

TOP MODERN FOOTWEAR  
CORPORATION

Petitioner,

INTER PARTES CASE NO. 2077

PETITION FOR CANCELLATION

- versus

Letters Patent No. D-3891

Issued : August 5, 1987

Patentee : Bun Liong L. Santos

For : SHOE (Shoe Design)

BUN LIONG L. SANTOS,  
Respondent-Applicant.

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DECISION NO. 88-65 (PAT.)

July 20, 1988

### DECISION

A Petition for Cancellation of Letters Patent No. D-3891 for shoe granted on August 5, 1987 to herein Respondent-Patentee, Bun Liong L. Santos, of Quezon City, Metro Manila was filed on October 9, 1987 by the herein Petitioner, Top Modern Footwear Corporation, A domestic corporation with principal place of business at M-237 Industrial Avenue, Potrero, Malabon, Metro Manila.

For failure to Answer within the prescribed period, Respondent-Patentee was declared in default (Order No. 88-66) and Petitioner was allowed on June 27, 1988 to present his evidence ex-parte.

Records, however, show that Letters Patent No. D-3891 was already cancelled by this Bureau in Inter Partes Case No. 2079 which involved a Petition for Cancellation of the same design patent filed by Expo Rubber Industrial Corporation against the herein Respondent-Patentee. In deciding the said case (Decision No. 88-59), the Director ruled:

“Design Letters Patent No. 3891 likewise discloses its date of filing to be June 2, 1987. Clearly, then, it lacks novelty. The Footwear News Magazines dated April, 1983 (Exh. ‘B’), November 19, 1984 (Exh. ‘C’), and September 22, 1986 (Exh. ‘D’) publishing the Tretorn Shoes, by their dates of publication, confirm Petitioner’s allegation that more than six (6) months prior to the filing by Respondent-Patentee of his design application, the design sought to be patented was already known, used by others, described or illustrated in printed publications circulated in the Philippines and had been in public use and sale in the Philippines and in other countries as provided by Section 55, 9 and 56, supra.xxx

WHEREFORE, premises considered the herein petition for cancellation filed by Expo Rubber Industrial Corporation is hereby GRANTED. Accordingly, Letters Patent No. D-3891 issued on August 2, 1987 to Bun Liong L. Santos is hereby ordered CANCELLED.

IN VIEW OF THE FOREGOING, the herein Petition for Cancellation is DISMISSED for being moot and academic.

SO ORDERED.

IGNACIO S. SAPALO  
Director