

05-29-2002



To the Honorable Commissioner of Patents and Trademarks

or copy thereof.

102105114

1. Name of conveying party(ies): HealthCentral.com, Inc.

2. Name and address of receiving party(ies): MDChoice.com, Inc.

5/22/02  
 Individual(s)     Association  
 General Partnership     Limited Partnership  
 Corporations-State of: Delaware  
 Other:  
Additional name(s) of conveying party(ies) attached?  
 Yes     No

Internal Address:  
Street Address: 58-72 East Main Street  
City: Somerville    State: New Jersey    Zip: 08876  
 Individual(s) citizenship  
 Association  
 General Partnership  
 Limited Partnership  
 Corporation: State of: Delaware  
 Other

If assignee is not domiciled in the United States, a domestic representative designation is attached:  Yes     No

(Designation must be a separate document from Assignment)  
Additional name(s) & address(es) attached?  Yes     No

3. Nature of conveyance:

Assignment     Merger  
 Security Agreement     Change of Name  
 Other: Asset Purchase Agreement

Execution Date: December 21, 2001

4. Application number(s) or Registration number(s):

A. Trademark Application No(s):

B. Trademark Registration No(s). 2410643 for HEALTHCENTRAL; 2461234 for HEALTHCENTRAL & Design; 2526680 for HEALTHCENTRALRX; and, 2495636 for HEALTHCENTRALRX & Design.

Additional numbers attached?  Yes     No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Linda A. Tancs, Esq.  
Internal Address: Norris, McLaughlin & Marcus, P.A.  
Street Address: P.O. Box 1018  
City: Somerville    State: New Jersey    Zip: 08876-1018

6. Total number of applications and registrations involved: 4

7. Total fee (37 CFR 3.41): ..... \$115  
 Enclosed     Authorized to be charged to deposit account  
Please charge any additional applicable fees to the deposit account indicated in answer (8).

8. Deposit account number: 14-1263  
(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Shauna K. Sund  
Name of Person Signing

Signature

May 22, 2002  
Date

Total number of pages including cover sheet: 11

OFFICE OF PATENT RECORDS  
MAY 22 AM 9:14  
FINANCE SECTION

OMB No. 0651-0011 (exp. 4/94)

Do not detach this portion

Mail documents to be recorded with required cover sheet information to:

05/29/2002 LMUELLER 00000045 2410643

Commissioner of Patents and Trademarks  
Box Assignments  
Washington, D.C. 20231

01 FC:481    40.00 OP  
02 FC:482    75.00 OP

Public burden reporting for this sample cover sheet is estimated to average about 30 minutes per document to be recorded, including time for reviewing the document and gathering the data needed, and completing and reviewing the sample cover sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Office of Information Systems, PK2-1000C, Washington, D.C. 20231, and to the Office of Management and Budget, Paperwork Reduction Project, (0651-0011), Washington, D.C. 20503.

TRADEMARK  
REEL: 002514 FRAME: 0479

## ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (the "Agreement") dated as of December 21, 2001 is made by and among HealthCentral.com ("HealthCentral"), a Delaware corporation, and HealthCentral's wholly-owned subsidiary, HealthCentral Enterprise Web Services, Inc., a Delaware corporation (collectively, the "Seller") and MD Choice.com, Inc., a Delaware corporation ("Buyer").

### WITNESSETH:

WHEREAS, HealthCentral is an ehealth company, which among other things, operates the HealthCentral.com website (the "HealthCentral.com Website") and in connection with the HealthCentral.com Website: (i) has developed or acquired certain content (the "Content"), (ii) owns trademark and service mark rights in "HealthCentral.com" and the "HealthCentral.com" URL (the "Intellectual Property"), (iii) owns certain software used in connection with the HealthCentral.com Website (the "Software") and (iv) has developed a database of the names and email addresses of subscribers to various HealthCentral.com Website newsletters (the "Subscriber Information"), all as more specifically described on Exhibit A (collectively the "Purchased Assets"); and

WHEREAS, Seller has filed a voluntary petition for bankruptcy protection under Chapter 11;

WHEREAS, Buyer wishes to purchase the Purchased Assets, subject to an order approving such purchase by the bankruptcy court.

NOW, THEREFORE, the parties hereto agree as follows:

### ARTICLE I

#### PURCHASE AND SALE

##### 1.01. Purchase and Sale.

(i) At the Closing, Buyer agrees to purchase from Seller, and Seller agrees to sell, transfer, assign and deliver to Buyer the Purchased Assets as the same shall exist on the Closing Date and including, without limitation, all right, title and interest of Seller in, to and under such Purchased Assets.

(ii) The sale, transfer, assignment, conveyance and delivery of the Purchased Assets by the Seller to the Buyer shall be effected by the execution and delivery of an Assignment, License and Assumption Agreement substantially in the form attached hereto as Exhibit B-1 (the "Assignment Agreement" and collectively with this Agreement, the "Transaction Documents").

1.02. Transfer of Liabilities. Subject to the terms and conditions of this Agreement, Buyer is not assuming any liability or obligation of Seller or any affiliate thereof in connection with the purchase of the Purchased Assets.

1.03. Purchase Price. Subject to the performance by Seller of all of its obligations under this Agreement (including delivering all documents required to be delivered) at the Closing, in consideration of the acquisition of the Purchased Assets, Buyer agrees at the Closing to deliver to Seller or an account or accounts designated by Seller the sum of Two Hundred Eighty-Seven Thousand Five Hundred Dollars (\$287,500.00) in immediately available funds (the "Purchase Price").

1.04 Closing.

(i) Closing Date. Subject to the terms and conditions of this Agreement, the Closing shall take place within two business days after all conditions precedent in Article V have been satisfied or waived, as the parties may agree (the "Closing Date").

(ii) At the Closing, Seller shall deliver the Purchased Assets to Buyer, Buyer shall deliver the Purchase Price pursuant to Section 1.03, and Buyer and Seller shall take such actions and execute and deliver such agreements, instruments and documents as necessary or appropriate to effect the transactions contemplated by the Transaction Documents in accordance with their terms, including without limitation execution and delivery of the documents referenced in Section 1.01(ii), delivery by Seller to Buyer of any documents necessary to show reasonable evidence of valid title to such of the Purchased Assets as Buyer may reasonably request in writing prior to the Closing and delivery by Seller to Buyer of any assignments.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Buyer that:

2.01. Corporate Existence. Each of HealthCentral and HealthCentral Enterprise Web Services, Inc. is a corporation duly incorporated, validly existing and in good standing under the laws of its state of incorporation.

2.02. Corporate Authorization; Execution and Binding Effect. Subject to Section 5.03, (i) the execution, delivery and performance by Seller of the Transaction Documents and the consummation by Seller of the transactions contemplated hereby and thereby are within Seller's corporate powers and have been duly authorized by all necessary corporate action on the part of Seller, and (ii) this Agreement has been duly and validly executed and delivered by Seller and constitutes, and the other agreements and instruments to be executed and delivered by Seller pursuant hereto, upon their execution and delivery by Seller, will constitute (assuming, in each case, the due and valid authorization, execution and delivery thereof by Buyer), legal, valid and

binding agreements of Seller, enforceable against Seller in accordance with their respective terms.

2.03 Title. Seller holds good and marketable title in all of the Purchased Assets and, subject to Section 5.03, has the power and right to sell, assign and deliver the Purchased Assets to Buyer. Upon consummation of the transactions contemplated by this Agreement, Buyer will acquire good and marketable title to the Purchased Assets free and clear of all liens, claims and encumbrances and there exists no restriction on the use or transfer of the Purchased Assets.

2.04 Consents. Except as listed on Schedule 2.04(a) or pursuant to Section 5.03, no consent of any third person or entity is required by Seller as a result of the execution, delivery and performance of this Agreement or the consummation of the transactions contemplated hereby.

### ARTICLE III

#### REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Seller that:

3.01. Organization and Existence. Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of Delaware.

3.02. Corporate Authorization; Execution and Binding Effect. The execution, delivery and performance by Buyer of the Transaction Documents and the consummation by Buyer of the transactions contemplated hereby and thereby are within Buyer's corporate powers and have been duly authorized by all necessary corporate action on the part of Buyer. This Agreement has been duly and validly executed and delivered by Buyer and constitutes, and the other agreements and instruments to be executed and delivered by Buyer pursuant hereto, upon their execution and delivery by Buyer, will constitute (assuming, in each case, the due and valid authorization, execution and delivery thereof by Seller), legal, valid and binding agreements of Buyer, enforceable against Buyer in accordance with their respective terms.

### ARTICLE IV

#### COVENANTS

4.01. Best Efforts; Further Assurances.

(i) Subject to the terms and conditions of this Agreement, each party will use its commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary or desirable under applicable laws and regulations to consummate the transactions contemplated by this Agreement. Each party agrees to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as

may be necessary or desirable in order to consummate or implement expeditiously the transactions contemplated by this Agreement.

(ii) At the Closing, Seller shall constitute and appoint Buyer and its successors and assigns as its true and lawful attorney with full power of substitution in the name of Buyer or in the name of Seller, but for the benefit of Buyer for the limited purpose to institute and prosecute all proceedings which Buyer may in its sole discretion deem proper in order to assert or enforce any right, title or interest in, to or under the Purchased Assets, and to defend or compromise any and all actions, suits or proceedings in respect of the Purchased Assets. The foregoing shall be at Buyer's sole cost and expense. Buyer shall be entitled to retain for its account any amounts collected pursuant to the foregoing powers, including any amounts payable as interest in respect thereof.

(iii) Post-Closing Technical Support. From and after the Closing until January 15, 2001, Seller will continue to employ an information services executive and shall provide reasonable telephone support to Buyer and its employees in order to answer Buyer's technical questions with regard to the Software.

## ARTICLE V

### CLOSING

5.01 Conditions to Buyer's Obligations. The obligations of Buyer under this Agreement are subject to the fulfillment, prior to or on the Closing Date, of each of the following conditions, all or any of which may be waived by Buyer in writing, except as otherwise provided by law:

(i) Representations and Warranties True; Performance; Certificate.

(a) The representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects as of the Closing Date with the same effect as though such representations and warranties had been made or given again at and as of the Closing Date;

(b) Seller shall have performed and complied with all of its agreements, covenants and conditions required by this Agreement to be performed or complied with by them prior to or on the Closing Date;

(c) Buyer shall have received a certificate, dated as of the Closing Date, signed and verified by an officer of Seller on behalf of Seller certifying to the matters set forth in Sections 5.01(i)(a) and 5.01(i)(b) above.

(ii) No Proceedings or Litigation. No preliminary or permanent injunction or other order shall have been issued by any governmental entity, nor shall any statute, rule, regulation or executive order be promulgated or enacted by any governmental entity which prevents the consummation of the transactions contemplated by this Agreement. No suit, action,

claim, proceeding or investigation before any governmental entity shall have been commenced and be pending against any of the parties, or any of their respective affiliates, associates, officers or directors, seeking to prevent transactions contemplated by this Agreement, including, without limitation, the sale of the Purchased Assets or asserting that the sale of the Purchased Assets would be illegal or create liability for damages.

5.02 Conditions to Seller's Obligations. The obligations of Seller under this Agreement are subject to the fulfillment, prior to or on the Closing Date, of each of the following conditions, all or any of which may be waived by Seller in writing, except as otherwise provided by law:

(i) Representations and Warranties True; Performance; Certificate.

(a) The representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects as of the Closing Date with the same effect as though such representations and warranties had been made or given again at and as of the Closing Date;

(b) Buyer shall have performed and complied with all of its agreements, covenants and conditions required by this Agreement to be performed or complied with by them prior to or on the Closing Date;

(c) Seller shall have received a certificate, dated as of the Closing Date, signed and verified by an officer of Buyer on behalf of Buyer certifying to the matters set forth in Sections 5.02(i)(a) and 5.02(i)(b) above.

(ii) No Proceedings or Litigation. No preliminary or permanent injunction or other order shall have been issued by any governmental entity, nor shall any statute, rule, regulation or executive order be promulgated or enacted by any governmental entity which prevents the consummation of the transactions contemplated by this Agreement. No suit, action, claim, proceeding or investigation before any governmental entity shall have been commenced and be pending against any of the parties, or any of their respective affiliates, associates, officers or directors, seeking to prevent transactions contemplated by this Agreement, including, without limitation, the sale of the Purchased Assets or asserting that the sale of the Purchased Assets would be illegal or create liability for damages.

5.03 Order of Bankruptcy Court. The obligations of each of Buyer and Seller under this Agreement are subject to the fulfillment, prior to or on the Closing Date, of the entry by the bankruptcy court of a final order pursuant to 11 U.S.C. Sec. 363(b) and (f) and Sec. 365(b)(2) approving this Agreement and the transactions contemplated hereby, including without limitation that the sale is free and clear of all liens, claims and encumbrances, except as otherwise provided in this Agreement and that Buyer is a good faith purchaser within the contemplation of 11 U.S.C. Sec. 363(m).

ARTICLE VI

MISCELLANEOUS

6.01. Notices. All notices required or permitted under this Agreement shall be in writing, shall be sent to the party's address as set forth immediately below, shall reference this Agreement, and shall be deemed given (i) when delivered personally; (ii) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; (iii) one (1) day after deposit with a commercial overnight carrier with verification of receipt; or (iv) when sent by confirmed telex or facsimile.

If to Buyer, to:

MDChoice.com, Inc.  
68 E. Main St.  
Somerville, NJ 08876  
Attn: Ash Nashed, President and CEO

With a copy to:

Norris, McLaughlin & Marcus  
721 Route 202/206  
Bridgewater, NJ 08807  
Attn: Gary N. Marks

If to Seller, to:

HealthCentral.com  
6005 Shellmound Street, Suite 800  
Emeryville, California 94608  
Attn: John Barnard, President

With a copy to:

Pachulski, Stang, Ziehl Young & Jones  
Three Embarcadero Center, Suite 1020  
San Francisco, California 94111  
Telephone: 415-263-7000  
Facsimile: 415-263-7010  
Attn: Tobias Keller

A party may change its address for purposes of receiving notices by giving notice of said change of address in the manner provided for herein.

6.02 Costs and Expenses. Each party shall bear and be responsible for their own attorneys' fees, accountants' fees, broker's fees and expenses incurred by them in the preparation, negotiation and execution of this Agreement and all related documents and the acquisition and sale of the Purchased Assets.

6.03 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors, assigns or nominees.

6.04 Sales Taxes. Buyer shall be responsible for any and all sales or use, transfer, excise, stamp, or other similar taxes relating to the Purchased Assets purchased hereunder.

6.05 Choice of Law. This Agreement shall be interpreted pursuant to the laws of the State of California without giving effect to its laws regarding conflicts of laws.

6.06 Entire Agreement. This Agreement and the documents referred to herein are the product of all of the parties hereto, and constitute the entire agreement between such parties pertaining to the subject matter hereof and thereof, and merge all prior negotiations and drafts of the parties with regard to the transactions contemplated herein and therein. Any and all other written or oral agreements existing between the parties hereto regarding such transactions are expressly canceled.

6.07 Amendments and Waivers. Any term of this Agreement may be amended or waived with the written consent of the parties or their respective successors and assigns. Any amendment or waiver effected in accordance with this Section shall be binding upon the parties and their respective successors and assigns.

6.08 Survival of Representations. The representations contained in this Agreement and the covenants intended to be performed prior to Closing shall expire at the Closing of the transactions contemplated by this Agreement. The covenants intended to be performed after the Closing shall survive the Closing until they have been performed in their entirety.

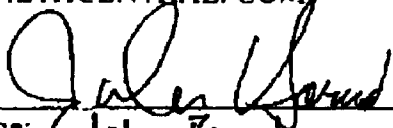
6.09 Termination of Agreement. This Agreement may be terminated at any time prior to the Closing: (a) by mutual written consent of Buyer and Seller, or (b) by either Buyer or Seller (by giving written notice thereof to the other) if the Closing has not occurred by the date that is ninety (90) days after the date of this Agreement. In the event of termination of this Agreement by either Buyer or Seller, this Agreement shall become void and there shall be no liability on the part of Buyer or Seller (or their respective officers, directors, partners or affiliates), except as a result of any breach of this Agreement by such party.

**[Remainder of page intentionally left blank]**

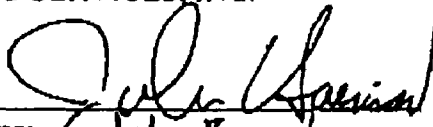


IN WITNESS WHEREOF, the parties hereto here caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

HEALTHCENTRAL.COM

By:   
Name: John Barnard  
Title: President

HEALTHCENTRAL ENTERPRISE  
WEB SERVICES, INC.

By:   
Name: John Barnard  
Title: President

MDCHOICE.COM, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT**

IN WITNESS WHEREOF, the parties hereto here caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

HEALTHCENTRAL.COM

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

HEALTHCENTRAL ENTERPRISE  
WEB SERVICES, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

MDCHOICE.COM, INC.

By: *[Signature]*  
Name: *Ash Nishad*  
Title: *Pres/CEO*

*12/31/01*

**SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT**

**EXHIBIT "A"**

TRADEMARK

REG. NO.

HEALTHCENTRAL

2410643

HEALTHCENTRAL & Design

2461234

HEALTHCENTRALRX

2526680

HEALTHCENTRALRX & Design

2495636