

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

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Mailed: July 11, 2003

Cancellation No. 31,365

William J. Snell, III

v.

Priority Healthcare
Benefits, Inc.

Albert Zervas, Interlocutory Attorney

This case now comes up on respondent's motion (filed October 21, 2002) for relief from final judgment. [The Board entered default judgment in this case on October 5, 2001.] On December 23, 2002, the Board deferred action on respondent's motion because petitioner had provided only conditional consent to the granting of respondent's motion.

On June 11, 2003, respondent filed a Coexistence Agreement between the parties. In paragraph 5 thereof, petitioner consents to respondent's pending motion for relief from final judgment.

In view of petitioner's consent, respondent's motion for relief from final judgment is granted and the Board's order mailed on October 5, 2001 entering default judgment is vacated. The file for the involved registration will be

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forwarded to the Office of the Commissioner of Trademarks so that its order of October 18, 2002 canceling the involved registration can be vacated.¹

Additionally, paragraph 5 of the Coexistence Agreement provides that if the Board grants respondent's motion for relief from final judgment, petitioner "will file a withdrawal of the Cancellation No. 31,365 with prejudice." In view thereof, petitioner is allowed until **thirty days** from the mailing date of this order to file a withdrawal of the present cancellation with prejudice.

Proceedings herein are otherwise suspended.

¹ Once the Office of the Commissioner vacates its cancellation order, the file for the registration involved in this proceeding will be forwarded to the Post-Registration Branch of the United States Patent and Trademark Office for consideration of respondent's Section 8 and 15 filing of January 14, 2002.