

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE BANKRUPTCY OF DYLEX LIMITED, A COMPANY
INCORPORATED PURSUANT TO THE LAWS OF CANADA AND HAVING ITS HEAD
OFFICE IN THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

THE HONOURABLE

)

TUESDAY, THE 14th

JUSTICE

)



DAY OF JANUARY, 2020

)



APPROVAL AND VESTING ORDER

THIS MOTION, made by KSV Kofman Inc. ("KSV") in its capacity as the Trustee in Bankruptcy (the "Trustee") of the undertaking, property and assets of Dylex Limited ("Dylex") (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Trustee and Equinix (US) Enterprises, Inc. (the "Purchaser") dated December 3, 2019 and appended to the Report of the Trustee dated December 18, 2019 (the "Report"), and vesting in the Purchaser the Trustee's right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

 ON READING the Report and on hearing the submissions of counsel for the Trustee,  **EQUINIX**, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Hayley Morgan sworn December 30, 2019, filed:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Trustee is hereby authorized and approved, with such minor amendments as the Trustee may deem necessary. The Trustee is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Trustee's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Trustee's Certificate"), all of the Trustee's right, title and interest in and to the Purchased Assets described in the Sale Agreement [and listed on Schedule B hereto] shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims").

3. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Trustee's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

4. THIS COURT ORDERS AND DIRECTS the Trustee to file with the Court a copy of the Trustee's Certificate, forthwith after delivery thereof.

5. THIS COURT ORDERS that, notwithstanding:

(a) the pendency of these proceedings; and

(b) the bankruptcy made of the Debtor;

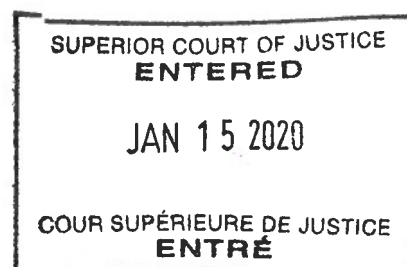
the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on the Trustee and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

6. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

7. THIS COURT ORDERS, as agreed between the American Registry for Internet Numbers ("ARIN") and the Purchaser, from and after the Closing, the Purchaser's interest in the Legacy Number Blocks shall be subject to the terms and conditions established by ARIN's policies as published on its website; provided that any dispute as between ARIN and the Purchaser shall be resolved in accordance with the terms of their agreement, including as may be addressed in any dispute resolution, governing law, forum or attornment to jurisdiction provisions.

8. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, the United Kingdom or elsewhere, to give effect to this Order and to assist the Trustee in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Trustee in any foreign proceeding, or to assist the Trustee in carrying out the terms of this Order.

9. THIS COURT ORDERS that the Trustee be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.



Schedule A – Form of Trustee’s Certificate

Court File No. _____

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TRUSTEE’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice McEwen of the Ontario Superior Court of Justice (the "Court") dated December 12, 2019, KSV Kofman Inc. was reappointed as the Trustee (the "Trustee") of the undertaking, property and assets of Dylex Limited (the “Debtor”).

B. Pursuant to an Order of the Court dated [DATE], the Court approved the agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "Sale Agreement") between the Trustee [Debtor] and Equinix (US) Enterprises, Inc. (the "Purchaser") and provided for the vesting in the Purchaser of the Trustee’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Trustee to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section ● of the Sale Agreement have been satisfied or waived by the Trustee and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Trustee.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE TRUSTEE CERTIFIES the following:

1. The Purchaser has paid and the Trustee has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;

2. The conditions to Closing as set out in section • of the Sale Agreement have been satisfied or waived by the Trustee and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Trustee.
4. This Certificate was delivered by the Trustee at _____ [TIME] on _____ [DATE].

**KSV Kofman Inc., in its capacity as Trustee
of the Estate of Dylex Limited, and not in its
personal capacity**

Per: _____

Name:

Title:

Schedule B – Purchased Assets

IN THE MATTER OF THE BANKRUPTCY OF DYLEX LIMITED, A COMPANY INCORPORATED
PURSUANT TO THE LAWS OF CANADA AND HAVING ITS HEAD OFFICE IN THE CITY OF
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Court File No. 31-394548

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

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Trustee of the Estate of Dylex Limited, and not in its
personal capacity