

CO SU LIN,  
Petitioner,

INTER PARTES CASE NO.1176

PETITION FOR CANCELLATION

Letters Patent No. D-1712  
Issued : December 8, 1977  
Patentee : Peter Chua Bun Ko  
For : PLASTIC BAG HANDLE

PETER CHUA BUN KO,  
Respondent-Patentee.  
x-----x

DECISION NO. 88-54 (TM)  
July 22, 1988

DECISION

This is a petition for cancellation filed by the herein Petitioner, Co Su Lin, asking for the cancellation of Letters Patent No. D-1712 issued on December 8, 1977 in favor of the herein Respondent-Patentee, Peter Chua Bun Ko, for "PLASTIC BAG HANDLE".

Petitioner is a Chinese citizen with address at 270 San Fernando Street, Binondo, Manila, represented in this case by his legal counsel, Atty. Florencio Z. Sioson, with office address at PARC House, 227 EDSA Greenhills, Mandaluyong, Metro Manila, while the herein Respondent-Patentee is also a Chinese citizen with address at 27 Baler Street, San Francisco del Monte, Quezon, and represented in this case by his counsel, Atty. Cirilo Doronilla of 151 Legaspi Street, FNCC Building, 4th Floor, Legaspi Village, Makati, Metro Manila.

The grounds for the said petition are as follows:

- “1. That the design covered by Design Patent No. 1712 is not new, original, and ornamental, and therefore, not patentable under Section fifty-five in relation to Section nine of Republic Act No, 165, as amended;
2. That the person to whom the said design patent was issued is not the first, original, true and actual designer of said design nor did he derive his rights from the true and actual designer thereof;
3. That the design patent in question was secured by means of fraud and/or misrepresentation;
4. That the design covered by the design patent in question is substantially identical to and/or dominated by Utility Model Patent No. 2328 granted to herein petitioner way back on November 10, 1976.”

After joinder of issues, this case was set for pre-trial, and thereafter trial on the merits. A series of postponements/continuances took place upon the request of one or both counsels. Efforts were, nonetheless, exerted by counsel to reach an agreement.

On April 15, 1982, a written Manifestation was filed by Petitioner's counsel, the contents of which are hereunder reproduced:

“Undersigned counsel for petitioner most respectfully manifests that in view of the Compromise Agreement entered into between the parties last March 4, 1981, which Compromise Agreement was subsequently made the basis of a decision rendered in Civil

Case No. Q-26091 by and between the same parties, a copy of which is hereto attached as an integral part hereof, this case has become moot and academic and should, therefore, be dismissed.”

Moreover, the records show that Letters Patent No. D-1712, which is sought to be cancelled expired on December 8, 1982 for failure of Respondent to renew the same within the reglementary period fixed by law.

WHEREFORE, Letters Patent No. D-1712 issued on December 8, 1977 in favor of Respondent-Patentee, Peter Chua Bun Ko, for “PLASTIC BAG HANDLE” is hereby CANCELLED.

Let the records of this case be transmitted to the Mechanical & Electrical Division for appropriate action in accordance with this Decision.

SO ORDERED.

IGNACIO S. SAPALO  
Director