

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LIGHTRICKS LTD.,
Petitioner,

v.

PLOTAGRAPH, INC. and SASCHA CONNELLY,
Patent Owner.

Case IPR2023-00154
U.S. Patent No. 10,621,469
Filing Date: Oct. 16, 2018
Issue Date: Apr. 14, 2020

DECLARATION OF LU LING

I. INTRODUCTION

1. My name is Lu Ling (full legal name Han Lu Ling). I am over the age of twenty-one (21) years, of sound mind, and capable of making the statements set forth in this Declaration. I am competent to testify about the matters set forth herein. All the facts and statements contained herein are within my personal knowledge and they are, in all things, true and correct.

2. I represent Lightricks Ltd. (“Petitioner”) as Back-up Counsel in this proceeding.

3. On January 23, 2023, I made three attempts using the Patent Trial and Appeal Case Tracking System (“P-TACTS”) to electronically file the Petition (Paper 1), Power of Attorney (Paper 2), and exhibits EX1001 through EX1024 in this proceeding (collectively, the “IPR documents”).

4. In my first attempt to file, I followed the directions listed in the P-TACTS User Guide¹ to upload the IPR documents and provide relevant information such as real party in interest and counsel. I successfully uploaded the IPR documents to P-TACTS without error. Thereafter, I arrived at the “Make Payment” page in P-TACTS, where I was prompted to make a payment of \$41,500 for the filing.

¹ Available at https://www.uspto.gov/sites/default/files/documents/p-tacts_user_guide_20221007.pdf.

5. I remained on the “Make Payment” page while obtaining information required to make the payment. I then submitted the requested payment using the debit card of Lead Counsel, Robert Greeson.

6. Upon submitting the requested payment, P-TACTS generated the below notification stating that “[i]f you submitted a payment, your payment processed” but an “[e]rror occurred” and “your receipt is not available”:

anges affecting patent small/micro entity fees

st small and micro entity fees have decreased with the enactment of the *Consolidated Appropriations Act, 2023*—which included the *Unleashing American Innovators Act 2022*—signed into law on 12/29/2022. The law increased small entity discounts from 50 percent to 60 percent and micro entity discounts from 75 percent to 80 percent. [e USPTO fee schedule](#) has been updated to reflect these changes. A rule notice will be published soon to update the fee amounts appearing under Title 37 of the Code of Federal Regulations.

or patent issue fees, the fee due is the amount appearing on the Notice of Allowance and Fees Due letter (form PTOL-85). For other fees, the applicable fee amount is the fee amount in effect on the day the fee is paid (in full). The day a fee is paid is the date of receipt of the fee payment in the USPTO under 37 CFR § 1.6, or the date reflected on a proper certificate of mailing or transmission on the fee payment, where such a certificate is authorized under 37 CFR § 1.8.

For small and micro entity fees (other than the issue fee) that were paid on 12/29/2022 prior to the enactment of the law, refunds will be issued for the difference between the old higher fee rates and the new lower fee rates. The refunds will be processed before the end of January 2023; there is no need to submit a refund request for these payments

Error occurred while retrieving third party HTML. If you submitted a payment, your payment processed, but the page that renders your receipt is not available. Please contact the storefront from which you processed your order for your receipt (including success/failure) information. Do not attempt to process your payment again. If you are attempting to cancel, the cancel back to the storefront is currently not available.

Payment

Order Details ⓘ

TOTAL	TRANSACTION DESCRIPTION
\$41,500.00	PTABE2ETRANSACTION

Sale Item Reference #	Attorney Docket # ⓘ	Fee Code	Item Price	Qty	Item Total
IPR2023-00154		1414	\$22,500.00	1	\$22,500.00
IPR2023-00154		1406	\$19,000.00	1	\$19,000.00

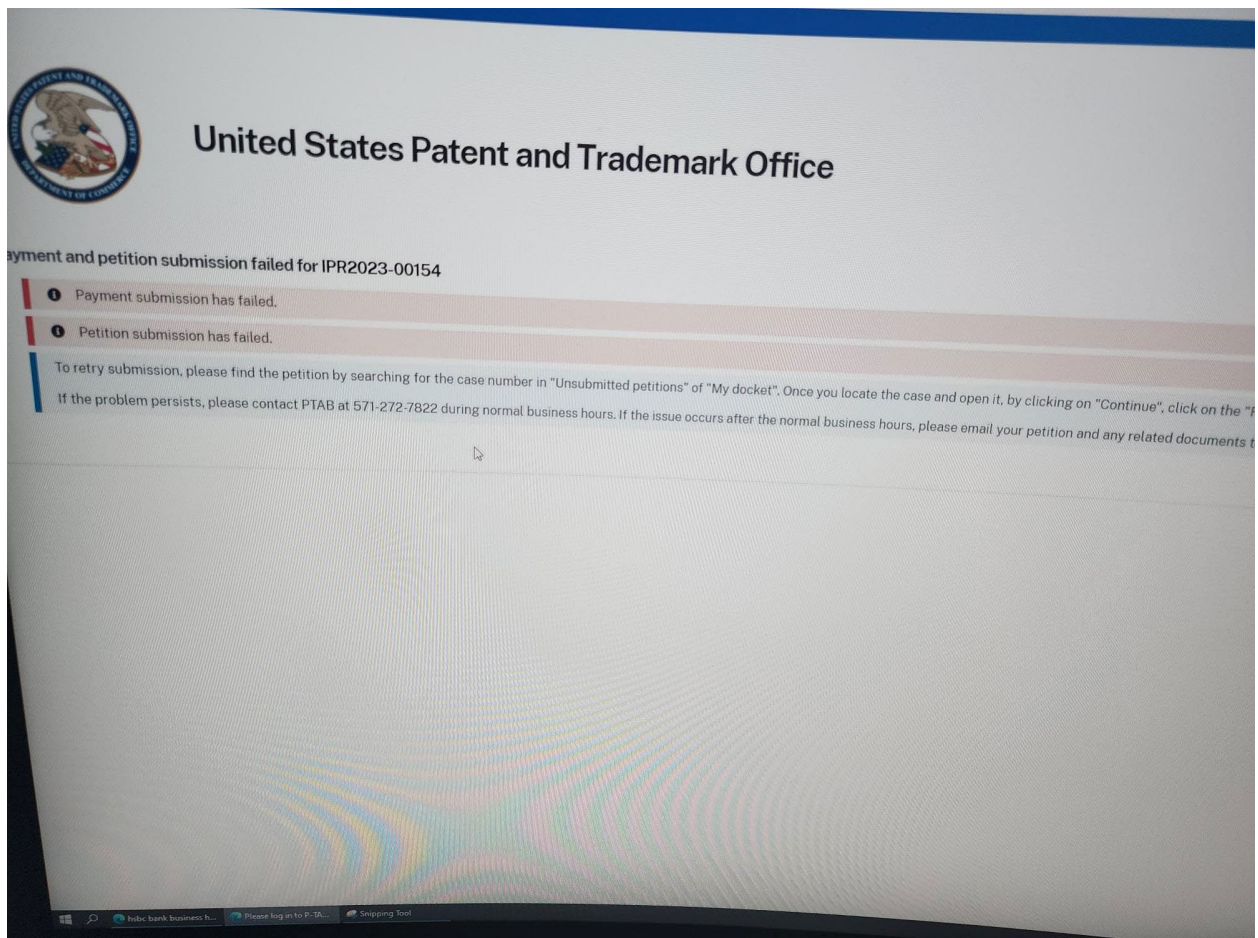
Payment Information

Required fields *

Pay Channel ⓘ Signing Tool ⓘ

7. I then returned to the P-TACTS home page, which displayed that I had been logged out of P-TACTS. Upon logging back into P-TACTS, P-TACTS displayed that the IPR documents remained uploaded but unsubmitted. In view of

this, I returned to the “Make Payment” page to again submit the \$41,500 payment using Mr. Greeson’s debit card. Upon submitting the payment, P-TACTS generated the below notification stating that “Payment submission has failed,” “Petition submission has failed,” and “[i]f the problem persists, please contact PTAB at 571-272-7822 during normal business hours” or “[i]f the issue occurs after the normal business hours, please email your petition and any related documents” to (although cut out of the below image) PTABP-TACTSAdmin@uspto.gov.



8. I then checked the status of the IPR documents. P-TACTS reflected that the IPR documents were uploaded but still unsubmitted. I contacted Mr.

Greeson regarding the apparent issue, and he subsequently informed me that—after checking his bank account and talking with his bank representative—\$41,500 had been debited from Mr. Greeson’s account and that payment had completed that day.

9. Given that the IPR documents nonetheless still appeared to be uploaded but unsubmitted in P-TACTS, I went to the “Make Payment” page on P-TACTS to submit the \$41,500 payment for a third time.

10. I again remained on the “Make Payment” page while obtaining other information required to make the payment. On this occasion, however, I clicked my browser’s “Refresh” button immediately before making payment in order to reload the “Make Payment” page, as I was wary that the previous issue may have been caused by P-TACTS timing me out of the system for inactivity. The “Make Payment” page reloaded successfully, and I immediately attempted to make payment using deposit account DA062375.

11. P-TACTS generated the below notification that, like the notification from the first payment submission, stated that “[i]f you submitted a payment, your payment processed” but an “[e]rror occurred” and “your receipt is not available.”

anges affecting patent small/micro entity fees

st small and micro entity fees have decreased with the enactment of the *Consolidated Appropriations Act, 2023*—which included the *Unleashing American Innovators Act 2022*—signed into law on 12/29/2022. The law increased small entity discounts from 50 percent to 60 percent and micro entity discounts from 75 percent to 80 percent. [USPTO fee schedule](#) has been updated to reflect these changes. A rule notice will be published soon to update the fee amounts appearing under Title 37 of the Code of Federal Regulations.

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For small and micro entity fees (other than the issue fee) that were paid on 12/29/2022 prior to the enactment of the law, refunds will be issued for the difference between the old higher fee rates and the new lower fee rates. The refunds will be processed before the end of January 2023; there is no need to submit a refund request for these payments

▲ Error occurred while retrieving third party HTML. If you submitted a payment, your payment processed, but the page that renders your receipt is not available. Please contact the storefront from which you processed your order for your receipt (including success/failure) information. Do not attempt to process your payment again. If you are attempting to cancel, the cancel back to the storefront is currently not available.

Payment

Order Details ⓘ

TOTAL
\$41,500.00

TRANSACTION DESCRIPTION
PTABE2ETRANSACTION

Sale Item Reference #	Attorney Docket # ⓘ	Fee Code	Item Price	Qty	Item Total
IPR2023-00154		2411	\$22,500.00	1	\$22,500.00
IPR2023-00154		1400	\$19,000.00	1	\$19,000.00

Payment Information

Required fields *

Pay Channel ⓘ Shipping Tool ⓘ

12. When I returned to the P-TACTS home page, I found that I was again logged out of P-TACTS. Upon logging back in, P-TACTS displayed that the IPR documents remained uploaded but unsubmitted. However, the account history of deposit account DA062375, shown in the below screenshot that I took on January 23, 2023, displayed that \$41,500 had been debited from the account and that payment for this proceeding (Transaction ID E20231MI36451757) had “Processed” that day:

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Select Monthly Statement » Monthly Statement - DA062375

Monthly Statement for January 2023

Export full statement: PDF Excel CSV

DEPOSIT ACCOUNTS - 062375

DA062375

DATE RANGE: 01/01/2023 to 01/31/2023

TOTAL CREDITS: \$0.00

TOTAL DEBITS: (\$43,870.00)

1ST FILTER 2ND FILTER 3RD FILTER

OPENING BALANCE: \$52,610.86

CLOSING BALANCE: \$0.00

Date Posted	Transaction Reference #	Attorney Docket #	Status	Transaction ID	Type	Total Credit (+) / Total Debit (-)
01/23/2023	IPR2023-00154		Processed	E20231M136451757	Payment	(\$41,500.00)
01/19/2023			Processed	I20231I947214656	Payment	(\$550.00)
01/05/2023			Processed	E202315L22202418	Payment	(\$1,820.00)

13. Because P-TACTS reflected that the IPR documents appeared uploaded but unsubmitted in P-TACTS notwithstanding that payment of the requested filing fee had been “Processed,” I then proceeded to follow the instructions that P-TACTS provided in the notification from the second payment submission (*see* my paragraph 7) for when “the problem persists”: because it was then “after the normal business hours,” I “email[ed] [the] petition and any related documents” (i.e., the IPR documents) to the Board at PTABP-TACTSAdmin@uspto.gov, as well as trials@uspto.gov out of an abundance of caution. EX1035, 1-7 (chain of 9 emails that included all IPR documents and proof of payment).

14. The next day (January 24, 2023), Andrew Kellogg—Supervisory Paralegal at the PTAB—responded using the Board’s trials@uspto.gov email

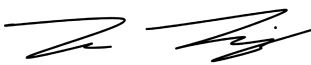
address that “[t]he petition has been submitted on your behalf” and that “[b]oth payment methods were successful.” EX1036, 3. Given the double payment, Mr. Greeson’s debit card was refunded. *See id.*, 1, 3.

15. Following Mr. Kellogg’s email, I proceeded to check P-TACTS, which reflected inconsistencies with the January 23, 2023 submission and payment: P-TACTS showed that the Petition and Power of Attorney were filed on “1/22/2023” and also stated that the filing date was “1/24/2023.” EX1036, 1-2. I accordingly responded to Mr. Kellogg requesting “confirm[ation] that the accorded filing date is [] []1/23/2023.” *Id.* Esther Goldschlager—Supervisory Paralegal Specialist at the PTAB—responded that “we have contacted our IT team (P-TACTS Admin team) to investigate and assist” (*id.*, 1), and P-TACTS now reflects a “Filing date” of “01/23/2023” (EX1037), where the “Transaction date” for the “Payment” was “01/23/2023” (EX1038, 3).

II. CONCLUSION

16. All statements made herein of my own knowledge are true, all statements made herein on information and belief are believed to be true, and these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001.

Dated: June 21, 2023



Lu Ling