EXHIBIT I

In The Matter Of:

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

Mitchel Rothschild

June 7, 2012

ATTORNEYS' EYES ONLY

MERRILL CORPORATION
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09:21:18 1 Q And as you know, because of the
09:21:20 2 exchange that we just had, very distracting by
09:21:21 3 Mr. Stimpson, I am not sure what you said.
09:21:24 4 Would you mind repeating it?
09:21:30 5 MR. STIMPSON: Objection. It's beyond
09:21:35 6 the 30(b)(6) notice.
09:21:39 7 A HealthGrades' business was a
09:21:40 8 subscription model, vitals was an advertising
09:21:42 9 model.
09:21:44 10 Q At the time, did not HealthGrades
09:21:46 11 advertise?
09:21:48 12 MR. STIMPSON: Objection. Beyond the
09:21:57 13 scope of the 30(b)(6).
09:22:01 14 A I believe they did not have much, if
09:22:02 15 any, advertising on their profiles, but my -- my
09:22:04 16 memory may be faulty on that one.
09:22:04 17 Q What is the time frame here that you
09:22:05 18 are talking about?
09:22:07 19 MR. STIMPSON: Objection.
09:22:11 20 You have got to wait because I am
09:22:13 21 going to object to every question.
09:22:15 22 Objection. Beyond the 30(b)(6) scope.
23 A Early 2008.
09:22:16 24 Q In early 2008?
25 MR. STIMPSON: Same objection.

09:22:23 A Yes.
09:22:34 Q That is when you launched eVitals
09:22:39 website, correct, in early 2008?
09:22:42 A Correct.
09:22:49 Q When did you first learn of the '060
09:22:50 patent, Mr. Rothschild?
09:22:56 A In the fall of 2010.
09:23:00 Q And how was it that you first learned
09:23:05 about the '060 patent?
09:23:08 A I think someone from our office
09:23:10 tripped over it, said, "Hey, did you see this?"
09:23:23 Q Do you recall who that someone was?
09:23:24 A I think it was Larry West.
09:23:30 Q Okay.
09:23:30 MR. VAZQUEZ: Do you have the copies
09:24:02 from -- from Boyer's deposition?
09:24:04 MR. STIMPSON: No.
09:24:06 BY MR. VAZQUEZ:
09:24:10 Q Mr. Rothschild, I am handing you
09:24:14 what's being marked as Deposition Exhibit 2,
09:24:14 which was an exhibit at Miss Boyer's deposition,
and we are trying to find a copy for your
09:24:14 counsel.
09:24:15 (10/5/10 email marked Rothschild
Exhibit 2 for identification, as of this

date.)

BY MR. VAZQUEZ:

Q In the meantime, you could take a look at it.

MR. VAZQUEZ: Well, I don't need a copy. Can you guys share?

MR. STIMPSON: Yes, that's okay.

Q Mr. Rothschild, is that the email that you were referencing where somebody stumbled upon it and told you about the patent?

A This is the email that confirms my recollection, yes.

Q And are you sure that that's the first time that you heard about the '060 patent?

A I am pretty sure.

Q Okay. Here is -- Mr. Rothschild, I know you are doing the best you can to remember. What is the date of that email?

A It is October 5th, 2010.

Q And who is that email from?

A Larry West.

Q And to who is Mr. West's email directed to?

A To Erika Boyer and me.

Q So you recall receiving that, right?

09:26:20 A As I was reviewing information, I
09:26:38 recall seeing this particular email. I have the
09:26:39 recollection that we knew about it in the fall.
09:26:40 Q Okay.
09:26:40 MR. VAZQUEZ: And we will mark this as
09:26:40 Exhibit 3.
09:26:40 (7/28/10 email marked Rothschild
09:26:50 Exhibit 3 for identification, as of this
09:26:54 date.)
09:27:02 BY MR. VAZQUEZ:
09:27:02 Q And Deposition Exhibit 3 is an email
09:27:04 from Donald Hackett, to you and a Mr. Petrie,
09:27:05 correct?
09:27:12 A Yes.
09:27:13 Q And what is the date of that email?
09:27:14 A July 28.
09:27:16 Q And do you recall receiving this
09:27:18 email?
09:27:19 A I do not.
Q Do you know what this email relates
09:27:27 to?
09:27:35 A I do not.
09:27:36 Q When you received the email which was
09:27:40 Deposition Exhibit 2, which is right there in
front of you, what did you think when you first

09:27:46 1 got that email?
09:27:53 2 A That we needed to check it out along
09:28:22 3 with other patents and make sure that we were
09:28:26 4 not in violation.
09:28:33 5 Q Okay. Mr. Rothschild, I am handing
09:28:43 6 you what's been marked as Deposition Exhibit 4,
09:28:44 7 which also happens to be Deposition Exhibit 4
09:28:47 8 for Miss Boyer's deposition.
09:28:52 9 MR. STIMPSON: This is an original
09:28:53 10 exhibit sticker I have right here. Do you
09:28:58 11 want me to have this?
09:29:00 12 MS. STOLL-DeBELL: No, I don't want
09:29:02 13 you to have that.
09:29:04 14 MR. VAZQUEZ: This is not an original,
09:29:04 15 it is a color copy.
09:29:04 16 MS. STOLL-DeBELL: Sorry.
09:29:04 17 MR. VAZQUEZ: Okay.
09:29:04 18 (1/5/11 email marked Rothschild
19 Exhibit 4 for identification, as of this
09:29:05 20 date.)
09:29:14 21 BY MR. VAZQUEZ:
09:29:16 22 Q So you were just testifying,
09:29:20 23 Mr. Rothschild, about how, when you heard about
09:29:23 24 the patent, you wanted to make sure that you
25 were not in violation of it and your policies

09:29:27 1 would not violate the patent; is that correct?
09:29:30 2 A Yes.
09:29:34 3 Q Okay. And so looking at Deposition
09:29:42 4 Exhibit 4, what is this?
09:29:44 5 A This is an email to a couple of the
09:29:47 6 senior staff members regarding the patent in
09:29:51 7 question.
09:29:55 8 Q And what is the date of this email?
09:29:58 9 A January 5th, 2011.
09:30:01 10 Q And what was the date of the email
09:30:03 11 from Mr. West alerting you to the patent?
09:30:11 12 A October 5th, 2010.
09:30:14 13 Q And so in the interim, did you take
09:30:15 14 any action to make sure any of your policies did
09:30:18 15 not violate the '060 patent?
09:30:22 16 A Yes, we did.
09:30:27 17 Q So what were those actions?
18 A So we asked a law firm to do a review
09:30:31 19 of this and potentially other patents or patent
09:30:41 20 applications that might be of note to us, and I
09:30:49 21 think it comprised about a dozen different
09:30:55 22 potential patents for the ones that appeared to
09:31:01 23 be potentially relevant. We had them write a
09:31:07 24 short opinion on it, and then I, particular to
25 this patent from HealthGrades, engaged counsel

to help us understand whether we were in violation and what we needed to do going forward to avoid any questions.

Q And so when was it that you engaged counsel to look at this, as you just testified?

A Probably early December of 2010.

Q And how many -- did you engage more than one counsel?

A Not directly. First we engaged the counsel to do -- well, first we engaged the counsel to do the review of the ten dozenish patents or the ones that were relevant, and then knowing HealthGrades' general reputation as being a litigious company, we said let's go deeper on this one.

Q And what counsel are you referring to?

A For which one?

Q Could you tell me every counsel that you have engaged to look at the patents, whether it is this whole set or just the '060 one?

A We engaged a firm called Maldjian and something, please don't ask me to spell it because I don't know how to spell it, M-A-L-D-J maybe I-A-N, and they did, as I say, about a half dozen reviews, and then we engaged Sills

09:33:12 1 Cummis specifically on the '060 patent.
09:33:17 2 Q Okay. Between Mr. West's email, which
09:33:25 3 was October 5th, and when you engaged Maldjian
09:33:25 4 and Sills Cummis, did you take any actions to
09:33:26 5 ensure that MDX was not violating the '060
09:33:26 6 patent?
09:33:29 7 A Not really.
09:33:33 8 Q And why not?
09:33:59 9 A It's just a small company, 1,000
09:34:02 10 things going on. We tried to get to this in as
09:34:04 11 reasonable haste as we could.
09:34:05 12 Q Okay. I am going to give you now what
09:34:05 13 has been marked as Deposition Exhibit 5,
09:34:05 14 Mr. Rothschild.
09:34:05 15 (1/2/11 opinion of Maldjian Law Group
16 marked Rothschild Exhibit 5 for
09:34:17 17 identification, as of this date.)
09:34:28 18 BY MR. VAZQUEZ:
09:34:32 19 Q And as you will see, this Exhibit 5
09:34:39 20 appears to be an opinion by the law firm you
09:34:39 21 were just testifying about, Maldjian. Is that
09:34:40 22 correct?
09:34:40 23 A Yes.
09:34:45 24 Q Is this the opinion that you were
25 testifying about?

09:34:50 1 A Yes.
09:34:53 2 Q Now, this -- if you need time to
09:34:53 3 review it, I don't know how long it has been
09:34:56 4 since you have seen it, but take that time,
09:34:59 5 Mr. Rothschild.
09:35:02 6 My question is: This appears to be
09:35:05 7 only about the '060 patent?
09:35:09 8 A This particular letter is one of a
09:35:10 9 number of individual letters that they sent out,
09:35:13 10 each one on different patents or patent
09:35:17 11 applications.
09:35:23 12 Q Okay. Do you or does MDX intend to
09:35:26 13 rely on any opinions issued by Maldjian in this
09:35:29 14 lawsuit?
15 A We have engaged counsel, and counsel
09:35:31 16 will tell us on whom to rely.
09:35:37 17 Q Well, I can tell you that this
09:35:40 18 opinion -- this letter, which is the only one
09:35:41 19 that we have from Maldjian, there are no other
09:35:45 20 letters or opinions that we are aware of, was
09:35:48 21 just produced to us as opposed to the Sills
09:35:52 22 Cummis opinion, which was produced by the
09:35:54 23 deadline by which any opinions that MDX intended
09:35:55 24 to rely upon were to be produced. So that's why
25 I am asking.

09:35:57 1 MR. STIMPSON: There's no question
09:35:58 2 pending.
09:35:57 3 MR. VAZQUEZ: Yes, there is. I just
09:36:00 4 asked it.
09:36:01 5 MR. STIMPSON: No, there isn't.
09:36:01 6 MR. VAZQUEZ: That's why I just asked
09:36:02 7 it. That's why I am asking.
09:36:03 8 MR. STIMPSON: Then ask a question.
09:36:04 9 That's a statement. What's the question?
09:36:05 10 BY MR. VAZQUEZ:
09:36:06 11 Q Do you understand that there's a
09:36:10 12 question pending?
09:36:12 13 A No.
14 Q Do you intend to rely on this opinion?
09:36:13 15 A I believe I answered that question.
09:36:19 16 MR. STIMPSON: Asked and answered.
09:36:20 17 A That we are going to let our counsel
09:36:23 18 determine the best method for how we should
09:36:25 19 defend this.
09:36:28 20 Q Okay. Well, since based on that
09:36:32 21 answer, we don't know whether MDX intends to
09:36:34 22 rely on this opinion in addition to the other
09:36:36 23 one, I am just going to have to ask you some
09:36:37 24 more detailed questions about this opinion.
25 MR. STIMPSON: We do intend to rely on

it, so you know.

MR. VAZQUEZ: Well, thank you. It was not disclosed by the deadline.

MR. STIMPSON: I am sorry.

MR. VAZQUEZ: Are you, really?

MR. STIMPSON: I made a mistake.

MR. VAZQUEZ: Yeah.

BY MR. VAZQUEZ:

Q Mr. Rothschild, so let's go through, then, from the very beginning, to the best of your recollection, what was your first communication with attorneys at Maldjian regarding their work on providing you with this opinion and any of the other letters you just testified about?

A Well, this opinion is dated January 2nd, and obviously we had had, my guess would be, a month or six weeks of conversation prior so they could render an intelligent conversation -- intelligent opinion.

Q Okay. What attorney or attorneys did you communicate with at the Maldjian law firm about their opinions?

A I do not recall specifically. It obviously was John Maldjian, and I believe he

09:38:05 1 brought in another individual to look at the
09:38:08 2 details. I am certain he did. I cannot
09:38:12 3 remember the name at this point.
09:38:17 4 Q Did you know John Maldjian personally?
09:38:19 5 A I knew him professionally.
09:38:19 6 Q But not personally?
09:38:21 7 A I am not sure what you mean by
09:38:22 8 "personally."
09:38:23 9 Q Well, is he a friend?
09:38:25 10 A No.
09:38:27 11 Q How did you know of him
12 professionally?
09:38:31 13 A We are in the intellectual property
09:38:35 14 business, and so issues crop up, and he had
09:38:35 15 given us advice previously.
09:38:38 16 Actually, I believe I never even met
09:38:38 17 him.
09:38:40 18 Q You don't think you ever really met
09:38:43 19 him?
09:38:44 20 A No. I mean, I have spoken to him many
09:38:46 21 times on the phone, but I don't believe we ever
09:38:49 22 met personally.
09:38:50 23 Q Okay. And so what was the first time
09:38:55 24 that you spoke with him?
25 A About?

09:39:05 1 Q About the '060 patent?
09:39:07 2 A It was probably, I am guessing, late
09:39:14 3 November, early December.
09:39:15 4 Q And did you take notes of any
09:39:18 5 conversations that you had with Mr. Maldjian?
09:39:20 6 A I do not recall that I did. I --
09:39:22 7 generally speaking, he was asking me questions,
09:39:23 8 and he was writing down the information he
09:39:26 9 needed to form an opinion --
09:39:26 10 Q Do you typically --
11 A -- about this -- if I may finish.
09:39:28 12 Q Yes.
09:39:37 13 A -- again, about this was one of a
09:39:40 14 number. So just to put it in context, this was
09:39:41 15 not the only patent we were discussing or patent
09:39:43 16 application.
09:39:46 17 Q Do you typically take notes,
09:39:52 18 Mr. Rothschild, when you have conversations with
09:39:57 19 legal counsel about when you are seeking
09:39:59 20 opinions from them?
09:40:03 21 A I generally don't feel that notes are
09:40:06 22 something that I remember. I will sometimes
09:40:08 23 write it on a pad of paper. I don't recall
09:40:11 24 having any from this conversation.
25 Q Okay. But I was just asking more in

general, if you typically take notes when you have conversations with counsel when you are seeking opinions from them?

A Most of the conversations I have with counsel are them asking me questions. So I assume they are taking the notes.

Q All right. Mr. Rothschild, I didn't ask you who is asking questions in the conversation. I didn't ask you if they are taking notes.

My question is very simple: Do you typically take notes when you have conversations with counsel when you are seeking opinions from them?

MR. STIMPSON: Objection to the form. That has been fully asked and answered.

But you can answer it again, if you want, Mr. Rothschild.

A I believe I said I typically do not.

Q You typically do not.

What documents did you provide to Mr. Maldjian in the context of seeking the opinion from him that he issued?

MR. STIMPSON: Objection. That assumes a fact.

09:41:23 A Again, this is based on my memory from
09:41:26 a couple of years -- from a year and a half -- a
09:41:33 year and change ago. I believe we went through
09:41:36 the website and looked at it to see whether the
09:41:37 site itself was in violation.
09:41:40 Q Do you recall giving Mr. Maldjian any
09:41:42 documents?
09:41:47 A I do not recall that I gave him. It
is possible that I did, but I do not recall.
09:41:49 And my instincts are it would have been, look at
09:41:54 the website.
09:41:56 Q And although you say you typically do
09:42:01 not take notes, do you recall whether you gave
09:42:04 Mr. Maldjian -- or whether you took any notes at
09:42:11 all on conversations you had with Mr. Maldjian?
09:42:15 A As stated, I do not recall that I took
09:42:19 notes.
09:42:36 Q Was there any other MDX employee that
09:42:44 communicated with Mr. Maldjian about the opinion
09:42:47 that MDX sought from him?
09:42:51 A I don't think so. I don't think so.
09:42:53 It was mostly me driving this. We do not have
09:42:57 in-house counsel, so --
09:43:03 Q So Mr. West was not involved?
A It's possible he was on a conversation

09:43:09 1 with the attorneys. I do not recall.
09:43:11 2 Q Did you have any meetings with
09:43:16 3 Mr. Maldjian, not phone conferences, but
09:43:17 4 literally meetings, whether at MDX, or their
09:43:21 5 offices, or anywhere else?
09:43:29 6 MR. STIMPSON: Objection.
09:43:34 7 A No.
8 Q Did Mr. Maldjian tell you to do
09:44:38 9 anything to the Vitals' website in order to
09:44:44 10 avoid infringement of the '060 patent?
09:44:46 11 A It does not look like this opinion
09:44:48 12 made any specific recommendations for action.
09:44:51 13 Q And beyond what's written in the
09:44:52 14 opinion you were just reviewing, do you recall
09:44:57 15 any other -- any recommendations he made orally
09:44:59 16 for action?
09:45:03 17 A No.
09:45:06 18 Q So, for example, he did not tell you
09:45:13 19 to remove the ability to have comparison
09:45:21 20 ratings?
09:45:23 21 A In the Vitals website? I don't
09:45:23 22 believe he did that.
09:45:24 23 Q Okay. Did somebody else in his firm
09:45:26 24 do that?
25 A No.

09:45:36 Q Okay. Is there any attorney that you
09:45:41 consulted with that recommended you do that?
09:45:46 A The opinion from both attorneys was
09:45:55 that we were not in violation, but to create a
09:46:01 belt and suspenders protection, removing the
09:46:03 comparison page seemed to be a good idea to have
double protection.
09:46:06 Q So just so that I understand,
09:46:15 Mr. Rothschild, no attorney asked -- recommended
09:46:24 that you do that?
09:46:27 A We had conversations with the Sills
09:46:30 Cummis attorneys, and that page came up, that if
09:46:32 we wanted to be truly -- truly belt and
09:46:36 suspenders, that would be a good idea to have it
09:46:39 on the page -- have it on the site.
09:46:44 Q So an attorney from Sills Cummis
09:46:44 recommended that you remove the comparison
09:46:47 ratings functionality from Vitals.com website?
09:46:49 MR. STIMPSON: Objection,
09:46:52 mischaracterizes his testimony.
09:46:59 A I did not say he recommended, I said
09:47:02 we reviewed the site, and it appeared that that
09:47:02 was -- that was my decision to do it.
09:47:04 Q So it was your decision to remove that
functionality?

09:47:10 A Yes.
09:47:12 Q And your decision was based on what,
09:47:17 Mr. Rothschild?
09:47:20 A On the variety of conversations I had
09:47:22 had with the attorneys regarding the patent.
Q Okay. Can you please tell me about
09:47:25 those conversations. What was -- what was
09:47:41 discussed in those conversations, please?
09:47:47 A What was discussed were the patent,
09:47:52 what MDX does, and where there might be some
09:47:59 areas of gray in ways in which, to use the
09:48:00 phrase, we could be like Cesar's wife, that we
09:48:03 would be best off to -- that where -- if the
09:48:06 attorneys were on the other side, as you are
09:48:07 today, where they would prod and poke and to
09:48:13 eliminate that as a possibility.
09:48:14 Q So when you say that there were areas
09:48:18 of gray, what do you mean by that?
09:48:19 MR. STIMPSON: Excuse me one second.
09:49:08 Could I please have the last question and
09:49:10 answer read back.
09:49:12 (Requested Portion Read Back)
09:49:20 MR. STIMPSON: Thank you.
09:49:22 You can go and answer. I forgot the
last question.

(Requested Portion Read Back)

A I believe I answered it in the previous question, but it is where if you were on the other side, where you would say we have a contention that you could potentially be in violation or where an advocate for that side would do it.

Q So based on that, is it accurate for me to say concern, you had a concern about areas of gray?

A I did not.

Q No concern at all?

MR. STIMPSON: Objection, asked and answered.

Q No concern at all?

MR. STIMPSON: Same objection. He has already answered that question.

You can answer it again, if you want, Mr. Rothschild.

MR. VAZQUEZ: He has to, right?

MR. STIMPSON: He can.

MR. VAZQUEZ: He has to. You cannot say -- tell the witness to not answer if he doesn't want to. He has to.

MR. STIMPSON: Why are you getting

upset, Jesus?

MR. VAZQUEZ: Because I know what you are doing, Stimpson. You do this in every deposition, and I am not going to tolerate it.

MR. STIMPSON: My name is Scott, okay. And if you want to refer to Stimpson, it's Mr. Stimpson, but I prefer you call me Scott, okay?

MR. VAZQUEZ: Scott, you cannot tell this witness to not answer unless --

MR. STIMPSON: I didn't.

MR. VAZQUEZ: You said "if you want to." You said it now three times. Please stop saying "if you want to."

MR. STIMPSON: Do you want to read it back? I encouraged him to answer it.

MR. VAZQUEZ: "If you want to" is what you have done. You know it.

MR. STIMPSON: That's fine. He's going to answer. You just wasted five minutes talking about something we both agree he is going to answer. So what are you --

MR. VAZQUEZ: Please -- I'm telling

you, please do not tell the witness to answer if he wants to.

MR. STIMPSON: I will do whatever I want.

MR. VAZQUEZ: He must answer unless the answer calls for privileged materials. You know this.

MR. STIMPSON: Are you done?

MR. VAZQUEZ: Yes, for now, I am.

MR. STIMPSON: Mr. Rothschild, you can answer the next question if you want to.

A We did not have concern.

Q Okay.

MR. VAZQUEZ: We are going to stop the deposition right now and take a break off the record. We need the room to ourselves, and since you just said "if you want to" again --

MR. STIMPSON: He answered it.

MR. VAZQUEZ: You just said "if you want to" again. That is completely against the rules and --

MR. STIMPSON: I don't think it is. I am encouraging him to answer it.

MR. VAZQUEZ: It is, you know it. And

09:51:45 I am just going to stop it right now, and
we are going to consider what action we are
09:51:49 going to take here to stop this
10:22:53 obstructionist conduct of yours, Stimpson.
10:23:08 THE VIDEOGRAPHER: Going off the
10:24:59 record, the time is 9:54 a.m.
10:25:01 (Recess taken)
10:25:03 THE VIDEOGRAPHER: We are back on the
10:25:05 record. The time is 10:27 a.m.
10:25:09 BY MR. VAZQUEZ:
10:25:10 Q Mr. Rothschild, I am going to hand you
10:25:10 what has been marked as Exhibits 6 and 7 for
10:25:10 your deposition.
10:25:10 (Screen shot from Vitals website
10:25:10 marked Rothschild Exhibit 6 for
10:25:10 identification, as of this date.)
10:25:10 (Screen shot from Vitals website
10:25:10 marked Rothschild Exhibit 7 for
10:25:13 identification, as of this date.)
10:25:15 BY MR. VAZQUEZ:
10:25:18 Q Take a moment to look at those
10:25:39 documents. I will have some questions about it.
10:25:46 A Okay.
10:25:52 Q 6 and then 7.
Mr. Rothschild, Exhibit 6 is a screen

shot from the Vitals website, correct?

A It is not correct. It is a screen shot from the old Vitals website. It is no longer applicable.

Q Okay. And why do you know that that is a screen shot from the old website?

A Because it has the comparison options, and it has the pages that result from that, and as per Exhibit 4 and my email of January 5th, 2011, we eliminated that.

Q Okay. And that's what I wanted to ask you about, specifically whether these features that are shown on the Exhibits 6 and 7 were on the website when you sought the opinion from Maldjian?

A I don't know the exact timing they were in the process of coming off. Probably when we started the process, they were on, and then my guess would be by the end, they were off or somewhere around there. I don't know the exact timing.

Q When you say you started the process, the opinion from Maldjian is dated January 2nd, 2011, right?

A Yes.

10:27:34 Q And when did the process start, as you
10:27:38 just put it?
10:27:39 A Which process?
10:27:41 Q Those were your words, sir.
10:27:45 A The process with Maldjian?
10:27:48 Q Yes, if that's what you meant.
10:27:50 A Yes.
10:27:51 Five, six weeks before.
10:27:52 Q Five to six weeks before January 2nd?
10:27:53 A Yes.
10:27:54 Q So at the end of November?
10:27:56 A Roughly.
10:27:59 Q Or in November?
10:28:03 A (No response).
10:28:08 Q And when was it that you first
10:28:10 approached or began your communications with the
10:28:17 Sills Cummis firm with respect to obtaining an
10:28:23 opinion from them?
10:28:25 A Probably around December of 2010.
10:28:25 Q And so if I understand correctly, you
10:28:29 sought the opinion from Maldjian first?
10:28:36 A Yes.
10:28:43 Well, as stated previously, we sought
the opinion on numerous patents and patent
applications from them first, and because this