

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 INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD. 6326765 CANADA INC. and  
NOVAR INC.

the Applicants

MOTION RECORD  
(Returnable June 12, 2009)

June 11, 2009

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**TO: SERVICE LIST**

**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 INDALEX LIMITED, INDALEX  
HOLDINGS (B.C.) LTD., 6326765 CANADA INC. and  
NOVAR INC.

the Applicants

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Court File No. CV-09-8122-00CL

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 INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD. 6326765 CANADA INC. and  
NOVAR INC.

Applicants

MOTION RECORD

I N D E X

TAB

1. Notice of Motion

*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

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HOLDINGS (B.C.) LTD., 6326765 CANADA INC. and  
NOVAR INC.

the Applicants

NOTICE OF MOTION  
(Returnable June 12, 2009)

THE APPLICANTS, Indalex Limited, Indalex Holdings (B.C.) Ltd., 6326765 Canada Inc. and Novar Inc. (the "Applicants" or the "Canadian Debtors") will make a motion to the Court, on Friday June 12, 2009, at 10:00 a.m. or as soon after that time as the motion can be heard, at 361 University Avenue, Toronto, Ontario.

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

**THE MOTION IS FOR AN ORDER:**

- a) abridging the time for service of the Notice of Motion and Motion Record, if necessary, and that the motion is properly returnable on Friday June 12, 2009;
- b) authorizing the Applicants to enter into an agreement with JP Morgan Chase Bank N.A. in its capacity as administrative agent to the DIP Lenders and the DIP Lenders (as defined below) to amend the DIP Credit Agreement (as defined below) to permit the Applicants to borrow additional amounts under the DIP Credit Agreement;

- c) amending the Amended Amended and Restated Initial Order dated May 12, 2009 to increase the amount referred to in paragraph 33 of the Amended Amended and Restated Initial Order from U.S. \$24,360,000 to U.S. 29,500,000;
- d) approving the Third Report of the Monitor dated May 11, 2009 (the “**Third Report**”) and the activities of the Monitor (as described in the Third Report);
- e) such further and other relief as the Applicants may request and this Honourable Court shall deem just.

**THE GROUNDS FOR THE MOTION ARE:**

- a) On April 3, 2009, the Applicants filed for and obtained protection from their creditors under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), pursuant to an order (the “**Initial Order**”) of the Honourable Mr. Justice Morawetz (the “**Canadian Proceedings**”);
- b) Pursuant to the Initial Order, FTI Consulting Canada ULC was appointed as Monitor of the Applicants;
- c) The U.S. parent of Indalex Limited, Indalex Holding Corp. along with its parent company, Indalex Holdings Finance, Inc. and certain of their U.S. subsidiaries (the “**U.S. Debtors**”, and together with the Canadian Debtors, the “**Debtors**”) have commenced reorganization proceedings under Chapter 11 of Title 11 of the United States Code (the “**Chapter 11 Cases**”), before the United States Bankruptcy Court for the District of Delaware (the “**U.S. Court**”);
- d) On April 8, 2009, the Initial Order was amended and restated (the “**Amended and Restated Initial Order**”) to, *inter alia*, authorize the Applicants to exercise certain restructuring powers and authorize Indalex Limited to borrow funds pursuant to a debtor-in-possession credit agreement among the Canadian Debtors, the U.S. Debtors and a syndicate of lenders (the “**DIP Lenders**”) for

which JPMorgan Chase Bank, N.A. is administrative agent (the “**DIP Credit Agreement**”);

- e) On April 9, 2009, the U.S. Court issued an interim order approving the DIP Credit Agreement on an interim basis (the “**Interim DIP Order**”), pending the issuance of a final order by the U.S. Court finally approving the DIP Credit Agreement (the “**Final DIP Order**”);
- f) On May 11, 2009, the Monitor served the Third Report on the Service List in support of a motion to amend the Amended and Restated Initial Order;
- g) By order dated May 12, 2009, the Court further amended the Amended and Restated Initial Order to correct certain references in the order (now the “**Amended Amended and Restated Initial Order**”);
- h) The U.S. Debtors and the Canadian Debtors are currently in the process of finalizing terms with a stalking horse bidder for substantially all the business and assets of the Applicants and the U.S. Debtors. It is anticipated that the U.S. Debtors and the Canadian Debtors will be in Court in the U.S. and Canada on or before July 2, 2009 to approve the bidding procedures relating to that process;
- i) As a result of unanticipated cash flow difficulties, the Canadian Debtors have need of further financing from the DIP Lenders in order to permit it to continue to operate pending these proceedings, and the DIP Lenders have agreed to amend the DIP Credit Agreement to provide for an increase in the amount available to the Applicants under the DIP Credit Agreement from U.S. \$24,360,000 to U.S. \$29,500,000, on the terms as provided for in Amendment No. 1 to the DIP Credit Agreement, dated June 11, 2009 attached as Appendix A to the Fourth Report;
- j) The requested amendment is in the best interest of the Applicants and their stakeholders will provide the needed liquidity and will allow the Applicants to



maintain confidence and stability as the stalking horse agreement is completed and a going concern solution is finalized;

- k) The grounds as further detailed in the Fourth Report;
- l) Rules 2.03, 3 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
- m) Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

- a) The Fourth Report; and
- b) Such further and other materials as counsel may advise and this Honourable Court may permit.

June 11, 2009

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Lawyers for the Applicants

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

Court File No: CV-09-8122-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD., 6326765 CANADA INC. and  
NOVAR INC.**

**ONTARIO  
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Proceeding commenced at Toronto

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(RETURNABLE JUNE 12, 2009)**

**BLAKE, CASSELS & GRAYDON LLP**  
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