UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Baxley

Mailed: December 14, 2005

Cancellation No. 92045172

Herbaceuticals, Inc.

v.

Xel Herbaceuticals, Inc.

Andrew P. Baxley, Interlocutory Attorney:

The notice instituting this proceeding and a copy of the petition to cancel were forwarded to respondent but were returned by the Postal Service as undeliverable.

Petitioner's attorney contacted the Board attorney assigned to this case by telephone and indicated that respondent's website provides respondent's current address. The Board attorney conducted an online search and located respondent's website, which indicates that respondent's current address is as follows: **Xel Herbaceuticals, Inc., University of Utah Research Park, 675 Arapeen Drive, Suite 102, Salt Lake City, UT 84108.** Accordingly, the above-referenced notice and copy of the petition to cancel are remailed to respondent at that address.

The Board's December 9, 2005 order is hereby vacated. Proceedings herein are resumed. Respondent is allowed until forty days from the mailing date of this order in which to

inform this Office of its correct address in order that all records may be amended. Compliance with Patent and Trademark Rule 1.4(c) and Trademark 2.119(a) is required.

If there has been any transfer of interest in the involved registrations, respondent must so advise the Board and registrant must submit copies of the appropriate documents. See Section 10 of the Trademark Act and Patent and Trademark Rules 3.7l and 3.73.

In view of the circumstances, respondent is allowed until forty days from the mailing date of this order to file an answer or otherwise respond to the petition to cancel. Any discovery requests or notices served that remain unanswered as of the mailing date of this order must be reserved in accordance with the rules, unless otherwise agreed to by the parties.

In accordance with the Trademark Rules of Practice, discovery is open, and the close of discovery and testimony dates are set as indicated below.

DISCOVERY PERIOD TO CLOSE:	**06/16/06**
Plaintiff's 30-day testimony period to close:	**09/14/06**
Defendant's 30-day testimony period to close:	**11/13/06**
Plaintiff's 15-day rebuttal testimony period to close:	**12/28/06**

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.l25. Briefs shall be filed in accordance with Trademark Rule 2.l28(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.l29.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.