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In addition, the parties filed a joint motion to correct clerical errors in the October 2, their proposed changes that was submitted directly to chambers. Some of the corrections are

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¹After the *Markman* hearing on Plaintiff's patent, the case was transferred to another District Judge in preparation for the undersigned's retirement. In the interest of judicial economy, the Court heard the related motion to correct Figure 8, with the resulting amendment to the Claim Construction Order on Plaintiff's '416 Patent.

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traditional clerical errors, and the Court has made those corrections. Other changes indicate that the parties have agreed to define additional terms or to modify and clarify the definitions of certain phrases. The Court approves these stipulated alterations and has incorporated the requested changes into this Amended Claim Construction Order.

Pursuant to *Markman v. Westview Instruments, Inc.*, 517 U.S. 370 (1996), the Court conducted hearings on February 27-28, June 12-13, and September 24-25, 2007 regarding the construction of the disputed claims in Plaintiff DR Systems, Inc.'s United States Patent Number 5,452,416 ('416).

At the *Markman* hearing, the Court, with the assistance of the parties, analyzed the claim terms in order to prepare jury instructions interpreting the pertinent claims at issue in the '416 patent. Additionally, the Court prepared a case glossary for terms found in the claims and specification for the '416 patent considered to be technical in nature which a jury of laypersons might not understand clearly without a specific definition.

After careful consideration of the parties' arguments and the applicable statutes and case law, the Court **HEREBY CONSTRUES** the claims in dispute for the '416 patent and **ISSUES** the relevant jury instructions as written in Exhibit A, attached hereto. Further, the Court **HEREBY DEFINES** all pertinent technical terms as written in Exhibit B, attached hereto.

IT IS SO ORDERED

DATED: December 5, 2007

Hon. Rudi M. Brewster

United States Senior District Judge

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EXHIBIT A² UNITED STATES PATENT NUMBER 5,452,416 - CLAIM CHART

3	VERBATIM CLAIM LANGUAGE	COURT'S CONSTRUCTION
4	Claim 1	
5 6	A system for presenting images of anatomical structure for examination by a diagnosing physician, including:	A system for presenting images of anatomical structure for examination by a diagnosing physician, including:
7 8 9 10 11 12 13 14 15 16	means including one or more display monitors for displaying at least one display container including a display area subdivided into a plurality of presentation areas in a predetermined array;	means including one or more display monitors for displaying at least one display container [a bounded area or window in which images are presented] including a display area [a space within a display container in which the anatomical images may be viewed] subdivided into a plurality [two or more] of presentation areas [an area in which a single image is presented at a time] in a predetermined array [a two-dimensional layout of presentation areas (e.g. 2X2 or 4X5) determined beforehand] [This is a meansplus-function limitation. The function is displaying at least one display container including a display area subdivided into a plurality of presentation areas in a predetermined array. The corresponding structure is a display monitor.];
17	means for storing an image database including a plurality of images of	means for storing an image database [a collection including stored image files,
18	anatomical structures, the images being separated into a plurality of image groups, in which:	physician data tables, and indices that enables storage and retrieval of images] including a <u>plurality</u> of images of anatomical structures, the images being
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20		separated into a <u>plurality</u> of image groups [assigning images a file name that
21		is specific to a particular image group [one or more image series obtained during an
22		examination]] [This is a means-plus- function limitation. The function is storing
23		an image database including a plurality of images of anatomical structures, the images being separated into a plurality of image
2425		groups. The corresponding structure is a storage device.], in which:
-		<u>.</u>

² All terms appearing in bold face type have been construed by the Court and appear with their definitions in the glossary in Exhibit B. The definition for each construed term appears in within brackets and in italics after its first use in the patent. Thereafter, a term that has previously been defined appears in bold type face and is also underlined.

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VERBATIM CLAIM LANGUAGE	COURT'S CONSTRUCTION
each image group is indexed by a unique group identification; and	each <u>image group</u> is indexed [one piece of information used to locate other information] by a unique group identification [identification of a particular image group for a specific patient to the exclusion of all other image groups]; and
each image group is partitioned into one or more ordered image series, each ordered image series including a succession of images which illustrate incrementally registered aspects of an anatomical target, each image series being ordered by assignment to each image in the image series of a numerical position in a respective monotonically changing sequence; and	each <u>image group</u> is partitioned into one of more ordered image series, each ordered image series including a succession of images which illustrate incrementally registered aspects of an anatomical target, each image series being ordered by assignment to each image in the image series of a numerical position in a respective monotonically changing sequence [each image in a collection of images in an image series is assigned a numerical value representing its order in the sequence]; and
physician data tables are stored with indexes to unique group identifications and to physician identifiers and including entries specifying output functions and displaying formats;	physician data tables [data tables organized by referring and diagnosing physician that contain preferences for each respective physician] are stored with indexes [values in a database used to local information at another location] to unique group identifications and to physician identifiers [information associated with a particular physician to the exclusion of all other physicians] and including entries [information input into a field] specifying output functions [an action to be carried out by a program to control presentation of images in an image group to a physician according to preprogrammed output preferences] and displaying formats [for each diagnosing physician, predetermined settings for the display on the monitor of all image series including, for example, mode, layout, size, and coupling of images];
means for receiving a physician identifier;	means for receiving a physician identifie [This is a means-plus-function limitation. The function is to receive the physician identifier. The corresponding structure is trackball mechanism, keyboard, user interface 14a, screen driver 14b.];

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1	VERBATIM CLAIM LANGUAGE	COURT'S CONSTRUCTION
2 3 4 5	means for receiving a group identification;	means for receiving a group identification [This is a means-plus-function limitation. The function is to receive the group identification. The corresponding structure is a trackball mechanism, keyboard, user interface 14a, screen driver 14b.];
6 7 8 9 10 11 12 13 14 15 16 17 18 10 10 10 10 10 10 10	means connected to the means for receiving, to the means for storing an image database and to the means for displaying at least one display container and responsive to a physician identifier and to a group identification for retrieving at least one image series of an image group indexed by the group identification and for displaying the at least one image series in one or more presentation areas of the plurality of presentation areas in a display format contained in the physician data tables; and	means connected to the means for receiving, to the means for storing an image database and to the means for displaying at least one display container and responsive to a physician identifier and to a group identification for retrieving at least one image series of an image group indexed by the group identification and for displaying the at least one image series in one or more presentation areas of the plurality of presentation areas in a display format contained in the physician data tables [This is a means-plus-function limitation. The function is to retrieve at least one image series of an image group indexed by the group identification and to display the at least one image series in one or more presentation areas of the plurality of presentation areas in a display format contained in the physician data tables. The corresponding structure is the algorithm described at Figure 7 (except 83); col. 9, line 44 through col. 10, line 13 running on a computer with video card as described in col. 6, lines 3 - 5.]; and
19 20 21 22 22 23 24 25 26 27 28	means for providing an output from the system according to an output function specified in the physician data tables.	means for providing an output from the system according to an output function specified in the physician data tables [This is a means-plus-function limitation. The function is to provide an output from the system according to an output function specified in the physician data tables. The corresponding structure is a computer, physician data tables as shown in Figure 6 (such as, for example, boxes 52 and 63), an algorithm associated with either the DONE, CHANGE SERIES, PRINT, NEXT, and/or PREVIOUS functions identified at col. 11, lines 7 - 47 and Figure 8 (box 92 and box below, box 96 and box below), Figure 10 (box 113 and box below, box 118 and box below).].

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1	VERBATIM CLAIM LANGUAGE	COURT'S CONSTRUCTION
2	Claim 2	
3	The system of claim 1, wherein:	The system of claim 1, wherein:
4	the physician data tables include at least one entry specifying a mode of image	the physician data tables include at least one entry [information input into a field] specifying a mode of image series presentation, in which a first mode is a
5	series presentation, in which a first mode is a monitor mode and a second mode is a	
6 7	series mode; and	monitor mode [an image series is presented in the order of its respective sequence in a single respective display
8		container such that each presentation area of the single respective display container
9		includes no more than one image] and a second mode is a series mode [each image
10		series is presented one image at a time in the order of its respective sequence in a single respective presentation area of the
11		plurality of presentation areas]; and
12	the means for retrieving and displaying including means for ordering the display	the means for retrieving and displaying including means for ordering the display
13 14	including means for ordering the display of the at least one image series in response to mode specification by:	[Function and structure here below] of the at least one image series in response to mode specification by:
15	displaying each image series of the at least	displaying each image series of the at least
16	one image series in the order of its respective sequence in a single respective display container in the at least one	one image series in the order of its respective sequence in a single respective display container in the at least one
17	display container in the at least one display container such that each presentation area of the single respective	display container such that each presentation area of the single respective
18	display container includes no more than one image, in response to designation of	<u>display container</u> includes no more than one image, in response to designation of the
19	the monitor mode; and	monitor mode; and [This is a means-plus-function limitation. The function is
20		ordering the display of the at least one image series in response to mode specification. The corresponding structure
21		is a computer performing the algorithm steps of boxes 81, 82 in Figure 7 and col. 6,
2223		line 61 through col. 7, line 5; & col. 7, lines 41-44.]
24	displaying each image series of the at least one image series one image at the time in	displaying each image series of the at least one image series one image at the time in
25	the order of its respective sequence in a single respective presentation area of the	the order of its respective sequence in a single respective presentation area of the
26	plurality of presentation areas, in response to designation of the series mode.	plurality of presentation areas, in response to designation of the series mode.
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1	VERBATIM CLAIM LANGUAGE	COURT'S CONSTRUCTION		
2	means for selecting an image of an image series displayed in the at least one display	means for selecting an image of an image series displayed in the at least one <u>display</u>		
4	container and reproducing the selected image in a presentation area of the palette	<u>container</u> and reproducing the selected image in a <u>presentation area</u> of the		
5	display container.	palette display container. [This is a means-plus-function limitation. The		
6		function is selecting an image of an image series displayed in the at least one display		
7		container and reproducing the selected image in a presentation area of the palette display container. The corresponding structure is trackball mechanism 16;		
8		keyboard 22; screen driver 14b; user		
9		interface 14a; image subsystem 14c; computer program implementing blocks 93-		
10		94a depicted in Figure 8; col. 12:31-58.]		
11	Claim 6			
12	A method for presenting images of anatomical structure for examination by a	A method for presenting images of anatomical structure for examination by		
13	diagnosing physician, the method being executed on a computer display system	a diagnosing physician [a method used by a diagnosing physician for examination of		
1415	having:	medical images, the method being executed on a computer display system having:		
16 17	a display for displaying at least one display container subdivided into a plurality of presentation areas in a predetermined array;	a display for displaying at least one <u>display</u> <u>container</u> subdivided into a <u>plurality</u> of <u>presentation areas</u> in a predetermined array;		
18	a storage subsystem for storing an image database including a plurality of images of	a storage subsystem [storage device that		
19	anatomical structures; and	stores information] for storing an <u>image</u> database including a <u>plurality</u> of images of anatomical structures; and		
20	means connected to the storage subsystem and to the at least one display container	means connected to the <u>storage</u> <u>subsystem</u> and to the at least one <u>display</u>		
21	for retrieving images from the image database and displaying retrieved images	container for retrieving images from the image database and displaying retrieved		
22	in the at least one display container;	images in the at least one display container [This is a means-plus-function		
23		limitation. The function is retrieving images from the image database and		
2425		displaying retrieved images in the at least one display container. The structure is the		
26		algorithm described at Figure 7 (except 83); col. 9, line 44 through col. 10, line 13 running on a computer with video card as described in col. 6, lines 3-5.];		
27	the method including the steps of:	the method including the steps of:		
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	VERBATIM CLAIM LANGUAGE	COURT'S CONSTRUCTION	
	storing a plurality of images in the image database; separating the plurality of images into image groups; indexing each image group by a unique group identification;	storing a <u>plurality</u> of images in the <u>image</u> <u>database</u> ; <u>separating the plurality of</u> <u>images into image groups</u> [assigning images a file name that is specific to a particular image group]; indexing each <u>image group</u> by a <u>unique group</u> <u>identification</u> ;	
3	partitioning each image group into one or more ordered image series, each ordered image series including a succession of images which illustrate incrementally registered aspects of an anatomical target, each image series being ordered by assignment to each image in the image series of a numerical position in a respective monotonically changing sequence;	partitioning each <u>image group</u> into one or more ordered image series, each ordered image series including a succession of images which illustrate incrementally registered aspects of an anatomical target, each image series being ordered by assignment to each image in the image series of a numerical position in a respective monotonically changing sequence;	
2 3 3 4 4 5 5 7	storing a first data table in the storage subsystem, the first data table listing a plurality of referring physician identifiers, each referring physician being indexed from at least one group identification, each referring physician identifier identifying a referring physician and including respective fields specifying output preferences of the identified referring physician for outputting to the identified referring physician images from the display;	storing a first data table in the storage subsystem, the first data table listing a plurality of referring physician identifiers, each referring physician being indexed from at least one group identification, each referring physician identifier identifying a referring physician and including respective fields [a location in a data table] specifying output preferences [settings specifying a physician's preferred choice] of the identified referring physician for outputting to the identified referring physician images from the display;	
33	storing a second data table in the storage subsystem, the second data table listing a plurality of diagnosing physician identifiers, each diagnosing physician identifier identifying a diagnosing physician and including respective fields specifying format preferences and mode preferences of the identified diagnosing physician for displaying images on the display; and	storing a second data table in the storage subsystem, the second data table listing a plurality of diagnosing physician identifiers, each diagnosing physician identifier identifying a diagnosing physician and including respective fields specifying format preferences [prespecified number and arrangement of presentation areas in which a diagnosing physician prefers all image series be viewed] and mode preferences [prespecified settings that determine whether a physician prefers all image series be displayed in monitor or series mode] of the identified diagnosing physician for displaying images on the display; and	
7	providing a group identification;	providing a group identification;	
3	providing a diagnosing physician identifier;	providing a diagnosing physician identifier ;	

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VERBATIM CLAIM LANGUAGE COURT'S CONSTRUCTION in response to the group identification and in response to the group identification and the diagnosing physician identifier. the diagnosing physician identifier, retrieving at least one image series of an retrieving at least one image series of an image group indexed by the group image group indexed by the group identification and displaying the at least one identification and displaying the at least one image series in one or more image series in one or more **presentation** presentation areas of the plurality of areas of the plurality of presentation presentation areas in accordance with a areas in accordance with a format format preference specified in fields of the **preference** specified in **fields** of the diagnosing physician identifier; and diagnosing physician identifier; and outputting images from the at least one outputting images [transferring images image series according to output from a diagnosing physician to a referring preferences of a referring physician physician from the at least one image series identified by a referring physician according to output preferences of a identifier indexed from the group referring physician identified by a referring physician identifier indexed from the identification. group identification.

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EXHIBIT B UNITED STATES PATENT NUMBER 5,452,416 - GLOSSARY OF TERMS

TERM DEFINITION A method for presenting images of a method used by a diagnosing physician anatomical structure for examination by for examination of medical images a diagnosing physician a space within a display container in which display area the anatomical images may be viewed display container a bounded area or window in which images are presented for each diagnosing physician, predetermined settings for the display on displaying format(s) the monitor of all image series including, for example, mode, layout, size, and coupling of images each image in a collection of images in an each image series being ordered by assignment to each image in the image image series is assigned a numerical value series of a numerical position in a representing its order in the sequence respective monotonically changing sequence entry(ies) information input into a field field(s) a location in a data table format preference(s) prespecified number and arrangement of presentation areas in which a diagnosing physician prefers all image series be viewed image database a collection including stored image files, physician data tables, and indices that enables storage and retrieval of images image group(s) one or more image series obtained during an examination indexed one piece of information used to locate other information indexes values in a database used to locate information at another location

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means for providing an output from the system according to an output function specified in the physician data tables	This is a means-plus-function limitation. The function is to provide an output from the system according to an output function specified in the physician data tables. The corresponding structure is a computer, physician data tables as shown in Figure 6 (such as, for example, boxes 52 and 63), an algorithm associated with either the DONE, CHANGE SERIES, PRINT, NEXT, and/or PREVIOUS functions identified at col. 11:7 - 47 and Figure 8 (box 92 and box below, box 96 and box below), Figure 10 (box 113 and box below, box 118 and box below).	
means for receiving a group identification	This is a means-plus-function limitation. The function is to receive the group identification. The corresponding structure is a trackball mechanism, keyboard, user interface 14a, screen driver 14b.	
means for receiving a physician identifier	This is a means-plus-function limitation. The function is to receive the physician identifier. The corresponding structure is a trackball mechanism, keyboard, user interface 14a, screen driver 14b.	
means for selecting an image of an image series displayed in the at least one display container and reproducing the selected image in a presentation area of the palette display container	This is a means-plus-function limitation. The function is selecting an image of an image series displayed in the at least one display container and reproducing the selected image in a presentation area of the palette display container. The corresponding structure is trackball mechanism 16; keyboard 22; screen driver 14b; user interface 14a; image subsystem 14c; computer program implementing blocks 93-94a depicted in Figure 8*; col 12:31-58. *Court to resolve whether or not there is a correctable error in the "no" branch from block 94.	
means for storing an image database including a plurality of images of anatomical structures, the images being separated into a plurality of image groups	This is a means-plus-function limitation. The function is storing an image database including a plurality of images of anatomical structures, the images being separated into a plurality of image groups. The corresponding structure is a storage device.	

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means for synchronizing the presentation of each image series	This is a means-plus-function limitation. The function is synchronizing the presentation of each image series of two or more image series such that whenever the display of one image series of the two or more image series is changed to display a next image in the order of its respective sequence, each other image series of the two or more image series is correspondingly changed. The corresponding structure is computer program implementing the algorithms described at boxes 110, 111, 112 and box below of Figure 10 and Col. 13, line 57 through col. 14, line 8.
mode preferences	prespecified settings that determine whether a physician prefers all image series be displayed in monitor or series mode
monitor mode	an image series is presented in the order of its respective sequence in a single respective display container such that each presentation area of the single respective display container includes no more than one image
output function(s)	an action to be carried out by a program to control presentation of images in an image group to a physician according to preprogrammed output preferences
output preferences	settings specifying a physician's preferred choice
palette display container	the display container provided to receive and reproduce images which are selected from another display container
physician data table(s)	data tables organized by referring and diagnosing physician that contain preferences for each respective physician
physician identifier(s)	information associated with a particular physician to the exclusion of all other physicians
plurality	two or more
predetermined array	a two-dimensional layout of presentation areas (e.g. 2X2 or 4X5) determined beforehand
presentation area(s)	an area in which a single image is presented at a time

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series mode	each image series is presented one image at a time in the order of its respective sequence in a single respective presentation area of the plurality of presentation areas
separating the plurality of images into image groups	assigning images a file name that is specific to a particular image group
storage subsystem	storage device that stores information
the images being separated into a plurality of image groups	assigning images a file name that is specific to a particular image group
unique group identification	identification of a particular image group for a specific patient to the exclusion of all other image groups

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