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 MYMEDICALRECORDS, INC.

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 10 **UNITED STATES DISTRICT COURT**  
 11 **CENTRAL DISTRICT OF CALIFORNIA**  
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<p>13 MYMEDICALRECORDS, INC., a          Delaware corporation,          14          Plaintiff,          15          vs.          16          QUEST DIAGNOSTICS INC., a          Delaware corporation,          17          Defendant.          18</p>	<p>) Case No. CV 13-02538-ODW-(SHx)          )          ) <b>FIRST AMENDED COMPLAINT</b>          ) <b>FOR PATENT INFRINGEMENT</b>          )          )          ) DEMAND FOR JURY TRIAL          )          )          ) Hon. Otis D. Wright II          )</p>
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 21 Plaintiff MyMedicalRecords, Inc. (“MMR”) brings this Complaint against  
 22 Defendant Quest Diagnostics Inc. (“Quest” or “Defendant”), alleging as follows:  
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24 **PARTIES**

- 25 1. Plaintiff MMR is a Delaware corporation with its principal place of  
 26 business in Los Angeles, California.  
 27 2. On information and belief, Defendant Quest Diagnostic Inc. is a  
 28 Delaware corporation with its principal place of business in Madison, New Jersey.

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**JURISDICTION, VENUE AND JOINDER**

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Defendant. Defendant has conducted extensive commercial activities and continues to conduct extensive commercial activities within the State of California. On information and belief, Defendant directly and/or through intermediaries (including Defendant’s entities, subsidiaries, distributors, sales agents, partners and others), distribute, offer for sale, sell, and/or advertise their products (including, but not limited to, the products and services that are accused of infringement in this lawsuit) in the United States, in the State of California and in this judicial district. Defendant has purposefully and voluntarily placed one or more of their products and services accused of infringement in this lawsuit, including those offered on Defendant’s websites, into the stream of commerce with the expectation that the products and services will be purchased or used by customers in California. Accordingly, Defendant has infringed MMR's patents within the State of California as alleged in more detail below.

5. Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400(b).

**BACKGROUND**

6. MMR is a wholly owned operating subsidiary of MMRGlobal, Inc. MMR provides various electronic solutions in the healthcare information technology market (“Health IT”), including MyMedicalRecords, MyMedicalRecordsMD, MMRPatientView and MyEsafeDepositBox.

7. MMR’s product known as MyMedicalRecords is a personal health records solution (“PHR”) that enables individuals and families to safely maintain their medical records and other important documents in one central location and

1 instantly access them anytime from anywhere in the world. The MyMedicalRecords  
2 PHR is built on proprietary, patented technologies that facilitate, among other things,  
3 documents, images and voicemail messages to be transmitted and stored using a  
4 variety of methods, including fax, e-mail, phone, or file upload, creating an  
5 integrated telecommunications platform that does not rely on any specific electronic  
6 medical record (“EMR”) system to populate a user's account. The product is  
7 “untethered” providing the patient with significant benefits. Further, in the event of  
8 an emergency or disaster, medical personnel and first responders can retrieve  
9 potentially lifesaving information via a separate emergency login to the patient's  
10 PHR.

11 8. MyMedicalRecordsMD (“MMRPro”) is MMR's professional solution  
12 for healthcare providers, designed to give physicians and hospitals an easy and cost-  
13 effective solution to digitizing paper-based medical records and sharing them with  
14 patients in real time through an integrated patient portal, MMRPatientView.

15 9. MMR’s MyEsafeDepositBox service provides secure online storage for  
16 vital financial, legal and insurance documents in addition to medical records using  
17 the same patented technologies that drive the MyMedicalRecords PHR service.

18 10. MMR is the owner of eight issued US patents covering innovations  
19 regarding PHRs and the electronic exchange of medical records. The patents include  
20 US Patent Nos. 8,117,045; 8,117,646; 8,121,855; 8,301,466; 8,321,240; 8,352,287;  
21 8,352,288, and 8,498,883. MMR’s patents are generally directed to methods for  
22 providing a user with the ability to access and collect personal health records  
23 associated with the user in a secure and private manner, among other things. These  
24 patents are relevant to the market for providing PHRs as required under current law,  
25 among other things.

26 11. Pursuant to its public records and statement, Quest is “the world’s  
27 leading provider of diagnostic testing services with a medical and scientific staff of  
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1 approximately 900 MDs and PhDs, an extensive network of convenient patient  
2 locations and laboratories and a range of complementary diagnostic products.”

3 12. Quest has recently developed and offers a product known as Gazelle.  
4 Gazelle is a mobile health application that is a PHR. Gazelle allows a customer to  
5 receive and store, through his or her cell phone, medical information, including  
6 personal medical records. Gazelle is configured to allow Quest to send lab results  
7 and other information directly to the customer’s account that the customer may  
8 access through his cell phone. On information and belief, while access is allowed via  
9 a cell phone, the personal health information is stored on servers by Quest.

10 13. Customers are asked to set up a Quest Diagnostic Patient Account,  
11 creating a user name and password specific for that account to provide access and  
12 security. Through Gazelle and the Quest Diagnostic Patient Account, a customer  
13 may electronically share, including by email or fax his healthcare information with  
14 physicians, pharmacists and anyone else he chooses. In case of an emergency,  
15 medical responders can access the personal health records through a card provided  
16 by Quest that can be kept in a purse or wallet.

17 14. Customers can enter and record a variety of personal health information  
18 into Gazelle and the Quest Diagnostic Patient Account. According to Quest, there is  
19 no limit to the amount of personal health information a customer can store and share  
20 through Gazelle and the Quest Diagnostic Patient Account, lab and non-lab  
21 information alike.

22 15. Gazelle allows patients to receive lab results directly from Quest, as  
23 well as to see, store and share prescriptions, physician information, immunizations,  
24 emergency contacts, medical conditions, and allergies.

25 16. On information and belief, Quest, through Gazelle or other products,  
26 enables physicians using Quest’s Care360 product to share information directly with  
27 patients. Quest’s Care360, an EHR platform, provides clinical connectivity and  
28 electronic healthcare solutions to healthcare institutions, physicians and patients. On

1 information and belief, customers using Gazelle can receive records directly from  
2 healthcare providers using Care360, through the Care360 system, and those  
3 healthcare providers that are not using Quest's Care360 product.

4 17. The number of different physicians whose records can be included in  
5 Defendant's personal health record is not limited. Further, the physicians need not  
6 be part of the same physician group or practice at the same hospital. The personal  
7 health records stored as part of Quest's patient portal is independent from records  
8 stored by the physician or healthcare provider.

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10 **FIRST CLAIM FOR RELIEF**

11 **(Patent Infringement as to the '466 Patent)**

12 18. Plaintiff incorporates paragraphs 1 through 17 of this complaint as if set  
13 forth in full herein.

14 19. MMR is the owner of the entire right, title, and interest in and to U.S.  
15 Patent No. 8,301,466 (the '466 Patent), entitled Method and System for Providing  
16 Online Records. The '466 Patent was duly and legally issued on October 30, 2012 to  
17 MMR as assignee of inventor Robert H. Lorsch. A true and correct copy of the '466  
18 Patent is attached as Exhibit A.

19 20. Defendant has directly infringed and continues to infringe, either  
20 literally and/or under the doctrine of equivalents, the '466 Patent by making, using,  
21 offering for sale, and/or selling in the United States certain methods or systems  
22 disclosed and claimed in the '466 Patent, including, but not limited to Gazelle and the  
23 Quest Diagnostic Patient Account. For example, Defendant's Gazelle and the Quest  
24 Diagnostic Patient Account products implement a method for providing a user with  
25 the ability to access and collect personal health records associated with the user in a  
26 secure and private manner, according to one or more claims of the '466 Patent.

27 21. Defendant has contributorily infringed and is currently contributorily  
28 infringing the '466 Patent by making, using, offering for sale, and/or selling in the

1 United States certain methods or systems disclosed and claimed in the '466 Patent,  
2 including, but not limited to Gazelle and the Quest Diagnostic Patient Account.

3 22. Defendant has actively induced and is actively inducing the  
4 infringement of the '466 Patent by making, using, offering for sale, and/or selling in  
5 the United States certain methods or systems disclosed and claimed in the '466  
6 Patent, including, but not limited to Gazelle and the Quest Diagnostic Patient  
7 Account.

8 23. The infringement by Defendant of the '466 Patent has been and  
9 continues to be willful, rendering this case exceptional within the meaning of 35  
10 U.S.C. § 285.

11 24. Unless enjoined by this Court, Defendant will continue to infringe the  
12 '466 Patent.

13 25. As a direct and proximate result of the Defendant's conduct, Plaintiff  
14 has suffered, and will continue to suffer, irreparable injury for which it has no  
15 adequate remedy at law. Plaintiff also has been damaged and, until an injunction  
16 issues, will continue to be damaged in an amount yet to be determined.

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18 **SECOND CLAIM FOR RELIEF**

19 **(Patent Infringement as to the '883 Patent)**

20 26. Plaintiff incorporates paragraphs 1 through 25 of this complaint as if set  
21 forth in full herein.

22 27. MMR is the owner of the entire right, title, and interest in and to U.S.  
23 Patent No. 8,498,883 (the '883 Patent), entitled "Method for Providing a User with a  
24 Service for Accessing and Collecting Prescriptions." The '883 Patent was duly and  
25 legally issued on July 30, 2013 to MMR as assignee of inventor Robert H. Lorsch. A  
26 true and correct copy of the '883 Patent is attached as Exhibit B.

27 28. Defendant has directly infringed and continue to infringe, either literally  
28 and/or under the doctrine of equivalents, the '883 Patent by making, using, offering

1 for sale, and/or selling in the United States certain methods or systems disclosed and  
2 claimed in the '883 Patent, including, but not limited to Defendant's Gazelle and the  
3 Quest Diagnostic Patient Account. For example, Defendant's Gazelle and the Quest  
4 Diagnostic Patient Account products implement a method for providing a user with  
5 an ability to access, collect, and/or manage drug prescriptions associated with the  
6 user in a secure and private manner, according to one or more claims of the '883  
7 Patent.

8         29. Defendant has contributorily infringed and is currently contributorily  
9 infringing the '883 Patent by making, using, offering for sale, and/or selling in the  
10 United States certain methods or systems disclosed and claimed in the '883 Patent,  
11 including, but not limited to Defendant's Gazelle and the Quest Diagnostic Patient  
12 Account .

13         30. Defendant has actively induced and is actively inducing the  
14 infringement of the '883 Patent by making, using, offering for sale, and/or selling in  
15 the United States certain methods or systems disclosed and claimed in the '883  
16 Patent, including, but not limited to Defendant's Gazelle and the Quest Diagnostic  
17 Patient Account.

18         31. The infringement by Defendant of the '883 Patent has been and  
19 continues to be willful, rendering this case exceptional within the meaning of 35  
20 U.S.C. § 285.

21         32. Unless enjoined by this Court, Defendant will continue to infringe the  
22 '883 Patent.

23         33. As a direct and proximate result of the Defendant's conduct, Plaintiff  
24 has suffered, and will continue to suffer, irreparable injury for which it has no  
25 adequate remedy at law. Plaintiff also has been damaged and, until an injunction  
26 issues, will continue to be damaged in an amount yet to be determined.

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**PRAYER FOR RELIEF**

Wherefore, MMR respectfully requests that the Court enter judgment against Defendant as follows:

- 1. That Defendant has directly infringed the '466 and '883 Patents;
- 2. That Defendant has contributorily infringed the '466 and '883 Patents;
- 3. That Defendant has induced the infringement of the '466 and '883 Patents;
- 4. That Defendant's infringement be adjudged willful and deliberate;
- 5. That Defendant and any of its affiliates, subsidiaries, officers, directors, employees, agents, representatives, successors, assigns, and all those acting in concert with it or on its behalf, including customers, be enjoined from infringing, inducing others to infringe or contributing to the infringement of the '466 and '883 Patents;
- 6. For damages, according to proof, for Defendant's infringement, together with pre-judgment and post-judgment interest, as allowed by law and that such damages be trebled as provided by 35 U.S.C. § 284;
- 7. That this Court determine that this is an exceptional case under 35 U.S.C. § 285 and an award of attorneys' fees and costs to MMR is warranted; and
- 8. For such other and further relief as the Court may deem just and proper.

Dated: October 30, 2013

Respectfully submitted,  
  
LINER GRODE STEIN YANKELEVITZ  
SUNSHINE REGENSTREIF & TAYLOR  
LLP  
  
By:           /s/ Ted S. Ward            
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JURY DEMAND

Pursuant to Federal Rules of Civil Procedure Rule 38(b), Plaintiff MyMedicalRecords, Inc. respectfully demands a trial of any and all issues properly triable by a jury.

Dated: October 30, 2013

Respectfully submitted,

LINER GRODE STEIN YANKELEVITZ  
SUNSHINE REGENSTREIF & TAYLOR  
LLP

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