

Court File No. CV-14-507120

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:

THE CATALYST CAPITAL GROUP INC.

Plaintiff

- and -

BRANDON MOYSE and WEST FACE CAPITAL INC.

Defendants

--- This is the Examination for Discovery of
GABRIEL DE ALBA, taken at the offices of Lax
O'Sullivan Lisus Gottlieb LLP, 27th Floor, 145 King
Street West, Toronto, Ontario, on the 11th day of
May, 2016.

1 A. I don't recall.

2 503 Q. Do you have any evidence that
3 VimpelCom or any of its affiliates as defined in
4 the agreement breached the exclusivity agreement?

5 MR. DIPUCCHIO: Well, okay, help me out
6 with this. You guys made a big deal about an
7 inducing claim being completely separate from what
8 we're dealing with here, so why is that relevant?

9 MR. MILNE-SMITH: If you're not
10 pursuing it --

11 MR. DIPUCCHIO: Well, I'm not saying
12 I'm not pursuing it. I'm just trying to figure out
13 why it's relevant to this proceeding.

14 MR. MILNE-SMITH: Because I'm still not
15 clear if you're pursuing it in this proceeding.

16 MR. DIPUCCHIO: But that's a different
17 question. You can write to me on that.

18 BY MR. MILNE-SMITH:

19 504 Q. Are you pursuing an inducing
20 breach claim in this proceeding?

21 MR. DIPUCCHIO: I don't think we have
22 to answer that today, counsel. In this proceeding?

23 MR. MILNE-SMITH: In this proceeding,
24 the one that's going to trial.

25 MR. DIPUCCHIO: No, obviously the

1 pleadings aren't for inducing.

2 BY MR. MILNE-SMITH:

3 505 Q. Are you pursuing a claim in this
4 proceeding that AAL Telecom Holdings Incorporated,
5 any of its subsidiaries or any of its three
6 principals that I will identify - Mr. Scheschuk,
7 Mr. Lacavera or Mr. Lockie - are you pursuing a
8 claim that any of those parties have breached any
9 kind of legal duty or obligation to Catalyst in
10 respect of their discussions with West Face?

11 MR. DIPUCCHIO: As part of this claim?

12 MR. MILNE-SMITH: Yes.

13 U/T MR. DIPUCCHIO: Let me consider that
14 question and I'll get back to you on that, okay? I
15 think the answer to that is no, obviously, but let
16 me just consider that, okay?

17 BY MR. MILNE-SMITH:

18 506 Q. Let's go to CCG0012078.

19 MR. VERMEERSCH: Is there a parent to
20 that document?

21 MR. MILNE-SMITH: 12076 is the parent.

22 BY MR. MILNE-SMITH:

23 507 Q. Anyway, 12078 is a Wind Mobile
24 branded document?

25 MR. VERMEERSCH: We have it.

1 BY MR. MILNE-SMITH:

2 508 Q. Which lists Industry Canada active
3 files. So do I understand correctly that this is a
4 document produced by Wind and given to Catalyst as
5 part of the negotiations concerning its ongoing or
6 active discussions with Industry Canada about
7 regulatory matters?

8 A. Yeah, that's what it appears to
9 be.

10 509 Q. Okay. And you see it refers right
11 on the first paragraph to press materials and
12 public statements on July 7 about an AWS3 policy
13 consultation document? I take it we're on common
14 ground that the AWS3 being referenced there is a
15 wireless spectrum auction that had been announced
16 for 2015?

17 A. Could you point me again to the
18 section you are referring to?

19 510 Q. First paragraph. And then you'll
20 see there's a number of bullet points there setting
21 out that there's going to be a set-aside spectrum
22 for new entrants of AWS3 wireless spectrum?

23 A. Correct.

24 511 Q. And you recall this happening,
25 obviously, it was a major event in terms of Wind