

Fight over Nortel Networks assets to be handled jointly by Canada-U.S. courts

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TORONTO – A long-standing dispute over how to divide \$9 billion in residual assets from former technology giant Nortel Networks will be decided by a joint, cross-border trial.

In a conference call Friday, Ontario Superior Court Justice Geoffrey Morawetz and U.S. Bankruptcy Court Kevin Gross agreed that the mediation will proceed by litigation, rather than an arbitration panel.

A trial is expected to begin as early as this fall.

More than 100 parties including ex-workers, bondholders, trade creditors and governments worldwide are involved in the complex legal battle over how to divvy up the former equipment maker's residual assets.

In January, a mediation process held in Toronto abruptly ended after Ontario Chief Justice Warren Winkler, who was overseeing the two-week long proceeding, concluded there was no resolution in sight.

Three other attempts at mediation also had failed.

It's been reported that the proceedings have cost up to \$755 million worldwide in lawyer fees since the negotiations began. A group representing disabled ex-Nortel employees say that figure is closer to \$861 million.

According to documents, U.S. law firm Cleary Gottlieb Steen & Hamilton LLP, which represented Nortel in mediation, filed \$1.25 million in fees in November alone.

Barry Wadsworth, a lawyer for the Canadian Auto Workers which represents about 850 former Nortel pensioners and former disability workers, says the group was in favour of the joint court process because it was a "more structured, efficient and expeditious process" than arbitration.

"It was our belief that the courts have the jurisdiction to hear and determine our argument that the worldwide assets of Nortel in all jurisdictions should be divided equally between all of the company's creditors," he wrote in an email.

"There really is no 'Nortel' anymore and this is really about a fair, reasonable and just division of the assets of this interwoven company that acted as one worldwide entity and should have its assets divided among all of its creditors on that basis."

Wadsworth said both judges stressed how important it is for these proceedings to go ahead in the most cost-effective and timely manner.

At its height in 1999 to 2000, Nortel was worth nearly \$300 billion, employed more than 90,000 people globally and was regarded as one Canada's most valuable companies.

In 2009, the company filed for bankruptcy in North America and Europe, shedding thousands of jobs.

Earlier this year, the former top brass at the firm were acquitted of fraud charges nearly a decade after being accused of falsifying financial records at the beleaguered company.

A judge found there was not enough evidence to convict ex-CEO Frank Dunn, ex-CFO Douglas Beatty and ex-controller Michael Gollogly of fraud.

The three were fired in 2004 and accused of being involved in a book-cooking scheme to trigger \$12.8 million in bonuses and stock payments to themselves.