EXHIBIT B

In The Matter Of:

Health Grades, Inc.
vs.
MDX Medical, Inc.

Richard G. Cooper, D. Sc.

October 9, 2012

HIGHLY CONFIDENTIAL
Attorneys' Eyes Only

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IN THE UNITED STATES DISTRICT Court
FOR THE DISTRICT OF COLORADO

HEALTH GRADES, INC.,	)	
	)	
Plaintiff,	)	Civil Action
	)	No. 11-cv-00520-PAB-BNB
vs.	)	
	)	
MDx MEDICAL, INC. d/b/a,	)	
VITALS.COM,	)	
	)	
Defendant.	)	
	)	

THIS DEPOSITION IS HIGHLY CONFIDENTIAL
ATTORNEYS' EYES ONLY

DEPOSITION OF:
RICHARD G. COOPER, D.Sc.
TUESDAY, OCTOBER 9, 2012
10:00 A.M.

REPORTED BY:
KAREN I. PEARSON-BELL
CSR NO. 3557, RPR

Videotaped deposition of RICHARD G. COOPER, D.Sc., taken on behalf of the Plaintiff, at the Hampton Inn in Hemet, 3700 West Florida Avenue, Ramona Meeting Room, Hemet, California, commencing at 10:00 a.m., on Tuesday, October 9, 2012, before Karen I. Pearson-Bell, RPR, CSR No. 3557.

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ALSO PRESENT:

KENNETH McNEAL – VIDEOGRAPHER

I N D E X

EXAMINATION	PAGE
By Mr. Vazquez	9
(P.M. Session)	97
By Mr. Stimpson	337
By Mr. Vazquez	341

E X H I B I T S

DEPOSITION	DESCRIPTION	PAGE
Exhibit 1	Rebuttal Report of Richard G. Cooper, D.Sc. (7 pages)	9
Exhibit 2	United States Patent, Patent No. US 7,752,060 B2 (18 pages)	12
Exhibit 3	Order Regarding Claim Construction (12 pages)	14
Exhibit 4	Defendant MDx Medical's Second Supplemental Objections and Responses to Plaintiff's First Set of Interrogatories (6 pages)	19
Exhibit 5	Declaration of Richard G. Cooper, D.Sc. (29 pages)	24
Exhibit 6	Deposition of Lawrence West taken June 26, 2012 (37 pages)	137
Exhibit 7	Deposition of Erika Boyer taken June 5, 2012 (28 pages)	177

E X H I B I T S

DEPOSITION	DESCRIPTION	PAGE
Exhibit 8	Three different copies of screen shots from the Vitals website (14 pages)	183
Exhibit 9	Document headed "Appendix C" (101 pages)	192
Exhibit 10	Document headed "Exhibit B - Claim Chart" (32 pages)	212
Exhibit 11	Declaration of Ms. Stoll-DeBell in Support of Health Grades' Response to MDx's Second Motion for Partial Summary Judgment of Noninfringement (17 pages)	230
Exhibit 12	Deposition of John Neal taken June 13, 2012 (64 pages)	239
Exhibit 13	U.S. Patent document headed "Issue Notification" (117 pages)	255
Exhibit 14	Expert Report of Philip Greenspun (27 pages)	259
Exhibit 15	United States Patent Publication, October 16, 2003 (21 pages)	260

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I N D E X

INFORMATION REQUESTED:
(None)

UNANSWERED QUESTIONS:
(None)

START VIDEOTAPE #1: Page 7
START VIDEOTAPE #2: Page 97
START VIDEOTAPE #3: Page 198
START VIDEOTAPE #4: Page 270

HEMET, CALIFORNIA; TUESDAY, OCTOBER 9, 2012; 10:00 A.M.

THE VIDEOGRAPHER: Here begins Volume No. 1, Videotape No. 1, of the deposition of Richard Cooper in the matter of Health Grades versus MDx Medical in the U.S. District Court, District of Colorado. Case number is 11-cv-00520-PAB-BNB.

Today's date is October 9th, 2012. The time on the video monitor is 10:00 am. The video operator today is Kenneth McNeal, Notary Public, contracted by Merrill Legal Solutions at 20750 Ventura Boulevard, Suite 205, in Woodland Hills, California.

This deposition is taking place at the Hampton Inn at 3700 West Florida Avenue in Hemet, California, and was noticed by Jesus Vazquez of Rothgerber Johnson.

Counsel, please identify yourselves and state whom you represent. Go ahead.

MR. VAZQUEZ: Jesus Vazquez, from Rothgerber Johnson & Lyons, representing the plaintiff, Health Grades.

To my left is Kirsten Stoll-DeBell with the

firm Merchant & Gould, also representing the plaintiff, Health Grades.

MR. STIMPSON: Scott Stimson, Sills Cummis & Gross, representing the witness and MDx.

THE WITNESS: Richard Cooper. I am the witness.

MR. STIMPSON: Just -- Oh, we got that.

THE VIDEOGRAPHER: The court reporter today is Karen Pearson-Bell of Merrill.

Would the court reporter please swear in the witness.

RICHARD G. COOPER, D.Sc.,
deponent, was sworn and examined
and testified as follows:

DEPOSITION OFFICER: Do you solemnly swear that the testimony that you are about to give in this deposition shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. COOPER: I do.

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EXAMINATION

BY MR. VAZQUEZ:

Q. Good morning, Dr. Cooper. As you know, my name is Jesus Vazquez, and I am taking your deposition today.

I would like to mark the first exhibit, please, Cooper 1.

(Deposition Exhibit 1 was marked for identification by the Reporter and is annexed hereto.)

(Discussion off the record.)

BY MR. VAZQUEZ:

Q. Dr. Cooper, before you review Exhibit 1, just let me ask you a few questions.

You have had your deposition taken before; correct?

A. Yes, I have.

Q. About how many times?

A. Oh, dozens. Maybe 30, 40, 50.

Q. Okay. And so you know the basic rules. The court reporter will do her best to transcribe both my questions and your responses --

A. Yes.

Q. -- so it's important that I talk slowly and

38

been put in by anybody.
Now, if you are really assuming it is a -- the male -- Is it a male changing to female? Because we have changed the story a couple times. I am not really sure --
Q. Okay. Let's start --
A. Could you start with a new question, please?
Q. Let's start again.
A. Okay.
Q. This is the same question. I don't think it's really that complicated.
A. Okay.
Q. We have a female.
A. Yes.
Q. She wants to change the gender field on the Vitals database --
A. Yes.
Q. -- to note that it is -- a she is a female, because it says male.
A. Okay.
Q. She communicates that change to that field.
A. Yes.
Q. In this -- In that case, has she verified her gender?

39

MR. STIMPSON: Objection. This question has been asked and answered now.
THE WITNESS: I wouldn't use the word "verified." I don't think that's a proper use of the term.
She had edited. But "verified" implies that there is an observer not participating in the process who gives true or false to a particular answer. So I don't think the person providing the information can also be called the person who verified the information. That's a matter of the English word "verified" and what it means.
She edited it, I will agree, but she didn't verify in the sense I would use that word.
BY MR. VAZQUEZ:
Q. What else would she need to do to verify the information, then?
A. She wouldn't be able to verify it. It would take a third party, another -- let's say a record from a medical school, something other than the physician to do -- to use the word "verify."
She did, according to your supposition, edit, but she did not, according to my understanding of the word "verify," verify.
Q. So your testimony, then, Dr. Cooper, is

40

that a male physician cannot verify his own gender; is that correct?
A. I would say it's broader than that. A physician cannot verify his own information.
Q. I'm talking about gender.
A. Whether it's gender or licensure or any of those things. He can edit them, yes, but he can't verify them by nature of the word "verify."
Q. So it is your testimony that a male physician cannot verify his own gender?
A. Correct.
Q. Okay. Do you agree that, in this case, the physician has at least confirmed the accuracy of her gender?
MR. STIMPSON: Objection to the form.
THE WITNESS: I think it's the same question in a sense. The physician can change anything that's -- that's -- the site allows the physician to change, but that does not imply verification.
BY MR. VAZQUEZ:
Q. Okay. Could you take a look at Exhibit 3, which is the Markman order.
A. Exhibit 3. Okay.
Q. And Page 15 of the Markman order, please.

41

A. Okay.
Q. And do you see -- well, if you turn -- Did I say Page 14, sir?
A. You said 15.
Q. I'm sorry. If you could go to Page 14, it's right at the bottom of 14, the sentence that begins, "The Court agrees." Do you see that?
A. Yes, I do.
Q. Could you please read that into the record.
A. "The Court agrees with plaintiff that there is no need to construe the word verified and, to the extent it were to be construed, the plain and ordinary meaning could [sic] apply...(when the claim language 'involves little more than the application of the widely accepted meaning of commonly understood words,' construction is relatively straightforward and 'the ordinary meaning...may be readily apparent even to lay judges')."
Q. Okay. And then there was a footnote there, Footnote No. 8.
A. Yes.

42

Q. And could you -- Do you see the footnote at the bottom, sir?
A. I do, yes.
Q. And do you see, about halfway through it, there is a parenthetical that ends with "Phillips," and then there is a sentence that begins with the word "Here"?
A. Yes.
Q. Would you please read that into the record.
A. The sentence starting with "Here"?
Q. Yes, sir.
A. "Here, the specification makes clear that the act of 'verifying'" -- and that's in quotes -- "requires only that the website receive confirmation of the information from some other source, in this instance the healthcare provider."
Q. And can you keep going, please.
A. Continue?
"Indeed, the confirmation described appears to not extend beyond receipt of such information from the first healthcare

43

provider."
Shall I continue?
Q. No, sir. So having now seen what the Markman order states with respect to verifying --
A. Yes.
Q. -- verified, once the physician sends the information confirming or saying that she is, in fact, a female and would like that information changed or corrected --
A. Yes.
Q. -- is that verified?
MR. STIMPSON: Objection to the form. Asked and answered.
THE WITNESS: I disagree with the Markman construction of verified, or lack of construction, because it has very specific meaning in computer science. It's not just to edit; it's to confirm, to relate to ground truth rather than to assertions.
BY MR. VAZQUEZ:
Q. Okay. And then, do you agree that, in this case, the physician has at least confirmed the accuracy of her gender?
MR. STIMPSON: Objection. Form --
THE WITNESS: No. I regard that word

44

similar to "verify." "Confirm" means to establish ground truth, not to simply provide information.
BY MR. VAZQUEZ:
Q. Do you agree that, in this case, the physician has confirmed the accuracy of the fields that she did not change?
MR. STIMPSON: Objection to form.
THE WITNESS: Same responses as the previous time.
BY MR. VAZQUEZ:
Q. And so why not? It is a different question.
A. It's a different question, but you are still using the word "confirm." And I don't believe the word "confirm" is appropriate, I think for the same reason that "verify" is not appropriate.
The physician can edit the information according to your supposition, but I don't see that as providing ground truth. That would come from, as it said above, another party.
Q. I'm sorry. What did you -- What did you just reference when you said "another party," just to be clear on the record? The Markman order? I thought you disagreed with the Markman order, which

45

is --
A. I disagree with the word "verify" --
Q. Okay.
A. -- as interpreted without the context of the computer science use of that term.
Q. Okay.
A. "Confirm" is equivalent to that.
Q. Okay. Do you agree that, in this instance that we are discussing, the physician wanting to edit her gender, that the Vitals website would have received gender information from the physician?
A. In the supposition that you are making, that the supposition sends that information? Then I would assume, in that supposition, that the server receives that information in some form.
Q. What would happen if the physician does not change anything? Would the messages -- Would any messages be sent back to her?
A. To her.
MR. STIMPSON: To her?
BY MR. VAZQUEZ:
Q. Yes. Here we are talking about a female physician who wants to change -- make sure that her gender is noted as female.
A. Okay.

46

Q. So if the physician does not change anything, would there be any messages that are sent back to the server?
A. Again, that's a matter of the implementation. My -- It's purely a guess, but I would guess that there is no information sent back to the server if there is no change.
But, you know, the question is very, very unformed, I think is the right description.
Q. Okay. Does the system record that the physician has registered with Vitals, the Vitals website?
A. I don't know. I haven't looked at the source code of the Vitals website.
Q. Do you know if the Vitals website system records whether the physician has changed or not changed certain fields?
A. I don't know. I haven't looked at the software or the database or even the HTML presentation.
Q. I am going to list some fields, Dr. Cooper, and I would like you to tell me whether the Vitals website has actually ever received an edit or edits to that field of the MDx physician database.
A. Okay.

47

Q. Specialty information?
A. I don't know.
Q. Gender?
A. I don't know.
Q. Awards and honors?
A. I don't know.
Q. Professional appointments?
A. Again, I don't know.
Q. Professional membership?
A. I don't know.
Q. And languages?
A. I don't have personal knowledge of that, either.
Q. So when you say "I don't know," that means maybe the website has received it, maybe it hasn't; you don't know?
A. I simply don't know.
Q. Okay.
A. That's all the answer that I can realistically provide.
Q. Given your disagreement with the Court's Markman order with respect to "verified," you did not use the Court's interpretation of "verified" in your opinion. Is that correct?
A. I think the Court's interpretation of that

48

particular -- or lack of interpretation of that word, actually. It wasn't construed in the Markman order, as I recall. The lay term -- lay meaning of the term instead was substituted.
And I'm saying that within the field of computer science, where the accuracy and truth of data has a special meaning, that the word "verify" or its equivalent synonym, such as "confirm," mean that there is some other party besides the provider of the information that verifies that.
Q. So did you use the Court's interpretation of "verified" in your opinion --
MR. STIMPSON: Objection --
BY MR. VAZQUEZ:
Q. -- or opinions?
MR. STIMPSON: Objection. That's been asked and answered just now.
THE WITNESS: I would say I have already answered that.
BY MR. VAZQUEZ:
Q. I'm sorry, sir. You can you just answer it again, then? I don't believe that you did -- I -- my question is -- We have already established that you disagree with the Court's interpretation with respect to "verify." Correct?

49

MR. STIMPSON: Objection. That misstates his testimony.
THE WITNESS: Yeah. I -- I don't think I said it that way. I said the Court chose not to construe in the Markman order the word "verify," and I believe that the Court should have construed that.
I think, within the meaning of the context of that patent, which is -- deals with computer science, the word "verify" has a more formal meaning that relates to establishing the ground truth of a fact or a piece of data or a statement.
BY MR. VAZQUEZ:
Q. But, Dr. Cooper, the Court said that the doctor providing information is good enough, did it not?
MR. STIMPSON: Objection. Form.
THE WITNESS: In your scenario, the doctor provided information.
BY MR. VAZQUEZ:
Q. And the Court said that was good enough, did it not?
MR. STIMPSON: Objection to the form.
THE WITNESS: I believe that the Court said that. But I wouldn't agree with that, no.

50

BY MR. VAZQUEZ:
Q. So you disagree with the Court in that instance?
A. I disagree with that particular lack of construal of that word.
Q. So, Dr. Cooper, do you intend to give testimony that conflicts with the Court's Markman order?
MR. STIMPSON: What? Excuse me. Can I have that back?
(The pending question was read.)
THE WITNESS: In the case of the word "verify," I intend to explain to the Court that the word has a deeper meaning in computer science than it does in lay terms, in the vernacular.
BY MR. VAZQUEZ:
Q. So you do intend to give testimony that conflicts with the Court's Markman order; correct?
A. The same response.
MR. STIMPSON: Objection to form.
BY MR. VAZQUEZ:
Q. Dr. Cooper, who knows a person's gender better than the person himself or herself?
A. I couldn't imagine anyone who would know it better than the person themselves, yes.

51

Q. Thanks.
Dr. Cooper, I believe that, in your report, you give two reasons why you believe that Vitals does not literally infringe the healthcare provider-verified information limitation. Correct?
A. Where in my report do I say that?
Q. I believe, Paragraph 13 and Paragraph 15.
A. Paragraph 13 deals with my background.
Q. Are you looking at your rebuttal report?
A. I am looking at the original report.
Q. I'm sorry. I should have been clear.
A. You are thinking of the rebuttal report?
Q. Yes, sir.
A. And which --
Q. Paragraph 13 and 15.
A. Which exhibit was that? That was -- Number 1, I think?
Q. Number 1, I believe.
A. Okay. Could you ask the question again, please?
Q. In your report, you give two reasons why you believe that Vitals does not literally infringe the healthcare provider-verified information limitation. Correct?
A. Well, I said:

52

"There is no evidence that Vitals.com healthcare providers verify (in any of the above three senses) the database entries describing the first healthcare provider."
Q. Well, my question is whether -- You give two reasons, and then we will discuss the reasons. Are there two reasons that you give why you believe that Vitals does not literally infringe the healthcare provider-verified information limitation?
A. That depends. I'm not sure how you are counting two.
In Paragraph 13, I agreed with what I wrote then. I haven't changed my opinion since then, which is that I agree that Dr. Greenspun, in fact, who said that the meaning of "verify" is to prove, confirm, or substantiate an assertion. There is no evidence that Vitals.com healthcare providers verify in any of those senses the database entries describing the healthcare provider.
Q. Okay. That was a long answer. Did you mention somewhere in there that you have changed

53

your opinions?
A. No. I mentioned that I have not.
Q. You have not. Okay.
A. Have not changed my opinions.
Q. Thank you.
Well, in Paragraph 13, you first argue that the information provided by the physicians to Vitals or the Vitals website does not meet the definition of the term "verified." Right?
A. That's correct.
Q. And then, in Paragraph 15, your second argument is that whether Vitals is capable of receiving verified information from a physician is not relevant to infringement. Is that right?
A. Paragraph 15. Just a moment.
Okay. I'm sorry. Would you repeat the question?
Q. Sure. Your second argument is that whether the Vitals website is capable of receiving verified information from a physician is not relevant to infringement. Is that right?
A. That's correct. Capability is not actuality.
Q. Okay. And with respect to the first argument at Paragraph 13, if the Court stands by

122

Q. Well, sir, you just read this language into the record. It doesn't say it's from physicians. Maybe I will read it into the record. Quote:
"The following information is obtained from one or more third-party sources" --
A. Where are you reading?
Q. Page 6. Third paragraph after Heading E. Quote:
"The following information is obtained from one or more third-party sources: board certification, licensure, disciplinary action information, medical school, medical internship, medical residency and medical fellowship information," close quote.
A. Yes. That's --
Q. I read that accurately; right?
A. Yes, you did. And that is correct.
Q. Okay.
A. As stated here in the interrogatories.
Q. All right. So the Vitals website compiles information about licensure from third parties;

123

correct?
A. What do you mean by "compile"?
Q. Well, you are the computer expert, sir. What is the common meaning of the word "compile"?
A. To compile a source code, not data. Compiling is something that's done to a program to make it run on a machine. It's not --
Q. Right.
A. -- a term that's used in databases.
Q. And so we started this question or this line of questions by looking at the patent --
A. Yes.
Q. -- and Claim 1, Column 20, beginning at Line 50.
A. Uh-huh.
Q. Do you see where it says, "Compiling information"?
A. I do. That's the claim.
Q. Okay. And are you -- Does that not help you understand what "compiling" means in that claim language?
A. No, it doesn't. I think that's indeterminate, because the word "compiling" -- Hasn't that been construed in the Court's --
Q. Sure was. You read my mind. How about

124

turning to Exhibit 3?
A. 3. All right.
Q. And at the very last term on Page 24, the back page -- Just flip that over, sir. You'll be right at it.
A. Oh, okay.
Q. And do you see there where Judge Brimmer construed "compiling" or "compiled" to mean, quote, "gathering and/or putting together," close quote?
A. I do.
Q. Okay. So now can we return to my question, which is: The Vitals website compiles information about licensure from third parties; correct?
A. I will agree that that's what the Court construal states, compiling information from third parties, that's correct.
Q. And the Vitals website compiles information about medical school from third parties; right?
A. I believe that's true, yes.
Q. And the Vitals website compiles information about residency from third parties; correct?
A. I would like to see that in my report.
Q. Or you can turn to the response to interrogatories, sir.
A. Okay.

125

Q. You just read that.
A. What page would that be?
Q. Page 6.
A. Okay. The party?
Q. Yes. The third paragraph.
A. And the thing was residency?
Q. Yes, sir.
A. Medical residency, yes, that is mentioned in there.
Q. So the Vitals website compiles information about medical residency from third parties; correct?
A. According to the Court's construction of "compile," yes.
Q. Yes. And the Vitals website compiles internship information from third parties; correct?
A. Medical internship is also listed, yes.
Q. And the Vitals website compiles information about fellowship from third parties; right?
A. Medical fellowship, yes, that's correct.
Q. And the Vitals website compiles information about Board certification from third parties; right?
A. That's correct.
Q. And the Vitals website compiles information

126

about disciplinary action from third parties; correct?
A. That's correct.
Q. Now, in your -- I believe it's your rebuttal report, at Paragraph 24.
A. My rebuttal report?
Q. Yes, sir. Which is Deposition Exhibit 1.
A. Okay. Where in that report?
Q. Paragraph 24.
A. 24. Okay. I'm there.
Q. And if you would please read that paragraph to yourself, and then I will ask you questions.
A. Okay.
Okay.
Q. In that paragraph, the reason why you believe that Vitals website does not literally infringe this third-party verified information limitation is what, sir?
A. Reading Paragraph 24:
"Dr. Greenspun's analysis relies on the fact that MDx obtains various items from third parties....Verification of the data, however, is not the same as receiving the data."

127

And finally, on 26, there is a disclaimer by the providers that they do not guarantee or stand by the data and that it may be completely inaccurate.
So I would not consider that verified.
Q. Okay. So this gets back to the construction of what "verified" means; correct?
A. Correct. Are we on the construction document again?
Q. No. I'm just asking you that question.
A. Correct.
Q. And so it's an issue of claim interpretation; correct?
A. I suppose you could say that. I think it's quite clear what "verified" means.
Q. Okay.
A. And I think the Court construction is in line with the way I think it should be. Verifying is stated as checking the accuracy of the claim.
May I take a moment and get a --
Q. Sure. Let's go off the record.
A. -- some water? If you want to. But I can go ahead and answer the questions while I'm getting a refill.
MR. STIMPSON: Here, I'll get it for you.

128

THE WITNESS: Oh, all right. Thanks.
MR. VAZQUEZ: You can bring that pitcher over here.
THE WITNESS: That's a good idea.
THE VIDEOGRAPHER: We are still on?
MR. VAZQUEZ: Yes, still on.
MR. STIMPSON: There you go.
THE WITNESS: Thank you.
MR. VAZQUEZ: So could you please read that last answer back about -- just what his response was.
(The answer was read as follows:
"A. And I think the Court construction is in line with the way I think it should be. Verifying is stated as checking the accuracy of the claim.")
BY MR. VAZQUEZ:
Q. Dr. Cooper, do you agree that the term "verified" should be given the same meaning when used in the phrase "healthcare provider verified" as when used in the term "third-party verified information"?
A. You are quoting out of context. But the healthcare provider-verified information is not

129

verified in line with the construal by the Court if the healthcare provider was also the originator. The originator of the information can't verify his own information. That's a basic tenet.
Q. So that is your expert testimony, that the originator of the information cannot verify --
A. That's correct.
Q. -- their own information that they have provided?
A. That's correct.
Q. So, for example, a physician verifying that he is a male, under your -- your opinion is that that person cannot verify that?
A. Well, you're welcome to verify it, but he can't if he originated it.
Now, if the information came from elsewhere, then possibly he could.
Q. Okay. Do you agree that the term "verified," in the phrase "third-party verified," required only that MDx receive confirmation from a third party?
A. I'm sorry. Can you go through that again? I didn't -- Where your information is coming from, where is that question --
Q. Sometimes I'm just asking a question.

146

what will ultimately be put into a report."
A. I see that.
Q. And then, after citing, in a parenthetical that states:
"('The particular embodiments described herein are not intended to limit the types of information which may be provided and/or verified.')."
The quote went on and states:
"For instance, a patient or healthcare provider might provide information to the website that is not deemed relevant or important upon reaching the step of creating a report."
A. I see that.
Q. Okay. So having now looked at the Court's order, I'll go back to the question, which was: Didn't the Court hold that this element, the creating-by element that we were looking at --
A. Okay.
Q. -- does not require that all of the physician-verified information be used to create

147

the report?
A. That's correct. It does not require that all the information be -- It doesn't specifically call that out.
Q. Okay. Now, did you state just a bit ago, in response to one of my questions, that the report must be displayed?
A. Can you read back my response on that, please.
Q. Well, let me just ask you new.
A. Okay.
Q. Are you stating that the report must be displayed?
A. I am saying, one way or another, the report has to be presented. And whether it's displayed, printed, e-mailed, whatever, is -- is a matter of presentation style.
Q. Okay. But that does not necessarily mean that the things used to create the report need to be displayed, does it?
MR. STIMPSON: Objection to the form.
THE WITNESS: I believe the Court's construction says that not all of it need be displayed, yes.

148

BY MR. VAZQUEZ:
Q. Exactly. So you agree, then, Dr. Cooper, that this claim element does not require the display of patient-provided information?
MR. STIMPSON: Objection to form. Asked and answered.
THE WITNESS: Yeah, same answer.
BY MR. VAZQUEZ:
Q. Which is it does not?
MR. STIMPSON: Objection to the form. It's asked and answered.
THE WITNESS: (No response.)
BY MR. VAZQUEZ:
Q. Even though your counsel objects, you still have to answer the question.
A. Well, I agree with Counsel. It was asked and answered. And if you would read back the answer, please, then --
MR. VAZQUEZ: Go ahead.
THE REPORTER: What am I reading?
MR. STIMPSON: I think it's around where he was referring to -- where you referred to --
MR. VAZQUEZ: We just --
MR. STIMPSON: Paragraph 37, I think, of his report is where he was referring to.

149

THE REPORTER: So you want me to search for Paragraph 37?
MR. STIMPSON: I think that's where he said it, yeah.
(The answer was read as follows:
"Q. You agree that the Court held that this element does not require that all the physician-verified information be used to create the report; right?"
"A. No. Could you show me where that's in the Court's order?")
MR. STIMPSON: I'm sorry. It must have been before that. I think it was before that then.
THE REPORTER: I don't know what I am looking for.
MR. STIMPSON: Okay. Sorry.
MR. VAZQUEZ: Can we agree that I can ask the question and you will answer it?
MR. STIMPSON: A second time, you mean?
MR. VAZQUEZ: Yeah. Because you could easily find it.
MR. STIMPSON: Okay. Well -- Oh, I can. Hold on. We will find it.

230

not the website in front of me.
MR. VAZQUEZ: Just pulling another exhibit here.
Please mark this as our next deposition exhibit, please. I think it's 11.
(Deposition Exhibit 11 was marked for identification by the Reporter and is annexed hereto.)
THE WITNESS: Are we staying on 23?
BY MR. VAZQUEZ:
Q. No. I am going give you a new exhibit.
A. Ah. Thank you.
Q. This is not the best copy. I apologize. I am looking at Page 24 of 32 of what we have just marked as Exhibit 11.
MR. STIMPSON: Can you wait until I get my copy, please? I want to catch up.
MR. VAZQUEZ: Sure.
MR. STIMPSON: Thank you. This is 11? Now, which page are you looking at, Jesus?
MR. VAZQUEZ: 24 of 32.
Q. And, Dr. Cooper, is this a report on Dr. Sujana S. Chandrasekhar?
A. It appears to be, yes.
MR. STIMPSON: I'm sorry. I can't seem

231

to -- Oh, I see. Okay. I'm with you. Okay.
BY MR. VAZQUEZ:
Q. And do you agree that a potential patient could click here on Dr. Chandrasekhar's name and --
A. Go ahead.
Q. -- and access a full report on the first healthcare provider?
A. All I am looking at is paper. I'm not sure that he could click on it. But if that's your assertion, I will go along with it, since I don't have evidence to the contrary.
Q. So assuming this is -- actually, the patient is looking at this on a screen, which is what we are assuming --
A. Okay.
Q. -- your answer is yes?
A. Yes.
Q. Okay. And is this an example of a healthcare provider report on the first healthcare provider?
A. I don't have evidence one way or the other on that. If you want to assert that, then I will accept that.
Q. Well, I think you agreed it was a report. Right?

232

A. It's an HTML display, which could be construed as a report under the right circumstances, but I don't know that it's construed as a report under Claims 1 or 15.
Q. Is it a report on this particular doctor, Dr. Chandrasekhar?
A. It mentions Dr. Sujana S. Chandrasekhar, M.D., but you haven't established that it's a report on the -- within the meaning of the claims. It is an HTML page, it looks like, that's been printed. It says at the bottom Screenshot 12.
Q. Yup. And is it a report on a particular doctor about whom information was requested?
A. I have no way of knowing that. In Paragraph 24:
"I" -- whoever "I" is --
"captured the entire page in four screenshots shown below:"
If that's correct, then the four screen shots would be 12, 13, 14, and 15.
Q. What are you referring to when you say "24 I"?
A. In Paragraph 24 --
Q. Oh, the word "I"?
A. "I" is used, yes, whoever "I" is.

233

Q. Okay. What happens, Dr. Cooper, when you click on a doctor's name in a results list on the Vitals website?
A. I don't know. I haven't clicked on that name. I have found that I can't get a report that meets the construction of the claim. That's all I know.
Q. Did you say you found that you can't, cannot get a report?
A. I cannot find a report that meets the construction of the claim.
Q. Okay. So I asked you what happens when you click on a doctor's name on a results list.
A. And I said I don't know, but I will accept your assertion that it brings up a report.
Q. Okay. But -- So have you done it yourself?
A. I have not looked at it that way, no. I looked at the report first, the results list second.
Q. Have you, yourself, clicked on a doctor's name in the report on the Vitals website?
A. In a report?
Q. Uh-huh.
A. This is -- I have not clicked on a

234

doctor's name in a report, no.
Q. Have you -- So as part of just preparing for rendering your opinions or working on the case, Dr. Cooper, have you been on the Vitals website?
A. Yes, I have.
Q. How much time have you spent on the Vitals website?
A. Oh, I have no idea.
Q. Well, more than an hour?
A. Probably more than an hour, probably less than two.
Q. Okay. Thanks.
And so whether it's on a report within the meaning of the claims or a results list, have you had a chance to simply click on a doctor's name when it comes up on the Vitals website?
A. I don't recall clicking on the name itself. I have clicked on pages. I don't recall the name being one of those. Whether the name is a sensitive link or just text isn't clear from this material.
Q. Have you run a sample search query --
A. Yes.
Q. -- in the time you spent on the Vitals website?

235

A. Yes, I have.
Q. And do you recall what query that was or what queries they were?
A. I ran a number of queries to see what the various attributes of the claim elements were practiced.
Q. So, for example, did you just run a search for a type of doctor?
A. Only a type of doctor?
Q. Yes.
A. I believe I did not. I searched for a type of doctor within a location of my -- my home within Hemet.
Q. Okay. Good. And so you received information in response to the query you submitted; correct?
A. That's correct.
Q. And did the information include doctors' names?
A. Yes, it did.
Q. And so did you click on any of those doctors' names?
A. Same answer as before. I don't recall clicking on the name, no.
Q. Okay. So, Dr. Cooper, you don't recall

236

clicking on a name. Do you recall getting to a report on a doctor?
A. Yes. I did.
Q. Okay. And what was the information that you recall you accessed when you did that?
A. I don't recall that. I was on -- Information that may or may not have been equivalent to this.
Q. Well, then, how did you -- Do you recall how you got that report?
A. I recall I searched. I don't recall the details. Do you have access to the website now? Maybe we could clarify that.
Q. No. As you can see, we've got a pretty slow connection here.
A. Yes.
Q. Otherwise I would indulge you in that.
A. Okay.
Q. I'm just trying to see whatever you remember about the search queries you said you ran.
A. Yes.
Q. Obviously, you ran for, as you said, a type of doctor near Hemet?
A. Yes.
Q. You received some information. You say you

237

remember getting to a doctor report?
A. I was getting to a doctor report, but whether that's within the meaning of the claims, my contention is no, it's not, because it didn't practice all the elements.
And that's what I spent my time looking for, whether the elements were practiced.
MR. VAZQUEZ: All right. I'll just move to strike that response. It's nonresponsive.
Q. Let's just move on, Dr. Cooper. Okay, Dr. Cooper, let's -- How was it that you pronounced the doctor's last name on Page 24 of 32 of Exhibit 11?
A. I pronounced it Sujana. I'm not sure if that's right. Chandrasekhar, which I believe is a reasonable approximation.
Q. Okay.
A. Probably not right --
MR. STIMPSON: Couldn't you pick Dr. Smith or something?
THE WITNESS: Smith, Jones.
MR. STIMPSON: Whose idea was this?
MS. STOLL-DeBELL: I have no idea.
BY MR. VAZQUEZ:
Q. Well, how about, just for simplicity, I