

DR. ANTONIO F. MATEO)	INTER PARTES CASES NOS. 3560
Petitioner,)	
)	PETITION FOR CANCELLATION
)	
)	Letters Patent No. UM-6780
)	Issued : March 30, 1989
- versus -)	Patentee : Beatriz Chua Seng So
)	For : WATER METER COUPLING
)	DETECTOR
)	
)	<u>DECISION NO. 93-6 (PAT.)</u>
)	
BEATRIZ CHUA SENG SO,)	January 6, 1993
Respondent.)	
x-----x)	

DECISION

This refers to a petition for cancellation of Letters Patent No. UM-6780 issued to Respondent Beatriz Chua Seng So on 30 March 1989 and entitled Water Meter Coupling Detector.

Petitioner, Dr. Antonio F. Mateo, a resident of 9-E Mother Ignacia Avenue, Diliman, Quezon City filed this Petition on 26 June 1990 and alleged the following grounds for cancellation, to wit:

“1. That the utility model is not new and is of no practical utility as required by Section 55 of the Republic Act No. 165 as amended by Republic Act No. 864.

2. That the person whom the patent was issued is not the first, original, true and actual maker of the utility model (Republic Act No. 165, Section 28, as amended by Republic Act No. 864).”

Furthermore, Petitioner averred that he shall rely on the following facts to support his Petition for Cancellation, to wit:

“1. That I am the true, original and actual maker of the utility model from whom Ms. Chua Seng So fraudulently derived her utility model as evidenced by my Letters Patent No. UM-5258 entitled “WATER METER PROTECTOR” granted by your Office on May 25, 1983 and extended on May 30, 1988.

2. That Ms. Chua Seng So’s utility model is not new since even before the application of her patent, my device was publicly known.

3. That my utility model, WATER METER PROTECTOR, has been a 1st Prize Awardee during the 1984 National Inventors Week Contest (see Annex A) and was given a Presidential and Merit Award in the same year as evidenced by (Annex B).

4. That my WATER METER PROTECTOR is widely known and used by Water Districts all-over the country since 1984.

In her Answer filed on 30 August 1990, Respondent-Patentee denied the material allegations of the aforesaid Petition and raised the following special and affirmative defenses:

“8. The registration and issuance of respondent’s questioned Letters Patent were in accordance with the law, that is, it was properly examined by the Bureau of Patents, Trademarks and Technology Transfer according to the requirements of R.A. 165 and of the Rules of Practice in Patent Cases, which examination includes among others, the citation of references (which in turn included or made mention of petitioner’s letters patent) recommended for allowance after a thorough and finally, issued the Letters Patent. All these would show that respondent’s product is patentable, notwithstanding petitioner’s previously issued Letters Patent, because otherwise, the Bureau would not have issued respondent’s Letters Patent;

9. Respondent’s utility model is “new”, and therefore respondent is the first, original, true and actual maker of the product, because before the application for patent, it has not been publicly known or publicly used in the country, nor described in a printed publication or publications circulated within the country, nor substantially similar to any other utility model so known, used or described within the country.

10. As can be seen from comparative pictures of petitioner’s and respondent’s patented products, attached hereto as Annexes “1’ to “5”, petitioner’s product is very different from and not similar with, whether substantially or otherwise, respondent’s product, in the following manners:

Petitioner’s Product	Respondent’s Product
a) made of either polypropylene/polyethylene or polybutylene	a) made of ABS (Accrylonitrile Butadine Styrene)
b) the external shape is circular	b) the external shape is hexagonal
c) comes in only one (1) color---black	c) comes in three (3) colors---blue, to indicate that the meter where it is attached is in order; yellow to indicate that the meter has once been tampered; and red, to indicate that the meter has been tampered more than once
d) secured by two (2) ordinary screws	d) and e) <u>not</u> secured by screws nor by seals but by a special crimping device
e) bound by an alleged tamper-proof seal	

In sum, respondent’s product is very different from that of the petitioner in materials used, design structure, construction, features, color and purpose.

11. Respondent's product is of substantial practical utility because it acts as a tamper-proof protector for water coupling of various sizes.

The basic question to be resolved is whether or not Letters Patent UM-5258 issued to the herein Petitioner could be considered a "prior art" so as to bar the issuance of Letters Patent UM-6780? If the answer to this question is in the affirmative, then Letters Patent UM-6780 should be Cancelled, otherwise not.

Petitioner's Letter Patent UM-5258 is directed to a construction of a water meter coupling protector. Respondent's Letter Patent No. UM-6780 also relates to the same subject matter. To show the similarities of the two models, the Petitioner submitted drawings of the following: 1) a pair of identical upper and lower bodies, each provided with a downward directed side flanges, having semi circular openings, to define therein a chamber; and 2.) a pair of identical horizontal end flanges adjacently disposed in both ends thereof. The Petitioner averred that the only difference between the two models is the introduction of the hollow male projector integrally molded on the upper face of one of the adjacent end flanges and a hollow female projection on the lower face of the other end flange. He also introduced actual samples of the two utility models.

Respondent-Patentee, also offered in evidence the actual samples of the products covered by the two utility models to show their alleged differences. In addition, Respondent-Patentee introduced a copper wire seal and a lead seal attached to the upper wire (Exhibits "9" and "10") used in the Petitioner's product to show that the Petitioner's Patented product is sealed by a copper wire which is not found in Respondent's Patented product.

A drawback was discussed in the Petitioner's specification the petitioner, viz:

"With my utility model of this meter protector 10, these tail pieces 20 can be totally enclosed by the protector 10, provided thru with a wire-lead seal (not shown) and the protector positively screwed together as shown in Figure 3 to totally enclose the connects nut and prevent the removed of the water meter. To be more positive, the head ends of the screw inside the screw holes can be plugged with epoxy substance, such that only an intentional unscrewing of the screw will allow the removal of the protector and also the connector nut 20 to indicate an illegal act by a person. Even with the seal broken, the protector 10 is still intact. (Underscoring supplied)"

Consequently, all it takes to tamper with the water meter is the removal of the screw above-mentioned. To conceal such an act, the consumer would just replace the screw after the meter has been tampered with so that a water-meter reader would not notice it.

A solution to this draw back was presented by the Respondent-Registrant in her specification, to wit:

Attempts have been made to devise a positive sealing of the meter which is safe from accidental destruction. As amplified in Patent Nos.UM-5258 and UM-6357 issued to Antonio Mateo and Tan Leong Tat, respectively, both patents employ complemental cylindrical bodies to enclose the coupling nuts of the water meters and fastened together by means of screws. The following drawbacks of said devices have been observed:

1. the fastening screws which are used for purposes of re-usability of the device allow easy tampering of the meter, hence not positive and perfectly seal-proof.
2. expensive in its manufacture in terms of labor and material.

The present utility model seeks to remedy and overcome the aforementioned drawbacks.

It is then an object of this utility model to provide a water coupling protector which is unique, novel and very simple.

An important object of this utility model is to provide a water meter coupling protector which is seal-proof, reliable and very effective such that when tampered with it would no longer be reused.

A specific object of this utility model is to provide a water meter coupling protector wherein the fastener used to secure said protector is in the form of integrally molded hollow male and female projections to form rivet-like fasteners which when tampered with becomes useless, hence a positive indication of a tampered meter”.

During the examination stage of the Respondent’s patent, the issue of its similarity to that of the Petitioner’s Patent was raised and squarely passed upon in favor of the Respondent. There is no reason to alter the conclusion we made then. The patentable subject matter of the Respondent’s utility model lies in the construction of the male projection and a female projection on the adjacent end flanges of said upper and lower bodies whereby said male projections snugly fits in the said female projection when pressed together.

In Section 55 of R.A. 165, it provides that any new model of implements or tools or of any industrial product, which does not possess the quality of invention but which is of practical utility by reason of its construction may be protected by the author thereof by a patent for a utility model. In the case at bar, it cannot be denied that the construction of a water meter protector made by the respondent out of a male and female projections to form rivet like fasteners is not described in the utility model the petitioner or other prior art. Hence, it satisfies the first requirement of patentability which is novelty.

The next question to be resolved is whether or not Respondent’s model possesses practical utility. A careful analysis of the drawback set forth in petitioner’s utility model and the solution thereof in Respondent’s patent an affirmative reply. The invention of the aforesaid male and female projections in Respondent’s water meter reader would facilitate detection of tampering. If the projections are intact, no tampering has if the same had been destroyed, obviously the meter has been tampered.

In *Samson vs. Tarroza*, 28 SCRA 792, the Honorable Supreme Court held that:

“Petitioner was, on May 22, 1958, awarded Utility Model Patent No. 27 for the above type of wheelbarrow which as noted in the decision, “consists of a wheeled carriage base and an upper pivoted and detachable carrying tray. The carriage base is comprised of a wheel and two equal lengths of continuous pipes bent to provide wheel forks at the front and at the rear to support the back portion of the tray, with the ends of the pipes being adopted as the carrying handles for the wheelbarrow. The two pipes thus bent are joined together by cross braces in the front and at the rear. The tray is removably pivoted at its front end through hook catches at its bottom corners, to the forward cross brace, and its rear end rests solidly over the rear portion of the legs. To dump the load the user pulls a dumping handle at the back end to cause the tray to pivot upwardly about the front brace to a position of about 45 degrees with the horizontal and with and with its front end panel being supported by the Wheel.”

“Respondent’s Side Tilting-Dumping Wheelbarrow on the other hand, consists “of a wheeled carriage made of tubular frames essentially as in petitioner’s Welded transversely to the parallel frames are two brackets provided

with holes designed to complement similar holes on brackets provided on the tray. The brackets on the tray are so placed that with the provision of a bolt through the openings the tray may be tilted approximately 170 degrees to the left or to the right of the wheelbarrow with its axis running longitudinally through the center of the bottom face of the tray.”

“There is an express recognition under the Patent Law, as already noted, that any new model of implements or tools or of any industrial product even if not possessed of the quality of invention but which is of “practical utility” is entitled to a “patent for a utility model”. From the above description of the side tilting-dumping wheelbarrow, the product of respondent’s ingenuity and industry, it is quite apparent that it has a place in the market and possesses what the statute refers to as “practical utility”. The requirement explicitly set forth in the statute has thus been met. Respondent Tarroza is entitled to its benefits. The grant to him of a patent for a utility model is in accordance with law. There was no reason, therefore, for its cancellation. So it was held by the Director of Patents. That decision as already noted should stand.”

WHEREFORE, premises considered, this Petition for Cancellation is hereby DENIED. Patent No. UM-6780 issued in the name of the Respondent is hereby declared valid and subsisting.

Let the filewrapper of this case be forwarded to Application, Issuance and Publication Division for appropriate action in accordance with this Decision. Likewise, let a copy of this Decision be furnished the Mechanical Examining Division for information and to update its records.

SO ORDERED.

IGNACIO S. SAPALO
Director