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(PT) A No. 3 of 2024
OP(PT) No.1 of 2024



<i>RESERVED ON</i>	25.09.2025
<i>PRONOUNCED ON</i>	19.12.2025

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

**(PT) A No. 3 of 2024
AND
OP(PT) NO. 1 OF 2024**

1. Versuni Holding Bv Trading as
Preethi
High Tech Campus, 42, 5656 AE
Eindhoven, The Netherlands Trading as
Preethi High Tech Campus 42 5656 AE
Eindhoven The Netherlands

Appellant(s)

Vs

1. Maya Appliances Private Limited
Royal Enclave, Old No.7, New
No.10/5, Besant Avenue, Adyar,
Chennai, Tamil Nadu 600020 rep by its
Authorized signatory,
Mr.E.Mohan.Trading as Preethi High
Tech Campus 42 5656 AE Eindhoven
The Netherlands

2.The Office Of The Controller General
Of Patents, Designs And Trademarks
Patent Office Intellectual Property
Building Boudhik Sampada Bhavan Gst
Road Guindy Chennai

Respondent(s)



OP(PT) No. 1 of 2024

1. Maya Appliances Private Limited
Royal Enclave, Old No.7, New
No.10/5, Besant Avenue, Adyar,
Chennai, Tamil Nadu 600 020 rep by its
Authorized Signatory Mr.E.Mohan

Appellant(s)

Vs

1. Versuni Holding B.V. Trading as
Preethi

2.The Controller General Of Patents
Designs And Trademarks
Indian Patent Office Patent Office
Intellectual Property Building, Boudhik
Sampada Bhavan, GST Road, Guindy,
Chennai 600032

Respondent(s)

(PT) A No. 3 of 2024

PRAYER

To dismiss the original petition in O.P(PT) No. 1 of 2024 with costs

OP(PT) No. 1 of 2024

PRAYER

To revoke the Patent Registration No. IN 351954 and award costs in favor of the
Petitioner

(PT) A No. 3 of 2024

For Appellant(s): Mr.P.V.Balasubramanian, Senior
Counsel
for Mr.K.Premchandar
For Respondent: Mr.Arun C.Mohan



ORDER

This application has been filed to dismiss the original petition in O.P. (PT) No.1 of 2024 with costs. The applicant herein is the first respondent in OP(PT) No.1 of 2024. The case of the applicant herein is that they have filed a suit in C.S.(Comm) No.733 of 2023 before the Delhi High Court against the first respondent herein.

2. The case of the applicant is that the applicant/plaintiff is a company headquartered in Amsterdam, the Netherlands having their business established in more than 100 countries under the name 'Versuni Holding B.V.', which is a former business division of the Royal Philips Group and was formerly known as 'Philips Domestic Appliances'. The entire business operation of Philips Domestic Appliances is now carried out under the flagship of the plaintiff company. That Philips Domestic Appliances deals with Airfryer category market, which is an innovation of Philips Air Cooker 7000 series. Some of the other previous products of innovation by Philips Domestic Appliances are:

- Philips Air Purifier which provides cleaner air at homes;
- Philips PerfectCare Elite Steam Generator which enables consumers to iron clothes at twice the speed;
- Philips SpeedPro Max Vacuum Cleaner which incorporates revolutionary wet and dry cleaning;
- Philips AquaTrio Cordless wet and dry vacuum 9000 series, which



- cleans all floor types and mops floor as it vacuums; and
- Philips Fully Automated Espresso Machine with LatteGo, the Saeco Xelesi Supreme and L'Or Barista which help consumers enjoy different types of coffee.

3. The applicant in OP(PT)No.1 of 2024/Maya Appliances is having Indian Patent No.351954 (in short IN'954) titled "AN APPARATUS AND METHOD FOR PROCESSING A FOOD STUFF".

4. Maya Appliances who is the defendant in a suit before the Delhi High Court has filed a written statement in CS(COMM) 733 of 2023 and had contested the suit. In the written statement filed by the first respondent herein, following prayers have been made:

" (a) dismiss the present suit viz. CS(COMM) 733 of 2023 in limine and direct the plaintiff to pay punitive costs for the reasons set out in the present written statement;

(b) hold the Indian Patent IN351954 is invalid;

(c) direct the registry to revoke the suit patent and strike off the corresponding details from the Patent Register; and

(d) pass any other or further order that this Hon'ble Court may deem fit and proper in the facts and circumstances of the instant case in the interest of justice and fair play.

5. The third prayer, namely prayer 'c' assumes importance with regard to



counter-claim made by the first respondent herein/petitioner in OP (PT) No.1 of 2024. The applicant herein claimed that apart from India, there are seven other countries, which have granted patent in favour of the applicant herein and the first respondent has not made any pre-grant or post-grant opposition for the patent registered in favour of the applicant herein. Apart from the first respondent herein/petitioner in OP(PT) No.1 of 2024, no other person has filed any application for revocation of the patent granted in favour of the applicant herein.

6. The primary contention of the learned senior counsel appearing for the applicant is that the first respondent herein, namely Maya Appliances has not filed any application to grant the suit patent or for revocation at pre-grant stage or at post-grant stage and present application for revocation or rectification of the patent which stands in favour of the applicant is beyond the scope of their claim. He further contended that having participated in the suit instituted by the applicant and having filed the written statement with a specific plea, the first respondent cannot now make out an application before this court, which is nothing but a forum shopping. Therefore, such a revocation application is not maintainable.



7. To strengthen his arguments, the learned senior counsel drew the attention of this court to Section 64 of the Patent Act, which is extracted hereunder:

64. Revocation of patents.—(1) *Subject to the provisions contained in this Act, a patent, whether granted before or after the commencement of this Act, may, be revoked on a petition of any person interested or of the Central Government by the Appellate Board or on a counter-claim in a suit for infringement of the patent by the High Court on any of the following grounds, that is to say—*

(a) that the invention, so far as claimed in any claim of the complete specification, was claimed in a valid claim of earlier priority date contained in the complete specification of another patent granted in India;

(b) that the patent was granted on the application of a person not entitled under the provisions of this Act to apply therefor:

(c) that the patent was obtained wrongfully in contravention of the rights of the petitioner or any person under or through whom he claims;

(d) that the subject of any claim of the complete specification is not an invention within the meaning of this Act;

(e) that the invention so far as claimed in any claim of the complete specification is not new, having regard to what was publicly known or publicly used in India before the priority date of the claim or to what was published in India or elsewhere in any of the, documents referred to in section 13:

(f) that the invention so far as claimed in any claim of the complete specification is obvious or does not involve any inventive step, having regard to what was publicly known or publicly used in



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India or what was published in India or elsewhere before the priority date of the claim:

(g) that the invention, so far as claimed in any claim of the complete specification, is not useful;

(h) that the complete specification does not sufficiently and fairly describe the invention and the method by which it is to be performed, that is to say, that the description of the method or the instructions for the working of the invention as contained in the complete specification are not by themselves sufficient to enable a person in India possessing average skill in, and average knowledge of, the art to which the invention relates, to work the invention, or that it does not disclose the best method of performing it which was known to the applicant for the patent and for which he was entitled to claim protection;

(i) that the scope of any claim of the complete specification is not sufficiently and clearly defined or that any claim of the complete specification is not fairly based on the matter disclosed in the specification;

(j) that the patent was obtained on a false suggestion or representation;

(k) that the subject of any claim of the complete specification is not patentable under this Act;

(l) that the invention so far as claimed in any claim of the complete specification was secretly used in India, otherwise than as mentioned in sub-section (3), before the priority date of the claim;

(m) that the applicant for the patent has failed to disclose to the Controller the information required by section 8 or has furnished information which in any material particular was false to his knowledge;



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(n) that the applicant contravened any direction for secrecy passed under section 35 or made or caused to be made an application for the grant of a patent outside India in contravention of section 39;

(o) that leave to amend the complete specification under section 57 or section 58 was obtained by fraud.

(p) that the complete specification does not disclose or wrongly mentions the source or geographical origin of biological material used for the invention;

(q) that the invention so far as claimed in any claim of the complete specification was anticipated having regard to the knowledge, oral or otherwise, available within any local or indigenous community in India or elsewhere.

(2) For the purposes of clauses (e) and (f) of sub-section (1)-,

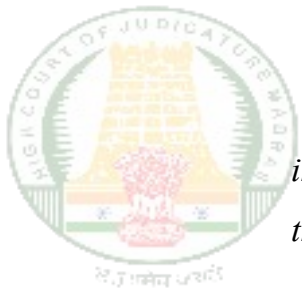
(a) no account shall be taken of personal document or secret trial or secret use; and

(b) where the patent is for a process or for a product as made by a process described or claimed, the importation into India of the product made abroad by that process shall constitute knowledge or use in India of the invention on the date of the importation, except where such importation has been for the purpose of reasonable trial or experiment only.

(3) For the purpose of clause (1) of sub-section (1), no account shall be taken of any use of the invention—

(a) for the purpose of reasonable trial or experiment only; or

(b) by the Government or by any person authorised by the Government or by a Government undertaking, in consequence of the applicant for the patent or any person from whom he derives title having communicated or disclosed the invention directly or



indirectly to the Government or person authorised as aforesaid or to the Government undertaking; or

(c) by any other person, in consequence of the applicant for the patent or any person from whom he derives title having communicated or disclosed the invention, and without the consent or acquiescence of the applicant or of any person from whom he derives title.

(4) Without prejudice to the provisions contained in subsection (1), a patent may be revoked by the High Court on the petition of the Central Government, if the High Court is satisfied that the patentee has without reasonable cause failed to comply with the request of the Central Government to make, use or exercise the patented invention for the purposes of Government within the meaning of section 99 upon reasonable terms.

(5) A notice of any petition for revocation of a patent under this section shall be served on all persons appearing from the register to be proprietors of that patent or to have shares or interests therein and it shall not be necessary to serve a notice on any other person.

8. The learned senior counsel also referred to Section 107 of the Patents Act, which is titled as defences, etc., in suits for infringement. For brevity, the same is extracted hereunder:

107. Defences, etc., in suits for infringement, - (1) In any suit for infringement of a patent, every ground on which it may be revoked under Section 64 shall be available as a ground for defence.

(2) In any suit for infringement of a patent by the making, using or importation of any machine, apparatus or other article or



by the using of any process or by the importation, use or distribution of any medicine or drug, it shall be a ground for defence that such making, using, importation or distribution is in accordance with any one or more of the conditions specified in Section 47.

9. The learned senior counsel further relied upon the judgment of the Hon'ble Supreme Court in ***Alloys Wobben and Another vs. Yogesh Mehra and Others*** reported in ***(2014) 15 SCC 360*** and drew the attention of this court to paragraphs 23 and 26. The same is extracted hereunder:

23. We do not have the slightest hesitation in accepting the above contention (fifth in the series of contentions), that even though more than one remedies are available to the respondents in Section 64 of the Patents Act, the word "or" used therein separating the different remedies provided therein, would disentitle them to avail of both the remedies, for the same purpose, simultaneously. On principle also, this would be the correct legal position.

26. In cases where the "infringement suit(s)" was/were filed by the appellant herein (as plaintiff in the "infringement suit"), before the "revocation petitioner(s)" was/were filed by the respondents (as defendants in the "infringement suit"), the respondents had the right to file "counterclaim(s)" to seek revocation of the patent under the strength and authority emerging from Section 64(1) of the Patents Act. Having once filed a "counterclaim" in response to the "infringement suit(s)" on the same analogy as has been recorded above, it would not be open to the respondents herein (the defendants in the "infringement suits") to file "revocation



petitions(s)", as they would likewise be barred by the rule of res judicata. As such, "revocation petitions" filed later in point of time than the institution of the "infringement suit", would be unsustainable in law. In such cases, the prayer for revocation of the patent shall be adjudicated while disposing of the "counterclaim" filed by the respondents. Therefore, in the above situation, while the "counterclaim" will have to be permitted to be pursued, the "revocation petition" cannot be permitted to be continued.

By referring to the above observations, the learned senior counsel contended that the original application filed by Maya appliances cannot be entertained.

10. The learned senior counsel also relied upon the book published by Thomas Reuters authored by Hon'ble Justice Prathiba M.Singh and had referred to Page Nos.334 to 335 [paragraph 8-091], which is extracted hereunder:

"8-091. Prior to the enactment of the Tribunal Reforms Act, 2021, revocation could be sought before the IPAB or by way of a counter-claim before the High Court in a suit for infringement. In some cases, it was noticed that parties were availing of both remedies. In Alloys Wobben v. Union of India & Ors. reported in MIPR 2011(2) 181, it was categorically held that the person seeking the revocation ought to elect the remedy as also the forum and cannot be permitted to pursue to separate remedies in different fora. The court was also considering the question as to whether the scope of a revocation petition before the IPAB is narrower than that in a counter-claim. The court then concluded that if a defendant



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has filed a revocation prior to an infringement action, no counter-claim would lie. If the revocation petition is sought to be filed after the filing of the infringement action, it has to be by means of a counter-claim. Thus, the Supreme Court's analysis of the various remedies under Sections 25 and 64 of Act was that the person challenging the patent or seeking revocation of a patent has to sail only in one boat."

11. The learned senior counsel summarised that once the defence has been taken as per Section 107 of the Patents Act as rightly exercised by the defendant by way of filing a written statement before the Delhi High Court with a plea in prayer 'C' in the written statement, now the defendant cannot file a petition in OP(PT) No.1 of 2024 to revoke the patent registration granted to the applicant/plaintiff in IN351954, which amounts to forum shopping and the same is against the settled principles of law.

12. Per contra, Mr.Arun C.Mohan, the learned counsel appearing for Maya Appliances submitted that Maya Appliances, namely petitioner in OP(PT) No.1 of 2024 is not enjoined in instituting the said application before this court and participating in the suit by filing a written statement in C.S.(Comm) No.733 of 2023 before the Delhi High Court. the application is filed only to revoke the suit patent and strike off the corresponding details from the Indian patent IN351954 which stands in the name of the applicant/plaintiff. His main



contention is when the technology is known to the entire world, the applicant/plaintiff cannot claim that they have invented and they have patented the same. His further contention is that such patent is obvious to a person.

13. With regard to the jurisdiction, which was raised by the applicant/plaintiff, the learned counsel submitted that the petitioner in OP(PT) No.1 of 2024 is having its Head office at Chennai and therefore instituting a case before this court is the appropriate measure. His further argument is that the contention of the applicant/plaintiff is nothing but of a gillette defence. To substantiate his claim, the learned counsel relied on the judgment of the Delhi High Court in ***Macleods Pharmaceuticals Ltd. vs. Controller of Patents and Another*** reported in ***2025 SCC OnLine Del 118***. The relevant paragraphs in the said judgment are extracted hereunder:

23. In the present revocation petition, the petitioner is seeking revocation/removal of the subject patent from the Register of Patents. However, in the Himachal Suit, the petitioner is praying for declaration of invalidity which would render the subject patent “liable to be revoked and removed from Register of Patents” which implies that the defendant/ petitioner herein would need to take additional steps for getting the patent revoked/removed from the Register of Patents.

25. It is a settled position of law that findings in an inter se suit between the contesting parties operates as a finding in persona and will only bind the contesting parties. This rationale



would also apply in the context of a patent infringement suit where a finding of invalidity has been given on the basis of a defence taken under Section 107 of the Patents Act. Under Section 114 of the Patents Act, even when certain claims have been held to be invalid in a patent infringement suit, the Court may grant relief in respect of any valid claims which are infringed. The finding of invalidity given by the Court would not have a direct bearing in a suit filed by the patentee against third parties. On the other hand, once the High Court revokes a patent under Section 64 of the Act, the same would operate in rem and the patentee would not be able to assert the said patent or claims against any third party.

26. It has been vehemently contended on behalf of the respondent no. 2 that once an infringement suit has been filed by the respondent no. 2 before High Court of Himachal Pradesh, the petitioner ought to have filed a counter-claim in the said suit seeking revocation rather than pursuing the present petition. From a reading of the Patents Act, the position which emerges is that it is the choice of a party whether to file a revocation petition on a stand-alone basis under Section 64 of the Patents Act or file a counter claim in a pending suit. There is no limitation in the Patents Act to curtail the aforesaid choice of the party. There is nothing in the Patents Act to suggest that once a suit for infringement is filed, the defendant can only use the defence under Section 107 of the Patents Act or file a counter-claim in the suit. Hence, the petitioner has an independent stand-alone right under Section 64 of the Patents Act to file a revocation petition and any other interpretation would result in causing violence to the statute.

27. This is not a case where the petitioner deliberately chose to file the revocation petition in Delhi after the Himachal



Suit had been instituted. The present revocation petition was filed before the Himachal Suit. Further, it is to be noted that the petitioner, though has taken the defences under Section 107 of the Act in its written statement, it has not filed a counter-claim in the suit seeking revocation of the suit patent.

29. In light of the discussion above, I am of the view that the scope and effect of a revocation petition filed under Section 64 of the Patents Act and the defence of invalidity taken under Section 107 of the Patents Act in an infringement suit is entirely different. Hence, the present revocation petition is maintainable.

30. Now, I move to adjudicate the second issue, which is set out below:

II. Whether a revocation petition can be filed or sustained (if already filed) after the expiry of the term of the patent.

31. Section 64 of the Patents Act provides that a patent granted may be revoked on a petition filed by (i) a person interested or (ii) the Central Government.

32. The phrase 'person interested' has been defined under Section 2(1) (t) of the Patents Act and the same has been interpreted by a Co-ordinate Bench of this Court in Dr. Reddys Laboratories Limited (Supra). The relevant paragraph of the said judgment is reproduced below:

"11. Therefore, the trigger for a person to file a revocation petition could arise in various circumstances including:

a. If the person interested wishes to manufacture or sell the patented product or a product using the patented process.

b. If a suit for infringement is filed against the person interested.

c. If a person is 'interested' in the invention covered by the



patent in any other manner whatsoever.”

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14. The learned counsel further relied upon the Delhi High Court (Original Side) Rules, 2018, with regard to counter-claim and the same are extracted hereunder:

10. Counter-claim by defendant.—(a) A defendant in a suit, in addition to his right of pleading a set-off under Order VIII, rule 6 of the Code may set up by way of counter-claim against the claims of the plaintiff, a right or claim, whether such counter-claim is founded in damages or otherwise. The counter-claim shall be numbered separately, in accordance with categorization and nomenclature, as provided in these Rules.

(b) Such counter-claim shall have the same effect as a cross-suit so as to enable the Court to pronounce a final judgment in the same suit, both on the original claim and on the counter-claim.

(c) Rules relating to complaints shall apply mutatis mutandis to counterclaim. Rules 2 to 8 of this Chapter shall also apply mutatis mutandis to counter-claim.

11. Counter-claim to be specifically pleaded.—Where any defendant seeks to rely upon any grounds as supporting the right of counter-claim, he shall, in his written statement, state specifically that he does so by way of counter-claim.

Where a defendant sets up a counter-claim, the Court on the application of the plaintiff, made in that behalf at any stage of the proceedings, and after hearing the defendant, may make an order directing that the counter-claim be tried separately or make such other order as may be just.

12. Proceeding with the counter-claim where suit is stayed



etc.— Where in a case in which the defendant sets up a counter-claim, the suit of the plaintiff is stayed, discontinued or dismissed, the counter-claim may be proceeded with in accordance with these Rules.

13. Order XX rule 19 of the Code to apply to decree in such suits— sub-rules (1) and (2) of rule 19 of Order XX of the Code shall apply to the decree in a suit in which counter-claim is made.

14. No documents to be filed after completion of pleadings.- Except as provided in Order XIII of the Code and these Rules, neither party shall be entitled to file any documents after completion of pleadings in the suit. Upon failure of parties to file their respective documents and/ or file the respective documents on completion of filing of pleadings, in accordance with these Rules, the Registrar shall forthwith place the matter before Court.

15. The learned counsel also relied upon the Delhi Gazette publication dated 24.02.2022 with regard High Court of Delhi Rules Governing Patent Suits, 2022, wherein 3(B) deals with written statement, 3(C) deals with counter claim, 3(D) deals with Replication and clause E. For the purpose of brevity, the same are extracted hereunder:

(i) Defences of non-infringement and/or grounds for invalidity of the suit patent, if any, shall be pleaded. In addition, if revocation of the suit patent is being sought, a separate counter-claim shall be filed;

C. Counter Claim

The Counter-claim shall be precise as to the grounds that are



raised under Section 64 of the Act. The grounds as to lack of novelty or inventive step shall be supported by relevant prior art documents.

The said documents would be listed in the counter-claim and the specific extracts relied upon shall be referenced. All the prior arts and literature shall be attached to the counter-claim. The prior art documents have to be precise and the counter-claim shall contain a chart as to which specific claims are hit by which prior art or combinations thereof.

If a counter-claim is filed seeking reliefs on the ground of non-infringement, then the requirements for a suit under Section 105 of the Act shall be followed.

D.Replication

The replication to be filed shall briefly summarise the plaintiff's case and the defendant's case. Thereafter, it shall give a para-wise reply to the written statement. If any of the prior arts cited by the defendant to allege invalidity of the suit patent have been considered during the prosecution of the patent, or during opposition proceedings, details thereof shall be provided in the replication.

E. Written statement to the counter-claim and replication in the counter-claim shall follow a similar pattern as per clause B or clause C above, as may be applicable.

16. By referring to the above, the learned counsel submitted that pursuant to the Delhi High Court (Original Side) Rules, 2018 and to the Gazette Publication, the first respondent herein/petitioner in OP(PT) No.1 of 2024 has filed the same. When such proviso is available before the Delhi High Court, is not ousted the petitioner from filing the present application before this court.



settled proposition, the present application, namely **(PT) A No.3 of 2024** filed by the applicant is **allowed** and the petition filed by the first respondent herein in **OP(PT) No.1 of 2024 is dismissed**. No costs.

19-12-2025

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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



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To

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Royal Enclave, Old No.7, New
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2. The Office Of The Controller General
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N.SENTHILKUMAR J.
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