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.

HEALTH GRADES, INC.'S ERRATA SUBMISSION TO CORRECT MISTAKES IN DOCKET # 411 AND DOCKET # 411-3

Plaintiff and Counterclaim Defendant Health Grades, Inc. ("Health Grades") hereby files this errata submission to correct mistakes in its Opposition to MDx Medical, Inc.'s Motion to Exclude Expert Testimony of Mr. David Hall, filed November 27, 2012 ("Opposition") [Dkt. 411], and in Exhibit C to the Opposition [Dkt. 411-3].

Corrections to pages 12 and 16 of Docket # 411:

On page 12 of the Opposition the following bullet point paragraph appears:

- Hall Report Attachment 16 (graph of market share for the two companies that use, or for Hall's purpose are assumed to use, the '060 patent)

Attachment 16 is not an attachment to the Hall Report, it is Exhibit 79 to the Hall Deposition, and should have been referenced as such and included as a stand-alone exhibit to the Opposition. Thus, the bullet point paragraph should read:

- Ex. H, Attachment 16 (graph of market share for the two companies that use, or for Hall's purpose are assumed to use, the '060 patent) (Hall Depo. Exhibit 79)

On page 16 of the Opposition the following citations appear:

See Ex. A, Attachments 3, 3a and Attachment "3a -- Napper Market Share Data," and Hall Depo. 8:11-10:14 and 303:7-17, Ex. D. *See* also Hall Affidavit, Ex. C, ¶¶ 24-27.

Attachment "3a – Napper Market Share Data" is not an attachment to the Hall Report, it is Exhibit 76 to the Hall Deposition, and should have been referenced as such and included as a stand-alone exhibit to the Opposition. Thus, the citations should read:

See Ex. A, Attachments 3, 3a; Ex. D, Hall Depo. 8:11-10:14 and 303:7-17; Ex. I, Attachment "3a -- Napper Market Share Data" (Hall Depo. Exhibit 76). S*ee also* Hall Affidavit, Ex. C, ¶¶ 24-27.

Attached hereto are corrected versions of pages 12 and 16 of the Opposition that replace pages 12 and 16 of the Opposition as filed at Docket # 411, and the stand-alone Exhibits H and I referenced in the corrections.

Corrections to ¶ 24 and ¶ 25 of Exhibit C to the Opposition, Docket # 411-3

In paragraph 24 of Exhibit C to the Opposition the following citations appear:

See my deposition: 8:11-10:14 and 303:7-17 (Ex. D) and also see Ex. A, Attachment 3a, Attachment 3a--Napper Market Share, Attachments 4 and Attachment 4--Napper Market Share Data.

As discussed above in the correction to page 16 of the Opposition, Attachment 3a – Napper Market Share Data, is not an attachment to the Hall Report, it is Exhibit 76 to the Hall Deposition, and should have been referenced as such and included as a stand-alone exhibit to the Opposition. Similarly, Attachment 4--Napper Market Share Data, is not an attachment to the Hall Report, it is Exhibit 77 to the Hall Deposition, and should have been referenced as such and

included as a stand-alone exhibit to Exhibit C to the Opposition. Thus, the citations in paragraph 24 of Exhibit C to the Opposition should read:

See my deposition: 8:11-10:14 and 303:7-17 (Ex. D) and also see Ex. A, Attachments 3a, 4; Ex. I to Opposition, Attachment 3a--Napper Market Share (Hall Depo. Exhibit 76); Ex. J hereto, Attachment 4--Napper Market Share Data (Hall Depo. Exhibit 77).

In paragraph 25 of Exhibit C to the Opposition the following language appears:

The following table from Napper's report was the basis for my Attachment 3a--Napper Market Share, Attachment 4--Napper Market Share Data, and Attachment 16, Ex. A).

As discussed above, Attachment 3a--Napper Market Share, Attachment 4--Napper Market Share Data, and Attachment 16, are not attachments to the Hall Report, they are Exhibits to the Hall Deposition, and should have been referenced as such and included as stand-alone exhibits. Thus, the citations in paragraph 25 of Exhibit C to the Opposition should read:

The following table from Napper's report was the basis for my Attachment 3a--Napper Market Share, Ex. I to the Opposition (Hall Depo. Exhibit 76); Attachment 4--Napper Market Share Data, Ex. J hereto (Hall Depo. Exhibit 77), and; Attachment 16, Ex. H to the Opposition (Hall Depo. Exhibit 79).

Attached hereto are corrected versions of pages 7 and 8 of Exhibit C to the Opposition which contain the corrected paragraphs 24 and 25, which replace pages 7 and 8 of Exhibit C to the Opposition as filed at Docket # 411-3, and the stand-alone Exhibit J referenced in the corrections.

Respectfully submitted this 5th day of December, 2012.

ROTHGERBER JOHNSON & LYONS LLP

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CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2012, I electronically filed the foregoing **HEALTH GRADES, INC.'S ERRATA SUBMISSION TO CORRECT MISTAKES IN DOCKET # 411 AND DOCKET # 411-3** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

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