

ClearChoice LLC and Implant Direct Inc. Trademark Litigation

Implant Direct has developed the RealChoice™ Websites to help its customers educate the public to the benefits of dental implants and thereby promote the growth of their practices. The name was chosen because Implant Direct, while offering the industry's broadest, most cost-effective Implant System, does not restrict these dental offices from using whatever products the clinicians thinks will best meet the needs of his or her patient. The access to the full range of dental implant options available and the low cost of Implant Direct's products, allow the RealChoice dental offices to offer their patients a real choice, thus earning the name.

ClearChoice™ Holdings, LLC has established a number of dental offices staffed by only Oral Surgeons and Prosthodontists. These offices are currently in 15 metropolitan areas with plans to expand to 21 by the end of the first quarter of 2010. ClearChoice dentists are required to buy a franchise for exclusive use of the ClearChoice marketing in their area and their website advertises that they only use Nobel Biocare implant products, which are ostensibly the most expensive on the market. Implant Direct does not sell franchises, nor does it offer exclusive rights in an area to a RealChoice website. This further gives patients throughout both rural and metropolitan areas of North America, access to dental offices, many of who are staffed by general dentists both placing and restoring dental implants and both Oral Surgeons and Periodontists working in a team approach with general dentists and prosthodontists. The costs of operating their private practice offices are born, to a great extent, by the full scope of services that RealChoice offices can provide their patients. [RealChoice Dentists can customize their websites, listing their full range of services.](#) That fact, along with the low cost of Implant Direct's products, allow RealChoice dentists to charge a lower fee for implants than is generally charged by the ClearChoice implant centers claiming to exclusively limit their services to dental implants. The public is may be better served by readily available, affordable dental implant services which is the goal of the RealChoice concept.

WHAT IS CLEARCHOICE?

ClearChoice Holdings LLC, through its ClearChoice Management Services LLC. ("CCHM"), provides administrative, management, financial, marketing, advertising and other business support services" to ClearChoice franchises throughout the USA. CCMS also provides real estate and business development services to assist local dental specialists in developing and opening new ClearChoice Dental Implant Centers. ClearChoice Implant Centers primarily, if not exclusively, use Nobel Biocare implant products. They claim on their website that "full arch replacements performed by ClearChoice are provided at lower costs to the patients due to the efficiencies of the all-in-one centers, the Immediate Function protocols, and the integrated treatment approach used by ClearChoice." In fact fees at a ClearChoice Center, using the "All-on-4" concept with tilted distal implants and immediate loading, are purported to range of \$25,000-\$30,000 per arch for a screw-retained restoration. ClearChoice's exclusive use of Nobel Biocare Implants, its [extensive use of full page newspaper ads with celebrity endorsements like this two-page ad with Mike Didka and Tony Curtis](#), the cost of building new facilities for each center and the management fees to support the 60 administration staff working for ClearChoice Management Services in Denver make it unlikely that ClearChoice Centers can deliver services at a "lower costs to the patients."

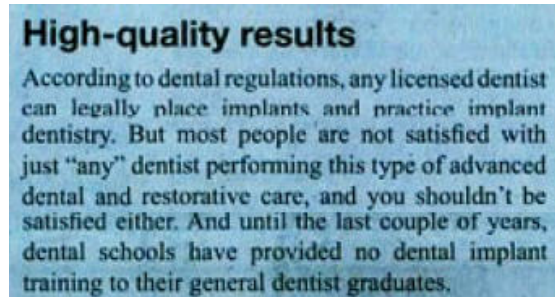
ClearChoice Holdings LLC, in an apparent effort to stifle competition, has objected to Implant Direct's application for a trademark on the name "RealChoice." The only legally justifiable objection would be if it could prove there was confusion between the names such that a patient seeing the advertisement for one would go to the office of the other. Implant Direct has made the offer to add to its RealChoice websites the following heading in the cities where both ClearChoice and RealChoice offices exist:

**RealChoice™ Dental Implant Centers Providing
Cost-effective Alternatives to Replacing Missing Teeth!**

**Visit a ClearChoice Implant Center for an estimate and then come to RealChoice for the
Right Choice you can afford, using Implants Made in America to FDA Standards**

Implant Direct believes that corporate sponsored implant centers like ClearChoice represent a threat to the expansion of affordable dental implant services provided by the traditional "team approach" by oral surgeons and periodontists working with the patient's primary dentist or to general dentists who have taken additional training in the placing and restoration of dental implants.

ClearChoice centers run full page ads in newspapers, and, as can be seen from this excerpt from [the ad with Tony Curtis' endorsement in Las Vegas Review Journal, November 9, 2009](#), it implies that general dentists are not qualified to perform implant services. ClearChoice's website claims to have no financial investment from any Implant Company but advertises that it only uses Nobel Biocare products. ClearChoice's volume discount with Nobel Biocare subsidizes



ClearChoice's marketing expenses. This puts Nobel Biocare and ClearChoice Management in a partnership through their common interest of selling more Nobel Implants, whether it be to the ClearChoice Centers or ultimately to patients. Implant Direct, on the other hand, offers all its customers the same, everyday low prices regardless of volume purchases. It provides its customers, who meet a minimum purchase requirement, with a free website, marketing materials and authorization to use the RealChoice trademark, which is what ClearChoice Holdings, LLC would like to prevent through its opposition to the issuing of the trademark.

WHAT DOES CLEARCHOICE NOW CLAIM ON ITS WEBSITE

“How is your implant procedure different from the other implant procedures?

Our implant treatment is different in three ways ... First, we at ClearChoice only use implants and the components from Nobel Biocare. This company is the leader in the implant industry, and was established by the inventor of titanium implants – Dr Branemark. They have the most extensive research and development of titanium implants, setting the standard for implant dentistry.”

These claims can certainly be challenged, not only because Dr. Branemark was not the “inventor of titanium implants,” (his 1969 patent application for a two-piece implant was denied), but also because he was not even the first to report that titanium implants osseointegrated. [His 1977 textbook credits Leventhal for that discovery in 1951](#). As for claims of “extensive research”, the NobelActive implants, used in many ClearChoice centers, represents a radical change in implant design from Nobel's other products with only a 1 year study according to Nobel's website. As for Nobel “setting the standard for implant dentistry,” that also can be challenged by the current controversy regarding [the lack of sterile seal with Nobel's implant packaging](#) and [the excessive bone loss reported with NobelDirect and NobelPerfect implants](#).

“Nobel Biocare Immediate Function™ Procedures

ClearChoice Dental Implant Centers are the leading dental implant centers in America that offer Nobel Biocare Immediate Function Procedures All-on-4 Procedure can replace a full arch of teeth in one day, using only four implants and without bone grafts. That saves time and money.”

The original Branemark clinical studies confirmed the wisdom of placing 5-6 implants in an edentulous jaw, allowing for continuous function of the prosthesis if an implant failed. This wisdom is best summarized as “All-on-4, None-on-3.” [A study of 421 implants by 4 Spanish surgeons using Nobel Guide for implant placement in the edentulous maxilla followed by immediate loading , documented that 13% of the Nobel Replace Implants failed while only 1% of the Implant Direct Implants failed.](#)

For further information on a number of false and misleading claims from ClearChoice's website, read [“The Changing Reality of the Team Approach”](#) on www.implantdirect.com.