

Nortel Networks –Allocation Trial –Summary of June 16th, 2014

On day 15 of the allocation trial, the courts continued to hear evidence from the Canadian expert witnesses, with Mark Berenblut testifying in Toronto on behalf of the Canadian Debtor and Monitor.

Mark Berenblut provided an expert report that was co-authored with Dr. Mark Cox. The report provided an opinion on what approach and methodology should be followed to determine the value that each of the three debtors had transferred or surrendered in the assets that ultimately became the sales proceeds. The report opined that the property interests contributed by each of the three debtor groups are determined by the fair market value of the property interests that were transferred or surrendered. Accordingly, the proportion of the sales proceeds attributable to the Canadian Debtors is simply the entire sales proceeds less the fair market value of the US and EMEA property interests in assets that were sold. Mr. Berenblut testified that the Canadian Debtors, as owners of the IP, are entitled to the value of that IP subject only to the value of license rights of the US and EMEA Debtors. Pursuant to the report, the fair market value of the US and EMEA Debtors property interests is either the value of the tangible assets legally owned by the US and EMEA Debtors, on the low end, or, the total business sales attributable to the US and EMEA Debtors using the residual profit splitting method, on the high end. Mr. Berenblut was cross-examined by the US Debtors regarding the assumption he made with respect to the property interests of the three debtors. The EMEA Debtors also cross-examined Mr. Berenblut regarding the assumptions he made regarding property interests, particularly with respect to IP. Mr. Berenblut was also cross-examined by the UK Pension Claimants with respect to the assumptions and methods he used in determining the property interests of the UK and particularly with respect to the differences in his report for the allocation trial as compared to his report in the claims trial.

The courts will continue to hear expert testimony on behalf of the Canadian Debtors, with Dr. Timothy Reichert providing evidence in Toronto.

As a result of negotiations between the parties with respect to the evidence to be heard at trial, the trial is expected to continue this week and for one day next week, with the evidentiary portion of the trial concluding on Tuesday, June 24th. We will advise of any changes to this schedule and the next steps as soon as further information is available.