

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
NORTEL NETWORKS CORPORATION, NORTEL NETWORKS LIMITED,  
NORTEL NETWORKS GLOBAL CORPORATION, NORTEL NETWORKS  
INTERNATIONAL CORPORATION AND NORTEL NETWORKS TECHNOLOGY  
CORPORATION**

**APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**NOTICE OF MOTION**

**Canadian Approval and Vesting Order re Certain Patents and Other Assets  
(returnable June 30, 2011)**

Nortel Networks Corporation ("NNC"), Nortel Networks Limited ("NNL"), Nortel Networks Technology Corporation, Nortel Networks International Corporation and Nortel Networks Global Corporation (collectively, the "Applicants") will make a motion to Justice Morawetz of the Commercial List court on Thursday, June 30, 2011 at 10:00 a.m., or as soon after that time as the motion can be heard, at 393 University Avenue, Toronto, Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard:

- in writing under subrule 37.12.1(1) because it is on consent or unopposed or made without notice;
- in writing as an opposed motion under subrule 37.12.1(4);
- orally.

**THE MOTION IS FOR AN ORDER:**

- (a) approving a transaction contemplated by an asset sale agreement dated as of April 4, 2011 (the "Proposed Sale Agreement") among:

- i. NNC, NNL, Nortel Networks Inc. ("NNI"), Nortel Networks UK Limited (in administration) ("NNUK"), Nortel Networks (Ireland) Limited (in administration), Nortel Networks S.A. (in administration and liquidation judiciaire) ("NNSA"), Nortel Networks France S.A.S. (in administration), Nortel GmbH (in administration), the other entities identified therein as sellers, Alan Bloom, Stephen Harris, Alan Hudson, David Hughes and Christopher Hill as Joint Administrators, and Maître Cosme Rogeau as French Liquidator (collectively, the "Sellers"),
- ii. Ranger Inc. (the "Proposed Purchaser"), and
- iii. Google Inc., as guarantor,

for the sale of the Assets (as defined in the Proposed Sale Agreement) (together with, the licenses under the Jointly Owned Patents, the Specified UK Patents, the Undisclosed Patent Interests and any other Patents (each as defined in the Proposed Sale Agreement) granted by one or more of the Applicants to the Proposed Purchaser pursuant to the Proposed Sale Agreement and, effective upon receipt by the Sellers or any successor or assign or any receiver, trustee or liquidator appointed in respect of a Seller (or its Property as defined in the Initial Order) of the applicable Exercise Price pursuant to Section 5.19 of the Proposed Sale Agreement, any Undisclosed Patent Interests, together with all the other Assets, collectively the "Purchased Assets");

- (b) vesting all of the Applicants' right, title and interest in and to the Purchased Assets absolutely in the Proposed Purchaser free and clear of and from all Encumbrances (as defined in the Canadian Approval and Vesting Order);
- (c) the approval of certain License Non-Assignment and Non-Renewal Protections (as defined below);
- (d) sealing the confidential appendices to the sixty-third report (the "Sixty-Third Report) of Ernst & Young Inc., as Monitor (in such capacity, the "Monitor") and the confidential

exhibits of one or more affidavits of service (the "Service Affidavits") pending further Order of this Court ; and

- (e) Such further and other relief as counsel may request and that this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

**BACKGROUND**

- (a) On January 14, 2009 (the "Filing Date"), NNC, NNL, Nortel Networks Technology Corporation, Nortel Networks Global Corporation and Nortel Networks International Corporation (collectively, the "Applicants") were granted protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") pursuant to an initial order (as subsequently amended and restated, the "Initial Order") of this Honourable Court and Ernst & Young Inc. was appointed as monitor in the CCAA proceedings;
- (b) The Applicants have previously obtained various relief related to the sale of certain other assets relating to their business units including Nortel's Layer 4-7 Application Delivery business, CDMA and LTE related assets, Enterprise Solutions business, Optical Networking and Carrier Ethernet businesses (associated with its Metro Ethernet Networks Business), Carrier Voice Over IP and Application Solutions business, GSM/GSM-R business and Multi-Service Switch business;
- (c) NNL has also sold, among other assets, its "Westwinds Facility" in Alberta, its interest in its joint venture with LG Electronics Inc., and real property in Ottawa, Ontario known as the Carling Campus;
- (d) References to "Nortel" herein are references to the global enterprise of NNC, NNL, NNI and their respective affiliates as a whole;
- (e) All dollar references are US\$ unless otherwise indicated;

## **THE ASSETS**

- (f) At this time, Nortel's residual patent assets are one of Nortel's largest remaining assets;
- (g) The Proposed Sale Agreement contemplates the sale of approximately 6,000 Canadian, U.S. and foreign patents and patent applications;
- (h) The extensive patent portfolio touches nearly every aspect of telecommunications and additional markets as well, including Internet search and social networking;

## **PROPOSED SALE AGREEMENT**

- (i) After extensive arm's-length, good faith negotiations among the Sellers and the Proposed Purchaser and their respective advisors, the Sellers have agreed, among other things, to convey the Purchased Assets in accordance with the terms and conditions of the Proposed Sale Agreement, subject to certain Court approvals including this Honourable Court and the U.S. Court;
- (j) The Proposed Purchaser will pay to the Sellers, through their Distribution Agent, a purchase price of \$900 million in cash, which includes \$45 million to be held in escrow to secure indemnity obligations of the Sellers;
- (k) No later than three (3) Business Days following the later of the entry of the Canadian Sales Process Order and the entry of the U.S. Debtors' Bidding Procedures Order (as such term is defined in the Proposed Sale Agreement), the Proposed Purchaser will deliver a good faith deposit in the amount of \$27 million in cash;
- (l) The terms and conditions of the Proposed Sale Agreement are described in further detail in the Affidavits of George Riedel, sworn April 7, 2011 and the Sixty-Third Report;
- (m) The Applicants have determined that the Proposed Sale Agreement represents the best opportunity for the Applicants to maximize the value of the Purchased Assets;

- (n) The proposed transaction as set out in the Proposed Sale Agreement is the highest and best offer available for the Purchased Assets, subject to any higher and/or better offers received through the bidding procedures;

## LICENSE MATTERS

- (o) In view of the potential impact of continuing licenses on the value of the Sellers' patent assets, the Applicants also have agreed in furtherance of the sale of the Purchased Assets to the License Non-Assignment and Non-Renewal Protections (as defined in the Canadian Approval and Vesting Order) which contain various limitations and prohibitions on their rights to renew, extend, assign, amend, waive or modify contracts containing licenses to the patents offered for sale;
- (p) These limitations and prohibitions, which are set forth in full in paragraph 14 of the Canadian Approval and Vesting Order, include:
  - (i) the deemed non-consent by the Applicants to requests to amend or modify these agreements in manners that would have the practical effect of expanding the scope or term of the licenses to the patents to be transferred to the Proposed Purchaser pursuant to the Proposed Sale Agreement;
  - (ii) the deemed non-consent by the Applicants to the assignment of certain of these agreements by the counterparties thereto to third parties;
  - (iii) restrictions on the Applicants' ability to assign such contracts; and
  - (iv) a power of attorney for the Proposed Purchaser to enforce these protections and terminate certain licenses upon the occurrence of events, dates or circumstances entitling the Applicants to terminate such licenses pursuant to the terms of such licenses.
- (q) The License Non-Assignment and Non-Renewal Protections limit the impact of the applicable license agreements on the Purchased Assets, which benefit the Applicants, their creditors, estates and all interested parties through their expected ability to realize a

higher price for the Purchased Assets, and these protections are tailored to respect the Applicants' current obligations under their existing contracts (while limiting their discretion to extend or modify those obligations after the Closing);

- (r) Such counterparties will retain any rights under their contracts that can be exercised without the Applicants' consent;

#### **SEALING**

- (s) The Monitor has or will be filing confidential appendices to the Sixty-Third Report which contain the disclosure schedules and exhibits to the Proposed Sale Agreement;
- (t) The disclosure schedules and exhibits contain sensitive competitive, commercial and, in some instances, personal information, including lists of the Transferred Patents and licensees to such patents;
- (u) The confidential exhibits to the Service Affidavits will contain a list of the Known Licensees and information related to their service of the materials. This information is commercially sensitive and confidential;
- (v) Disclosure of this confidential information would be damaging to the Applicants and the other Sellers and any successful bidder if it is disclosed to their competitors;

#### **MISCELLANEOUS**

- (w) The Applicants may file further supplemental materials prior to the return of this Motion;
- (x) The provisions of the CCAA; and
- (y) Such further and other grounds as counsel may advise and this Honourable Court permit;

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) the Affidavits of George Riedel, sworn April 7, 2011;

- (b) the Service Affidavits;
- (c) the Sixty-Third Report and
- (d) such further and other material as may be filed.

April 7, 2011

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TO: Attached Service List

**IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF NORTEL  
NETWORKS CORPORATION, NORTEL NETWORKS LIMITED, NORTEL NETWORKS  
GLOBAL CORPORATION, NORTEL NETWORKS INTERNATIONAL CORPORATION AND  
NORTEL NETWORKS TECHNOLOGY CORPORATION**

Court File No: 09-CL-7950

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

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