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## U.S., Canada judges mull fate of Nortel cash

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By Tom Hals

WILMINGTON, Delaware (Reuters) - Creditors of telecoms equipment giant Nortel Networks will find out on Friday how the bankrupt company will proceed in ending the years-long battle over its \$9 billion in cash.

A Canadian and a U.S. judge will hold a joint conference call at 2 p.m. EST Friday to explain if they will handle the dispute over how to divide the money or whether it is a matter for international arbitration.

Their decision is also likely to determine when creditors -- ranging from tens of thousands of retirees to governments and hedge fund investors -- will get a sense of how much they will be repaid.

After Nortel sought protection from creditors in courts around the world in 2009, it sold off all of its operations and has piled up the cash in a New York escrow account.

The operations were sold as global entities. However, the various Nortel insolvency and bankruptcy proceedings in Canada, the United States and Europe never agreed how to divide the money.

Until each Nortel unit knows how much money it has, it is nearly impossible for those businesses to negotiate and settle the claims of their creditors.

The U.S. and Canadian businesses of Nortel want the matter decided jointly by U.S. Bankruptcy Court Judge Kevin Gross in Wilmington, Delaware, and Ontario Superior Court Justice Geoffrey Morawetz in Toronto. The two have been overseeing the North America cases since Nortel failed in 2009. They have already ordered three mediation sessions that failed.

"We cannot allow this to go back to closed rooms. We need to be out in the clear light of day and solve these issues," said the attorney for the U.S. business, James Bromley of Cleary Gottlieb Steen & Hamilton. He blamed Nortel's European businesses of using the privacy of mediation to avoid public scrutiny of their theories for dividing the cash.

Bromley also pushed the most aggressive schedule for deciding the matter, with the aim of ending the fighting this year.

A 2009 document lays out how to resolve disputes over the cash, but it does not use the words "arbitration" or "courts." It instead mentions a "resolver," leading to the different interpretations.

The European businesses of Nortel argued that parallel court proceedings in Canada and the United States would lead to conflicting rulings without one appeals court to bind the two.

The proceedings were carried by telecast between the courts, but were marred by tech glitches, which were seized upon by Derek Adler, a Hughes Hubbard & Reed attorney who represents the European units of Nortel. He questioned how witnesses could be cross-examined in a telecast and said it raised questions of due process.

Morawetz interrupted Adler to defend the joint hearings, but his words were mostly inaudible in the Delaware courtroom. "We couldn't hear the second part of what you said but I heard the word 'Skype'," said Gross.

(Reporting by Tom Hals in Wilmington, Delaware; Editing by Dan Grebler)

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