

Business

Canada, U.S. courts to handle fight over Nortel Networks cash



By: **Michael Lewis** Business Reporter, Published on Fri Mar 08 2013

A decision on how to divvy up the remaining assets of bankrupt Nortel Networks Corp. will be made after an open, cross border trial likely to commence in the fall, a Canadian and U.S. judge ruled on Friday.

Litigation will be heard by the U.S. and Canadian courts sitting in joint session, Wilmington, Delaware-based U.S. Bankruptcy Court judge Kevin Gross told a conference call with Ontario Superior Court Justice Geoffrey Morawetz.

Europe, Middle East and Africa debtors and the U.K. pension trustee had asked the judges to send all claims to third-party arbitration, while Canada and U.S. debtors and the remaining creditors argued the litigation should be heard by the U.S. and Canadian courts in the jurisdictions where Nortel was most active.

Gross and Morawetz have been overseeing the liquidation of the Toronto-based former telecom giant since its 2009 collapse, a process that has featured three failed attempts at mediation. At issue is how to divide the \$9.7 billion (U.S.) in estate cash between bondholders, governments, former suppliers and tens of thousands of retirees in North America, Europe and elsewhere.

Some \$7.3 billion is held in escrow in New York while the remaining \$2.4 billion is in trust accounts primarily in Europe.

Mark Zigler, a lawyer for Koskie Minsky LLP, a Canadian firm representing Nortel retirees, said he welcomes the decision for a joint trial, saying pensioners might not have been given standing at an international arbitration.

But he said administrators for European debtors may appeal Friday's ruling, asserting that U.S. and Canadian courts lack jurisdiction to adjudicate claims in other regions. A ruling from the simultaneous cross-border trial, parts of which could be conducted through teleconference, would also be subject to normal appeal conditions.

Diane Urquhart, an independent financial analyst assisting Canadian long-term disabled former employees of Nortel, said the LTD group favours an open court process that could include testimony about Nortel bankruptcy fees to professionals including lawyers and accountants that have reached \$861 million.

The CAW and the other representatives of former Nortel employees, LTD recipients and pensioners also support the joint court process, calling it efficient and expeditious.

"In addition," said CAW associate counsel Barry Wadsworth, "it was our belief that the courts have the jurisdiction to hear and determine our argument that the world wide assets of Nortel in all jurisdictions should be divided equally between all of the company's creditors."