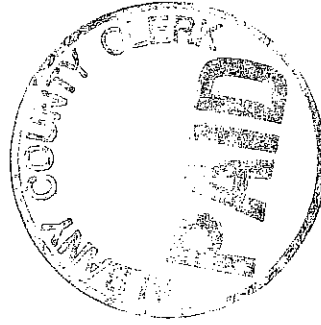


STATE OF NEW YORK
SUPREME COURT : COUNTY OF ALBANY



In the Matter of the Application of
PACE-O-MATIC, INC. for a
Judgment Pursuant to Article 78 of
the Civil Practice Law and Rules

Petitioner

vs.

NEW YORK STATE LIQUOR AUTHORITY

Respondent

**ORDER TO SHOW CAUSE
AND TEMPORARY
RESTRAINING ORDER**

Index No. *9686-08*

Upon the Summons and Notice of Petition, Verified Petition of the Petitioner herein, the Affidavit of Michael R. Pace, President of the Petitioner, Petitioner's Notice of Motion for Injunctive Relief under Article 78 of the CPLR, and all Exhibits thereto, and upon the application of Hurwitz & Fine, P. C. of Buffalo, New York and Gleason, Dunn, Walsh & O'Shea of Albany, New York, counsel for the Petitioner, it is hereby

ORDERED, that Respondent New York State Liquor Authority (the "SLA") appear and show cause before this Court on December 19, 2008 at 9:30 a.m. or as soon thereafter as counsel can be heard, Part _____, Albany County Courthouse, Columbia and Eagle Streets, Albany, New York why an Order should not be entered pursuant to CPLR Articles 78 and 63 permanently enjoining and restraining the SLA from implementing or enforcing a determination of November 20, 2008 that Petitioner's "Moxie Mania Empire Edition" video touch screen amusement game is an illegal gambling device under New York law and therefore prohibited from operation or barred from SLA-licensed establishments within the State of New York; and it is further

ORDERED, that pending full hearing and final determination of this Order to Show Cause and Petitioner's Motion for Injunctive Relief, the SLA is temporarily restrained and enjoined from enforcing or implementing the aforesaid determination; and it is further

ORDERED, that service of this Order to Show Cause and the referenced and underlying papers shall be made by personal delivery upon the SLA c/o 80 South Swan Street, Albany, New York 12210 and the New York State Attorney General's Office, at The Capitol, Albany, New York 12224 on or before 5:00 p.m. on ~~December~~ November 26 2008 and that will be deemed good and sufficient service of this Order to Show Cause, the Summons and Notice of Petition, the Verified Petition, and all other referenced and underlying papers and Exhibits on this motion and proceeding.


Justice, Albany County Supreme Court

GRANTED:

→ as to SLA licensees that have such machines installed and in operation ~~at~~ ^{on} the date of this Order. It will use best efforts to compile a list of such licensees and provide it to the SLA as quickly as practicable. RP

Δ's opposition due: 12/16/08
It's reply due: 12/19/08
2

(papers to hand delivered, emailed or faxed) to opposing counsel