EXHIBIT B - Claim Chart
U.S. Patent No. 7,752,060 to MDx's Prior Website

U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
1. A computer-implemented method of providing healthcare provider information to potential patients, said method comprising:		MDx Medical, Inc. ("MDx") directly infringed this claim by practicing a computer-implemented method of providing healthcare provider information to potential patients via its on-line information system, which included its pre-January 2011[1] version of its website (www.vitals.com), its healthcare provider database, and the software and hardware that are associated therewith. MDx provides potential patients with access to MDx's database of information relating to healthcare providers, such as doctors, through its www.vitals.com website. Various screenshots taken from http://www.vitals.com/[2] are provided in this claim chart to illustrate the various features of the vitals.com website and how these features correspond to the features of claims 1, 4-9, 11, 14-16. For instance, Screenshot No. 1 (reproduced below and, in larger form, in Exhibit D) illustrates the homepage of the MDx website where a potential patient begins accessing MDx's information related to specific doctors.

[1] MDx made changes to its website in January 2011.
[2] Screenshots taken between 11/1/10 and 12/31/10. Because Plaintiffs cannot currently access the pre-January 2011 website, the quality and availability of the screenshots may be affected.

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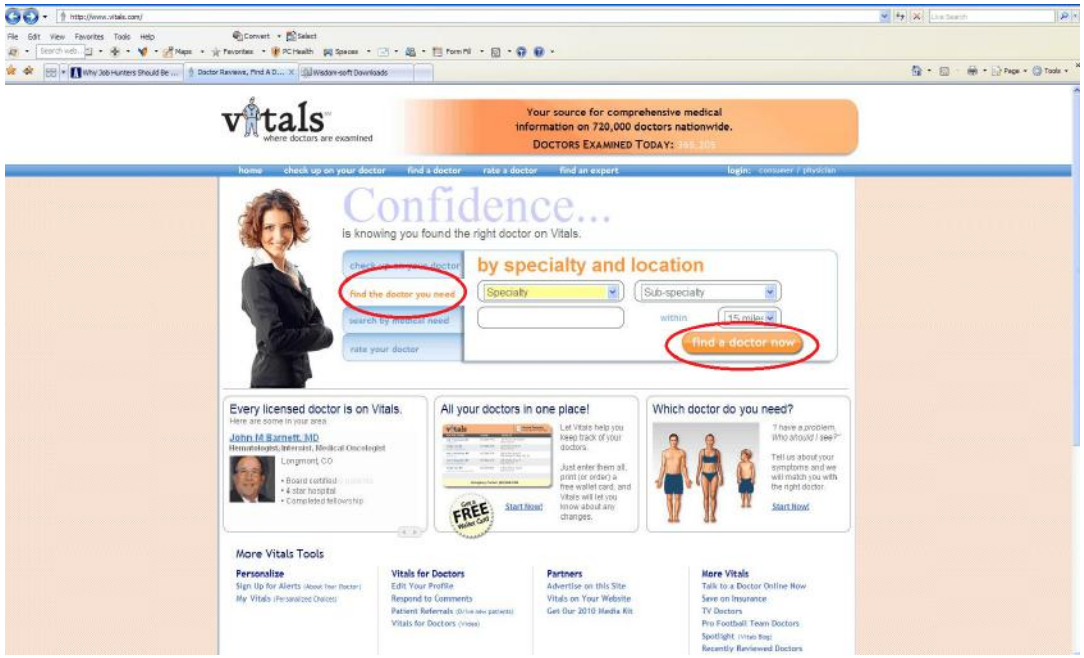
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		Screenshot No. 1  For example, MDx provides a potential patients with information about a healthcare provider in response to the potential patient clicking on the "find the doctor you need" link or in response to the potential patient clicking on the "find a doctor now" link, both of which are circled in red on Screenshot No. 1 above.

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U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
receiving, by a Web server computer of a company providing a service for connecting healthcare providers with the potential patients, a request for information regarding a first healthcare provider, wherein the Web server computer comprises at least one computer processor and memory;	"First Healthcare Provider: a particular healthcare provider about whom information is requested and a report is produced." (Markman Order at 23.)	When the potential patient initiates a search for a healthcare provider on the MDx's website, MDx's web server receives a request for information regarding a healthcare provider via the internet. MDx's web server, as with any server, comprises at least one computer processor and memory. Screenshot No. 2  Screenshot No. 2 shows an example of where a potential patient may initiate a search for a healthcare provider on MDx's website, i.e., request information about one or more healthcare providers. When the user clicks "find a doctor now," this prompts the patient's

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U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		web browser to send a request for information about a doctor to the MDx's web server, which receives the request for information and then accesses MDx's database to find data that responds to the user's search query. Screenshot No. 3 illustrates yet another portion of MDx's website that provides for MDx's web server to receive a request for information about various doctors based on specialty or location. *See* Screenshot No. 3 (circled in red are ways to search for a doctor). Screenshot No. 3

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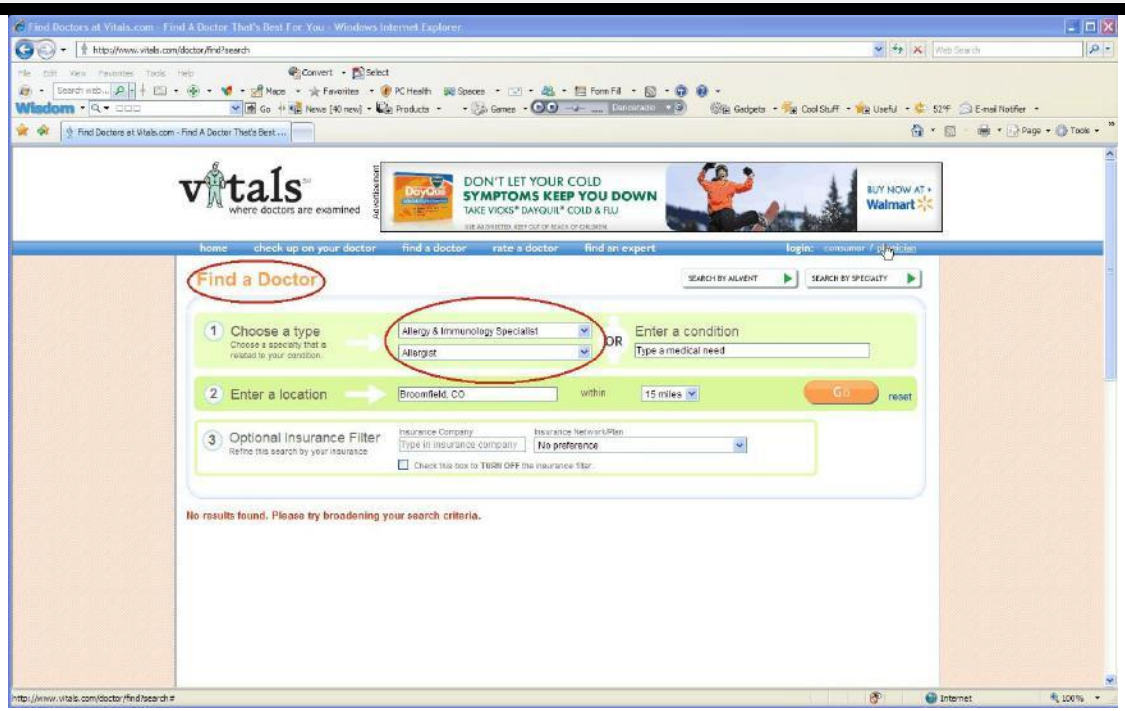
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		 The Court's Markman Order defines the first healthcare provider as "a particular healthcare provider about whom information is requested and a report is produced." (Markman Order at 23.) MDx literally infringes this element as construed by the Court in its Markman Order. For example, on the www.vitals.com website, information can be requested about a particular healthcare provider by performing various searches, which are initiated at the www.vitals.com homepage. Specifically, a potential patient may initiate a search for a

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U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		particular healthcare provider on MDx's website, which prompts the patient's web browser to send a request for information about the particular doctor the patient is looking for to the MDx's web server, which receives the request for information and then accesses MDx's database to find data that responds to the user's search query. The various kinds of searches offered on www.vitals.com included search by name, specialty, and location, among other things. To the extent that the Court's construction of first healthcare provider requires that the request for information be directed to *only* one particular healthcare provider, a position with which Health Grades disagrees, MDx both literally infringes this element and infringes under the doctrine of equivalents. MDx literally infringes this element because the www.vitals.com website is capable of receiving requests for information about only one particular physician. MDx infringes under the doctrine of equivalents because a request for information about multiple particular physicians performs substantially the same function, in substantially the same way, to achieve substantially the same result as a request for one particular physician as shown above. To the extent that the Court's construction of first healthcare provider requires that the potential patient know the identity of the particular physician for whom he or she is requesting information before they request the information, a position with which Health Grades disagrees, MDx both literally infringes this element and infringes under the doctrine of equivalents. MDx literally infringes this element because the www.vitals.com website is capable of receiving requests for information about a particular physician whose identity is known to the requestor before the information is requested. MDx infringes under the doctrine of equivalents because a request for information about a particular physician that has characteristics that meet search criteria (e.g. female, plastic surgeon, in New York, NY) performs substantially the same function, in substantially the same way, to achieve substantially the same result as a request for a

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U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		particular physician whose identity is known before the search is run.
accessing healthcare provider-verified information about the first healthcare provider, wherein the healthcare provider-verified information is received from the first healthcare provider and comprises three or more from the group consisting of: specialty information, medical philosophy, gender, age, years in profession, years in practice, awards, honors, professional appointments, professional memberships, publications, languages, and hobbies;	"First Healthcare Provider: a particular healthcare provider about whom information is requested and a report is produced." (Markman Order at 23.) "Received from the First Healthcare Provider: receipt of information from the first healthcare provider or one of his or her agents, such as an employee, as distinguished from information received from patients or public sources."	The Court's Markman Order defines the first healthcare provider as "a particular healthcare provider about whom information is requested and a report is produced." (Markman Order at 23.) At the initiation of the potential patient/user using MDx's website, MDx's web server accesses healthcare-provider-verified information about a particular healthcare provider. *See* Screenshot No. 4 (illustrating the result of accessing and displaying doctor supplied information). Highlighted in Screenshot No. 4, among other things, are the following pieces of healthcare provider-verified information: doctor's age, gender, specialty information and years in practice. Screenshot No. 4

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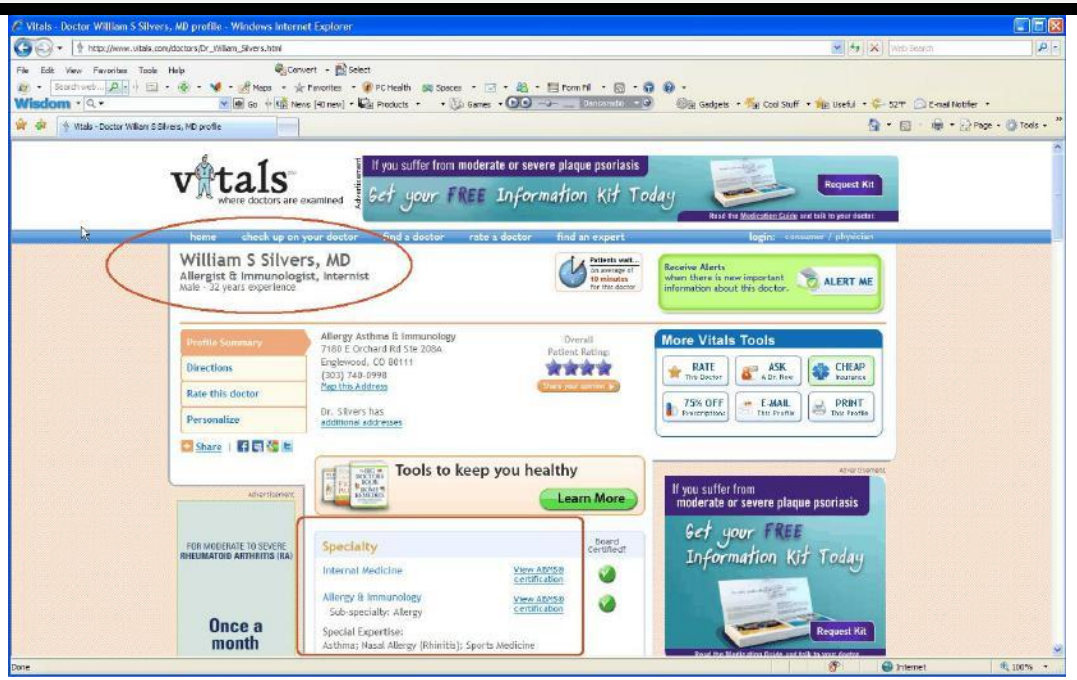
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
	(Markman Order at 24.) "Although defendant is correct that 'verify' can mean 'to prove,' 'verify' may also mean, depending on its context, 'confirm' or 'substantiate.' . . . . Here, the specification makes clear that the act of 'verifying' requires only that the website receive confirmation of the information from some other source, in this instance the healthcare provider. Indeed, the confirmation described appears to not extend beyond receipt of such information from the first healthcare	 The Court's Markman Order defines "received from the First Healthcare Provider" to mean: "receipt of information from the first healthcare provider or one of his or her agents, such as an employee, as distinguished from information received from patients or public sources." (Markman Order at 24.) MDx receives the healthcare provider-verified information from healthcare providers. MDx's website provides doctors with the ability to send information to MDx. For example, MDx's website provides many opportunities for doctors to edit their own profiles. *See, e.g.*, Screenshot No. 5

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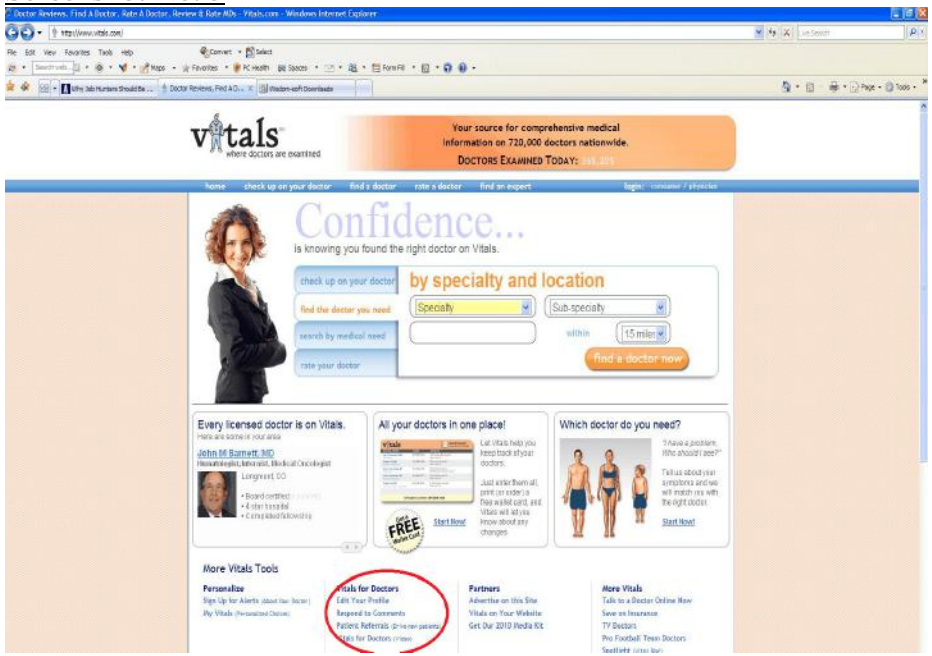
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
	provider." (Markman Order at 15 n.8.) "The phrase ['received from the first healthcare provider'] and the surrounding context contemplate receipt of information from the first healthcare provider or one of his or her agents, such as an employee, as distinguished from information received from patients or public sources." (Markman Order at 16-17.)	Screenshot No. 5  MDx states on its website that it receives, compiles, and posts doctor-supplied information. *See* Screenshot No. 6. Screenshot No. 6

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U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		 The Court's Markman Order states that "'verifying' requires only that the website receive confirmation of the information from some other source, in this instance the healthcare provider. Indeed, the confirmation described appears to not extend beyond receipt of such information from the first healthcare provider." (Markman Order at 15 n.8.) MDx accesses information verified by a physician or other healthcare professional. For example, MDx literally infringes because MDx admits that it accesses information that is provided to MDx by the healthcare provider, and therefore is verified by the healthcare provider. Moreover, even if every doctor does not provide every piece of his or her own personal information, and to the extent that any physician information originates with a third party,

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		MDx still literally infringes because its system provides the capability for healthcare providers to verify and edit their own information as detailed above. As such, this editing relies on the fact that the physician is confirming information it edits. To the extent that MDx does not literally infringe this element because the physician information is verified by a third party, it infringes under the doctrine of equivalents because it performs substantially the same function in substantially the same way to obtain the same result. The function of the claim is to make the information service more trustworthy. The way it makes it more trustworthy is to get information from a third party about the doctor. The result is that it is more trustworthy.
compiling, by the at least one computer processor, patient-provided information regarding the first healthcare provider, wherein the patient-provided information comprises patient ratings from one or more past or current patients of the first healthcare provider, and wherein the patient ratings are received from an on-line patient experience survey completed on a	"First Healthcare Provider: a particular healthcare provider about whom information is requested and a report is produced." (Markman Order at 23.) "Compiling/Compile: gathering and/or putting together." (Markman Order at 24.)	MDx's on-line information service, which includes a computer processor, compiles patient-provided information regarding healthcare providers. MDx compiles the patient ratings from a www.vitals.com on-line patient-experience survey; this survey is shown in Screenshot No. 7, below. Screenshot No. 7

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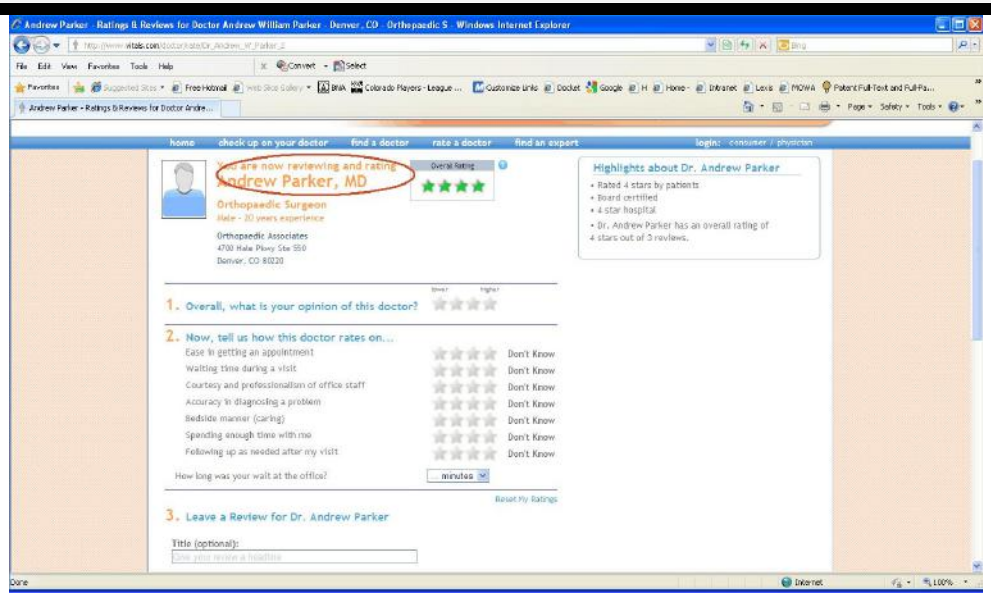
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
company Web site by the one or more past or current patients of the first healthcare provider, and wherein the company Web site is managed by the company providing the service for connecting healthcare providers with the potential patients;		
compiling information regarding the first healthcare provider verified by an independent third-party source, wherein the information verified by the independent third-party source comprises three or more from the group	compiling information regarding the first healthcare provider verified by an independent third-party source, wherein the information verified by the independent	MDx compiles information regarding doctors that is verified by an independent third-party source. The verified information comprises, at least, medical school, licensure, board certification, medical fellowship and medical residency information. *See* Screenshot No. 8 (displaying a portion of the FAQ from the vitals.com website stating that the information comes from various third parties). Screenshot No. 8

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U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
consisting of: board certification, licensure, disciplinary action information, medical school, medical internship, medical residency, and medical fellowship information;	third-party source comprises three or more from the group consisting of: board certification, licensure, disciplinary action information, medical school, medical internship, medical residency, and medical fellowship information;	 As a specific example, MDx compiles medical school information on a given doctor from "The Princeton Review, the U.S. Government and other sources." *See* Screenshot No. 9. MDx then provides potential patients with medical school information associated with a given physician's academic and fellowship history. Screenshot No. 9

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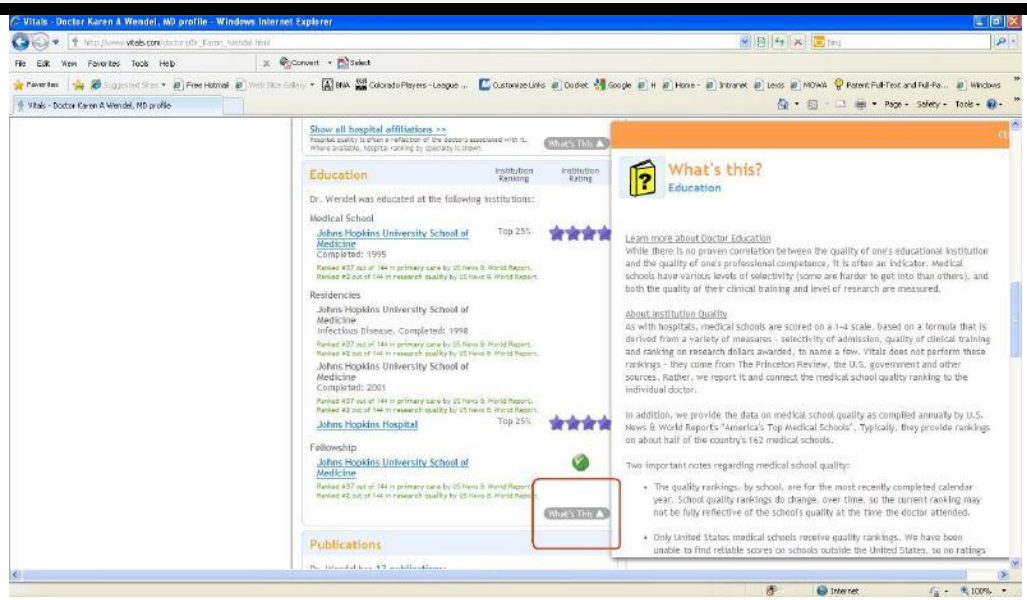
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		 MDx compiles board certification information. See Screenshot No. 10 (board certification check mark circled in purple). Screenshot No. 10

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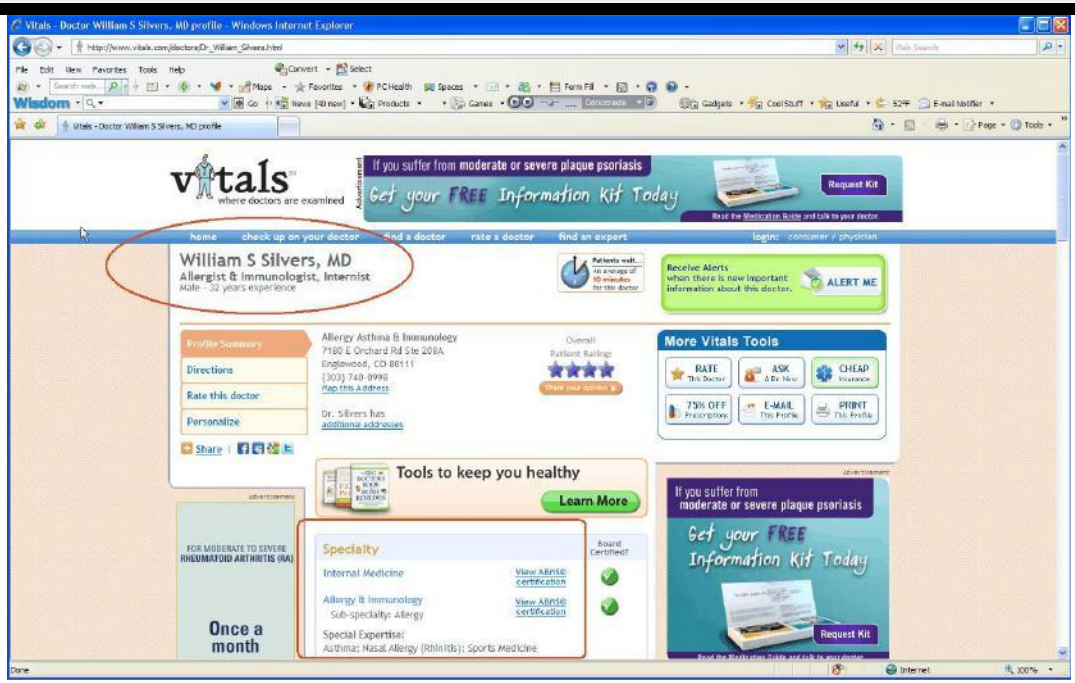
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		 MDx compiles additional information verified by an independent third-party source regarding a physician's medical school, internship, residency, and fellowship positions. *See* Screenshot No. 11 (noting that MDx obtains all educational information from independent third parties unless otherwise noted). Screenshot No. 11

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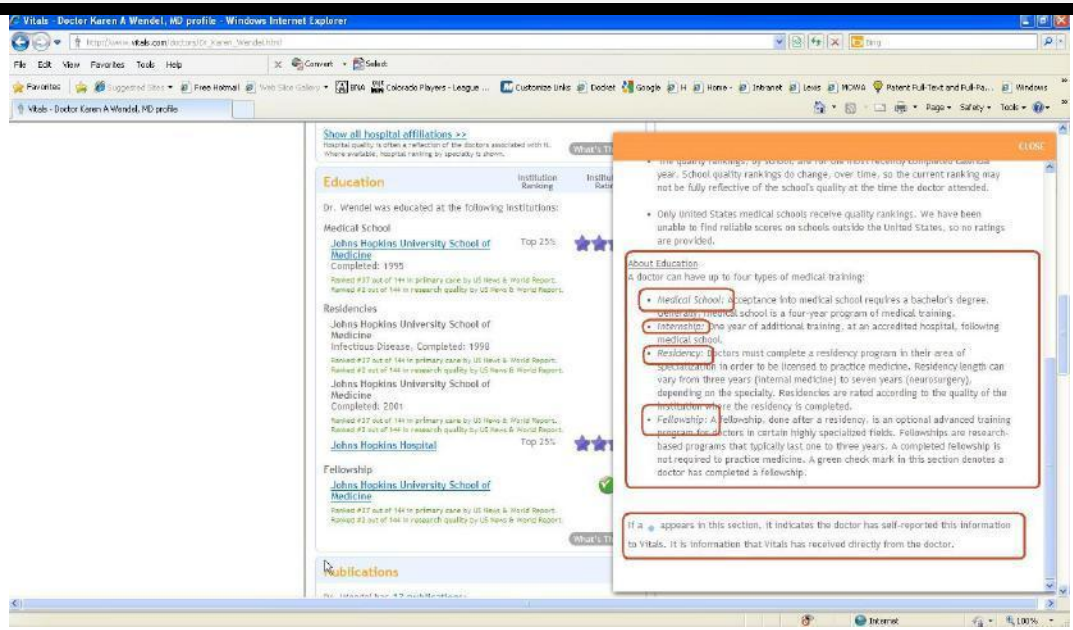
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		 As a specific example, Screenshot 12 provides specific evidence that MDx compiles fellowships information on at least some it its doctors. <u>Screenshot No. 12</u>

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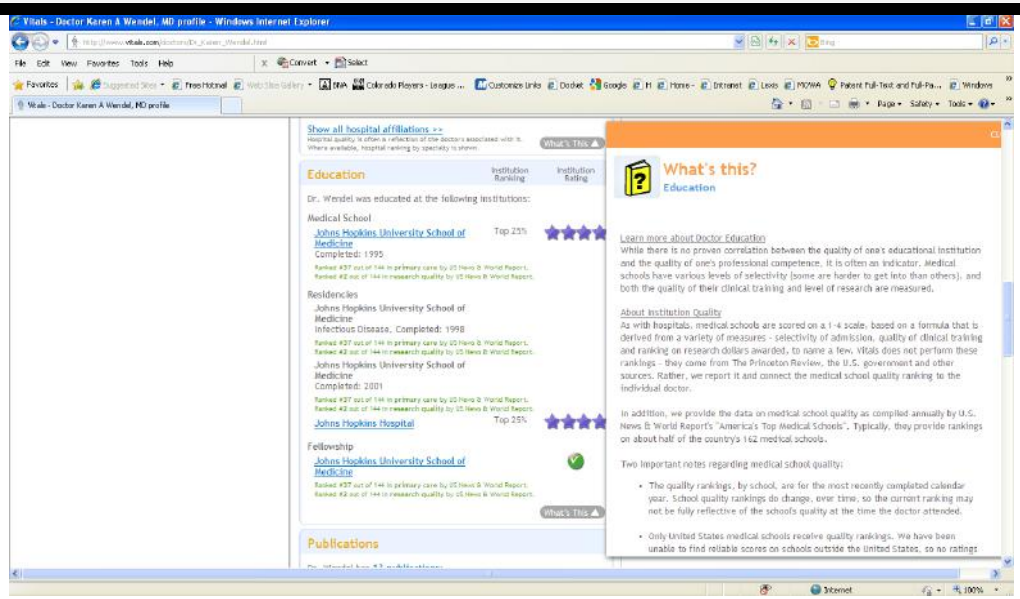
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		
creating, by the at least one computer processor, a healthcare provider report on the first healthcare provider using the healthcare provider-verified information, the patient-provided information, and the information verified by the	"First Healthcare Provider: a particular healthcare provider about whom information is requested and a report is produced." (Markman Order at 23.)	After a patient/user enters search criteria for a doctor, MDx creates one or more healthcare provider reports using information from the MDx database, including using healthcare provider-verified information, patient-provided information, and information verified by the independent third-party source about the first healthcare provider. The Court's Markman Order defines "First Healthcare Provider" as "a particular healthcare provider about whom information is requested and a report is produced." (Markman Order at 23.) The Court's Markman Order defines "Comparison Ratings of Healthcare Providers" as

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independent third-party source, wherein the healthcare provider report on the first healthcare provider includes comparison ratings of healthcare providers; and	"Comparison Ratings of Healthcare Providers: ratings on multiple healthcare providers, including the 'first healthcare provider,' in the report on that 'first healthcare provider,' thus permitting comparison of the 'first healthcare provider' with other potential healthcare providers." (Markman Order at 24.)	"ratings on multiple healthcare providers, including the 'first healthcare provider,' in the report on that 'first healthcare provider,' thus permitting comparison of the 'first healthcare provider' with other potential healthcare providers." (Markman Order at 24.) Screenshot Nos. 13 -16 show a portion (e.g. first page) of a healthcare provider report on the first healthcare provider. This report uses at least the following information: (1) healthcare provider-verified information, circled in red; (2) patient-provided information, circled in pink; and (3) information verified by an independent third party circled in purple. These reports also include comparison ratings, circled in orange, as well as comparison ratings of other healthcare providers below.. Screenshot No. 13

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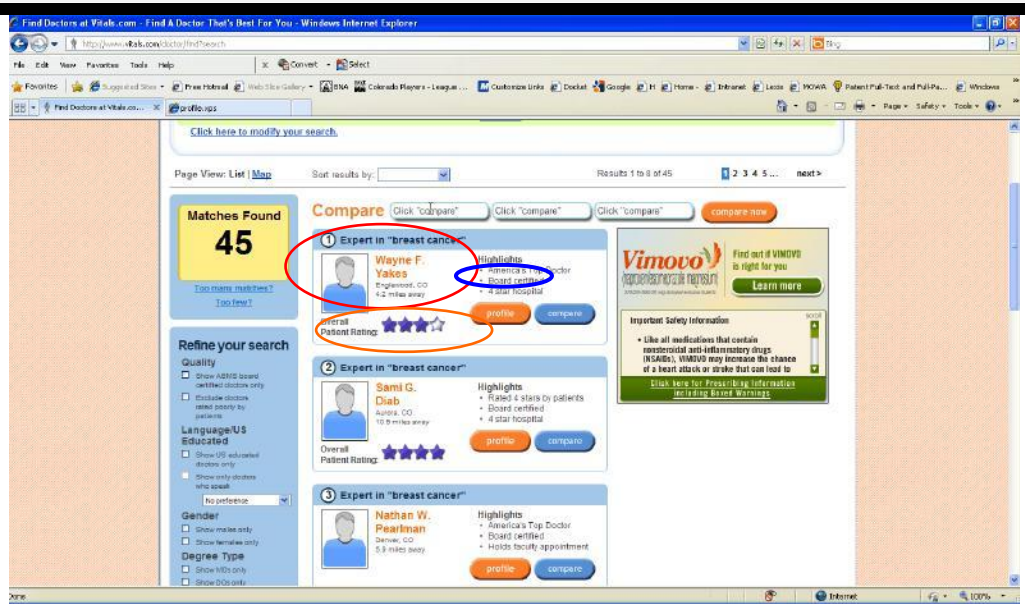
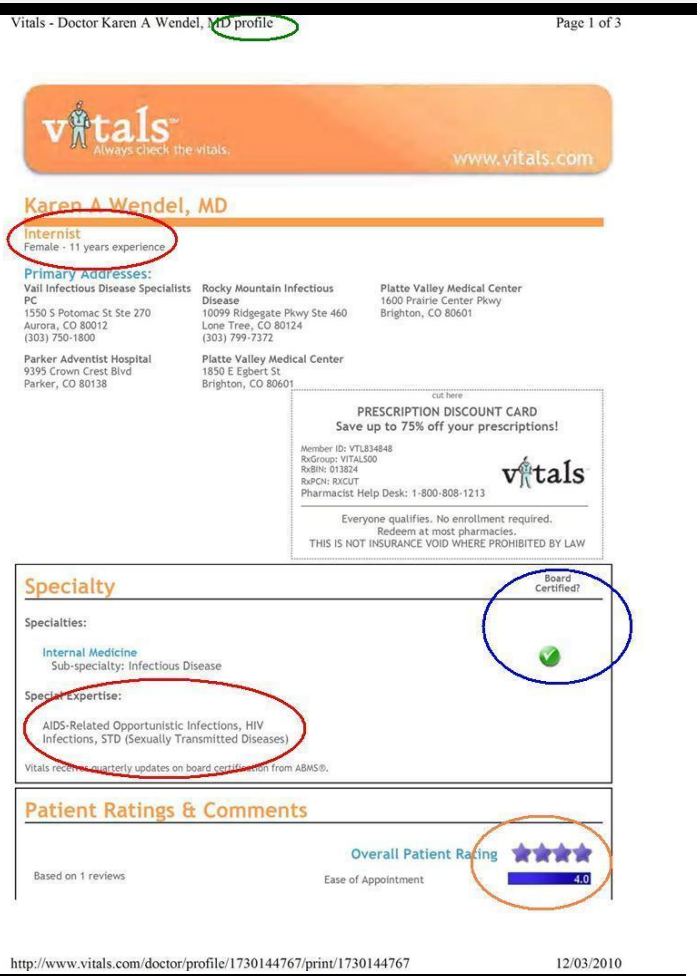
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		 Screenshot No. 14

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vitals Always check the vitals. www.vitals.com

Karen A Wendel, MD

Internist
Female - 11 years experience

Primary Addresses:

Vail Infectious Disease Specialists PC
1550 S Potomac St Ste 270
Aurora, CO 80012
(303) 750-1800

Rocky Mountain Infectious Disease
10099 Ridgegate Pkwy Ste 460
Lone Tree, CO 80124
(303) 799-7372

Platte Valley Medical Center
1600 Prairie Center Pkwy
Brighton, CO 80601

Parker Adventist Hospital
9395 Crown Crest Blvd
Parker, CO 80138

Platte Valley Medical Center
1850 E Egbert St
Brighton, CO 80601

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Save up to 75% off your prescriptions!
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RxGroup: VITAL500
RxBIN: 013824
RxPCN: RXCUT
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Everyone qualifies. No enrollment required.
Redeem at most pharmacies.
THIS IS NOT INSURANCE VOID WHERE PROHIBITED BY LAW

Specialty
Board Certified?

Specialties:

Internal Medicine
Sub-specialty: Infectious Disease

Special Expertise:

AIDS-Related Opportunistic Infections, HIV Infections, STD (Sexually Transmitted Diseases)

Vitals receives quarterly updates on board certification from ABMS®.

Patient Ratings & Comments

Overall Patient Rating

Based on 1 reviews

Ease of Appointment 4.0

http://www.vitals.com/doctor/profile/1730144767/print/1730144767 12/03/2010

Screenshot No. 15

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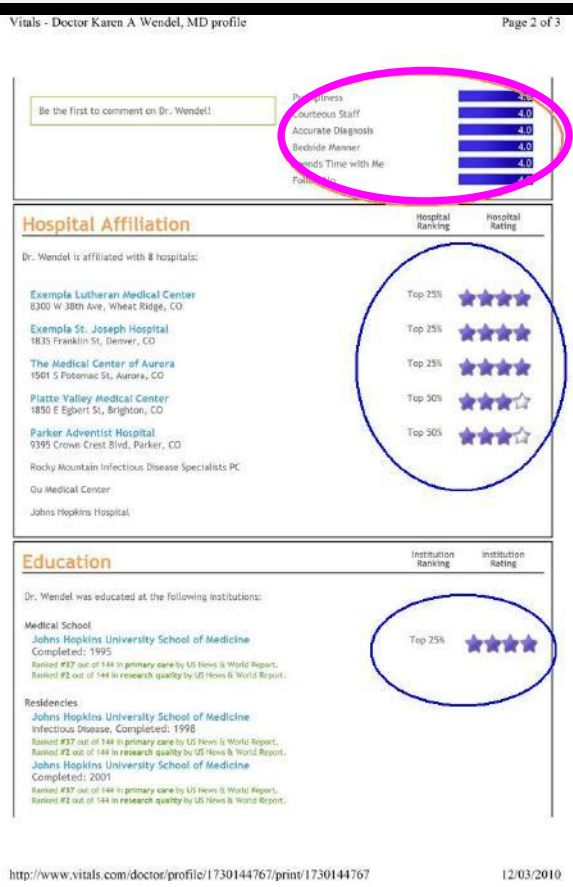
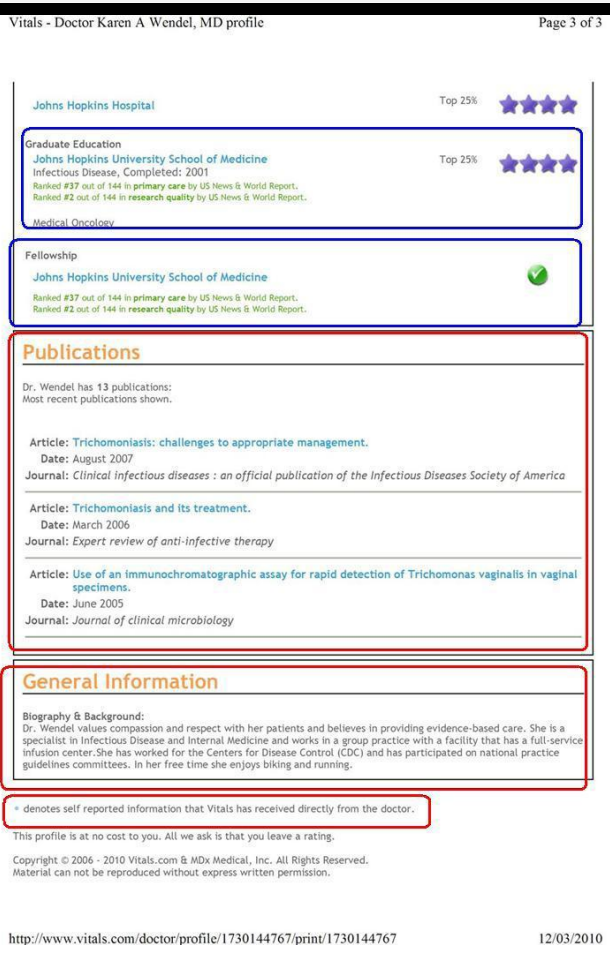
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		 Screenshot No. 16

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Johns Hopkins Hospital Top 25%

Graduate Education
Johns Hopkins University School of Medicine Top 25%
Infectious Disease, Completed: 2001
Ranked #37 out of 144 in primary care by US News & World Report.
Ranked #2 out of 144 in research quality by US News & World Report.

Medical Oncology

Fellowship
Johns Hopkins University School of Medicine
Ranked #37 out of 144 in primary care by US News & World Report.
Ranked #2 out of 144 in research quality by US News & World Report.

Publications

Dr. Wendel has 13 publications:
Most recent publications shown.

Article: Trichomoniasis: challenges to appropriate management.
Date: August 2007
Journal: *Clinical infectious diseases : an official publication of the Infectious Diseases Society of America*

Article: Trichomoniasis and its treatment.
Date: March 2006
Journal: *Expert review of anti-infective therapy*

Article: Use of an immunochromatographic assay for rapid detection of Trichomonas vaginalis in vaginal specimens.
Date: June 2005
Journal: *Journal of clinical microbiology*

General Information

Biography & Background:
Dr. Wendel values compassion and respect with her patients and believes in providing evidence-based care. She is a specialist in Infectious Disease and Internal Medicine and works in a group practice with a facility that has a full-service infusion center.She has worked for the Centers for Disease Control (CDC) and has participated on national practice guidelines committees. In her free time she enjoys biking and running.

* denotes self reported information that Vitals has received directly from the doctor.

This profile is at no cost to you. All we ask is that you leave a rating.

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http://www.vitals.com/doctor/profile/1730144767/print/1730144767 12/03/2010

MDx's "compare now" feature generates comparison ratings of multiple healthcare providers as set forth in the Court's claim construction. For example this list provides the

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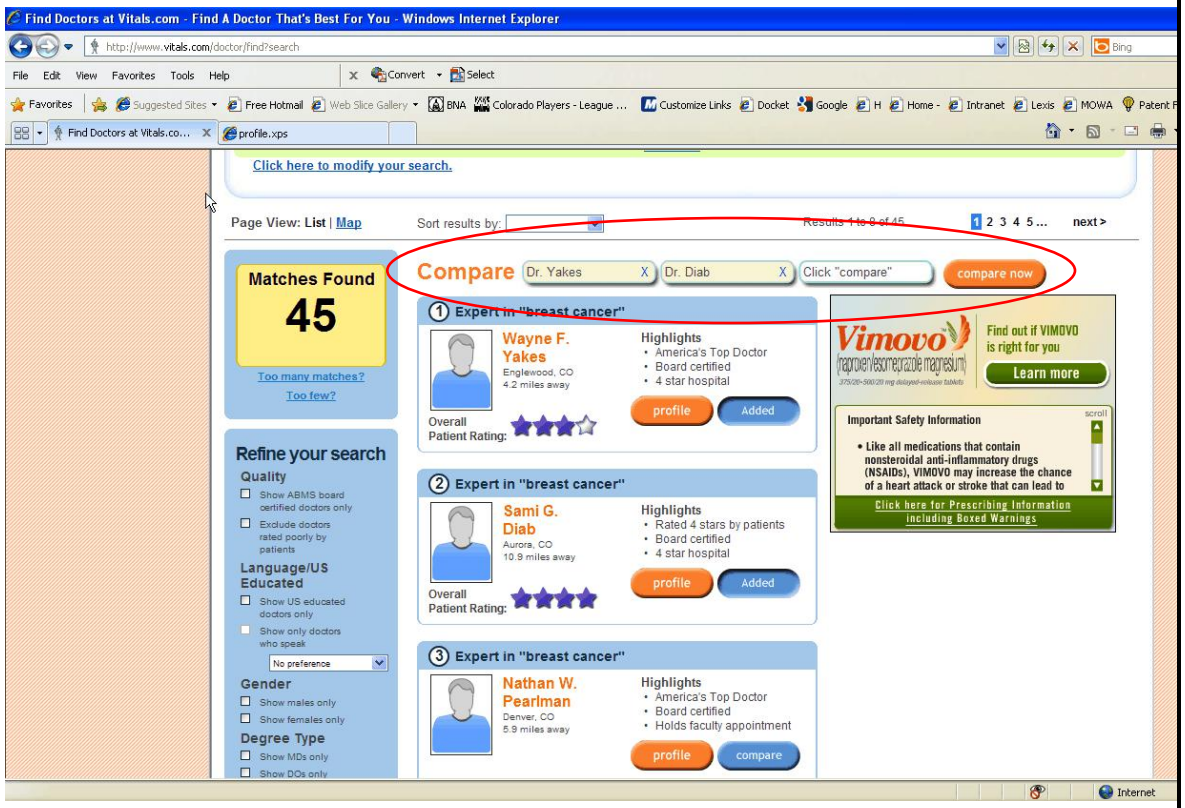
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		patient with information regarding how well physicians listed rate against each other for things like location, years of experience, patient ratings, education, etc. *See* Screenshots Nos. 17-20. <u>Screenshot No. 17</u> 

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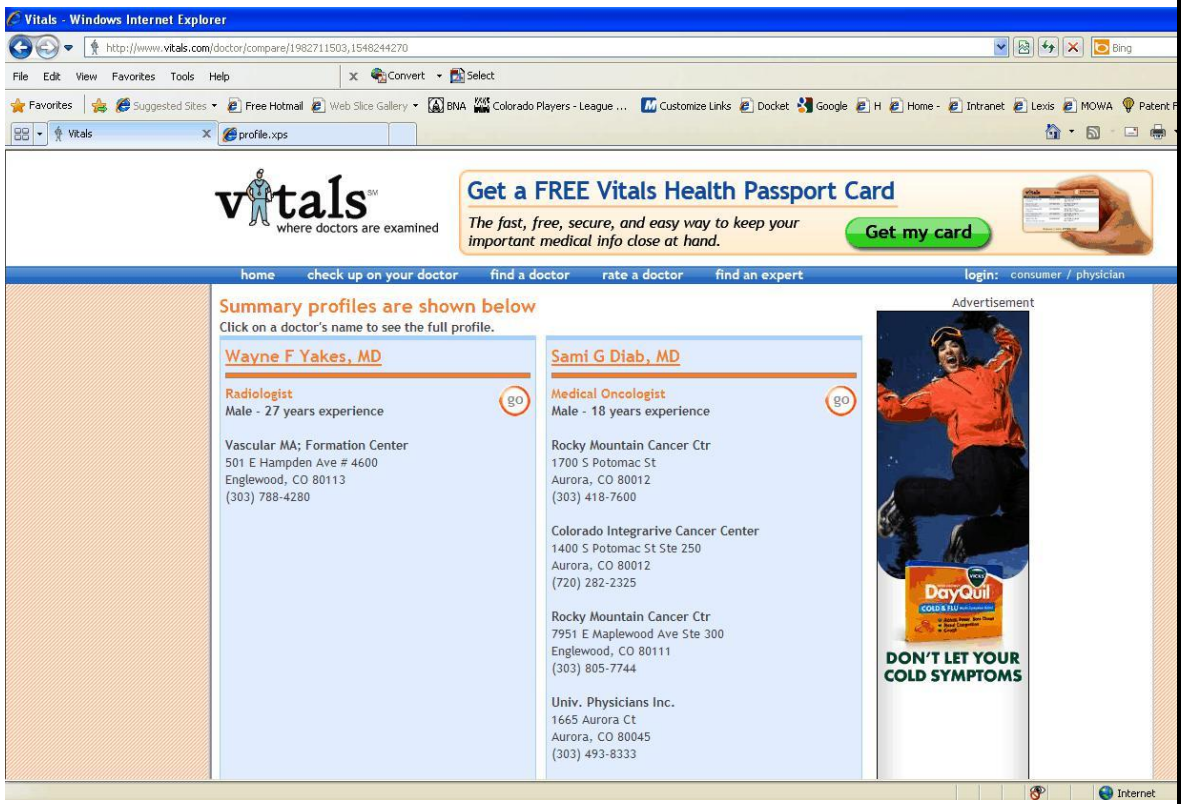
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		Screenshot No. 18 

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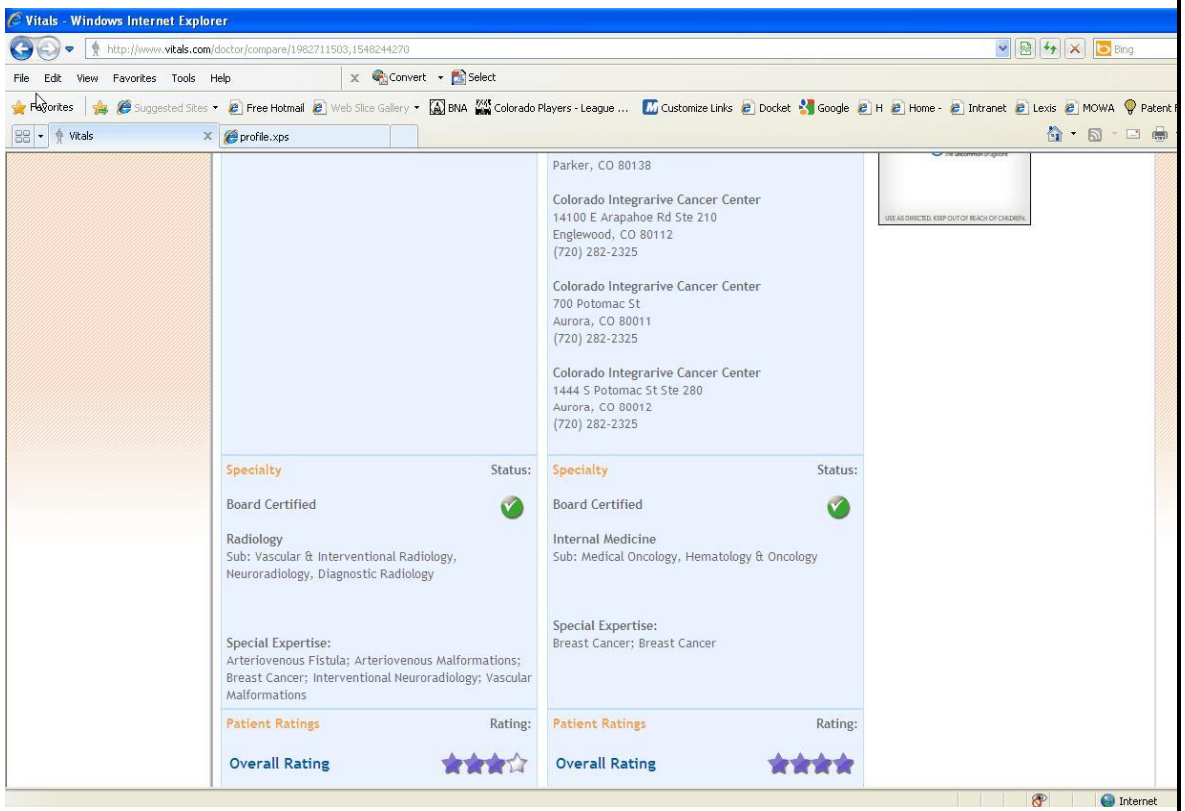
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		Screenshot No. 19 

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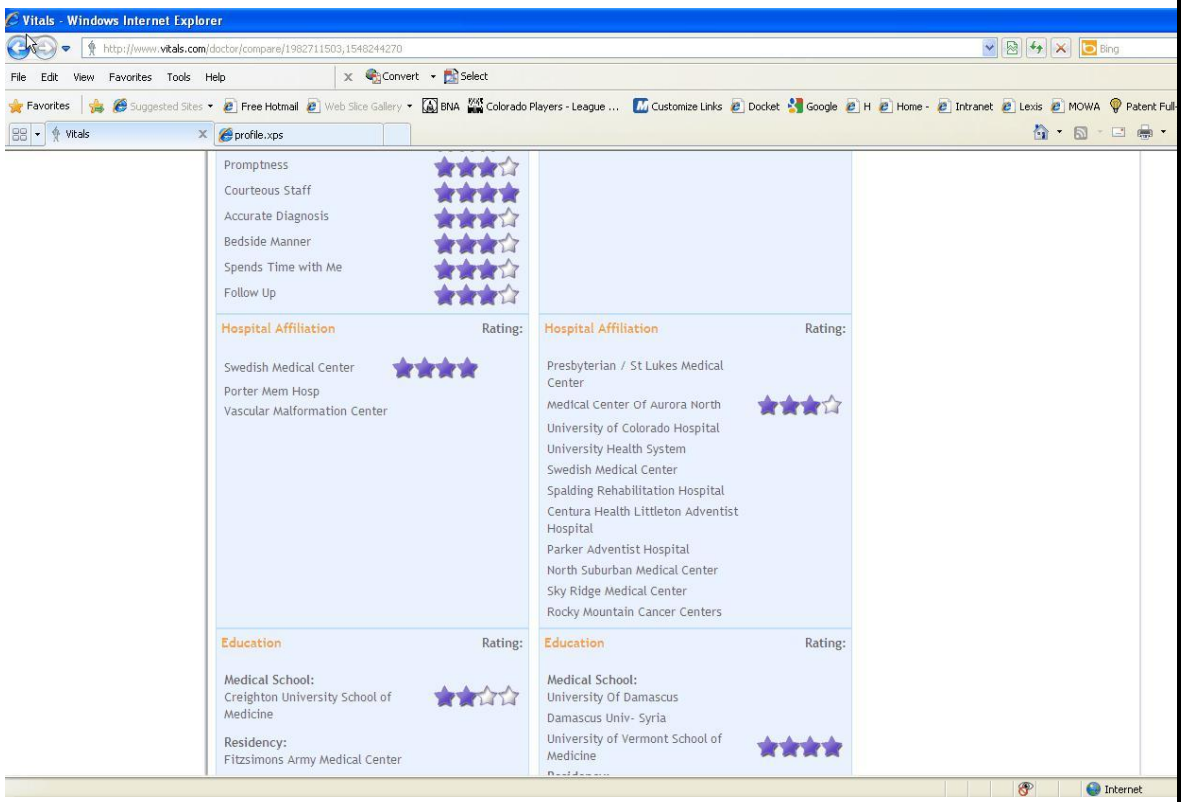
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		Screenshot No. 20 

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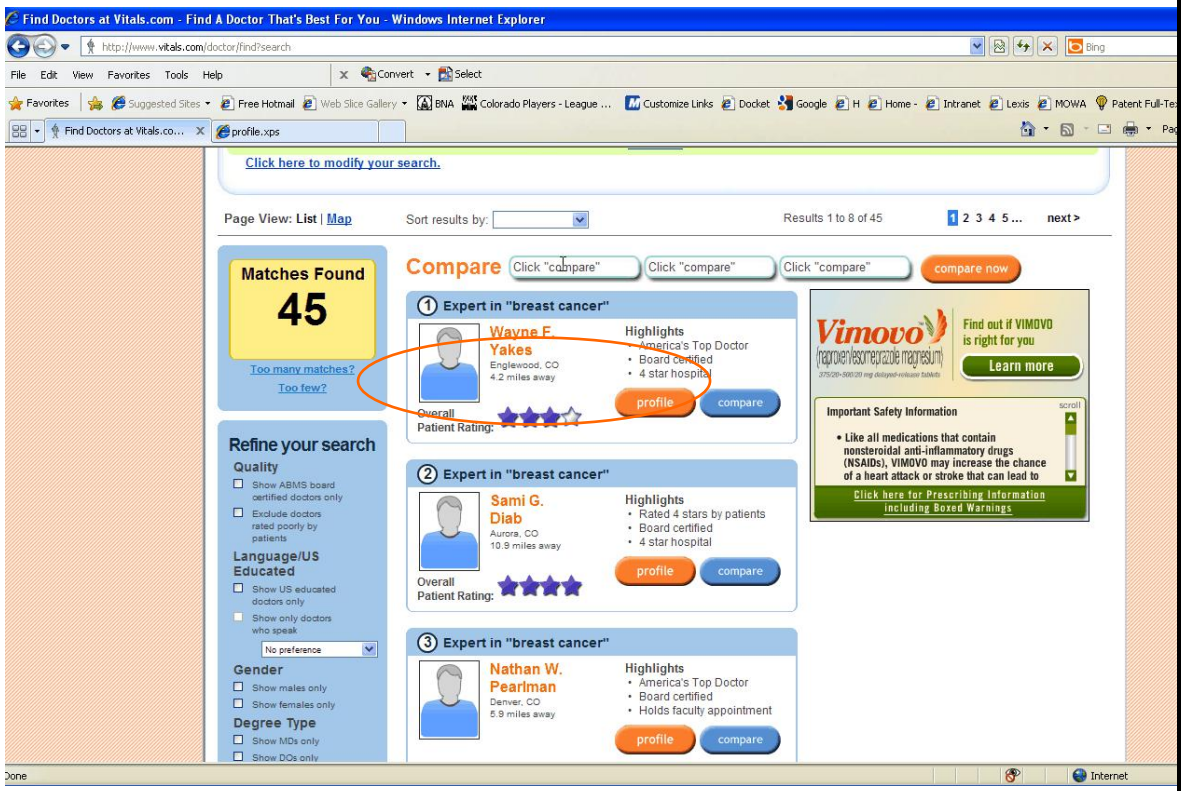
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		In addition, the "overall patient rating," comprising 0-4 purple stars, comprises comparison ratings of healthcare providers. *See* Screenshot No. 21. Screenshot No. 21 

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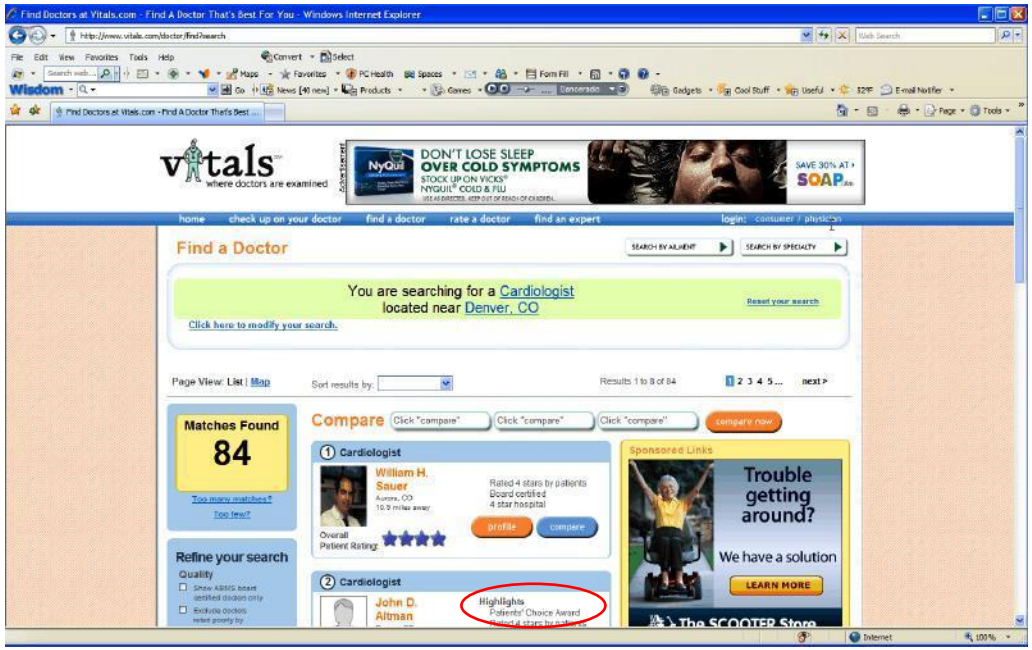
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		MDx includes another comparison rating of healthcare providers when it includes the "Patients' Choice" mark next to the physician's name. MDx gives this award to physicians when the physician has "received near perfect scores as rated by patients" compared to other physicians. *See* Screenshot No. 22. <u>Screenshot No. 22</u>  To the extent that MDx asserts that these three ratings do not literally satisfy the limitation of a healthcare provider report that includes comparison ratings, these ratings

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		meet the claim limitations under the doctrine of equivalents because they have the same function, in the same way, to achieve the same result as comparison ratings on a healthcare provider report. To the extent that the Court's construction of first healthcare provider requires that the healthcare provider report on the first healthcare provider include *only* one particular healthcare provider, a position with which Health Grades disagrees, MDx both literally infringes this element and infringes under the doctrine of equivalents. MDx literally infringes this element because the www.vitals.com website is capable of creating a healthcare provider report about *only* one particular physician. MDx infringes under the doctrine of equivalents because creating a report that includes multiple particular physicians performs substantially the same function, in substantially the same way, to achieve substantially the same result as creating a healthcare provider report about one particular physician. To the extent that the Court's Markman Order additionally requires that the comparison ratings of the first healthcare provider be within the same report as the comparison ratings of the other healthcare providers, MDx infringes because it displayed at least the first page of multiple healthcare provider reports, each about a single particular healthcare provider (reports are shown by green boxes), and each including comparison ratings of that particular healthcare provider (comparison ratings shown by orange boxes), on the same viewable page, side-by-side. Displaying multiple healthcare provider reports, each about a single healthcare provider and each including comparison ratings of that particular healthcare provider, performs substantially the same function, in substantially the same way, to achieve substantially the same result as creating a report about a first healthcare provider that includes comparison ratings of multiple healthcare providers.

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		To the extent that the Court's construction of comparison ratings of healthcare providers requires that the comparison ratings of the first healthcare provider be shown on the same page (e.g. side by side) as the comparison ratings of other healthcare providers, MDx both literally infringes this element and infringes under the doctrine of equivalents. MDx literally infringes this element because the www.vitals.com website is capable of providing a healthcare provider reports on a particular healthcare provider that include comparison ratings of that particular healthcare provider as well as other healthcare providers, which are displayed on the same page, side-by-side. MDx infringes under the doctrine of equivalents because a healthcare provider report that displays comparison ratings of the first healthcare provider on a different page than comparison ratings of other healthcare providers performs substantially the same function, in substantially the same way, to achieve substantially the same result as displaying this information side-by-side. To the extent that the Court's construction of first healthcare provider requires that the healthcare provider report on the first healthcare provider be limited to a single viewable page, a position with which Health Grades disagrees, MDx both literally infringes this element and infringes under the doctrine of equivalents. MDx literally infringes this element because the www.vitals.com website is capable of healthcare provider report on the first healthcare provider be limited to a single viewable page as shown above. MDx infringes under the doctrine of equivalents because creating a healthcare provider report on the first healthcare provider that is displayed on multiple viewable pages, linked together, performs substantially the same function, in substantially the same way, to achieve substantially the same result as creating a healthcare provider report on the first healthcare provider be limited to a single viewable page. The purpose of this element is to provide a patient with a report containing information about a particular healthcare provider, e.g., a first healthcare provider, who matches a

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		patient's search criteria. Additionally, it facilitates comparisons among the matching healthcare providers. MDx's website is capable of doing this. In fact, it is capable of providing the claimed information about multiple healthcare providers and has multiple ratings systems that facilitate comparisons among the healthcare providers that match the search query as described above. To the extent that MDx does not include comparison ratings in its report, MDx infringes under the doctrine of equivalents at least because it includes ratings that function to allow customers to compare physicians against other physicians. The way in which these ratings are included is substantially the same, i.e., through the above mentioned computer method. The result is substantially similar, i.e., a website that allows a customer to compare physicians using ratings.
providing access to the healthcare provider report on the first healthcare provider over a computer network.		MDx provides access to the doctors' healthcare provider reports over a computer network. *See* Screenshot No. 23 (highlighting that this information was accessed over a computer network, e.g., the Internet, and that the profile can be sent by email or printed). Screenshot No. 23

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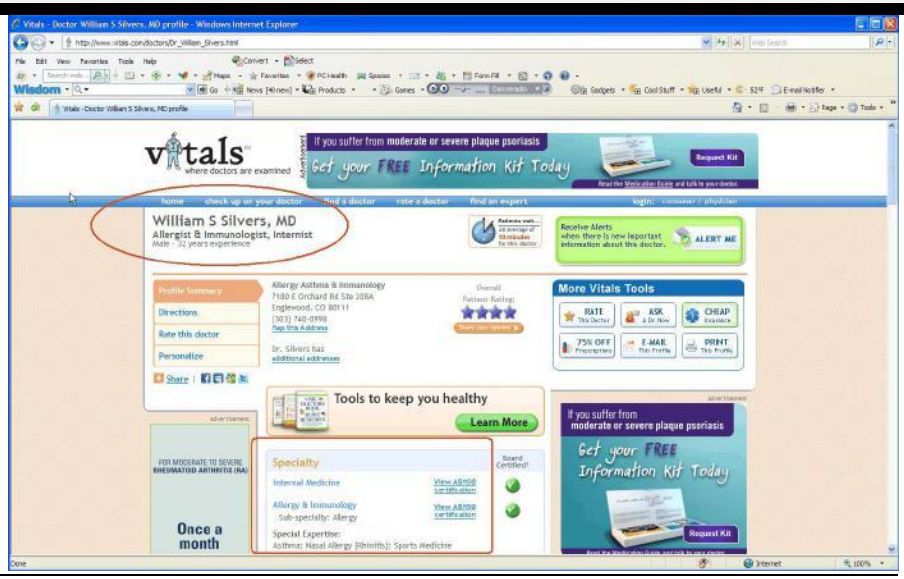
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		
4. The method as defined in claim 1, wherein the healthcare provider report includes a hyperlink to an affiliated hospital, medical center, or other type of treatment center.		MDx provides a link to affiliated hospitals in the doctor profile page of the healthcare provider report. *See* Screenshot No. 24 (displaying affiliated hospital hyperlink, circled in red). Screenshot No. 24

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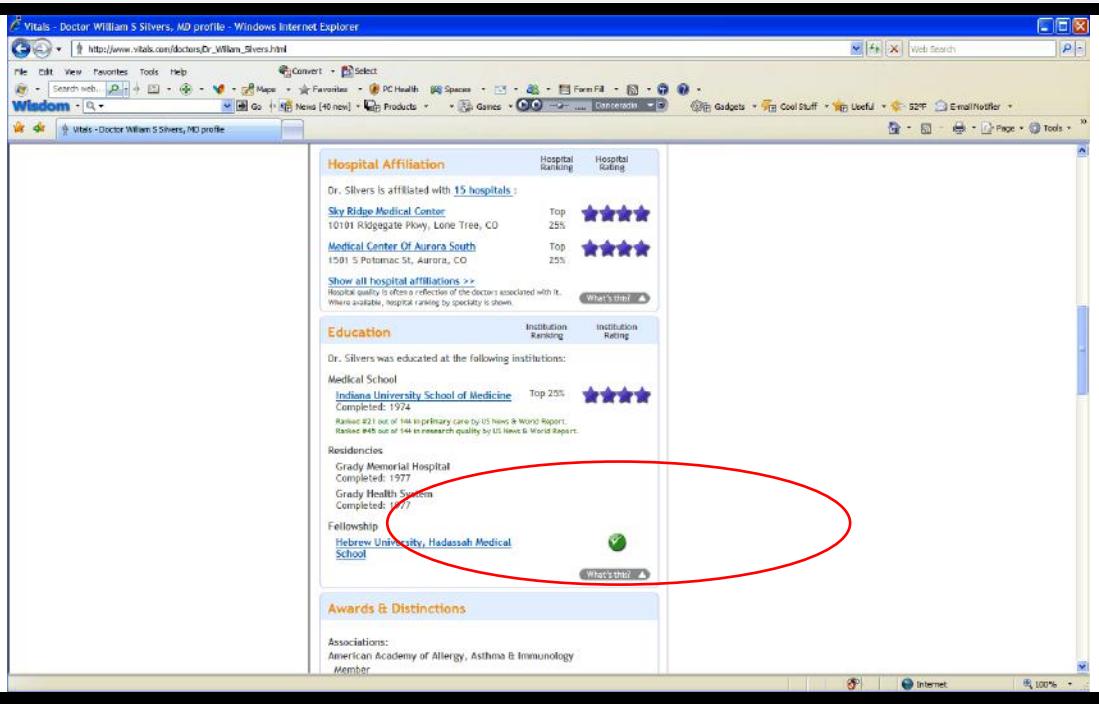
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		
5. The method as defined in claim 1, wherein the access to the healthcare provider report is obtained through a predetermined Webpage that provides search capabilities for a database comprised of healthcare provider information.		MDx uses a predetermined web page for patient search purposes. *See* Screenshot 25 (displaying the MDx web page that allows patients to search for doctors). Screenshot No. 25

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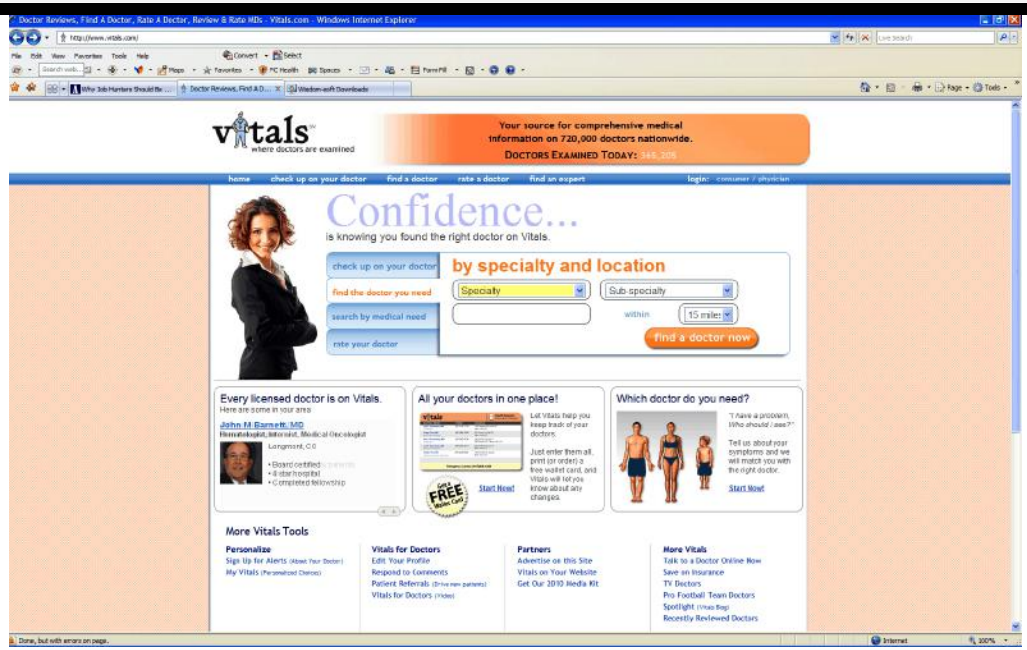
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		
6. The method as defined in claim 5, wherein the search capabilities permit a search based on one or more from the group consisting of: name, medical specialty, gender, state, city, procedure, diagnosis, procedure, and		MDx allows a user to search based on specialty, diagnosis (condition), state, city, and location criteria. *See* Screenshot No. 26 (displaying specialty, circled in red, condition, circled in orange, and location, circled in purple.) Screenshot No. 26

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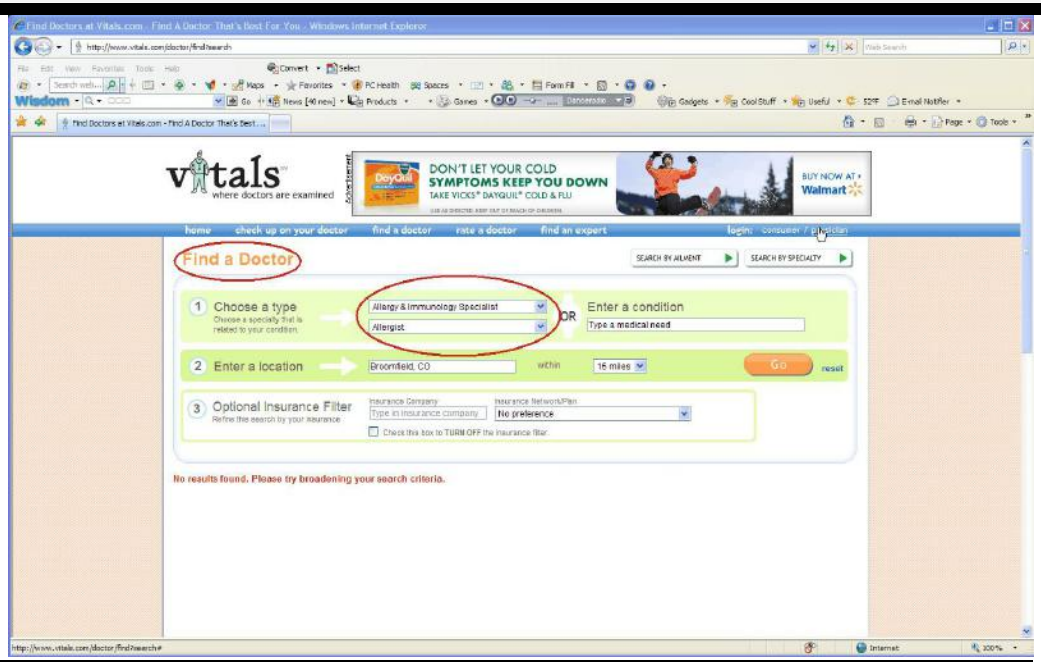
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
location criteria.		
7. The method as defined in claim 6, wherein the search of the database produces a results list of one or more healthcare providers satisfying the search criteria, wherein the results list includes the		MDx provides a list of physicians based on specialty and location input from the patient. Screenshot No. 27, below, demonstrates MDx displaying a list of cardiologists circled in red, based upon location criteria, circled in orange. Screenshot No. 27

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first healthcare provider.		
8. The method as defined in claim 7, wherein the results list further includes an advertisement for the first healthcare provider with a hyperlink to information on the first healthcare provider.		As part of the list detailed in claim 7, *supra*, MDx provides "sponsored links" at the request of "health providers, doctors, hospitals, or affiliated companies." *See, e.g.*, Screenshot No. 29 and Screenshot No. 30 of Exhibit A. Upon information and belief, Plaintiff believes Screenshot Nos. 29 and 30—from the current version of MDx's website—represents limitations available on Defendant's prior website.

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9. The method as defined in claim 7, further comprising: determining from the results list whether a particular healthcare provider is a member of the company managing the Web site;		MDx determines which doctors are sponsors, or members, based on whether the physician has paid a fee to Vitals. *See, e.g.*, Screenshot Nos. 31-33 of Exhibit A. Upon information and belief, Plaintiff asserts Screenshot Nos. 31-33—from the current version of MDx's website—represents limitations available on Defendant's prior website.
and if the particular healthcare provider is a member of the company managing the Web site, providing enhanced services for the member healthcare provider on the Web site.		MDx provides the enhanced service of prominently displaying a member physician. Consider Dr. Bruce Weber displayed at the top of the results list. *See, e.g.*, Screenshot No. 31 of Exhibit A. Absent a sponsored link, MDx would not have displayed Dr. Bruce's information until the user scrolled through the first 291 doctors (page 37 of the results list). *See, e.g.*, Screenshot No. 32 of Exhbit A. By becoming a sponsor, MDx provided Dr. Weber with prominence among all doctors; he is at the top of every page of the results list. Upon information and belief, Plaintiff asserts Screenshot Nos. 31-33—from the current version of MDx's website—represents limitations available on Defendant's prior website.
11. The method as defined in claim 9, wherein the enhanced services comprise favorable positioning in the results list.		MDx displays the member doctor in a prominent position. *See, e.g.*, Screenshot No. 34 of Exhibit A. Upon information and belief, Plaintiff asserts Screenshot No. 34—from the current version of MDx's website—represents limitations available on Defendant's prior website.

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14. The method as defined in claim 1, wherein the first healthcare provider is a physician.		MDx provides reports on physicians. *See* Screenshot No. 28 (displaying a report for an internist). Screenshot No. 28 
15. An on-line information system for connecting healthcare providers with potential patients, the system comprising:		See claim 1. MDx provides an online information system for connecting healthcare providers with potential patients. MDx's homepage is accessible via the internet. *See* Screenshot No. 29 (web address circled in red).

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U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		Screenshot No. 29 
at least one computer processor; and		MDx uses a web server program, which is housed on a web server machine, to deliver its webpage to a potential patient's web browser. A web server machine is a computer, and all computers have computer processors.
memory coupled with and readable by the at least one computer processor and comprising		MDx's web server machine, like any computer, has memory readable by at least one computer processor.

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a series of instructions that, when executed by the at least one computer processor, cause the at least one computer processor to:		
receive a request for information regarding a first healthcare provider;	First Healthcare Provider: a particular healthcare provider about whom information is requested and a report is produced." (Markman Order at 23.)	See "requesting" element of claim 1. Screenshot No. 30 shows an example of where a potential patient may initiate a search for a healthcare provider on MDx's website, i.e., request information about one or more healthcare providers. When the user clicks "find a doctor now," this prompts the patient's web browser to send a request for information about a doctor to the MDx's web server, which receives the request for information and then accesses MDx's database to find data that responds to the user's search query. Screenshot No. 30

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access healthcare provider-verified information about the first healthcare provider, wherein the healthcare provider-verified information is received	"First Healthcare Provider: a particular healthcare provider about whom information is	See "healthcare provider-verified" element of claim 1. At the initiation of the potential patient/user using MDx's website, MDx's web server accesses healthcare-provider-verified information. *See* Screenshot No. 31 (illustrating the result of accessing and displaying doctor supplied information). Highlighted in Screenshot No. 31, among other things, are the following pieces of healthcare provider-verified information: doctor's age, gender, specialty information and years in practice.

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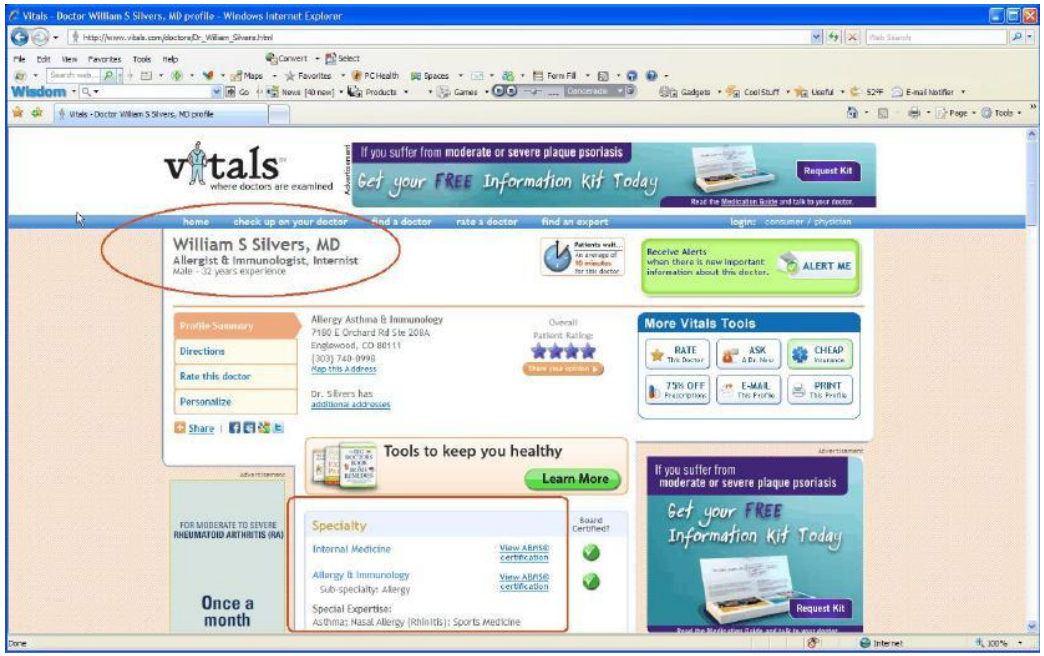
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
from the first healthcare provider and comprises three or more from the group consisting of: specialty information, medical philosophy, gender, age, years in profession, years in practice, awards, honors, professional appointments, professional memberships, publications, languages, and hobbies;	requested and a report is produced." (Markman Order at 23.) "Received from the First Healthcare Provider: receipt of information from the first healthcare provider or one of his or her agents, such as an employee, as distinguished from information received from patients or public sources." (Markman Order at 24.) "Although defendant is correct that 'verify' can mean 'to prove,' 'verify' may also mean, depending on its context, 'confirm' or 'substantiate.' . . .	Screenshot No. 31  MDx receives the healthcare provider-verified information from healthcare providers. MDx's website provides doctors with the ability to send information to MDx. For example, MDx's website provides many opportunities for doctors to edit their own profiles. *See, e.g.*, Screenshot No. 32. Screenshot No. 32

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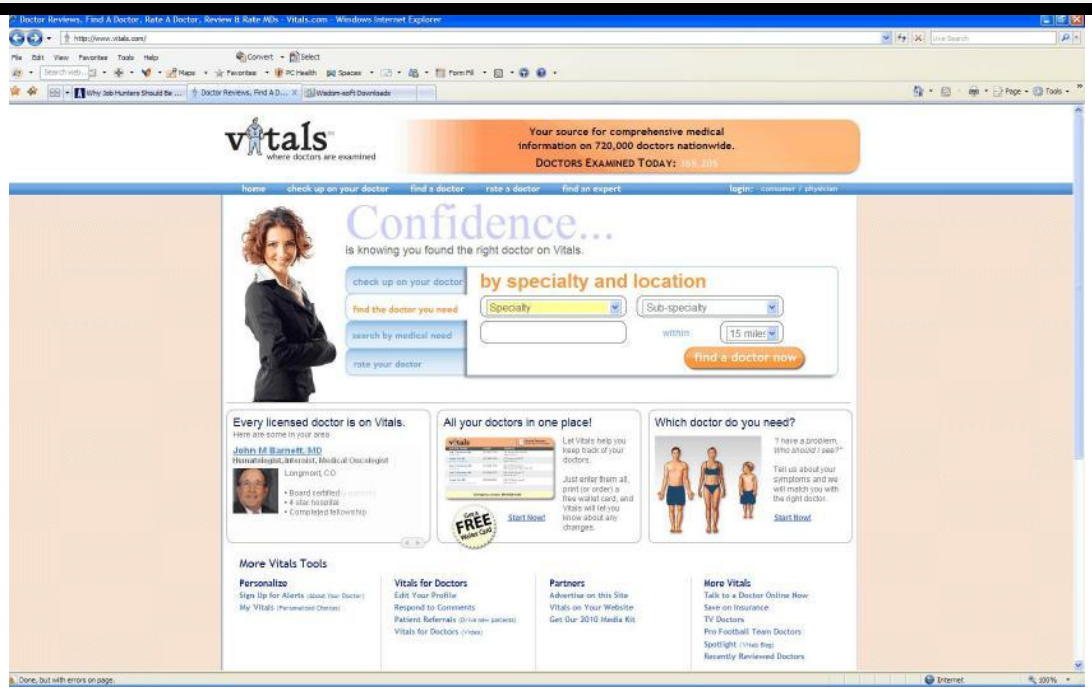
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
	. Here, the specification makes clear that the act of 'verifying' requires only that the website receive confirmation of the information from some other source, in this instance the healthcare provider. Indeed, the confirmation described appears to not extend beyond receipt of such information from the first healthcare provider." (Markman Order at 15 n.8.) "The phrase ['received from the first healthcare provider'] and the surrounding context contemplate receipt	 MDx states on its website that it receives, compiles, and posts doctor-supplied information. *See* Screenshot No. 33. Screenshot No. 33

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	of information from the first healthcare provider or one of his or her agents, such as an employee, as distinguished from information received from patients or public sources." (Markman Order at 16-17.)	
compile patient-provided information regarding the first healthcare provider, wherein the patient-provided information comprises patient ratings from one or more past or	"First Healthcare Provider: a particular healthcare provider about whom information is requested and a	See "patient provided information" element of claim 1. MDx compiles patient-provided information through an online survey. Screenshot No. 34 displays the MDx on-line patient experience survey. MDx manages the website where the on-line surveys are collected. Screenshot No. 34

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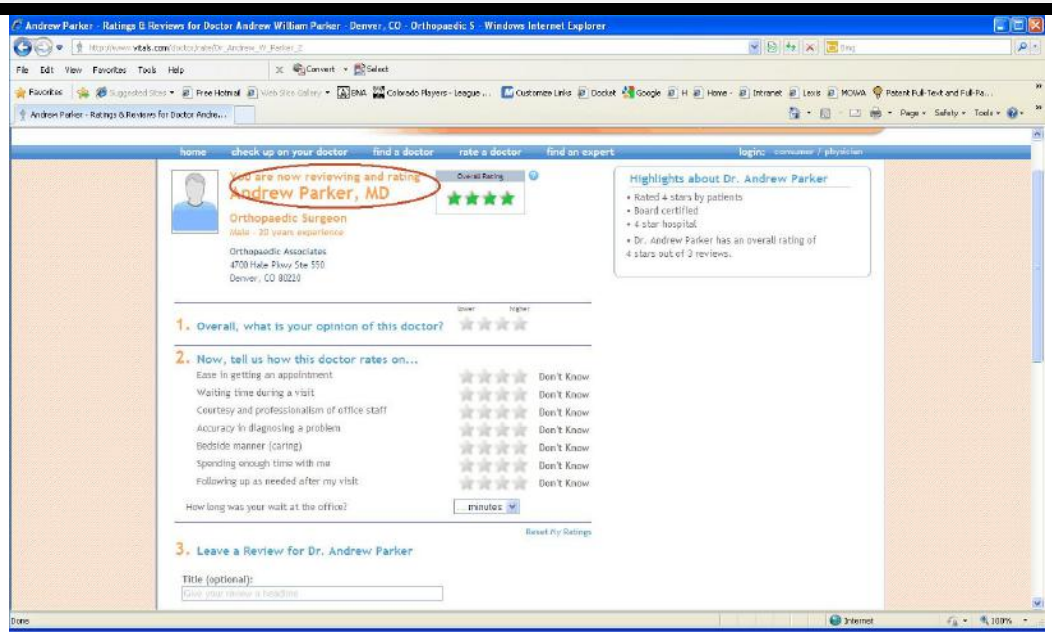
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current patients of the first healthcare provider, and wherein the patient ratings are received from an on-line patient experience survey completed on a company Web site by the one or more past or current patients of the first healthcare provider, and wherein the company Web site is managed by a company providing a service for connecting healthcare providers with the potential patients;	report is produced." (Markman Order at 23.) "Compiling/Compile: gathering and/or putting together." (Markman Order at 24.)	
compile healthcare provider information regarding the first healthcare provider verified by an independent third-party source, wherein the information verified by the independent third-party source comprises three or	"First Healthcare Provider: a particular healthcare provider about whom information is requested and a report is produced." (Markman Order at	See "third party verified" element of claim 1. MDx compiles information regarding doctors verified by an independent third-party source. The verified information comprises, at least, medical school, licensure, board certification, medical fellowship and medical residency information. *See* Screenshot No. 35 (displaying a portion of the FAQ from the vitals.com website stating that the information comes from various third parties). Screenshot No. 35

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more from the group consisting of: board certification, licensure, disciplinary action information, medical school, medical internship, medical residency, and medical fellowship information;	23.) "Compiling/Compile: gathering and/or putting together." (Markman Order at 24.) "In short, the plain and ordinary meaning of 'verified,' which can encapsulate a range of conduct aimed at confirmation of information, shall apply." (Markman Order at 17.)	 As a specific example, MDx compiles medical school information on a given doctor from "The Princeton Review, the U.S. Government and other sources." *See* Screenshot No. 36. MDx then provides potential patients with medical school information associated with a given physician's academic and fellowship history. Screenshot No. 36

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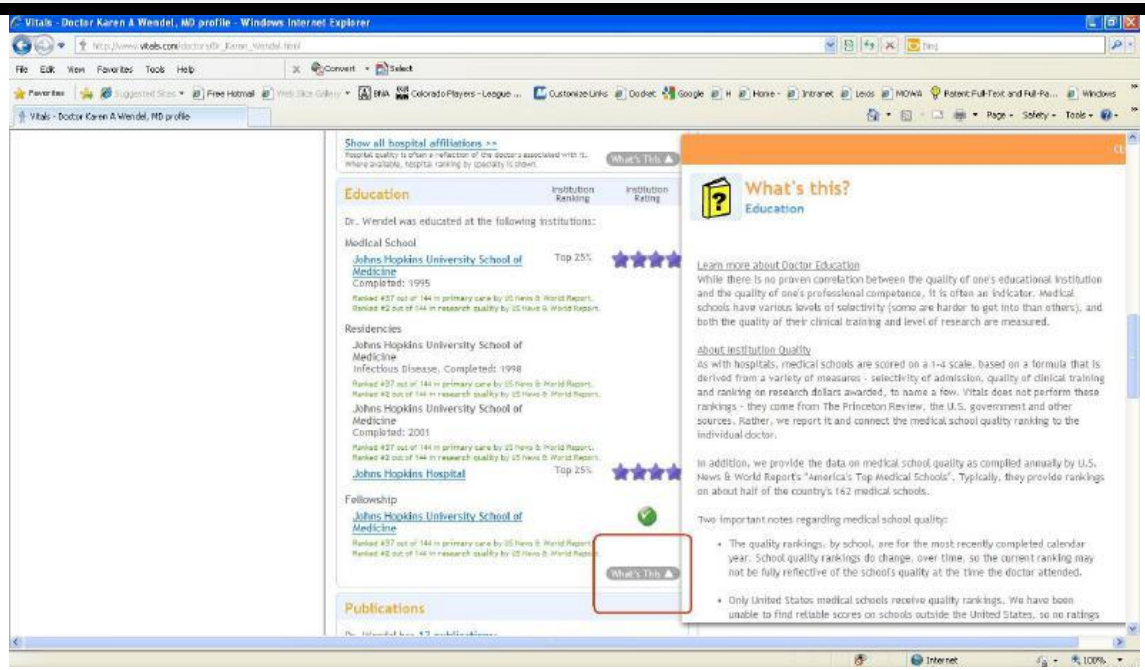
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		 MDx compiles licensure information. MDx verifies each physician's license before adding the physician to the results list. MDx compiles board certification information. *See* screenshot No. 37 below ("View ABMS certification" circled in pink.) The American Board of Medical Specialties is an independent source. Screenshot No. 37

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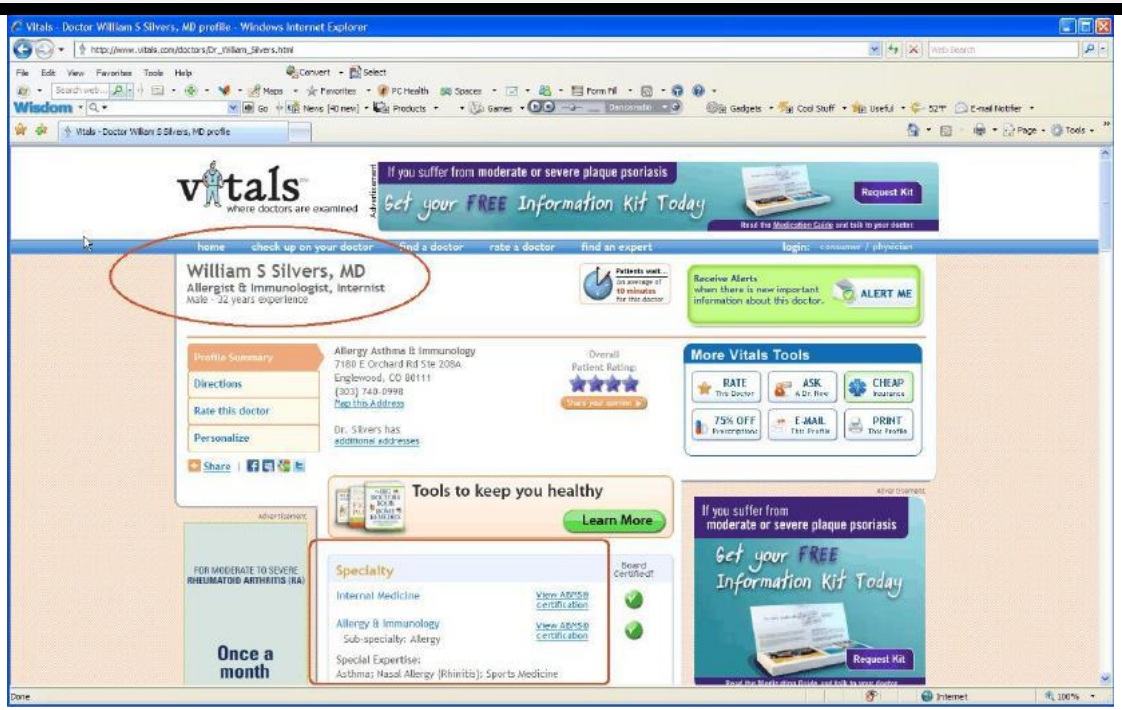
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		 MDx admits that it compiles additional information regarding a physician's medical school, internship, residency, and fellowship positions using independent, third-party resources unless otherwise noted. *See* Screenshot No. 38 (noting that MDx obtains all educational information from independent third parties unless otherwise noted). Screenshot No. 38

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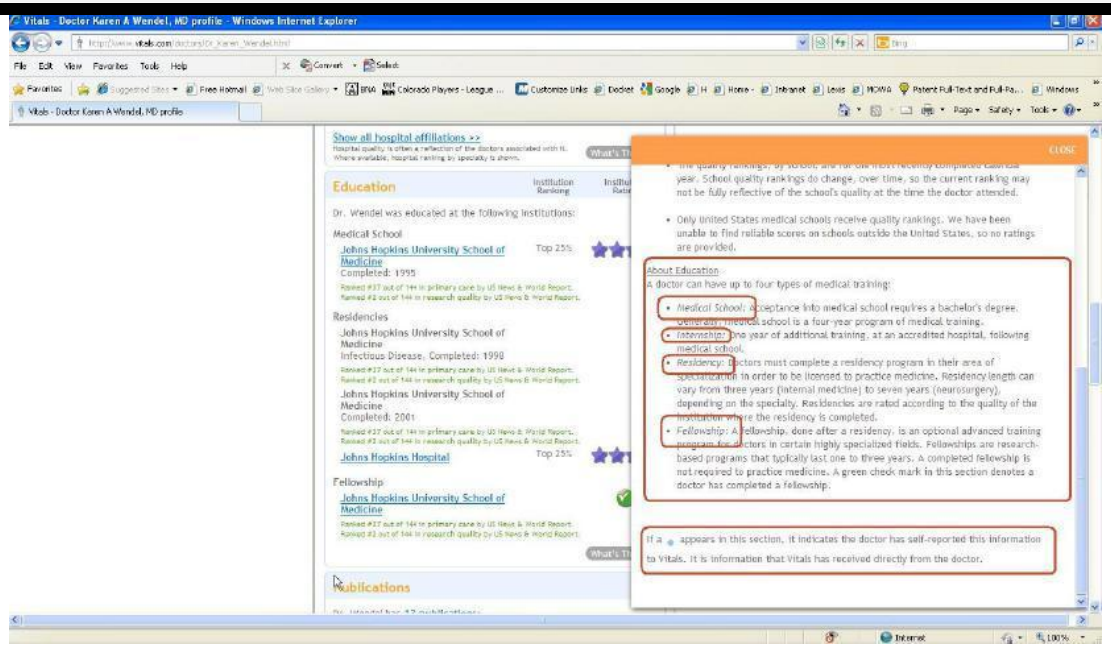
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		 Further, Screenshot 39 provides specific evidence that MDx compiles fellowships and residency information on at least some it its doctors. *See* Screenshot No. 39 (residency and fellowship information circled in pink.) <u>Screenshot No. 39</u>

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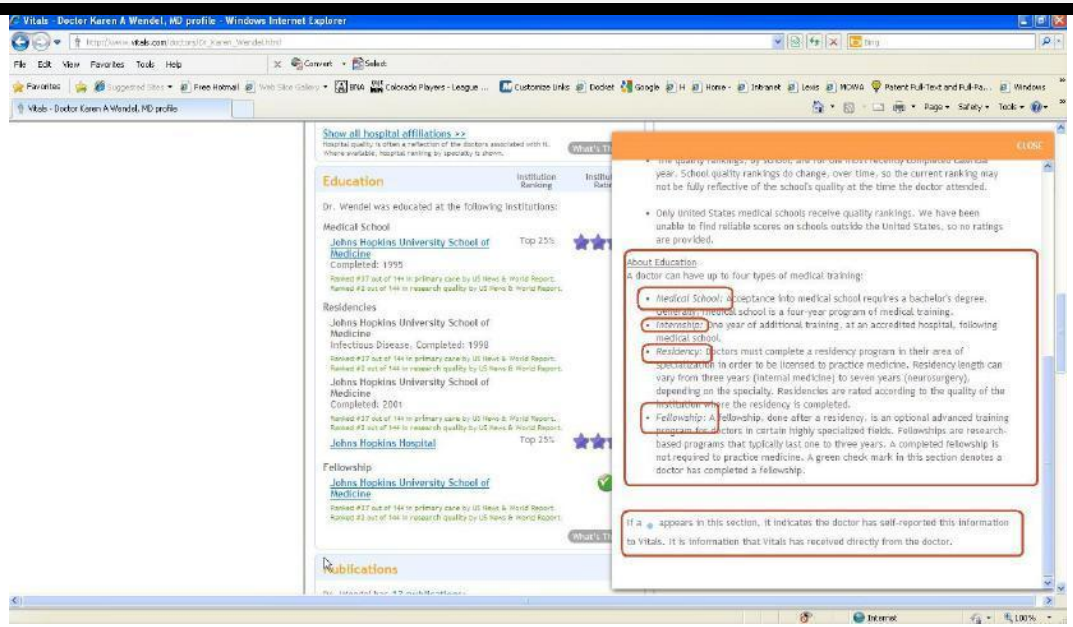
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create a healthcare provider report on the first healthcare provider using the healthcare provider-verified information, the patient-provided information, and the information verified by the independent third-party source, wherein the	"First Healthcare Provider: a particular healthcare provider about whom information is requested and a report is produced." (Markman Order at 23.)	After a patient/user enters search criteria for a doctor, MDx creates one or more healthcare provider reports using information from the MDx database, including using healthcare provider-verified information, patient-provided information, and information verified by the independent third-party source. Screenshot Nos. 40 - 43 show portions of healthcare provider reports. These reports use at least the following information: (1) healthcare provider-verified information, circled in red; (2) patient-provided information, circled in pink; and (3) information verified by an independent third party circled in purple. These reports also include comparison ratings, circled in orange.

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healthcare provider report on the first healthcare provider includes comparison ratings of healthcare providers; and	"Comparison Ratings of Healthcare Providers: ratings on multiple healthcare providers, including the 'first healthcare provider,' in the report on that 'first healthcare provider,' thus permitting comparison of the 'first healthcare provider' with other potential healthcare providers." (Markman Order at 24.)	Screenshot No. 40

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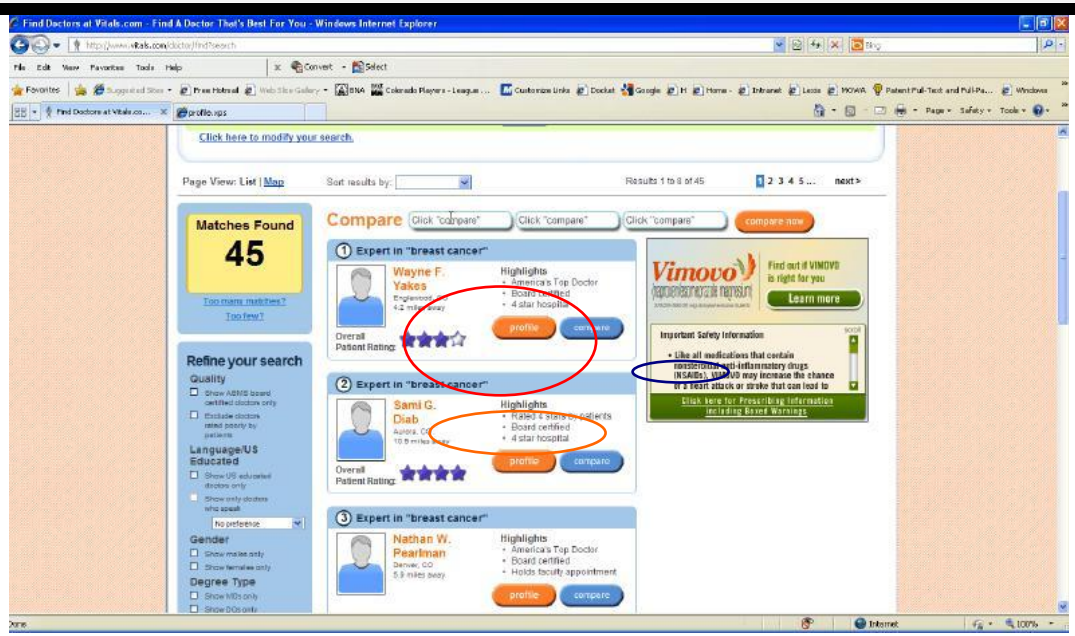
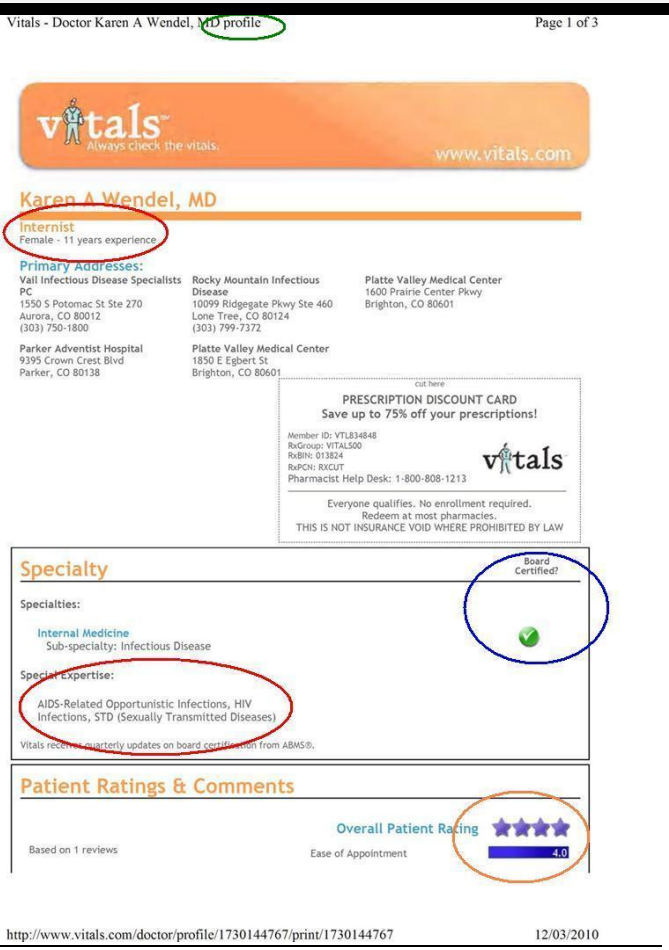
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		 Screenshot No. 41

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vitals Always check the vitals. www.vitals.com

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Aurora, CO 80012
(303) 750-1800

Rocky Mountain Infectious Disease
10099 Ridgegate Pkwy Ste 460
Lone Tree, CO 80124
(303) 799-7372

Platte Valley Medical Center
1600 Prairie Center Pkwy
Brighton, CO 80601

Parker Adventist Hospital
9395 Crown Crest Blvd
Parker, CO 80138

Platte Valley Medical Center
1850 E Egbert St
Brighton, CO 80601

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Specialty

Board Certified?

Specialties:

Internal Medicine
Sub-specialty: Infectious Disease

Special Expertise:

AIDS-Related Opportunistic Infections, HIV Infections, STD (Sexually Transmitted Diseases)

Vitals receives quarterly updates on board certification from ABMS®.

Patient Ratings & Comments

Overall Patient Rating

Based on 1 reviews

Ease of Appointment 4.0

http://www.vitals.com/doctor/profile/1730144767/print/1730144767 12/03/2010

Screenshot No. 42

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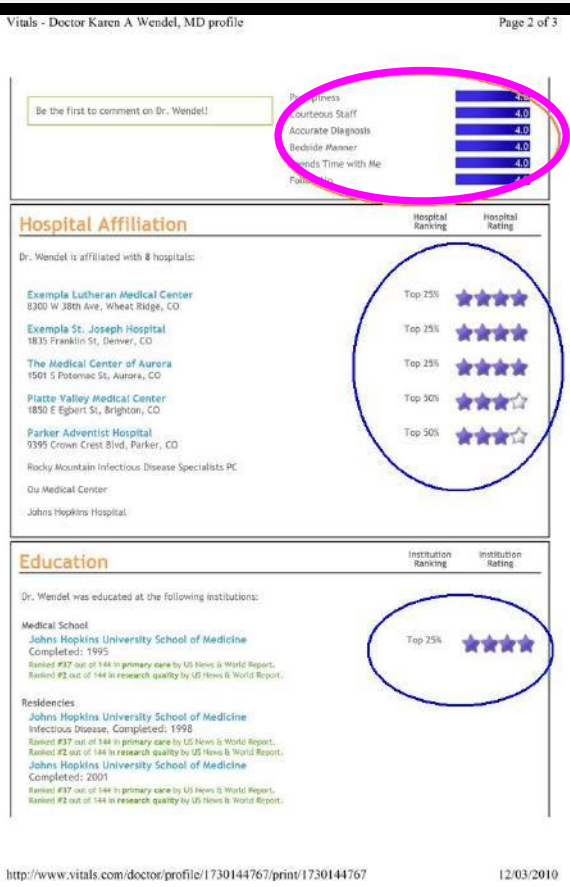
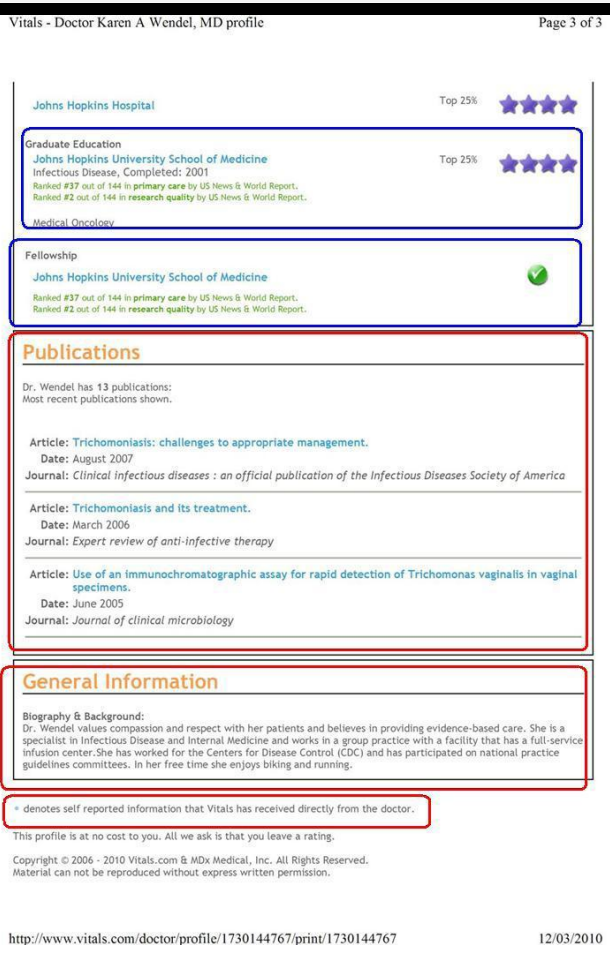
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		 Screenshot No. 43

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U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System



Vitals - Doctor Karen A Wendel, MD profile Page 3 of 3

Johns Hopkins Hospital Top 25%

Graduate Education
Johns Hopkins University School of Medicine Top 25%
Infectious Disease, Completed: 2001
Ranked #37 out of 144 in primary care by US News & World Report.
Ranked #2 out of 144 in research quality by US News & World Report.

Medical Oncology

Fellowship
Johns Hopkins University School of Medicine
Ranked #37 out of 144 in primary care by US News & World Report.
Ranked #2 out of 144 in research quality by US News & World Report.

Publications

Dr. Wendel has 13 publications:
Most recent publications shown.

Article: Trichomoniasis: challenges to appropriate management.
Date: August 2007
Journal: *Clinical infectious diseases : an official publication of the Infectious Diseases Society of America*

Article: Trichomoniasis and its treatment.
Date: March 2006
Journal: *Expert review of anti-infective therapy*

Article: Use of an immunochromatographic assay for rapid detection of Trichomonas vaginalis in vaginal specimens.
Date: June 2005
Journal: *Journal of clinical microbiology*

General Information

Biography & Background:
Dr. Wendel values compassion and respect with her patients and believes in providing evidence-based care. She is a specialist in Infectious Disease and Internal Medicine and works in a group practice with a facility that has a full-service infusion center.She has worked for the Centers for Disease Control (CDC) and has participated on national practice guidelines committees. In her free time she enjoys biking and running.

* denotes self reported information that Vitals has received directly from the doctor.

This profile is at no cost to you. All we ask is that you leave a rating.

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http://www.vitals.com/doctor/profile/1730144767/print/1730144767 12/03/2010

MDx's "compare now" feature generates multiple comparison ratings. For example this list provides the patient with information regarding how well physicians listed rate

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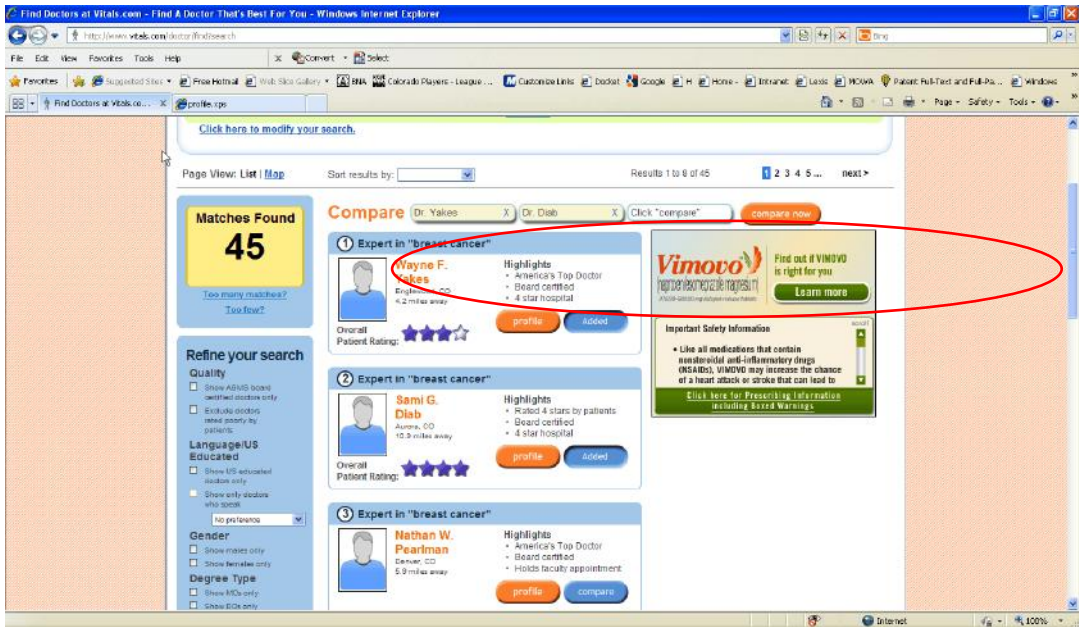
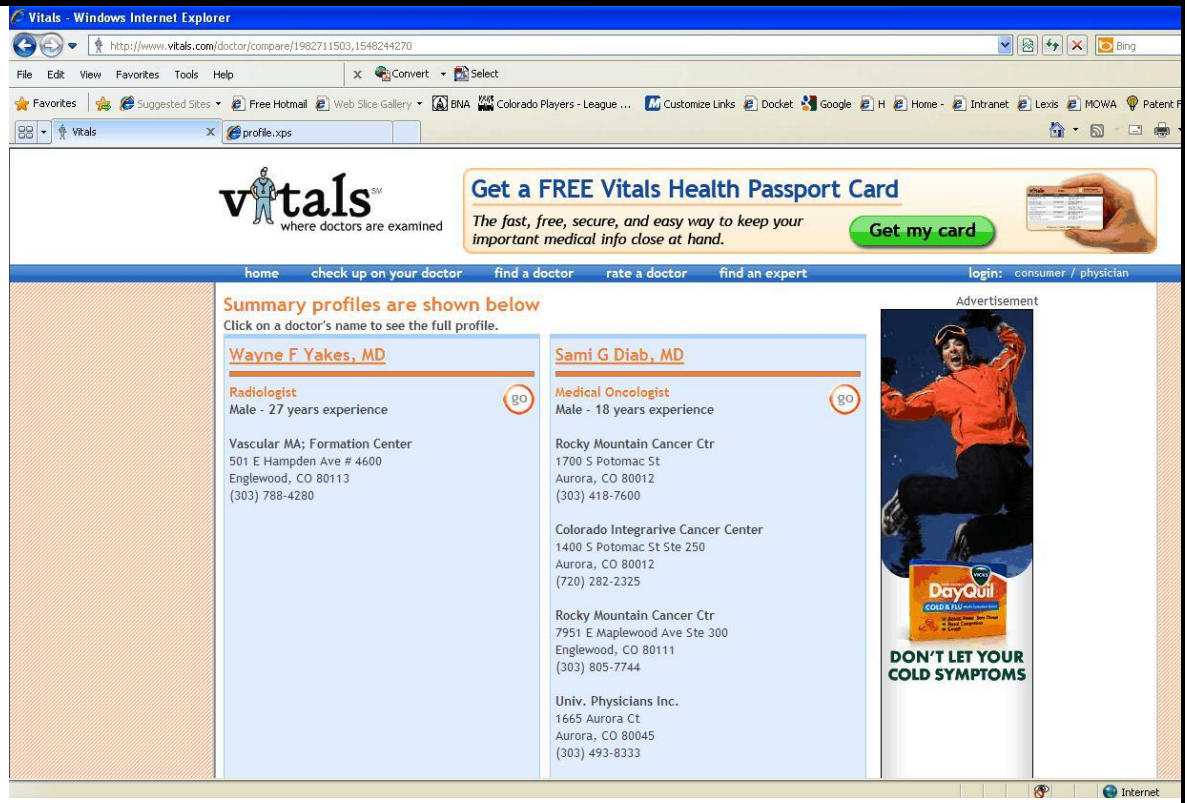
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		against each other for things like location, years of experience, patient ratings, education, etc. See Screenshots Nos. 44-47. Screenshot No. 44  Screenshot No. 45

EXHIBIT 5

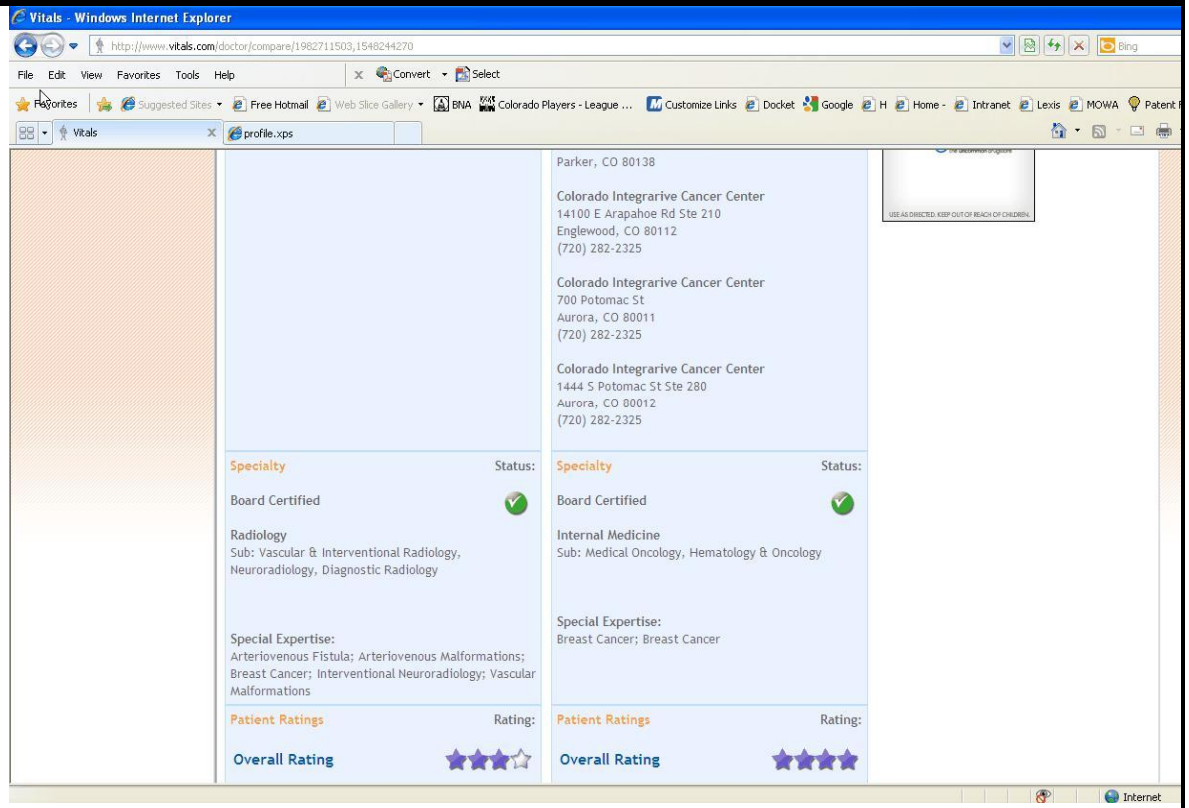
Case No. 1:11-cv-00520-RM-NYW Document 148-7 filed 03/02/12 USDC Colorado pg 56 of 64

U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		

Screenshot No. 46

EXHIBIT 5

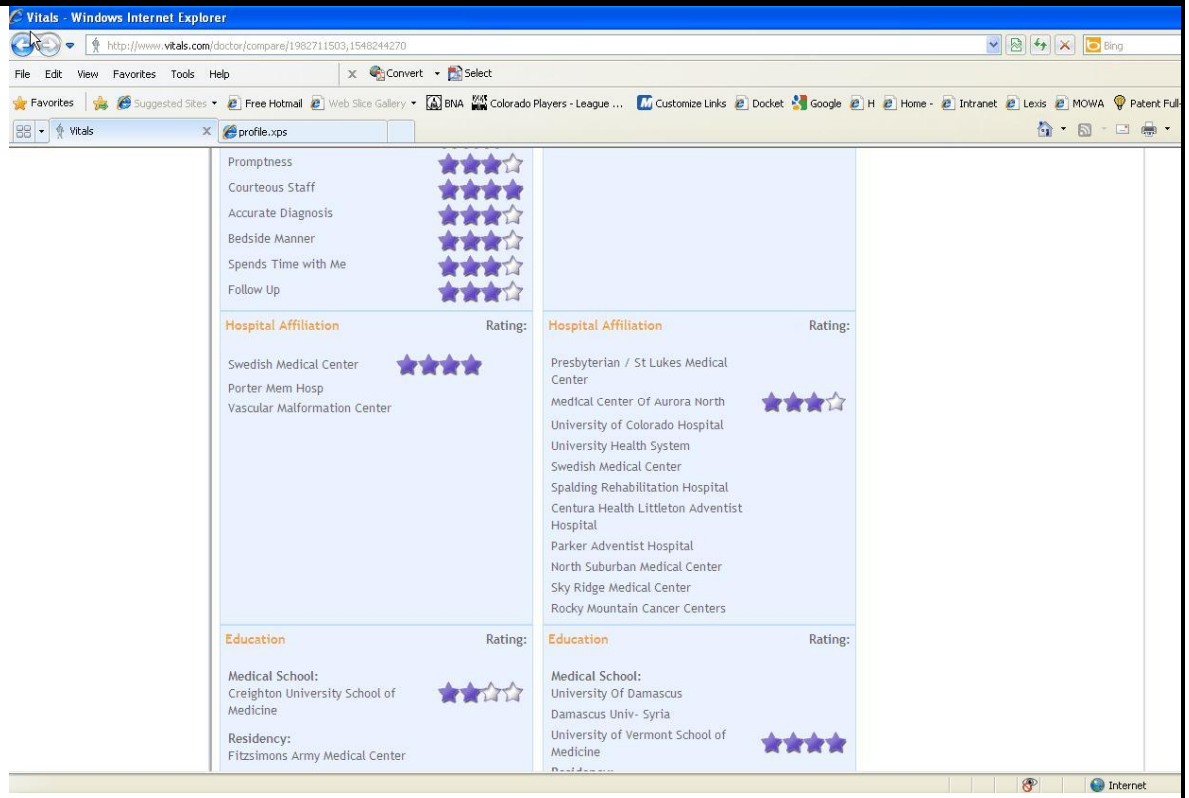
Case No. 1:11-cv-00520-RM-NYW Document 148-7 filed 03/02/12 USDC Colorado pg 57 of 64

U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		

Screenshot No. 47

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U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		

Additionally, the "overall patient rating," comprising 0-4 purple stars, comprise comparison ratings of healthcare providers. *See* Screenshot No. 48.

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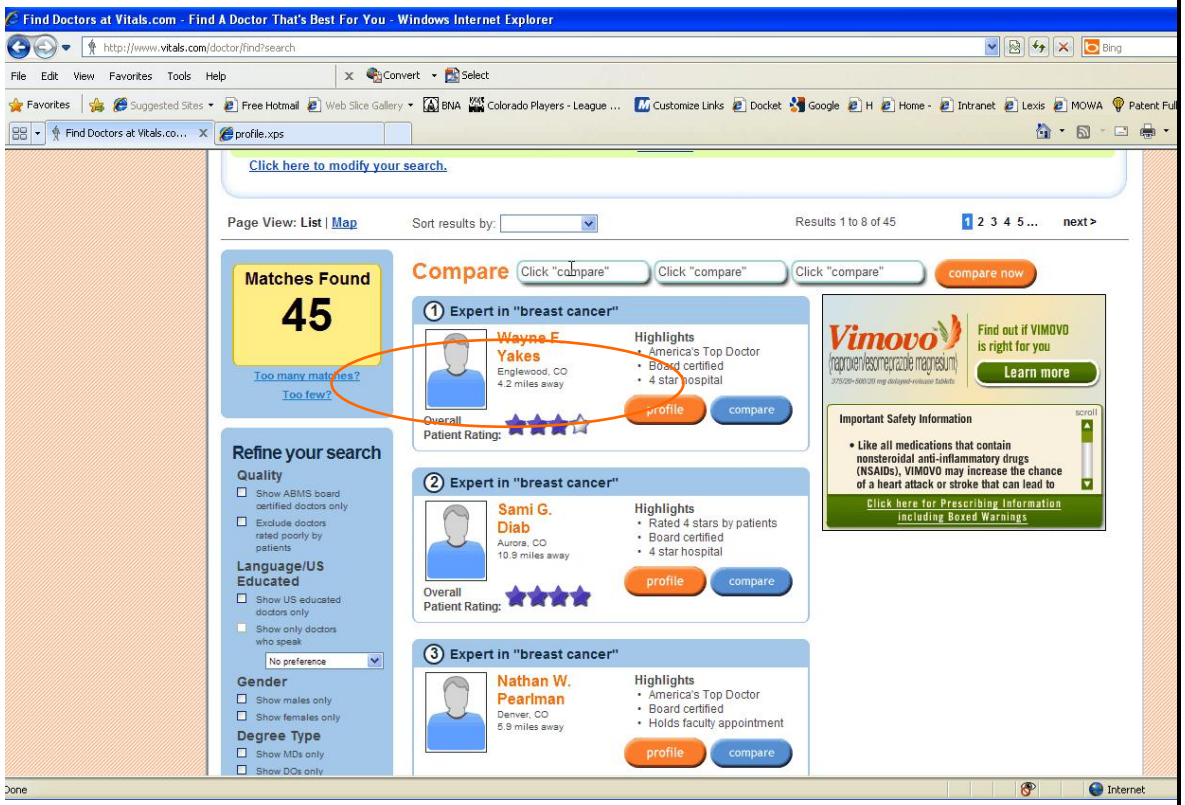
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		Screenshot No. 48  MDx includes another comparison rating of healthcare providers when it includes the

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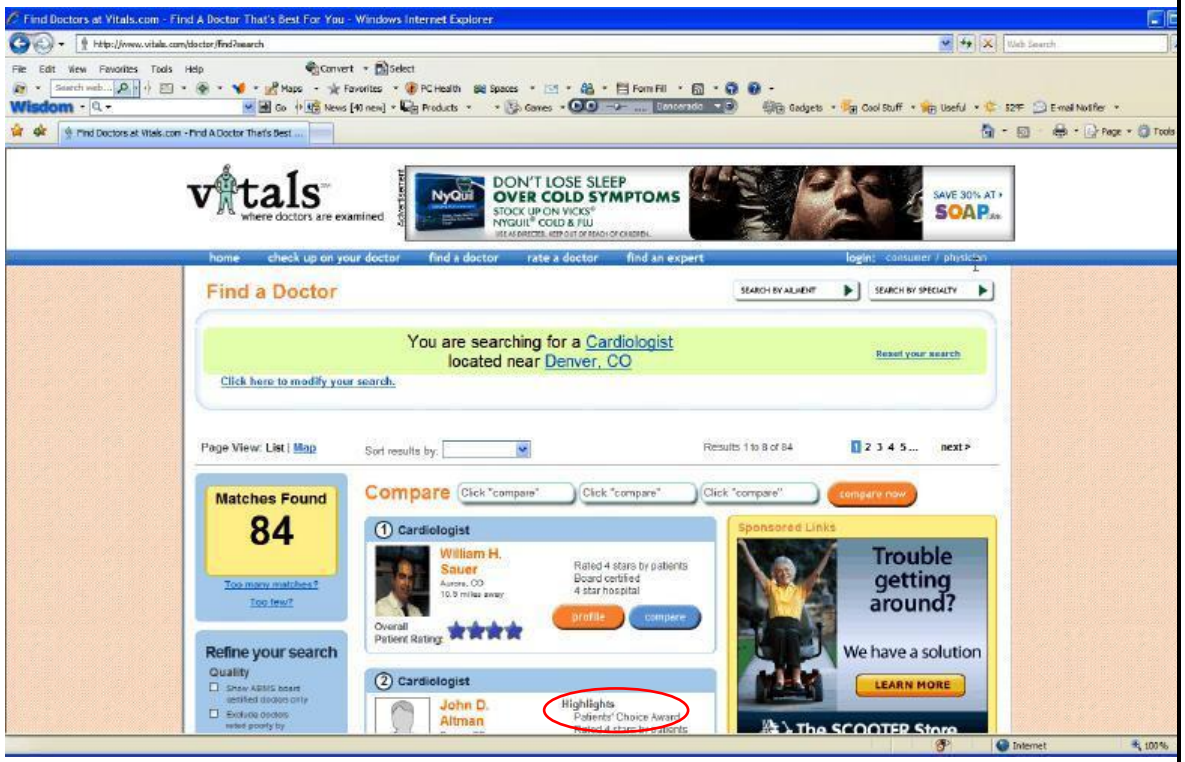
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		"Patients' Choice" mark next to the physician's name. MDx gives this award to physicians when the physician has "received near perfect scores as rated by patients" compared to other physicians. *See* Screenshot No. 49. <u>Screenshot No. 49</u> 

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U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		To the extent that MDx asserts that these three ratings do not literally satisfy the limitation of a healthcare provider report that includes comparison ratings, these ratings meet the claim limitations under the doctrine of equivalents because they have the same function, in the same way, to achieve the same result as comparison ratings on a healthcare provider report.
and provide access to the healthcare provider report on the first healthcare provider over a computer network		MDx provides access to the doctors' healthcare provider reports over a computer network. *See* Screenshot No. 50 (highlighting that this information was accessed over a computer network, e.g., the Internet, and that the profile can be sent by email or printed). Screenshot No. 50

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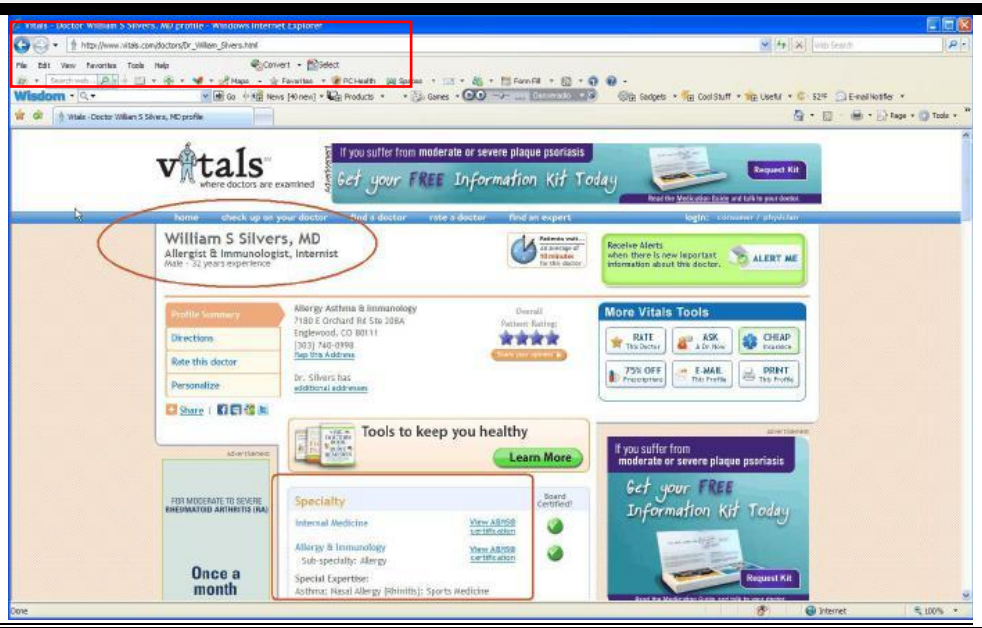
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
		
16. The on-line information system defined in claim 15, wherein: the healthcare provider report is obtained through one or more from the group consisting of: a predetermined Webpage that provides search capabilities on its database and a third-party search		MDx provides a predetermined webpage. This webpage permits a patient to search based on medical specialist, diagnosis, and location criteria. *See* Screenshot No. 51 (specialist, location criteria circled, and diagnosis in red, blue, and orange respectively). Screenshot No. 51

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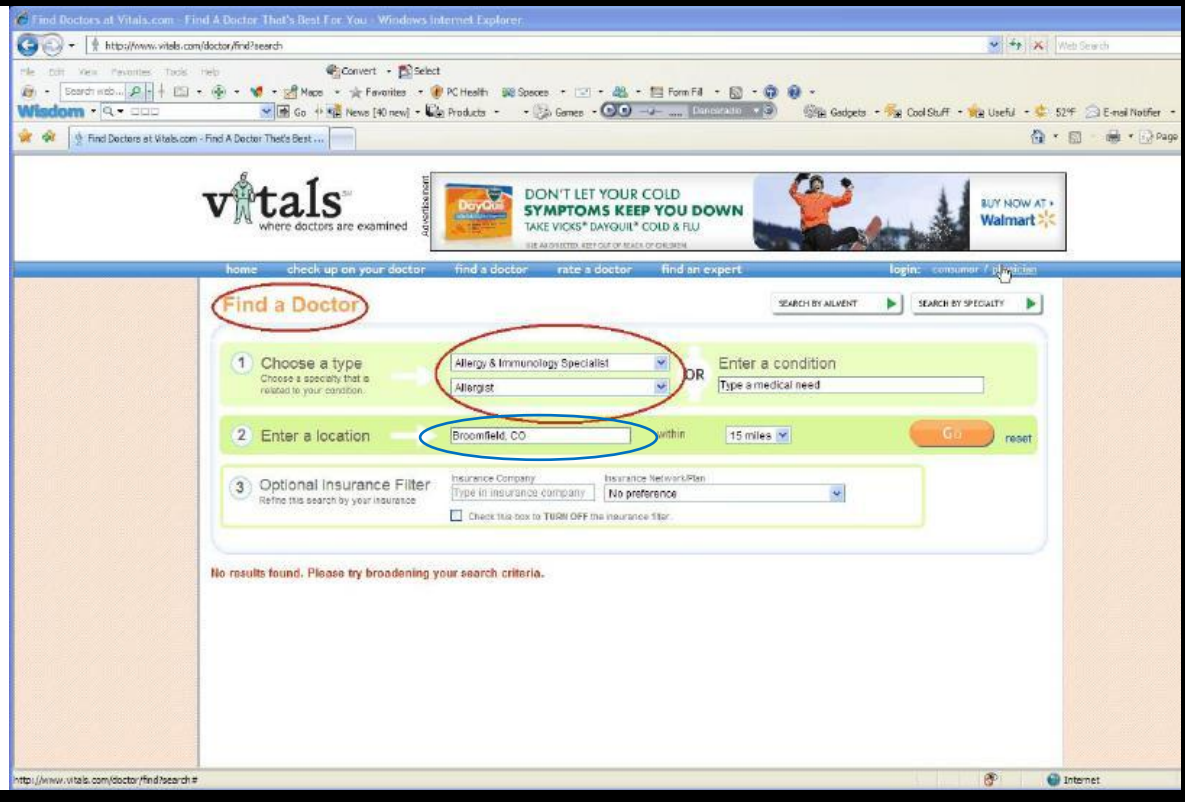
U.S. Patent No. 7,752,060	Markman Order	MDx's Previous On-line Information System
engine; and the search capabilities of the predetermined Webpage permit searching based on one or more from the group consisting of: name, medical specialty, gender, state, city, procedure, diagnosis, and location criteria.		

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