

## **Nortel Networks – Allocation Trial – Summary of May 14<sup>th</sup>, 2014**

May 14<sup>th</sup>, 2014 was the third day of the Nortel Trial and was the first day of witness examination. Four witnesses for the Canadian parties were examined today: Peter Currie, Clive Allen, Brian McFadden, and Angela de Wilton. The witnesses were only examined by lawyers in the Toronto courts but Judge Gross presided from Delaware concurrently with Justice Newbould in Toronto.

Peter Currie was the first witness to take the stand. Mr. Currie had a long career with Nortel in financial roles, including as Chief Financial Officer (“CFO”) and provided evidence through an affidavit regarding Nortel’s history and global expansion, including its move towards a management structure organized around product lines (lines of business). Mr. Currie also provided evidence regarding the corporate structure including its finance organization, cash management and financial forecasting. Counsel for the Canadian parties examined Mr. Currie about his history with Nortel and the Nortel’s global matrix structure. Counsel for the US Debtors cross-examined Mr. Currie about the level of integration of Nortel and about the high source of revenue from the United States market. The EMEA Debtors’ and UKPC’s representatives primarily questioned Mr. Currie about the level of independence of Nortel’s subsidiaries and the amount of research and development that took place in labs outside of Canada.

Mr. Currie’s examination was followed by Clive Allen, the former Chief Legal Officer of Nortel. Mr. Allen was examined by counsel for the Canadian parties about his career at Nortel and the company policy that vested ownership of all intellectual property (“IP”) in the Canadian company (“NNL”). Mr. Allen had also provided evidence through an affidavit regarding the evolution of Nortel and the development of cost sharing agreements. The cost sharing agreements allowed NNL to license the technology developed and acquired in Canada to subsidiaries in connection with the manufacture and sale of Nortel products in return for contributions to the cost of on-going research and development. Mr. Allen was cross-examined by counsel for the US Debtors about the scope of the licenses for IP that the subsidiaries held.

Next, Brian McFadden, the former Chief Technology Officer of Nortel and President of Metro Optical Networks, was examined. In his affidavit, Mr. McFadden had provided evidence regarding research and development in the context of a line of business, and the Advanced Technology Program during his time as the Chief Technology Officer. In addition, Mr. McFadden provided testimony regarding how lines of businesses functioned, including customer relations, sales and the role of employees. Counsel for the Canadian parties questioned Mr. McFadden about his career at Nortel and the importance of the research and development that was done in Canada. Counsel for the US Debtors cross-examined Mr. McFadden as to the importance of the work done in labs in the US. The EMEA Debtors focused their questioning on the level of collaboration between all Nortel labs in creating IP. Representatives of the UKPC questioned Mr. McFadden about the advances in IP that could be attributed to Nortel employees in the UK.

Finally, Angela de Wilton took the stand. Ms. de Wilton is the former Director of IP at Nortel and has extensive experience as a patent agent. Ms. de Wilton was examined about her career at Nortel by the Canadian parties and her affidavit detailed the patent filing process at Nortel including the assignment of IP to NNL and the source of patented inventions. The US Debtors

cross-examined Ms. de Wilton about the process of inventor's assigning patents to NNL and about the majority of patents that were filed in the US. Representatives for the EMEA Debtors and the UKPC primarily questioned Ms. de Wilton about the Nortel's patent filing budget and the practice of maintaining patents.

Tomorrow, the Canadian parties will lead three witnesses: including Michael McCorkle, Donald Sproule and Sharon Hamilton.