

## **Nortel Networks –Allocation Trial –Summary of June 18<sup>th</sup>, 2014**

The first expert witness on behalf of US interests testified on the 17<sup>th</sup> day of trial. Jeffrey Kinrich appeared in Wilmington on behalf of the US Debtors.

Jeffrey Kinrich provided a report allocating the proceeds from the sale of lines of business and residual intellectual property (i.e. the Rockstar transaction) according to the economic value relinquished by each entity based on measures of revenue. With respect to the residual patent portfolio, Mr. Kinrich opined that the economic value of a patent comes from the right to exploit, license and enforce and not from holding legal title. Based on this, Mr. Kinrich found that the value relinquished in the Rockstar transaction by the Canadian Debtors was \$0.43 billion (9.7%); by the EMEA Debtors it was \$0.71 billion (16.0%); and by the US Debtors it was \$3.31 billion (74.3%). In considering the business sales, Mr. Kinrich determined that revenue earned by some entities within Nortel (the integrated entities) may reflect a different relinquished value in the lines of business sales as compared with revenue earned by other Nortel entities (the non-integrated entities). As a result, Mr. Kinrich used two approaches to determine the appropriate valuations – treating revenue equally and using a market-based multiple for non-integrated entities – and based on the 2009 revenues determined the fair market value of the of the assets relinquished by each debtor. This method produced the following values for the line of business sales: \$0.34 billion (11.9%) by the Canadian Debtors; \$0.51 billion (18%) by the EMEA Debtors; and \$1.99 billion (70%) by the US Debtors. In total, based on his analysis of both the residual patent portfolio and the line of business sales, Mr. Kinrich proposes an allocation of the sales proceeds as follows: \$0.77 billion by the Canadian Debtors (10.6%); \$1.23 billion by the EMEA Debtors (16.8%); and, \$5.3 billion by the US Debtors (72.6%). Mr. Kinrich was cross-examined by the EMEA Debtors regarding his use of 2009 revenues. The UKPC also cross-examined Mr. Kinrich regarding his assumptions in calculating the residual patent portfolio values and whether labour costs were taken into consideration. Counsel for the Monitor and Canadian Debtor cross-examined Mr. Kinrich regarding his assumptions and the importance of research and development in driving revenue. The CCC cross-examined Mr. Kinrich with regards to his assumptions related to the purchase price of the Rockstar transaction and the net impact of an allocation based on the revenue allocation position.

The expert witnesses of the US interests will continue tomorrow with the courts expected to hear the evidence of Raymond Zenkich in Wilmington, Lorraine Eden in Toronto and John McConnell in Toronto.