

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
CHICAGO DIVISION**

CASE NO.: 1:23-cv-15606

FOTOHAUS, LLC,

Plaintiff,

v.

THE UNIVERSITY OF CHICAGO dba
INSTITUTE FOR TRANSLATIONAL
MEDICINE,

Defendant.

COMPLAINT FOR COPYRIGHT INFRINGEMENT
(INJUNCTIVE RELIEF DEMANDED)

Plaintiff FOTOHAUS, LLC by and through its undersigned counsel, brings this Complaint against Defendant THE UNIVERSITY OF CHICAGO dba INSTITUTE FOR TRANSLATIONAL MEDICINE for damages and injunctive relief, and in support thereof states as follows:

SUMMARY OF THE ACTION

1. Plaintiff FOTOHAUS, LLC (“Fotohaus”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Fotohaus’s original copyrighted Work of authorship.

2. Daniel Foster, owner and principal photographer of Fotohaus, has a history of taking highly unique abstract architecture photographs that focus on lines and geometry. His works have been featured 18 times in the highly-coveted “Explore” section of Flickr. More than 86,000 fans follow his work on Instagram. Daniel is a member of the Royal Photographic Society and Professional Photographers of America. His work has been published online and

SRIPLAW

CALIFORNIA ♦ GEORGIA ♦ FLORIDA ♦ TENNESSEE ♦ NEW YORK

offline through a variety of publications, including National Geographic, der Freitag, the World Wildlife Fund, and Smithsonian. Daniel licenses his work commercially on a selective basis and is currently working to establish himself as a fine art photographer. His prints are available for purchase through Saatchi Art.

3. Defendant THE UNIVERSITY OF CHICAGO dba INSTITUTE FOR TRANSLATIONAL MEDICINE (“ITM”) is a private research university in Chicago. At all times relevant herein, ITM owned and operated the internet website located at the URL <https://chicagoitm.org/> (the “Website”).

4. Defendant published the Work on two sections of the Website: the Radiomics section and the image navigation section.

5. Fotohaus alleges that ITM copied Fotohaus’s copyrighted Work from the internet in order to advertise, market and promote its business activities. ITM committed the violations alleged in connection with ITM’s business for purposes of advertising and promoting itself to the public in the course and scope of the ITM’s business.

JURISDICTION AND VENUE

6. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

7. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

8. Defendant is subject to personal jurisdiction in Illinois.

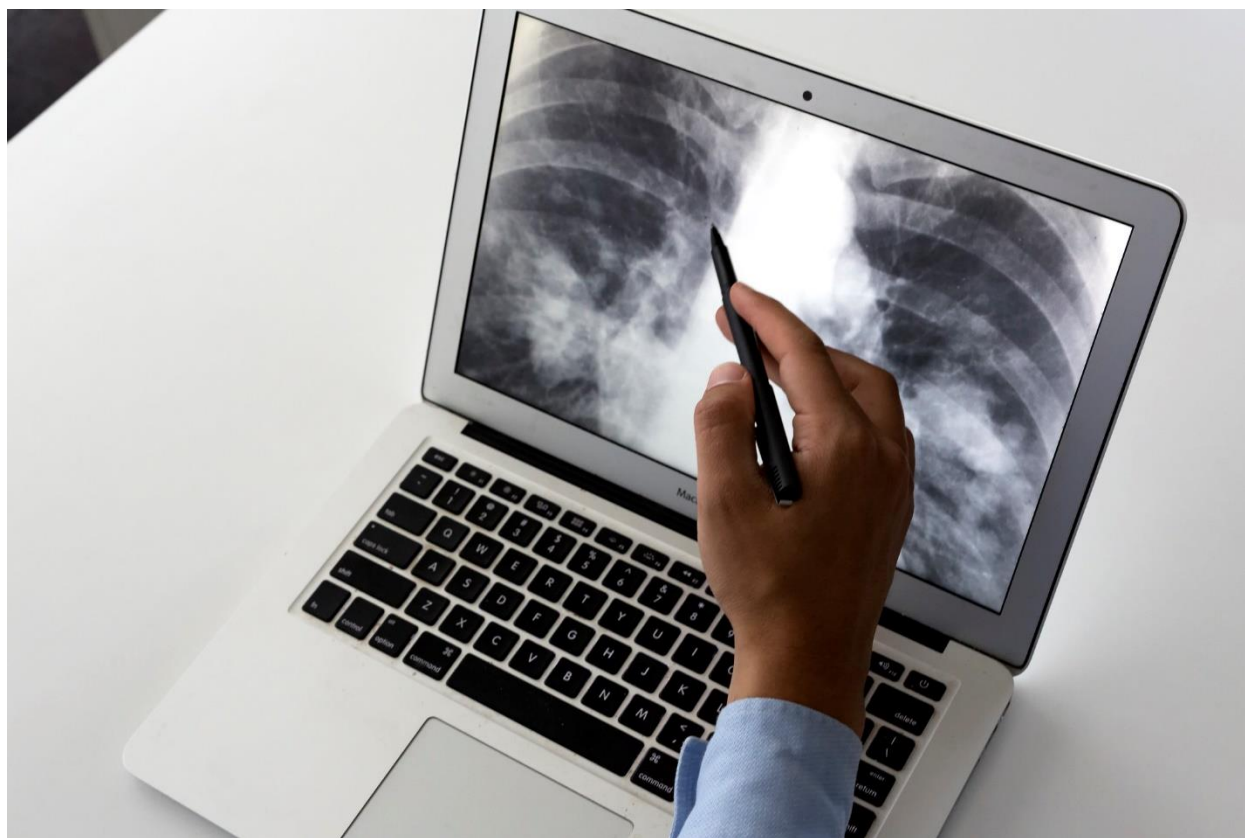
9. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendant engaged in infringement in this district, Defendant resides in this district, and Defendant is subject to personal jurisdiction in this district.

DEFENDANT

10. The University of Chicago dba Institute for Translational Medicine is a Illinois Corporation, with its principal place of business at University of Chicago, 5841 S. Maryland Ave., W511, MC7100, Chicago, IL 60637, and can be served by serving its Registered Agent, Kim Taylor, 5801 S Ellis Ave., Suite 619, Chicago, IL 60637.

THE COPYRIGHTED WORK AT ISSUE

11. In 2015, Daniel Foster created the photograph entitled “Medical Research 2”, which is shown below and referred to herein as the “Work”, which he assigned to Fotohaus through written assignment.



12. Fotohaus registered the Work with the Register of Copyrights on September 16, 2015 and was assigned the registration number VA 1-972-437. The Certificate of Registration is attached hereto as Exhibit 1.

13. Fotohaus's Work is protected by copyright but is not otherwise confidential, proprietary, or trade secrets.

14. At all relevant times Fotohaus was the owner of the copyrighted Work at issue in this case.

INFRINGEMENT BY DEFENDANT

15. ITM has never been licensed to use the Work at issue in this action for any purpose.

16. On a date after the Work at issue in this action was created, but prior to the filing of this action, ITM copied the Work.

17. On or about May 4, 2021, Fotohaus discovered the unauthorized use of its Work on the Website. The Work was published as a feature image for the Radiomics section on the Website. The Work also appeared on the image navigation section of the Website.

18. ITM copied Fotohaus's copyrighted Work without Fotohaus's permission.

19. After ITM copied the Work, it made further copies and distributed the Work on the internet to promote itself and its' research, which has received almost \$35 million in National Institutes of Health (NIH) grants to date.

20. ITM copied and distributed Fotohaus's copyrighted Work in connection with ITM's business for purposes of advertising and promoting ITM's business, and in the course and scope of advertising its' research.

21. Fotohaus's Works are protected by copyright but are not otherwise confidential, proprietary, or trade secrets.

22. ITM committed copyright infringement of the Work as evidenced by the documents attached hereto as Exhibit 2.

23. Fotohaus never gave ITM permission or authority to copy, distribute or display the Work at issue in this case.

24. Fotohaus notified ITM of the allegations set forth herein on May 19, 2021 and . To date, the parties have failed to resolve this matter. Copies of the Notices to ITM are attached hereto as Exhibit 3.

**COUNT I
COPYRIGHT INFRINGEMENT**

25. Fotohaus incorporates the allegations of paragraphs 1 through 25 of this Complaint as if fully set forth herein.

26. Fotohaus owns a valid copyright in the Work at issue in this case.

27. Fotohaus registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

28. ITM copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Fotohaus's authorization in violation of 17 U.S.C. § 501.

29. ITM performed the acts alleged in the course and scope of its business activities.

30. ITM's acts were willful.

31. Fotohaus has been damaged.

32. The harm caused to Fotohaus has been irreparable.

WHEREFORE, the Plaintiff Fotohaus, LLC prays for judgment against the Defendant The University of Chicago dba Institute for Translational Medicine that:

- a. Defendant and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;
- b. Defendant be required to pay Plaintiff its actual damages and ITM's profits attributable to the infringement, or, at Plaintiff's election, statutory damages, as provided in 17 U.S.C. § 504;
- c. Plaintiff be awarded its attorneys' fees and costs of suit under the applicable statutes sued upon;
- d. Plaintiff be awarded pre- and post-judgment interest; and
- e. Plaintiff be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.

DATED: November 2, 2023

Respectfully submitted,

/s/Joel B. Rothman

JOEL B. ROTHMAN

joel.rothman@sriplaw.com

CRAIG A. WIRTH

craig.wirth@sriplaw.com

SRIPLAW, P.A.

21310 Powerline Road

Suite 100

Boca Raton, FL 33433

404.496.6606 – Telephone

561.404.4353 – Facsimile

Counsel for Plaintiff Fotohaus, Llc