

Raghav Bajaj in Bloomberg Law: PTAB's Precedent Tightens Prior Art Guidelines in Validity Trials

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PRACTICES Intellectual Property, Patents, Patent Office Trials

Bloomberg Law quoted Haynes Boone Partner Raghav Bajaj in an article about new Patent Trial and Appeal Board (PTAB) precedents addressing how the board will assess prior inventions in patent challenges.

Here is an excerpt:

The board March 24 designated two decisions—*Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH* and *Oticon Medical AB v. Cochlear Limited*—as precedential to offer guidance on how the tribunal exercises the discretion it has to grant or deny a patent review.

Advanced Bionics fell short of proving the examiner made a mistake when issuing the patent, the board found.

But the decision provides practitioners clarity about what the board means when it says art “was previously considered,” according to Haynes Boone Partner Raghav Bajaj. It “provides less squishiness” as to whether prior art is the same or substantially the same as that considered during patent examination.

The Oticon decision provides practitioners with guidance on cumulative art, or earlier inventions that “teach the same thing but in a different way,” Bajaj said.

“As a petitioner, that’s always a tough call, whether you need to argue that at all, because anytime you have a second look at something, the other side could say, well, your reference is cumulative because it teaches the same thing. So this decision helps a little bit on that front,” Bajaj said.

To read the full article, click [here](#). (Subscription required)