

THE SOLICITOR GENERAL,  
Petitioner,

INTER PARTES CASE NO. 1630

PETITION FOR CANCELLATION

Letters Patent No. UM-2158 and Ext. UM-496

Issued : April 14, 1976 and  
August 4, 1981, resp.

Patentee : Joseph K. Mancilla,  
assignor to Dynasty Enterprises

For : IMPROVED PLASTIC  
SHOPPING BAG

- versus

JOSEPH K. MACILLA,  
Assignor to DYNASTY  
ENTERPRISES,  
Respondent-Patentee.

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DECISION NO. 88-62 (PAT.)  
August 3, 1988

### DECISION

This is a Petition for Cancellation filed on February 24, 1982 by the Solicitor General, seeking cancellation of Letters Patent No. UM-2158 (Ext. No. 496) for "IMPROVED PLASTIC SHOPPING BAG" issued on April 14, 1976 (August 4, 1981) in favor of the herein Respondents, Josephine K. Mancilla and his assignee, Dynasty Enterprises, a partnership organized and existing under the laws of the Philippines with business address at 610 Sto. Cristo Street, Binondo, Manila.

During the pre-trial conference, counsel for Respondent raised the issue of whether or not public interest is involved which in effect questioned the authority of the Solicitor General to act as Petitioner. Finding that only a private interest is involved, the Director of Patents, under Decision No. 84-37 (Pat.), dismissed the Petition. However, upon Motion for Reconsideration, the Director of Patents issued a resolution (Resolution No. 84-17) reversing the previous decision. From the said ruling, Respondent filed before the Intermediate Appellate Court a Petition for Certiorari and Prohibition with Writ Preliminary Injunction which was dismissed for want of grave abuse of discretion on the part of the Patent Office. Unsatisfied with the above findings, Respondent proceeded to file a Petition for Review with the Supreme Court which was likewise denied for failure of Respondent to show sufficient proof that Respondent Court (IAC) had committed a grave abuse of discretion in rendering the questioned judgment.

After the case was remanded by the Supreme Court for further consideration, this Bureau upon manifestation of counsels found out that the term of the subject letters patent had already expired for failure of Respondent-Patentee to file a petition for the second extension of term of the said patent pursuant to Rules 148 and 149 of the Rules of Practice in Patent Cases, which reads:

"148. Term of letters patent for industrial design and for utility model- The term of a letters patent for an industrial design or for a utility model is five years, counted from the date of its issue, as shown on its face. (Republic Act No. 165, section 58 as amended by section 1, Republic Act 864.)

149. Extension of the term letters patent for an industrial design or utility model. -  
(a) Before the expiration of its term, upon payment of the required filing and publication fee, or within a further time thereafter not to exceed six months upon payment of required surcharges, the original term of a design patent or a utility model patent may, upon

written application to the Director of Patents by the patentee or assignee of record, be extended by five years. The application for extension must be accompanied by an affidavit of the patentee or assignee showing that the design or utility model is in commercial or industrial use in the Philippines, or satisfactorily explaining its non-use. In similar manner, further extension of five years may be obtained. (Republic Act No. 165, section 58, as amended by section 1, Republic Act No. 864.)”

WHEREFORE, premises considered, the herein Petition for Cancellation is DISMISSED for being moot and academic.

Let the records of this case be remanded to the Patent/Trademark Registry and EDP Division for appropriate action in accordance with this Decision.

SO ORDERED.

IGNACIO S. SAPALO  
Director