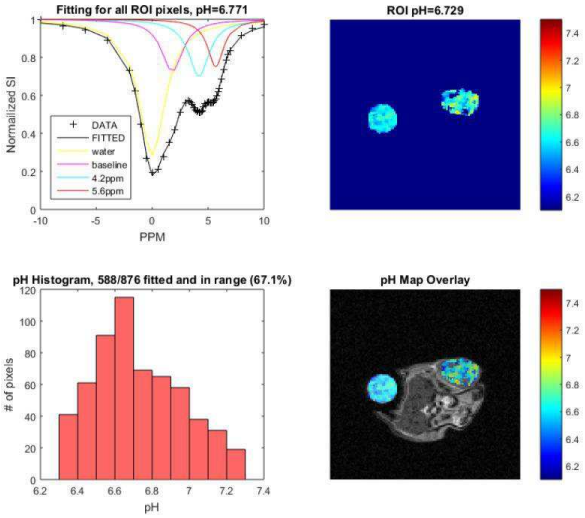
OASIS™ for CEST MRI Analysis

Fully Automatic Z-spectrum Analyzer Covering CEST-based pH Measurement and Asymmetrical Magnetization Transfer Ratio

Another handy tool we've developed, called OASIS^{TM}, increases efficiency of our imaging development process and enables us to focus on imaging sequence design and agent application. For

example, when we apply our new tissue pH measurement method using Chemical Exchange Saturation Transfer (CEST) MRI, our OASIS™ tool runs in parallel with the scanner, so that the effect of a parameter change can be evaluated in real-time. *In vivo* measurement of tissue pH using CEST MRI is very sensitive to tissue uptake of contrast agent and response to radio frequency pulses. OASIS™ does not just report pH values; it also visualizes more perspectives of the data collected, thus offering us more insights into the complex interrelation among imaging sequence, contrast agent, and tissue physiology. Use of this tool is instrumental in our effort to maximize the capability of a novel imaging approach.

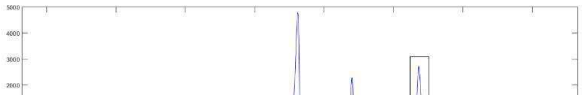
Tumor pH Measurement using OASIS™ for CEST MRI Analysis

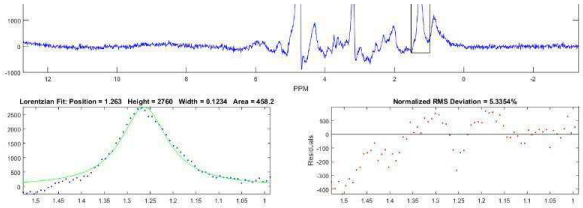


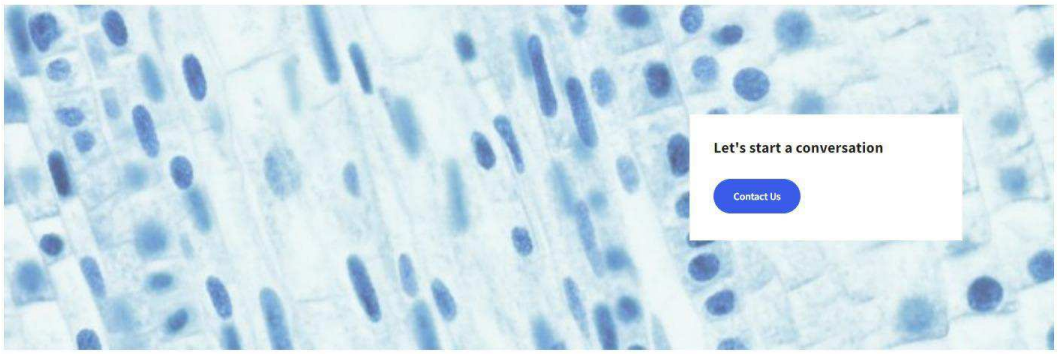
SIFT™ for MRS Analysis

Fast and Intuitive NMR Spectrum Quantification

Interactive Measurement of Brain Metabolites Using SIFT™ for MRS Analysis







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HERE FOR EVERYONE

Women's health and genetic testing

We aspire to be the lab that supports women's needs wherever they are in their lives, whatever their health and personal situation, wherever they go for their testing and whomever they see.

For Patients

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Everyone has different healthcare needs throughout their life. One of the ways that you can be proactive about your health is by learning about testing and screening that can help you be as healthy as possible. With our decades of commitment to women's health, we are here for you.

Patient Services

For Providers

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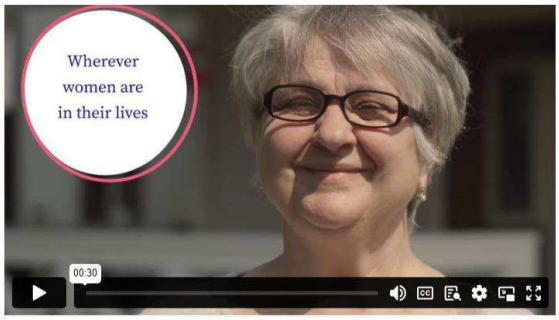
Whether supporting your patient's pregnancy, offering insights to help understand issues related to infertility or helping women live healthier lives, we provide an industry-leading portfolio of tests combined with the excellent support, services and ease-of-use you can rely on.

Provider Services

Welcome to Labcorp Women's Health and Genetics



The Ovia® apps: Health support for every stage
Daily health tracking and clinically backed guidance for the fertility, pregnancy and parenting journey.

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RPR false-positivity observed during the current SARS-CoV-2 pandemic.

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Genetics is complicated. Navigating the world of genetics doesn't have to be.

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Urine Lab Drug Testing

Labcorp is an industry-leading provider of urine drug testing services.

Our Substance Abuse and Mental Health Services Administration (SAMHSA)-certified laboratories conduct urine drug analyses in accordance with Department of Health and Human Services and Department of Transportation **requirements**. Testing of nonregulated specimens is conducted using comparable stringent protocols.

Our strategically located laboratories offer a full range of testing services and provide prompt turnaround times nationwide. Uniform laboratory processes and a single computer platform provide standardized reporting regardless of testing location. We are also the first SAMHSA-certified laboratory system to offer a fully digital chain of custody form that simplifies and improves the testing experience start to finish.

Standard urine drug testing panels range from five to 10 drugs. Specimen validity testing is available to detect adulterants or specimen substitution resulting from a donor's attempts to mask drug use. Expanded profiles for medical professional monitoring are also available.

Testing Lab Locations

SAMHSA-Certified Laboratories

The Labcorp workplace toxicology testing laboratory network consists of the following SAMHSA-certified laboratories.

Laboratory Corporation of America Holdings
7207 N. Gessner Road
Houston, TX 77040
713-856-8288 / 800-800-2387

Laboratory Corporation of America Holdings
69 First Avenue
Raritan, NJ 08869
908-526-2400 / 800-437-4986

Laboratory Corporation of America Holdings
1904 TW Alexander Drive
Research Triangle Park, NC 27709
919-572-6900 / 800-833-3984

Laboratory Corporation of America Holdings
1120 Main Street
Southaven, MS 38671
866-827-8042 / 800-233-6339

Laboratory Corporation of America Holdings (dba MedTox Laboratories, Inc.)
402 W County Road D, St. Paul, MN 55112

651–636–7466 / 800–832–3244

The **Drugs of Abuse Reference Guide** provides common drugs of abuse that may be included in a urine drug screening panel. Labcorp encourages the use of an independent medical review officer (MRO) to review all non-negative test results. Information contained in the Drugs of Abuse Reference Guide is to be used as general guidelines only. Many variables may affect duration of detectability, such as drug metabolism and half-life, subject's physical condition, fluid balance and state of hydration, and route and frequency of ingestion.

To set up a urine drug testing program, **contact Labcorp sales**.

United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on February 15, 2024 for
U.S. Trademark Application Serial No. 97939947

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action to avoid your application abandoning. Follow the steps below.

(1) Read the Office action. This email is NOT the Office action.

(2) Respond to the Office action by the deadline using the Trademark Electronic Application System (TEAS). Your response, or extension request, must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Otherwise, your application will be abandoned. See the Office action itself regarding how to respond.

(3) Direct general questions about using USPTO electronic forms, the USPTO website, the application process, the status of your application, and whether there are outstanding deadlines to the Trademark Assistance Center (TAC).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

GENERAL GUIDANCE

- **Check the status of your application periodically** in the Trademark Status & Document Retrieval (TSDR) database to avoid missing critical deadlines.

- **Update your correspondence email address** to ensure you receive important USPTO notices about your application.

- **Beware of trademark-related scams**. Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. Verify the correspondence originated from us by using your serial number in our database, TSDR, to confirm that it appears under the "Documents" tab, or contact the Trademark Assistance Center.

- **Hiring a U.S.-licensed attorney.** If you do not have an attorney and are not required to

have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.

User: Akin Adejunmobi

Statistics for Case 97939947						
#	**Search**	**Total Marks**	**Dead Marks**	**Live Viewed Docs**	**Live Viewed Images**	**Status/Search Duration**
1	SN:97939947	1	0	1	1	
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3	DC:(260118 concentric circles) AND LD:true	13566	0	0	0	0:00
4	DC:(260121 shaded circles) AND LD:true	117404	0	0	0	0:00
5	2 AND (3 4)	659	0	1	659	
6	CM:/.*iden{1,2}t{1,2}[aiey]{1,2}[fph]{1,2}[iey].*/ AND LD:true	677	0	0	0	0:00
7	2 AND 6	4	0	2	4	

Session started 02/12/2024 11:52 am
Session ended 02/12/2024 12:00 pm
Total search duration 0.00
Session duration 8 minutes 28 seconds
Adjacency Level 1
Near Level 1

User: Akin Adejunmobi

Statistics for Case 97939947						
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2	OW:"GMD12, LLC"	5	0	5	5	
3	CM:"identifyn" AND LD:true	3	0	3	3	
4	CM:/.*iden{1,2}t{1,2}[aiey]{1,2}[fph]{1,2}[iey].*/ AND LD:true	677	0	0	0	0:00
5	4 AND CC:001	282	0	282	282	

Session started 02/12/2024 9:17 am
Session ended 02/12/2024 11:51 am
Total search duration 0.00
Session duration 34 minutes 8 seconds
Adjacency Level 1
Near Level 1

Note To The File

Serial Number: 97939947
Date: 02/12/2024 11:42 am
Created by: Akin Adejunmobi

IDENTIFYN

IDENTIFYN

Changed

- Updated formatting of mark description.

From: TMDesignCodeComments
Sent: Saturday, June 17, 2023 00:30 AM
To: XXXX
Cc: XXXX
Subject: Official USPTO Notice of Design Search Code: U.S. Trademark SN: 97939947: IDENTIFYN (Stylized/Design)

Docket/Reference Number:

The USPTO has assigned design search codes to your application (U.S. serial number: 97939947).

Design search codes assigned to your application:

26.01.18 - Circles, three or more concentric
26.01.18 - Concentric circles, three or more
26.01.18 - Three or more concentric circles
26.01.21 - Circles that are totally or partially shaded.
29.01.07 - Inconspicuous designs functioning as punctuation or parts of letters
29.01.07 - Small, inconspicuous design elements functioning as punctuation or parts of lett

If you would like to request that we add or delete a design search code, please email TMDesignCodeComments@USPTO.GOV. Include your name, application serial number, a list of design search codes you would like to add or delete, and a brief justification. We will process your request within two business days. If we approve your request, the updated list of design search codes will appear in our Trademark Status and Document Retrieval (TSDR) database, accessible at https://tsdr.uspto.gov/, under the "Mark Information" tab.

Design search codes are numerical codes we assign to the prominent features of your mark's design. We call these features "design elements." A design element can be any component of your mark that is not a word, such as a depiction of a star or a flower. Assigning design search codes to your mark helps us more effectively search our database for marks that may conflict with yours. Design search codes have no legal significance and will not appear on the registration certificate.

For more information about design search codes, including why and how we use them and information on adding or deleting design search codes from your application, please visit our design search code webpage at http://www.uspto.gov/DesignSearchCodes. For a list of design search codes, see the design search code manual at http://tess2.uspto.gov/tmdb/dscm/index.htm.

For questions, please call 1-800-786-9199 (option 1) to speak to a Customer Service representative in the Trademark Assistance Center. Please visit http://www.uspto.gov/TrademarkAssistance for additional information about the Trademark Assistance Center.

This notice will be available in TSDR in one business day.

Trademark/Service Mark Application, Principal Register

Serial Number: 97939947
Filing Date: 05/16/2023

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	97939947
MARK INFORMATION	
***MARK**	\\TICRS\EXPORT18\IMAGEOUT 18\979\399\97939947\xml1 \ APP0002.JPG
SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	IDENTIFYN
COLOR MARK	NO
***DESCRIPTION OF THE MARK (and Color Location, if applicable)**	The mark consists of the stylized word "IDENTiFYN" with a lower case letter "i" and an airy disc forming the dot over the lower case letter "i".
PIXEL COUNT ACCEPTABLE	NO
PIXEL COUNT	1000 x 261
REGISTER	Principal
APPLICANT INFORMATION	
***OWNER OF MARK**	GMD12, LLC
***MAILING ADDRESS**	6857 Gulf of Mexico Drive
***CITY**	Longboat Key
***STATE (Required for U.S. applicants)**	Florida
***COUNTRY/REGION/JURISDICTION/U.S. TERRITORY**	United States
***ZIP/POSTAL CODE (Required for U.S. and certain international addresses)**	34228
***EMAIL ADDRESS**	XXXX
LEGAL ENTITY INFORMATION	
TYPE	limited liability company
STATE/COUNTRY/REGION/JURISDICTION/U.S. TERRITORY WHERE LEGALLY ORGANIZED	Florida
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	001
***IDENTIFICATION**	Reagents and kits comprised of reagents for life science research use, biological specimen collection, drug development, diagnostic services, and predictive medicine to

	predict treatment efficacy and patient outcomes, and biological product development; reagents for clinical or medical laboratory use.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	042
***IDENTIFICATION**	Microscopy imaging services in the fields of microbiology, life sciences research, drug development, diagnostic services, predictive medicine to predict treatment efficacy and patient outcomes, and biological product development, namely imaging services for use in the study and analysis of biological tissue samples, biopsy samples, tissue cultures, cell cultures, antibodies, antigens, and internal cellular components.
FILING BASIS	SECTION 1(b)
ATTORNEY INFORMATION	
NAME	Jeffrey Fabian
ATTORNEY BAR MEMBERSHIP NUMBER	XXX
YEAR OF ADMISSION	XXXX
U.S. STATE/ COMMONWEALTH/ TERRITORY	XX
FIRM NAME	Shumaker, Loop & Kendrick, LLP
STREET	101 E. Kennedy Blvd, Suite 2800
CITY	Tampa
STATE	Florida
COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
ZIP/POSTAL CODE	33602
PHONE	813-676-7212
EMAIL ADDRESS	jfabian@shumaker.com
CORRESPONDENCE INFORMATION	
NAME	Jeffrey Fabian
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	jfabian@shumaker.com
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	ldyer@shumaker.com
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Standard
NUMBER OF CLASSES	2
APPLICATION FOR REGISTRATION PER CLASS	350
***TOTAL FEES DUE**	700
***TOTAL FEES PAID**	700
SIGNATURE INFORMATION	
SIGNATURE	/Brian T. Bennett/
SIGNATORY'S NAME	Brian T. Bennett
SIGNATORY'S POSITION	Principal
SIGNATORY'S PHONE NUMBER	9417794859

DATE SIGNED	05/16/2023
SIGNATURE METHOD	Sent to third party for signature

Trademark/Service Mark Application, Principal Register

Serial Number: 97939947
Filing Date: 05/16/2023

To the Commissioner for Trademarks:

MARK: IDENTIFYN (stylized and/or with design, see mark)
The literal element of the mark consists of IDENTIFYN. The applicant is not claiming color as a feature of the mark. The mark consists of the stylized word "IDENTiFYN" with a lower case letter "i" and an airy disc forming the dot over the lower case letter "i".
The applicant, GMD12, LLC, a limited liability company legally organized under the laws of Florida, having an address of

6857 Gulf of Mexico Drive
Longboat Key, Florida 34228
United States
XXXX

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 001: Reagents and kits comprised of reagents for life science research use, biological specimen collection, drug development, diagnostic services, and predictive medicine to predict treatment efficacy and patient outcomes, and biological product development; reagents for clinical or medical laboratory use.
Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 042: Microscopy imaging services in the fields of microbiology, life sciences research, drug development, diagnostic services, predictive medicine to predict treatment efficacy and patient outcomes, and biological product development, namely imaging services for use in the study and analysis of biological tissue samples, biopsy samples, tissue cultures, cell cultures, antibodies, antigens, and internal cellular components.
Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

The owner's/holder's proposed attorney information: Jeffrey Fabian. Jeffrey Fabian of Shumaker, Loop & Kendrick, LLP, is a member of the XX bar, admitted to the bar in XXXX, bar membership no. XXX, is located at

101 E. Kennedy Blvd, Suite 2800
Tampa, Florida 33602
United States
813-676-7212(phone)
jfabian@shumaker.com

Jeffrey Fabian submitted the following statement: The attorney of record is an active member in good standing of the bar of the highest court of a U.S. state, the District of Columbia, or any U.S. Commonwealth or territory.

The applicant's current Correspondence Information:

Jeffrey Fabian
PRIMARY EMAIL FOR CORRESPONDENCE: jfabian@shumaker.com
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES): ldyer@shumaker.com

Requirement for Email and Electronic Filing: I understand that a valid email address must be maintained by the applicant owner/holder and the applicant owner's/holder's attorney, if appointed, and that all official trademark correspondence must be submitted via the Trademark Electronic Application System (TEAS).
A fee payment in the amount of $700 has been submitted with the application, representing payment for 2 class(es).

Declaration

☑ **Basis:**
If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):

- The signatory believes that the applicant is the owner of the trademark/service mark sought to be registered;
- The mark is in use in commerce and was in use in commerce as of the filing date of the application on or in connection with the goods/services in the application;
- The specimen(s) shows the mark as used on or in connection with the goods/services in the application and was used on or in connection with the goods/services in the application as of the application filing date; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

And/Or
If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e):

- The signatory believes that the applicant is entitled to use the mark in commerce;
- The applicant has a bona fide intention to use the mark in commerce and had a bona fide intention to use the mark in commerce as of the application filing date on or in connection with the goods/services in the application; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

☑ To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.

☑ To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.

☑ The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Brian T. Bennett/ Date: 05/16/2023
Signatory's Name: Brian T. Bennett
Signatory's Position: Principal
Signatory's Phone Number: 9417794859
Signature method: Sent to third party for signature
Payment Sale Number: 97939947
Payment Accounting Date: 05/16/2023

Serial Number: 97939947
Internet Transmission Date: Tue May 16 23:51:30 ET 2023
TEAS Stamp: USPTO/BAS-XX.XXX.XX.XXX-2023051623513102
5591-97939947-860944be8fa9036a24fdb181ed
4ac3dce332d8e851d5aafeeac445865bc976f661
-DA-51305109-20230516213417701540

IDENTiFYN

IDENTiFYN

United States of America
United States Patent and Trademark Office

Identify

Reg. No. 5,935,648

Registered Dec. 17, 2019

Int. Cl.: 44

Service Mark

Principal Register

LabSolutions LLC (GEORGIA LIMITED LIABILITY COMPANY), DBA LabSolutions LLC
1451 Northside Dr Nw
Atlanta, GEORGIA 30318

CLASS 44: Genetic testing for medical purposes; Medical testing of urine, blood, hair follicles and breath

FIRST USE 10-2-2018; IN COMMERCE 10-2-2018

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

SER. NO. 88-306,855, FILED 02-19-2019

Director of the United States
Patent and Trademark Office

EXHIBIT
10

Generated on: This page was generated by TSDR on 2024-02-27 11:06:05 EST

Mark: IDENTIFY

Identify

US Serial Number:	88306855	**Application Filing Date:**	Feb. 19, 2019
US Registration Number:	5935648	**Registration Date:**	Dec. 17, 2019
Filed as TEAS Plus:	Yes	**Currently TEAS Plus:**	Yes
Register:	Principal		
Mark Type:	Service Mark		
TM5 Common Status Descriptor:	LIVE/REGISTRATION/Issued and Active The trademark application has been registered with the Office.		

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Dec. 17, 2019

Publication Date: Oct. 01, 2019

Mark Information

Mark Literal Elements:	IDENTIFY
Standard Character Claim:	Yes. The mark consists of standard characters without claim to any particular font style, size, or color.
Mark Drawing Type:	4 - STANDARD CHARACTER MARK

Goods and Services

Note:
The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [..] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Genetic testing for medical purposes; Medical testing of urine, blood, hair follicles and breath

International Class(es):	044 - Primary Class	**U.S Class(es):**	100, 101
Class Status:	ACTIVE		
Basis:	1(a)		
First Use:	Oct. 02, 2018	**Use in Commerce:**	Oct. 02, 2018

Basis Information (Case Level)

Filed Use:	Yes	**Currently Use:**	Yes
Filed ITU:	No	**Currently ITU:**	No
Filed 44D:	No	**Currently 44D:**	No
Filed 44E:	No	**Currently 44E:**	No
Filed 66A:	No	**Currently 66A:**	No
Filed No Basis:	No	**Currently No Basis:**	No

Current Owner(s) Information

Owner Name: LabSolutions LLC

DBA, AKA, Formerly: DBA LabSolutions LLC

Owner Address: 1451 Northside Dr NW
Atlanta, GEORGIA UNITED STATES 30318

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: GEORGIA

Attorney/Correspondence Information

Attorney of Record - None

Correspondent

Correspondent Name/Address: LABSOLUTIONS LLC
LABSOLUTIONS LLC
1451 NORTHSIDE DR NW
ATLANTA, GEORGIA UNITED STATES 30318

Phone: 404-228-5027

Fax: 4043430087

Correspondent e-mail: sonal@labsolutions.com shelbi@labsolutions.com adam@labsolutions.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Dec. 17, 2019	REGISTERED-PRINCIPAL REGISTER	
Oct. 01, 2019	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Oct. 01, 2019	PUBLISHED FOR OPPOSITION	
Sep. 11, 2019	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Aug. 29, 2019	ASSIGNED TO LIE	
Aug. 17, 2019	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jul. 15, 2019	TEAS/EMAIL CORRESPONDENCE ENTERED	
Jul. 15, 2019	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Jul. 15, 2019	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jul. 12, 2019	NOTIFICATION OF NON-FINAL ACTION E-MAILED	
Jul. 12, 2019	NON-FINAL ACTION E-MAILED	
Jul. 12, 2019	NON-FINAL ACTION WRITTEN	
May 09, 2019	PREVIOUS ALLOWANCE COUNT WITHDRAWN	
Apr. 30, 2019	WITHDRAWN FROM PUB - OG REVIEW QUERY	
Mar. 28, 2019	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 26, 2019	ASSIGNED TO EXAMINER	
Mar. 11, 2019	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED	
Feb. 22, 2019	NEW APPLICATION ENTERED	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Dec. 17, 2019

United States of America
United States Patent and Trademark Office

Identify

Reg. No. 5,935,648

Registered Dec. 17, 2019

Int. Cl.: 44

Service Mark

Principal Register

LabSolutions LLC (GEORGIA LIMITED LIABILITY COMPANY), DBA LabSolutions LLC
1451 Northside Dr Nw
Atlanta, GEORGIA 30318

CLASS 44: Genetic testing for medical purposes; Medical testing of urine, blood, hair follicles and breath

FIRST USE 10-2-2018; IN COMMERCE 10-2-2018

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

SER. NO. 88-306,855, FILED 02-19-2019

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.

From: TMOfficialNotices@USPTO.GOV
Sent: Tuesday, October 1, 2019 00:42 AM
To: XXXX
Cc: XXXX; XXXX
Subject: Official USPTO Notice of Publication Confirmation: U.S. Trademark SN 88306855: IDENTIFY

TRADEMARK OFFICIAL GAZETTE PUBLICATION CONFIRMATION

U.S. Serial Number: 88306855
Mark: IDENTIFY
International Class(es): 044
Owner: LabSolutions LLC
Docket/Reference Number:

The mark identified above has been published in the Trademark Official Gazette (TMOG) on Oct 01, 2019.

To Review the Mark in the TMOG:

Click on the following link or paste the URL into an internet browser: https://tmog.uspto.gov/#issueDate=2019-10-01&serialNumber=88306855

On the publication date or shortly thereafter, the applicant should carefully review the information that appears in the TMOG for accuracy. For corrections or amendments after publication, please use the Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment Form, accessible at https://teas.uspto.gov/office/ppa. For general information about this notice, please contact the Trademark Assistance Center at 1-800-786-9199.

Significance of Publication for Opposition:

* Any party who believes it will be damaged by the registration of the mark may file a notice of opposition (or extension of time therefor) with the Trademark Trial and Appeal Board. If no party files an opposition or extension request within thirty (30) days after the publication date, then eleven (11) weeks after the publication date a certificate of registration should issue.

To check the status of the application, go to https://tsdr.uspto.gov/#caseNumber=88306855&caseType=SERIAL_NO&searchType=statusSearch or contact the Trademark Assistance Center at 1-800-786-9199. Please check the status of the application at least every three (3) months after the application filing date.

To view this notice and other documents for this application on-line, go to https://tsdr.uspto.gov/#caseNumber=88306855&caseType=SERIAL_NO&searchType=documentSearch. NOTE: This notice will only become available on-line the next business day after receipt of this e-mail.

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

Commissioner for Trademarks
www.uspto.gov

OFFICIAL USPTO NOTICE OF PUBLICATION UNDER 12(a)

U.S. Application Serial No. 88306855
Mark: IDENTIFY
International Class(es): 044
Owner: LabSolutions LLC
Docket/Reference No.

Issue Date: September 11, 2019

Your mark is scheduled to publish in the *Trademark Official Gazette* (TMOG) on October 1, 2019.

Your mark appears to be entitled to register on the Principal Register, subject to any claims of concurrent use.

What happens when your mark publishes. Within 30 days of the publication date, any party who believes it will be damaged by the registration of the mark may file a notice of opposition (or extension of time) with the Trademark Trial and Appeal Board. If no objection is filed, we will issue a registration.

View your mark in the TMOG after the publication date at **https://tmog.uspto.gov/** by selecting your publication date in the "issues" field, entering your serial number in the "search by" field, and clicking on the magnifying glass.

Ensure that the information in the TMOG is correct. If any information is incorrect, promptly request correction using the "Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment" form at **https://teas.uspto.gov/office/ppa/**. For more information, see **https://www.uspto.gov/trademark/trademark-updates-and-announcements/procedures-submitting-amendmentscorrections-trademark**.

Direct questions about this notice to the Trademark Assistance Center (TAC)at 1-800-786-9199 (select option 1) or **TrademarkAssistanceCenter@uspto.gov**.

Email Address(es):

sonal@labsolutions.com
adam@labsolutions.com
shelbi@labsolutions.com

From: TMOfficialNotices@USPTO.GOV
Sent: Wednesday, September 11, 2019 04:11 AM
To: XXXX
Cc: XXXX; XXXX
Subject: Official USPTO Notification of Notice of Publication: U.S. Trademark SN 88306855: IDENTIFY

NOTIFICATION OF "NOTICE OF PUBLICATION"

Your trademark application (U.S. Serial No. 88306855) is scheduled to publish in the *Official Gazette* on Oct 1, 2019 . To preview the Notice of Publication, go to the Trademark Status & Document Retrieval (TSDR) database, accessible at https://tsdr.uspto.gov/search.action?sn=88306855. If you have difficulty accessing the Notice of Publication, contact the Trademark Assistance Center (TAC) by e-mail at TrademarkAssistanceCenter@uspto.gov or by telephone at 800-786-9199.

PLEASE NOTE:

1. The Notice of Publication may not be immediately available but will be viewable within 24 hours of this e-mail notification.
2. You will receive a second e-mail on the actual "Publication Date," which will include a link to the issue of the *Official Gazette* in which the mark has published.

Please confirm that the correspondence information shown in TSDR is correct. If the correspondence information is not correct, please update this information using the online Change of Correspondence Address Form, accessible at https://teas.uspto.gov/ccr/cca.

Do NOT hit "Reply" to this e-mail notification. If you find an error in the Notice of Publication, update the information using the Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment Form, accessible at https://teas.uspto.gov/office/ppa.

Trademark Snap Shot Publication Stylesheet

(Table presents the data on Publication Approval)

OVERVIEW

SERIAL NUMBER	88306855	FILING DATE	02/19/2019
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	HINES, REGINA C	L.O. ASSIGNED	114

PUB INFORMATION

RUN DATE	08/20/2019
PUB DATE	N/A
STATUS	680-APPROVED FOR PUBLICATION
STATUS DATE	08/17/2019
LITERAL MARK ELEMENT	IDENTIFY

DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	IDENTIFY
MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT

NAME	LabSolutions LLC
ADDRESS	1451 Northside Dr NW Atlanta, GA 30318
ENTITY	16-LTD LIAB CO
CITIZENSHIP	Georgia
DBA/AKA	DBA LabSolutions LLC

GOODS AND SERVICES

INTERNATIONAL CLASS	044
DESCRIPTION TEXT	Genetic testing for medical purposes; Medical testing of urine, blood, hair follicles and breath

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	044	FIRST USE DATE	10/02/2018	FIRST USE IN COMMERCE DATE	10/02/2018	CLASS STATUS	6-ACTIVE

MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO

PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
08/17/2019	CNSA	O	APPROVED FOR PUB - PRINCIPAL REGISTER	013
07/15/2019	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	012
07/15/2019	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	011
07/15/2019	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	010
07/12/2019	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	009
07/12/2019	GNRT	F	NON-FINAL ACTION E-MAILED	008
07/12/2019	CNRT	R	NON-FINAL ACTION WRITTEN	007
05/09/2019	ZZZX	Z	PREVIOUS ALLOWANCE COUNT WITHDRAWN	006
04/30/2019	PBCR	Z	WITHDRAWN FROM PUB - OG REVIEW QUERY	005
03/28/2019	CNSA	O	APPROVED FOR PUB - PRINCIPAL REGISTER	004
03/26/2019	DOCK	D	ASSIGNED TO EXAMINER	003
03/11/2019	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
02/22/2019	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	NONE
CORRESPONDENCE ADDRESS	LABSOLUTIONS LLC LABSOLUTIONS LLC 1451 NORTHSIDE DR NW ATLANTA, GA 30318
DOMESTIC REPRESENTATIVE	NONE

Identify

Trademark Snap Shot Amendment & Mail Processing Stylesheet

(Table presents the data on Amendment & Mail Processing Complete)

OVERVIEW

SERIAL NUMBER	88306855	FILING DATE	02/19/2019
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	HINES, REGINA C	L.O. ASSIGNED	114

PUB INFORMATION

RUN DATE	07/16/2019
PUB DATE	N/A
STATUS	661-RESPONSE AFTER NON-FINAL-ACTION-ENTERED
STATUS DATE	07/15/2019
LITERAL MARK ELEMENT	IDENTIFY

DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	IDENTIFY
MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT

NAME	LabSolutions LLC
ADDRESS	1451 Northside Dr NW Atlanta, GA 30318
ENTITY	16-LTD LIAB CO
CITIZENSHIP	Georgia
DBA/AKA	DBA LabSolutions LLC

GOODS AND SERVICES

INTERNATIONAL CLASS	044
DESCRIPTION TEXT	Genetic testing for medical purposes; Medical testing of urine, blood, hair follicles and breath

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	044	FIRST USE DATE	10/02/2018	FIRST USE IN COMMERCE DATE	10/02/2018	CLASS STATUS	6-ACTIVE

MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO

PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
07/15/2019	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	012
07/15/2019	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	011
07/15/2019	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	010
07/12/2019	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	009
07/12/2019	GNRT	F	NON-FINAL ACTION E-MAILED	008
07/12/2019	CNRT	R	NON-FINAL ACTION WRITTEN	007
05/09/2019	ZZZX	Z	PREVIOUS ALLOWANCE COUNT WITHDRAWN	006
04/30/2019	PBCR	Z	WITHDRAWN FROM PUB - OG REVIEW QUERY	005
03/28/2019	CNSA	O	APPROVED FOR PUB - PRINCIPAL REGISTER	004
03/26/2019	DOCK	D	ASSIGNED TO EXAMINER	003
03/11/2019	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
02/22/2019	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	NONE
CORRESPONDENCE ADDRESS	LABSOLUTIONS LLC LABSOLUTIONS LLC 1451 NORTHSIDE DR NW ATLANTA, GA 30318
DOMESTIC REPRESENTATIVE	NONE

Identify

PTO Form 1957 (Rev 10/2011)
OMB No. 0651-0050 (Exp 09/20/2020)

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	88306855
LAW OFFICE ASSIGNED	LAW OFFICE 114
MARK SECTION	
MARK	https://tmng-al.uspto.gov/resting2/api/img/88306855/large
LITERAL ELEMENT	IDENTIFY
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
LEGAL ENTITY SECTION (current)	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Georgia
LEGAL ENTITY SECTION (proposed)	
TYPE	limited liability company
STATE/COUNTRY WHERE LEGALLY ORGANIZED	Georgia
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Sonal Jariwala/
SIGNATORY'S NAME	Sonal Jariwala
SIGNATORY'S POSITION	Chief Financial Officer
SIGNATORY'S PHONE NUMBER	4042285027
DATE SIGNED	07/15/2019
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Jul 15 09:54:34 EDT 2019
TEAS STAMP	USPTO/ROA-XX.XXX.XXX.XXX- 20190715095434782925-8830 6855-6205e52172cac17b4aab 1f5d4fa4908122fe697b4b08c 295de54215e2b0fff8a4-N/A- N/A-20190715095028979701

PTO Form 1957 (Rev 10/2011)
OMB No. 0651-0050 (Exp 09/20/2020)

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **88306855** IDENTIFY(Standard Characters, see https://tmng-al.uspto.gov/resting2/api/img/88306855/large) has been amended as follows:

APPLICANT AND/OR ENTITY INFORMATION
Applicant proposes to amend the following:
Current: LabSolutions LLC, DBA LabSolutions LLC, a corporation of Georgia, having an address of
1451 Northside Dr NW
Atlanta, Georgia 30318
United States

XXXX (authorized)
404-228-5027
4043430087
Proposed: LabSolutions LLC, DBA LabSolutions LLC, a limited liability company legally organized under the laws of Georgia, having an address of
1451 Northside Dr NW
Atlanta, Georgia 30318
United States
XXXX (authorized)
404-228-5027
4043430087

SIGNATURE(S)
Response Signature
Signature: /Sonal Jariwala/ Date: 07/15/2019
Signatory's Name: Sonal Jariwala
Signatory's Position: Chief Financial Officer

Signatory's Phone Number: 4042285027

The signatory has confirmed that he/she is not represented by either an authorized attorney or Canadian attorney/agent, and that he/she is either: (1) the owner/holder ; or (2) a person(s) with legal authority to bind the owner/holder; and if an authorized U.S. attorney or Canadian attorney/agent previously represented him/her in this matter, either he/she has filed a signed revocation of power of attorney with the USPTO or the USPTO has granted the request of his/her prior representative to withdraw.

Serial Number: 88306855
Internet Transmission Date: Mon Jul 15 09:54:34 EDT 2019
TEAS Stamp: USPTO/ROA-XX.XXX.XXX.XXX-201907150954347
82925-88306855-6205e52172cac17b4aab1f5d4
fa4908122fe697b4b08c295de54215e2b0fff8a4
-N/A-N/A-20190715095028979701

To:	LabSolutions LLC (sonal@labsolutions.com)
Subject:	U.S. Trademark Application Serial No. 88306855 - IDENTIFY - N/A
Sent:	July 12, 2019 05:29:46 PM
Sent As:	ecom114@uspto.gov
Attachments:	

United States Patent and Trademark Office (USPTO)

Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application Serial No. 88306855

Mark: IDENTIFY

Correspondence Address:
LABSOLUTIONS LLC

LABSOLUTIONS LLC

1451 NORTHSIDE DR NW

ATLANTA, GA 30318

Applicant:
LabSolutions LLC

Reference/Docket No.
N/A

Correspondence Email Address:

sonal@labsolutions.com

NONFINAL OFFICE ACTION

The USPTO must receive applicant's response to this letter within six months of the issue date below or the application will be abandoned. Respond using the Trademark Electronic Application System (TEAS). A link to the appropriate TEAS response form appears at the end of this Office action.

Issue date: July 12, 2019

Applicant is encouraged to call or email the assigned attorney below to resolve the issues in this Office action.

Approval for publication was withdrawn because the following requirements must be addressed in order to proceed to publication.

Entity Indefinite

The designation "LLC" is included in applicant's name; however, the legal entity is set forth as a "corporation." Generally, "LLC" identifies a "limited liability company," and not a corporation. Therefore, applicant must specify whether the legal entity is a limited liability company or a corporation and amend the application accordingly. TMEP §803.03(h); *see* 37 C.F.R. §§2.32(a)(2), (a)(3)(ii), 2.61(b).

If applicant is a limited liability company, applicant must amend the legal entity and provide the U.S. state under whose laws it is organized. TMEP §803.03(h). If applicant is a corporation, applicant must provide the legal name of the corporation and U.S. state or foreign country of incorporation or organization. *See* TMEP §803.03(c).

If, in response to the above request, applicant provides information indicating that it is not the owner of the mark, registration will be refused because the application was void as filed. *See* 37 C.F.R. §2.71(d); TMEP §§803.06, 1201.02(b). An application must be filed by the party who owns or is entitled to use the mark as of the application filing date. *See* 37 C.F.R. §2.71(d); TMEP §1201.02(b).

TEAS PLUS OR TEAS REDUCED FEE (TEAS RF) APPLICANTS – TO MAINTAIN LOWER FEE, ADDITIONAL REQUIREMENTS MUST BE MET, INCLUDING SUBMITTING DOCUMENTS ONLINE: Applicants who filed their application online using the lower-fee TEAS Plus or TEAS RF application form must (1) file certain documents online using TEAS, including responses to Office actions (see TMEP §§819.02(b), 820.02(b) for a complete list of these documents); (2) maintain a valid e-mail correspondence address; and (3) agree to receive correspondence from the USPTO by e-mail throughout the prosecution of the application. *See* 37 C.F.R. §§2.22(b), 2.23(b); TMEP §§819, 820. TEAS Plus or TEAS RF applicants who do not meet these requirements must submit an additional processing fee of $125 per class of goods and/or services. 37 C.F.R. §§2.6(a)(1)(v), 2.22(c), 2.23(c); TMEP §§819.04, 820.04. However, in certain situations, TEAS Plus or TEAS RF applicants may respond to an Office action by authorizing an examiner's amendment by telephone or e-mail without incurring this additional fee.

How to respond. **Click to file a response to this nonfinal Office action**

To expedite prosecution of the application, applicant is encouraged to file its response to this Office action online via the Trademark Electronic Application System (TEAS), which is available at http://www.uspto.gov/trademarks/teas/index.jsp. If applicant has technical questions about the TEAS response to Office action form, applicant can review the electronic filing tips available online at http://www.uspto.gov/trademarks/teas/e_filing_tips.jsp and e-mail technical questions to TEAS@uspto.gov.

/Regina C. Hines, Esq./

/Regina C. Hines/

Law Office 114

571-272-9451

regina.hines@uspto.gov

RESPONSE GUIDANCE

- **Missing the response deadline to this letter will cause the application to abandon.** A response or notice of appeal must be received by the USPTO before midnight **Eastern Time** of the last day of the response period. TEAS and ESTTA maintenance or unforeseen circumstances could affect an applicant's ability to timely respond.

- **Responses signed by an unauthorized party** are not accepted and can **cause the application to abandon.** If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with legal authority to bind a juristic applicant. If applicant has an attorney, the response must be signed by the attorney.

- If needed, **find** **contact information for the supervisor** of the office or unit listed in the signature block.

To:	LabSolutions LLC (sonal@labsolutions.com)
Subject:	U.S. Trademark Application Serial No. 88306855 - IDENTIFY - N/A
Sent:	July 12, 2019 05:29:47 PM
Sent As:	ecom114@uspto.gov
Attachments:	

United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued

on **July 12, 2019** for

U.S. Trademark Application Serial No. 88306855

Your trademark application has been reviewed by a trademark examining attorney. As part of that review, the assigned attorney has issued an official letter that you must respond to by the specified deadline or your application will be abandoned. Please follow the steps below.

(1) Read the official letter.

(2) Direct questions about the contents of the Office action to the assigned attorney below.

/Regina C. Hines, Esq./

/Regina C. Hines/

Law Office 114

571-272-9451

regina.hines@uspto.gov

Direct questions about navigating USPTO electronic forms, the USPTO website, the application process, the status of your application, and/or whether there are outstanding deadlines or documents related to your file to the Trademark Assistance Center (TAC).

(3) Respond within 6 months (or earlier, if required in the Office action) from **July 12, 2019**, using the Trademark Electronic Application System (TEAS). The response must be received by the USPTO before midnight **Eastern Time** of the last day of the response period. See the Office action for more information about how to respond.

GENERAL GUIDANCE

- **Check the status of your application periodically** in the Trademark Status & Document Retrieval (TSDR) database to avoid missing critical deadlines.

- **Update your correspondence email address**, if needed, to ensure you receive important USPTO notices about your application.

- **Beware of misleading notices sent by private companies about your application.** Private companies not associated with the USPTO use public information available in trademark registrations to mail and email trademark-related offers and notices – most of which require fees. All **official USPTO correspondence** will only be **emailed from the domain "@uspto.gov."**

Trademark Snap Shot Publication Stylesheet

(Table presents the data on Publication Approval)

OVERVIEW

SERIAL NUMBER	88306855	FILING DATE	02/19/2019
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	HINES, REGINA C	L.O. ASSIGNED	114

PUB INFORMATION

RUN DATE	03/29/2019
PUB DATE	N/A
STATUS	680-APPROVED FOR PUBLICATION
STATUS DATE	03/28/2019
LITERAL MARK ELEMENT	IDENTIFY

DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	IDENTIFY
MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT

NAME	LabSolutions LLC
ADDRESS	1451 Northside Dr NW Atlanta, GA 30318
ENTITY	03-CORPORATION
CITIZENSHIP	Georgia
DBA/AKA	DBA LabSolutions LLC

GOODS AND SERVICES

INTERNATIONAL CLASS	044
DESCRIPTION TEXT	Genetic testing for medical purposes; Medical testing of urine, blood, hair follicles and breath

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	044	FIRST USE DATE	10/02/2018	FIRST USE IN COMMERCE DATE	10/02/2018	CLASS STATUS	6-ACTIVE

MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO

PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
03/28/2019	CNSA	O	APPROVED FOR PUB - PRINCIPAL REGISTER	004
03/26/2019	DOCK	D	ASSIGNED TO EXAMINER	003
03/11/2019	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
02/22/2019	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	NONE
CORRESPONDENCE ADDRESS	LABSOLUTIONS LLC LABSOLUTIONS LLC 1451 NORTHSIDE DR NW ATLANTA, GA 30318
DOMESTIC REPRESENTATIVE	NONE

Identify

*** User:rdrummond ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	753	N/A	0	0	0:01	*dent{"iey"}f{"iey"}*[bi,ti] and live[ld] not dead
02	371	0	371	357	0:02	1 and "044"[cc]
03	739	N/A	0	0	0:01	*identif{"iey"}*[bi,ti] and live[ld] not dead
04	366	0	366	352	0:01	3 and "044"[cc]

Session started 3/28/2019 9:22:15 PM

Session finished 3/28/2019 9:31:22 PM

Total search duration 0 minutes 5 seconds

Session duration 9 minutes 7 seconds

Defaut NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 88306855

*** User:rdrummond ***

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	753	N/A	0	0	0:01	*dent{"iey"}f{"iey"}*[bi,ti] and live[ld] not dead
02	371	0	371	357	0:02	1 and "044"[cc]

Session started 3/28/2019 9:22:15 PM

Session finished 3/28/2019 9:30:12 PM

Total search duration 0 minutes 3 seconds

Session duration 7 minutes 57 seconds

Defaut NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 88306855

Identify

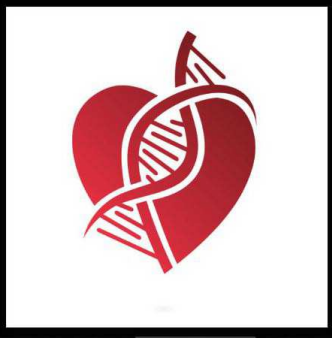
https://www.labsolutions.com/identify-cardiology

LABSOLUTIONS

TESTS | CLIENT ACCESS | RESOURCES | METHODOLOGY | ABOUT US | SUPPORT | PAYMENT PORTAL | CONTACT US

IDENTIFY™ Cardiology

The IDENTIFY™ Comprehensive Cardiology Panel analyzes 122 genes that have been associated with inherited cardiology disorders, including cardiomyopathies and arrhythmia disorders.



With IDENTIFY™, we aim to provide patients with information about future cardiac-related risks related to underlying inherited cardiac disorders. Information uncovered in this panel can be used to better understand future risks and make medical management decisions to help reduce or prevent adverse cardiac-related events.

Genetic testing for inherited cardiac conditions is recommended by several medical societies including the American Heart Association, American College of Cardiology, and Heart Rhythm Society.

PTO Form 1478 (Rev 09/2006)
OMB No. 0651-0009 (Exp 02/28/2021)

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 88306855
Filing Date: 02/19/2019

NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	**YES**
MARK INFORMATION	
***MARK**	Identify
***STANDARD CHARACTERS**	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	Identify
***MARK STATEMENT**	The mark consists of standard characters, without claim to any particular font style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
***OWNER OF MARK**	LabSolutions LLC
DBA/AKA/TA/FORMERLY	DBA LabSolutions LLC
***STREET**	1451 Northside Dr NW
***CITY**	Atlanta
***STATE** **(Required for U.S. applicants)**	Georgia
***COUNTRY**	United States
***ZIP/POSTAL CODE** **(Required for U.S. and certain international addresses)**	30318
PHONE	404-228-5027
FAX	4043430087
EMAIL ADDRESS	XXXX
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
WEBSITE ADDRESS	https://www.labsolutions.com/
LEGAL ENTITY INFORMATION	
***TYPE**	CORPORATION
*** STATE/COUNTRY OF INCORPORATION**	Georgia

GOODS AND/OR SERVICES AND BASIS INFORMATION	
***INTERNATIONAL CLASS**	044
***IDENTIFICATION**	Genetic testing for medical purposes; Medical testing of urine, blood, hair follicles and breath
***FILING BASIS**	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 10/02/2018
FIRST USE IN COMMERCE DATE	At least as early as 10/02/2018
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT17\IMAGEOUT 17\883\068\88306855\xml1\ FTK0003.JPG
SPECIMEN DESCRIPTION	Website advertisement of testing option
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	
***NAME**	LabSolutions LLC
FIRM NAME	LabSolutions LLC
***STREET**	1451 Northside Dr NW
***CITY**	Atlanta
***STATE (Required for U.S. addresses)**	Georgia
***COUNTRY**	United States
***ZIP/POSTAL CODE**	30318
PHONE	404-228-5027
FAX	4043430087
***EMAIL ADDRESS**	sonal@labsolutions.com; adam@labsolutions.com; shelbi@labsolutions.com
***AUTHORIZED TO COMMUNICATE VIA EMAIL**	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	1
FEE PER CLASS	225
***TOTAL FEE PAID**	225
SIGNATURE INFORMATION	
***SIGNATURE**	/Sonal Jariwala/

* **SIGNATORY'S NAME**	Sonal Jariwala
* **SIGNATORY'S POSITION**	Chief Financial Officer
SIGNATORY'S PHONE NUMBER	404-228-5027
* **DATE SIGNED**	02/19/2019

PTO Form 1478 (Rev 09/2006)
OMB No. 0651-0009 (Exp 02/28/2021)

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 88306855
Filing Date: 02/19/2019

To the Commissioner for Trademarks:

MARK: Identify (Standard Characters, see mark)
The mark in your application is Identify.

The applicant, LabSolutions LLC, DBA LabSolutions LLC, a corporation of Georgia, having an address of
1451 Northside Dr NW
Atlanta, Georgia 30318
United States
404-228-5027(phone)
4043430087(fax)
XXXX

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.
International Class 044: Genetic testing for medical purposes; Medical testing of urine, blood, hair follicles and breath

Use in Commerce: The applicant is using the mark in commerce on or in connection with the identified goods/services. The applicant attaches, or will later submit, one specimen as a JPG/PDF image file showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, regardless of whether the mark itself is in the standard character format or is a stylized or design mark. The specimen image file may be in color, and the image must be in color if color is being claimed as a feature of the mark.

In International Class 044, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 10/02/2018, and first used in commerce at least as early as 10/02/2018, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) Website advertisement of testing option.
Specimen File1

For informational purposes only, applicant's website address is: https://www.labsolutions.com/
The applicant's current Correspondence Information:
LabSolutions LLC
LabSolutions LLC
1451 Northside Dr NW
Atlanta, Georgia 30318
404-228-5027(phone)
4043430087(fax)
sonal@labsolutions.com;adam@labsolutions.com; shelbi@labsolutions.com (authorized)
E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or the applicant's attorney, or the applicant's domestic representative at the e-mail address provided in this application. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in the loss of TEAS Plus status and a requirement to submit an additional processing fee of $125 per international class of goods/services.

A fee payment in the amount of $225 has been submitted with the application, representing payment for 1 class(es).

Declaration

☑ **Basis:**
If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):

- The signatory believes that the applicant is the owner of the trademark/service mark sought to be registered;
- The mark is in use in commerce on or in connection with the goods/services in the application;
- The specimen(s) shows the mark as used on or in connection with the goods/services in the application; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

AND/OR
If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e):

- The signatory believes that the applicant is entitled to use the mark in commerce;
- The applicant has a bona fide intention to use the mark in commerce on or in connection with the goods/services in the application; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

☑ To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.

☑ To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.

☑ The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Sonal Jariwala/ Date: 02/19/2019
Signatory's Name: Sonal Jariwala
Signatory's Position: Chief Financial Officer
Signatory's Phone Number: 404-228-5027
Payment Sale Number: 88306855
Payment Accounting Date: 02/19/2019

Serial Number: 88306855
Internet Transmission Date: Tue Feb 19 12:56:04 EST 2019
TEAS Stamp: USPTO/FTK-XX.XXX.XXX.XXX-201902191256049
36303-88306855-620cc5d1f585511d3941d73be
cb79a3ba3dedd24da572f79875815b9bf5c644f-
CC-19266-20190219115913164736

Identify

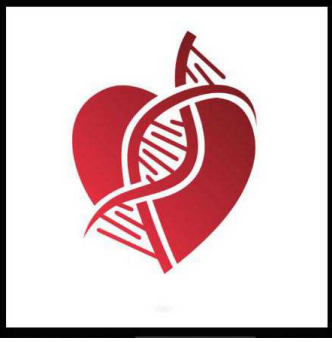
https://www.labsolutions.com/identify-cardiology

LABSOLUTIONS

TESTS | CLIENT ACCESS | RESOURCES | METHODOLOGY | ABOUT US | SUPPORT | PAYMENT PORTAL | CONTACT US

IDENTIFY™ Cardiology

The IDENTIFY™ Comprehensive Cardiology Panel analyzes 122 genes that have been associated with inherited cardiology disorders, including cardiomyopathies and arrhythmia disorders.



With IDENTIFY™, we aim to provide patients with information about future cardiac-related risks related to underlying inherited cardiac disorders. Information uncovered in this panel can be used to better understand future risks and make medical management decisions to help reduce or prevent adverse cardiac-related events.

Genetic testing for inherited cardiac conditions is recommended by several medical societies including the American Heart Association, American College of Cardiology, and Heart Rhythm Society.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 5,935,648
For the mark: IDENTIFY
Registered: Dec. 17, 2019

GMD12, LLC Petitioner, v. LABSOLUTIONS, LLC Respondent.	Cancellation No. _____

DECLARATION OF BRIAN T. BENNETT, PH.D.

I, Dr. Brian T. Bennett, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

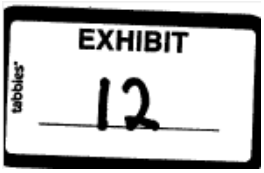
1. I am over the age of 18 and competent to testify in this matter.

2. I am a principal of GMD12, LLC ("Petitioner").

3. This declaration is based on my personal knowledge of the facts stated herein.

4. I attempted to contact LabSolutions LLC ("Respondent") using various contact information that is publically available. I have been unable to get into contact with and speak with any representative or Respondent.

5. I reviewed the website at labsolutions.com ("Website") associated with Respondent. The Website appears to be a template and has no real data or connections. Additionally, the Website has not been active since at least 2022. Further, the Website is a PHP website, meaning it is a server-side scripting language embedded in HTML. As a PHP, the Website requires updates, none of which have been made since at least 2022.



6. I called Respondent's listed phone number at (404) 228-5027. The phone number is out of service.

7. I sent an email to the email address listed on Respondent's Website, info@labsolutions.com. I received no response from any representative or Respondent.

8. I searched the mailing address listed on Respondent's website, 1451 Northside Dr. NW Atlanta, GA 30318, and I found that the property is for sale. I contacted the realtor associated with Respondent's business address and was notified that the building located at that address is currently unoccupied and the building is listed for sale or lease.

9. Furthermore, I have searched the entire Website for Respondent's IDENTIFY mark and was unable to find any use of it anywhere on the Website.

FURTHER DECLARANT SAYETH NAUGHT

[Signature Page Follows]

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the _____ day of March, 2024.

DocuSigned by:
Brian Bennett 3/11/2024
6D868463EA41455...

Dr. Brian T. Bennett
Principal
GMD12, LLC

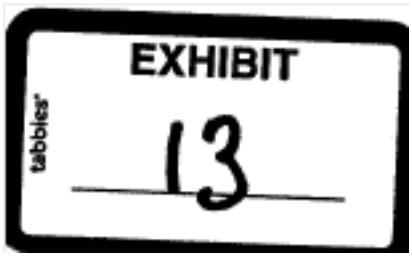
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

United States of America, *ex rel.* Christopher P. Grant and Tymekah Danielle Ferguson, Plaintiffs-Relators, v. Health Screening Services, LLC, Nick Turner, Integrated Care, LLC, Sasha Cahill, LabSolutions, LLC, Minal Patel, CLIO Laboratories, LLC and Khalid Satary, Defendants.	Civ. A. No. 0:18-cv-02341-DCC **ORDER OF JUDGMENT AGAINST LABSOLUTIONS, LLC AND MINAL PATEL**

This matter is before the Court on Plaintiffs-Relators Christopher P. Grant and Tymekah Danielle Ferguson's ("Plaintiffs-Relators" or "Relators") Motion for Default Judgment (ECF No. 73) against LabSolutions, LLC and Minal Patel ("Defendants"). The Court held a hearing on April 17, 2023 and for the reasons set forth below, Plaintiffs-Relators' motion is granted.

BACKGROUND

Plaintiffs-Relators filed their initial Qui Tam Complaint under seal on August 22, 2018. ECF No. 1. Plaintiffs-Relators filed an Amended Complaint under seal on August 30, 2018. ECF No. 7. The United States filed a Notice of Election to Intervene in Part and Decline in Part on November 21, 2022. ECF No. 44. On November 22, 2022, this Honorable Court ordered that the matter be unsealed. ECF No. 45. Plaintiffs-Relators filed a Second Amended Complaint on December 20, 2022. ECF No. 54.



The Defendants were personally served with a copy of the Summons and Second Amended Complaint on January 26, 2023, pursuant to Rule 4 of the Federal Rules of Civil Procedure. ECF No. 59. The Defendants' deadline for filing an answer to Plaintiffs-Relators' Complaint was February 16, 2023. On February 17, 2023, Plaintiffs-Relators filed a request for Entry of Default and the Entry of Default was entered by the Clerk the same day. ECF Nos. 61 and 63.

On March 7, 2023, Plaintiffs-Relators filed a Motion for Default Judgment against Defendants. ECF No. 73. On March 29, 2023, the Court issued a Notice of Hearing for April 17, 2023. ECF No.79. On March 30, 2023, Plaintiffs-Relators' counsel submitted additional documentation to the court supporting the Motion for Default Judgment which included attachments detailing the claims submitted to the United States by Defendants and the amounts paid to Defendants by Medicare for the false claims. ECF No. 82. On March 30, 2023, Plaintiffs-Relators' counsel provided a copy of notice of the hearing along with the Motion for Default Judgment and all attachments to Defendants and filed the certificate of service with the Court. ECF No. 81.

On April 17, 2023, the default judgment hearing was held on this matter and Defendants failed to appear, failed to seek an extension, and failed to plead or otherwise defend Plaintiffs-Relators' Second Amended Complaint. No counsel has entered an appearance on behalf of Defendants. Nancy Cote was present on behalf of the United States and did not object to the relief being sought by the Plaintiffs-Relators.

LEGAL STANDARD

Rule 55 of the Federal Rules of Civil Procedure provides that a party must apply to the Court for a default judgment when the claim is not for a sum certain. Fed. R. Civ. P. 55(b)(2). The court may hold a hearing if it needs to conduct an accounting, determine the amount of damages,

establish the truth of any allegation by evidence, or investigate any other matter. Id. Default judgment may only be entered after entry of default. Fed. R. Civ. P. 55(a). By entry of default, the defendant is deemed to have "admitted the plaintiffs well- pleaded allegations of fact." *Ryan v. Homecomings Fin. Network*, 253 F.3d 779, 780 (4th Cir. 2001) (*quoting Nishimatsu Constr. Co., Ltd. v. Houston Nat'/ Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975).

Then, on a motion for default judgment, the "appropriate inquiry is whether or not the face of the pleadings supports the default judgment and the causes of action therein." *Anderson v. Found. for Advancement, Educ. & Emp't of Am. Indians*, No. 99-1508, 1999 U.S. App. LEXIS 18633 (4th Cir. Aug. 10, 1999). "There must be a sufficient basis in the pleadings for the judgment entered." *DIRECTV, Inc. v. Pernites*, 200 Fed. Appx. 257, 258 (4th Cir. 2006); *see also United States ex rel. Carmichael v. Gregory*, 270 F. Supp. 3d 67, 70–71 (D.D.C. 2017) ("Default establishes the defaulting party's liability for the well-pleaded allegations of the complaint. . . . Here, the well-pleaded facts in the United States' complaint are sufficient to establish liability for violations of the FCA."); 10A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice and Procedure § 2688.1 (4th ed.) ("If the court determines that defendant is in default, the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true.").

Moreover, once the court determines that default judgment is warranted, "the court may rely on declarations or documentary evidence in the record to determine damages" without conducting an evidentiary hearing. *United States v. A Perfect Fit for You, Inc.*, No. 4:17-CV- 174-D, 2019 WL 6049940, at *3 (E.D.N.C. Nov. 14, 2019). The Court may test this sufficiency by the Rule 12(b)(6) standard. *See Commodity Futures Trading Comm'n v. Dupont*, No. 8:16- cv-02358-TMC, 2018 WL 3148532, at *5 (D.S.C. June 22, 2018).

DISCUSSION

On August 20, 2018, Plaintiffs-Relators filed their False Claims Complaint against Defendants LabSolutions, LLC and Minal Patel regarding the submission of false claims to the United States for false and medically unnecessary CGx and PGx tests. Over one year later, on September 24, 2019, the United States indicted Defendant Minal Patel for his criminal actions involving the submission of false and medically unnecessary CGx and PGx tests to Medicare for reimbursement.

On December 14, 2022, Defendant Patel was found guilty on 10 criminal counts during a jury trial in the Southern District of Florida Federal Court. The criminal convictions involved the same claims, CGx tests, time frame, circumstances and information as set forth in Plaintiffs-Relators' Complaint and there is substantial overlap with the Plaintiffs-Relators' Complaint. The similarities are relevant because this Court has taken judicial notice of the expert testimony and exhibits of Michael Petron who testified as an expert witness for the United States at the criminal trial of Defendant Patel and which was used to establish the false claims submitted by Defendants to the United States for payment along with the amount of payments received by Defendants from Medicare. ECF Nos. 73, 82.

As summarized in Michael Petron's transcript and exhibits, the FCA violations included at least 27,365 false claims for beneficiaries who had CGx tests submitted by Defendants from January 2017 to August 2019. ECF Nos. 73, 82. For violations occurring on or after November 2, 2015, the civil penalty amounts range from a minimum of $13,508 to a maximum of $27,018. 28 C.F.R. § 85.5. Plaintiffs-Relators sought penalties for only 8,209 of the false claims submitted for CGx tests from Defendants on or after November 2, 2015 for $110,887,172.00 in penalties.

Based on Michael Petron's expert testimony and exhibits, Medicare paid a total of $168,514,708.00 to Defendants from January 2017 to August 2019. ECF Nos. 73, 82. Any person who violates the FCA is liable to the United States for three times the amount of damages which the Government sustains, plus a civil penalty per violation. 31 U.S.C. § 3729(a)(1); *Cook Cnty v. United States ex rel. Chandler*, 528 U.S. 119, 132 (2003). Moreover, "[w]here one or more persons have committed a fraud upon the government in violation of the FCA, each is joint and severally liable for the treble damages and statutory penalty." *Mortgages, Inc. v. U.S. Dist. Ct. for the Dist. of Nev.*, 934 F.2d 209, 212 (9th Cir. 1991); *accord United States ex rel. Abbott-Burdick v. Univ. Med. Assocs.*, 2002 WL 34236885, at *4 (D.S.C. May 23, 2022) (collecting cases). Accordingly, the Court finds that on the first, second, and third causes of action against Defendants LabSolutions, LLC and Minal Patel, Defendants are jointly and severally liable for $505,544,124.00 in treble damages and $110,887,172.00 in penalties.

CONCLUSION

For the foregoing reasons, the Court **GRANTS** Plaintiffs-Relators' Motion for Default Judgment (ECF No. 73) against Defendants LabSolutions, LLC and Minal Patel. Accordingly, Judgment is entered as follows:

On the first, second and third causes of action against Defendants LabSolutions, LLC and Minal Patel, the Defendants are jointly and severally liable for $505,544,124.00 in treble damages and $110,887,172.00 in penalties, for a total of $616,431,296.00.

IT IS SO ORDERED.

s/Donald C. Coggins, Jr.
Donald C. Coggins, Jr.
United States District Judge

April 20, 2023
Spartanburg, South Carolina

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 9:19-MC-81181-WM

Minalkumar Patel,

Movant,

v.

United States of America,

Respondent.

_____/

ORDER DENYING MOTION FOR RETURN OF SEIZED FUNDS [DE 5] AND MOTION TO UNSEAL SEIZURE WARRANT AFFIDAVITS AND RELATED PLEADINGS [DE 6]

THIS CAUSE is before the Court on Movant Minalkumar Patel's ("Movant") Motion for Return of Seized Funds and Request for Expedited Hearing [DE 5] and Motion to Unseal Seizure Warrant Affidavits and Related Pleadings and Request for Expedited Hearing [DE 6]. In the first motion [DE 5], Movant seeks the return or release of the funds held in six bank accounts seized by the Government pursuant to pre-indictment seizure warrants issued under 21 U.S.C. § 853(f). In the second [DE 6], he urges the Court to unseal the affidavits underlying the pre-indictment seizure warrants, as well as any pleadings related to the sealing of those documents.[1] The Government filed a combined response in opposition to both motions. [DE 16]. After holding a hearing and carefully considering the motions, all supporting and opposing filings, and the record in this case, the Court denies the motions.

[1] Per the Government, only one master affidavit supported the six seizure warrants directed to Movant's bank accounts. [DE 16 at 1, n.1]. Therefore, although Movant requests that this Court unseal the affidavits underlying the six seizure warrants, only one master affidavit is at issue.

I. Issues Presented

This dispute concerns two important issues. The first issue is whether Movant is entitled to the return or release of funds held in six bank accounts the Government seized pursuant to six seizure warrants issued by this Court under 21 U.S.C. § 853(f). The second issue is whether Movant has a pre-indictment right to obtain copies of the sealed affidavit underlying those seizure warrants, and the related sealed pleadings, under the First Amendment, Fourth Amendment, and federal common law. The second issue appears to be an issue of first impression as neither the Court nor the parties have located a federal court order or opinion addressing a movant's asserted pre-indictment right to obtain copies of a sealed seizure warrant affidavit (and related sealed pleadings) underlying seizure warrants directed to a movant's bank accounts issued pursuant to 21 U.S.C. § 853(f).

II. Background

On August 15, 2019, after reviewing a lengthy and detailed affidavit, the undersigned, pursuant to 21 U.S.C. § 853(f), approved and issued six seizure warrants directed to six bank accounts held in Movant's name. The six sealed seizure warrant applications were assigned six different case numbers, to wit: 19-MJ-8323-WM; 19-MJ-8324-WM; 19-MJ-8325-WM; 19-MJ-8326-WM; 19-MJ-8327-WM; and 19-MJ-8328-WM. The six seizure warrants issued by the Court were then immediately served by the Government upon the various banks where the accounts were held. Shortly thereafter, on August 21, 2019, Movant filed motions in each of the six sealed cases which sought the return or release of the funds held in those accounts and copies of the underlying affidavit and related pleadings.

On August 22, 2019, the Court entered an order consolidating the six cases under case number 19-MC-81181-WM and ordered the consolidated case sealed until further Order of the

Court. [DE 1].[2] Through his motions, Movant seeks an order (1) unsealing the Government's seizure warrant applications and supporting affidavit; (2) unsealing the Government's motion to seal those documents; (3) unsealing any documents or motions explaining why the Government sought seizure warrants under 21 U.S.C. § 853(f) in this case rather than a protective order under § 853(e); and (4) releasing any seized funds not shown to be proceeds of any criminal activity or used to facilitate criminal activity. [DE 5, 6].

As to the seized bank accounts, Movant argues that, pursuant to Federal Rule of Criminal Procedure Rule 41(g) and the Sixth Amendment to the United States Constitution, the Court should order the return or release of any "untainted" funds seized by the Government and set this matter for an evidentiary hearing where he intends to show that: (1) because of the Government's seizure of all his funds, he is unable to secure counsel of his choice and (2) "substantial portions of the funds seized were untainted, *i.e.*, not derived from any unlawful activity." [DE 5 at 2]. Movant states "[a]pproximately 30% of all revenue paid to" his employer, LabSolutions, LLC, came from traditional toxicology tests "that have no relationship to any telemedicine-genetic practice, or any other supposedly illegal conduct presumably described in the seizure warrants" and he "does not have any of his own funds that are not frozen to retain counsel." *Id.* As to the sealed documents in this matter, including the affidavit underlying the seizure warrants, Movant contends he has a right to obtain copies of those documents under the First Amendment, Fourth Amendment, and federal common law.

For its part, the Government states its investigation is ongoing and urges the Court to deny Movant's requests to protect the integrity of that investigation and prevent the possible destruction

[2] On August 28, 2019, the Court entered an order unsealing this case. [DE 18]. That order generally unsealed the Movant's motions, the Government's response, and related filings. It did not unseal the affidavit underlying the seizure warrants or related pleadings. That issue is decided by the Court in this order.

or transfer of forfeitable assets. [DE 16]. The Court held a hearing regarding this dispute on August 27, 2019. At the end of the lengthy public portion of the hearing, the Court also heard from the Government in a brief sealed, *ex parte* hearing.

III. Discussion

A. Motion for Return or Release of Seized Funds

Movant seeks the return or release of the funds held in his six seized bank accounts under both Rule 41(g) of the Federal Rules of Criminal Procedure and the Sixth Amendment to the United States Constitution. [DE 5 at 1]. In this regard, it is important to note that the Government has yet to initiate forfeiture proceedings as to Movant's six bank accounts.

Federal courts have "the power to order the suppression or return of unlawfully seized property even though no indictment has been returned and thus no criminal prosecution is yet in existence." *Hunsucker v. Phinney*, 497 F.2d 29, 32 (5th Cir. 1974). The United States Court of Appeals for the Eleventh Circuit has held this remedy is equitable in nature. *See U.S. v. Dean*, 80 F.3d 1535, 1542 (11th Cir. 1996) (explaining the doctrine of equitable jurisdiction permits federal courts to take jurisdiction over property to adjudicate actions for that property's return even though no indictment has been returned). "The decision to invoke equitable jurisdiction is highly discretionary and must be exercised with caution and restraint." *Matter of $67,470.00*, 901 F.2d 1540, 1544 (11th Cir. 1990). "Such jurisdiction, therefore, is only appropriate in exceptional cases where equity demands intervention." *Id.*

In *Richey v. Smith*, the former United States Court of Appeals for the Fifth Circuit elucidated several factors federal courts should consider when deciding motions to return seized property. 515 F.2d 1239, 1243-44 (5th Cir. 1975). First, whether the Government showed a "callous disregard" for a movant's constitutional rights. *Id.* at 1234. Second, whether the movant

has an individual interest in and need for the seized property. *Id.* Third, whether the movant would be irreparably injured if the property is not returned. *Id.* And finally, whether the movant "has an adequate remedy at law for the redress of his [or her] grievance." *Id.* at 1243-44.

Applying these factors here, the Court finds that this matter is not one of the "exceptional cases where equity demands intervention." *Matter of $67,470.00*, 901 F.2d at 1544.

First, the Government seized Movant's bank accounts pursuant to seizure warrants issued under 21 U.S.C. § 853(f) by the undersigned United States Magistrate Judge, who, after careful consideration of a lengthy and detailed affidavit, found probable cause that the funds within those six accounts were subject to forfeiture. Thus, it cannot be said the Government acted with "callous disregard" for Movant's constitutional rights as it followed all constitutionally required procedures in obtaining seizure warrants for Movant's bank accounts. *See Matter of Search of 4801 Fyler Ave.*, 879 F.2d 385 (8th Cir. 1989) (finding no "callous disregard" of constitutional rights where "federal agents searching [the] premises first obtained a warrant" based on "a lengthy and detailed affidavit describing a broad range of illegal activity to establish probable cause").

Second, Movant has not shown an individual need for the return or release of the seized funds. He argues the seizure of his bank accounts will cause a parade of horribles. If the funds are not released, he says, it "will significantly hamper the ongoing business of LabSolutions," his company, "which in turn could result in the termination of 120 salaried employees and scores of independent contractors." [DE 6 at 2]. The company will be unable to "pay the health insurance for all these employees" or "perform laboratory analysis for hundreds and perhaps thousands of blood and urine samples submitted by 'brick and mortar' doctors having nothing to do" with the activity he believes is at issue. *Id.* This will "endanger[] the lives of those doctors' patients." *Id.* But, as the Government stated in its response, LabSolutions does not join Movant's challenge to

the seizure warrants and, in fact, is not contesting any warrants related to the Government's ongoing investigation at this time. [DE 16 at 2].[3] Further, the six seized bank accounts at issue in this Order are all held in Movant's individual name and not in LabSolutions' name. Thus, the fact that LabSolutions may have a need for the seized funds is irrelevant for purposes of this dispute as Movant may not seek the return of property belonging to a third party. *See United States v. Howell*, 425 F.3d 971, 974 (11th Cir. 2005). Movant's argument that LabSolutions will be harmed by the Government's seizure of Movant's individual bank accounts is wholly without merit.

Movant's only other identified need for the return or release of the funds in his seized bank accounts is to retain counsel of his choosing. *See* DE 5 at 2. But both the Supreme Court of the United States and the Eleventh Circuit have held that the Sixth Amendment right to counsel "does not attach until a prosecution is commenced, that is, at or after the initiation of adversary judicial proceedings—whether by way of formal charge, preliminary hearing, indictment, information, or arraignment." *Philmore v. McNeil*, 575 F.3d 1251, 1257 (11th Cir. 2009); *see McNeil v. Wisconsin*, 501 U.S. 171, 175 (1991). Movant has not been criminally charged at this point. His Sixth Amendment right to counsel has not yet attached. *Id.* Thus, the Court finds Movant has not shown an individual need for the immediate return or release of the funds held in the six seized bank accounts.

Third, Movant has failed to show he will suffer irreparable harm if the six seized accounts are not returned or released. He alleges the Government's seizure will harm him by preventing (1) his company from meeting its payroll obligations or performing laboratory tests for patients and (2) him from retaining the counsel of his choosing. [DE 5 at 2]. As stated above, any harm caused

[3] In its combined response, the Government stated that it executed four warrants related to bank accounts held in LabSolutions, LLC's name. [DE 16 at 2]. Those warrants are not part of this consolidated case. All six warrants at issue here were directed to bank accounts held in Movant's individual name. *Id.*

to his company, which does not join his motions, is separate and distinct from any harm caused to Movant relating to his individual accounts. And since Movant's Sixth Amendment right to counsel has not yet attached, *see Philmore*, 575 F.3d at 1257, he has not suffered any irreparable harm from being unable to afford counsel at this time. As Movant has failed to allege any irreparable harm from the Government's seizure, the Court finds this factor also weighs in favor of not ordering the return or release of the seized funds.

Finally, the fourth factor, whether Movant has an adequate remedy at law to redress his grievance, also weighs against ordering the return or release of the seized funds. Although Movant asserts that he currently has no remedy at law to dispute the Government's seizure of his bank accounts, "[a]s long as the Government in fact initiates forfeiture proceedings within a reasonable period of time," he will be provided an adequate remedy at law. *Matter of Seizure of Merchants & Marine Bank Accounts XXXXX and XXXXX*, 2019 WL 3558181, at *3 (S.D. Miss. Aug. 4, 2019).

The Government states it "intends to initiate forfeiture proceedings within a reasonable and lawful period of time." [DE 16 at 7]. Additionally, the Court is informed by counsel for the Government's representations at a sealed, *ex parte* hearing concerning the Government's timeframe for initiating forfeiture proceedings. Here, Movant's accounts were seized on August 15, 2019, immediately after the undersigned issued warrants for their seizure pursuant to 21 U.S.C. § 853(f). [DE 16 at 2]. Given that barely more than two weeks have passed since the issuance of the seizure warrants and given the representations the Government's Assistant United States Attorney made to the Court both at the public hearing and at the sealed, *ex parte* portion of the August 27, 2019 hearing, the Court finds the Government has not unreasonably delayed initiation of forfeiture proceedings. *See Merchants & Marine Bank Accounts*, 2019 WL 3558181, at *3; *Motion for Return of All Monies Seized from Account 710707 at Am. Exp. Bank*, 1991 WL 183363,

at *2 (S.D.N.Y. Sept. 11, 1991). When it does initiate those forfeiture proceedings, Movant will have an adequate remedy at law with which to challenge the seizure of the funds which he asserts he owns.

In sum, the *Richey* factors counsel against ordering the return or release of the seized funds at this early juncture. Movant's Motion for Return of Seized Funds and Request for Expedited Hearing [DE 5] is therefore **DENIED**.

B. Motion to Unseal Seizure Warrant Affidavit and Related Pleadings

The public's right of access to court proceedings and judicial records is governed by the First Amendment, Fourth Amendment, and federal common law. *See U.S. v. Bennett*, 2013 WL 3821625 (S.D. Fla. 2013). Movant argues each provides an independent basis for the Court to grant his motion to unseal. The Court disagrees.

i. First and Fourth Amendments

"[T]he public and press have a presumptive, yet qualified, First Amendment right of access to judicial proceedings in criminal matters." *Id.* at *2. The Eleventh Circuit has found this qualified right of access extends to access to court documents, applying the "compelling interest" standard. *See Brown v. Advantage Eng.*, 960 F.2d 1013, 1015-16 (11th Cir. 1992). Thus, the Court may deny Movant access to the seizure warrant affidavit and related pleadings "only if a 'compelling government interest' in closure exists and denial of access is 'narrowly tailored to serve that interest.'" *Bennett*, 2013 WL 3821625, at *4 (quoting *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 606 (1982)).

Similarly, the Fourth Amendment may grant a right of access to pre-indictment warrant affidavits. But that right is not absolute. "Rather it is qualified and may be limited or completely denied 'upon a showing of a compelling government interest that cannot be accommodated by

some means less restrictive than sealing the court's records.'" *Id.* (quoting *In re Search of Up North Plastics, Inc.*, 940 F.Supp. 229, 232 (D. Minn. 1996)).

"[P]otential prejudice to an ongoing criminal investigation represents a compelling government interest that justifies the closure of judicial records." *Id.* at *4 (citing *U.S. v. Valenti*, 987 F.2d 708, 714 (11th Cir. 1996), *cert. denied*, 510 U.S. 907 (1993)). Here, the Government argues unsealing the underlying affidavit "would negatively impact the integrity of the ongoing investigation by prematurely disclosing its scope and direction, subjects, and potential witnesses, and could result in the destruction of evidence, witness tampering, or flight." [DE 16 at 4]. The Court agrees. The Government's compelling interest is clear. The Court finds that unsealing the underlying affidavit and related documents would severely prejudice the Government's ongoing investigation.

As to whether there are "some means less restrictive than sealing the court's records," *Bennett*, 2013 WL 3821625, at*4, the Government states that "redaction or partial release of the affidavit is not a feasible alternative as every page [of the seizure warrant affidavit] contains at least some information that could compromise the Government's investigation if it were released." [DE 16 at 4]. Given the details contained in the affidavit, the Court finds that redaction of names and other identifying information would not adequately assure the Government's need to protect the integrity of an ongoing investigation. Thus, the Court finds the Government's compelling interest in protecting its ongoing investigation outweighs any presumption of access Movant may have to the seizure warrant affidavits and related documents under the First Amendment. *Id.* at *4.

ii. Common Law Right of Access

Finally, federal courts have long recognized a right of access to judicial records. *See Nixon v. Warner Comm., Inc.*, 435 U.S. 589, 597 (1978); *U.S. v. Rosenthal*, 763 F.2d 1291, 1292-93 (11th

Cir. 1995). This right can be overcome by a showing of "good cause," which requires the Court to "balance the asserted right of access against the other party's interest in keeping the information confidential." *Romero v. Drummond Co., Inc.*, 480 F.3d 1234, 1246 (11th Cir. 2007). This is a fact-specific analysis that varies case-by-case. *See Bennett*, 2013 WL 3821625, at *6-7. Here, the Government's interest in keeping the details of its investigation sealed is clear. Balancing Mr. Patel's individual interests against the Government's, there is good cause for finding Mr. Patel's common law right of access to the affidavits has been overcome.

Thus, Movant's Motion to Unseal Seizure Warrant Affidavits and Related Pleadings and Request for Expedited Hearing [DE 6] is **DENIED**.

IV. Conclusion

Upon review of the motions and being fully advised of the premises, it is hereby **ORDERED** as follows:

1. Movant's Motion for Return of Seized Funds and Request for Expedited Hearing [DE 5] is **DENIED.**
2. Movant's Motion to Unseal Seizure Warrant Affidavits and Related Pleadings and Request for Expedited Hearing [DE 6] is **DENIED.**
3. The denial of Movant's motions is without prejudice to his ability to file a future amended motion for return or release of seized funds, or a separate civil or administrative action, to the extent such relief may be available to Movant, in the event the Government unreasonably delays the institution of forfeiture proceedings. *See Merchants & Marine Bank Accounts*, 2019 WL 3558181, at *3 (finding 73-day delay in instituting forfeiture proceedings not unreasonable); *Motion for Return of All Monies Seized from Account 710707 at Am. Exp. Bank*, 1991 WL 183363, at *2 (finding 54-

day delay in instituting forfeiture proceedings not unreasonable). This Order is also without prejudice to Movant's ability to contest any criminal forfeiture proceeding in the event one is initiated.

DONE AND ORDERED in chambers at Palm Beach County, Florida, this 9th day of September, 2019.

William Matthewman
WILLIAM MATTHEWMAN
United States Magistrate Judge