EXHIBIT B

Scott D. Stimpson

From: Vazquez, Jesus [jvazquez@rothgerber.com]
Sent: Friday, July 01, 2011 7:04 PM
To: Scott D. Stimpson; David C. Lee; Mark J. Rosenberg; 'piccone@wtotrial.com'; 'lampley@wtotrial.com'
Cc: Kostolansky, Kris J.; Phipps, Jeffrey
Subject: Infringement Contentions and Document Disclosures
Attachments: Infringement Contentions PDF (00944177).pdf; 2011 06 30 - Rule 3 1(c) Claim Chart - Exhibit A PDF (00944169).pdf; 2011 07 01 - Rule 3 1(c) Disclosure - EXHIBIT C PDF (00944170).pdf

Dear Counsel:

Attached please find Health Grades' Infringement Contentions. Given the large size of the related Document Disclosures, I am attaching only Exhibits A and C (claim charts for the current MDx website and blow-ups of the related screen shots) to this email. I will send Exhibits B and D (claim charts for the old MDx website and blow-ups of the related screen shots), as well as the bates numbered file history and ownership documents required by Section 3-2(c) and (d) in a subsequent email.

Have a good holiday weekend.

Jesus

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

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

HEALTH GRADES, INC.,

Plaintiff,

vs.

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

Defendant.

HEALTH GRADES, INC.'S DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS

Plaintiff, Health Grades, Inc., by its undersigned counsel, and in accordance with Section 6(f)(1) of the Scheduling Order dated June 16, 2011 (Docket No. 34), hereby serves its Disclosure of Asserted Claims and Infringement Contentions:

At the outset, Health Grades notes that this disclosure and associated claim charts are based on public information it has been able to obtain through MDx's websites. Health Grades has not obtained any discovery from MDx and reserves the right to supplement and/or amend these disclosures after it has obtained discovery from MDx.

A. Claims Infringed by Defendant MDx

Health Grades asserts infringement claims against Defendant MDx Medical under 35 U.S.C. §§271(a), (b), and (c) for claims 1, 4-11, and 14-16 of U.S. Patent No. 7,752,060 ("the '060 patent").

B. Infringing Products Relating To Each Defendant

Health Grades accuses the following systems and methods of infringing the following claims:

(i) Claims 1, 4-11, and 14-16: Defendant MDx's current version of its on-line information system that includes, without limitation, its website at www.vitals.com, MDx's database of healthcare provider information, and the web server(s), processors, memory, software, and hardware used to run MDx's on-line information system, as well as its services associated therewith ("Current Version"); and

(ii) Claims 1, 4-11, and 14-16: Defendant MDx's prior version of its on-line information system that includes, without limitation, its website at www.vitals.com, MDx's database of healthcare provider information, and the web server(s), processors, memory, software, and hardware used to run MDx's on-line information system, as well as its services associated therewith ("Prior Version").

C. Claim Charts

Infringement claim charts are attached hereto for both the Current Version of MDx's on-line information system (Exhibit A) and the Prior Version of MDx's on-line information system (Exhibit B).

D. Indirect Infringement under 35 U.S.C. §§ 271(b) and (c)

Health Grades contends that the potential patients and on-line users of MDx's on-line information systems use them in a manner that directly infringes the asserted claims. Health Grades further contends that MDx promotes, markets and sells its on-line information system

and associated services with the knowledge of the existence of the '060 patent, and with the knowledge and intent that its on-line information system will be used in a manner that directly infringes the claims of the '060 patent.

Furthermore, MDx's on-line information system and services cannot be used in any substantial way that does not infringe the '060 patent.

E. Literal Infringement and Infringement under the Doctrine of Equivalents

At the time of this filing, Health Grades contends that MDx infringes claims 1, 4-11, and 14-16 of the '060 patent both literally and under the doctrine of equivalents. Details regarding these contentions are provided in the claim charts attached as Exhibits A and B.

In its motion for partial summary judgment, MDx argued that only one portion of one claim element was missing from the Current Version of its on-line information system, namely a healthcare provider report that includes comparison ratings. MDx has thus effectively conceded that all other claim elements are present in its accused system. Therefore, Health Grades' claim charts address the doctrine of equivalents only for the comparison ratings claim element. If MDx is permitted to change its position and to assert that other claim elements are missing from the accused systems and services, Health Grades will supplement and/or amend these disclosures accordingly to include doctrine of equivalents contentions for such elements.

F. Priority Dates of the Patents

Per agreement of the parties, Health Grades will provide this information by July 19, 2011.

G. Plaintiffs' Product That Practices the Claimed Inventions

Per agreement of the parties, Health Grades will provide this information by July 19, 2011.

H. Willful Infringement

Health Grades asserts that MDx's infringement has been and continues to be willful. Via its letter dated December 15, 2009, Health Grades put MDx on notice that its on-line information system was covered by pending claims in the application that issued as the '060 patent on July 6, 2010. MDx has continued to directly infringe in willful violation of Health Grades' patent rights.

Respectfully submitted this 1st day of July, 2011.

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CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of July, 2011, I electronically served the foregoing **HEALTH GRADES, INC.'S DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS** to the following

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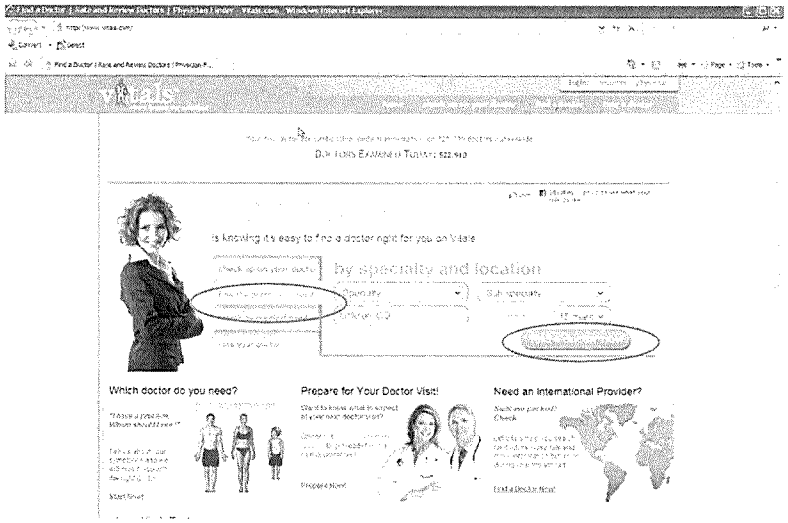
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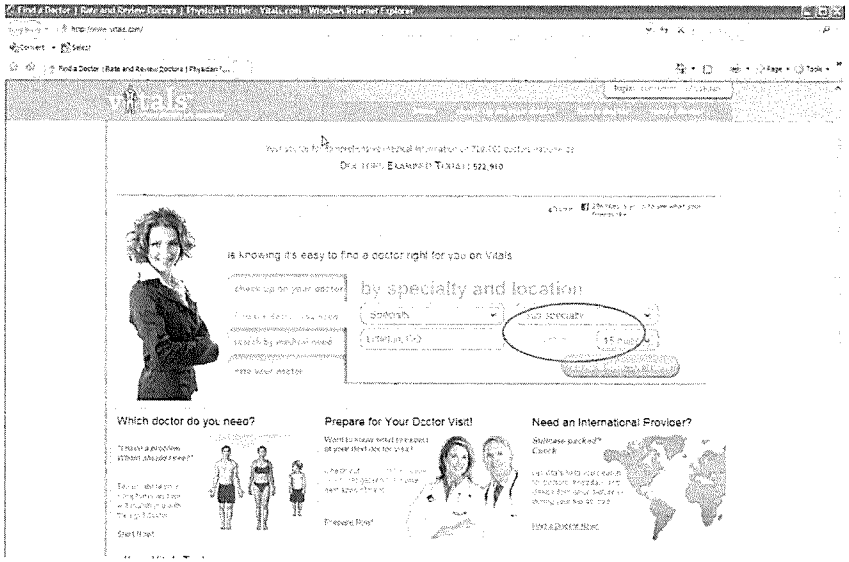
EXHIBIT A - Claim Chart
U.S. Patent No. 7,752,060 To MDx's Current Website

U.S. Patent No. 7,752,060	MDx's Current On-line Information System
1. A computer-implemented method of providing healthcare provider information to potential patients, said method comprising:	MDx Medical, Inc. ("MDx") directly infringes this claim by practicing a computer-implemented method of providing healthcare provider information to potential patients via its on-line information system, which includes its website (www.vitals.com), its healthcare provider database, and the software and hardware, that are associated therewith. MDx provides potential patients with access to MDx's database of information relating to healthcare providers, such as doctors, through its www.vitals.com website. Various screenshots taken from http://www.vitals.com/[1] are provided in this claim chart to illustrate the various features of the vitals.com website and how these features correspond to the features of claims 1, 4-9, 11, 14-16. For instance, Screenshot No. 1 (reproduced below and, in larger form, in Exhibit C) illustrates the homepage of the MDx website where a potential patient begins accessing MDx's information related to specific doctors.

[1] Screenshots taken between 6/1/11 and 6/29/2011.

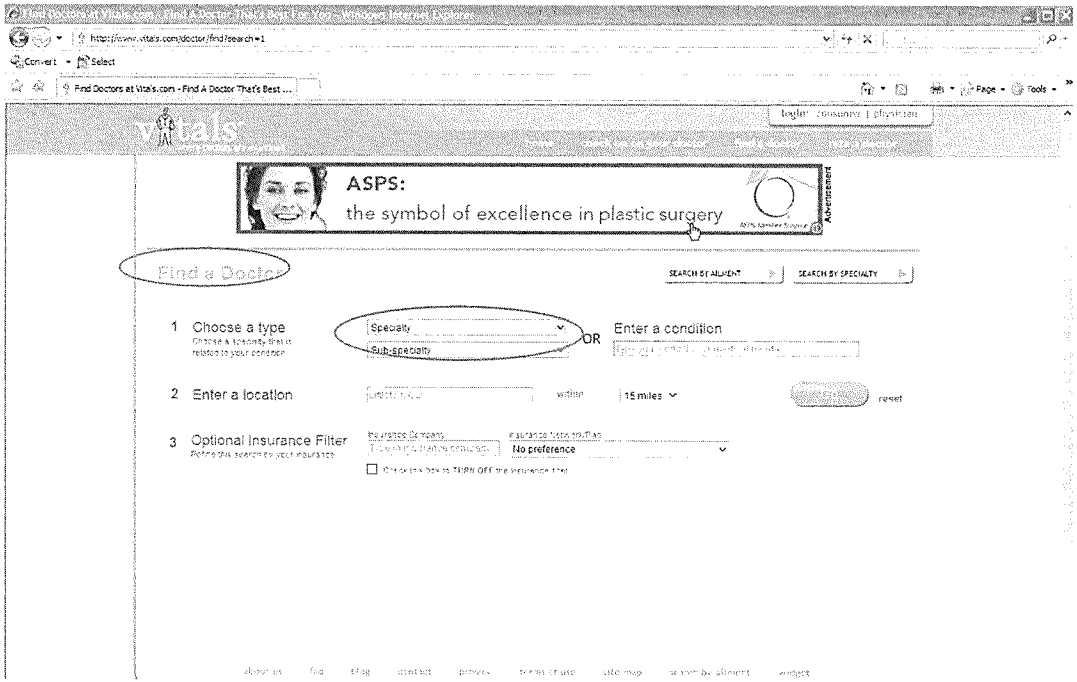
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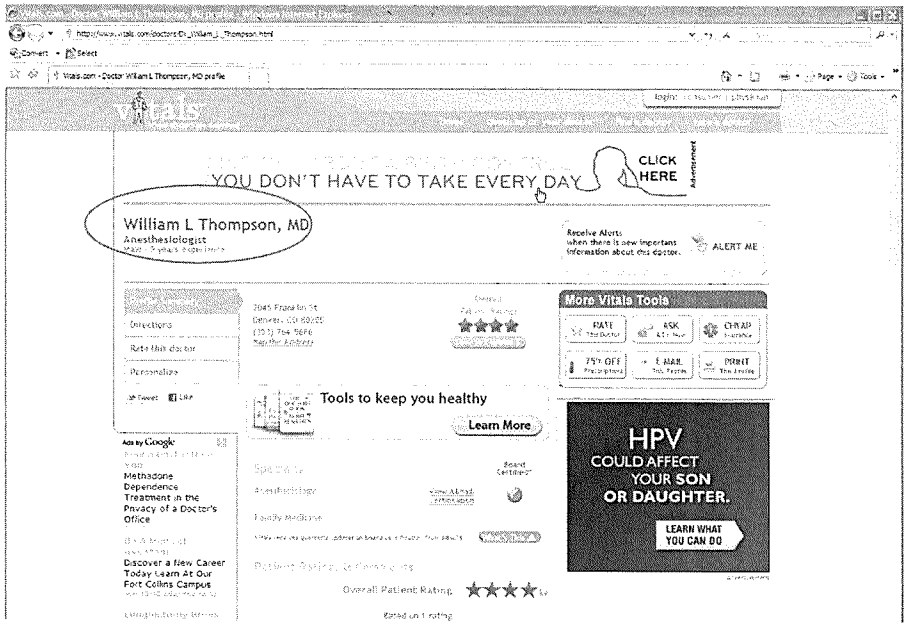
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	Screenshot No. 1  For example, MDx provides a potential patients with information about a healthcare provider in response to the potential patient clicking on the "find the doctor you need" link or in response to the potential patient clicking on the "find a doctor now" link, both of which are circled in red on Screenshot No. 1 above.
receiving, by a Web server computer of a company providing a service for connecting	When the potential patient initiates a search for a healthcare provider on the MDx's website, MDx's web server receives a request for information regarding a healthcare provider via the internet. MDx's web server, as with any server, comprises at least one computer processor and memory.

U.S. Patent No. 7,752,060	MDx's Current On-line Information System
healthcare providers with the potential patients, a request for information regarding a first healthcare provider, wherein the Web server computer comprises at least one computer processor and memory;	Screenshot No. 2  Screenshot No. 2 shows an example of where a potential patient may initiate a search for a healthcare provider on MDx's website, i.e., request information about one or more healthcare providers. When the user clicks "find a doctor now," this prompts the patient's web browser to send a request for information about a doctor to the MDx's web server, which receives the request for information and then accesses MDx's database to find data that responds to the user's search query.

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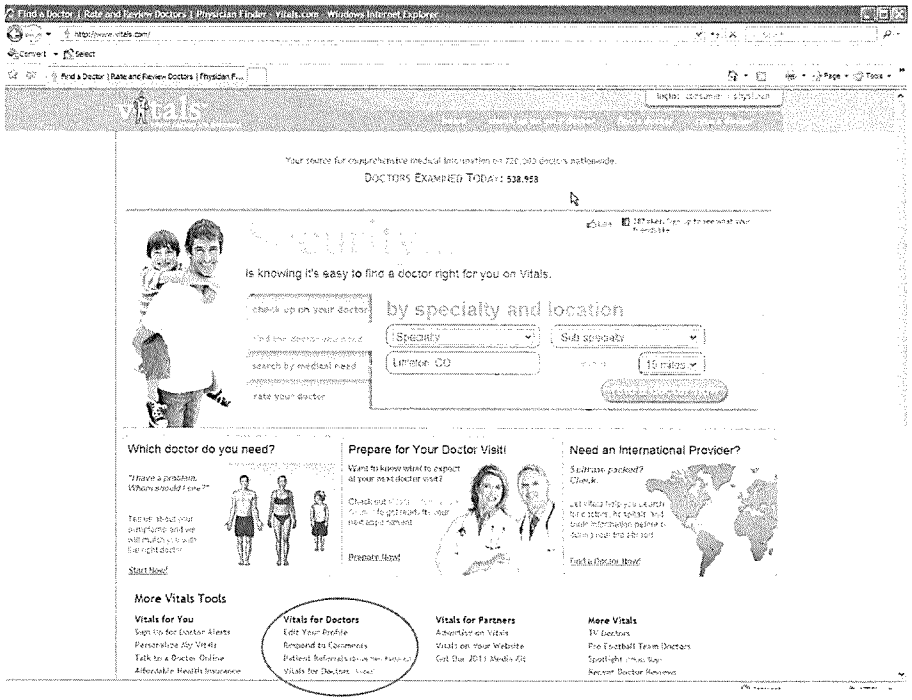
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U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	Screenshot No. 3 illustrates yet another portion of MDx's website that provides for MDx's web server to receive a request for information about various doctors based on specialty or location. *See* Screenshot No. 3 (circled in red are ways to search for a doctor). Screenshot No. 3 

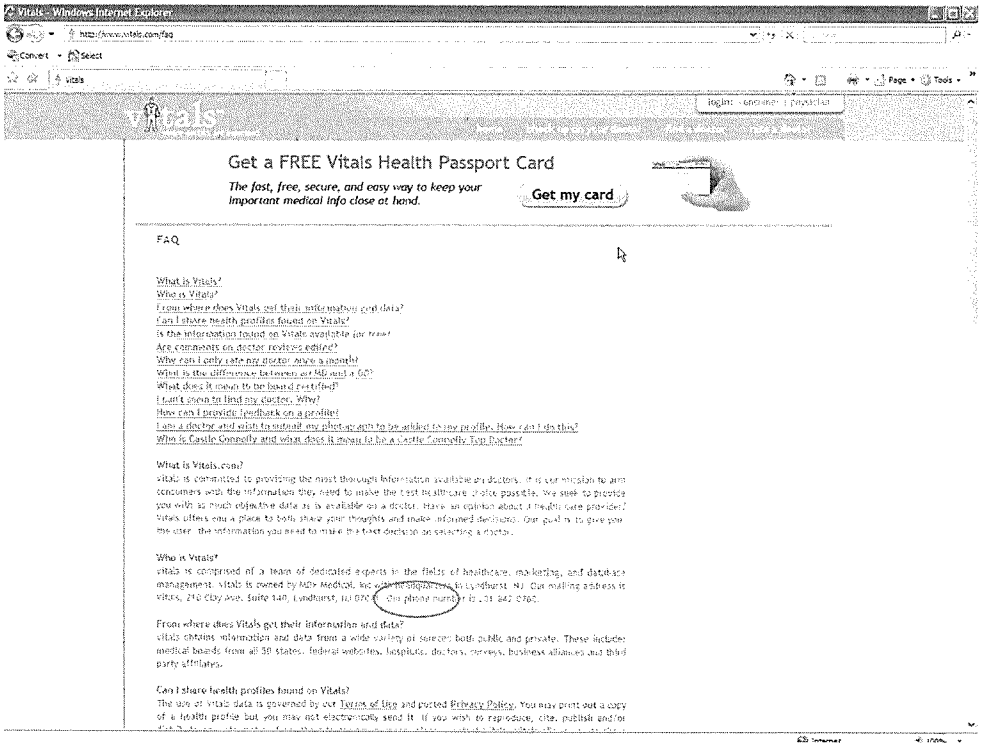
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
accessing healthcare provider-verified information about the first healthcare provider, wherein the healthcare provider-verified information is received from the first healthcare provider and comprises three or more from the group consisting of: specialty information, medical philosophy, gender, age, years in profession, years in practice, awards, honors, professional appointments, professional memberships, publications, languages, and hobbies;	At the initiation of the potential patient/user using MDx's website, MDx's web server accesses healthcare-provider-verified information. *See* Screenshot No. 4 (illustrating the result of accessing and displaying doctor supplied information). Highlighted in Screenshot No. 4, among other things, are the following pieces of healthcare provider-verified information: doctor's age, gender, specialty information and years in practice. Screenshot No. 4 

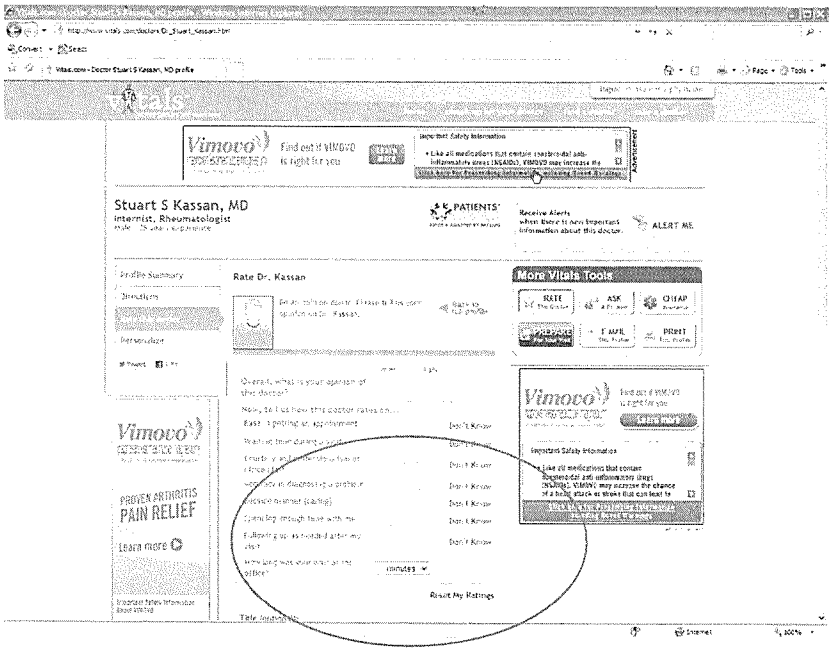
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U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	MDx receives the healthcare provider-verified information from healthcare providers. MDx's website provides doctors with the ability to send information to MDx. For example, MDx's website provides many opportunities for doctors to edit their own profiles. *See, e.g.*, Screenshot No. 5. Screenshot No. 5 

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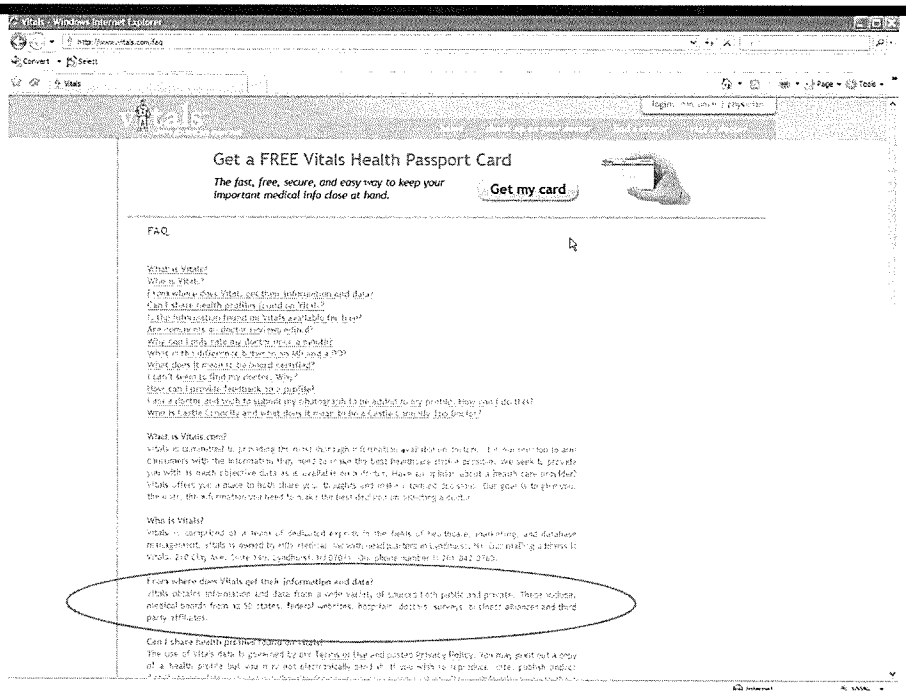
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	MDx states on its website that it receives, compiles, and posts doctor-supplied information. *See* Screenshot No. 6. <u>Screenshot No. 6</u> 

U.S. Patent No. 7,752,060	MDx's Current On-line Information System
compiling, by the at least one computer processor, patient-provided information regarding the first healthcare provider, wherein the patient-provided information comprises patient ratings from one or more past or current patients of the first healthcare provider, and wherein the patient ratings are received from an on-line patient experience survey completed on a company Web site by the one or more past or current patients of the first healthcare provider, and wherein the company Web site is managed by the company providing the service for connecting healthcare providers with the	MDx's on-line information service, which includes a computer processor, compiles patient-provided information regarding healthcare providers. MDx compiles the patient ratings from a www.vitals.com on-line patient-experience survey; this survey is shown in Screenshot No. 7, below. Screenshot No. 7 

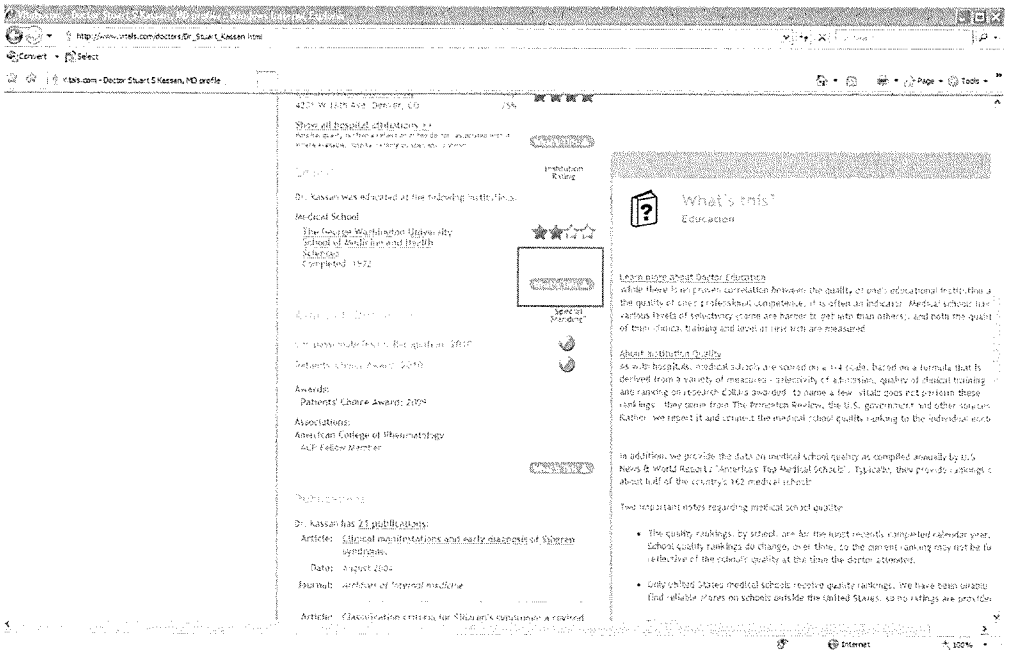
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U.S. Patent No. 7,752,060	MDx's Current On-line Information System
potential patients;	
compiling information regarding the first healthcare provider verified by an independent third-party source, wherein the information verified by the independent third-party source comprises three or more from the group consisting of: board certification, licensure, disciplinary action information, medical school, medical internship, medical residency, and medical fellowship information;	MDx compiles information regarding doctors verified by an independent third-party source. The verified information comprises, at least, medical school, licensure, board certification, medical fellowship and medical residency information. *See* Screenshot No. 8 (displaying a portion of the FAQ from the vitals.com website stating that the information comes from various third parties). Screenshot No. 8

U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	 As a specific example, MDx compiles medical school information on a given doctor from *U.S. News & World Report's* "America's Top Medical Schools." *See* Screenshot No. 9 ("What's this?" section describing that MDx compiles medical school information from *U.S. News & World Report*). MDx then provides potential patients with medical school information associated with a given physician's academic and fellowship history. Screenshot No. 9

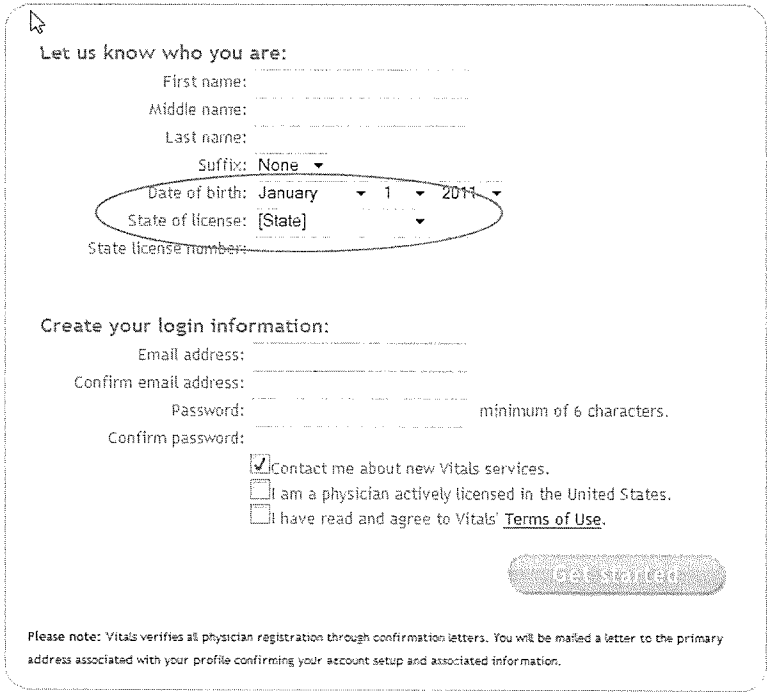
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U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	 MDx compiles licensure information. Screenshot No. 10 evidences that MDx verifies each physician's license before adding the physician to the results list; to do this, MDx must compile the information in order to compare it to the entry field. Screenshot No. 10

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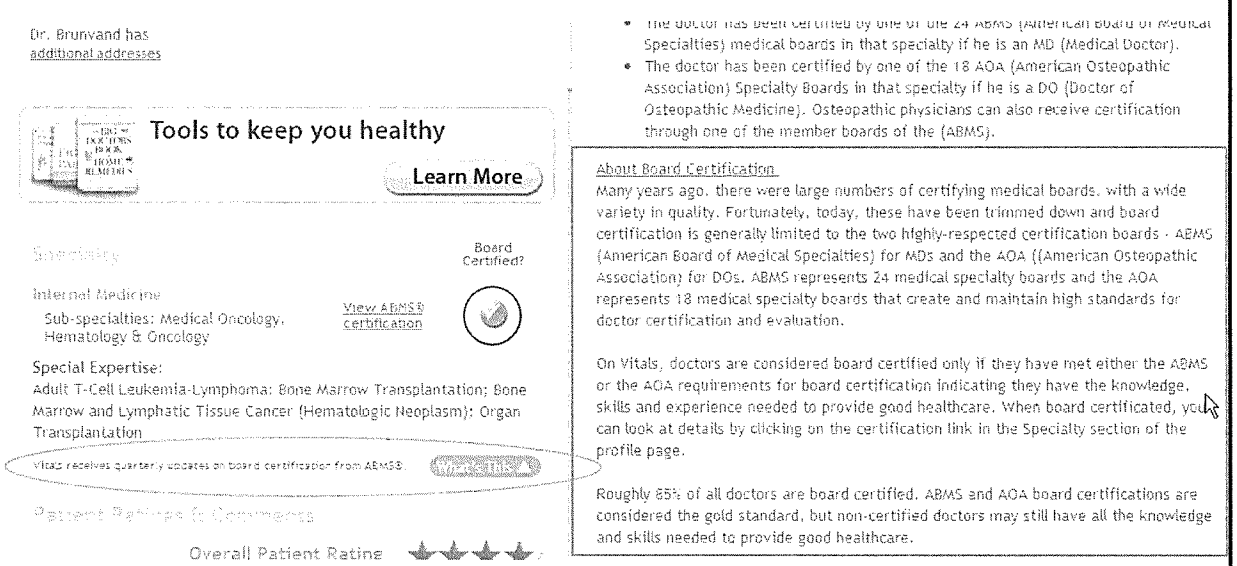
U.S. Patent No. 7,752,060	MDx's Current On-line Information System



MDx admits that it compiles board certification information. *See* screenshot No. 11 below ("Vitals receives quarterly updates on board certification from ABMS", circled in orange). Further, the American Board of Medical Specialties is an independent source. *See* Screenshot No. 11, "About Board Certification" boxed in red below.)

Screenshot No. 11

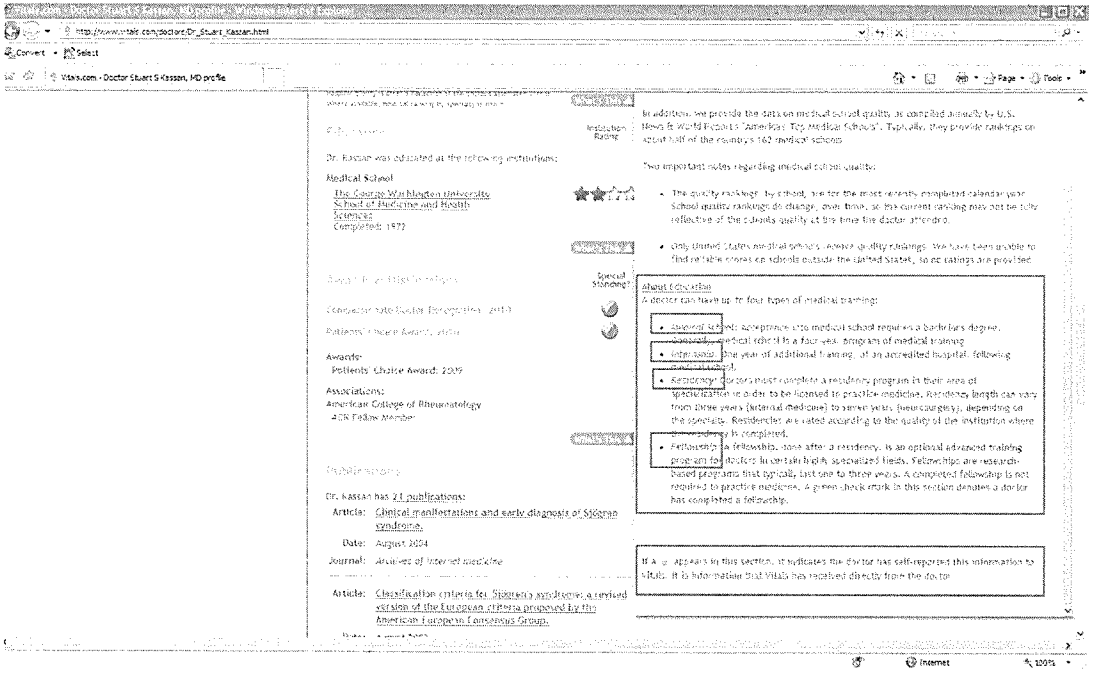
U.S. Patent No. 7,752,060	MDx's Current On-line Information System



MDx compiles additional information verified by an independent third-party source regarding a physician's medical school, internship, residency, and fellowship positions. *See* Screenshot No. 12 (noting that MDx obtains all educational information from independent third parties unless otherwise noted).

Screenshot No. 12

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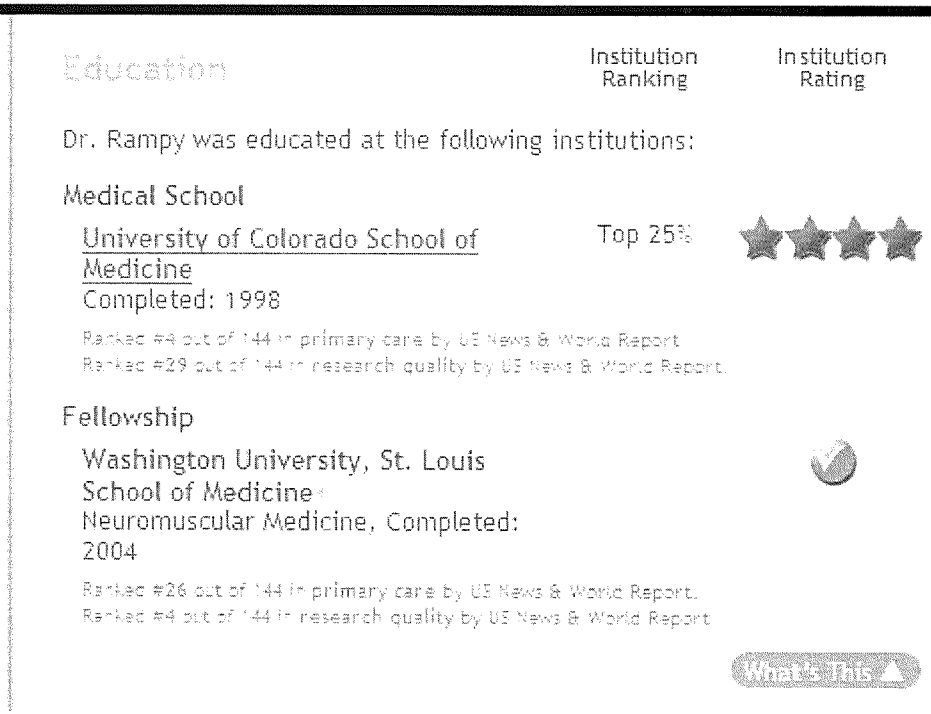
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	

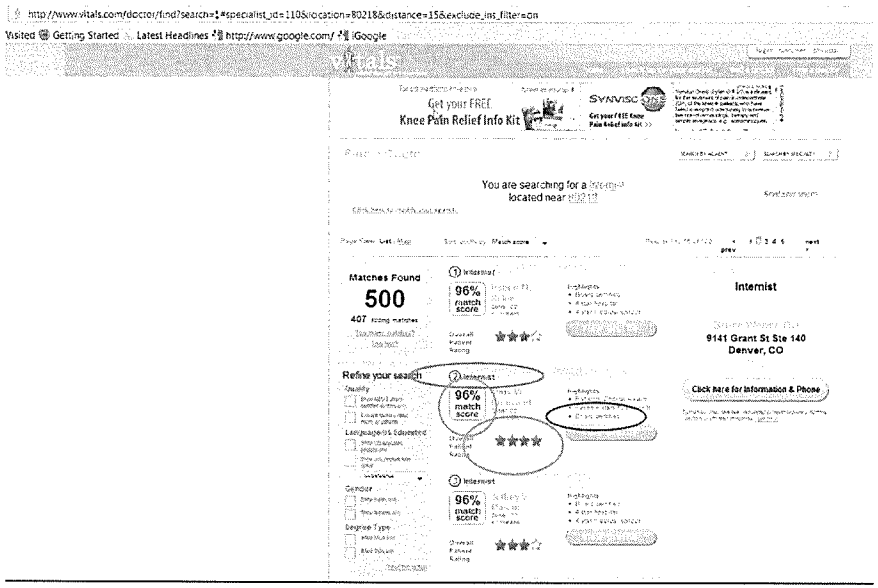
As a specific example, Screenshot 13 provides specific evidence that MDx compiles fellowship information on at least some it its doctors.

Screenshot No. 13

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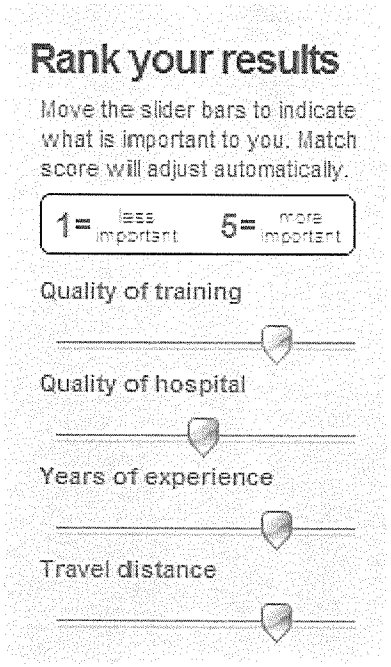
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U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	
creating, by the at least one computer processor, a healthcare provider report on the first healthcare provider using the healthcare	After a patient/user enters search criteria for a doctor, MDx creates one or more healthcare provider reports using information from the MDx database, including using healthcare provider-verified information, patient-provided information, and information verified by the independent third-party source. Screenshot Nos. 14 & 16-18 show portions of a healthcare provider report for Dr. Mark Brunvand. This report uses at least the following information: (1) healthcare provider-verified information, circled in

U.S. Patent No. 7,752,060	MDx's Current On-line Information System
provider-verified information, the patient-provided information, and the information verified by the independent third-party source, wherein the healthcare provider report on the first healthcare provider includes comparison ratings of healthcare providers; and	red; (2) patient-provided information, circled in green; and (3) information verified by an independent third party circled in purple. The report also includes comparison ratings, circled in orange. Screenshot No. 14  The "match score" comparison rating provides the patient with information regarding how well physicians listed in the results list satisfy the patient's specified criteria, e.g. "specialty or location [state], and [city] [criteria]." The "match score" is determined based on four criteria, which may be changed by the patient by manipulating the slider bars shown in screenshot No. 15, below. Screenshot No. 15

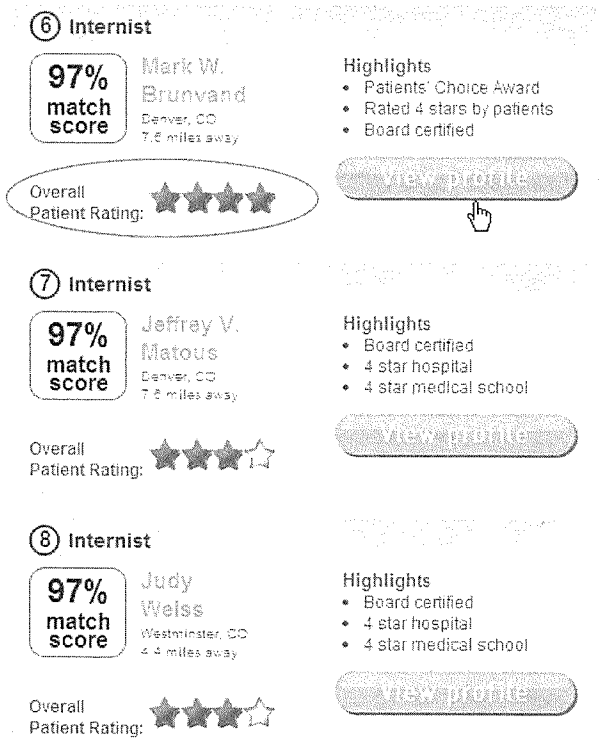
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U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	 Additionally, the "overall patient rating," comprising 0-4 purple stars, comprises comparison ratings of healthcare providers. *See* Screenshot No. 16. Screenshot No. 16

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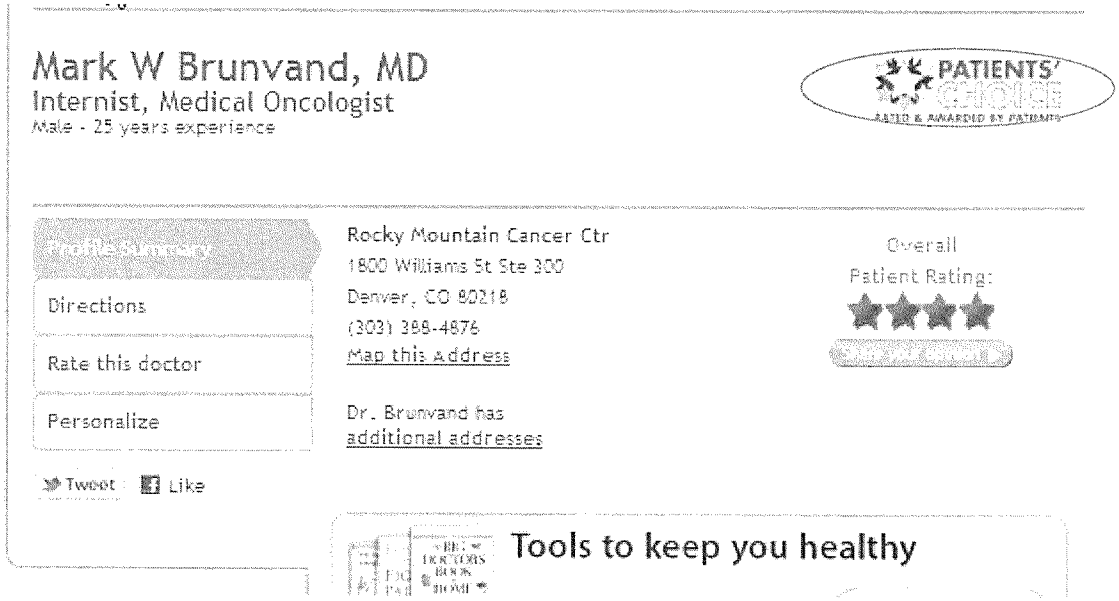
U.S. Patent No. 7,752,060	MDx's Current On-line Information System

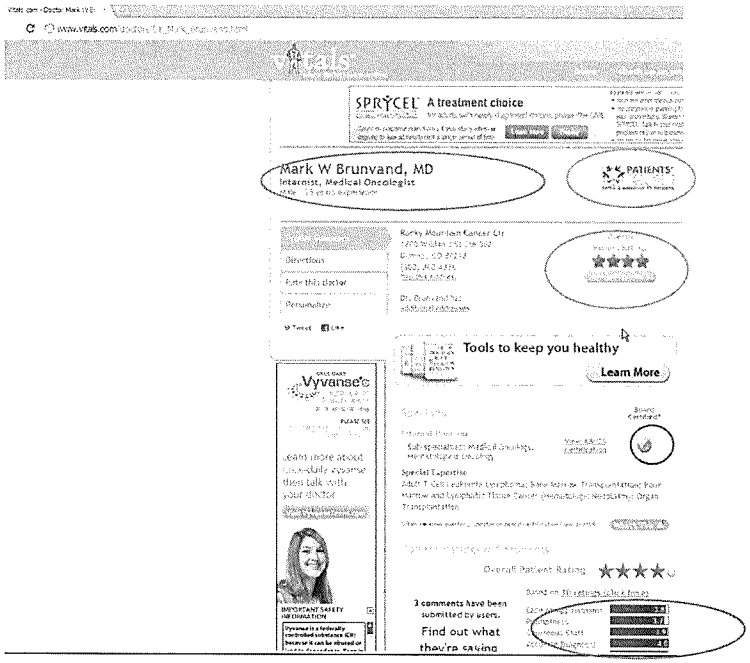


MDx includes another comparison rating of healthcare providers when it includes the "Patients' Choice" mark next to the physician's name. MDx gives this award to physicians when the physician has "received near perfect scores as rated by patients" compared to other physicians. *See* Screenshot No. 17.

Screenshot No. 17

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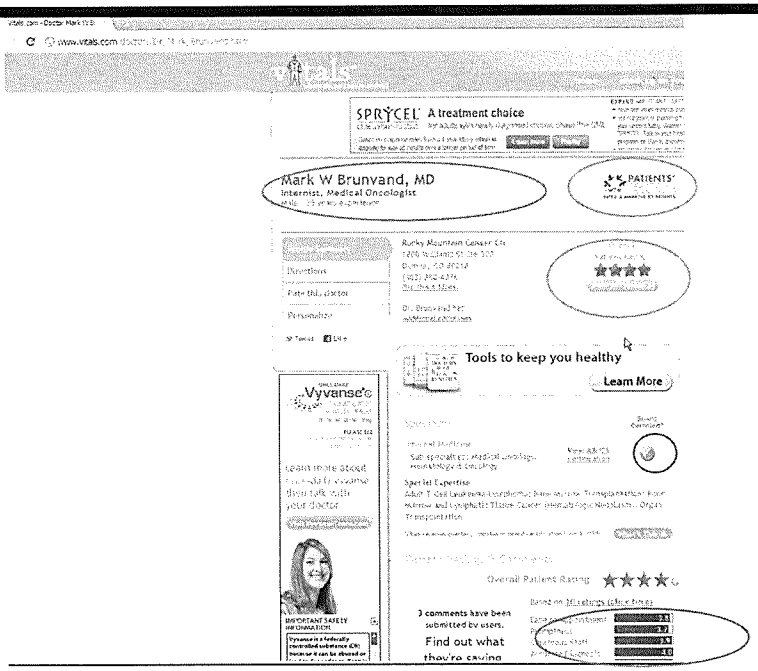
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	 To the extent that MDx asserts that any of these three ratings do not literally satisfy the limitation of a healthcare provider report that includes comparison ratings, these ratings meet the claim limitations under the doctrine of equivalents because they have the same function, and operate in the same way to achieve the same result as comparison ratings in a healthcare provider report. *See* Screenshot No. 18.

U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	Screenshot No. 18  The report on Dr. Brunvand uses the following doctor-verified information: (1) specialty information, gender, years in practice, shown in Screenshot No. 19, and; (2) professional memberships shown in Screenshot No. 20 below: Screenshot No. 19

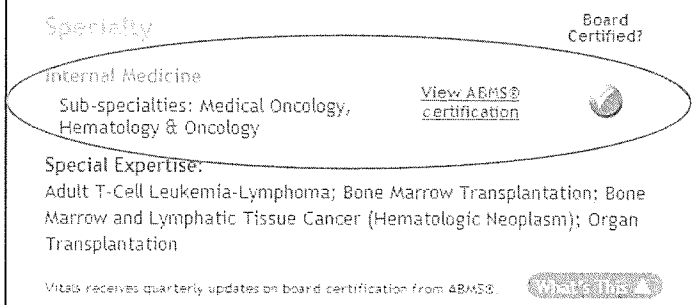
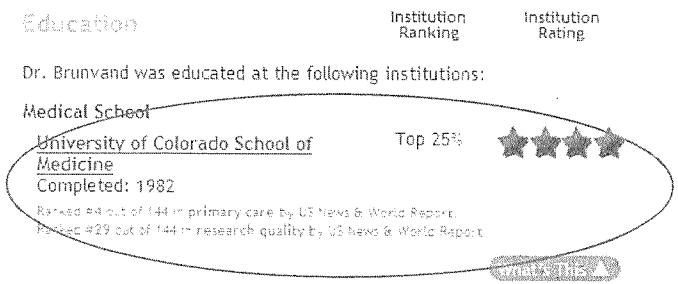
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U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	Mark W Brunvand, MD Internist, Medical Oncologist Male - 25 years experience Screenshot No. 20 Awards & Distinctions Special Standing? Compassionate Doctor Recognition, 2010 On-Time Physician Award, 2009 Patients' Choice Award, 2010 Awards: Compassionate Doctor Recognition: *2009* Patients' Choice Award: *2008 – 2009* Associations: American Society of Clinical Oncology Member American Society of Hematology Member The report on Dr. Brunvand uses the following patient provided information: patient ratings compiled from a www.vitals.com on-line patient-experience survey (circled in green in Screenshot No. 18 below): Screenshot No. 18

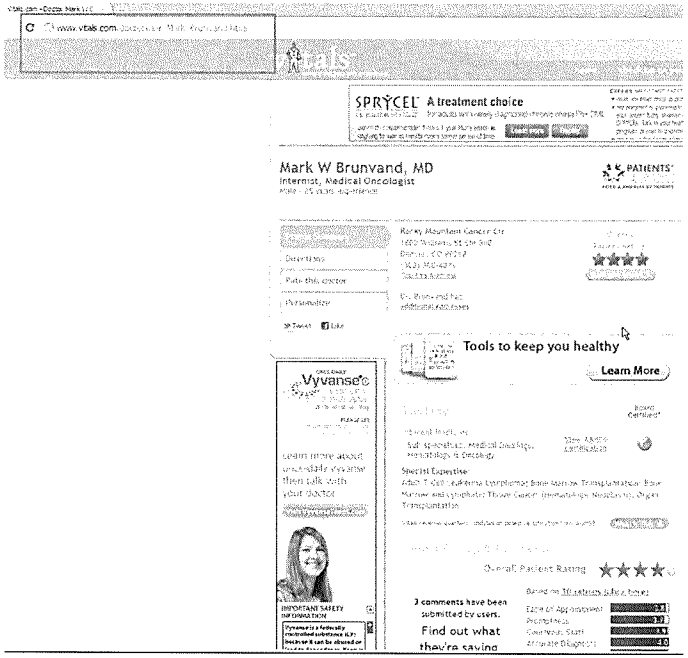
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	 Additionally, the report on Dr. Brunvand uses information verified by the independent third-party sources, namely, board certifications and medical school information as shown in Screenshot Nos. 21-22 below. MDx also uses compiled licensure information to ensure that only licensed physicians, including Brunvand, are displayed in the search results.

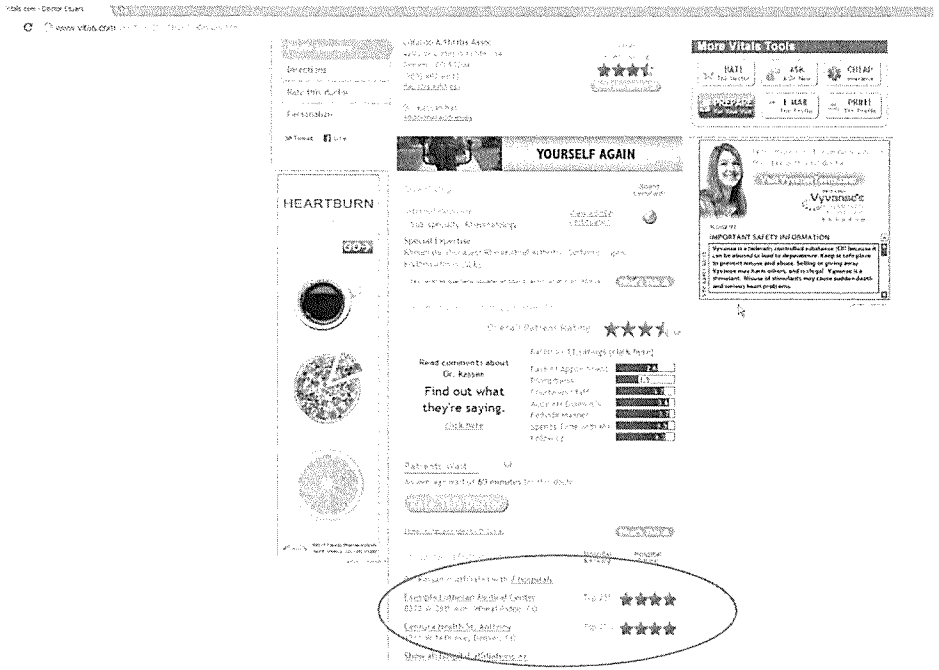
Case No. 1:11-cv-00520-RM-NYW Document 62-3 filed 11/15/11 USDC Colorado pg 29 of 123

U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	Screenshot 21  Screenshot 22 
providing access to the healthcare provider report on the first	MDx provides access to the doctors' healthcare provider reports over a computer network. *See* Screenshot No. 23 (highlighting that this information was accessed over a computer network, e.g., the Internet, and that the profile can be sent by email or printed).

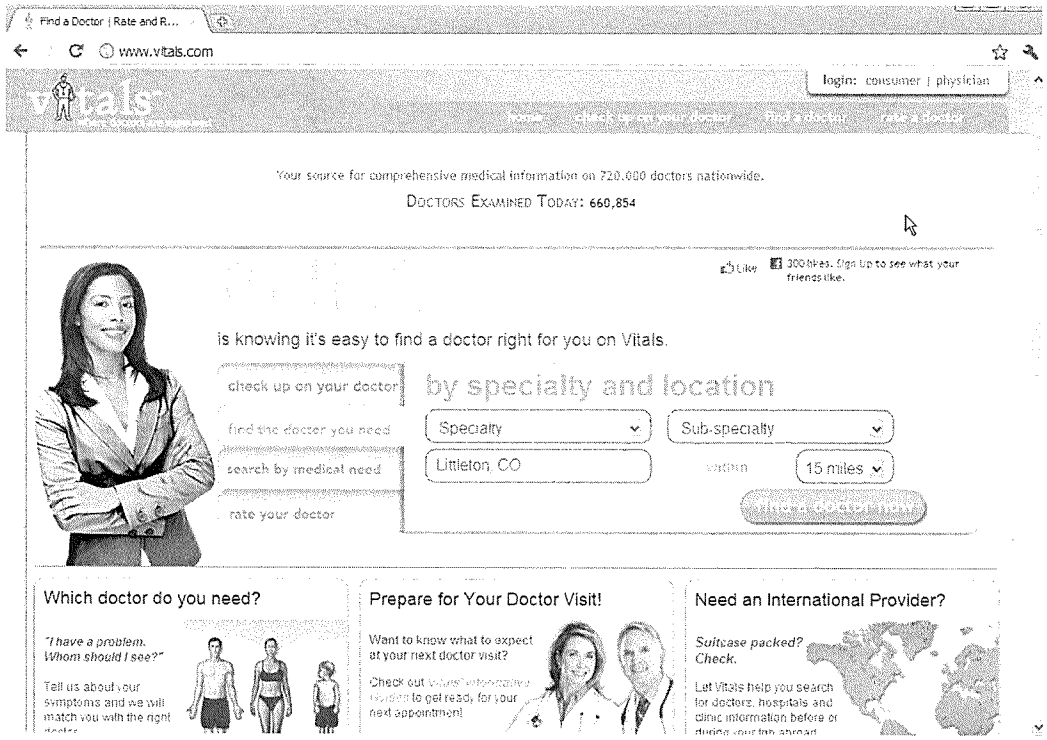
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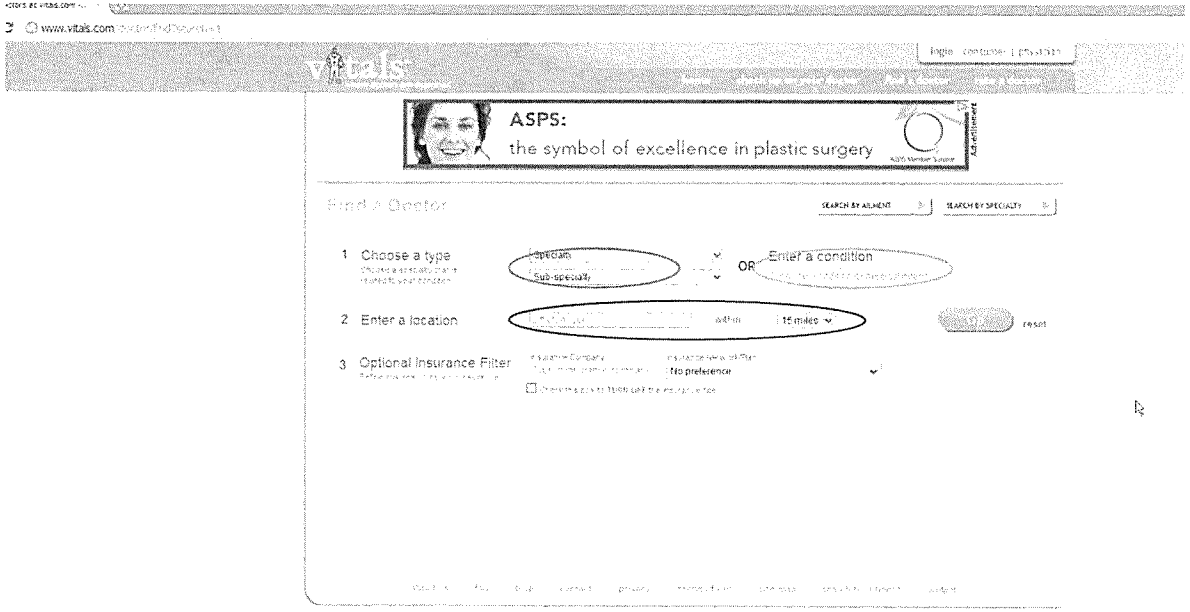
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
healthcare provider over a computer network.	Screenshot No. 23 
4. The method as defined in claim 1, wherein the healthcare	MDx provides a link to affiliated hospitals in the healthcare provider report. *See* Screenshot Screenshot No. 24 (displaying affiliated hospital hyperlink, circled in red).

U.S. Patent No. 7,752,060	MDx's Current On-line Information System
provider report includes a hyperlink to an affiliated hospital, medical center, or other type of treatment center.	Screenshot No. 24 
5. The method as defined in claim 1, wherein the access to the	MDx uses a predetermined web page for patient search purposes. *See* Screenshot 25 (displaying the MDx web page that allows patients to search for doctors).

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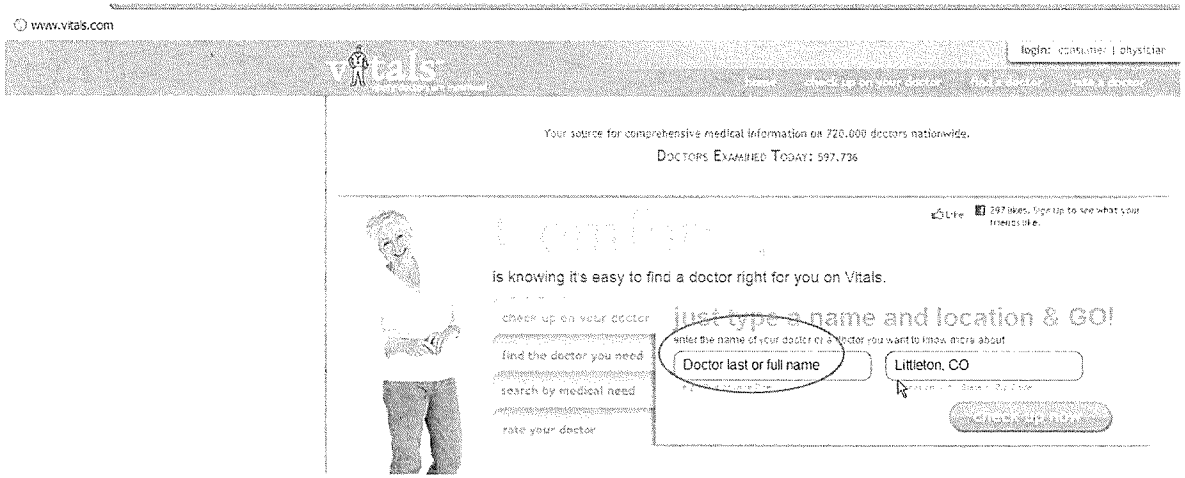
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
healthcare provider report is obtained through a predetermined Webpage that provides search capabilities for a database comprised of healthcare provider information.	Screenshot No. 25 
6. The method as defined in claim 5, wherein the search	MDx allows a user to search based on specialty, diagnosis (condition), state, city, and location criteria. *See* Screenshot No. 26 (displaying specialty, circled in red, condition, circled in orange, and location, circled in purple.)

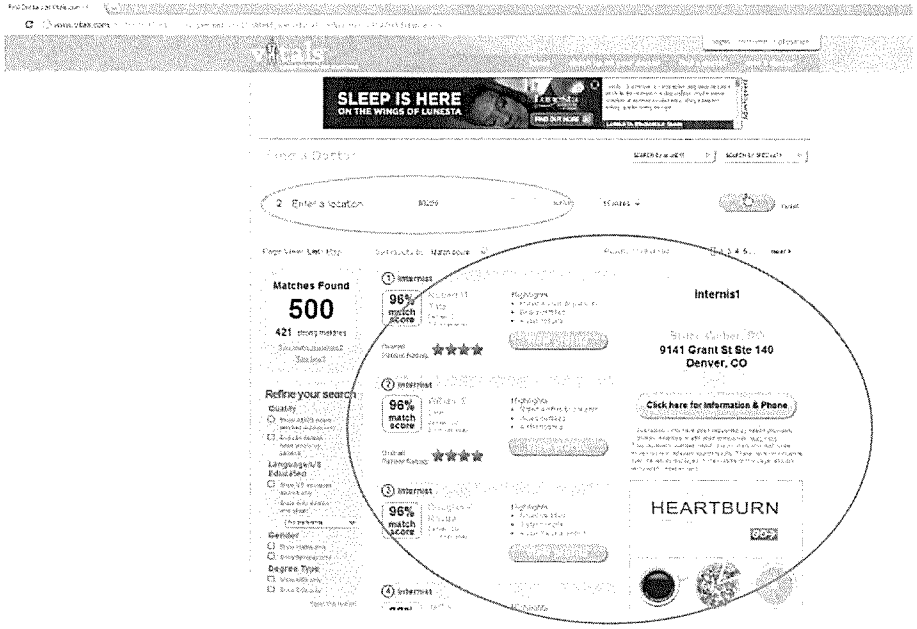
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U.S. Patent No. 7,752,060	MDx's Current On-line Information System
capabilities permit a search based on one or more from the group consisting of: name, medical specialty, gender, state, city, procedure, diagnosis, procedure, and location criteria.	Screenshot No. 26  MDx allows a user to search by doctor name. *See* Screenshot No. 27 (displaying doctor search query by doctor name, circled in red).

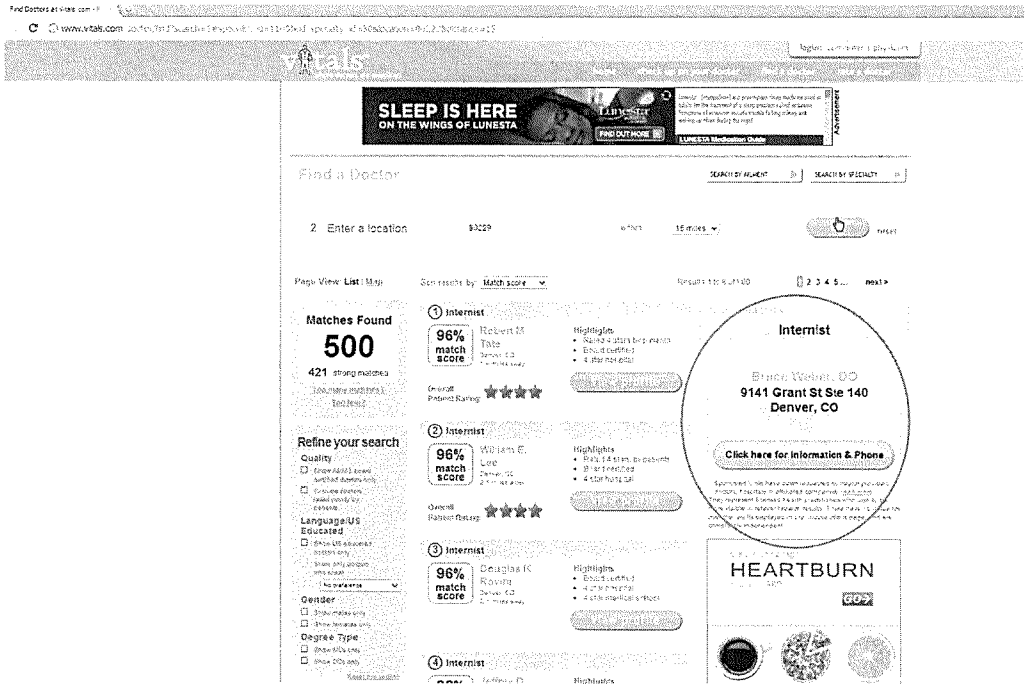
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U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	Screenshot No. 27 
7. The method as defined in claim 6, wherein the search of the	MDx provides a list of physicians based on specialty and location input from the patient. Screenshot No. 28, below, demonstrates MDx displaying a list of internists (i.e., first healthcare providers), circled in red, based upon location criteria, circled in orange.

U.S. Patent No. 7,752,060	MDx's Current On-line Information System
database produces a results list of one or more healthcare providers satisfying the search criteria, wherein the results list includes the first healthcare provider.	Screenshot No. 28 
8. The method as defined in claim 7, wherein the results list	As part of the list detailed in claim 7, *supra*, MDx provides "sponsored links" at the request of "health providers, doctors, hospitals, or affiliated companies." *See* Screenshot No. 29 (sponsored link circled in red).

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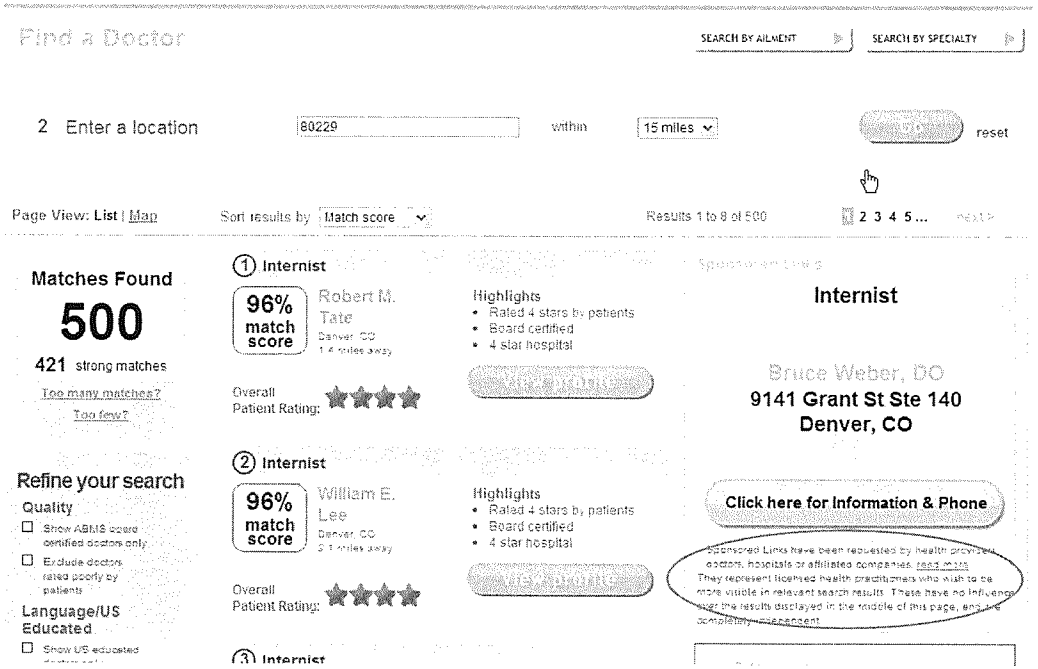
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
further includes an advertisement for the first healthcare provider with a hyperlink to information on the first healthcare provider.	Screenshot No. 29  MDx directs a patient who clicks on the sponsored link to a webpage that provides information about the doctor. *See* Screenshot No. 30 (information circled in red).

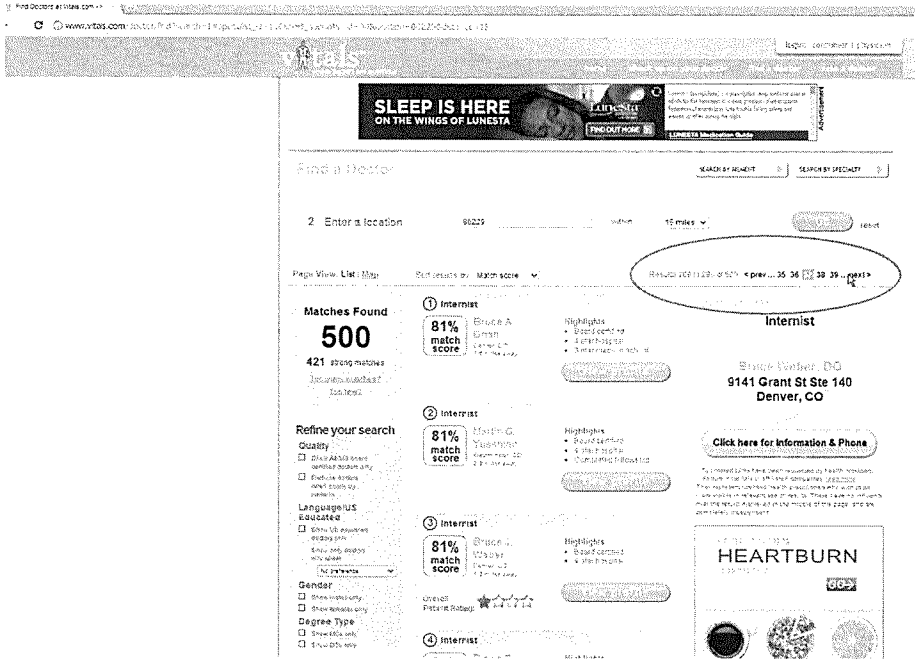
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U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	Screenshot No. 30 
9. The method as defined in claim 7, further comprising: determining	MDx determines which doctors are sponsors, or members, based on whether the physician has paid a fee to MDx. *See* Screenshot No. 31 (circled portion providing that MDx determines physicians based on whether the physician has chosen to be a sponsor).

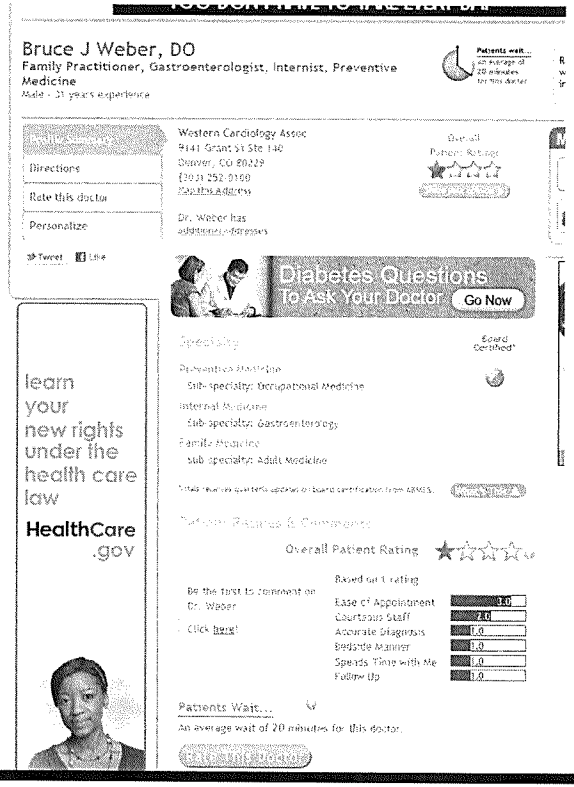
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U.S. Patent No. 7,752,060	MDx's Current On-line Information System
from the results list whether a particular healthcare provider is a member of the company managing the Web site;	Screenshot No. 31 
and if the particular healthcare provider is a member of the company	MDx provides the enhanced service of prominently displaying a member physician. Consider Dr. Bruce Weber displayed at the top of the results list. *See* Screenshot No. 31, *supra*. Absent a sponsored link, MDx would not have displayed Dr. Bruce's information until the user scrolled through the first 291

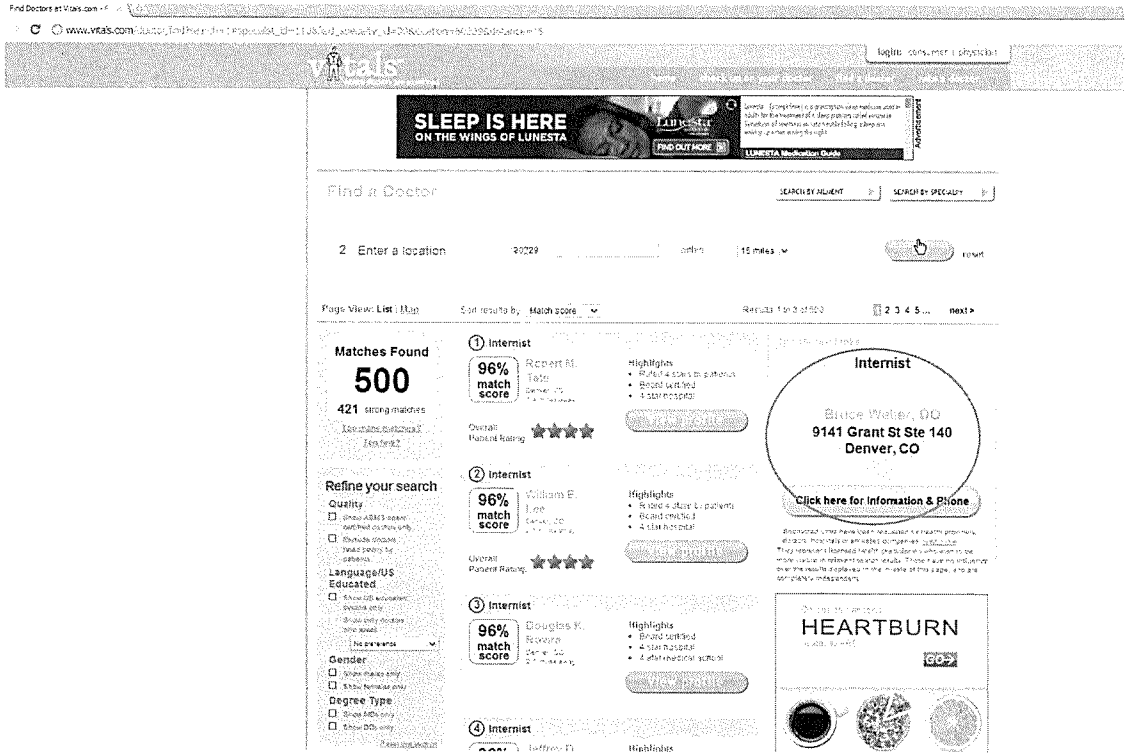
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
managing the Web site, providing enhanced services for the member healthcare provider on the Web site.	doctors (page 37 of the results list). *See* Screenshot No. 32. By becoming a sponsor, MDx provided Dr. Weber with prominence among all doctors; he is at the top of every page of the results list. Screenshot No. 32 

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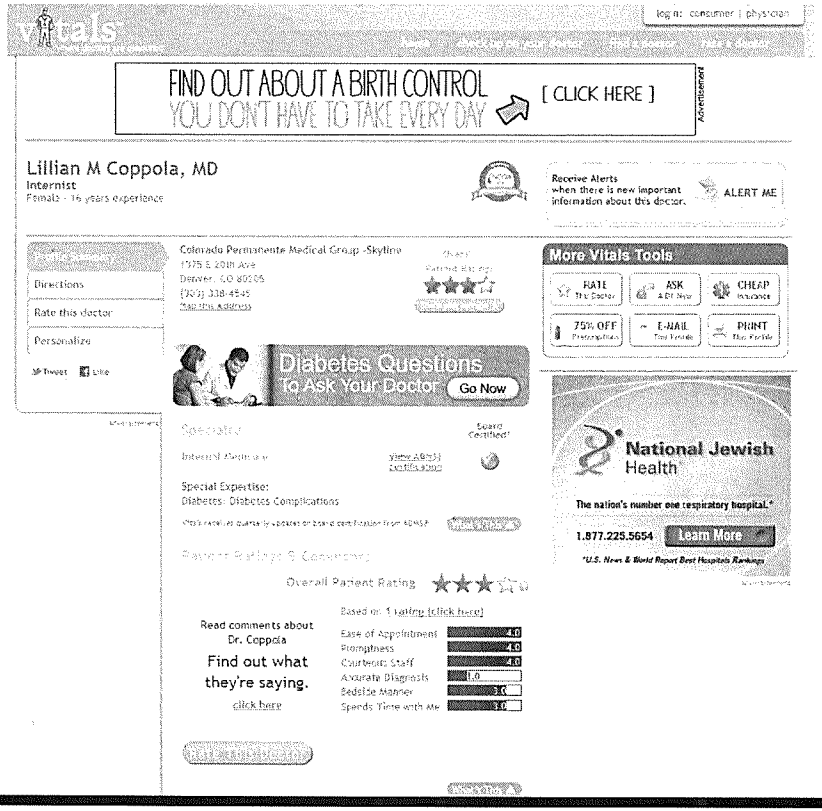
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U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	Screenshot No. 33 

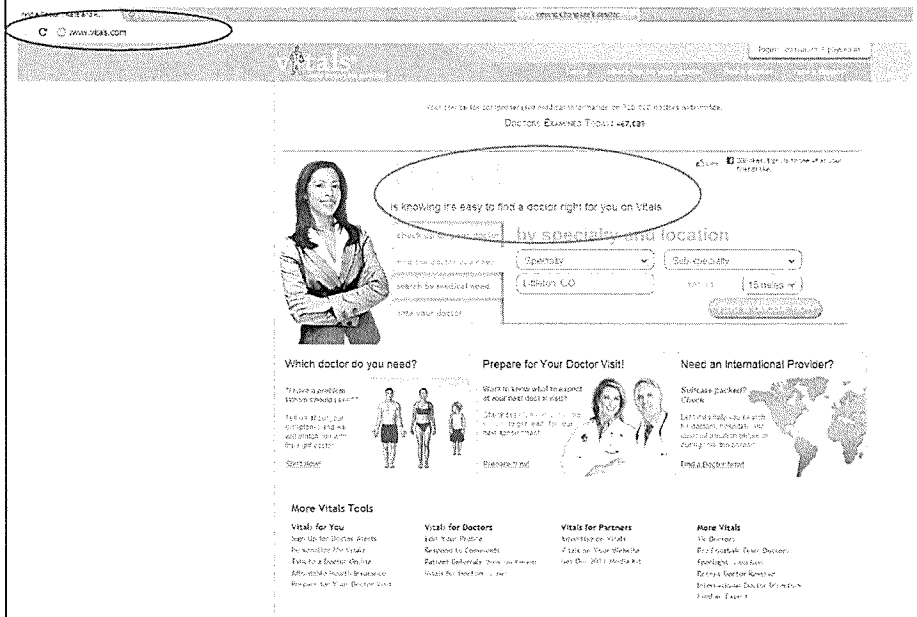
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U.S. Patent No. 7,752,060	MDx's Current On-line Information System
11. The method as defined in claim 9, wherein the enhanced services comprise favorable positioning in the results list.	MDx displays the member doctor in a prominent position. *See* Screenshot No. 34 (circled portion showing favorable position of member doctor). Screenshot No. 34 

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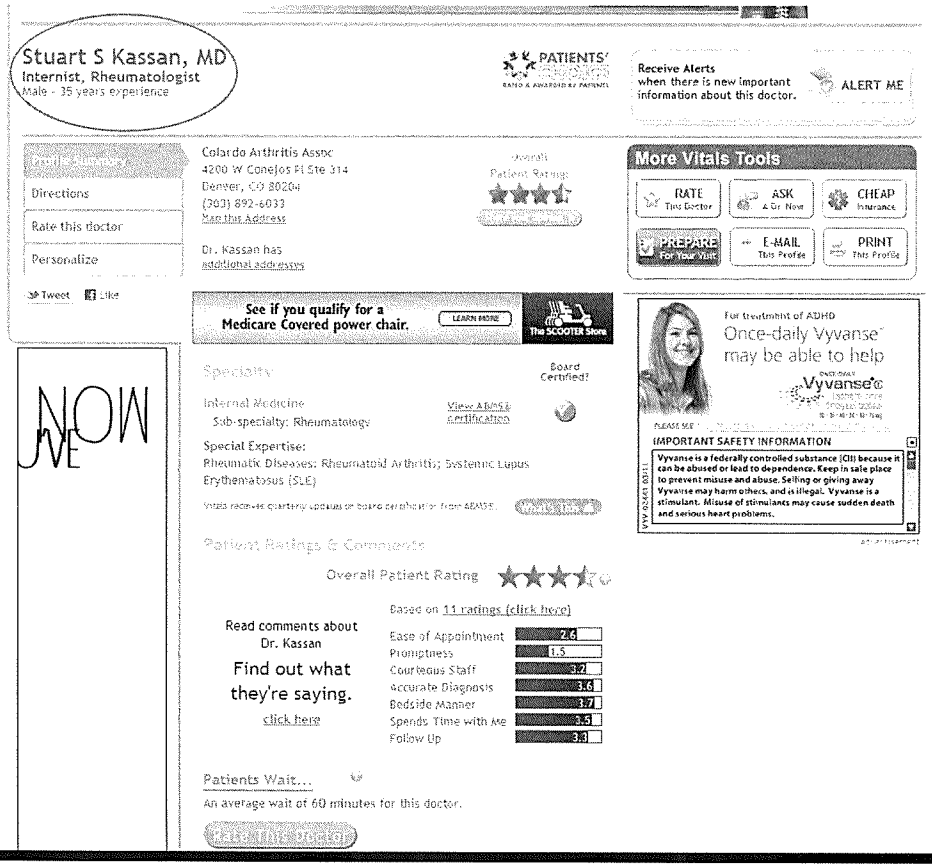
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
14. The method as defined in claim 1, wherein the first healthcare provider is a physician.	MDx provides reports on physicians. *See* Screenshot No. 35 (displaying a report for an internist). Screenshot No. 35 

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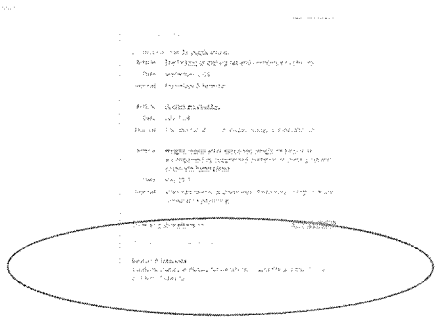
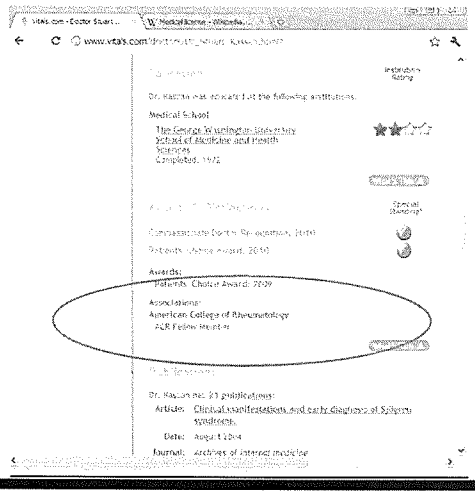
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
15. An on-line information system for connecting healthcare providers with potential patients, the system comprising:	MDx provides an online information system for connecting healthcare providers with potential patients. MDx's homepage displays a tagline that reads "Relief . . . is knowing it's easy to find a doctor right for you on Vitals." *See* Screenshot No. 36 (tagline circled in red). MDx's homepage is accessible via the internet. *See* Screenshot No. 36 (web address circled in purple). Screenshot No. 36 

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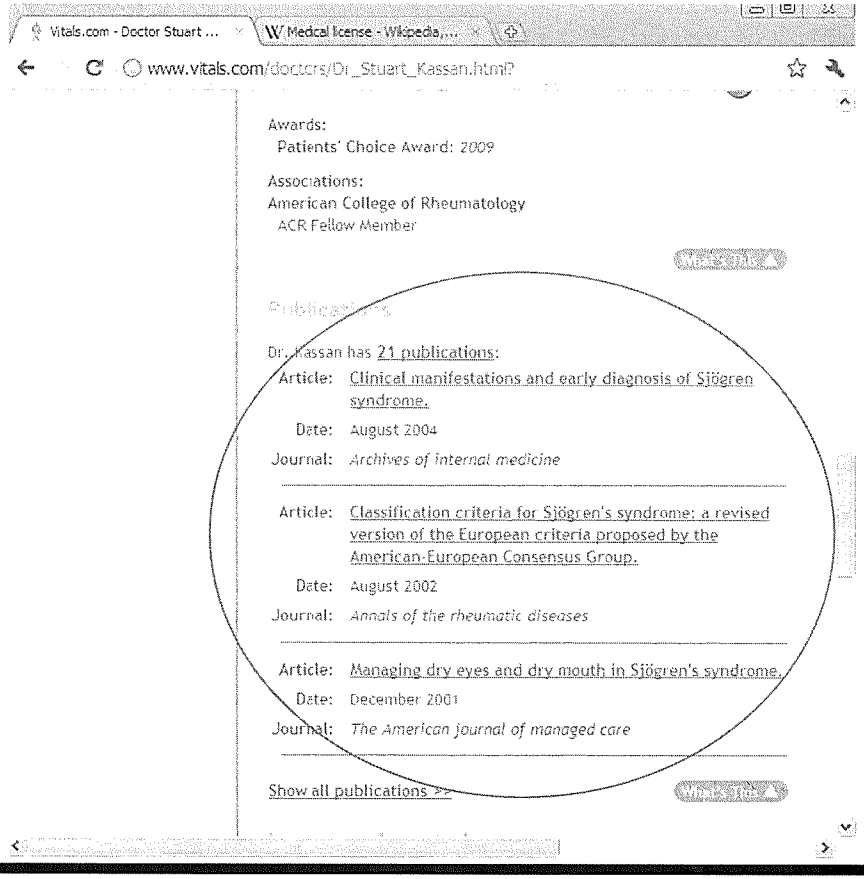
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
at least one computer processor; and	MDx uses a web server program, which is housed on a web server machine, to deliver its webpage to a potential patient's web browser. A web server machine is a computer, and all computers have computer processors.
memory coupled with and readable by the at least one computer processor and comprising a series of instructions that, when executed by the at least one computer processor, cause the at least one computer processor to:	MDx's web server machine, like any computer, has memory readable by at least one computer processor.
receive a request for information regarding a first healthcare provider;	MDx's web server receives a request for information regarding a first healthcare provider from a potential patient's web browser. *See, e.g.*, Screenshot 2 and Screenshot 3.
access healthcare provider-verified information about the first healthcare provider, wherein the healthcare provider-verified information is received from the first healthcare	MDx's web server accesses healthcare provider-verified information at the prompting of a potential patient. To display the healthcare provider-verified information in the patient's browser, the server must access the information. Screenshot No. 37 displays the following healthcare provider-verified information: specialty information, gender, and years in practice (information circled in red). Screenshot No. 38 displays hobbies (information circled in red). Screenshot No. 39 displays membership information (information circled in red). Screenshot No. 40 displays publications (information circled in red).

U.S. Patent No. 7,752,060	MDx's Current On-line Information System
provider and comprises three or more from the group consisting of: specialty information, medical philosophy, gender, age, years in profession, years in practice, awards, honors, professional appointments, professional memberships, publications, languages, and hobbies;	Screenshot No. 37 

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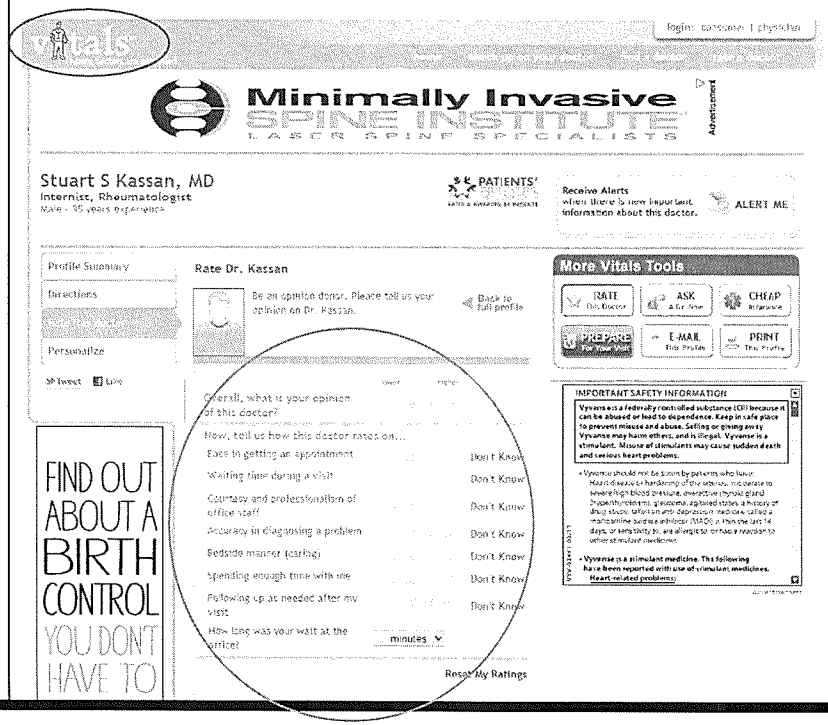
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	Screenshot No. 38  Screenshot No. 39 

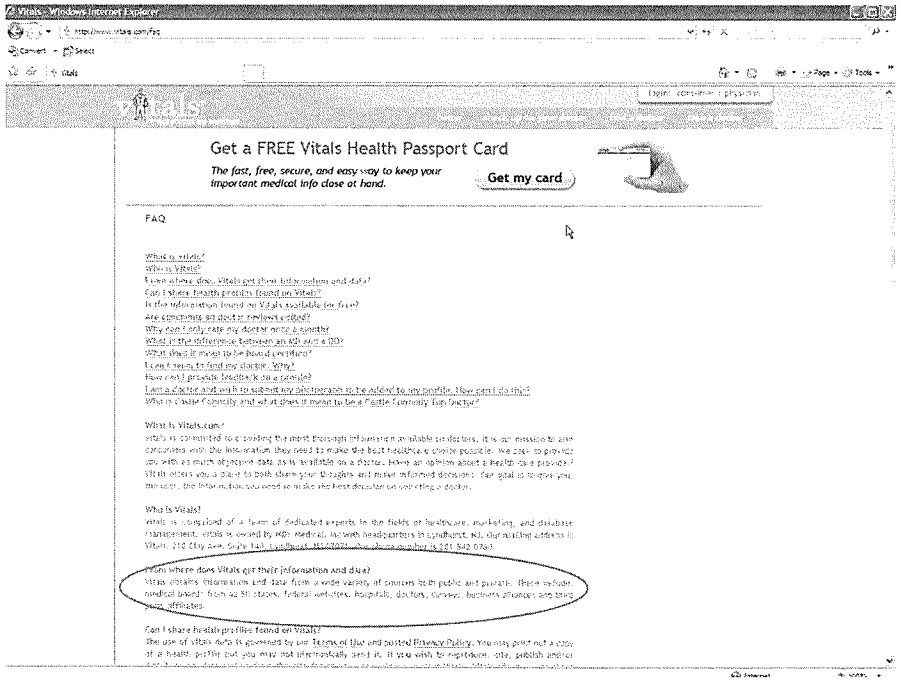
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U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	Screenshot No. 40 

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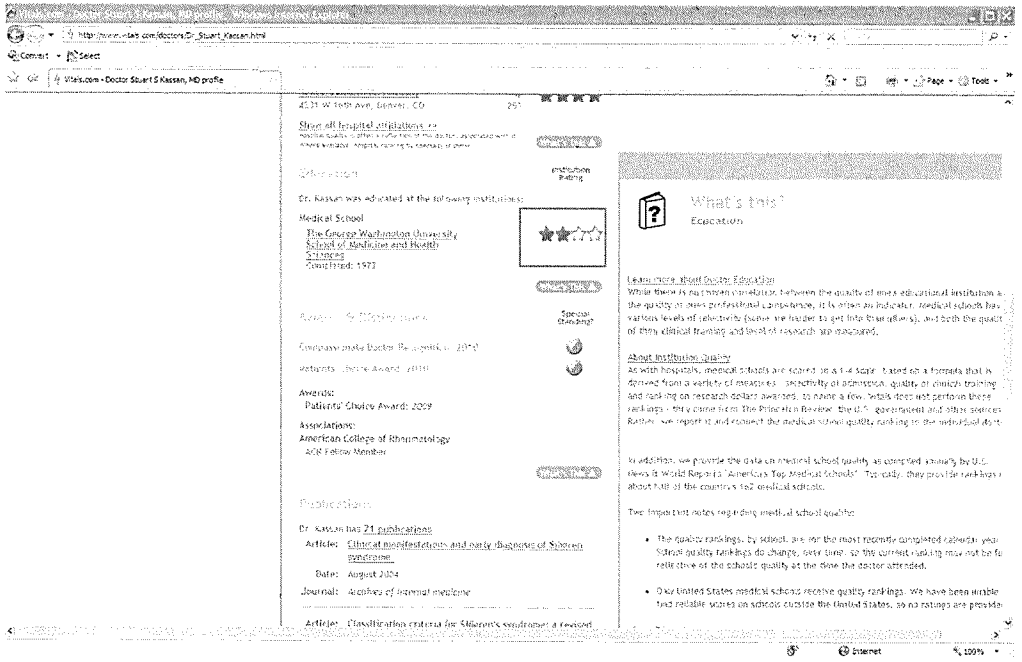
Case No. 1:11-cv-00520-RM-NYW Document 62-3 filed 11/15/11 USDC Colorado pg 49 of 123

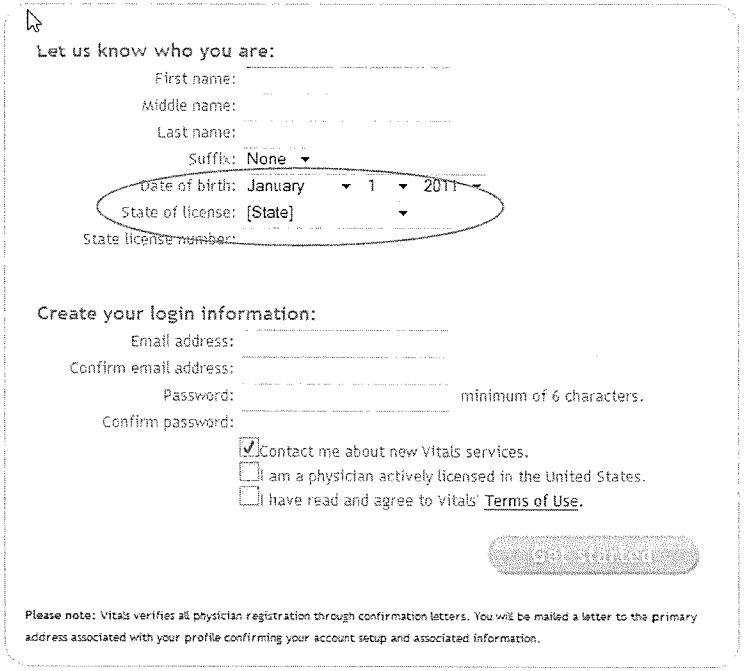
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
compile patient-provided information regarding the first healthcare provider, wherein the patient-provided information comprises patient ratings from one or more past or current patients of the first healthcare provider, and wherein the patient ratings are received from an on-line patient experience survey completed on a company Web site by the one or more past or current patients of the first healthcare provider, and wherein the company Web site is managed by a company providing a service for connecting healthcare providers with the potential patients;	MDx compiles patient-provided information through an online survey on its www.vitals.com website. Screenshot No. 41 displays the MDx on-line patient experience survey. MDx manages the website where the on-line surveys are collected. *See* Screenshot No. 40 (displaying on-line patient survey, circled in red, and the Vitals logo, circled in purple). Screenshot No. 41 

U.S. Patent No. 7,752,060	MDx's Current On-line Information System
compile healthcare provider information regarding the first healthcare provider verified by an independent third-party source, wherein the information verified by the independent third-party source comprises three or more from the group consisting of: board certification, licensure, disciplinary action information, medical school, medical internship, medical residency, and medical fellowship information;	MDx compiles information regarding doctors verified by an independent third-party source. The verified information comprises, at least, medical school, licensure, board certification, medical fellowship and medical residency information. *See* Screenshot No. 42 (displaying a portion of the FAQ from the vitals.com website stating that the information comes from various third parties). Screenshot No. 42 

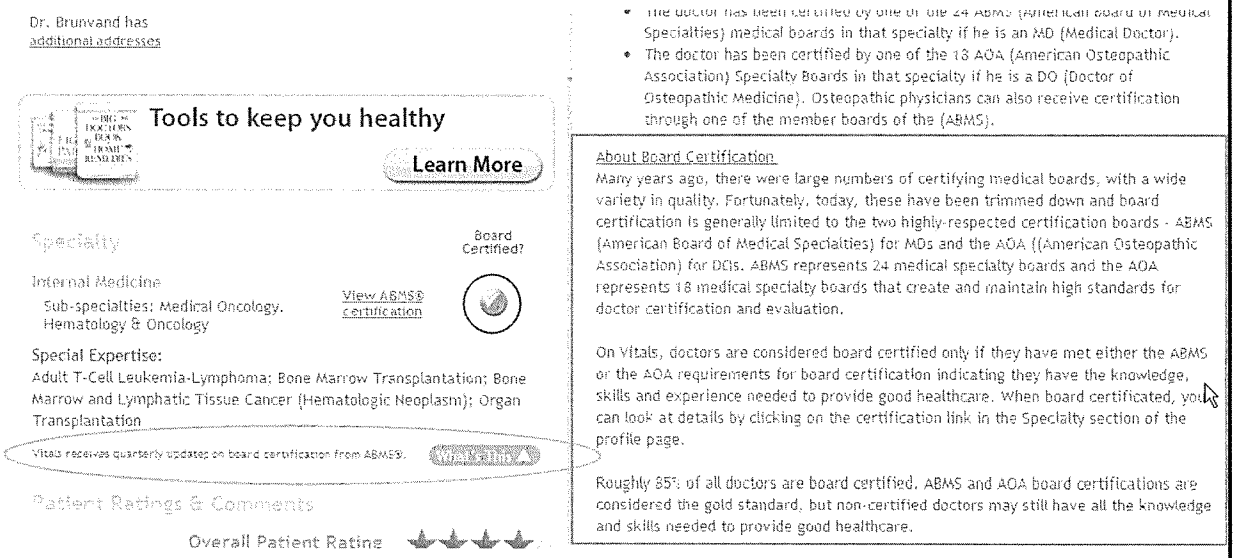
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	As a specific example, MDx compiles medical school information on a given doctor from *U.S. News & World Report's* "America's Top Medical Schools." *See* Screenshot No. 43 ("What's this?" section describing that MDx compiles medical school information from *U.S. News & World Report*). MDx then provides potential patients with medical school information associated with a given physician's academic and fellowship history. Screenshot No. 43 

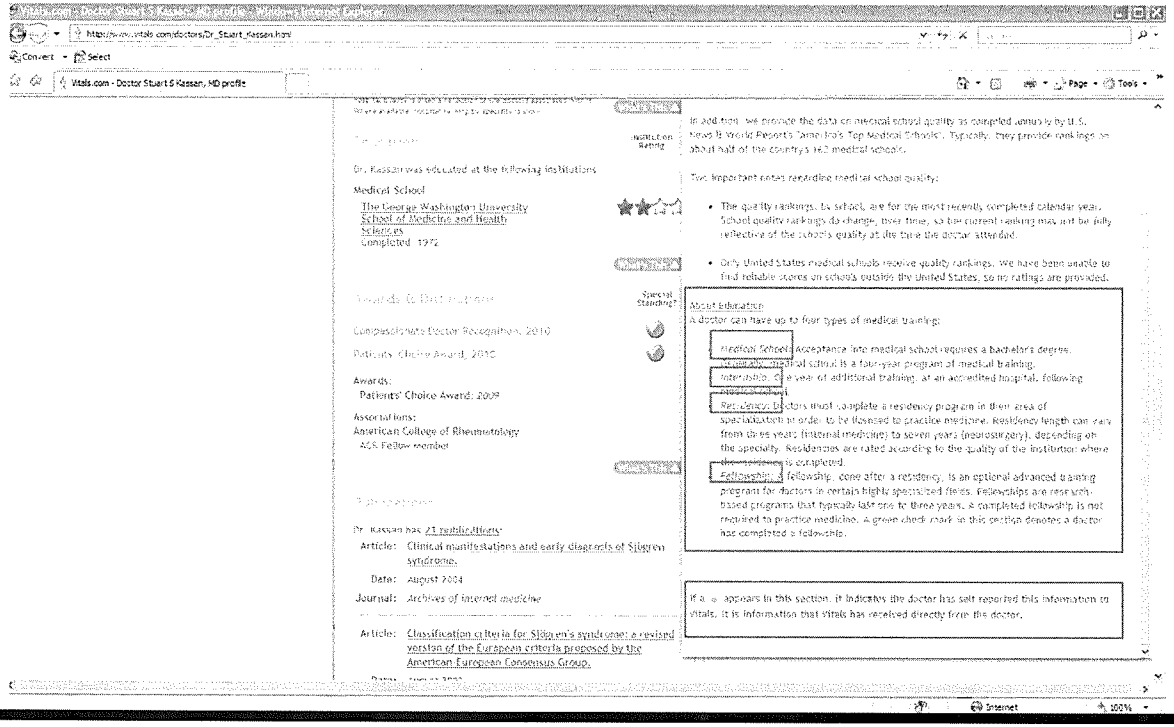
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	MDx compiles licensure information. Screenshot No. 44 evidences that MDx verifies each physician's license before adding the physician to the results list; to do this, MDx must compile the information first in order to compare it to the entry field. Screenshot No. 44 

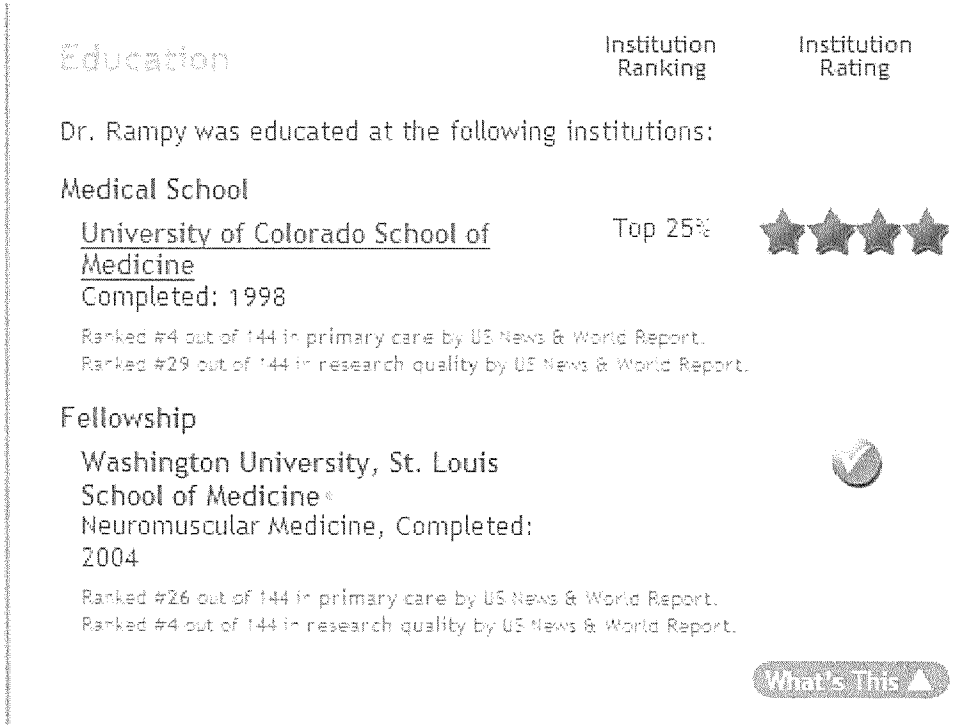
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	MDx admits that it compiles board certification information. *See* screenshot No. 45 below ("Vitals receives quarterly updates on board certification from ABMS", circled in orange). Further, the American Board of Medical Specialties is an independent source. *See* Screenshot No. 45, "About Board Certification" boxed in red below.) Screenshot No. 45 

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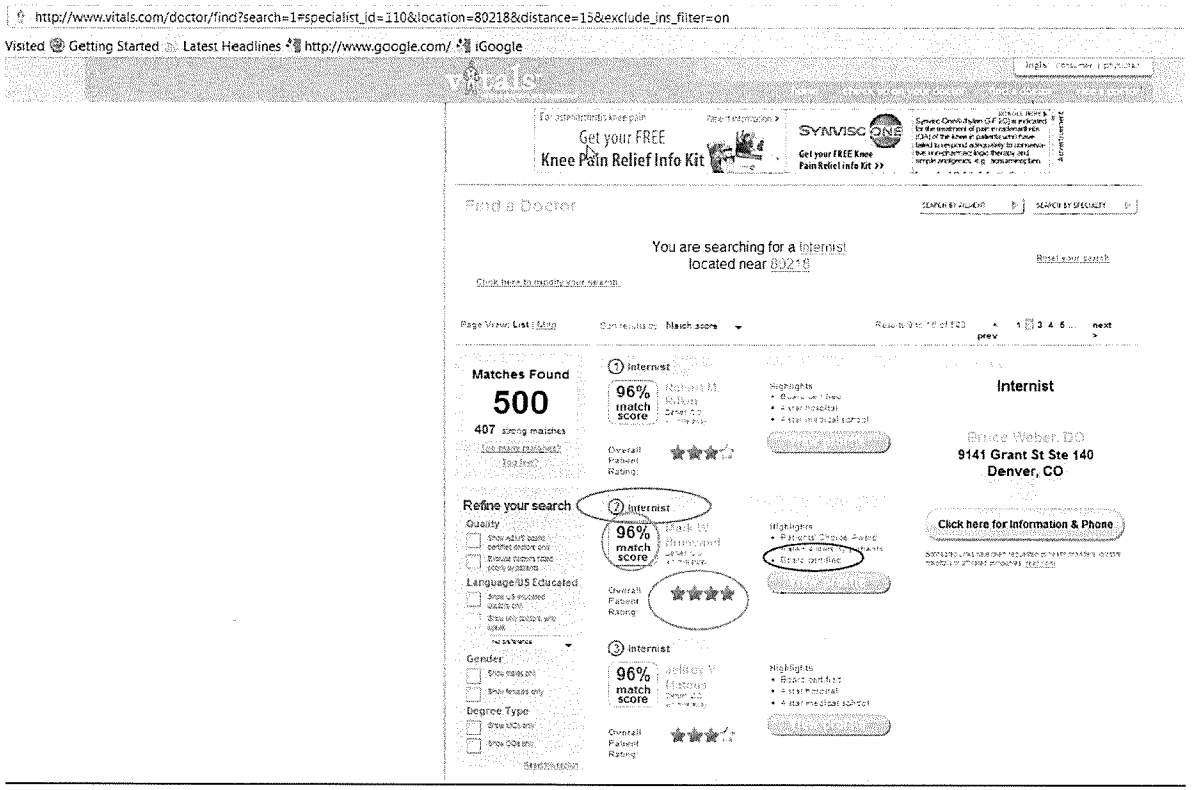
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	MDx admits that it compiles additional information regarding a physician's medical school, internship, residency, and fellowship positions using independent, third-party resources unless otherwise noted. *See* Screenshot No. 46 (noting that MDx obtains all educational information from independent third parties unless otherwise noted). Screenshot No. 46 

U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	As a specific example, Screenshot 47 provides specific evidence that MDx compiles fellowships information on at least some it its doctors. Screenshot No. 47 

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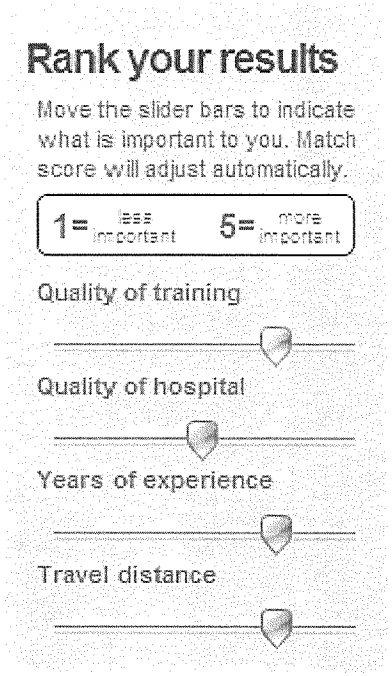
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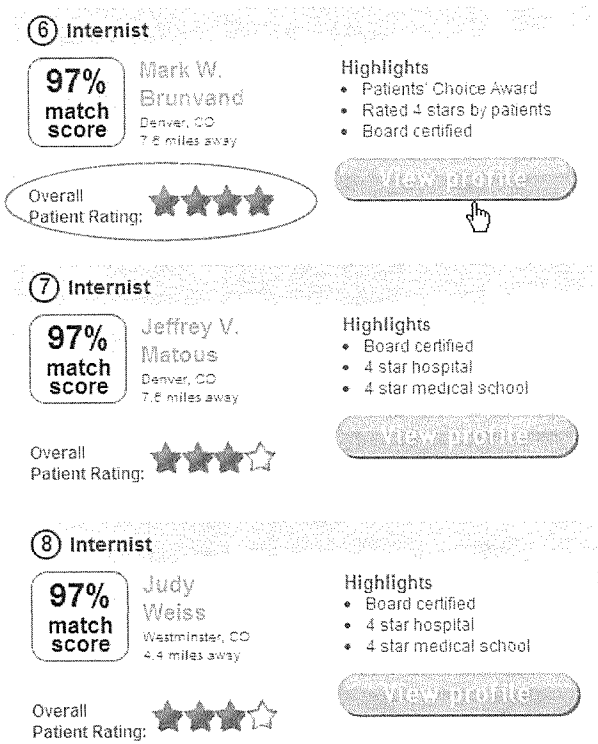
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
create a healthcare provider report on the first healthcare provider using the healthcare provider-verified information, the patient-provided information, and the information verified by the independent third-party source, wherein the healthcare provider report on the first healthcare provider includes comparison ratings of healthcare providers; and	After a patient/user enters search criteria for a doctor, MDx creates one or more healthcare provider reports using information from the MDx database, including using healthcare provider-verified information, patient-provided information, and information verified by the independent third-party source. Screenshot Nos. 48 & 50-52 show portions of a healthcare provider report for Dr. Mark Brunvand. This report uses at least the following information: (1) healthcare provider-verified information, circled in red; (2) patient-provided information, circled in green; and (3) information verified by an independent third-party source circled in purple. The report also includes comparison ratings, circled in orange. Screenshot No. 48

U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	
	The "match score" comparison rating provides the patient with information regarding how well

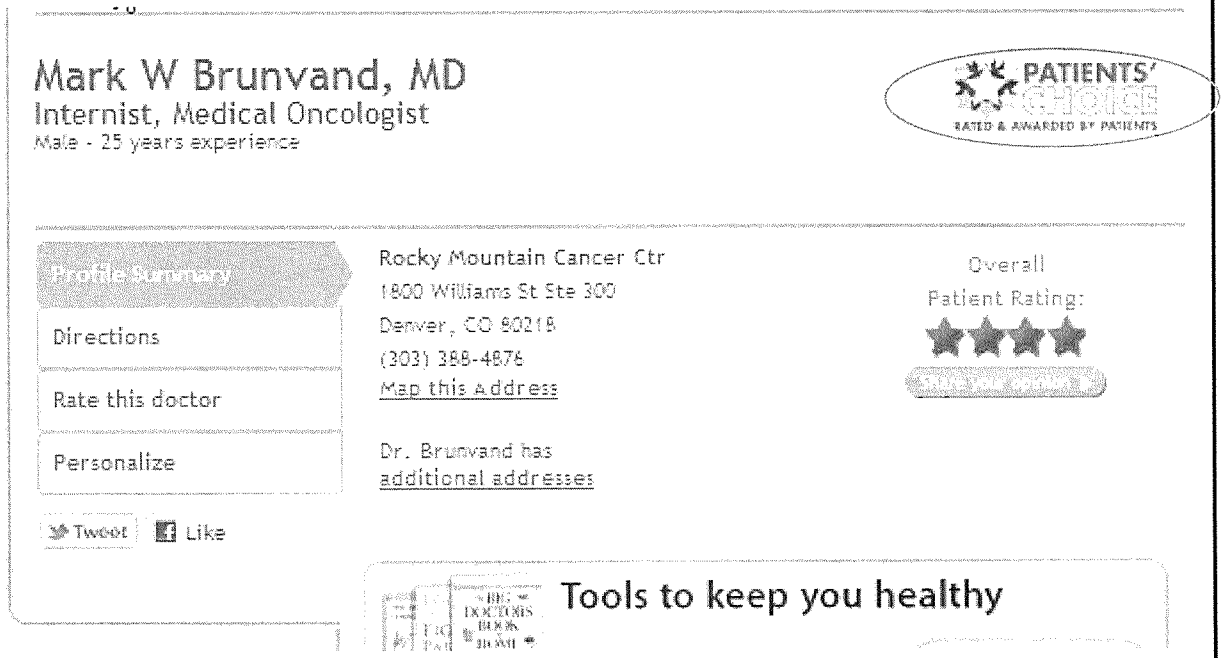
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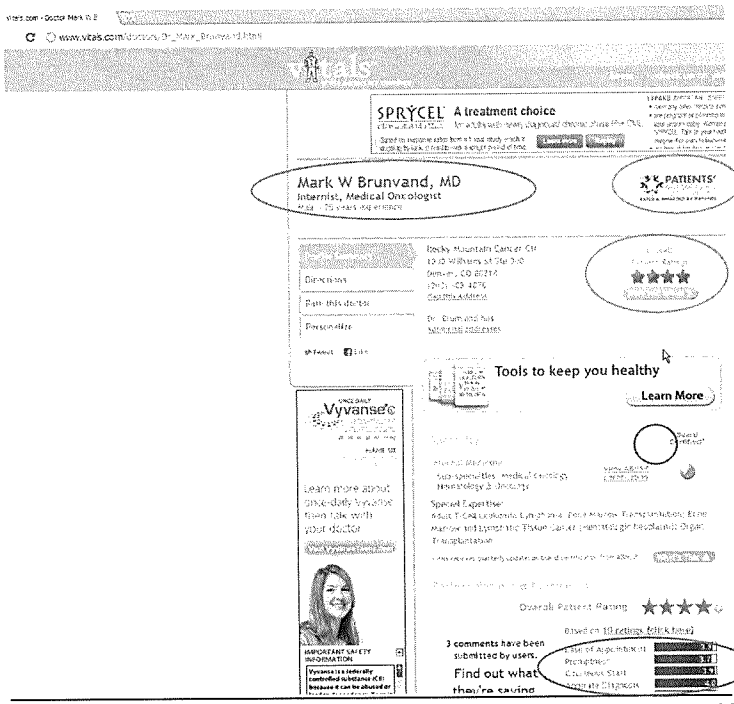
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	physicians listed in the results list satisfy the patient's specified criteria, e.g. "specialty or location [state], and [city] [criteria]." The "match score" is determined based on four criteria, which may be changed by the patient by manipulating the slider bars shown in screenshot No. 49, below. Screenshot No. 49  Additionally, the "overall patient rating," comprising 0-4 purple stars, comprises comparison ratings

U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	of healthcare providers. *See* Screenshot No. 50. Screenshot No. 50  MDx includes another comparison rating of healthcare providers when it includes the "Patients'

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U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	Choice" mark next to the physicians name. MDx gives this award to a physician when the physician has "received near perfect scores as rated by patients" compared to other physicians. *See* Screenshot No. 51. Screenshot No. 51  To the extent that MDx asserts that these three ratings do not literally satisfy the limitation of a

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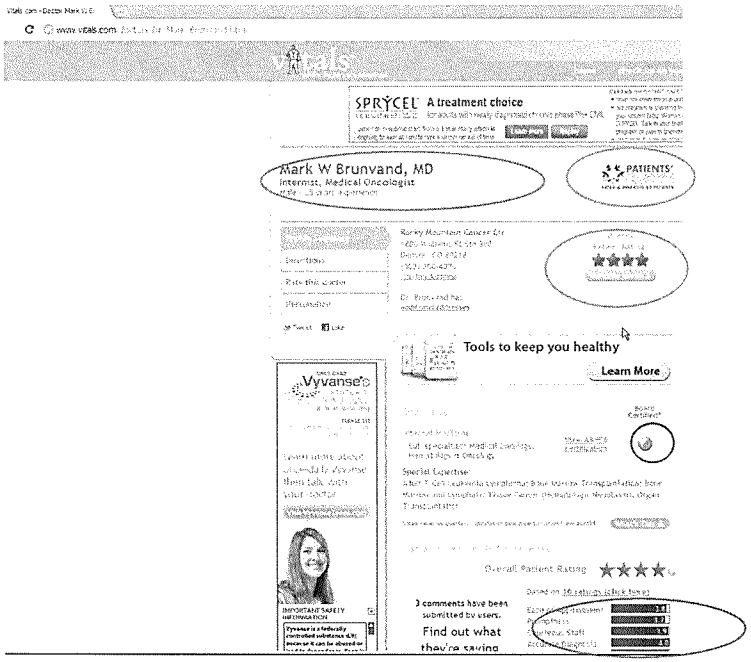
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	healthcare provider report that includes comparison ratings, these ratings meet the claim limitations under the doctrine of equivalents because they have the same function and operate in the same way to achieve the same result as comparison ratings on a healthcare provider report. *See* Screenshot 52. Screenshot No. 52  The report on Dr. Brunvand uses the following doctor-verified information: (1) specialty information,

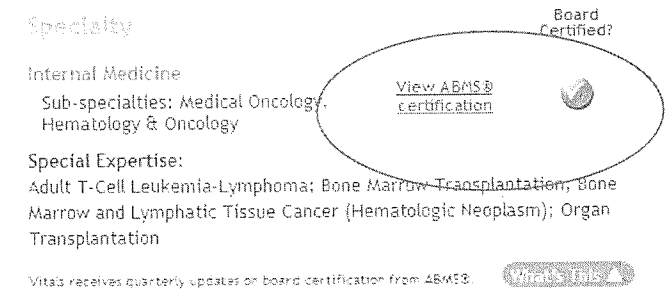
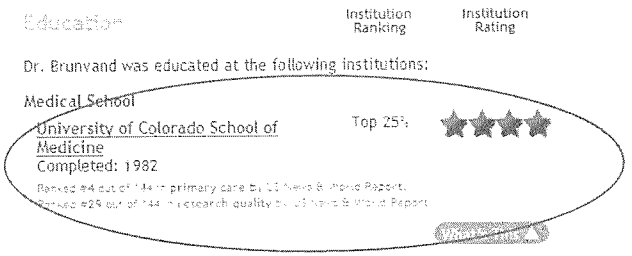
Case No. 1:11-cv-00520-RM-NYW Document 62-3 filed 11/15/11 USDC Colorado pg 61 of 123

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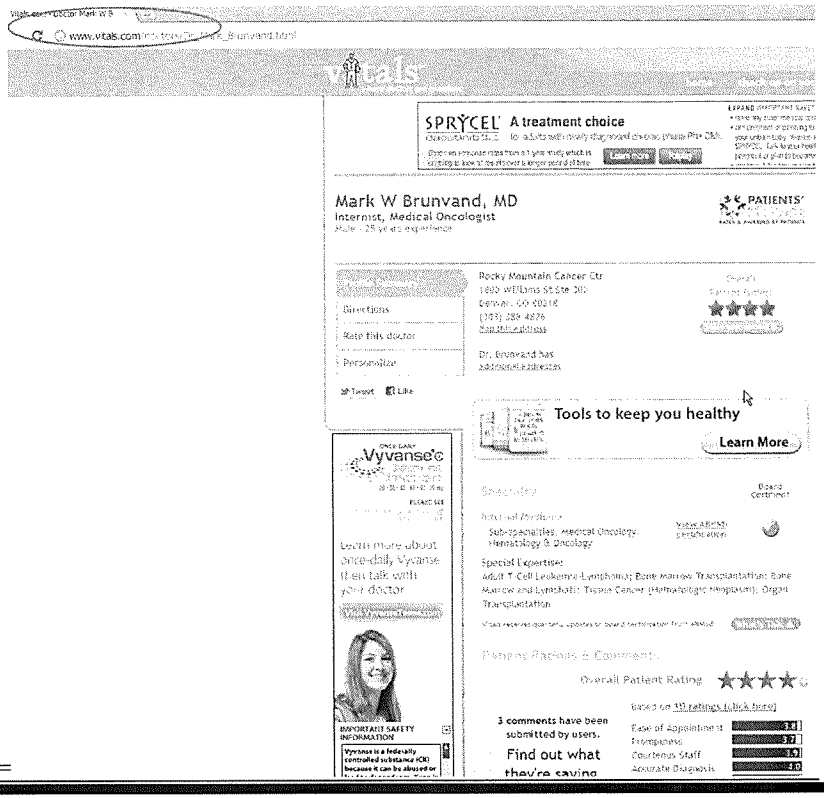
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	gender, years in practice, shown in Screenshot No. 53, and; (2) professional memberships shown in Screenshot No. 54 below: Screenshot No. 53 Mark W Brunvand, MD Internist, Medical Oncologist Male - 25 years experience Screenshot No. 54 Awards & Distinctions Special Standing? Compassionate Doctor Recognition, 2010 On-Time Physician Award, 2009 Patients' Choice Award, 2010 Awards: Compassionate Doctor Recognition: *2009* Patients' Choice Award: *2008 – 2009* Associations: American Society of Clinical Oncology Member American Society of Hematology Member The report on Dr. Brunvand uses the following patient provided information: patient ratings compiled

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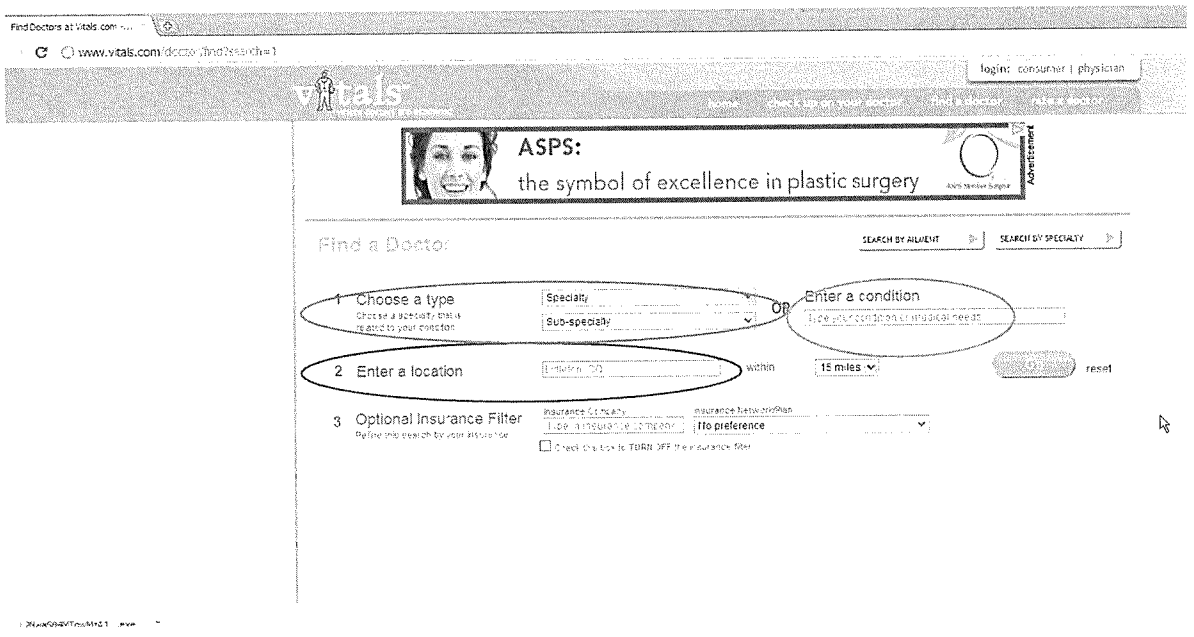
U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	from a www.vitals.com on-line patient-experience survey (circled in green in Screenshot No. 52 below): Screenshot No. 52  Additionally, the report on Dr. Brunvand uses information verified by the independent third-party

U.S. Patent No. 7,752,060	MDx's Current On-line Information System
	sources, namely, board certifications and medical school information as shown in Screenshot Nos. 55-56 below. MDx also uses compiled licensure information to ensure that only licensed physicians, including Dr. Brunvand, are displayed in the search results. Screenshot 55  Screenshot 56 
and provide access to	MDx provides access to the healthcare provider report over the internet. *See* Screenshot No. 57 (web

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U.S. Patent No. 7,752,060	MDx's Current On-line Information System
the healthcare provider report on the first healthcare provider over a computer network.	address circled in red). Screenshot No. 57 

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U.S. Patent No. 7,752,060	MDx's Current On-line Information System
16. The on-line information system defined in claim 15, wherein: the healthcare provider report is obtained through one or more from the group consisting of: a predetermined Webpage that provides search capabilities on its database and a third-party search engine; and the search capabilities of the predetermined Webpage permit searching based on one or more from the group consisting of: name, medical specialty, gender, state, city, procedure, diagnosis, and location criteria.	MDx provides a predetermined webpage. This webpage permits a patient to search based on medical specialist, diagnosis, and location criteria. *See* Screenshot No. 58 (specialist, location criteria circled, and diagnosis in red, blue, and orange respectively). Screenshot No. 58 

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Scott D. Stimpson

From: Vazquez, Jesus [jvazquez@rothgerber.com]

Sent: Friday, July 01, 2011 7:13 PM

To: Scott D. Stimpson; David C. Lee; Mark J. Rosenberg; 'piccone@wtotrial.com'; 'lampley@wtotrial.com'

Cc: Kostolansky, Kris J.; Phipps, Jeffrey

Subject: Exhibits B and D; File History and Ownership Documents

Attachments: 2011 07 01 - Rule 3 1(c) Claim Chart - Exhibit B PDF (00944171).pdf; 2011 07 01 - Rule 3 1(c) Disclosure - Exhibit D PDF (00944173).pdf; File History and Ownership Docs 3-2(c) and (d) (00944103).PDF

Pursuant to my previous email, attached are Exhibits B and D to Health Grades' Infringement Contentions, and the File History and Ownership Documents.

Jesús M. Vázquez, Attorney-at-Law
Rothgerber Johnson & Lyons LLP | One Tabor Center, Suite 3000 |
1200 Seventeenth Street | Denver, CO 80202 |
Direct 303.628.9517 | Main 303.623.9000 | Fax 303.623.9222
E-mail: jvazquez@rothgerber.com | Website: www.rothgerber.com

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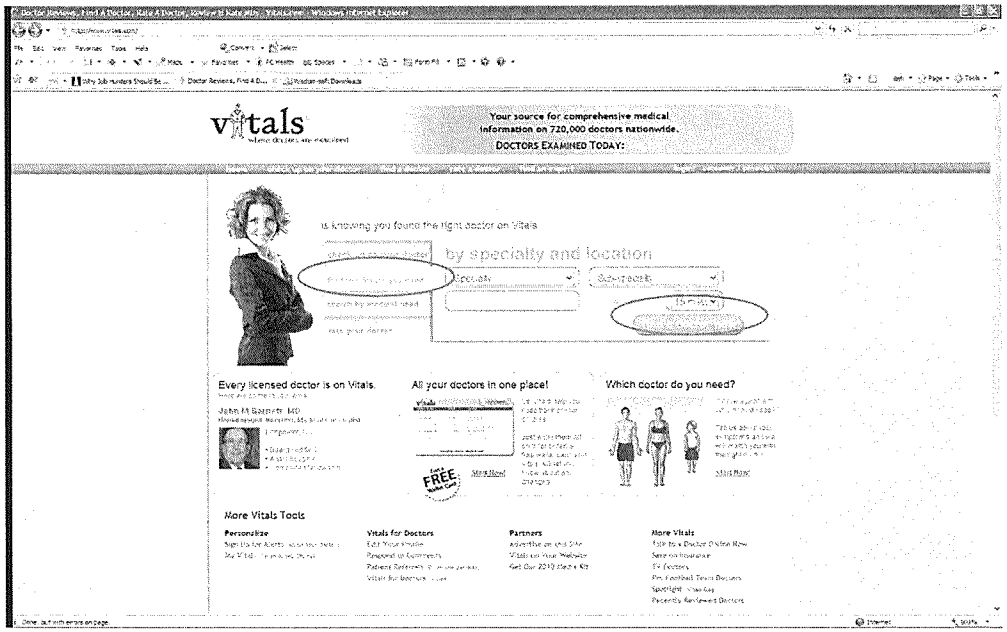
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EXHIBIT B - Claim Chart
U.S. Patent No. 7,752,060 to MDx's Prior Website

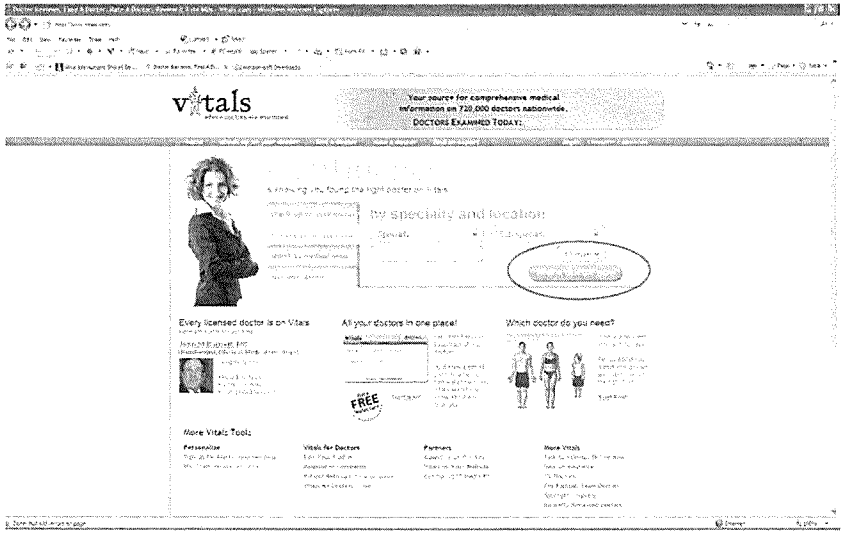
U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
1. A computer-implemented method of providing healthcare provider information to potential patients, said method comprising:	MDx Medical, Inc. ("MDx") directly infringed this claim by practicing a computer-implemented method of providing healthcare provider information to potential patients via its on-line information system, which included its pre-January 2011[1] version of its website (www.vitals.com), its healthcare provider database, and the software and hardware that are associated therewith. MDx provides potential patients with access to MDx's database of information relating to healthcare providers, such as doctors, through its www.vitals.com website. Various screenshots taken from http://www.vitals.com/[2] are provided in this claim chart to illustrate the various features of the vitals.com website and how these features correspond to the features of claims 1, 4-9, 11, 14-16. For instance, Screenshot No. 1 (reproduced below and, in larger form, in Exhibit D) illustrates the homepage of the MDx website where a potential patient begins accessing MDx's information related to specific doctors.

[1] MDx made changes to its website in January 2011.
[2] Screenshots taken between 11/1/10 and 12/31/10. Because Plaintiffs cannot currently access the pre-January 2011 website, the quality and availability of the screenshots may be affected.

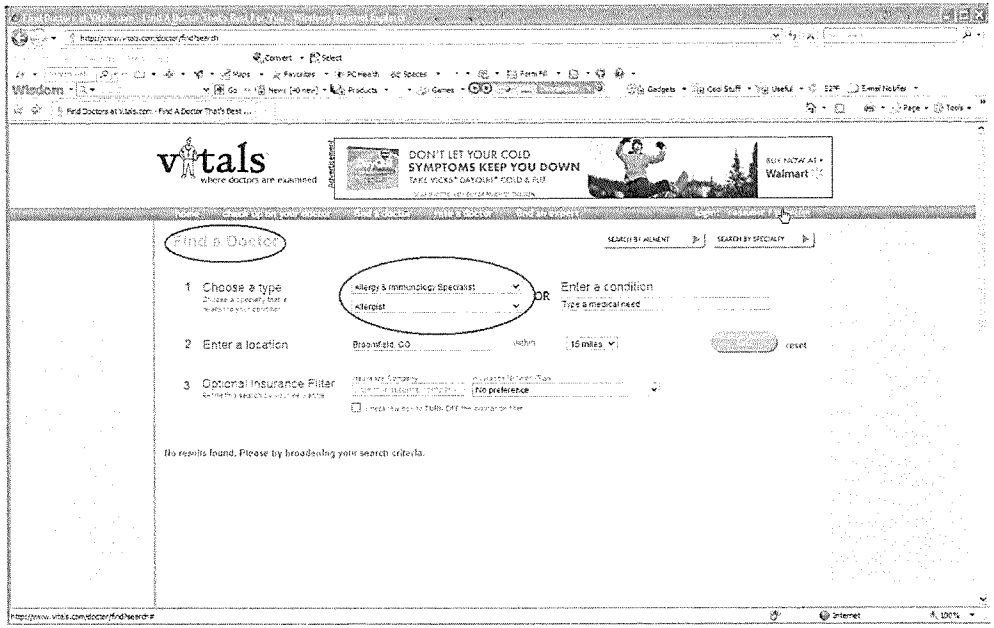
U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	Screenshot No. 1  For example, MDx provides a potential patients with information about a healthcare provider in response to the potential patient clicking on the "find the doctor you need" link or in response to the potential patient clicking on the "find a doctor now" link, both of which are circled in red on Screenshot No. 1 above.

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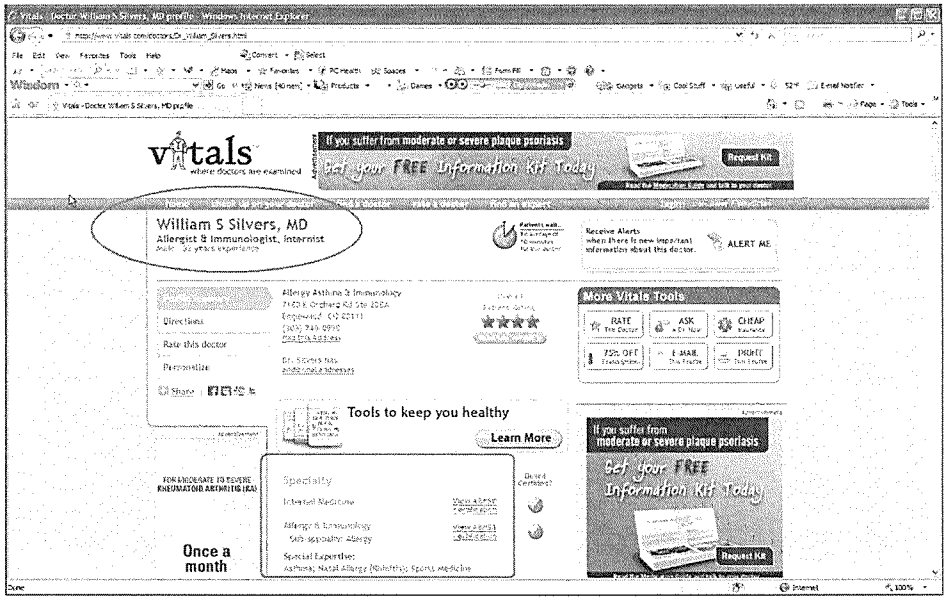
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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
receiving, by a Web server computer of a company providing a service for connecting healthcare providers with the potential patients, a request for information regarding a first healthcare provider, wherein the Web server computer comprises at least one computer processor and memory;	When the potential patient initiates a search for a healthcare provider on the MDx's website, MDx's web server receives a request for information regarding a healthcare provider via the internet. MDx's web server, as with any server, comprises at least one computer processor and memory. Screenshot No. 2  Screenshot No. 2 shows an example of where a potential patient may initiate a search for a healthcare provider on MDx's website, i.e., request information about one or more healthcare providers. When the user clicks "find a doctor now," this prompts the patient's web browser to send a request for information about a doctor to the MDx's web server, which receives the request for information and then accesses MDx's database to find data that responds to the user's search query.

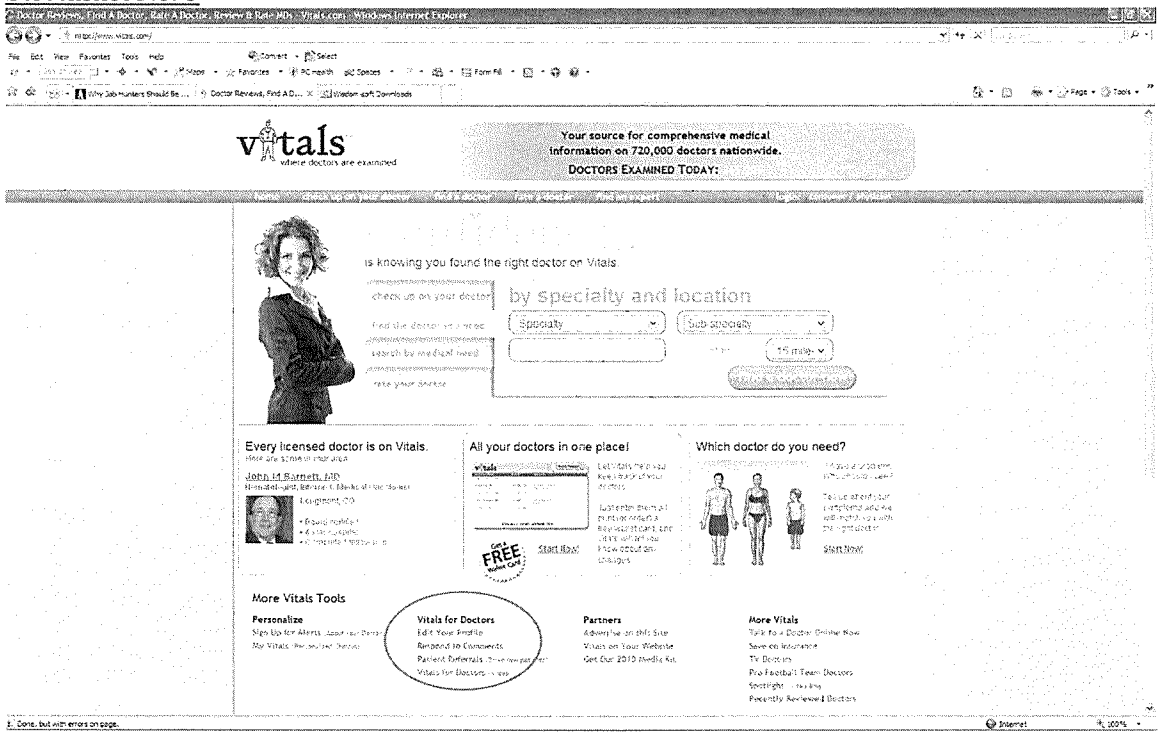
Case No. 1:11-cv-00520-RM-NYW Document 62-3 filed 11/15/11 USDC Colorado pg 71 of 123

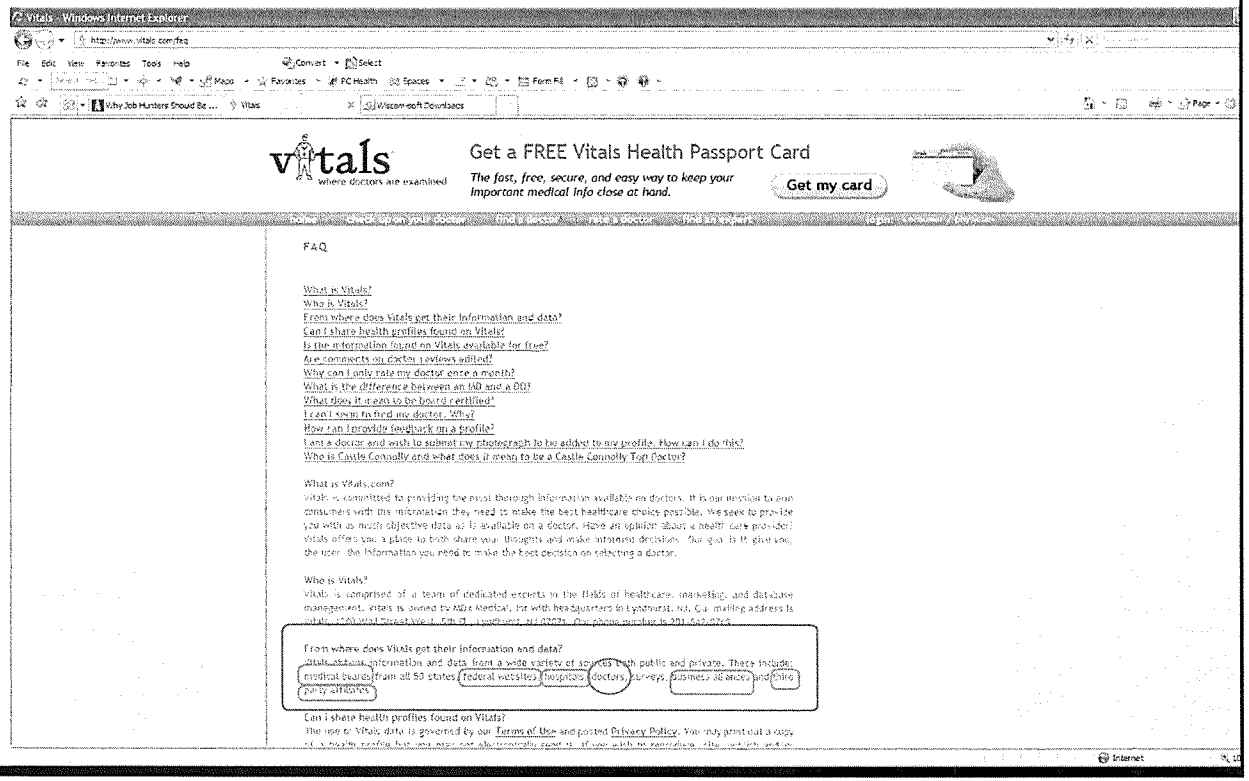
U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	Screenshot No. 3 illustrates yet another portion of MDx's website that provides for MDx's web server to receive a request for information about various doctors based on specialty or location. *See* Screenshot No. 3 (circled in red are ways to search for a doctor). <u>Screenshot No. 3</u> 

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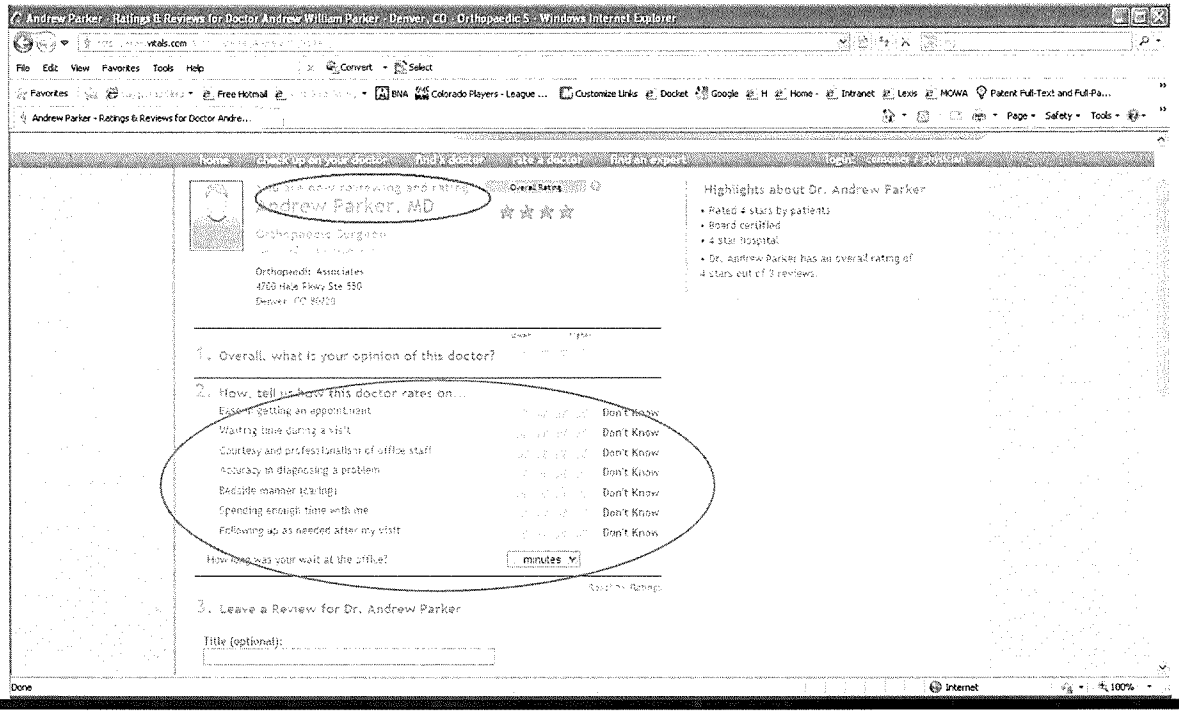
U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
accessing healthcare provider-verified information about the first healthcare provider, wherein the healthcare provider-verified information is received from the first healthcare provider and comprises three or more from the group consisting of: specialty information, medical philosophy, gender, age, years in profession, years in practice, awards, honors, professional appointments, professional memberships, publications, languages, and hobbies;	At the initiation of the potential patient/user using MDx's website, MDx's web server accesses healthcare-provider-verified information. *See* Screenshot No. 4 (illustrating the result of accessing and displaying doctor supplied information). Highlighted in Screenshot No. 4, among other things, are the following pieces of healthcare provider-verified information: doctor's age, gender, specialty information and years in practice. Screenshot No. 4 

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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	MDx receives the healthcare provider-verified information from healthcare providers. MDx's website provides doctors with the ability to send information to MDx. For example, MDx's website provides many opportunities for doctors to edit their own profiles. *See, e.g.*, Screenshot No. 5 Screenshot No. 5 

U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	MDx states on its website that it receives, compiles, and posts doctor-supplied information. *See* Screenshot No. 6. Screenshot No. 6 

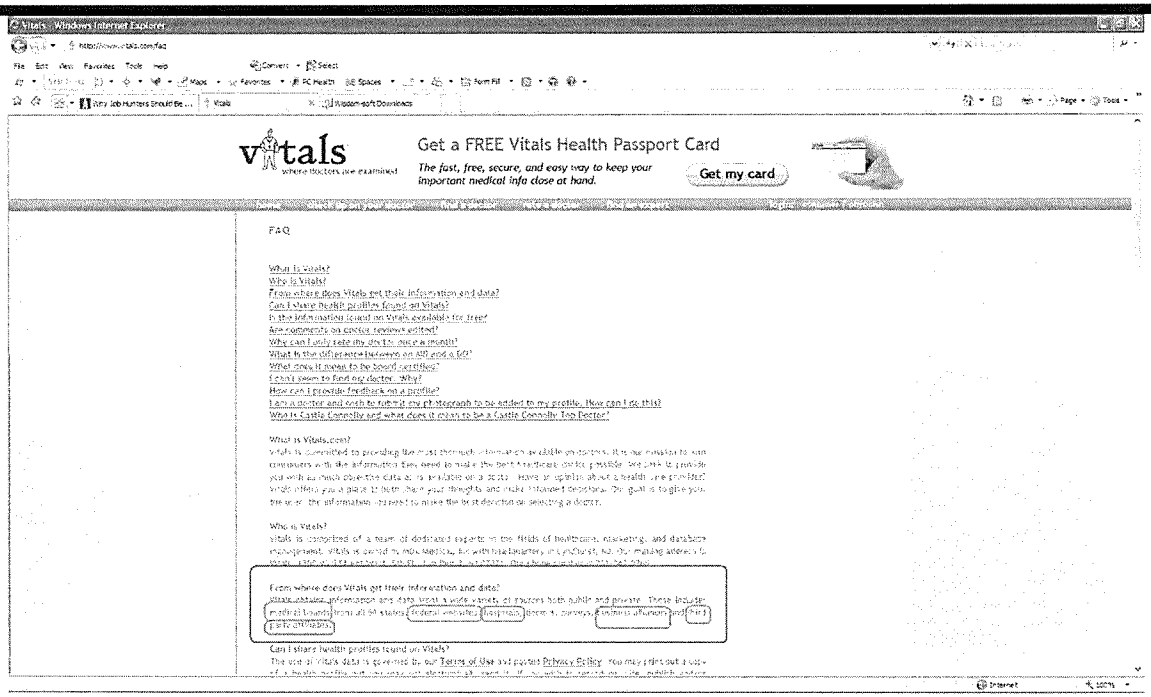
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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
compiling, by the at least one computer processor, patient-provided information regarding the first healthcare provider, wherein the patient-provided information comprises patient ratings from one or more past or current patients of the first healthcare provider, and wherein the patient ratings are received from an on-line patient experience survey completed on a company Web site by the one or more past or current patients of the first healthcare provider, and wherein the company Web site is managed by the company providing the service for connecting healthcare providers with the	MDx's on-line information service, which includes a computer processor, compiles patient-provided information regarding healthcare providers. MDx compiles the patient ratings from a www.vitals.com on-line patient-experience survey; this survey is shown in Screenshot No. 7, below. Screenshot No. 7 

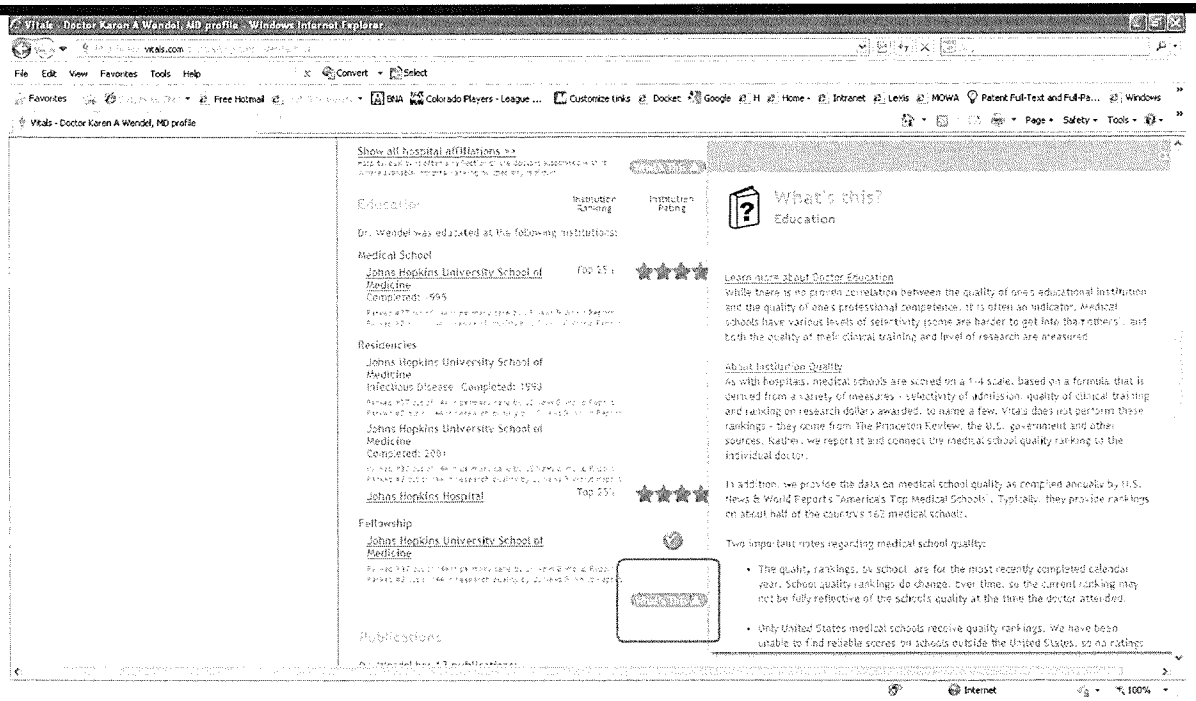
Case No. 1:11-cv-00520-RM-NYW Document 62-3 filed 11/15/11 USDC Colorado pg 75 of 123

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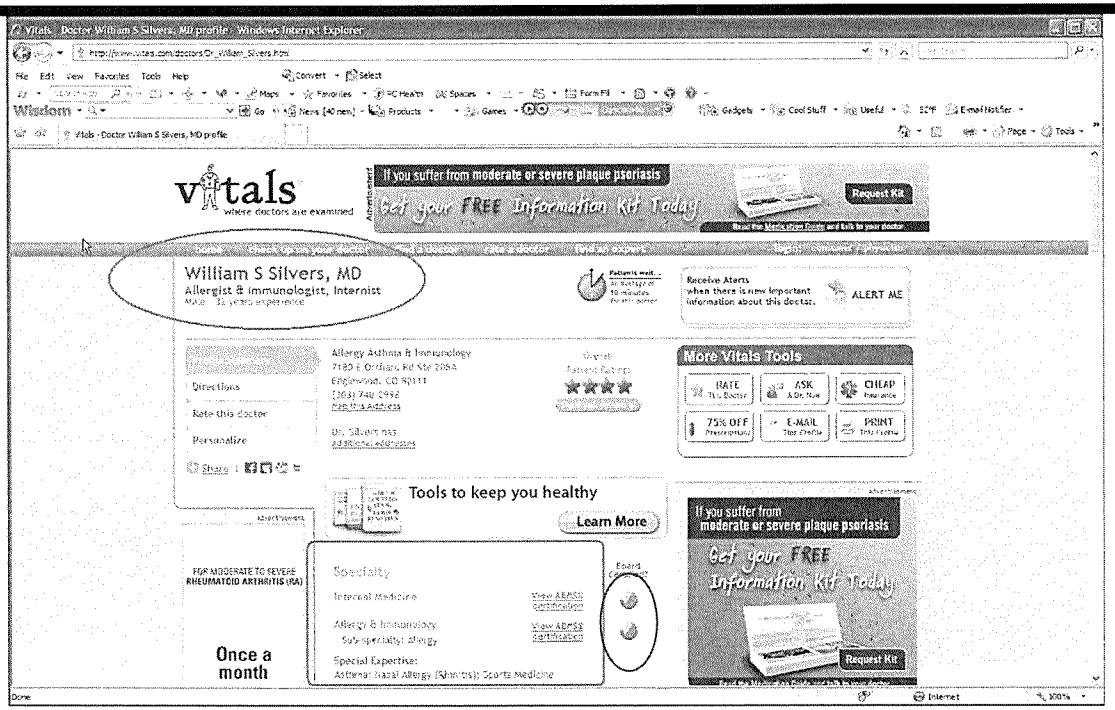
U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
potential patients;	
compiling information regarding the first healthcare provider verified by an independent third-party source, wherein the information verified by the independent third-party source comprises three or more from the group consisting of: board certification, licensure, disciplinary action information, medical school, medical internship, medical residency, and medical fellowship information;	MDx compiles information regarding doctors that is verified by an independent third-party source. The verified information comprises, at least, medical school, licensure, board certification, medical fellowship and medical residency information. *See* Screenshot No. 8 (displaying a portion of the FAQ from the vitals.com website stating that the information comes from various third parties). Screenshot No. 8

U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	 As a specific example, MDx compiles medical school information on a given doctor from "The Princeton Review, the U.S. Government and other sources." *See* Screenshot No. 9. MDx then provides potential patients with medical school information associated with a given physician's academic and fellowship history. Screenshot No. 9

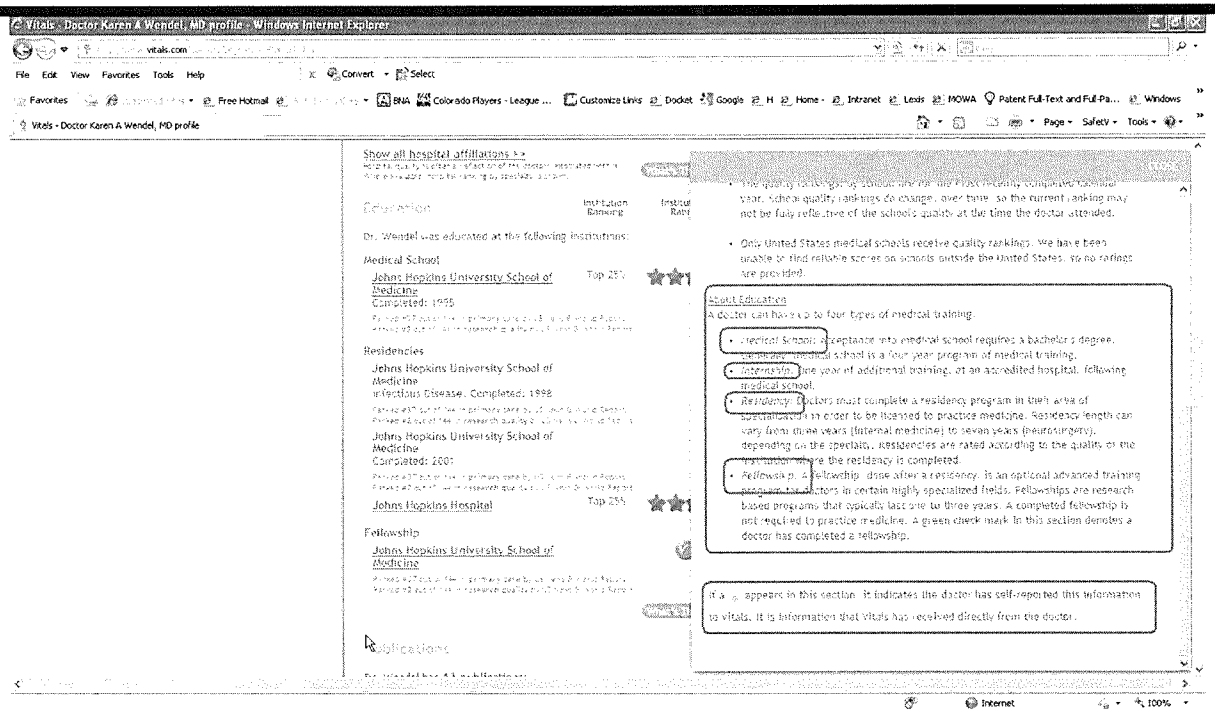
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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	 MDx compiles board certification information. See Screenshot No. 10 (board certification check mark circled in purple). Screenshot No. 10

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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	 MDx compiles additional information verified by an independent third-party source regarding a physician's medical school, internship, residency, and fellowship positions. *See* Screenshot No. 11 (noting that MDx obtains all educational information from independent third parties unless otherwise noted). Screenshot No. 11

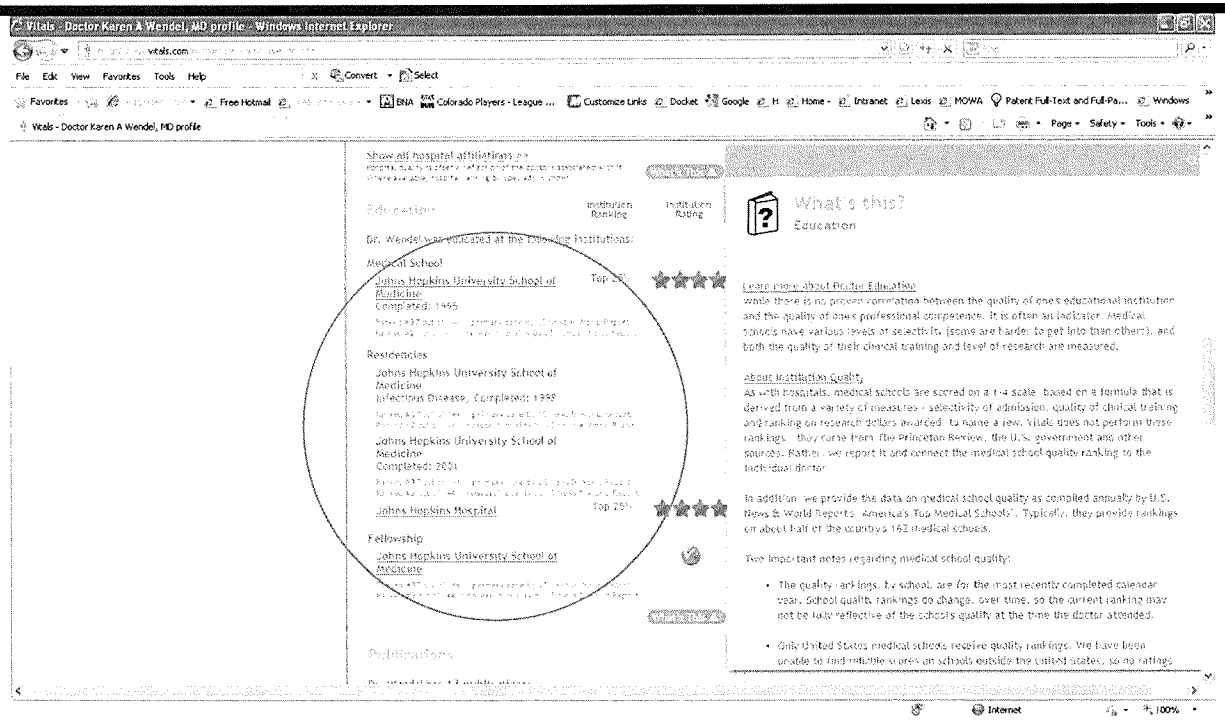
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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	

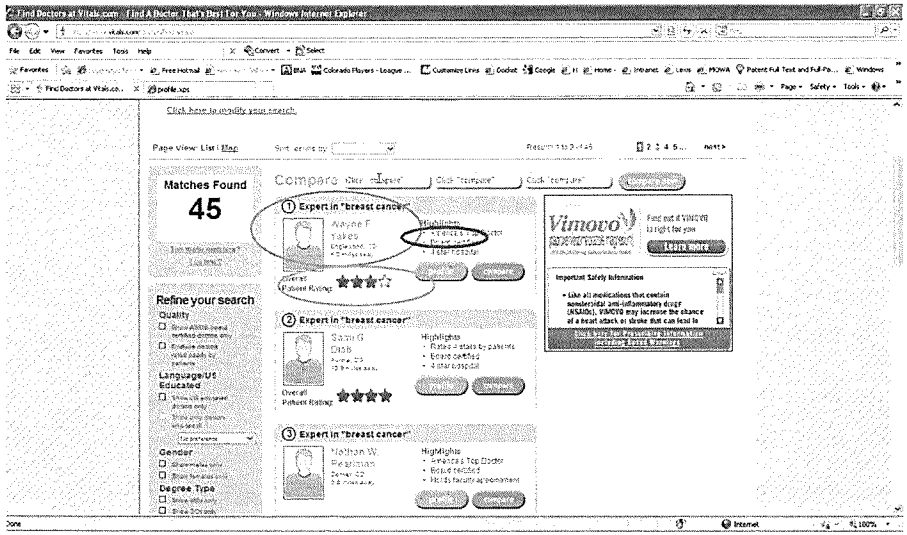
As a specific example, Screenshot 12 provides specific evidence that MDx compiles fellowships information on at least some it its doctors.

Screenshot No. 12

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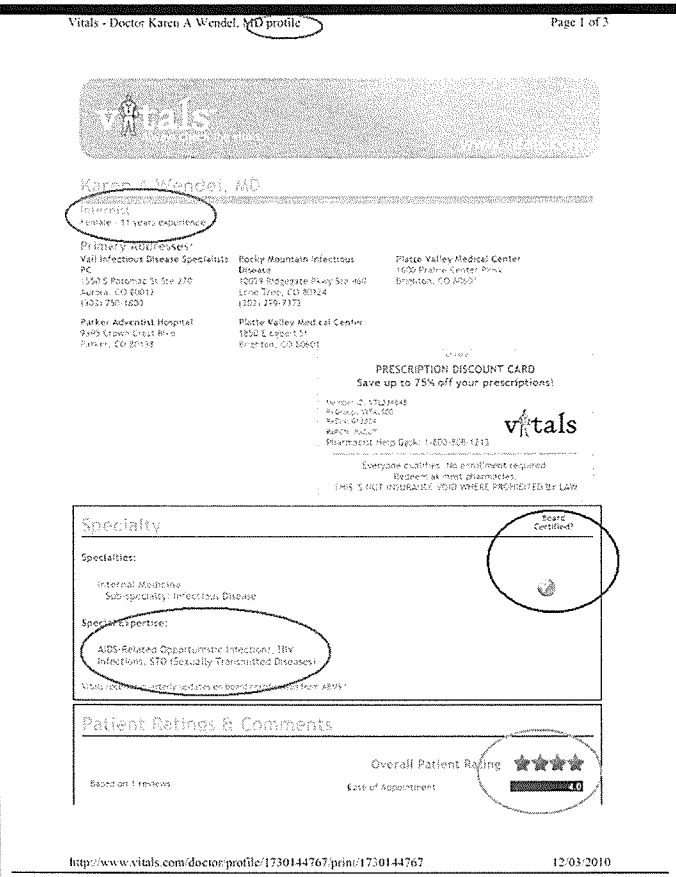
U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	
creating, by the at least one computer processor, a healthcare provider report on the first healthcare provider	After a patient/user enters search criteria for a doctor, MDx creates one or more healthcare provider reports using information from the MDx database, including using healthcare provider-verified information, patient-provided information, and information verified by the independent third-party source. Screenshot Nos. 13 -16 show portions of healthcare provider reports. These reports use at least the

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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
using the healthcare provider-verified information, the patient-provided information, and the information verified by the independent third-party source, wherein the healthcare provider report on the first healthcare provider includes comparison ratings of healthcare providers; and	following information: (1) healthcare provider-verified information, circled in red; (2) patient-provided information, circled in pink; and (3) information verified by an independent third party circled in purple. These reports also include comparison ratings, circled in orange. Screenshot No. 13  Screenshot No. 14

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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System



Vitals - Doctor Karen A Wendel, MD profile Page 1 of 3

vitals

Karen A Wendel, MD

Internist

Female - 11 years experience

Primary Addresses:

Vail Infectious Disease Specialists PC
1350 S Potomac St Ste 370
Aurora, CO 80012
(303) 750-1830

Rocky Mountain Infectious Disease
10079 Briggsgate Pkwy Ste 460
Lone Tree, CO 80124
(303) 799-7372

Platte Valley Medical Center
1600 Prairie Center Pkwy
Brighton, CO 80601

Parker Adventist Hospital
9395 Crown Crest Blvd
Parker, CO 80138

Platte Valley Medical Center
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Brighton, CO 80601

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Specialty

Board Certified?

Specialties:

Internal Medicine
Subspecialty: Infectious Disease

Special Expertise:

AIDS-Related Opportunistic Infections, HIV Infections, STD (Sexually Transmitted Diseases)

Vitals receives quarterly updates on board certification from ABMS.

Patient Ratings & Comments

Overall Patient Rating

Based on 1 reviews

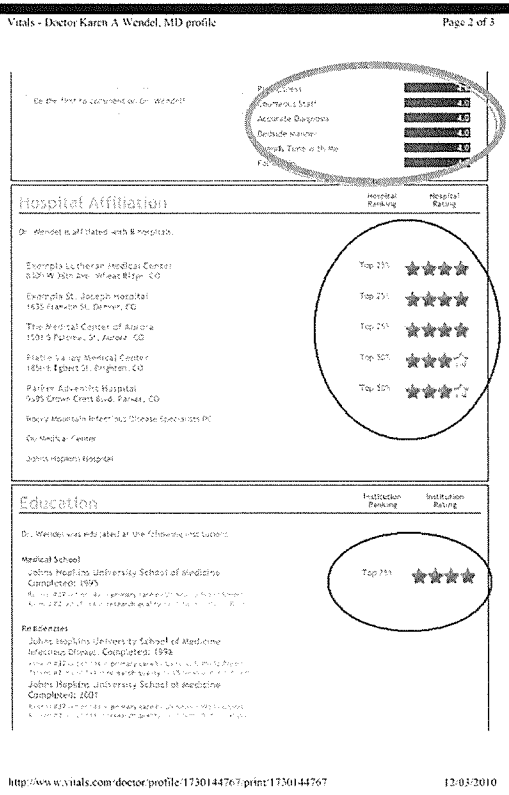
Ease of Appointment 4.0

http://www.vitals.com/doctor/profile/1730144767/print/1730144767 12/03/2010

Screenshot No. 15

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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System

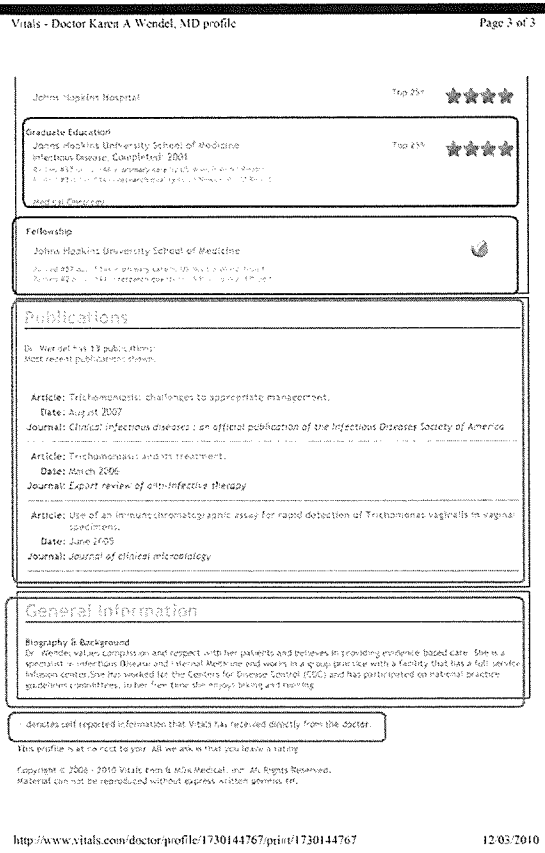


Screenshot No. 16

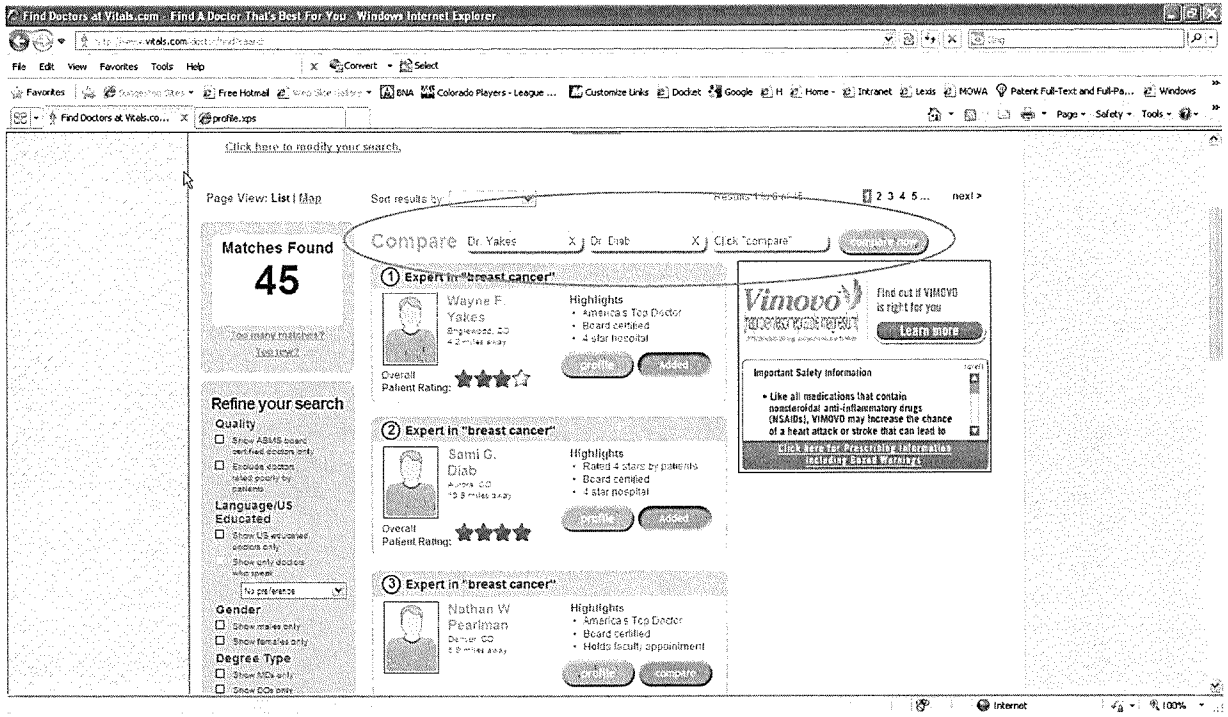
Case No. 1:11-cv-00520-RM-NYW Document 62-3 filed 11/15/11 USDC Colorado pg 84 of 123

Case No. 1:11-cv-00520-RM-NYW Document 62-3 filed 11/15/11 USDC Colorado pg 85 of 123

U.S. Patent No. 7,752,060	MDx's Previous On-line Information System

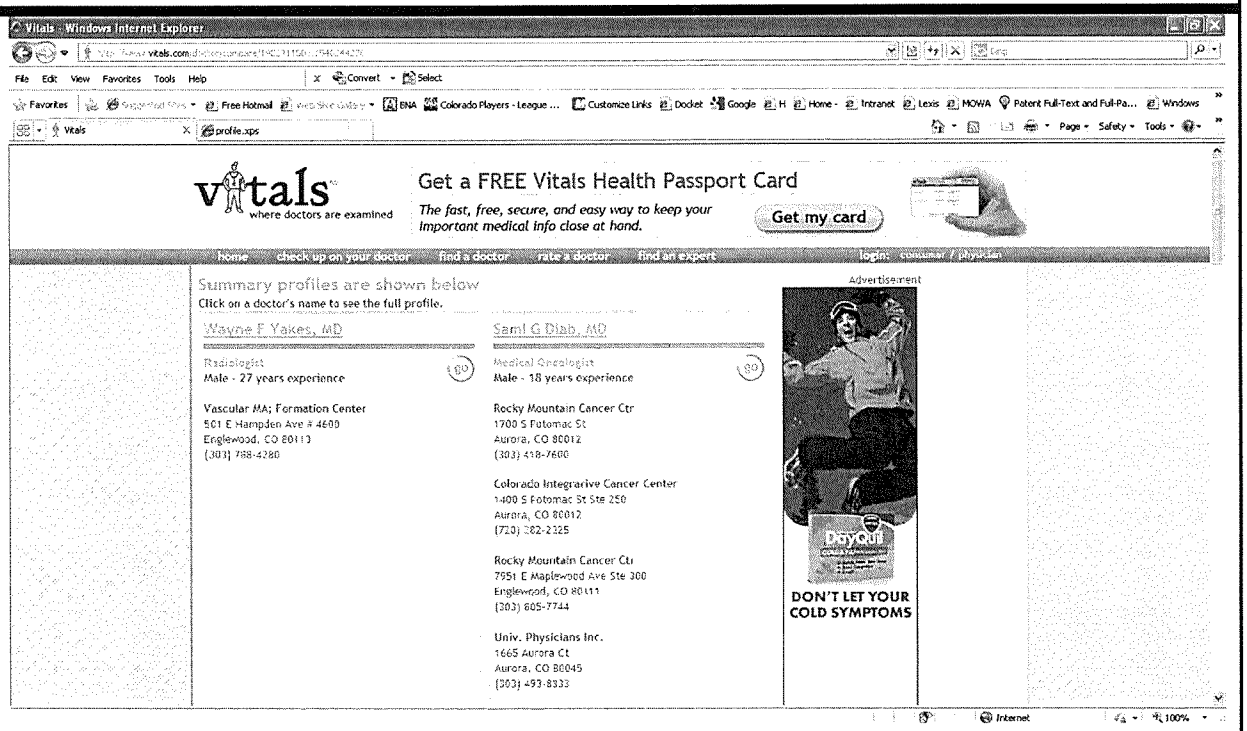


MDx's "compare now" feature generates multiple comparison ratings. For example this list provides the patient with information regarding how well physicians listed rate against each other for things like

U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	location, years of experience, patient ratings, education, etc. *See* Screenshots Nos. 17-20. Screenshot No. 17  Screenshot No. 18

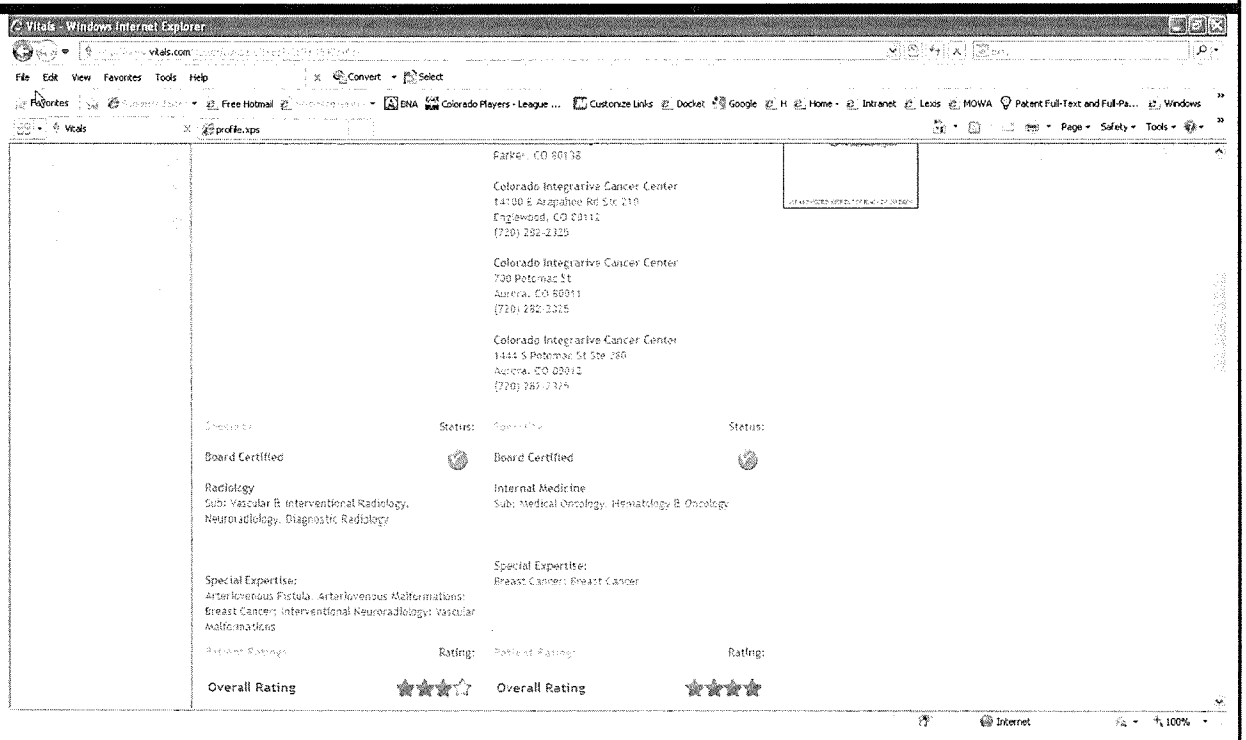
Case No. 1:11-cv-00520-RM-NYW Document 62-3 filed 11/15/11 USDC Colorado pg 86 of 123

U.S. Patent No. 7,752,060	MDx's Previous On-line Information System



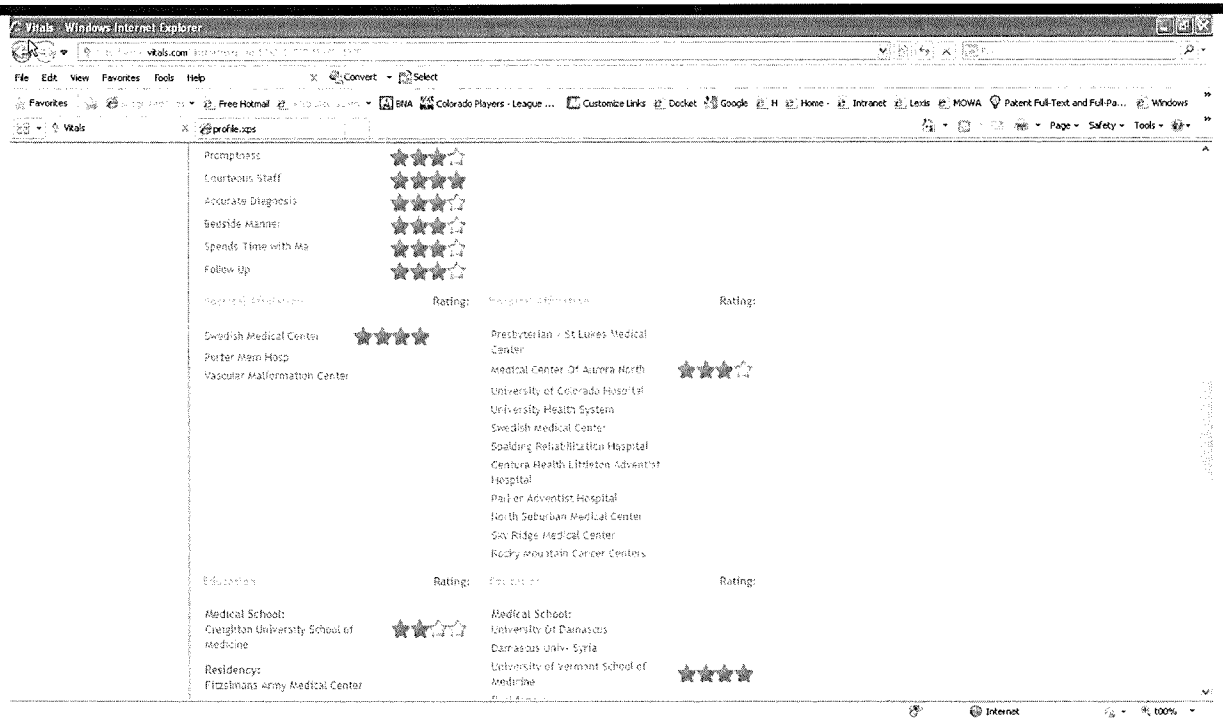
Screenshot No. 19

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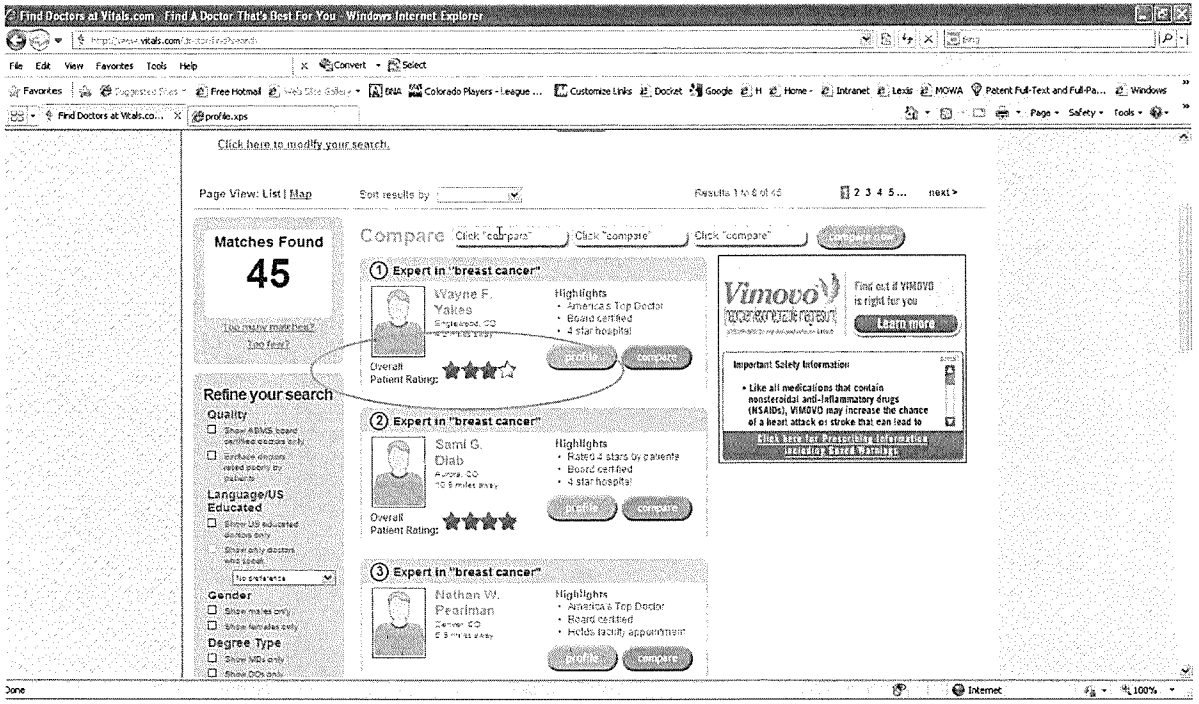
U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	

Screenshot No. 20

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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	
	In addition, the "overall patient rating," comprising 0-4 purple stars, comprises comparison ratings of healthcare providers. *See* Screenshot No. 21.

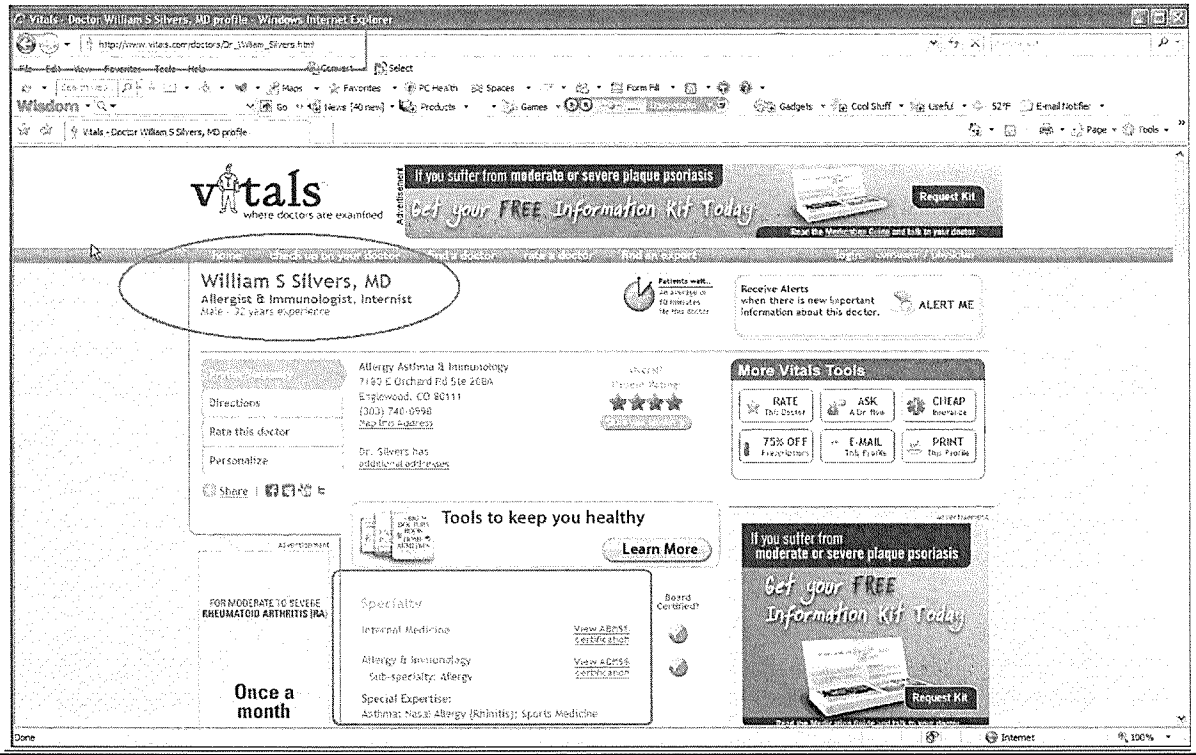
Case No. 1:11-cv-00520-RM-NYW Document 62-3 filed 11/15/11 USDC Colorado pg 89 of 123

U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	Screenshot No. 21  MDx includes another comparison rating of healthcare providers when it includes the "Patients' Choice" mark next to the physician's name. MDx gives this award to physicians when the physician has

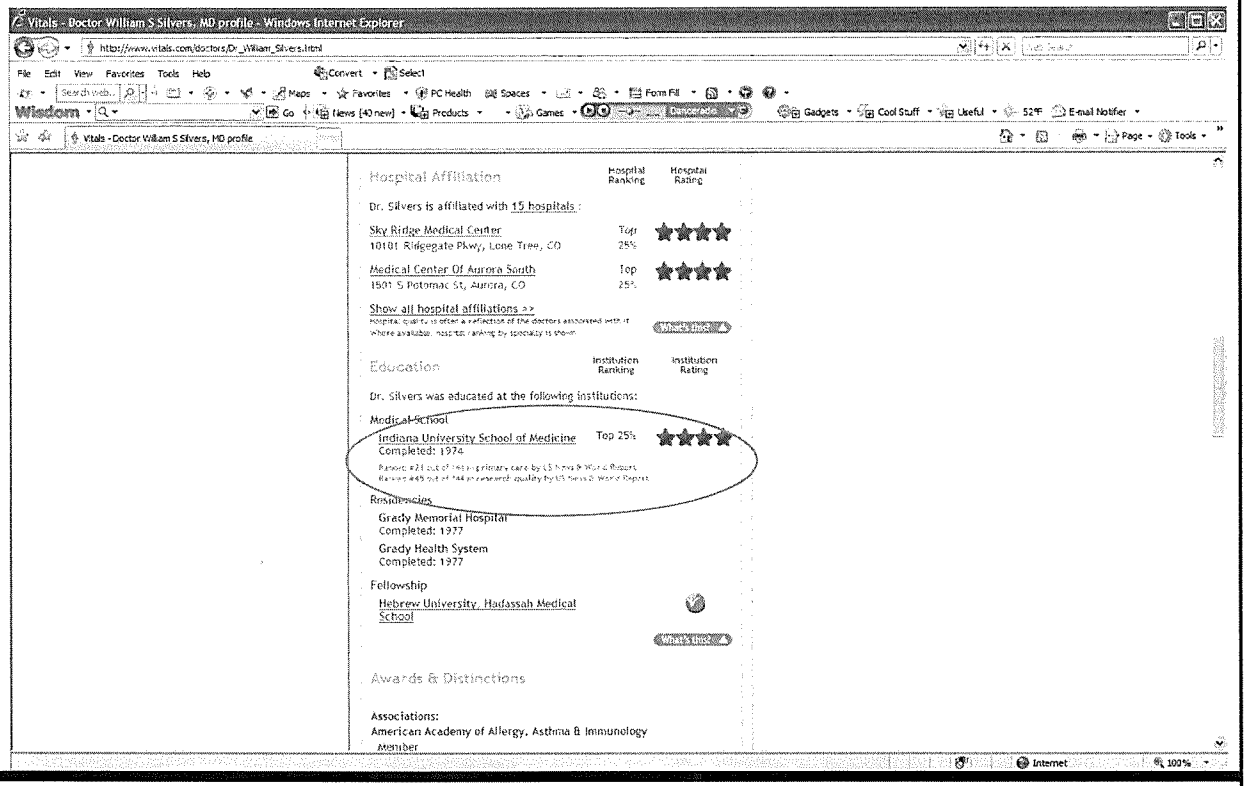
Case No. 1:11-cv-00520-RM-NYW Document 62-3 filed 11/15/11 USDC Colorado pg 90 of 123

U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	"received near perfect scores as rated by patients" compared to other physicians. *See* Screenshot No. 22. Screenshot No. 22  To the extent that MDx asserts that these three ratings do not literally satisfy the limitation of a healthcare provider report that includes comparison ratings, these ratings meet the claim limitations under the doctrine of equivalents because they have the same function, in the same way, to achieve the same result as comparison ratings on a healthcare provider report.
providing access to the healthcare provider	MDx provides access to the doctors' healthcare provider reports over a computer network. *See* Screenshot No. 23 (highlighting that this information was accessed over a computer network, e.g., the

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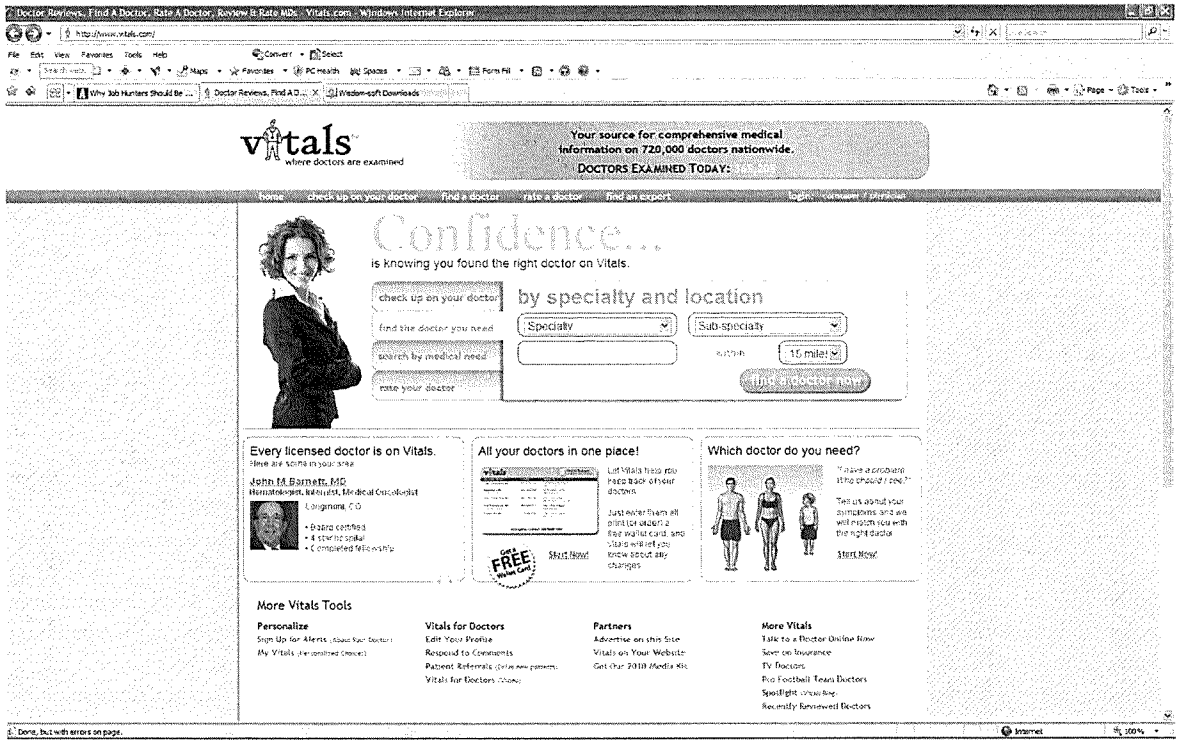
U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
report on the first healthcare provider over a computer network.	Internet, and that the profile can be sent by email or printed). Screenshot No. 23 
4. The method as	MDx provides a link to affiliated hospitals in the doctor profile page of the healthcare provider report.

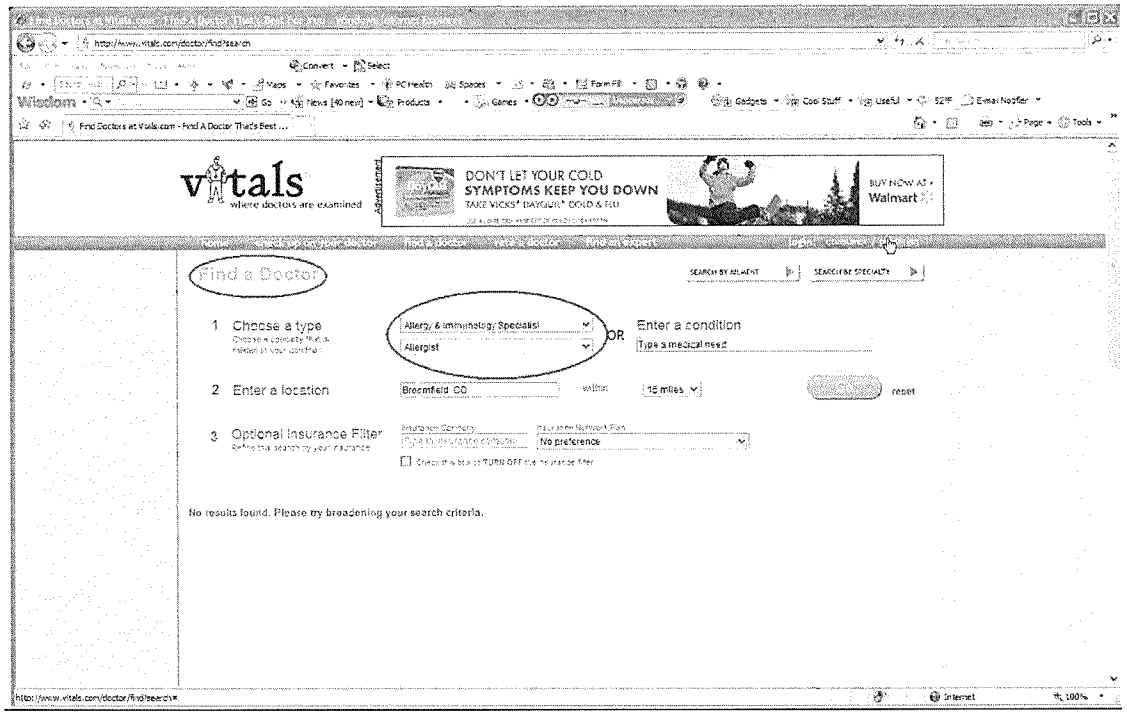
Case No. 1:11-cv-00520-RM-NYW Document 62-3 filed 11/15/11 USDC Colorado pg 92 of 123

U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
defined in claim 1, wherein the healthcare provider report includes a hyperlink to an affiliated hospital, medical center, or other type of treatment center.	*See* Screenshot No. 24 (displaying affiliated hospital hyperlink, circled in red). Screenshot No. 24 
5. The method as	MDx uses a predetermined web page for patient search purposes. *See* Screenshot 25 (displaying the

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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
defined in claim 1, wherein the access to the healthcare provider report is obtained through a predetermined Webpage that provides search capabilities for a database comprised of healthcare provider information.	MDx web page that allows patients to search for doctors). Screenshot No. 25 
6. The method as	MDx allows a user to search based on specialty, diagnosis (condition), state, city, and location criteria.

U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
defined in claim 5, wherein the search capabilities permit a search based on one or more from the group consisting of: name, medical specialty, gender, state, city, procedure, diagnosis, procedure, and location criteria.	*See* Screenshot No. 26 (displaying specialty, circled in red, condition, circled in orange, and location, circled in purple.) Screenshot No. 26 
7. The method as	MDx provides a list of physicians based on specialty and location input from the patient. Screenshot

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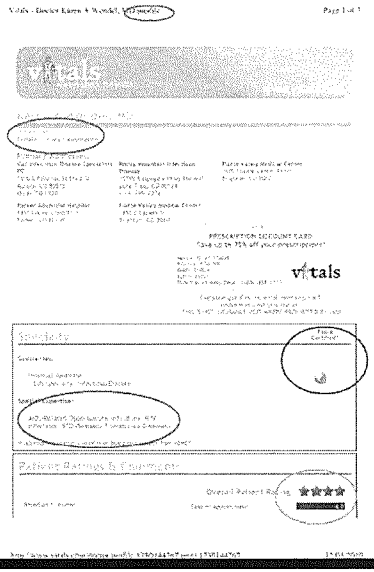
U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
defined in claim 6, wherein the search of the database produces a results list of one or more healthcare providers satisfying the search criteria, wherein the results list includes the first healthcare provider.	No. 27, below, demonstrates MDx displaying a list of cardiologists circled in red, based upon location criteria, circled in orange. Screenshot No. 27 
8. The method as	As part of the list detailed in claim 7, *supra*, MDx provides "sponsored links" at the request of "health

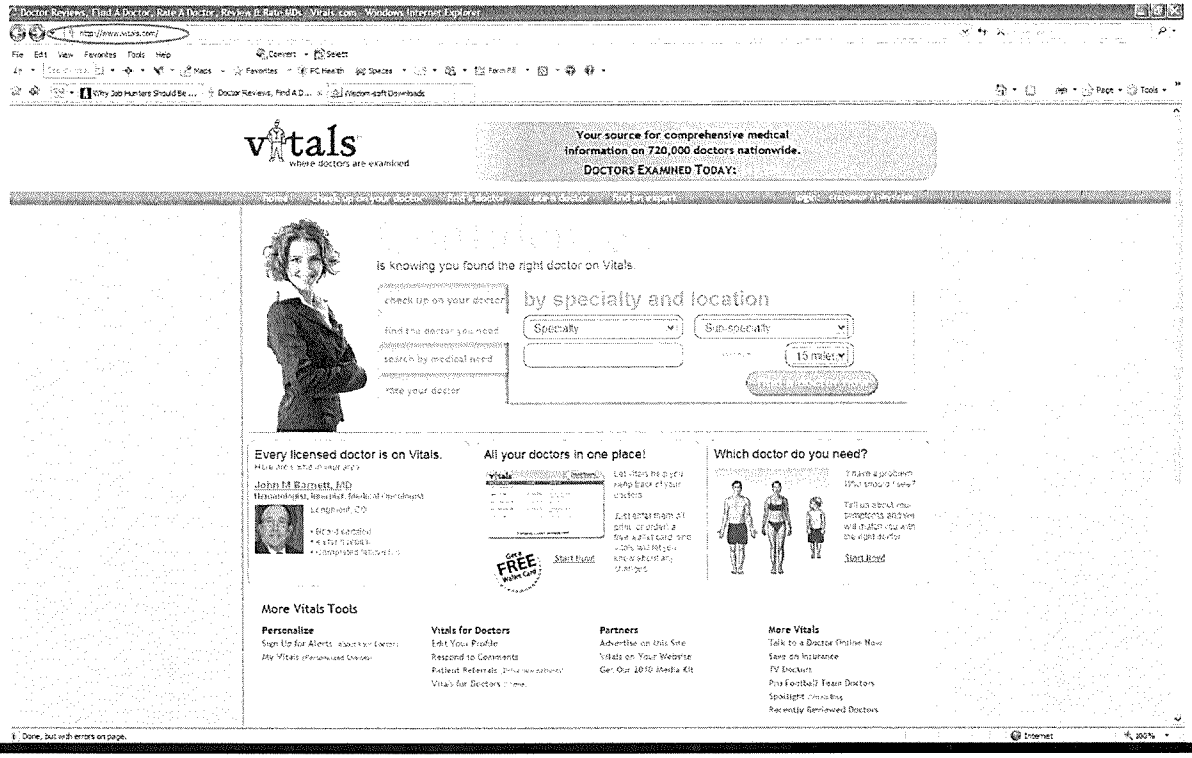
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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
defined in claim 7, wherein the results list further includes an advertisement for the first healthcare provider with a hyperlink to information on the first healthcare provider.	providers, doctors, hospitals, or affiliated companies." *See, e.g.*, Screenshot No. 29 and Screenshot No. 30 of Exhibit A. Upon information and belief, Screenshot Nos. 29 and 30—from the current version of MDx's website—represent features available with MDx's previous on-line information system.
9. The method as defined in claim 7, further comprising: determining from the results list whether a particular healthcare provider is a member of the company managing the Web site;	MDx determines which doctors are sponsors, or members, based on whether the physician has paid a fee to Vitals. *See, e.g.*, Screenshot Nos. 31-33 of Exhibit A. Upon information and belief, Screenshot Nos. 31-33—from the current version of MDx's website—represent features available with MDx's previous on-line information system.
and if the particular healthcare provider is a member of the company managing the Web site, providing enhanced services for the member healthcare provider on the Web site.	MDx provides the enhanced service of prominently displaying a member physician. Consider Dr. Bruce Weber displayed at the top of the results list. *See, e.g.*, Screenshot No. 31 of Exhibit A. Absent a sponsored link, MDx would not have displayed Dr. Bruce's information until the user scrolled through the first 291 doctors (page 37 of the results list). *See, e.g.*, Screenshot No. 32 of Exhbit A. By becoming a sponsor, MDx provided Dr. Weber with prominence among all doctors; he is at the top of every page of the results list. Upon information and belief, Screenshot Nos. 31-33—from the current version of MDx's website—represent features available with MDx's previous on-line information system.

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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
11. The method as defined in claim 9, wherein the enhanced services comprise favorable positioning in the results list.	MDx displays the member doctor in a prominent position. *See, e.g.*, Screenshot No. 34 of Exhibit A. Upon information and belief, Screenshot No. 34—from the current version of MDx's website—represents features available with MDx's previous on-line information system.
14. The method as defined in claim 1, wherein the first healthcare provider is a physician.	MDx provides reports on physicians. *See* Screenshot No. 28 (displaying a report for an internist). Screenshot No. 28 

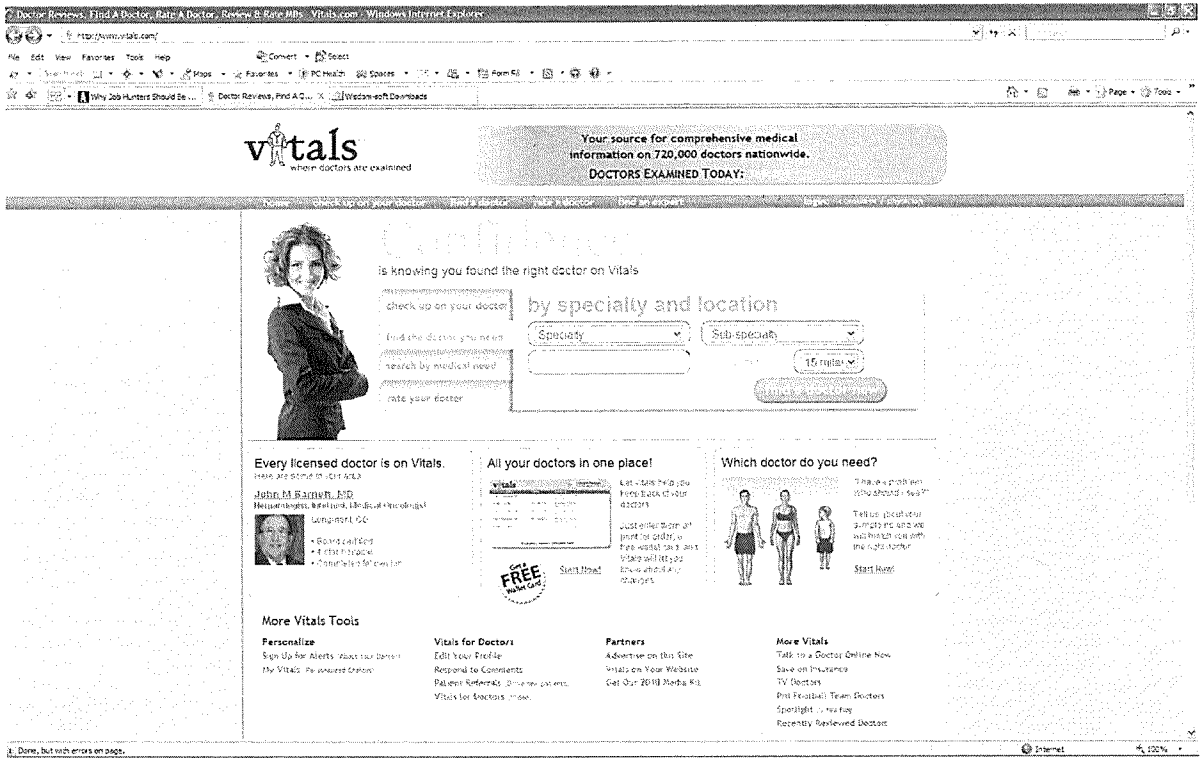
U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
15. An on-line information system for connecting healthcare providers with potential patients, the system comprising:	MDx provides an online information system for connecting healthcare providers with potential patients. MDx's homepage is accessible via the internet. *See* Screenshot No. 29 (web address circled in red). Screenshot No. 29 

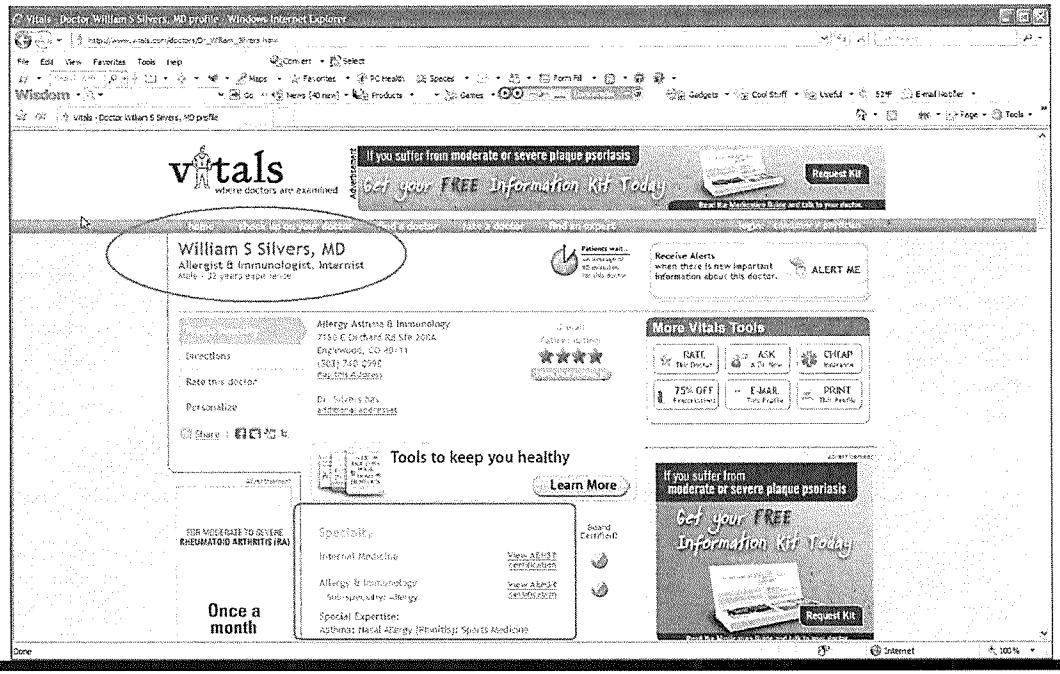
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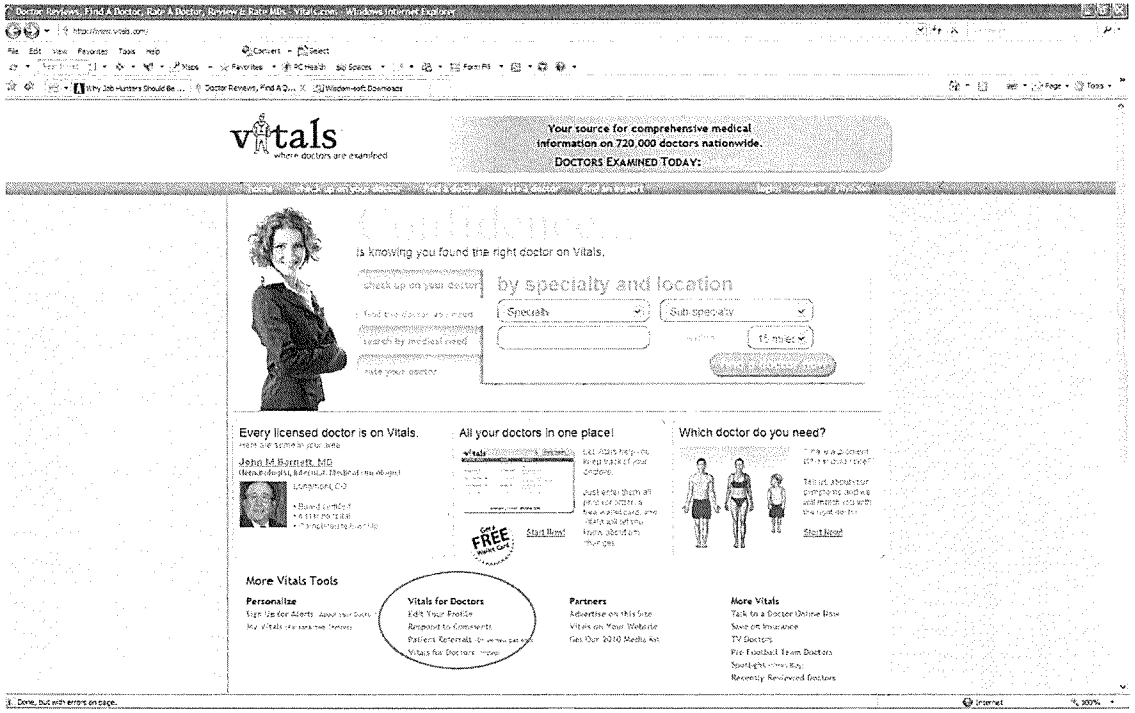
U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
at least one computer processor; and	MDx uses a web server program, which is housed on a web server machine, to deliver its webpage to a potential patient's web browser. A web server machine is a computer, and all computers have computer processors.
memory coupled with and readable by the at least one computer processor and comprising a series of instructions that, when executed by the at least one computer processor, cause the at least one computer processor to:	MDx's web server machine, like any computer, has memory readable by at least one computer processor.
receive a request for information regarding a first healthcare provider;	Screenshot No. 30 shows an example of where a potential patient may initiate a search for a healthcare provider on MDx's website, i.e., request information about one or more healthcare providers. When the user clicks "find a doctor now," this prompts the patient's web browser to send a request for information about a doctor to the MDx's web server, which receives the request for information and then accesses MDx's database to find data that responds to the user's search query.

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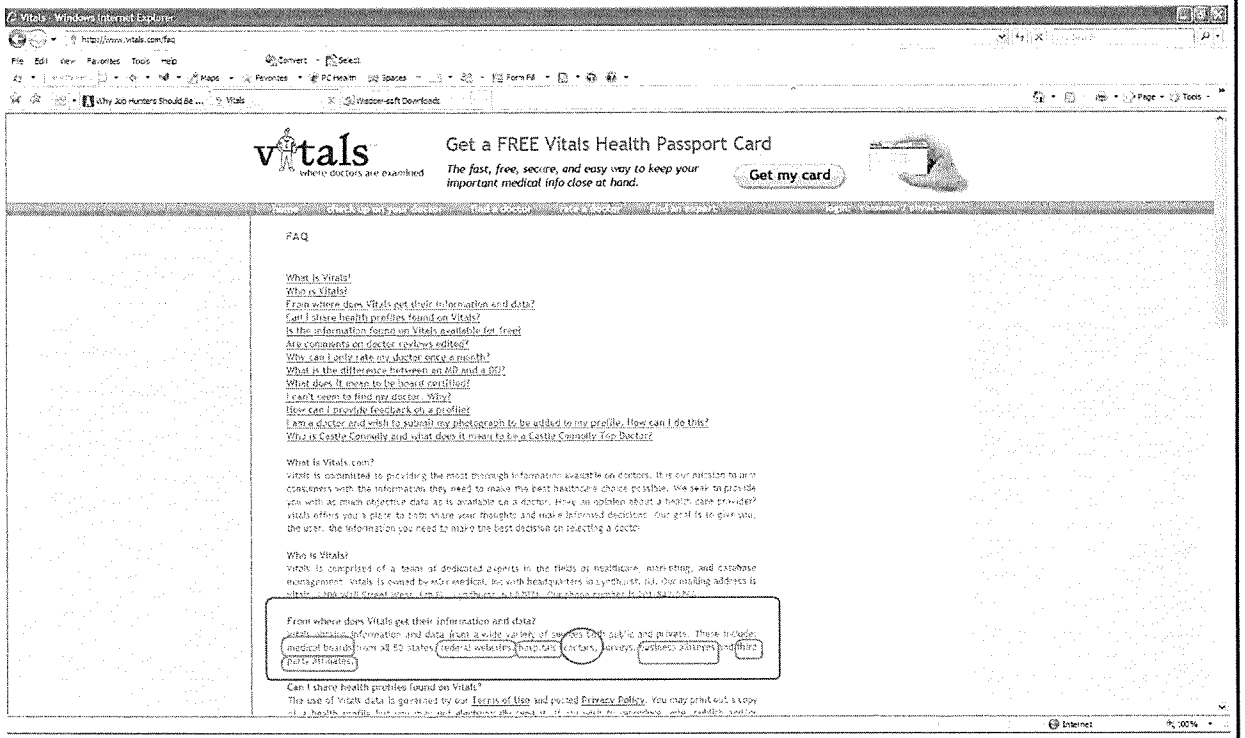
U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	Screenshot No. 30 

U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
access healthcare provider-verified information about the first healthcare provider, wherein the healthcare provider-verified information is received from the first healthcare provider and comprises three or more from the group consisting of: specialty information, medical philosophy, gender, age, years in profession, years in practice, awards, honors, professional appointments, professional memberships, publications, languages, and hobbies;	At the initiation of the potential patient/user using MDx's website, MDx's web server accesses healthcare-provider-verified information. *See* Screenshot No. 31 (illustrating the result of accessing and displaying doctor supplied information). Highlighted in Screenshot No. 31, among other things, are the following pieces of healthcare provider-verified information: doctor's age, gender, specialty information and years in practice. Screenshot No. 31 

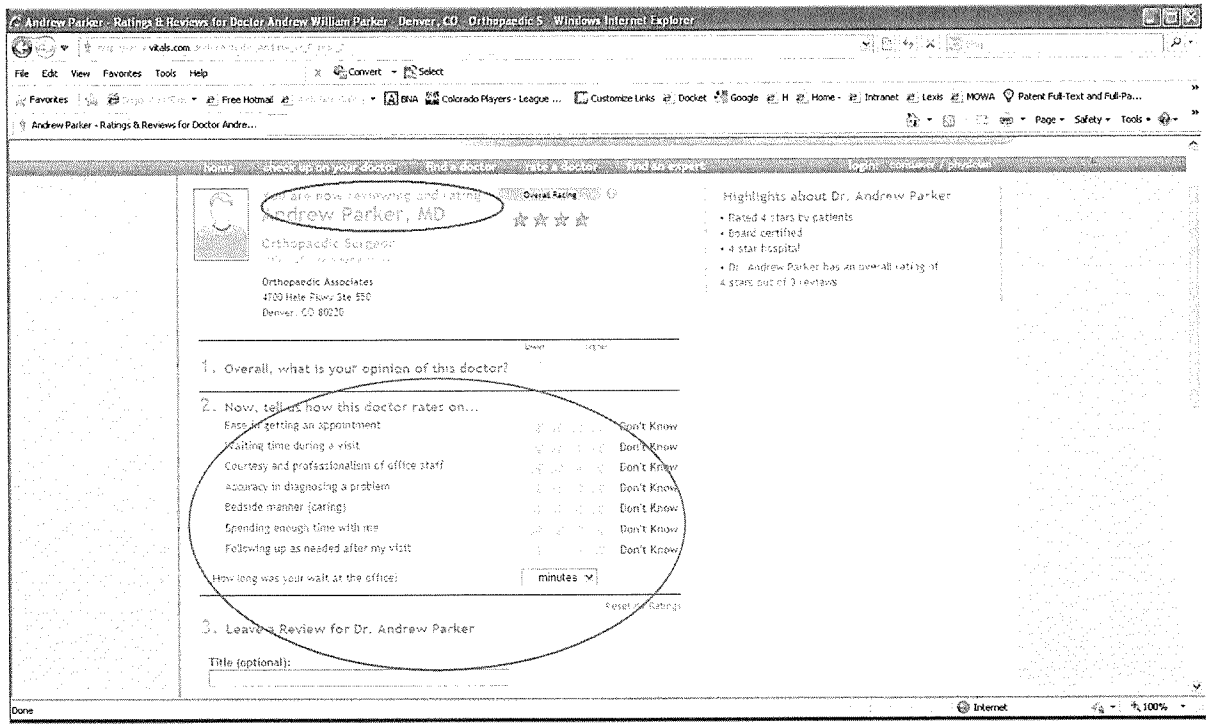
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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	MDx receives the healthcare provider-verified information from healthcare providers. MDx's website provides doctors with the ability to send information to MDx. For example, MDx's website provides many opportunities for doctors to edit their own profiles. *See, e.g.*, Screenshot No. 32. Screenshot No. 32 

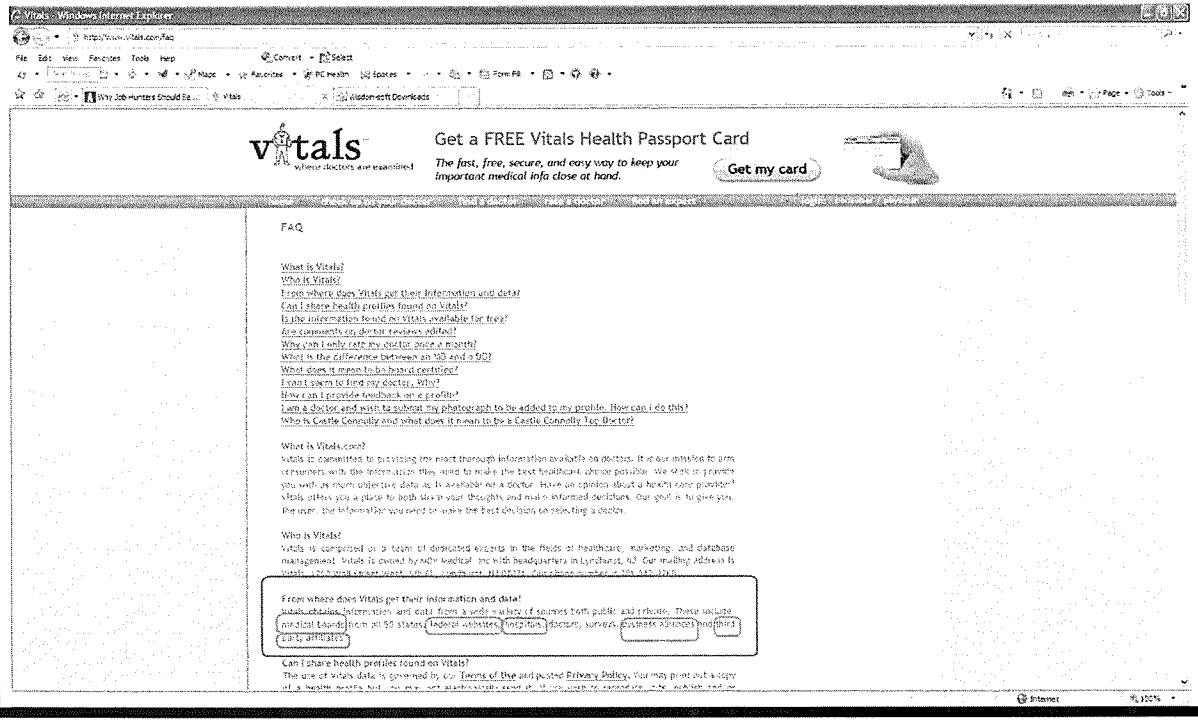
Case No. 1:11-cv-00520-RM-NYW Document 62-3 filed 11/15/11 USDC Colorado pg 103 of 123

U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	MDx states on its website that it receives, compiles, and posts doctor-supplied information. *See* Screenshot No. 33. Screenshot No. 33 

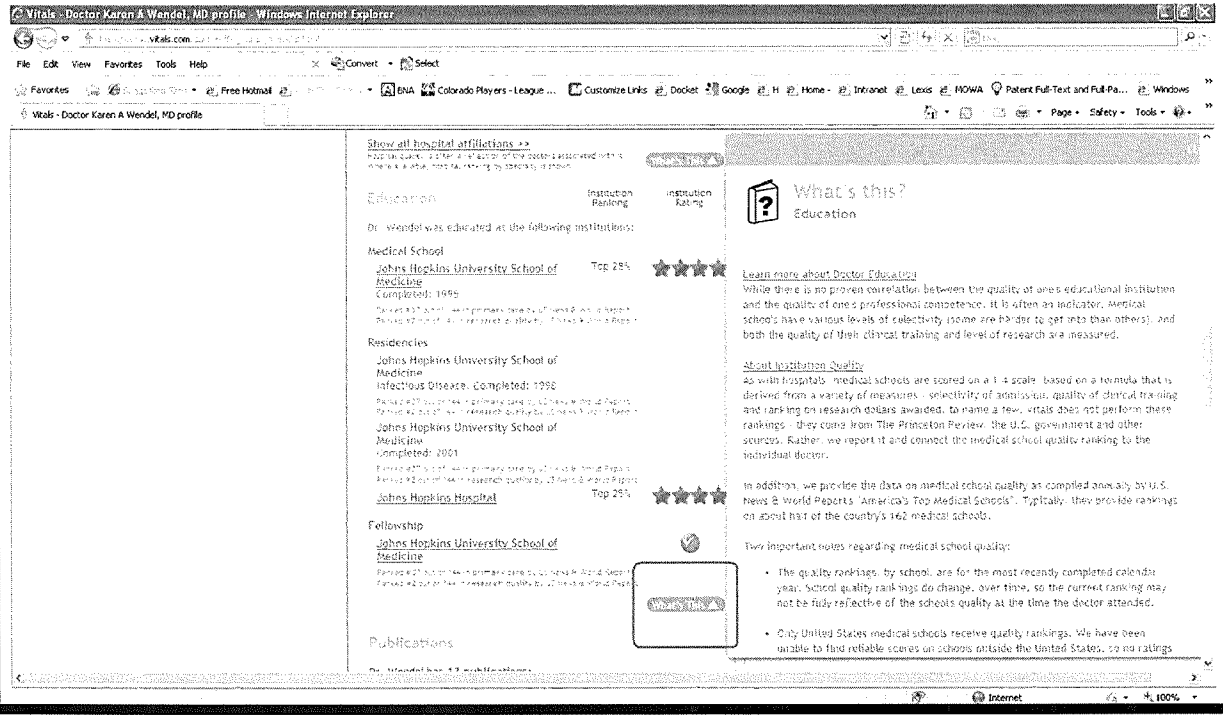
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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
compile patient-provided information regarding the first healthcare provider, wherein the patient-provided information comprises patient ratings from one or more past or current patients of the first healthcare provider, and wherein the patient ratings are received from an on-line patient experience survey completed on a company Web site by the one or more past or current patients of the first healthcare provider, and wherein the company Web site is managed by a company providing a service for connecting healthcare providers with the potential patients;	MDx compiles patient-provided information through an online survey. Screenshot No. 34 displays the MDx on-line patient experience survey. MDx manages the website where the on-line surveys are collected. Screenshot No. 34 

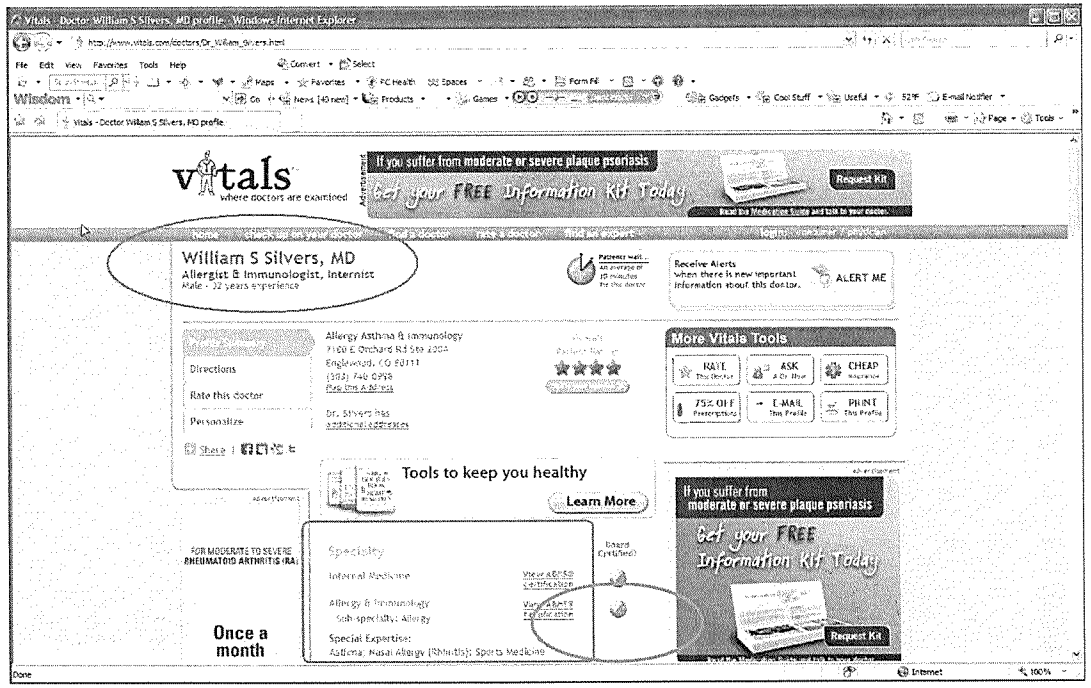
Case No. 1:11-cv-00520-RM-NYW Document 62-3 filed 11/15/11 USDC Colorado pg 105 of 123

U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
compile healthcare provider information regarding the first healthcare provider verified by an independent third-party source, wherein the information verified by the independent third-party source comprises three or more from the group consisting of: board certification, licensure, disciplinary action information, medical school, medical internship, medical residency, and medical fellowship information;	MDx compiles information regarding doctors verified by an independent third-party source. The verified information comprises, at least, medical school, licensure, board certification, medical fellowship and medical residency information. *See* Screenshot No. 35 (displaying a portion of the FAQ from the vitals.com website stating that the information comes from various third parties). Screenshot No. 35 

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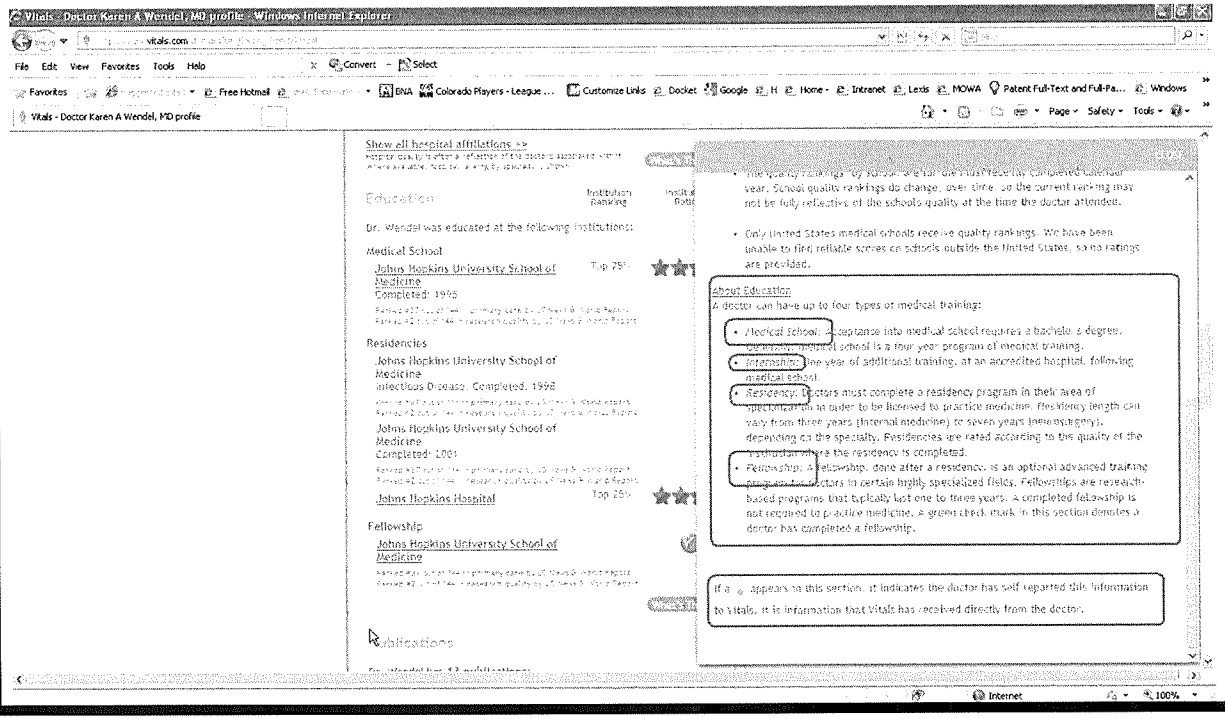
U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	As a specific example, MDx compiles medical school information on a given doctor from "The Princeton Review, the U.S. Government and other sources." *See* Screenshot No. 36. MDx then provides potential patients with medical school information associated with a given physician's academic and fellowship history. Screenshot No. 36 

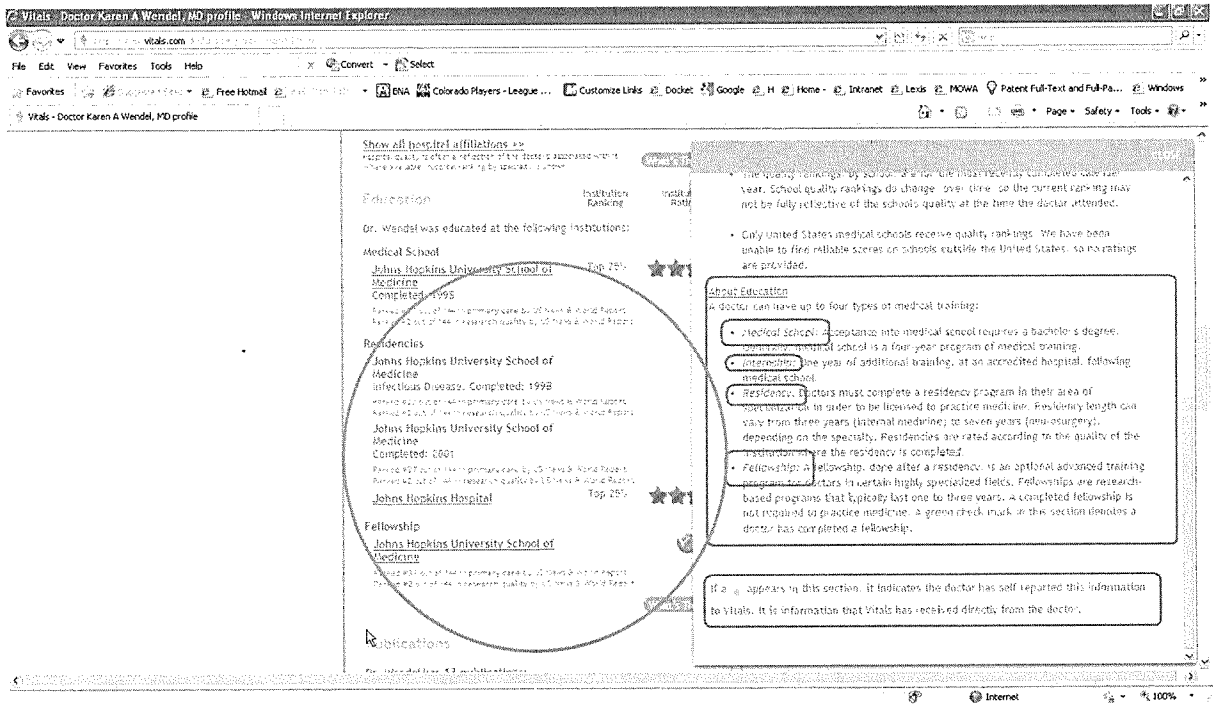
Case No. 1:11-cv-00520-RM-NYW Document 62-3 filed 11/15/11 USDC Colorado pg 107 of 123

U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	MDx compiles licensure information. MDx verifies each physician's license before adding the physician to the results list. MDx compiles board certification information. *See* screenshot No. 37 below ("View ABMS certification" circled in pink.) The American Board of Medical Specialties is an independent source. Screenshot No. 37 

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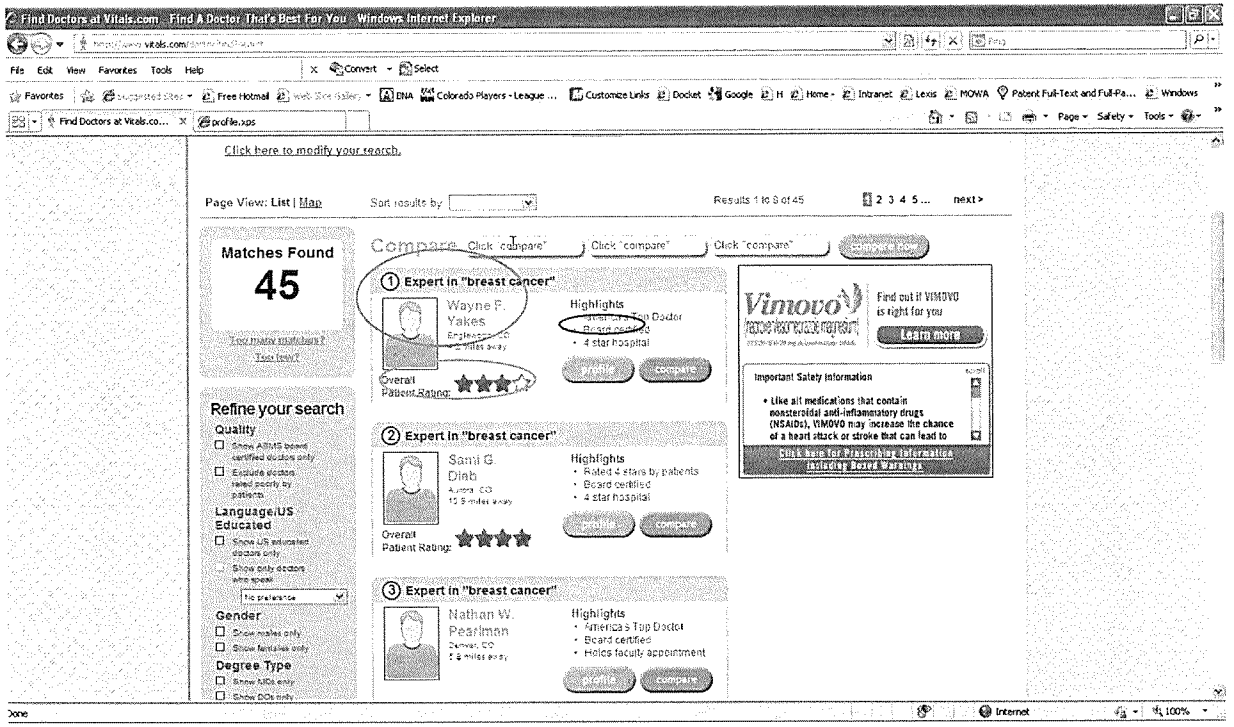
U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	MDx admits that it compiles additional information regarding a physician's medical school, internship, residency, and fellowship positions using independent, third-party resources unless otherwise noted. *See* Screenshot No. 38 (noting that MDx obtains all educational information from independent third parties unless otherwise noted). Screenshot No. 38 

U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	Further, Screenshot 39 provides specific evidence that MDx compiles fellowships and residency information on at least some it its doctors. *See* Screenshot No. 39 (residency and fellowship information circled in pink.) Screenshot No. 39 

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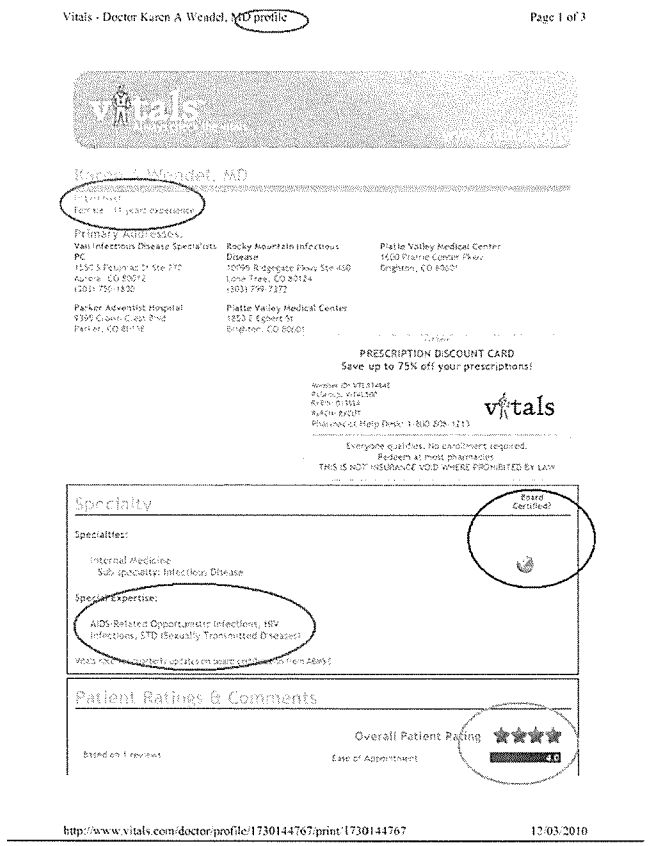
Case No. 1:11-cv-00520-RM-NYW Document 62-3 filed 11/15/11 USDC Colorado pg 111 of 123

U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
create a healthcare provider report on the first healthcare provider using the healthcare provider-verified information, the patient-provided information, and the information verified by the independent third-party source, wherein the healthcare provider report on the first healthcare provider includes comparison ratings of healthcare providers; and	After a patient/user enters search criteria for a doctor, MDx creates one or more healthcare provider reports using information from the MDx database, including using healthcare provider-verified information, patient-provided information, and information verified by the independent third-party source. Screenshot Nos. 40 - 43 show portions of healthcare provider reports. These reports use at least the following information: (1) healthcare provider-verified information, circled in red; (2) patient-provided information, circled in pink; and (3) information verified by an independent third party circled in purple. These reports also include comparison ratings, circled in orange.

U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	Screenshot No. 40 

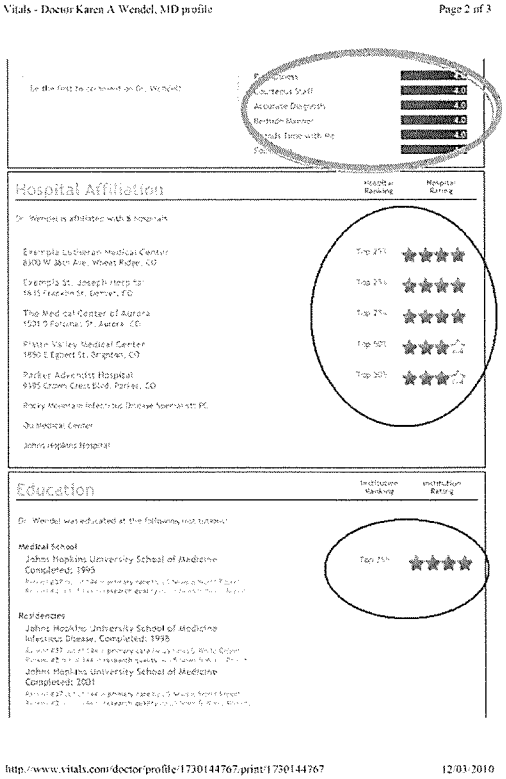
Case No. 1:11-cv-00520-RM-NYW Document 62-3 filed 11/15/11 USDC Colorado pg 112 of 123

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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	Screenshot No. 41 

U.S. Patent No. 7,752,060	MDx's Previous On-line Information System

Screenshot No. 42



Vitals - Doctor Karen A Wendel, MD profile Page 2 of 3

Hospital Affiliation

Education

Medical School

Johns Hopkins University School of Medicine
Completed: 1995

Residencies

Johns Hopkins University School of Medicine
Infectious Disease, Completed: 1998

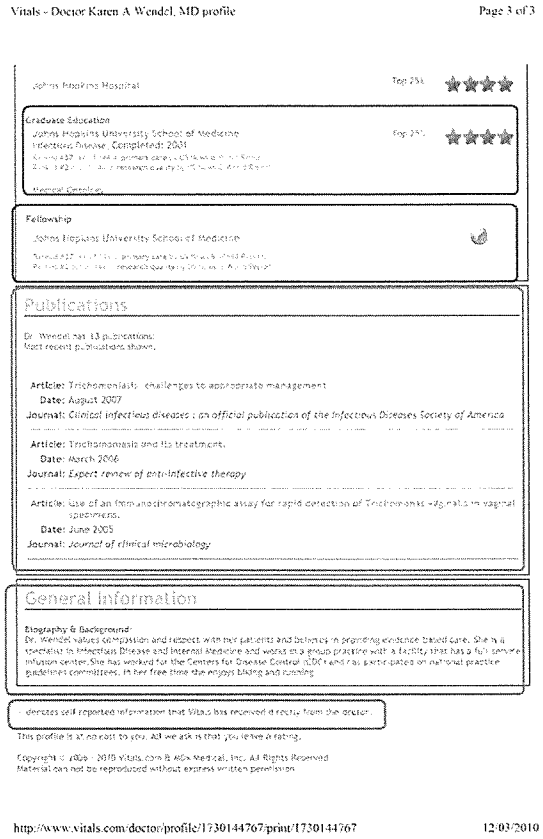
Johns Hopkins University School of Medicine
Completed: 2001

http://www.vitals.com/doctor/profile/1730144767/print/1730144767 12/03/2010

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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	Screenshot No. 43



Vitals - Doctor Karen A Wendel, MD profile Page 3 of 3

Johns Hopkins Hospital Top 25%

Graduate Education
Johns Hopkins University School of Medicine Top 25%
Infectious Disease, Completed: 2001

Fellowship
Johns Hopkins University School of Medicine

Publications

Dr. Wendel has 13 publications.
Most recent publications shown.

Article: Trichomoniasis: challenges to appropriate management
Date: August 2007
Journal: *Clinical infectious diseases : an official publication of the Infectious Diseases Society of America*

Article: Trichomoniasis and its treatment.
Date: March 2006
Journal: *Expert review of anti-infective therapy*

Article: Use of an immunochromatographic assay for rapid detection of Trichomonas vaginalis in vaginal specimens.
Date: June 2005
Journal: *Journal of clinical microbiology*

General Information

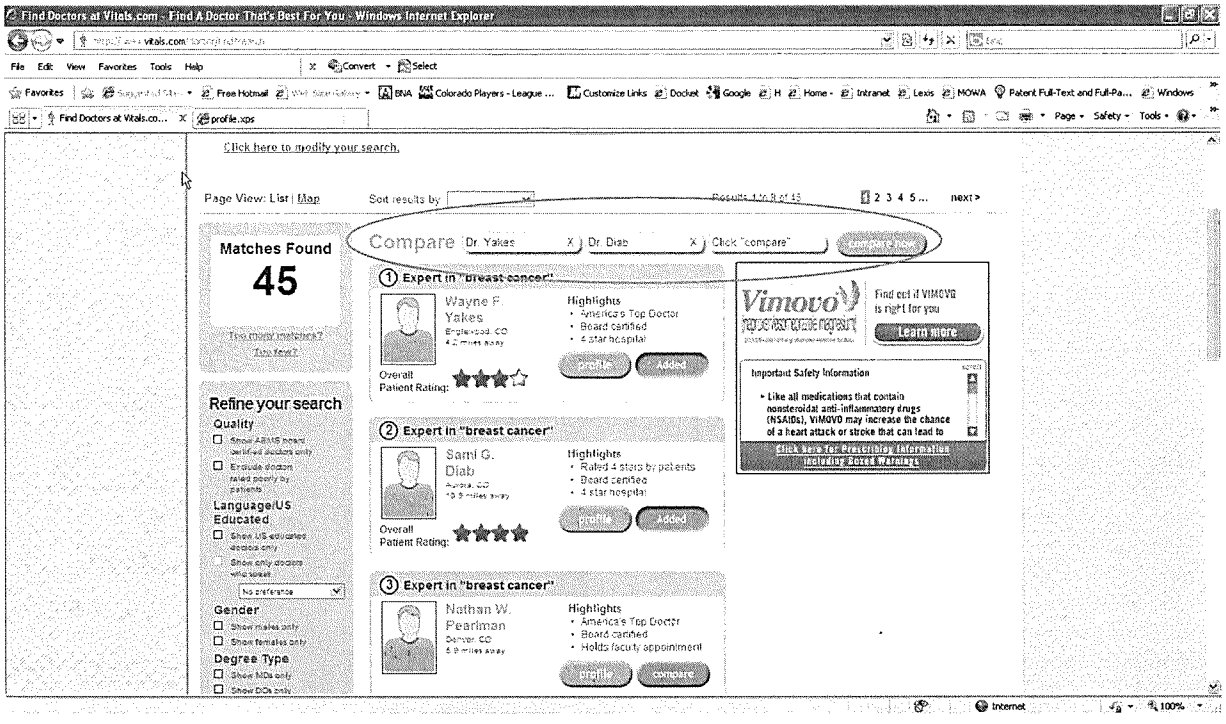
Biography & Background:
Dr. Wendel values compassion and respect with her patients and believes in providing evidence based care. She is a specialist in Infectious Disease and Internal Medicine and works in a groups practice with a facility that has a full service infusion center. She has worked for the Centers for Disease Control (CDC) and has participated on national practice guidelines committees. In her free time she enjoys biking and running.

denotes self reported information that Vitals has received directly from the doctor.

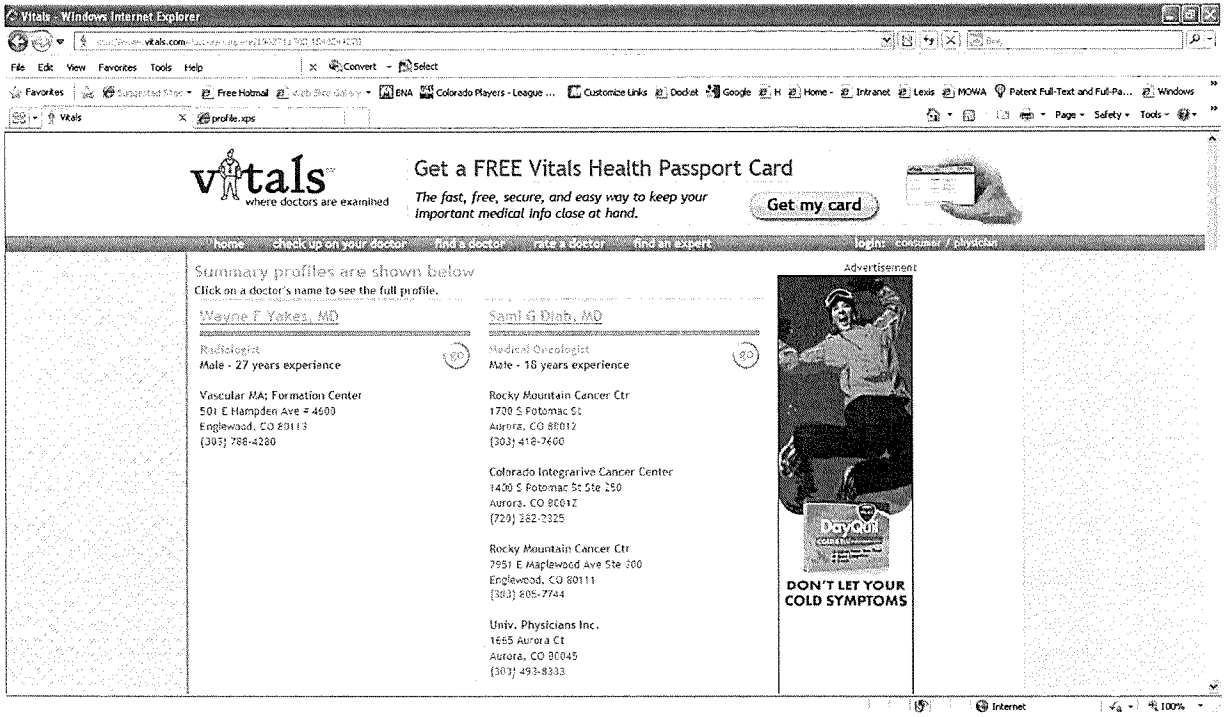
This profile is at no cost to you. All we ask is that you leave a rating.

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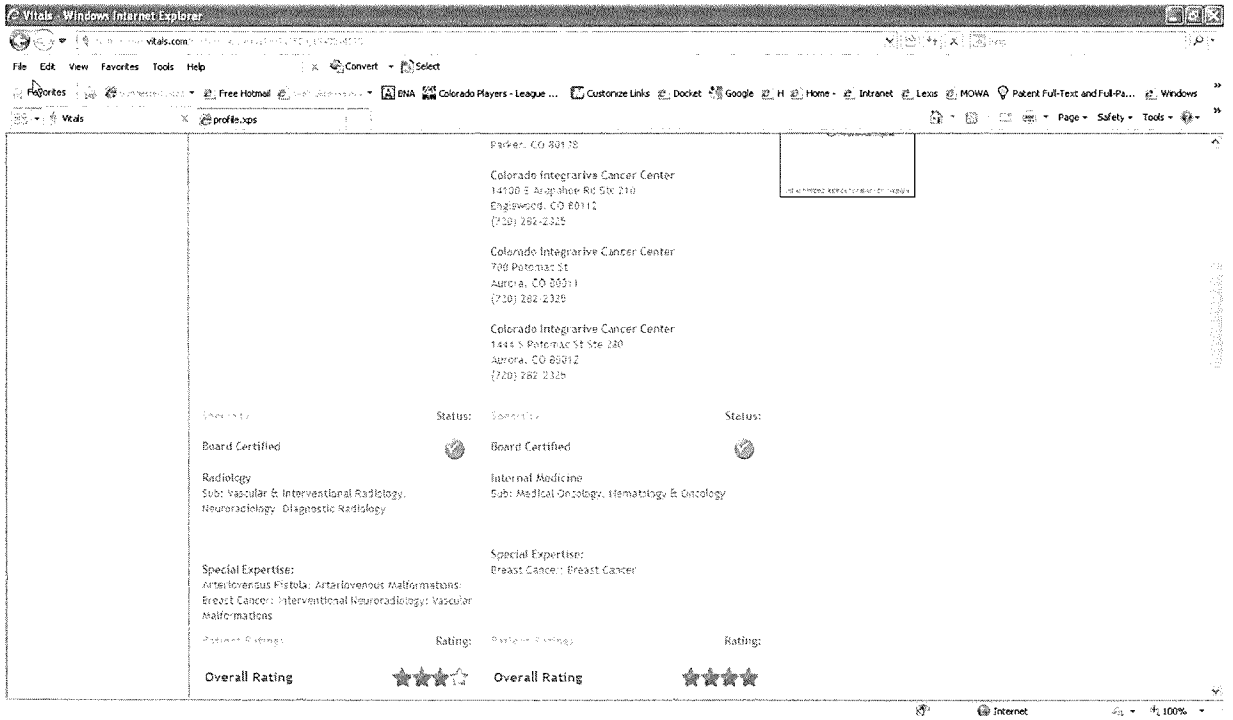
http://www.vitals.com/doctor/profile/1730144767/print/1730144767 12/03/2010

U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	MDx's "compare now" feature generates multiple comparison ratings. For example this list provides the patient with information regarding how well physicians listed rate against each other for things like location, years of experience, patient ratings, education, etc. See Screenshots Nos. 44-47. Screenshot No. 44 

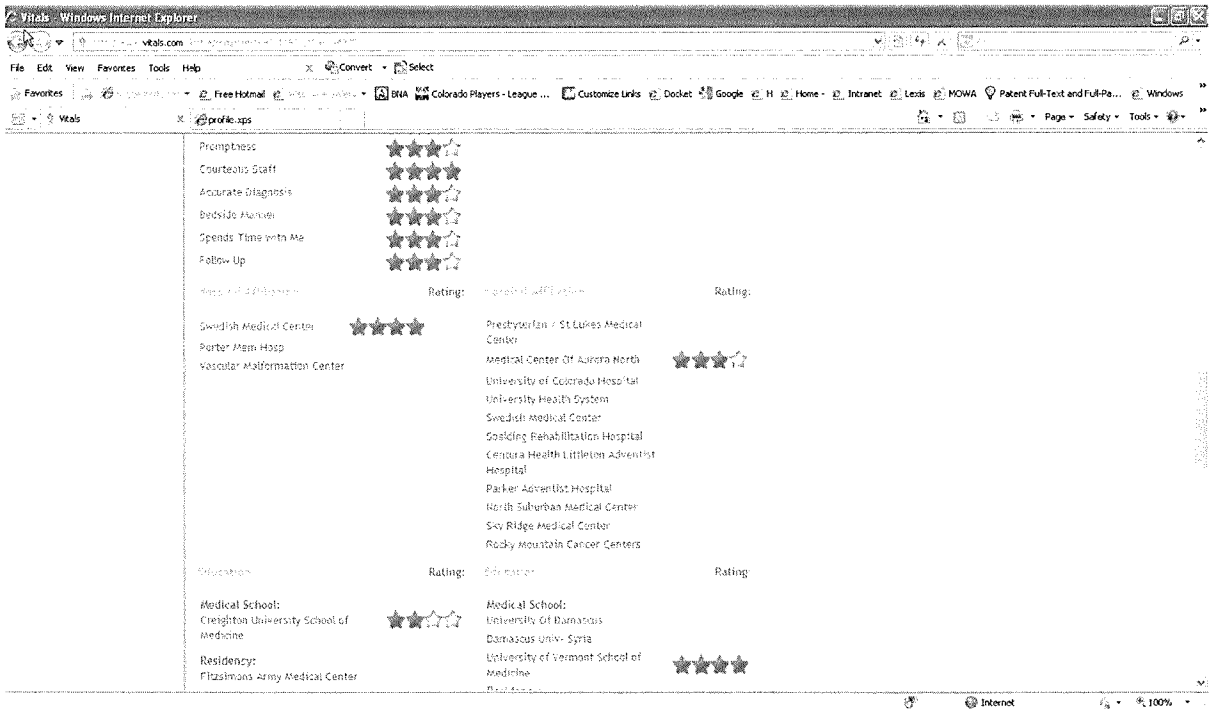
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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	Screenshot No. 45 

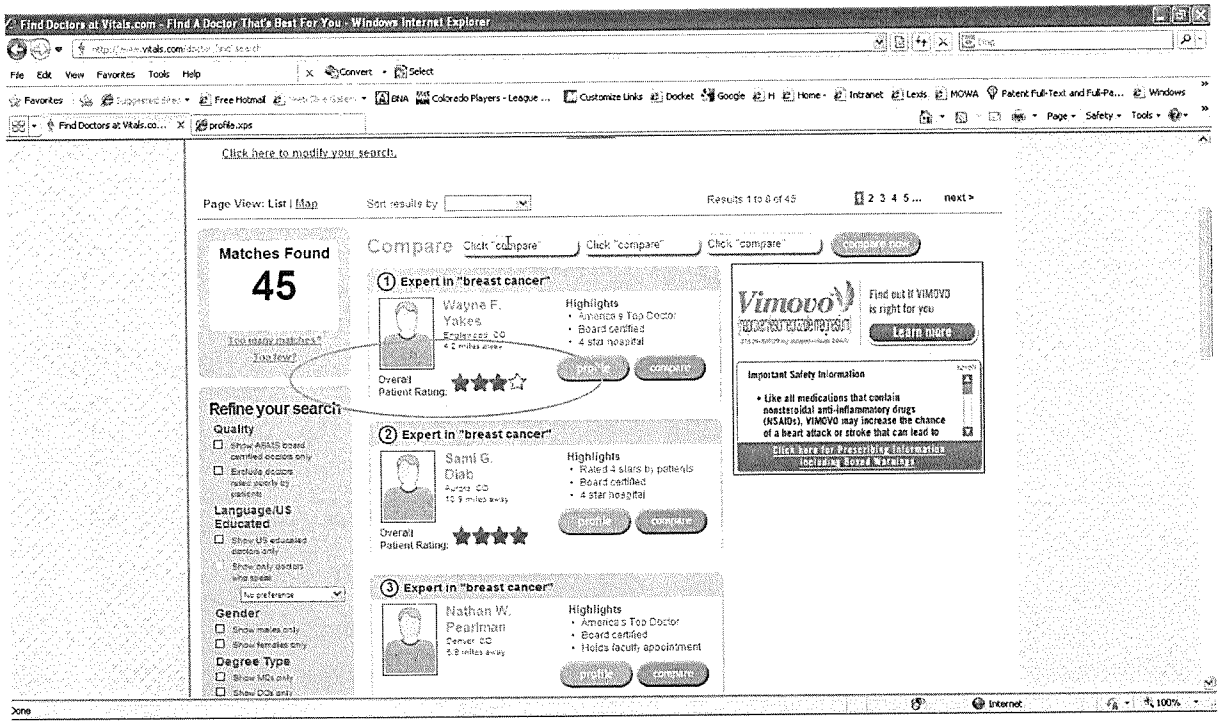
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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	Screenshot No. 46 

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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	Screenshot No. 47 

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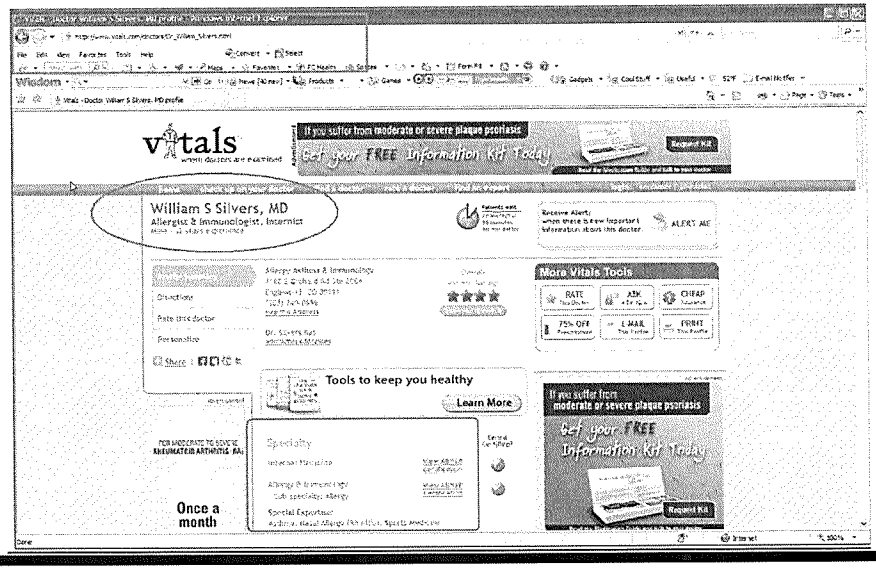
U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	Additionally, the "overall patient rating," comprising 0-4 purple stars, comprise comparison ratings of healthcare providers. *See* Screenshot No. 48. Screenshot No. 48 

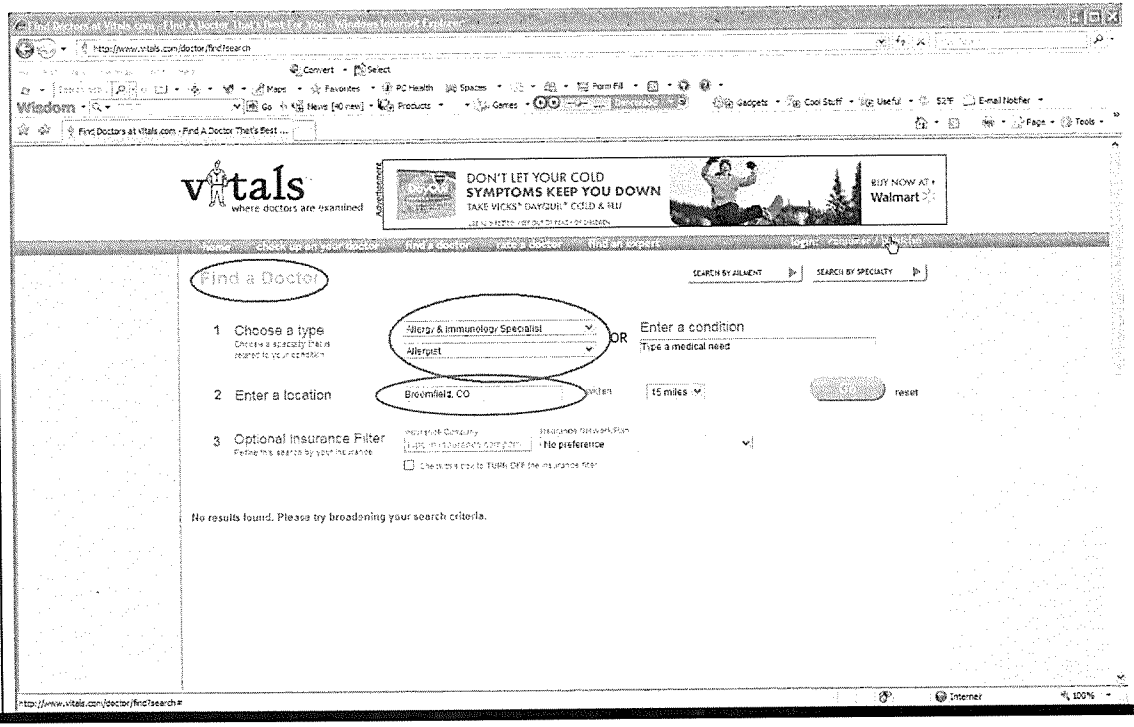
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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	MDx includes another comparison rating of healthcare providers when it includes the "Patients' Choice" mark next to the physician's name. MDx gives this award to physicians when the physician has "received near perfect scores as rated by patients" compared to other physicians. *See* Screenshot No. 49. Screenshot No. 49 

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U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
	To the extent that MDx asserts that these three ratings do not literally satisfy the limitation of a healthcare provider report that includes comparison ratings, these ratings meet the claim limitations under the doctrine of equivalents because they have the same function, in the same way, to achieve the same result as comparison ratings on a healthcare provider report.
and provide access to the healthcare provider report on the first healthcare provider over a computer network.	MDx provides access to the doctors' healthcare provider reports over a computer network. *See* Screenshot No. 50 (highlighting that this information was accessed over a computer network, e.g., the Internet, and that the profile can be sent by email or printed). Screenshot No. 50 

U.S. Patent No. 7,752,060	MDx's Previous On-line Information System
16. The on-line information system defined in claim 15, wherein: the healthcare provider report is obtained through one or more from the group consisting of: a predetermined Webpage that provides search capabilities on its database and a third-party search engine; and the search capabilities of the predetermined Webpage permit searching based on one or more from the group consisting of: name, medical specialty, gender, state, city, procedure, diagnosis, and location criteria.	MDx provides a predetermined webpage. This webpage permits a patient to search based on medical specialist, diagnosis, and location criteria. *See* Screenshot No. 51 (specialist, location criteria circled, and diagnosis in red, blue, and orange respectively). Screenshot No. 51 

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