

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

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Mailed: December 23, 2002

Cancellation No. 31,365

William J. Snell, III

v.

Priority Healthcare
Benefits, Inc.

Albert Zervas, Interlocutory Attorney

On October 5, 2001, the Board entered default judgment in this case.

On October 21, 2002, respondent filed a motion for relief from final judgment. Although respondent titled its motion "Consented Request For Relief From Final Judgment," it notes that "[i]t is believed that Petitioner consents or will consent to this request." However, petitioner, in his response (filed October 28, 2002), qualifies his consent to respondent's motion. Specifically, petitioner notes that he has pending an application to register WILL POWER which was refused registration in view of the registration which is the subject to this proceeding; and that the parties are "in the process of obtaining a settlement which will result in a consent to use and registration agreement." Further,

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petitioner states that "the Petitioner will consent to this request only on the condition that the settlement is finalized and a consent to use and registration agreement, which will allow Petitioner's registration to issue, is approved by the Examining Attorney."

Because petitioner's consent to respondent's motion is conditioned on settlement and approval of a consent to use and registration agreement, and because the record does not show that such an agreement has been approved, action on respondent's motion for relief from final judgment is deferred. The parties are ordered to inform the Board within **ten days** after "a settlement is finalized and a consent to use and registration agreement ... is approved by the Examining Attorney." If appropriate, the Board will grant respondent's motion as consented to by petitioner. If the parties discontinue their attempts to reach settlement, the parties are ordered to inform the Board that they have discontinued their attempts to reach settlement and, if appropriate, the Board will consider the merits of respondent's motion for relief from final judgment.