EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-CV-00520-PAB-BNB

HEALTH GRADES, INC.,
Plaintiff,

v.

MDX MEDICAL, INC. d/b/a VITALS.COM,
Defendant.

DECLARATION OF KIRSTIN STOLL-DeBELL IN SUPPORT OF HEALTH GRADES, INC.'S RESPONSE TO MDx's SECOND MOTION FOR PARTIAL SUMMARY JUDGMENT OF NONINFRINGEMENT

I, Kirstin Stoll-DeBell, hereby declare as follows:

1. I am an equity partner with the Denver office of the law firm of Merchant & Gould, where I have practiced since October 1999. I was admitted to practice before the Patent & Trademark Office in 1997 and admitted to practice law in Colorado in 1998.

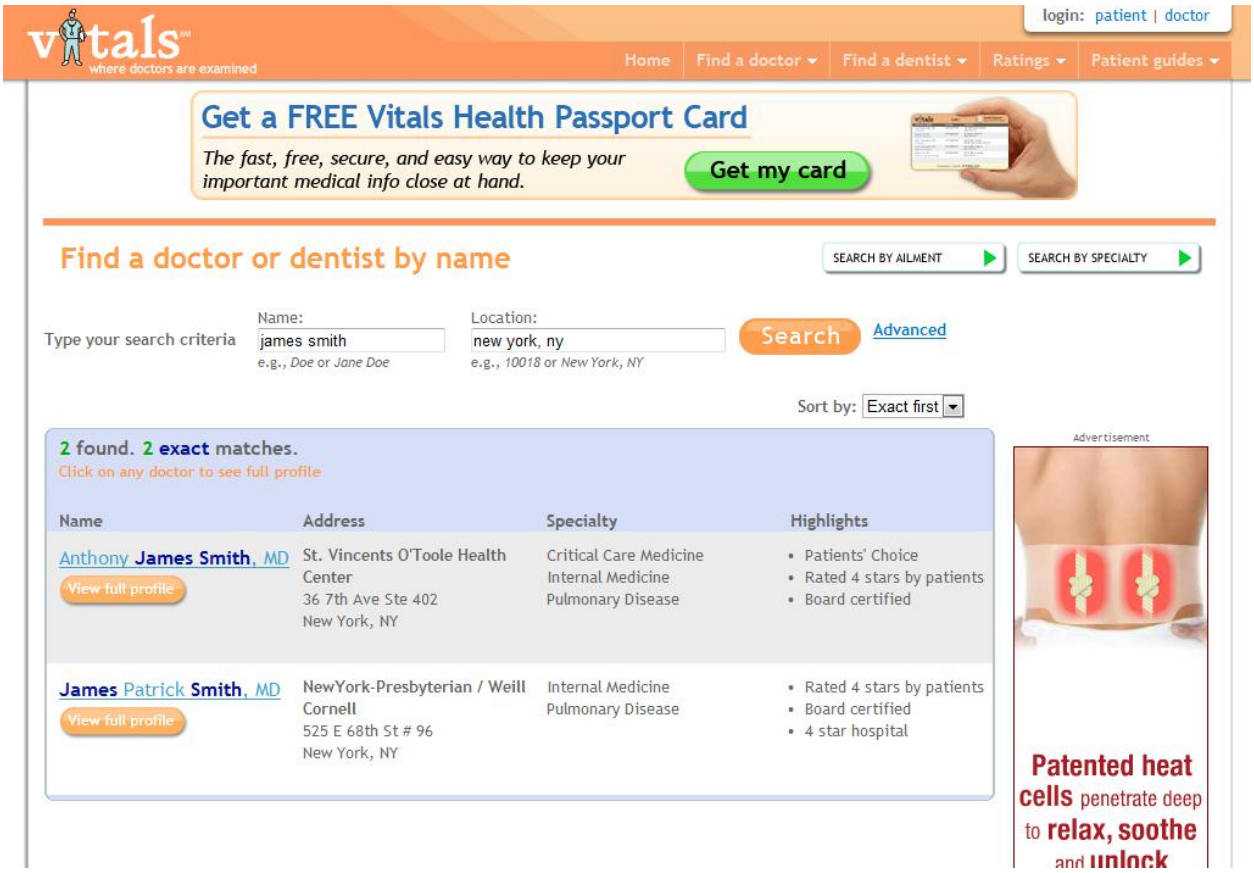
2. Health Grades hired me to act as a patent litigation consultant for it and to assist its lead counsel, Rothgerber, Johnson & Lyons, with the above-referenced litigation. I am giving this declaration in support of Health Grades' response to MDx's Second Motion Pursuant to Federal Rule of Civil Procedure 56 for Partial Summary Judgment of Non-Infringement (Dkt. 195).

3. Unless otherwise noted, I captured the all of the following screenshots from MDx's website at www.vitals.com between the dates of February 27, 2012 and March 8, 2012 using Microsoft WINDOWS Snipping Tool. I used Microsoft PAINT to added colored circles

EXHIBIT 1

and/or rectangles to highlight certain portions of the screenshots that are copied into Health Grades' summary judgment response brief.

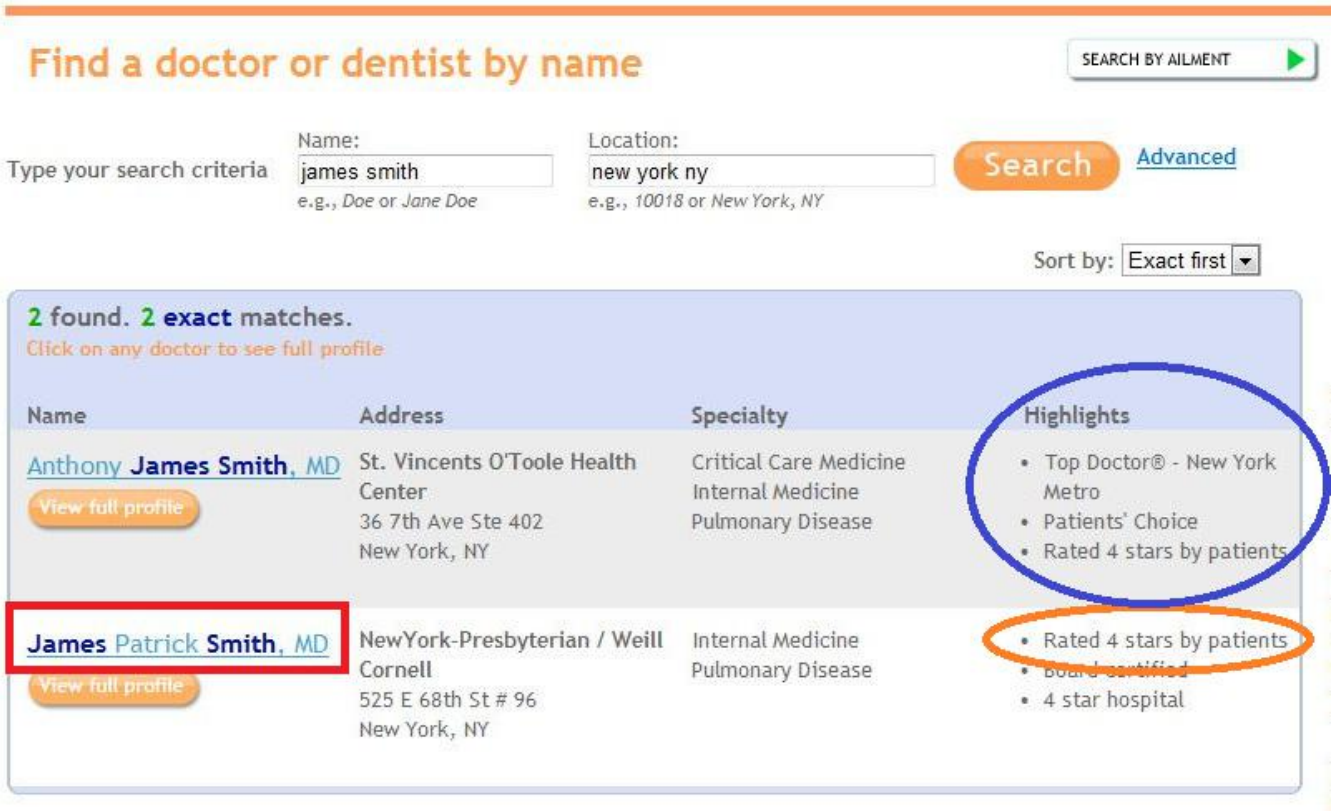
4. I conducted a search at www.vitals.com using the "Find a doctor or dentist by name" feature, wherein I used "James Smith" as the name search criteria and "New York, NY" as the location criteria. In response to this query, the www.vitals.com website generated a page (http://www.vitals.com/doctor/checkup?name=james+smith&location=new+york%2C+ny&x=0&y=0), which is shown in the screenshot below:



Screenshot 1

EXHIBIT 1

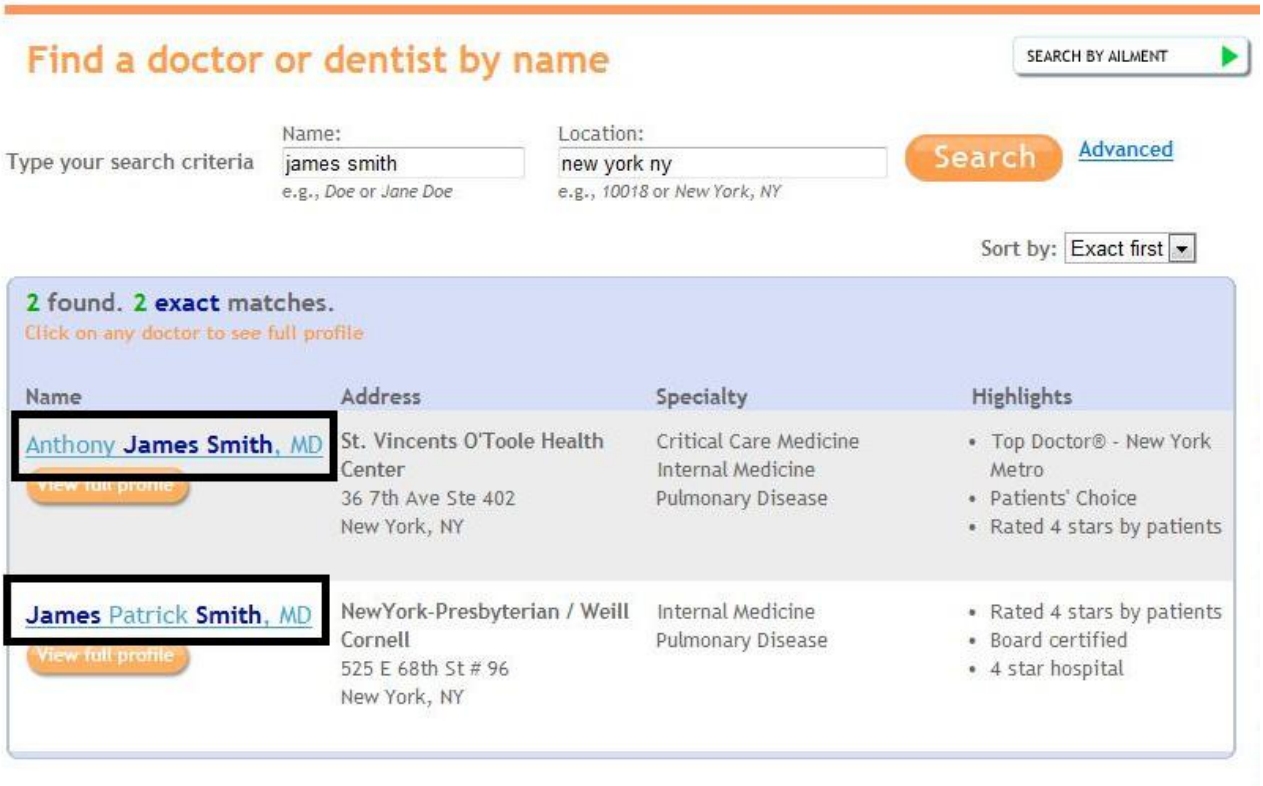
5. I added the blue circle, orange circle, and red square to Screenshot 1 to create Screenshot 1A as shown below:



Screenshot 1A

EXHIBIT 1

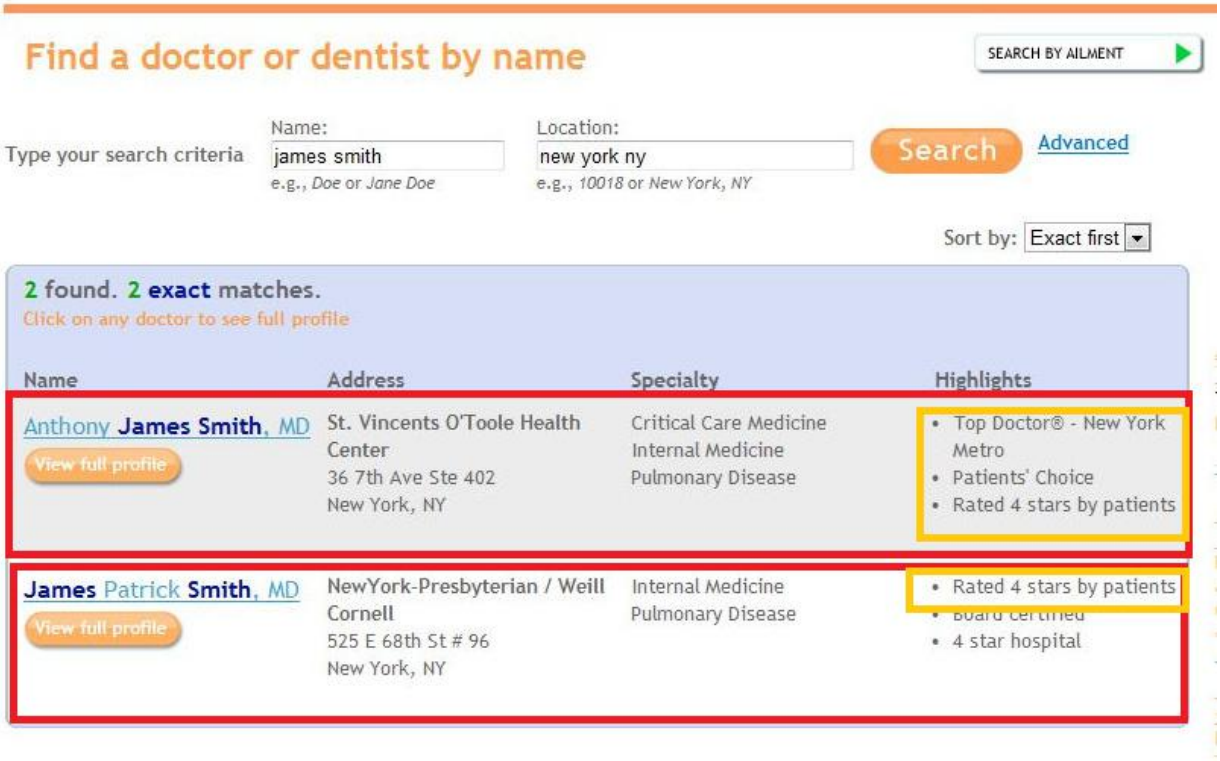
6. I added the black squares to Screenshot 1 to create Screenshot 1B as shown below:



Screenshot 1B

EXHIBIT 1

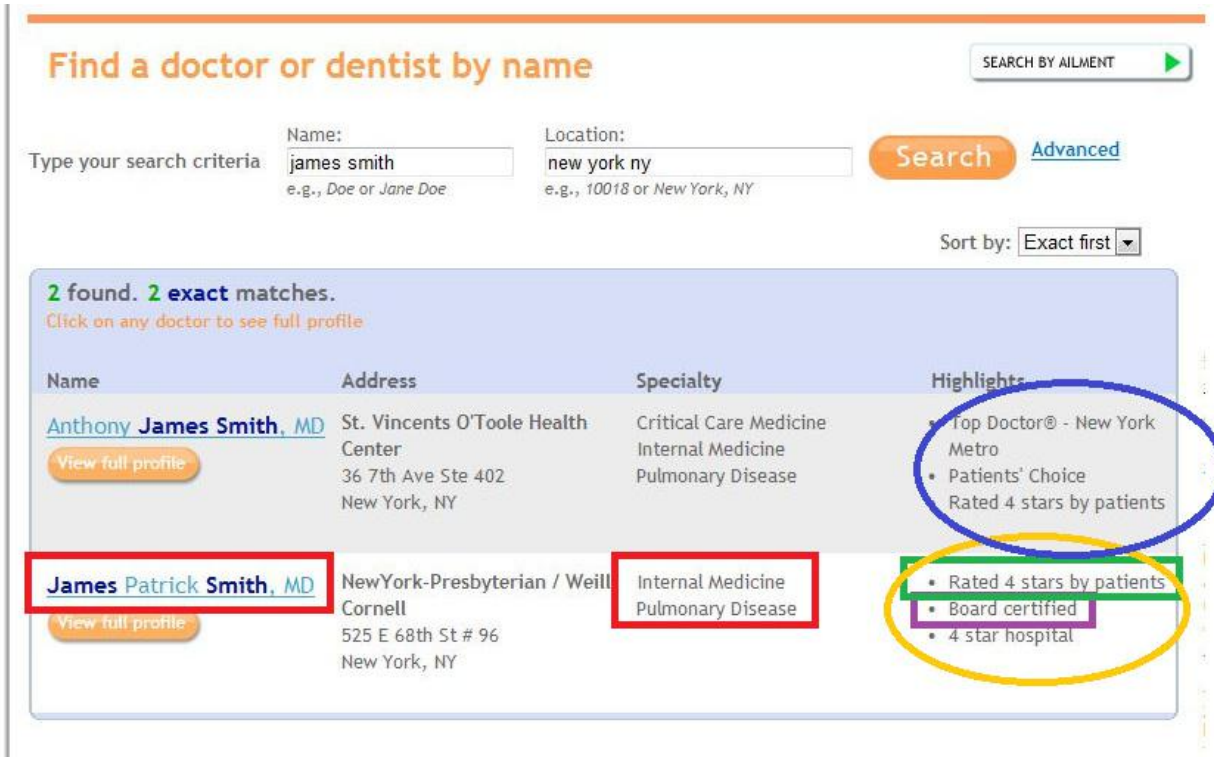
7. I added the red and orange squares to Screenshot 1 to create Screenshot 1C as shown below:



Screenshot 1C

EXHIBIT 1

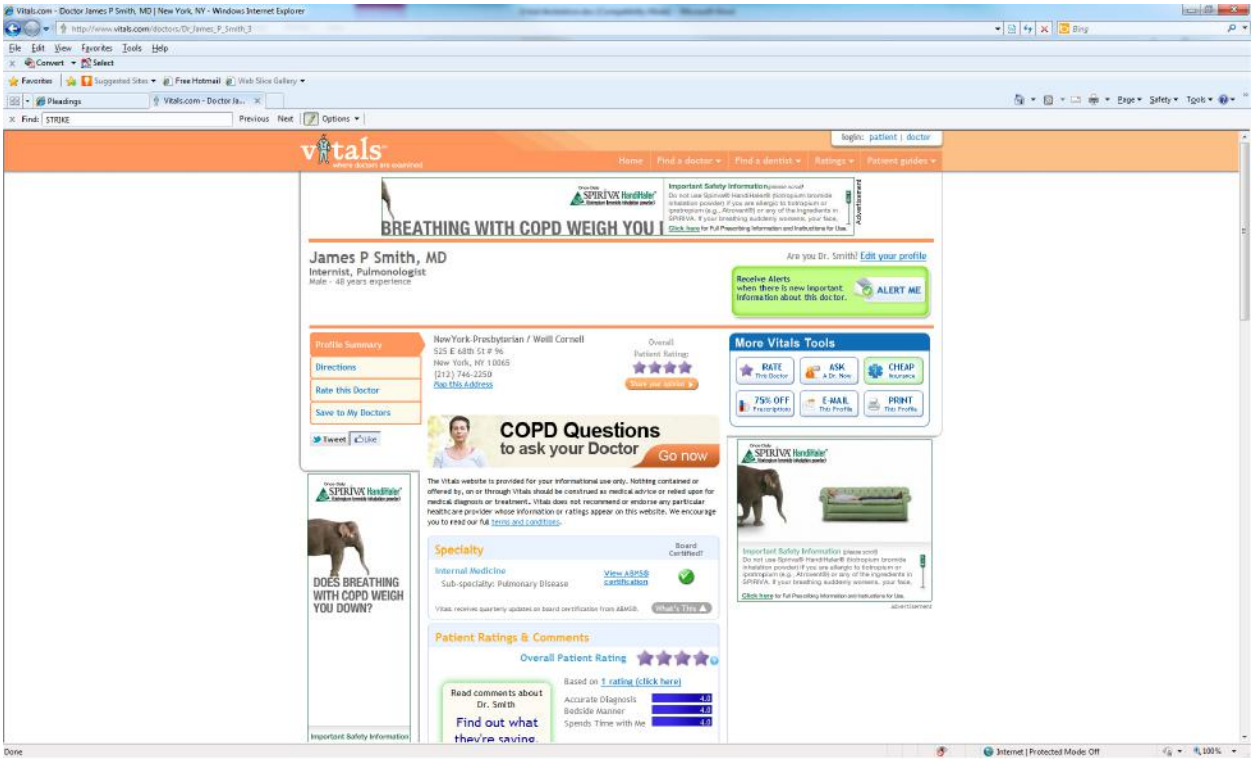
8. I added the red, green, and purple squares and blue and orange circles to Screenshot 1 to create Screenshot 1D as shown below:



Screenshot 1D

EXHIBIT 1

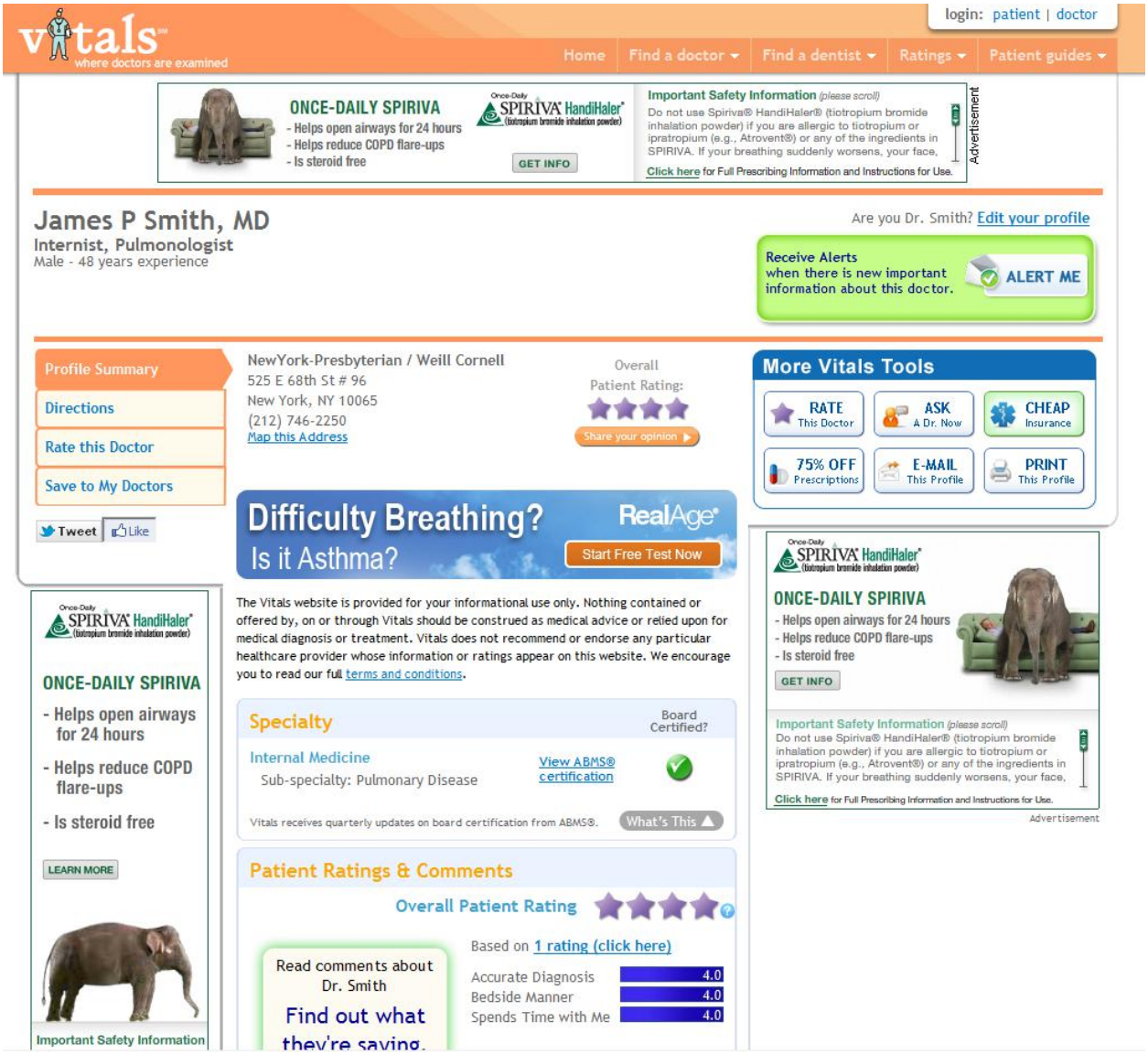
9. When I clicked on the name "James Patrick Smith, MD," the www.vitals.com website generated a page (http://www.vitals.com/doctors/Dr_James_P_Smith_3), which I captured as shown below using the <ALT-PrtSc> function:



Screenshot 2

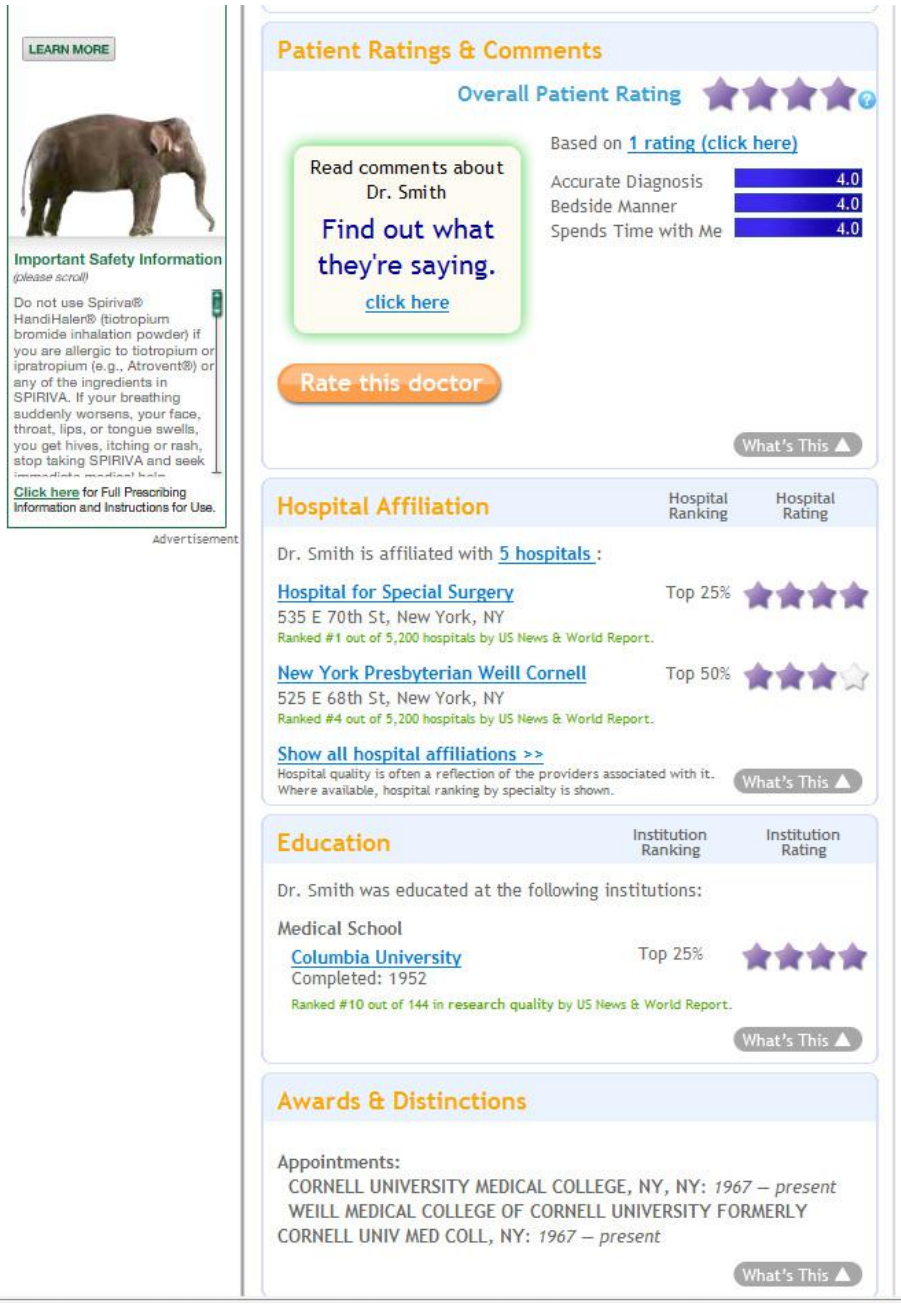
EXHIBIT 1

10. The amount of information was too large to view it all on my screen at the same time. I had to click the scroll bar on the right side of the window (shown above) to view the remaining portions of this page. I captured the entire page (using the scroll bar) in the three screenshots shown below:



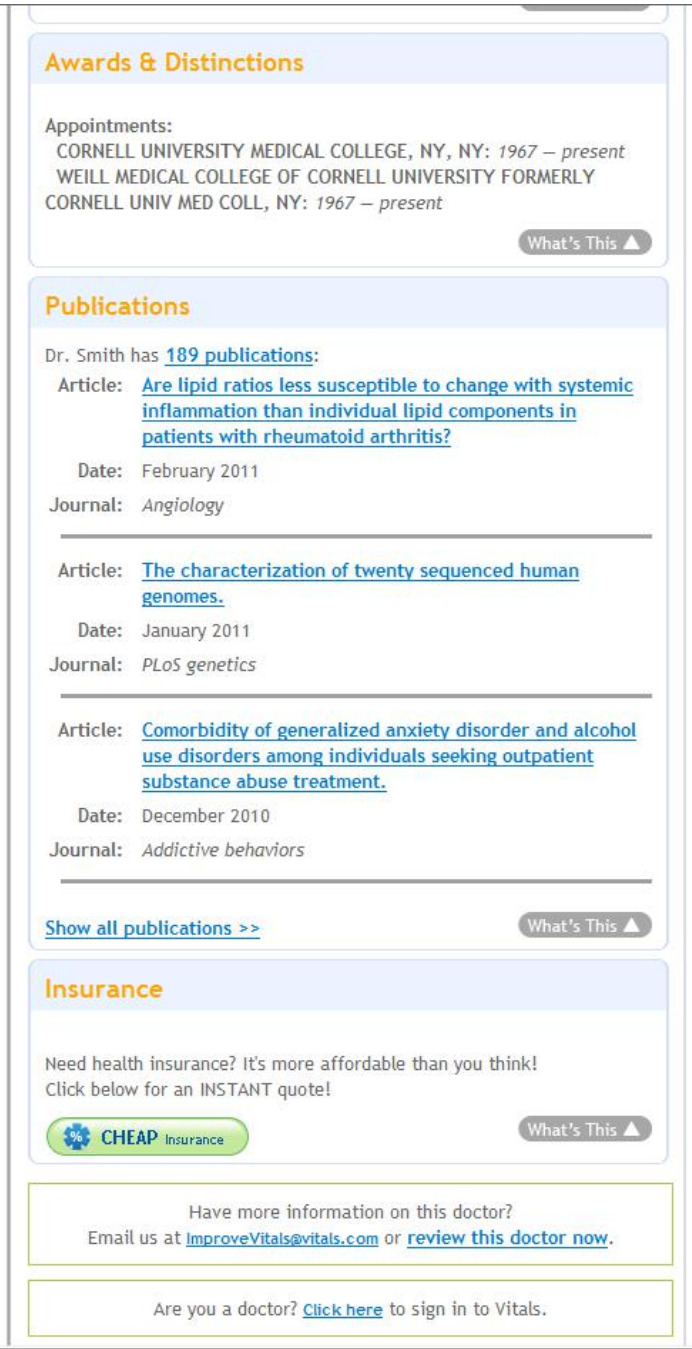
Screenshot 3

EXHIBIT 1



Screenshot 4

EXHIBIT 1



Awards & Distinctions

Appointments:
CORNELL UNIVERSITY MEDICAL COLLEGE, NY, NY: *1967 – present*
WEILL MEDICAL COLLEGE OF CORNELL UNIVERSITY FORMERLY CORNELL UNIV MED COLL, NY: *1967 – present*

What's This

Publications

Dr. Smith has 189 publications:

Article: Are lipid ratios less susceptible to change with systemic inflammation than individual lipid components in patients with rheumatoid arthritis?
Date: February 2011
Journal: *Angiology*

Article: The characterization of twenty sequenced human genomes.
Date: January 2011
Journal: *PLoS genetics*

Article: Comorbidity of generalized anxiety disorder and alcohol use disorders among individuals seeking outpatient substance abuse treatment.
Date: December 2010
Journal: *Addictive behaviors*

Show all publications >>

What's This

Insurance

Need health insurance? It's more affordable than you think!
Click below for an INSTANT quote!

CHEAP Insurance

What's This

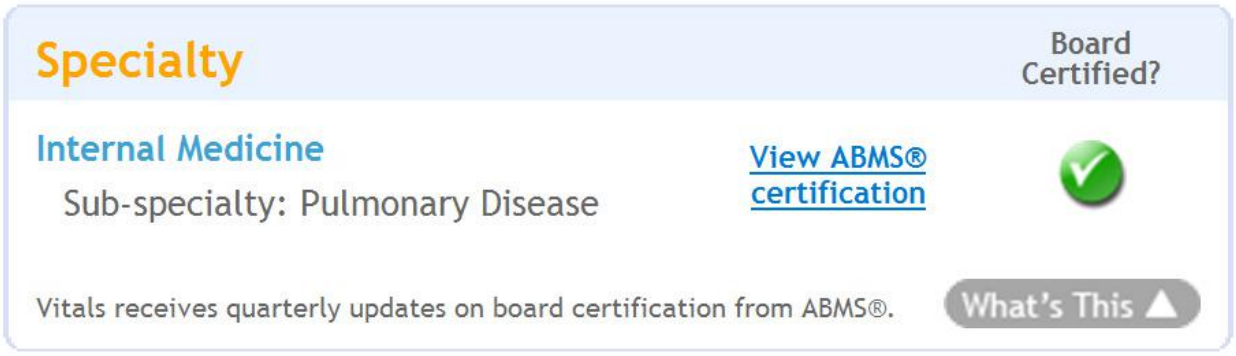
Have more information on this doctor?
Email us at ImproveVitals@vitals.com or review this doctor now.

Are you a doctor? Click here to sign in to Vitals.

Screenshot 5

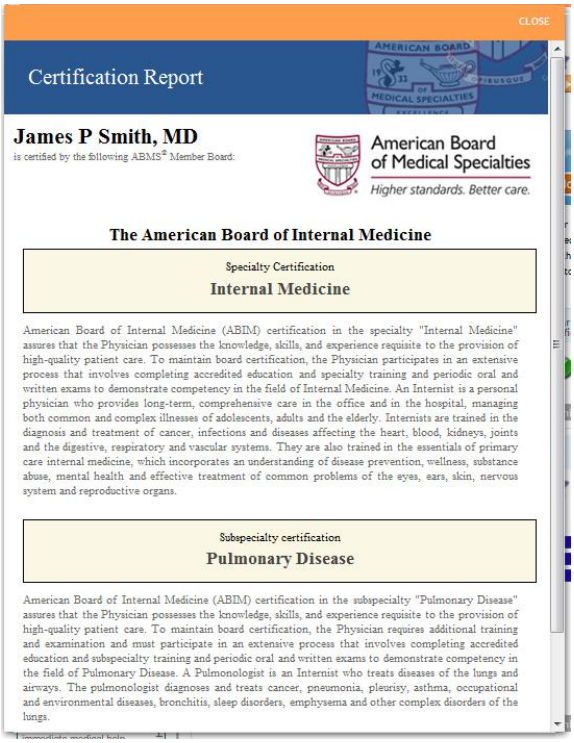
EXHIBIT 1

11. An enlarged portion from Screenshot 3 is shown below:



Screenshot 6

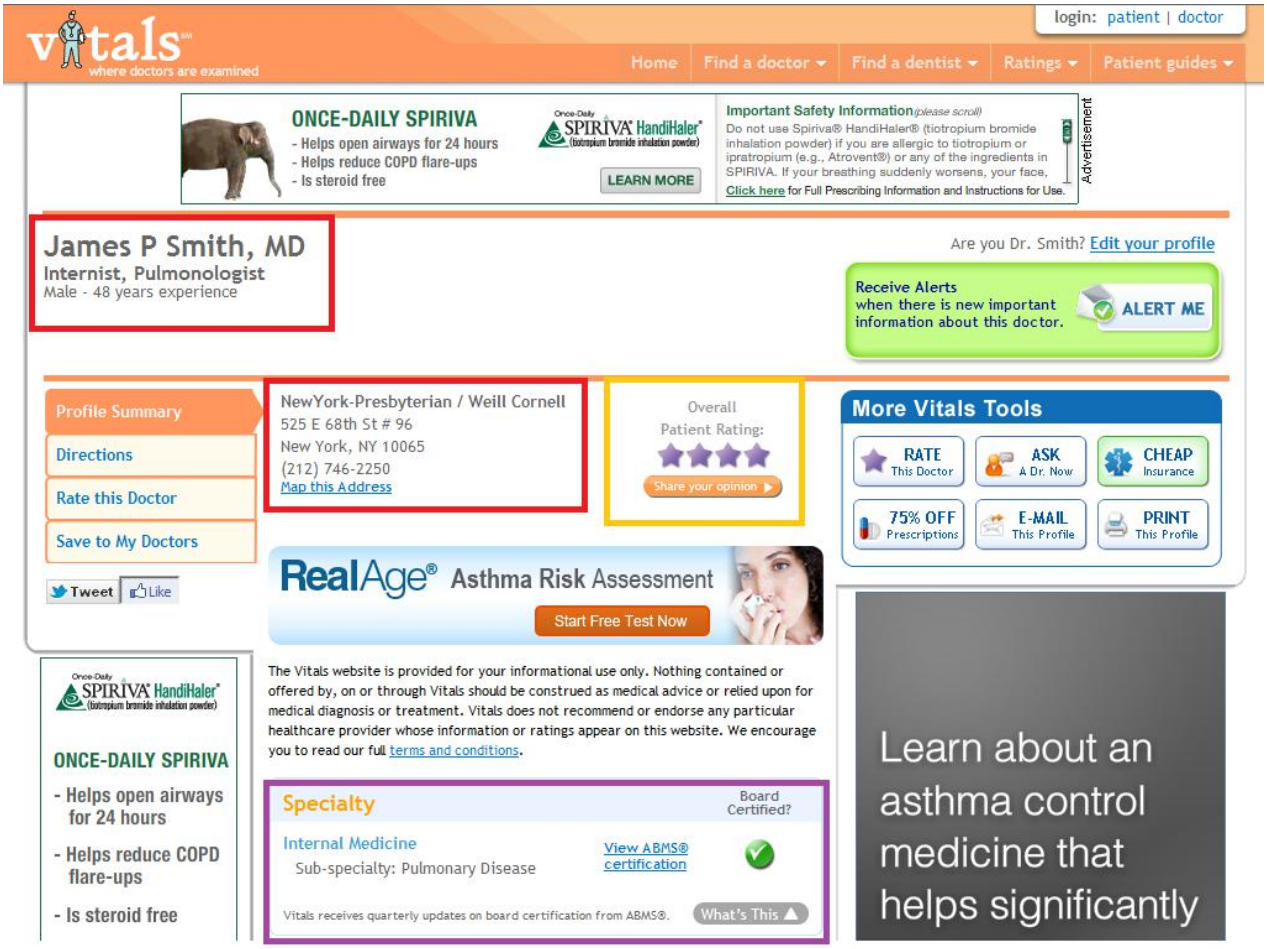
When I clicked on the "view ABMS certification" link, www.vitals.com displayed the page shown to the right:



Screenshot 7

EXHIBIT 1

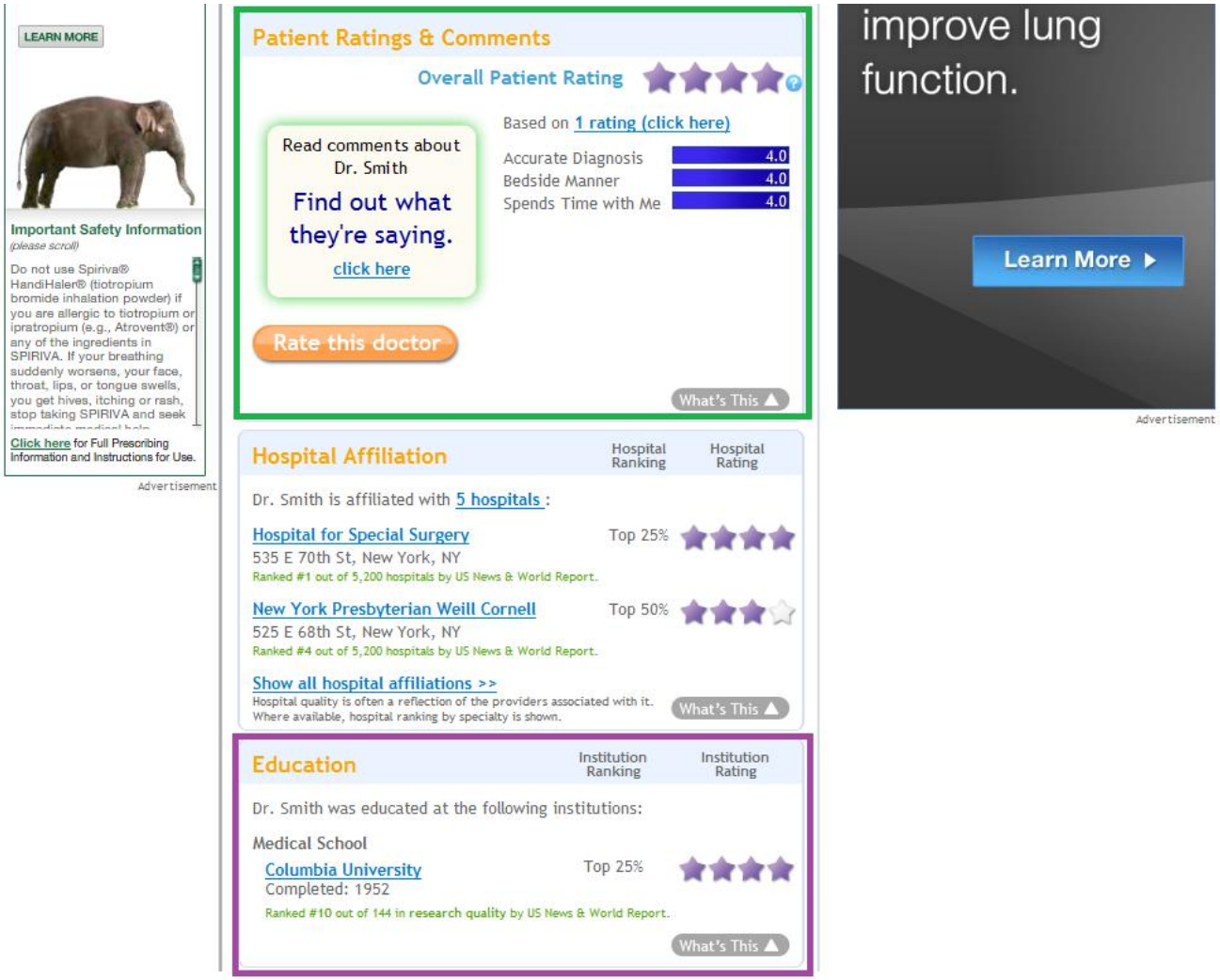
12. I added the red, orange, and purple squares to Screenshot 3 to create Screenshot 3A as shown below:



Screenshot 3A

EXHIBIT 1

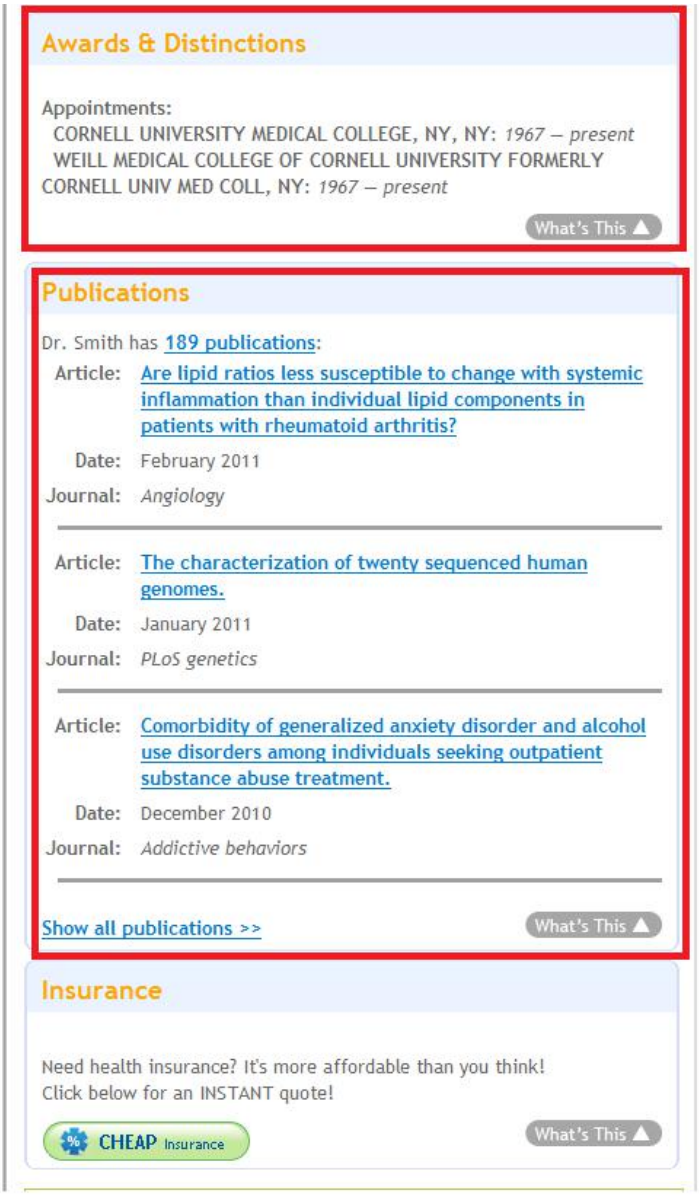
13. I added the green and purple squares to Screenshot 4 to create Screenshot 4A as shown below:



Screenshot 4A

EXHIBIT 1

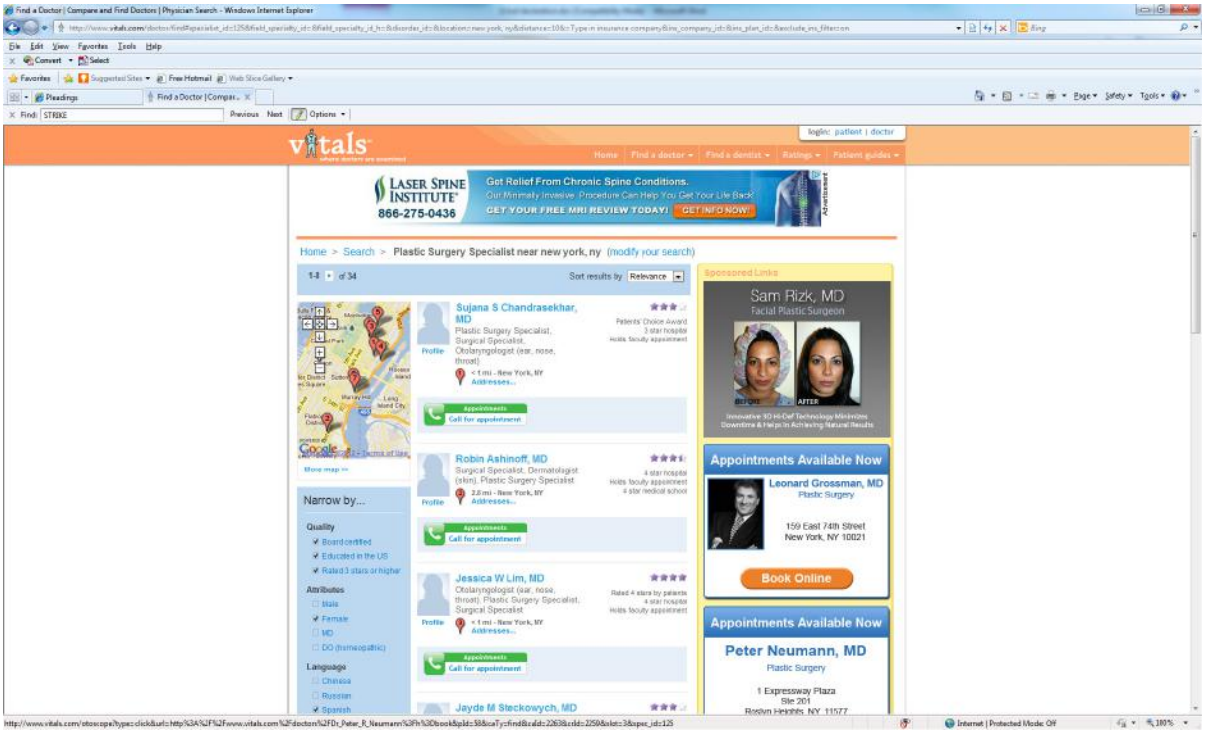
14. I added the red squares to Screenshot 5 to create Screenshot 5A as shown below:



Screenshot 5A

EXHIBIT 1

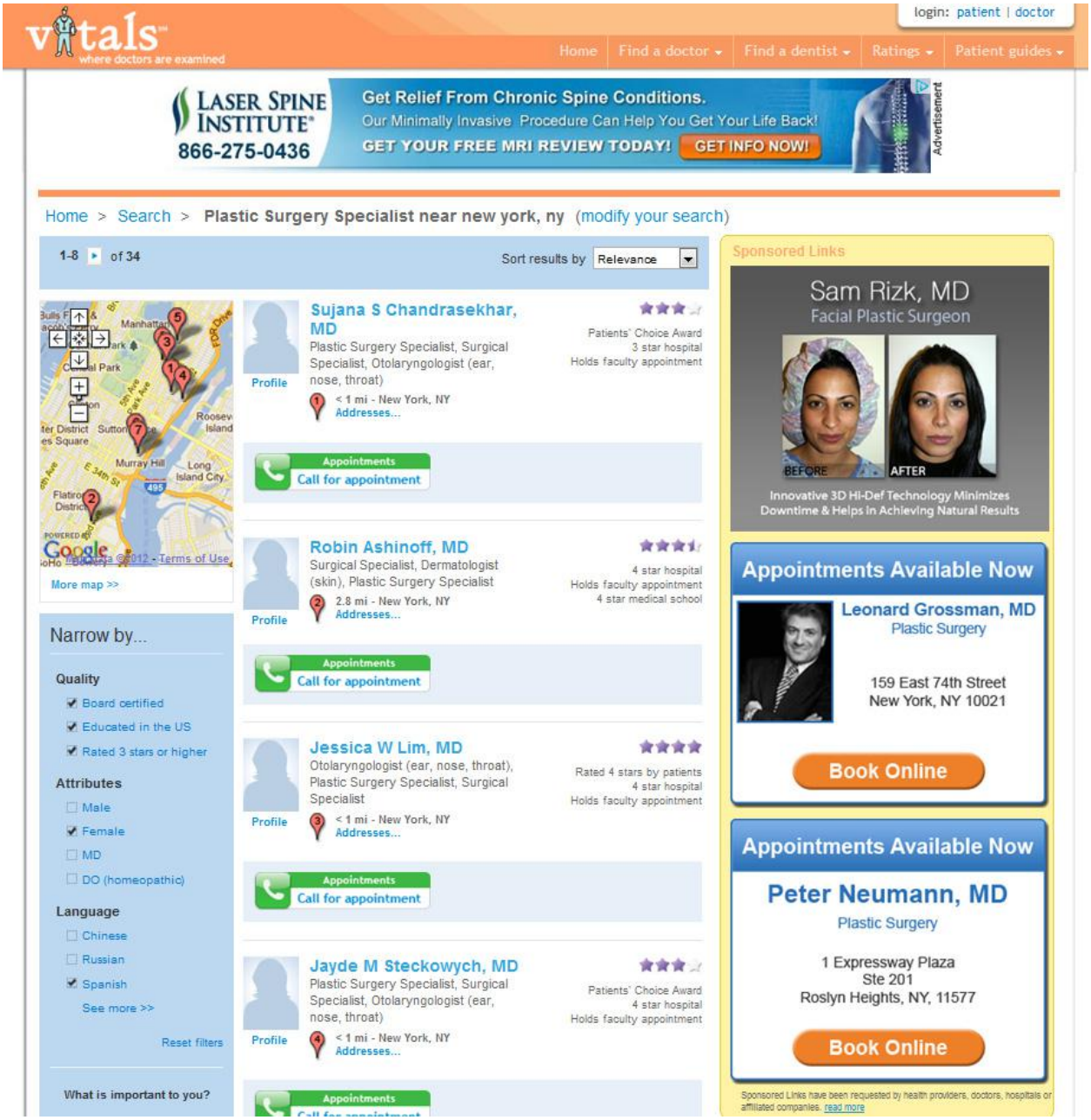
15. I also conducted a search on the www.vitals.com website using the "Find a Doctor or Dentist" feature, wherein I used "plastic surgery specialist" as the specialization search criteria and "New York, NY" as the location criteria. I further used the "narrow by" feature to search for a female doctor, who was educated in the U.S., is board certified, was rated with 3 stars or better, and speaks Spanish as shown by the check boxes in the screenshots below. In response to this query, the www.vitals.com website generated a page (http://www.vitals.com/doctor/find#specialist_id=125&field_specialty_id=&field_specialty_id_h=&disorder_id=&location=new york, ny&distance=10&=Type in insurance company&ins_company_id=&ins_plan_id=&exclude_ins_filter=on), which I captured using the <ALT-PrtSc> function:



Screenshot 8

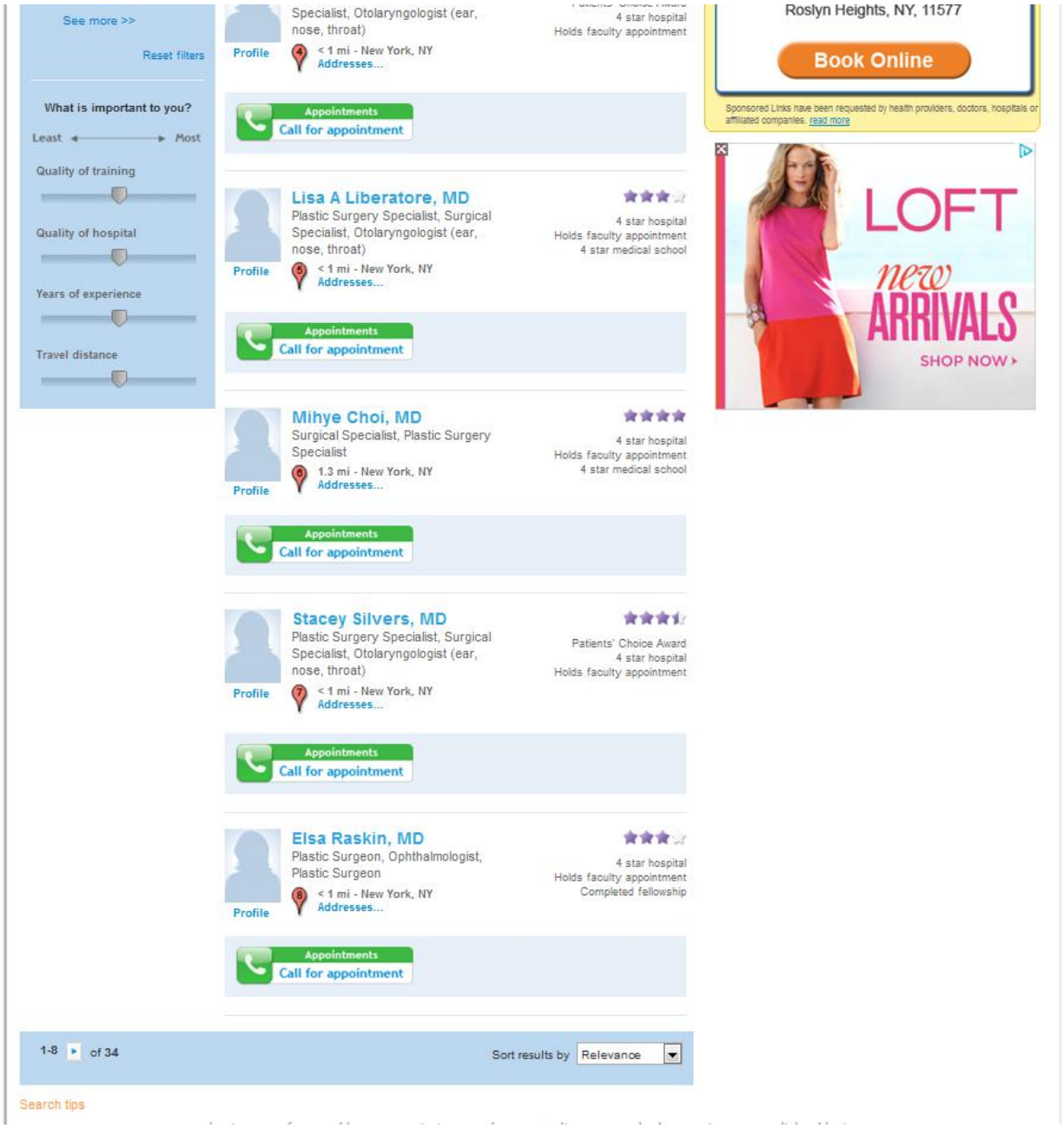
EXHIBIT 1

16. The amount of information was too large to view it all on my screen at the same time. I had to click the scroll bar on the right side of the window (shown above) to view the remaining portions of this page. I captured the entire page in the two screenshots shown below:



Screenshot 9

EXHIBIT 1

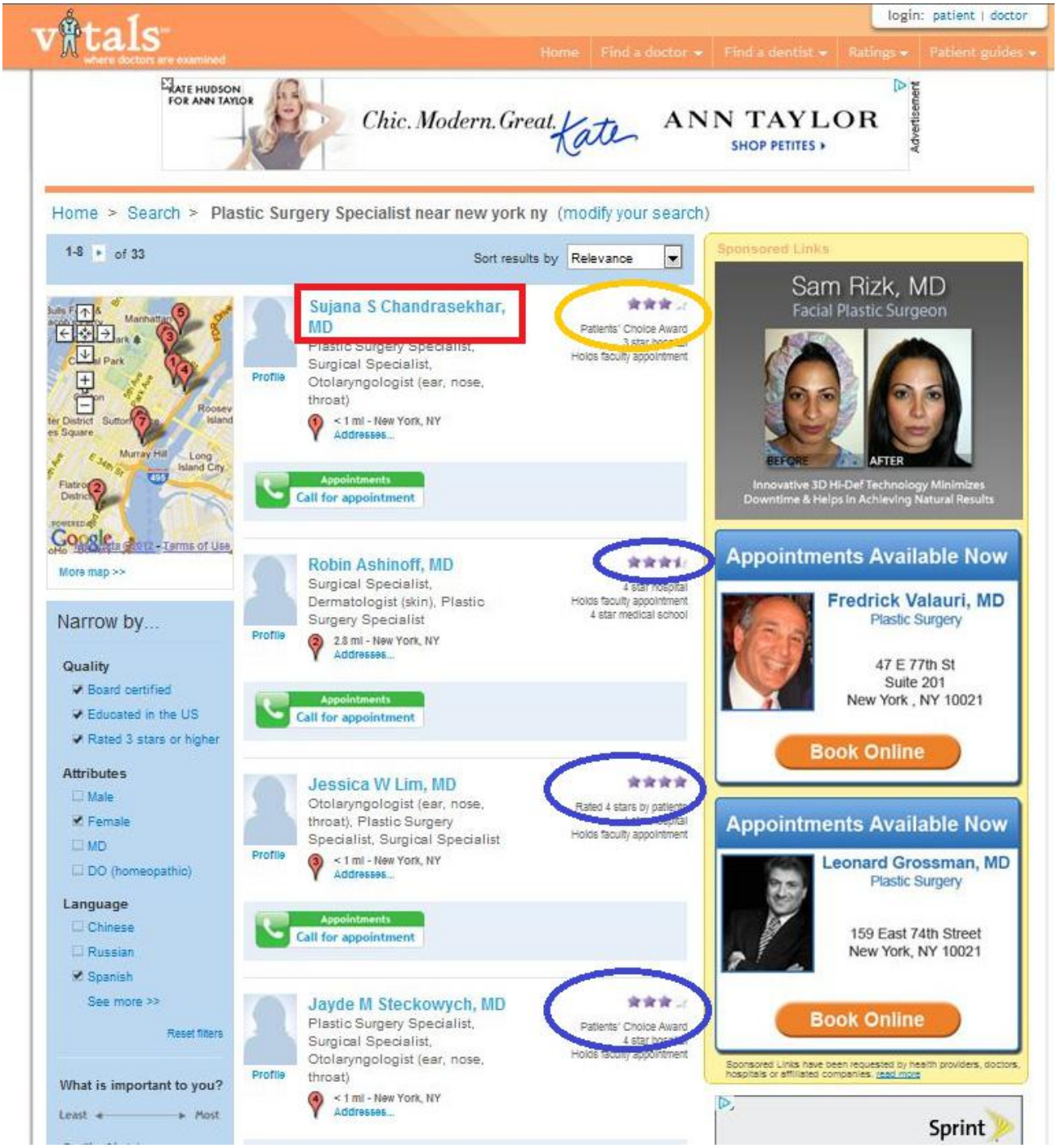


Screenshot 10

17. Additional pages could be viewed by clicking the "1-8 [arrow] of 34" button shown above.

EXHIBIT 1

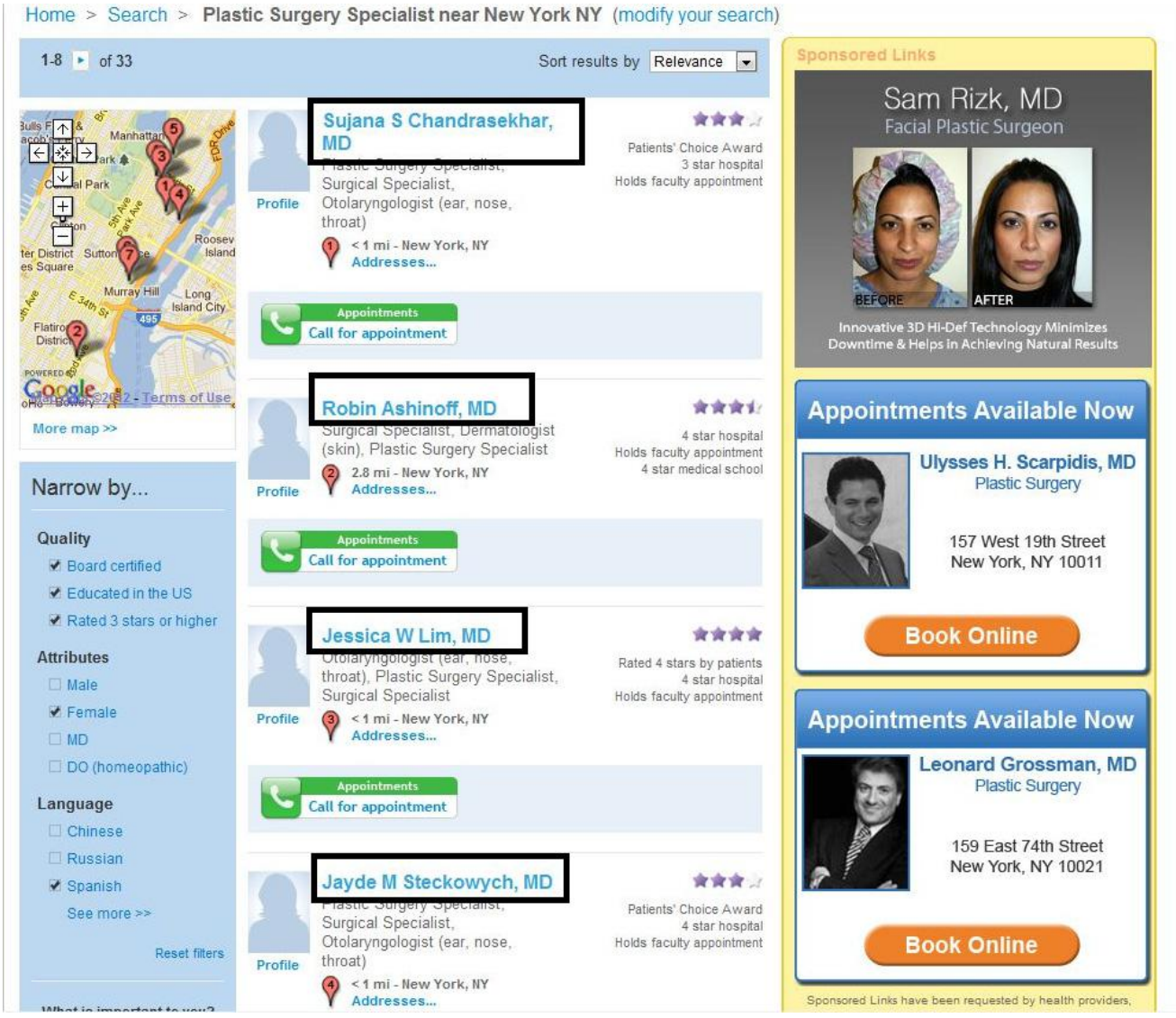
18. I added the red square and orange and blue circles to Screenshot 9 to create Screenshot 9A as shown below:



Screenshot 9A

EXHIBIT 1

19. I added the black squares to Screenshot 9 to create Screenshot 9B as shown below:



Screenshot 9B

EXHIBIT 1

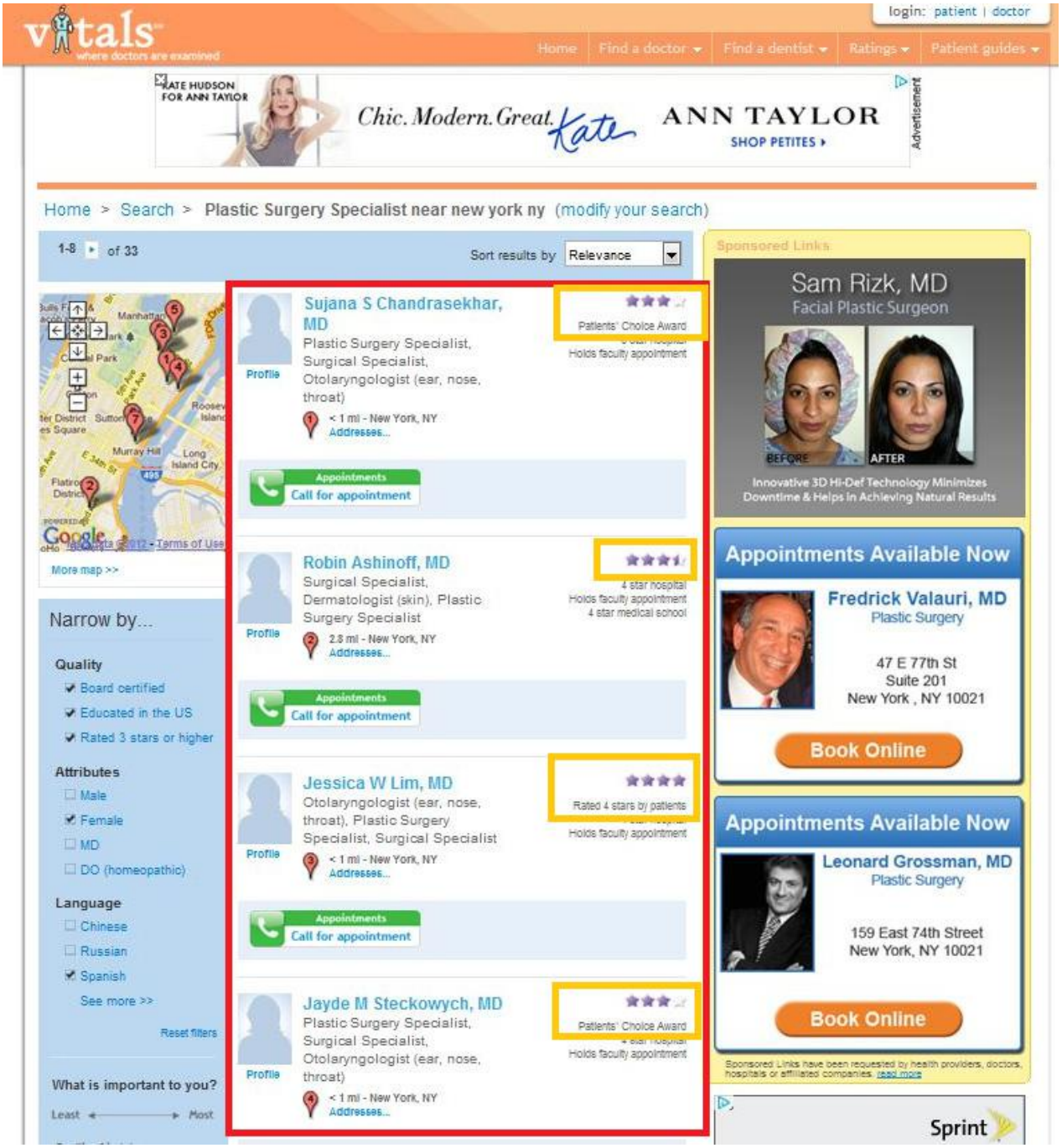
20. I added the red and orange squares to Screenshot 9 to create Screenshot 9C as shown below:



Screenshot 9C

EXHIBIT 1

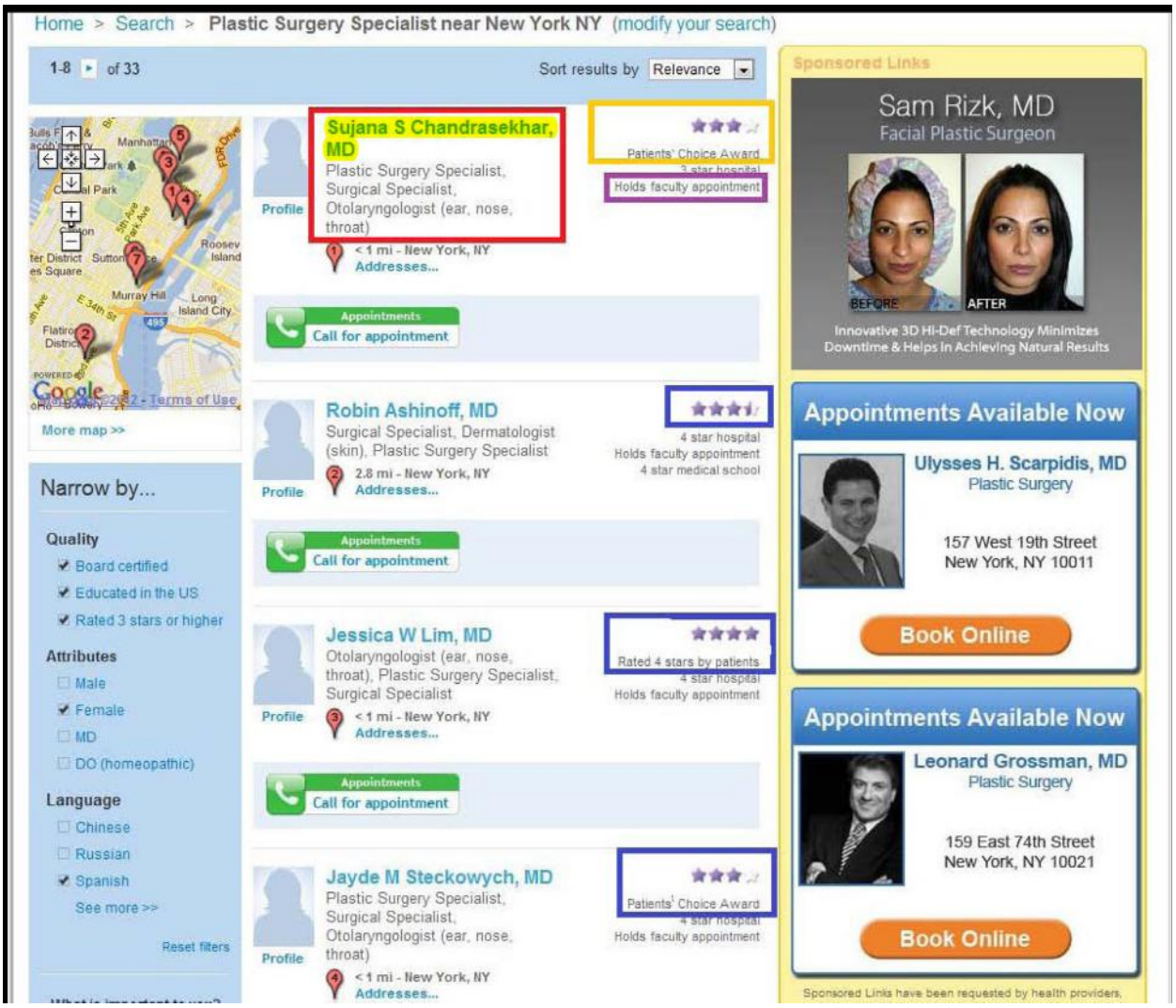
21. I added the red and orange squares to Screenshot 9 to create Screenshot 9D as shown below:



Screenshot 9D

EXHIBIT 1

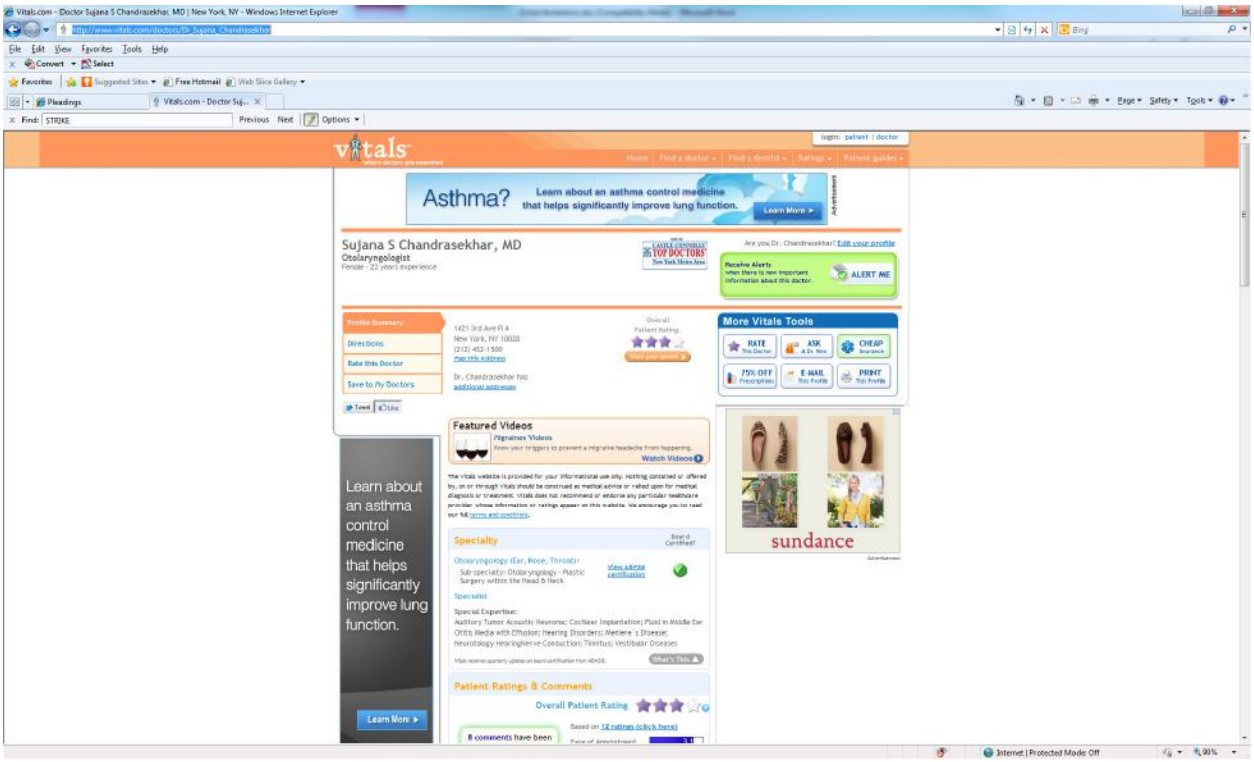
22. I added the yellow highlighting and red, blue, orange, and purple squares to Screenshot 9 to create Screenshot 9E as shown below:



Screenshot 9E

EXHIBIT 1

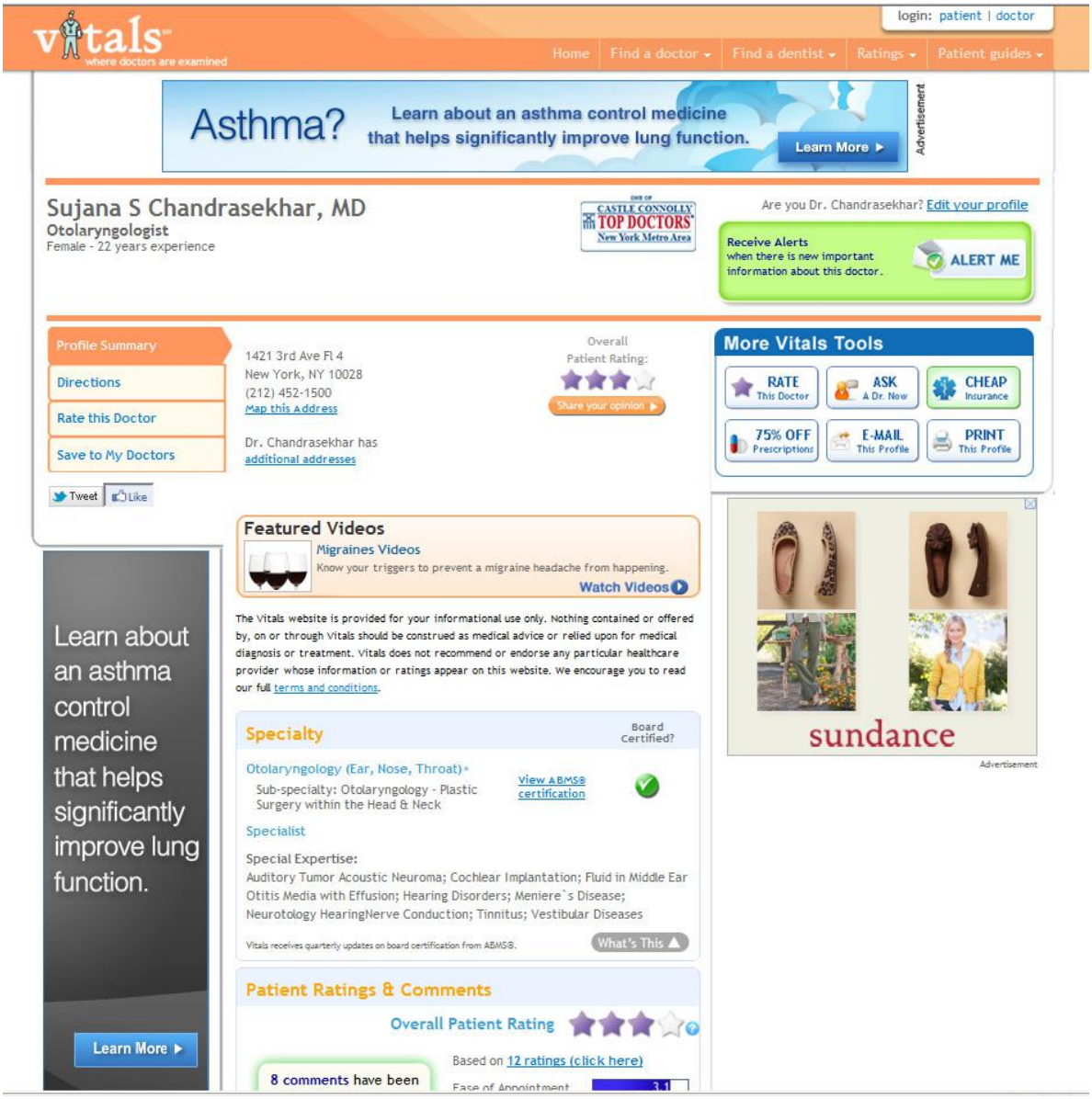
23. When I clicked on the name "Sujana S. Chandrasekhar, MD," the www.vitals.com website generated a page (http://www.vitals.com/doctors/Dr_Sujana_Chandrasekhar), which I captured using the <ALT-PrtSc function>:



Screenshot 11

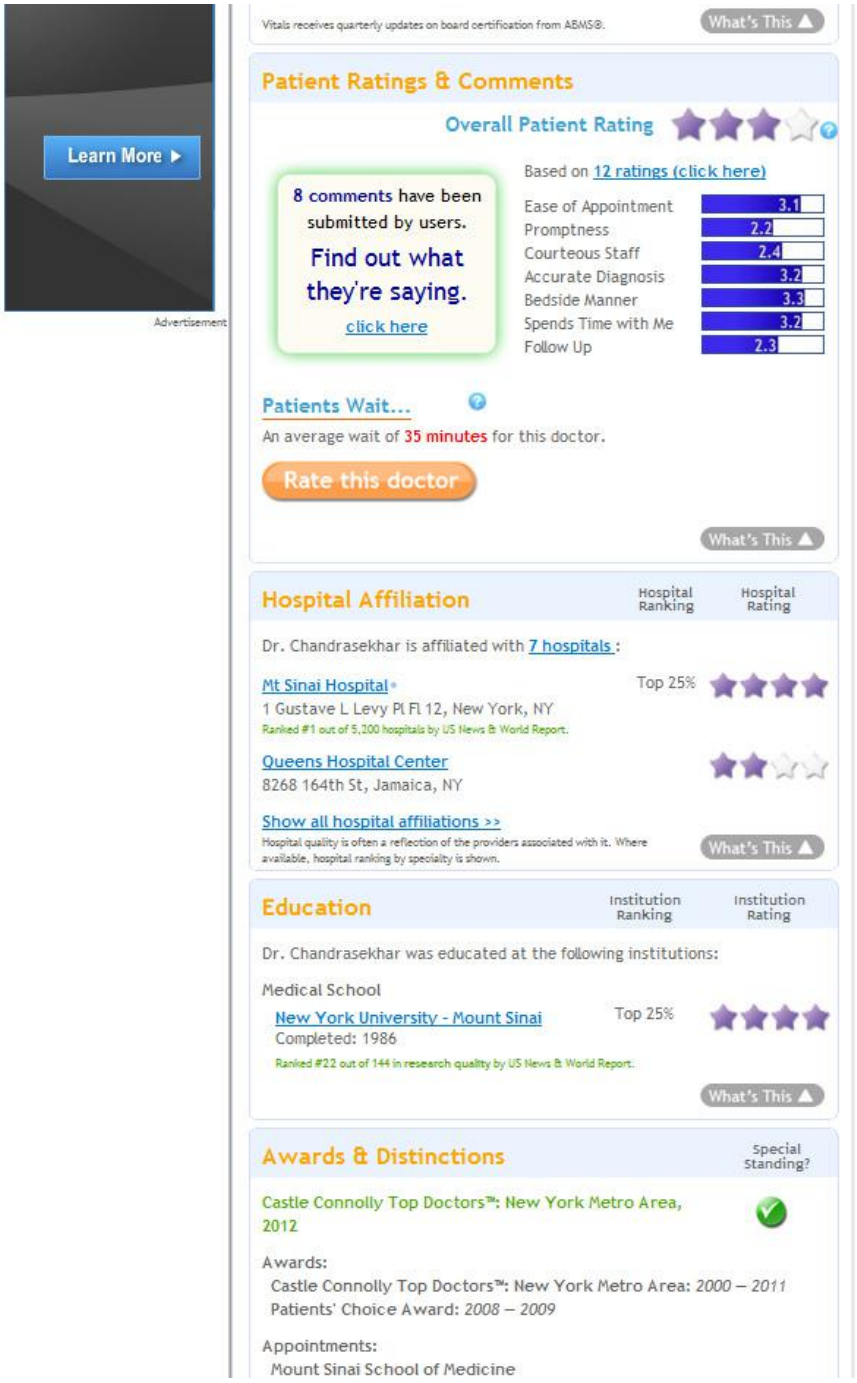
EXHIBIT 1

24. The amount of information was too large to view it all on my screen at the same time. I had to click the scroll bar on the right side of the window (shown above) to view the remaining portions of this page. I captured the entire page in the four screenshots shown below:



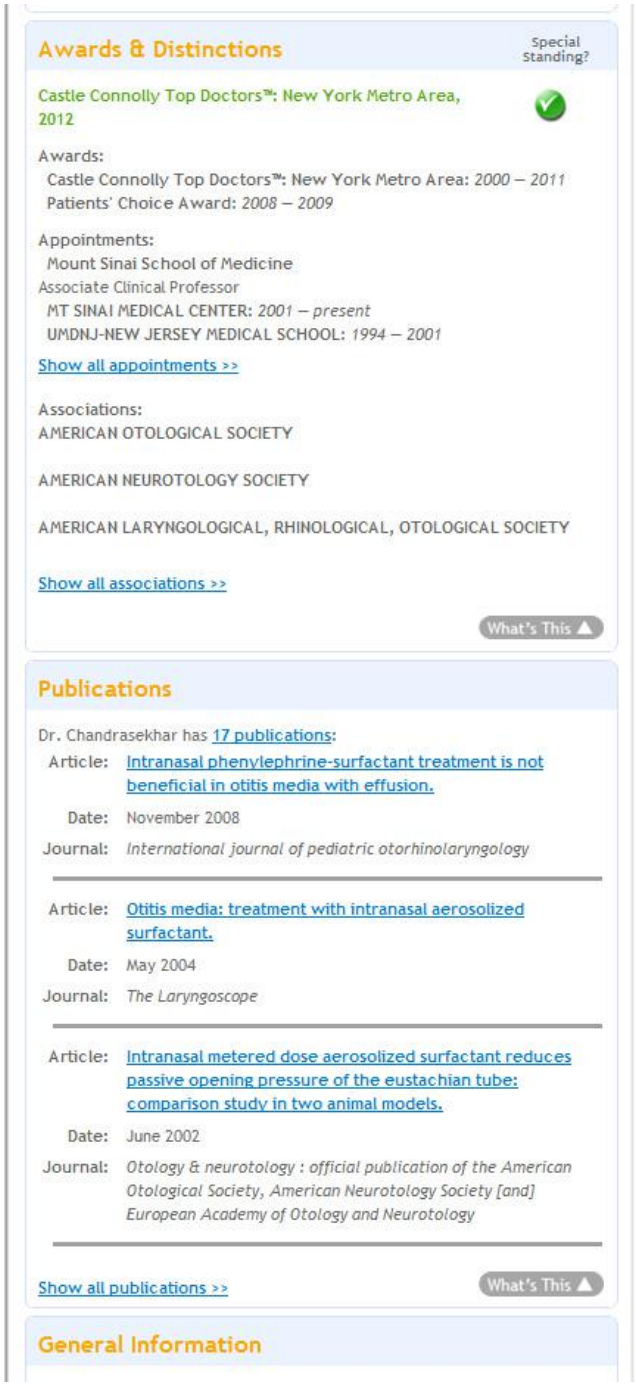
Screenshot 12

EXHIBIT 1



Screenshot 13

EXHIBIT 1



Awards & Distinctions

Special Standing?

Castle Connolly Top Doctors™: New York Metro Area, 2012

Awards:
Castle Connolly Top Doctors™: New York Metro Area: *2000 – 2011*
Patients' Choice Award: *2008 – 2009*

Appointments:
Mount Sinai School of Medicine
Associate Clinical Professor
MT SINAI MEDICAL CENTER: *2001 – present*
UMDNJ-NEW JERSEY MEDICAL SCHOOL: *1994 – 2001*

Show all appointments >>

Associations:
AMERICAN OTOLOGICAL SOCIETY

AMERICAN NEUROTOLOGY SOCIETY

AMERICAN LARYNGOLOGICAL, RHINOLOGICAL, OTOLOGICAL SOCIETY

Show all associations >>

What's This

Publications

Dr. Chandrasekhar has 17 publications:

Article: Intranasal phenylephrine-surfactant treatment is not beneficial in otitis media with effusion.
Date: November 2008
Journal: *International journal of pediatric otorhinolaryngology*

Article: Otitis media: treatment with intranasal aerosolized surfactant.
Date: May 2004
Journal: *The Laryngoscope*

Article: Intranasal metered dose aerosolized surfactant reduces passive opening pressure of the eustachian tube: comparison study in two animal models.
Date: June 2002
Journal: *Otology & neurotology : official publication of the American Otological Society, American Neurotology Society [and] European Academy of Otology and Neurotology*

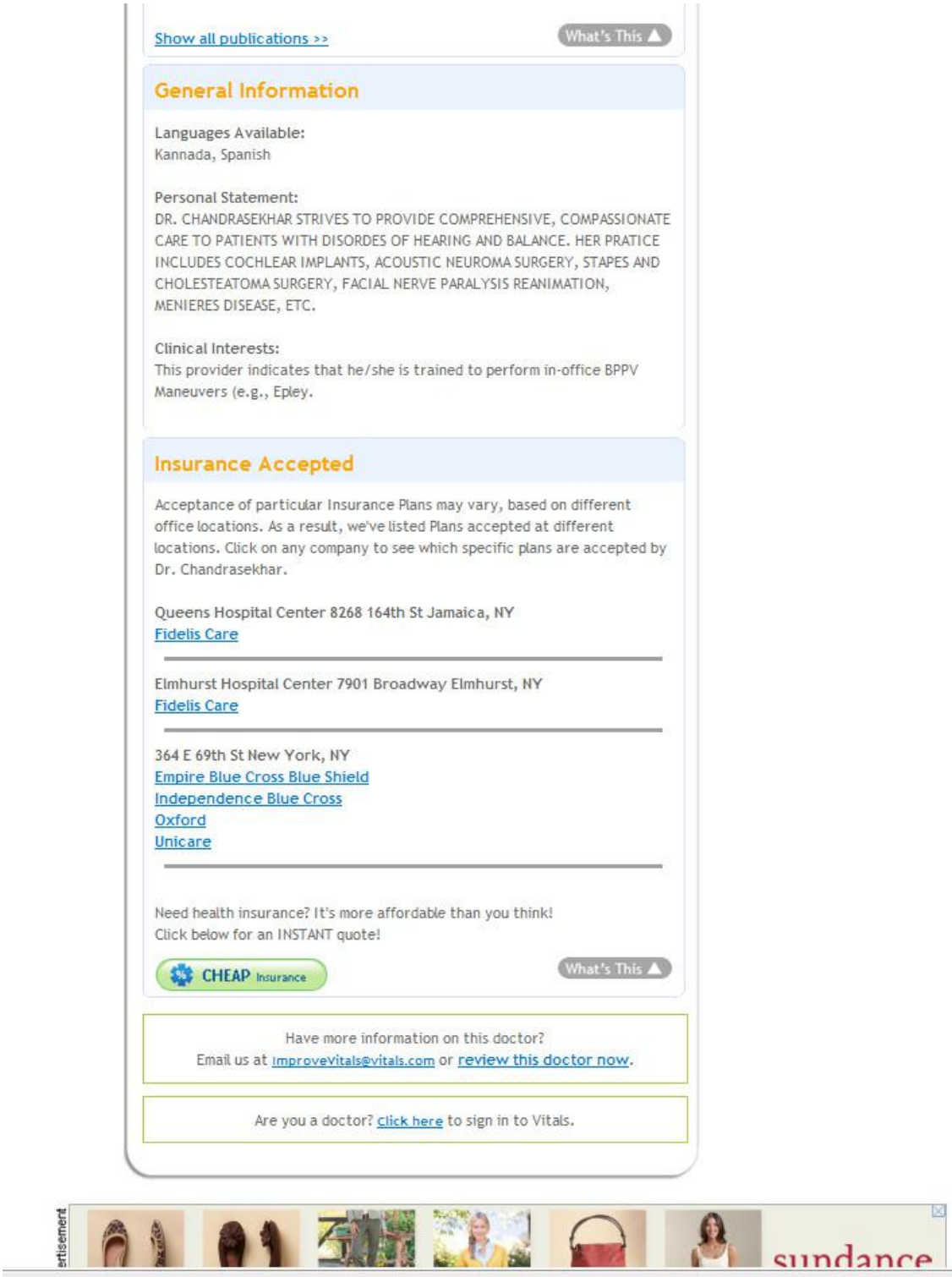
Show all publications >>

What's This

General Information

Screenshot 14

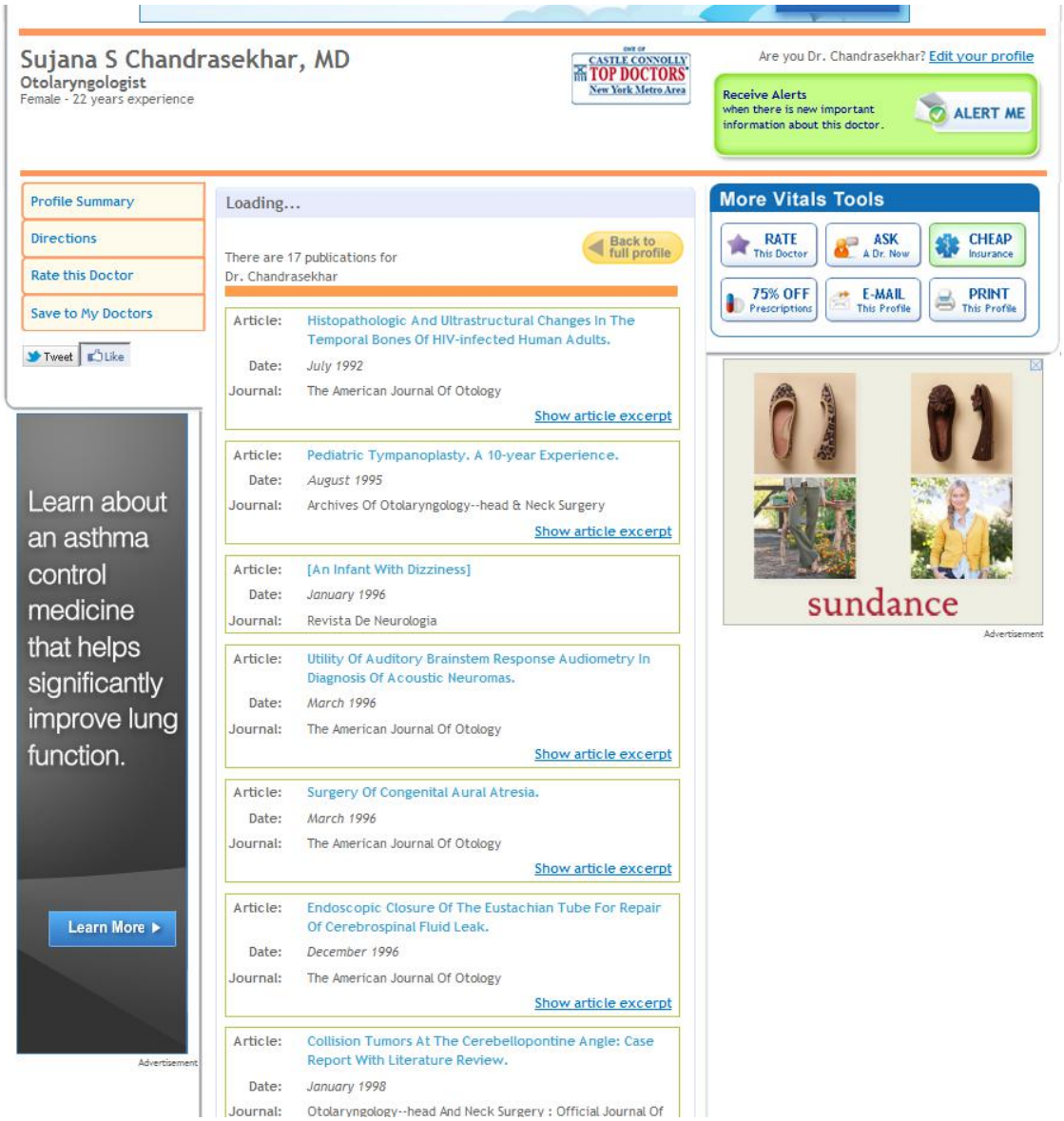
EXHIBIT 1



Screenshot 15

EXHIBIT 1

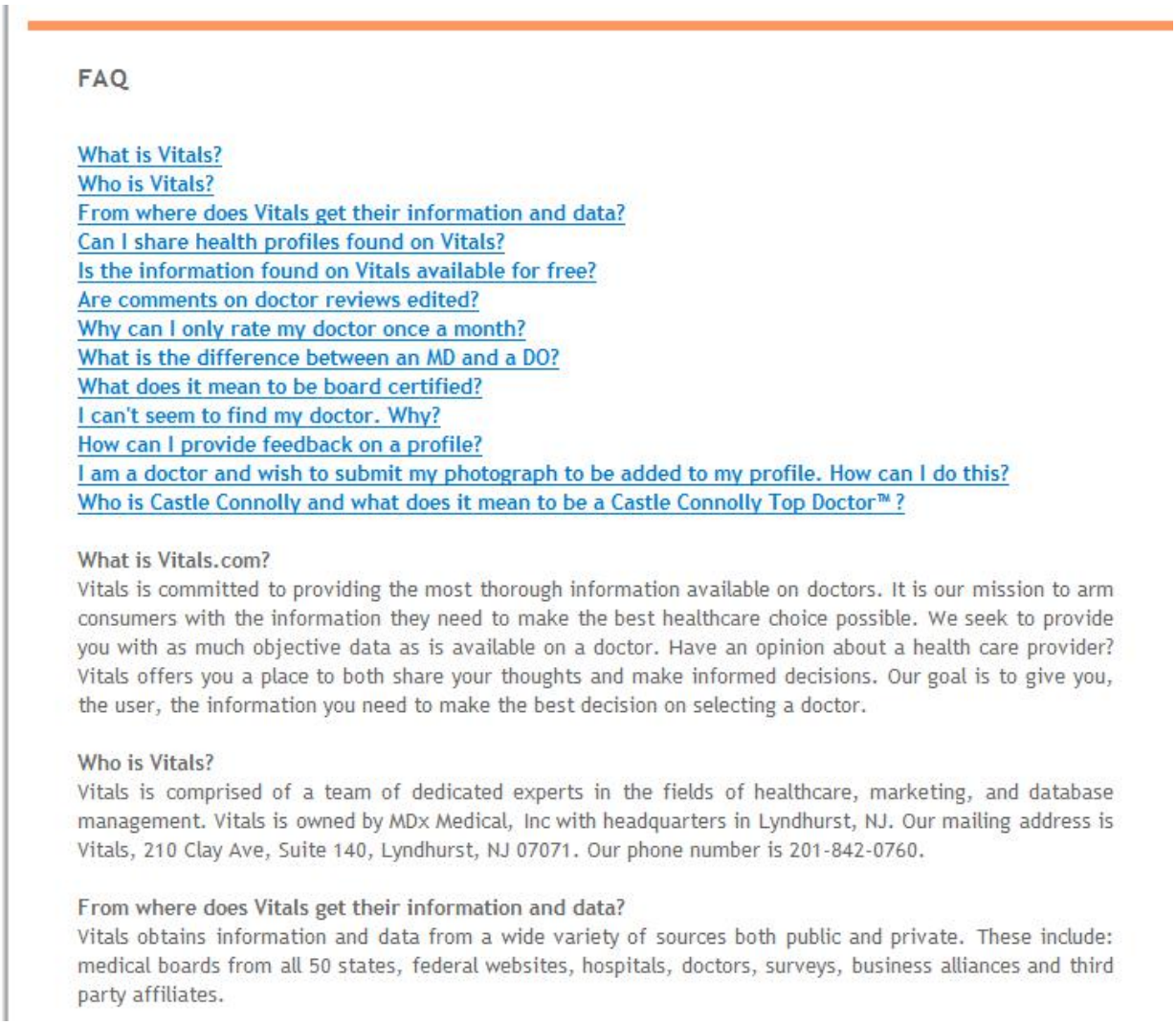
25. Additional pages may be viewed by clicking links within this page. For example, by clicking the "show all publications" link, the following page was displayed:



Screenshot 16

EXHIBIT 1

26. A portion of www.vitals.com's frequently asked questions page provides:



FAQ

What is Vitals?
Who is Vitals?
From where does Vitals get their information and data?
Can I share health profiles found on Vitals?
Is the information found on Vitals available for free?
Are comments on doctor reviews edited?
Why can I only rate my doctor once a month?
What is the difference between an MD and a DO?
What does it mean to be board certified?
I can't seem to find my doctor. Why?
How can I provide feedback on a profile?
I am a doctor and wish to submit my photograph to be added to my profile. How can I do this?
Who is Castle Connolly and what does it mean to be a Castle Connolly Top Doctor™?

What is Vitals.com?
Vitals is committed to providing the most thorough information available on doctors. It is our mission to arm consumers with the information they need to make the best healthcare choice possible. We seek to provide you with as much objective data as is available on a doctor. Have an opinion about a health care provider? Vitals offers you a place to both share your thoughts and make informed decisions. Our goal is to give you, the user, the information you need to make the best decision on selecting a doctor.

Who is Vitals?
Vitals is comprised of a team of dedicated experts in the fields of healthcare, marketing, and database management. Vitals is owned by MDx Medical, Inc with headquarters in Lyndhurst, NJ. Our mailing address is Vitals, 210 Clay Ave, Suite 140, Lyndhurst, NJ 07071. Our phone number is 201-842-0760.

From where does Vitals get their information and data?
Vitals obtains information and data from a wide variety of sources both public and private. These include: medical boards from all 50 states, federal websites, hospitals, doctors, surveys, business alliances and third party affiliates.

Screenshot 17

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27. The title of www.vitals.com is: "Doctor Reviews and Ratings | Compare and Find Doctors | Vitals" as shown in the screenshots below (highlighting added):



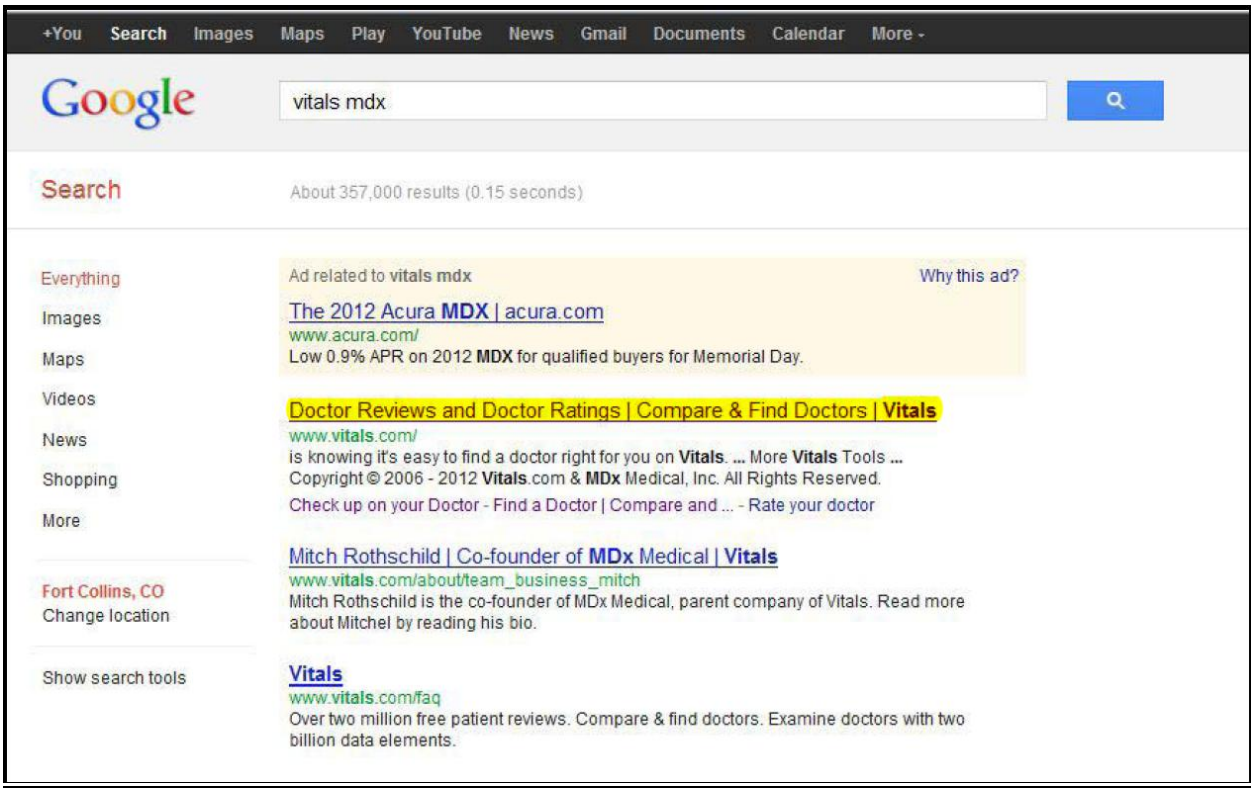
Screenshot 18

```
1  <!DOCTYPE html PUBLIC "-//W3C//DTD XHTML 1.0
    Transitional//EN" "http://www.w3.org/TR/xhtml1/DTD/xhtml1-
    transitional.dtd">
2  <!--[if lt IE 7]> <html class="no-js ie6 oldie" lang="en"> <![endif]-->
3  <!--[if IE 7]>    <html class="no-js ie7 oldie" lang="en"> <![endif]-->
4  <!--[if IE 8]>    <html class="no-js ie8 oldie" lang="en"> <![endif]-->
5  <!--[if gt IE 8]><!--> <html class="no-js" lang="en"> <!--<![endif]-->
6  <head>
7  <script src="//cdn.optimizely.com/js/10138630.js"></script>
8  <title>Doctor Reviews and Doctor Ratings | Compare & Find Doctors |
    Vitals</title>
9
10 <script src="http://204.69.244.56/vitals/pl.info.php?
    site_id=1&page_type_id=&page_id=&provider_id=" async="true"></script>
11 <script type="text/javascript">var _sf_startpt=(new Date()).getTime
    ();</script>
12 <meta property="og:image"
    content="http://www.vitals.com/res/img/Vitals_Logo_FB.png"/><meta http-
    equiv="Content-Type" content="text/html; charset=utf-8">
13 <meta name="description" content="Find a doctor and book an appointment
    online. FREE access to two million doctor reviews and ratings. Find
```

Screenshot 19

("Source" View of top portion of www.vitals.com)

EXHIBIT 1



Screenshot 20

EXHIBIT 1

EXHIBIT 1