

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

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Mailed: March 13, 2003

Cancellation No. 40,908

XCELERIX CORPORATION

v.

3612821 CANADA INC.

Thomas W. Wellington
Interlocutory Attorney,
Trademark Trial and Appeal Board:

On December 16, 2002, the Board issued a notice of default in this proceeding which allowed respondent time to show cause why default judgment should not be entered against respondent for failure to file an answer.

On January 15, 2003, respondent filed a response to the notice of default and requested additional time to file an answer. Based on the information provided by respondent in its response, specifically that it did not receive the Board's August 20, 2002 institution order, the notice of default mailed on December 18, 2002, is hereby set aside. See Fed. R. Civ. P. 55; and TBMP § 317.

Respondent is allowed until thirty days from the mailing date of this order to file an answer to the petition to cancel.¹

Discovery is open and the close of discovery and trial dates are rescheduled as follows:

THE PERIOD FOR DISCOVERY TO CLOSE:	July 1, 2003
Thirty-day testimony period for party in position of plaintiff to close:	September 29, 2003
Thirty-day testimony period for party in position of defendant to close:	November 28, 2003
Fifteen-day rebuttal testimony period to close:	January 12, 2004

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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¹ A copy of the petition to cancel and the Board's August 20, 2002 institution order are attached to respondent's copy of this order.