

ALFRED YOUNG,  
Petitioner,

INTER PARTES CASE NO. 1433

PETITION FOR CANCELLATION

- versus -

Letters Patent No. UM-2799  
Issued : November 17, 1977  
Patentee : Felipe de Vera  
For : IMPROVED TIRE  
RECAPPING DEVICE

FELIPE DE VERA,  
Respondent-Patentee.  
X-----X

DECISION NO. 88-29 (PAT.)  
June 1, 1988

### DECISION

Above-captioned case pertains to a Petition for Cancellation filed on September 18, 1980 by Alfred Young seeking the cancellation of Letters Patent No. UM-2769 for an "IMPROVED TIRE RECAPPING DEVICE" granted on November 17, 1977 in favor of Felipe de Vera, the herein Respondent-Patentee.

Petitioner is a Filipino citizen with residence and postal address at Concepcion Grande, Naga City, while Respondent-Patentee, likewise a Filipino citizen, is residing at No. 74 Malabon Street, Quezon City.

The petition sets forth the grounds that the utility model covered by Letters Patent No. 2769 is not new or patentable under Section 55 of Republic Act No. 165, as amended, and that the person to whom the above-identified patent was issued was not the true and actual author of the utility model.

After receipt of the Notice to Answer, Respondent-Patentee filed his Answer on January 22, 1981 specifically denying the material allegations in the petition.

Thereafter, the case proceeded to pre-trial conference and trial on the merits.

Verification of the records, however, showed that the term of Letters Patent No. UM-2769 expired on November 17, 1982 for failure of Respondent-Patentee to secure an extension of term of the said patent in accordance with Section 58 of Republic Act 165, as amended, which reads:

"SEC. 58. Term and extension thereof. -The term of the design patent and of the patent for a utility model shall be five years from the date of the grant thereof. (As amended by Republic Act No. 864.)

Before the expiration of the five-year term, upon payment of the required fee, or within a further time thereafter not to exceed six months upon payment of the surcharge, the owner of the design patent or of a patent for a utility model may apply for an extension for an additional five years. The application for extension must be accompanied by an affidavit showing that the design or the model is in commercial or industrial use in the Philippines or satisfactorily explaining non-use. In a similar manner an extension for a third five-year period may be obtained. (As amended by Republic Act No. 864.)"

Pursuant to the afore-quoted provision of law, the herein Petition for Cancellation, is hereby 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