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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92049710
Party	Plaintiff MD Video, Inc.
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Date	01/19/2009
Attachments	Rule 26 Discovery Plan - signed by the parties (M0616206).PDF (3 pages) (25072 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

MD VIDEO, INC.

Petitioner,

v.

HEALTHCOMMUNITIES.COM, INC.,

Registrant.

Cancellation No. 92049710

Registration No. 2599776

Mark: MD VIDEO & Design

**JOINT DISCOVERY PLAN PURSUANT TO
FED R. CIV. P. 26(f) AND 37 C.F.R. § 2.120**

Petitioner, MD VIDEO, INC. (“Petitioner” or “MD Video”), and Registrant, HEALTHCOMMUNITIES.COM, INC. (“Registrant” or “Healthcommunities.com”), by and through their undersigned attorneys, having conducted a Discovery Conference on January 5, 2009, file this, their Joint Discovery Plan, pursuant to Rule 26(f) and 37 C.F.R. § 2.120.

- 1. Nature and basis of the Parties’ claims and defenses:** Petitioner filed this proceeding seeking cancellation of the subject mark based on abandonment and fraud. Respondent denies the material allegations contained in the Petition for Cancellation.
- 2. Possibility for a prompt settlement or resolution of the case:** The parties have already begun settlement discussions. However, the parties do not believe a settlement will occur promptly.
- 3. Arrangement for the disclosures required by Fed.R.Civ.P. 26(a)(1):** The parties agree to submit their initial disclosures by **February 3, 2009**; however, the

parties agree they may request or stipulate to an extension of this or any other pretrial deadlines as allowed by the rules.

4. Proposed discovery plan indicating the Parties' views and proposals concerning:

A. *Changes in timing, form or requirements under Rule 26(a), Fed. R. Civ.*

P: None.

B. *Subjects on which discovery may be needed, when discovery should be completed, and how discovery should be conducted:* The Parties agree that discovery is needed as to all claims and defenses. The parties agree that discovery shall close on **July 3, 2009**; however, the parties agree they may request or stipulate to an extension of this or any other pretrial deadlines as allowed by the rules. The parties do not believe that discovery should be conducted in phases.

C. *Issues about disclosure or discovery of electronically stored information, including form or form in which it should be produced:* The parties agree that electronically stored information shall be produced by hard copy printouts and, if requested by the opposing party, also on CD ROM.

D. *Issues about claims of privilege or of protection as pre-trial materials:* The parties agree to address such matters according to the TTAB Rules, including that the Board's standard protective order is automatically in place under 37 C.F.R. § 2.116(g).

E. *What changes should be made in limitations on discovery under the federal and local rules:* The Parties presently agree that no changes

should be made in the limitations on discovery under the TTAB rules.

The parties will continue to confer on this matter as discovery progresses.

F. *Other orders that should be entered by the court under Fed. R. Civ. P. 26(c) or 16(b) and (c):* At this time, the Parties believe there are no other orders that should be entered by the Court under Rules 26(c) or 16(b) and (c).

Dated: January 19, 2009.

Respectfully submitted,

KLUGER, PERETZ, KAPLAN &
BERLIN, P.L.

Attorneys for Petitioner

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