Validity of patent cannot be questioned before multiple forums

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Setting precedent for disputes involving a challenge against validity of a patent, the Supreme Court concluded that a party opposing grant of patent cannot pursue revocation petitions before the Intellectual Property Appellate Board and simultaneously seek revocation on the same grounds in a counterclaim before the High Court. Wind World India Ltd. (WWIL), an erstwhile joint-venture between the appellants (Enercon GmbH) and the respondents, manufactured wind turbines in India under licences granted by the appellants. Pursuant to termination of the licence agreements, WWIL continued to use the patented technologies. WWIL filed revocation petitions before the Intellectual Property Appellate Board challenging the validity of the patents , and Enercon filed patent infringement suits before the Delhi High Court. WWIL further filed counter claims under Section 64 of the Patents Act in the lawsuits pending before the High Court . What resulted was a litigation 'gridlock' with two different forums varying in seniority and jurisdictional scope concurrently faced with the same deliberations, i.e. validity of patents. Deciding appeals before it, the Supreme Court ruled that the same entity cannot approach multiple forums to seek revocation of the same patent. It held thus: when such a situation of parallel proceedings arises, the prior-instituted proceedings for revocation of the patent must survive, unless the patentee and the entity seeking such revocation mutually agree to continue the later-instituted proceedings – in this case the Court held that having pursued their counter-claims for revocation of the appellant's patents after they had filed revocation proceedings in the IPAB, the respondents had opted for the latter. The judgment therefore created a framework that balances the patentee's rights and a person's right to challenge the validity of a patent. *Dr. Aloys Wobben and another v Yogesh Mehra and others; CA No. 6718/2013 before the Supreme Court of India*

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