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.

PARTIES' JOINT UNOPPOSED MOTION FOR AN ADDITIONAL FOUR-DAY EXTENSION OF TIME FOR THEM TO FILE MOTIONS TO RESTRICT REGARDING DKT. NOS. 404, 405, 411 and 412

Defendant MDx Medical, Inc. ("MDx") and Plaintiff Health Grades, Inc. ("Health Grades"), by their respective undersigned counsel, respectfully submit this Joint Motion for An Additional Four- Day Extension of Time For Them To File Motions To Restrict Regarding Dkt. Nos. 404, 405, 411 and 412 ("Joint Motion").

Pursuant to *D.C.COLO.L.CivR* 7.1(A), the undersigned counsel have conferred regarding the relief requested herein and have agreed to the relief sought in this Joint Motion.

JOINT MOTION

1. As recounted in the parties' first Joint Unopposed Motion for an Extension of Time regarding motions to restrict for Dkt. Nos. 404, 405, 407, 411 and 412 [Dkt. No. 437], on November 26, 2012, Health Grades filed its Opposition to MDx's Motion for Summary Judgment of No Willfulness [Dkt. 404], and Opposition to MDx's Motion for Summary Judgment of Non-Infringement [Dkt. 405]. On the same day, MDx filed its Opposition to Health

Grades' Motion for Partial Summary Judgment [Dkt. 407]. Further, on November 27, 2012, Health Grades filed its Opposition to MDx's Motion to Exclude Health Grades' Expert, David Hall [Dkt. 411], and Opposition to MDx's Motion for Partial Summary Judgment that (1) Health Grades is Not Entitled to Lost Profits and (2) Royalty Rates May Not Be Applied to Revenue of the Entire Accused Website [Dkt. 412]. MDx filed its opposition and exhibits as restricted documents given that Health Grades asserts that the documents reference and contain confidential information. Likewise, Health Grades filed the oppositions and exhibits as restricted documents, given that MDx asserts that the documents reference and contain confidential information.

2. Pursuant to *D.C.Colo.LCivR* 7.2(D), the Parties' respective motions to restrict access to the motions and exhibits referenced above were due by December 10, 2012 [Dkts. 404, 405 & 407] and December 11, 2012 [Dkts. 411 & 412], and pursuant to the Court's grant of the parties' first joint motion for an extension of time [Dkt. # 439], are currently due today, December 14, 2012.

3. Today, counsel for the parties conferred by telephone regarding the respective motions to restrict, and determined that additional discussion is necessary. Counsel are happy to note that the parties have agreed that a motion to restrict regarding Dkt. No. 407 is not necessary and, therefore, no motion to restrict will be filed regarding Dkt. No. 407. However, regarding the remaining submissions at issue, Dkt #s 404, 405, 411, and 412, counsel need additional time to confer in an effort to limit the number of issues in dispute in the motions to restrict. During the course of this week, counsel for MDx has been engaged in preparing numerous replies to the pending motions, and despite MDx's counsel's best efforts, such briefing provided the parties

with limited time to discuss the other motions to restrict which involve a significant number of exhibits. However, counsel will complete their conferral within the extended time requested herein.

4. Good cause exists for the additional, brief extensions requested by the Parties. This is a complex patent case with numerous issues in dispute, regarding both factual and expert issues, that have become the basis for summary judgment motions. The parties have heeded the Court's admonition to limit the exhibits and submissions regarding such motions, but such disputed issues have still required the submission of numerous, excerpted exhibits. Counsel for the Parties conferred by telephone earlier today and agreed that the additional, short extension requested herein would allow them to complete their conferrals in anticipation of filing their respective motions to restrict access, on Tuesday, December 18, 2012.

5. The Parties have previously sought, and been granted, an extension for filing their respective motions to restrict access. In accordance with *D.C.COLO.L.CivR* 6.1(E), copies of this motion will simultaneously be served on Health Grades and MDx by their respective undersigned counsel.

CONCLUSION

Therefore, for good cause shown, the Parties jointly and respectfully request that the Court grant their Joint Motion and allow them up to and including Tuesday, December 18, 2012, to file their respective motions to restrict access, relating to Dkt. Nos. 404, 405, 411, and 412.

Dated: December 14, 2012

Respectfully submitted,

s:/Scott B. Murray

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CERTIFICATE OF SERVICE

I hereby certify that on December 14, 2012, I electronically filed the foregoing PARTIES' JOINT UNOPPOSED MOTION FOR AN ADDITIONAL FOUR-DAY EXTENSION OF TIME FOR THEM TO FILE MOTIONS TO RESTRICT REGARDING DKT. NOS. 404, 405, 411 and 412 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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