ILLINOIS INDEPENDENT

TAX TRIBUNAL

AGML INC.	)	
	)	
v.	)	
	)	
	)	
ILLINOIS DEPARTMENT OF REVENUE	)	
	)	14TT244

PETITION

Petitioner, AGML Inc. ("Petitioner") by and through its attorneys, Sorling Northrup, John R. Simpson of counsel, complains of the Illinois Department of Revenue ("Department"), and alleges as follows:

JURISDICTION, VENUE AND PARTIES

1. Petitioner brings this action pursuant to Rule Section 5000.310 of the Tax Tribunal 86 Ill.Admin. Code § 5000.310.

2. The Petitioner is AGML Inc., 2150 E. Locust Street, Decatur, Illinois 62521.

3. The Petitioner's identification number is Account ID 3121-1471.

4. The Department audited Petitioner and issued to Petitioner certain Notices of Tax Liability which are attached as Exhibit A and which involve the periods July 1, 2008 through December 31, 2012 (Periods at Issue).

5. The Tax Tribunal has jurisdiction over this matter pursuant to the Illinois Tax Tribunal Act of 2012, 35 ILCS 1010/1-1 et seq.

6. Petitioner is a corporation qualified to do business in Illinois.

STATEMENT OF FACTS

7. The tax involved herein is the Illinois retailers' occupation tax imposed under the Illinois Tax Act, 35 ILCS 5/120 et seq.

8. Petitioner maintains its commercial domicile in Decatur, Illinois.

9. Petitioner operates a business which provides a funds deposit system and also sells tangible personal property such as telecommunications equipment. Customers deposit money in the funds deposit system which funds can be used for multiple purposes.

10. Petitioner was registered to do business with the Department under Illinois Business Tax Number 3121-1471 during the Periods at Issue.

11. Illinois imposes an occupation tax upon sales of tangible personal property equipment.

12. During the Periods at Issue, Petitioner made sales to Illinois customers and filed returns regarding its telecommunications equipment sales.

COUNT I

Petitioner realleges and incorporates by reference the allegations made in Paragraphs 1 through 12, inclusive, hereinabove.

13. The Department audited the Petitioner for the Periods at Issue.

14. The Department issued the Notices of Tax Liability seeking to assess additional retailers' occupation taxes against Petitioner in the amount of $429,099.41 plus interest and penalty.

15. The Department asserted that the deposit funds resulted in retailers' occupation taxes being due by Petitioner.

16. Petitioner is not a retailer as to the funds deposit portion of its business.

17. As a result of its determination, the Department recalculated the retailers' occupation tax liability of Petitioner.

18. This recalculation of Petitioner's retailers' occupation tax liability is not supported by the facts and is contrary to the law.

19. There is an actual controversy between Petitioner and the Department concerning Petitioner's entitlement to a refund of all or a portion of the protest payment.

WHEREFORE, Petitioner requests that the Tax Tribunal enter an order that finds and declares that Petitioner is not subject to Illinois Retailers' Tax on the funds deposit.

COUNT II

Petitioner realleges and incorporates by reference the allegations made in Paragraphs 1 through 19, inclusive, hereinabove.

20. The Notices of Tax Liability calculate penalty and interest.

21. Section 3-8 of the Uniform Penalty and Interest Act, 35 ILCS 735/3-8 states:

> No penalties if reasonable cause exists. The penalties imposed under the provisions of Sections 3-3, 3-4, 3-5, and 3-7.5 of this Act shall not apply if the taxpayer shows that his failure to file a return or pay tax at the required time was due to reasonable cause. Reasonable cause shall be determined in each situation in accordance with the rules and regulations promulgated by the Department. A taxpayer may protest the imposition of a penalty under Section 3-3, 3-4, 3-5, or 3-7.5 on the basis of reasonable cause without protesting the underlying tax liability.

22. Petitioner was filing and paying its retailers occupation tax in conformity with existing regulations and rulings.

23. Petitioner was filing and paying its retailers occupation tax in conformity with a long established system of determining property used as telecommunications or telephone cards.

24. Petitioner had reasonable cause not to pay amounts in the proposed Notices of Tax Liability.

WHEREFORE, Petitioner requests that the Tax Tribunal enter an Order that:

(a) Finds and declares that the Petitioner had reasonable cause not to pay the unagreed liability as proposed; and

(b) Grants such further relief as the Court deems appropriate under the circumstances.

AGML INC.,
Petitioner,

By: _____
One of Its Attorneys

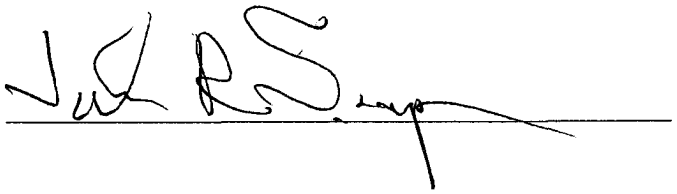
Sorling Northrup
John R. Simpson, of Counsel
1 North Old State Capitol Plaza, Suite 200
P.O. Box 5131
Springfield, IL 62705
Telephone: 217-544-1144
Fax: 217-522-3173
E-Mail: jrsimpson@sorlinglaw.com

PROOF OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served by placing same in a sealed envelope addressed:

Illinois Department of Revenue
Office of Legal Services
100 W Randolph Street, 7-900
Chicago, IL 60601

and by depositing same in the United States mail in Springfield, Illinois, on the 18 day of December, 2014, with postage fully prepaid.



Notice of Tax Liability

for Form EDA-105-R, ROT Audit Report

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

#BWNKMGV
#CNXX XX28 4876 3X48#
AGML INC
GECKO COMMUNICATIONS & TECHNOLOGIES
2150 E LOCUST ST
DECATUR IL 62521-1568

October 29, 2014

Letter ID: CNXXXX2848763X48

Account ID: 3121-1471

We have audited your account for the reporting periods July 01, 2008, through June 30, 2009. As a result we have assessed the amounts shown below.

	Liability	Payments/Credit	Unpaid Balance
Tax	41,733.00	0.00	41,733.00
Late Payment Penalty Increase	16,693.00	0.00	16,693.00
Interest	13,647.18	0.00	13,647.18
Assessment Total	$72,073.18	$0.00	**$72,073.18**

If you agree, pay the assessment total as soon as possible to minimize additional penalty and interest. Mail a copy of this notice and your payment with the voucher on the enclosed Taxpayer Statement. By including a copy of this notice, your payment will be properly applied to the audit liability.

If you do not agree, you may contest this notice by following the instructions listed below.

- **If the amount of this tax liability, exclusive of penalty and interest, is more than $15,000, *or* if no tax liability is assessed but the total penalties and interest is more than $15,000,** file a petition with the Illinois Independent Tax Tribunal within **60 days** of this notice. Your petition must be in accordance with the rules of practice and procedure provided by the Tribunal (35 ILCS 1010/1-1, *et seq.*).
- **In all other cases that do not fall within the jurisdiction of the Illinois Independent Tax Tribunal, file a protest with us, the Illinois Department of Revenue,** and request an administrative hearing within 60 days of the date of this notice, which is **December 29, 2014**. Submit your protest on Form AH-4, Protest and Request for Administrative Hearing with the Illinois Department of Revenue (available on our website at **tax.illinois.gov**). Mail form AH-4 along with a copy of this notice to the address on the form. If you do not file a protest within the time allowed, you will waive your right to a hearing, and this liability will become final. An administrative hearing is a formal legal proceeding conducted pursuant to the rules adopted by the Department and is presided over by an administrative law judge. A protest of this notice does not preserve your rights under any other notice.
- **Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue,** you may instead, under Sections 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 230/2a.1), pay the total liability under protest using Form RR-374, Notice of Payment Under Protest (available on our website at **tax.illinois.gov**), and file a complaint with the circuit court for a review of our determination.

If you do not protest this notice or pay the assessment total in full, we may take collection action against you for the balance due, which may include levy of your wages and bank accounts, filing of a tax lien, or other action to satisfy your liability.

If you have questions, write or call us weekdays between 8:00 a.m. and 4:00 p.m. Our contact information is listed below.

BUREAU OF AUDITS
TECHNICAL REVIEW SECTION
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19012
SPRINGFIELD IL 62794-9012

217 785-6579

RA-5107 (R-06/14)

Exhibit A-1

Notice of Tax Liability

for Form EDA-105-R, ROT Audit Report

STATE OF Illinois DEPARTMENT OF REVENUE tax.illinois.gov

#BWNKMGV
#CNXX X2X7 2159 2XX7#
AGML INC
GECKO COMMUNICATIONS & TECHNOLOGIES
2150 E LOCUST ST
DECATUR IL 62521-1568

October 29, 2014

Letter ID: CNXXX2X721592XX7

Account ID: 3121-1471

We have audited your account for the reporting periods July 01, 2009, through December 31, 2012. As a result we have assessed the amounts shown below.

	Liability	Payments/Credit	Unpaid Balance
Tax	273,304.00	0.00	273,304.00
Excess Tax and Excess E911 Surcharge	14,865.00	(14,864.90)	0.10
Late Payment Penalty Increase	57,634.00	0.00	57,634.00
Interest	26,088.13	0.00	26,088.13
Assessment Total	$371,891.13	($14,864.90)	**$357,026.23**

If you agree, pay the assessment total as soon as possible to minimize additional penalty and interest. Mail a copy of this notice and your payment with the voucher on the enclosed Taxpayer Statement. By including a copy of this notice, your payment will be properly applied to the audit liability.

If you do not agree, you may contest this notice by following the instructions listed below.

- **If the amount of this tax liability, exclusive of penalty and interest, is more than $15,000,** or if **no tax liability is assessed but the total penalties and interest is more than $15,000,** file a petition with the Illinois Independent Tax Tribunal within **60 days** of this notice. Your petition must be in accordance with the rules of practice and procedure provided by the Tribunal (35 ILCS 1010/1-1, *et seq.*).
- **In all other cases that do not fall within the jurisdiction of the Illinois Independent Tax Tribunal, file a protest with us, the Illinois Department of Revenue,** and request an administrative hearing within 60 days of the date of this notice, which is **December 29, 2014.** Submit your protest on Form AH-4, Protest and Request for Administrative Hearing with the Illinois Department of Revenue (available on our website at **tax.illinois.gov**). Mail form AH-4 along with a copy of this notice to the address on the form. If you do not file a protest within the time allowed, you will waive your right to a hearing, and this liability will become final. An administrative hearing is a formal legal proceeding conducted pursuant to the rules adopted by the Department and is presided over by an administrative law judge. A protest of this notice does not preserve your rights under any other notice.
- **Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue,** you may instead, under Sections 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 230/2a.1), pay the total liability under protest using Form RR-374, Notice of Payment Under Protest (available on our website at **tax.illinois.gov**), and file a complaint with the circuit court for a review of our determination.

If you do not protest this notice or pay the assessment total in full, we may take collection action against you for the balance due, which may include levy of your wages and bank accounts, filing of a tax lien, or other action to satisfy your liability.

If you have questions, write or call us weekdays between 8:00 a.m. and 4:00 p.m. Our contact information is listed below.

BUREAU OF AUDITS
TECHNICAL REVIEW SECTION
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19012
SPRINGFIELD IL 62794-9012

217 785-6579

RA-5107 (R-06/14)

Exhibit A-2

Taxpayer Statement

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov
1 800 732-8866
217 782-3336
TDD 1 800 544-5304

October 29, 2014

#BWNKMGV
#CNXX XX99 3853 4567#
AGML INC
GECKO COMMUNICATIONS & TECHNOLOGIES
2150 E LOCUST ST
DECATUR IL 62521-1568

Letter ID: CNXXXX9938534567

Account ID: 3121-1471
Total amount due: $429,099.41

This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed. A payment voucher is included so you may pay the balance due.

Sales/Use Tax & E911 Surcharge — **Account ID: 3121-1471**

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Jun-2009	44,243.00	16,693.00	13,647.18	-	(2,510.00)	72,073.18
• $72,073.18 of this amount is subject to protest.						
31-Dec-2012	294,736.00	57,634.00	26,088.13	-	(21,431.90)	357,026.23
• $371,891.13 of this amount is subject to protest.						

SOA

F-000270

Retain this portion for your records.
Fold and detach on perforation. Return bottom portion with your payment.

Taxpayer Statement (R-12/08) (136)

Letter ID: CNXXXX9938534567
AGML INC

Total amount due: $429,099.41
Write the amount you are paying below.

$_____.____

Write your Account ID on your check.

Mail this voucher and your payment to:
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19006
SPRINGFIELD IL 62794-9006

$443,964.31 is subject to protest.
Do not pay any Income Tax liability that you intend to protest.

000 006 017647844004 731 123199 6 000004290994 1

Exhibit A-3

Illinois Department of Revenue

IL-2848 Power of Attorney

Read this information first

Attach a copy of this form to each specific tax return or item of correspondence for which you are requesting power of attorney. *Do not send this form separately.*

Step 1: Complete the following taxpayer information

1 AGML Inc.
Taxpayer's name

2 37-1402565; Account ID: 3121-1471
Taxpayer's identification number(s)

3 2150 E. Locust St.
Taxpayer's street address

Decatur IL 62521
City State ZIP

Step 2: Complete the following information

4 The taxpayer named above appoints the following to represent him before the Illinois Department of Revenue.

John R. Simpson Name	Name	Name
Sorling Northrup Name of firm	Name of firm	Name of firm
1 N. Old State Capitol Plz Ste 200 Street address	Street address	Street address
Springfield IL 62701 City State ZIP	City State ZIP	City State ZIP
(217) 544-1144 Daytime phone number	( ) Daytime phone number	( ) Daytime phone number
jrsimpson@sorlinglaw.com E-mail address	E-mail address	E-mail address
Sales, Use 7/08 - present Specific tax type Year or period	Specific tax type Year or period	Specific tax type Year or period

5 The attorneys-in-fact named above shall have, subject to revocation, full power and authority to perform any act that the principals can and may perform, including the authority to receive confidential information.

The attorneys-in-fact named above **do not** have the power to – *Check only the items below you do not wish to grant.*

- ____ endorse or collect checks in payment of refunds.
- ____ receive checks in payment of any refund of Illinois taxes, penalties, or interest.
- ____ execute waivers (including offers of waivers) of restrictions on assessment or collection of deficiencies in tax and waivers of notice of disallowance of a claim for credit or refund.
- ____ execute consents extending the statutory period for assessments or collection of taxes.
- ____ delegate authority or substitute another representative.
- ____ file a protest to a proposed assessment.
- ____ execute offers in compromise or settlement of tax liability.
- ____ represent the taxpayer before the department in all proceedings including hearings (requiring representation by an attorney) pertaining to matters specified above.
- ____ obtain a private letter ruling on behalf of the taxpayer.
- ____ perform other acts (explain) ____

6 This power of attorney revokes all prior powers of attorney on file with the department with respect to the same matters and years or periods covered by this form, except for the following:

Teresa Kruse Name	Name	Name
132 S. Water St Ste 545 Street address	Street address	Street address
Decatur IL 62523 City State ZIP	City State ZIP	City State ZIP
(217) 423-8801 Daytime phone number	( ) Daytime phone number	( ) Daytime phone number
Date granted	Date granted	Date granted

Continued on Page 2

7 Copies of notices and other written communications addressed to the taxpayer in proceedings involving the matters listed on the front of this form should be sent to the following:

John R. Simpson		
Name	Name	Name
P. O. Box 5131		
Street address	Street address	Street address
Springfield IL 62705		
City State ZIP	City State ZIP	City State ZIP
(217) 544-1144	( )	( )
Daytime phone number	Daytime phone number	Daytime phone number

Step 3: Taxpayer's signature

If signing as a corporate officer, partner, fiduciary, or individual on behalf of the taxpayer, I certify that I have the authority to execute this power of attorney on behalf of the taxpayer.

Michael E. Longerfelt	President	3/6/13
Taxpayer's signature	Title, if applicable	Date
Spouse's signature	Title, if applicable	Date
If corporation or partnership, signature of officer or partner	Title, if applicable	Date

Step 4: Complete the following if the power of attorney is granted to an attorney, a certified public accountant, or an enrolled agent

I declare that I am not currently under suspension or disbarment and that I am

- a member in good standing of the bar of the highest court of the jurisdiction indicated below; or
- duly qualified to practice as a certified public accountant in the jurisdiction indicated below; or
- enrolled as an agent pursuant to the requirements of United States Treasury Department Circular Number 230.

Attorney	Illinois	John R. Simpson	3/6/13
Designation (attorney, C.P.A., enrolled agent)	Jurisdiction (state(s), etc.)	Signature	Date
Designation (attorney, C.P.A., enrolled agent)	Jurisdiction (state(s), etc.)	Signature	Date
Designation (attorney, C.P.A., enrolled agent)	Jurisdiction (state(s), etc.)	Signature	Date

Step 5: Complete the following if the power of attorney is granted to a person other than an attorney, a certified public accountant, or an enrolled agent

If the power of attorney is granted to a person other than an attorney, a certified public accountant, or an enrolled agent, this document must be witnessed or notarized below. Please check and complete one of the following.

Any person signing as or for the taxpayer

_____ is known to and this document is signed in the presence of the two disinterested witnesses whose signatures appear here.

Signature of witness Date

Signature of witness Date

_____ appeared this day before a notary public and acknowledged this power of attorney as his or her voluntary act and deed.

Signature of notary Date

Notary seal

This form is authorized by the Illinois Tax Act. Disclosure of this information is REQUIRED. Failure to provide information could result in a penalty. This form has been approved by the Forms Management Center. IL-492-0058

03/06/2013 11:36 21/4294/42