

DANILO NGO TEE, Petitioner,	}	INTER PARTES CASE No. 4154
	}	Petition for Cancellation
	}	
-versus-	}	Letters Patent No.: UM-7864
	}	Date Issued: 13 February 1995
MICHAEL Y. KHO	}	For: "BAG WITH BUILT IN-CART"
Respondent-Patentee.	}	
x-----x		Decision No. 2002-07

DECISION

In the instant case, there is no point in determining whether the disputed Utility Model is new or original. The Regional Trial Court of Malabon, Metro Manila Branch 170, has already rendered a decision in Civil Case No. 2472 MN dated November 15, 1996 declaring Letter Patents No UM-7864 null and void and ordering its cancellation, the dispositive portion of which reads in part:

"WHEREFORE, premises considered, the complaint for infringement and damages is hereby ordered DISMISSED for lack of merit.  
Letters Patents No. UM-7864 is hereby declared null and void, and ordered cancelled. – x x x –" (*Exhibit A*) (*emphasis ours*)

The findings of the trial court based on the evidence on record leads to the inescapable conclusion that the utility model embodied in Letters Patent UM-7864 lacks the requisite novelty at the time the application for utility model patent was filed.

The said decision of the Regional Trial Court was thereafter affirmed by the Court of Appeals in CA-GR CV No. 56195 and subsequently by the Supreme Court in G.R. No. 144481 wherein it was denied with finality under a resolution dated March 14, 2002 by its Second Division. (*Exhibit F*)

It is a well-settled rule that a judgment becomes final and executory upon expiration of the period to appeal. (*Bataan Shipyard and Engineering Corporation vs. National Labor Relation Commission, 269 SCRA 9.*) Likewise, when a minute resolution attains finality, it becomes the law of the case. (*Zebra Security Agency and Allied Services vs. National Labor Relation Commission. 270 SCRA 380.*)

WHEREFORE, premises considered and pursuant to Section 82 of R.A. 8293 on the Intellectual Property Code of the Philippines, the instant Petition for Cancellation is hereby DISMISSED as the issues therein had already become MOOT AND ACADEMIC.

Let the filewrapper of UM-7864 subject matter of this case be forwarded to the Administrative, Financial Human Resource Development Service Bureau (AFHRDSB) for appropriate action in accordance with this Decision with a copy hereof be furnished the Bureau of Patents (BOP) for information and to update its records.

SO ORDERED.

Makati City, 03 April 2002.

ESTRELLITA BELTRAN-ABELARDO  
Director  
Bureau of Legal Affairs