

United States Court of Appeals for the Federal Circuit

July 3, 2025

ERRATA

Appeal No. 2023-1573

IN RE: PT MEDISAFE TECHNOLOGIES,
Appellant

Decided: April 29, 2025
Precedential Opinion

Please make the following changes:

In the last line on page 2, strike “or supplemental”.

On page 7, lines 7-22, replace:

Then the Board, in reviewing an examining attorney’s refusal to register a mark, considers the full record and reaches its own conclusion as to whether the examiner made out a prima facie case and, if so, whether the applicant rebutted it, which may be accomplished by proving the mark had acquired distinctiveness. *See In re Steelbuilding.com*, 415 F.3d 1293, 1299 (Fed. Cir. 2005); *see also In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992) (“In reviewing the examiner’s decision on appeal, the Board [of Patent Appeals and Interferences] must necessarily weigh all of the evidence and argument.”). We review for substantial evidence the

Board's findings as to the prima facie case and whether it was rebutted by the applicant. *See In re Hotels.com, L.P.*, 573 F.3d 1300, 1301-02 (Fed. Cir. 2009); *see also In re Pacer Tech.*, 338 F.3d at 1352.

With the following:

Then the Board, in reviewing an examining attorney's refusal to register a mark, considers the full record. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992) ("In reviewing the examiner's decision on appeal, the Board [of Patent Appeals and Interferences] must necessarily weigh all of the evidence and argument."). We review for substantial evidence the Board's findings as to genericness. *See In re Hotels.com, L.P.*, 573 F.3d 1300, 1301-02 (Fed. Cir. 2009).