

Nortel Networks –Allocation Trial –Summary of June 20th, 2014

On the 19th day of the allocation trial, the US Interests continued with their expert witnesses with Catherine Tucker appearing in Toronto.

Catherine Tucker provided an affidavit on behalf of US Debtors. Ms. Tucker did not provide an initial expert report but was asked to respond to the expert report of Philip Green, one of the experts of the Canadian Debtor and Monitor. Ms. Tucker's report specifically addressed Mr. Green's assertion that the owner of the intellectual property gets the value of the IP less the value of the surrendered licenses. With respect to the residual patents that were not used in any of Nortel's operating businesses, Mr. Green had found that they have no value to any other debtors based on the assumption he was asked to make, because the licenses of the EMEA and US Debtors was limited to using NN Technology to sell products and generate operating profits in their respective territories. In her report, Ms. Tucker argued that this Mr. Green's findings contradicted the economics of incentives in high-technology organizations, the economics of high-technology patents and the economics of drivers of patent portfolio value. She further stated that Mr. Green's report did not reflect the value of the termination of exclusive licenses by the various participants to the MRDA and was not consistent with the arm's length relationship expected between the entities. Ms. Tucker was cross-examined by the EMEA Debtors regarding various analogies she used in her report between Nortel and other industries. The UKPC cross-examined Ms. Tucker regarding her criticism of Mr. Green for limiting the rights of integrated entities to current revenues from the sale of products without considering the incentives for innovation. The CCC also cross-examined Ms. Tucker regarding the key assumptions made in her expert report, the scope and the sources she used.

As a result of the testimony of some expert witnesses taking longer than anticipated, the courts will now be sitting on Monday, June 23rd to hear the evidence of John McConnell and Robert Kiliminik on behalf of the US interests. The last day of the evidentiary portion of the trial is expected to be June 24, 2014 with Lorraine Eden testifying on behalf of the US Debtors.