

23andMe Faces Financial Turmoil: What It Means for Your DNA Data

November 14, 2024 - 23andMe, a leader in consumer genetics and personal genomics, is grappling with significant financial challenges that could impact its future operations and, more importantly, the privacy of its customers' genetic data. The company's recent actions and stock performance signal a turbulent period ahead, raising concerns about the fate of its vast DNA database.

In a bid to reduce costs and stabilize its finances, 23andMe recently announced layoffs of approximately 40% of its workforce, equating to around 200 employees. The decision to eliminate its therapeutics division, which was focused on drug development and research, is part of the broader restructuring efforts. This move allows the company to concentrate on its core consumer business and existing research partnerships, but it highlights the depth of the financial issues it faces.

Once a beacon of the biotechnology industry, 23andMe has seen its stock price plummet since its peak. The company went public through a special purpose acquisition company (SPAC) merger in 2021, with shares initially surging. However, like many SPAC-fueled companies, 23andMe's stock has experienced a dramatic decline, reflecting investor concerns over its long-term viability and profitability. As of now, the stock has lost 98% of its value.

As 23andMe navigates these financial headwinds, customers are left wondering about the security of their personal genetic information. In the worst-case scenario where 23andMe declares bankruptcy, the fate of this sensitive data becomes uncertain. Under U.S. bankruptcy law, a court could potentially override the company's privacy policy if it determines that the DNA database is a significant asset. And that database is arguably the company's most significant financial asset. This means that in a bankruptcy sale, customer data could be transferred to a new owner, despite any prior assurances of privacy.

Section 363(b)(1) of the Bankruptcy Code requires the appointment of a Consumer Privacy Ombudsman (CPO) to evaluate the potential transfer of personally identifiable information. This process involves a court hearing, where the court must consider the facts and ensure that the transfer complies with applicable non-bankruptcy laws. Nevertheless, the possibility of data being sold or accessed by a third party in such scenarios is a real concern for customers. Since biometric data is relatively new, there is no way for anyone to know the long term ramifications of such a transfer.

Customers worried about their genetic data have some options. Deleting their 23andMe accounts do have the option of deleting their accounts, but the company has a legal obligation to preserve their DNA samples for a period of time after such a deletion. While the customer's name would no longer be associated with their sample, it is quite likely that samples could be traced back to their point of origin.

Since 23andMe, as well as other companies offering similar services, is not a healthcare provider, it is not bound by HIPAA or other healthcare privacy laws. The data protection offered to its customers is significantly limited by this.

by Jim Malmberg

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