

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF COLORADO**

In re:)
) Chapter 15
NILEX USA INC.) Case No.
)
Debtor in Foreign Proceeding.)
)

**ORDER GRANTING RECOGNITION AS A FOREIGN
MAIN PROCEEDING AND RELATED RELIEF**

THIS MATTER is brought before the Court by KSV Restructuring Inc. (“KSV”), as the court-appointed Proposal Trustee (the “Proposal Trustee”) and authorized foreign representative of Nilex USA Inc. (“Nilex USA” and collectively with Nilex Inc., referred to as the “Nilex Debtors”) in the proceeding (the “Canadian Nilex USA Proceeding”¹), commenced by the filing of a notice of intention to make a proposal (an “NOI”) pursuant to section 50.4 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “BIA”) on November 24, 2022 and currently pending in the Court of King’s Bench of Alberta, Canada (the “Alberta Court”), pursuant to sections 105(a) and 1519 of title 11 of the United States Code (the “Bankruptcy Code”).

The Court has reviewed the official form petition and the Petition for Recognition as Foreign Main Proceeding Pursuant to Sections 1515 and 1517 of the United States Bankruptcy Code and Related Relief (together, the “Petition”), pursuant to section 1515 of Title 11 of the United States Code (the “Bankruptcy Code”) for entry of an order recognizing the Canadian Nilex USA Proceeding as a foreign main proceeding pursuant to section 1517 of the Bankruptcy

¹ The Canadian Nilex USA Proceeding, together with similar proceedings commenced by Nilex Inc. on October 27, 2022 are collectively referred to herein as the “**Canadian Proceedings.**”

Code, thereby granting related relief pursuant to section 1520 of the Bankruptcy Code and additional relief pursuant to section 1521 of the Bankruptcy Code.

Due and timely notice of the filing of the Petition was given pursuant to Rule 2002(q) of the Federal Rules of Bankruptcy Procedure.

After due deliberation and sufficient cause appearing, the Court finds and concludes as follows:

- A. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a) and (b) and 1334(a) and (b) and Sections 109 and 1501 of the Bankruptcy Code. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P).
- B. Venue is proper in this district pursuant to 28 U.S.C. § 1410(1).
- C. The Proposal Trustee is a person within the meaning of Section 101(41) of the Bankruptcy Code and is the duly appointed foreign representative of Nilex USA within the meaning of section 101(24) of the Bankruptcy Code.
- D. This case was properly commenced pursuant to sections 1504 and 1515 of the Bankruptcy Code.
- E. The Canadian Nilex USA Proceeding is a foreign proceeding within the meaning of section 101(23) of the Bankruptcy Code.
- F. The Canadian Nilex USA Proceeding is entitled to recognition by this Court pursuant to section 1517 of the Bankruptcy Code.
- G. The Canadian Nilex USA Proceeding is entitled to recognition as a foreign main proceeding pursuant to section 1502(4) of the Bankruptcy Code and is entitled to recognition as a foreign main proceeding pursuant to section 1517(b)(1) of the Bankruptcy Code.
- H. The Proposal Trustee is entitled to the relief afforded under section 1520 of the Bankruptcy Code.
- I. In order to protect the assets of Nilex USA and the interests of creditors, the Proposal Trustee is entitled to additional relief provided in and pursuant to section 1521 of the Bankruptcy Code, including the application of section 365 of the Bankruptcy Code, in its entirety.

- J. The relief granted is necessary and appropriate, in the interest of the public and international comity, consistent with the United States public policy, and will not cause any hardship to any party in interest that is not outweighed by the benefits of granting the requested relief.

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

1. The Canadian Nilex USA Proceeding is hereby recognized as a foreign main proceeding pursuant to section 1517 of the Bankruptcy Code.

2. The Proposal Trustee is granted all of the relief afforded under section 1520 of the Bankruptcy Code.

3. The terms of the Order (procedural consolidation and ancillary relief) (“Ancillary Order”) are given full force and effect in the United States.

4. The following additional relief is granted pursuant to section 1521 of the Bankruptcy Code:

(a) The commencement or continuation of any action or proceeding concerning the assets, rights, obligations or liabilities of Nilex USA, including any action or proceeding against KSV in its capacity as Proposal Trustee and Foreign Representative of Nilex USA, to the extent not stayed under section 1520(a) of the Bankruptcy Code, is hereby stayed;

(b) The terms of the Ancillary Order shall apply to Nilex USA, its creditors, the Proposal Trustee, and any other parties-in-interest;

(c) Section 365 of the Bankruptcy Code, in its entirety, shall apply to the Nilex USA bankruptcy proceeding; and

(d) The right and power to transfer, encumber, or otherwise dispose of any assets of Nilex USA is prohibited, except to facilitate the operation of Nilex USA's business in the ordinary course, unless authorized in writing by Order of this Court.

5. Nothing in this Order shall be deemed to entrust or otherwise vest Nilex USA or its assets to the Proposal Trustee, with the terms of the Ancillary Order to expressly govern the rights and responsibilities as foreign representative in this foreign main proceeding.

6. Notwithstanding Rule 7062 of the Bankruptcy Rules, made applicable to this case by Rule 1018 of the Bankruptcy Rules, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry and, upon its entry, shall become final and appealable.

7. This Court shall retain jurisdiction with respect to the enforcement, amendment or modification of this Order, any request for additional relief or any adversary proceeding brought in and through this chapter 15 foreign proceeding, and any request by an entity for relief from the provisions of this Order, for cause shown, that is properly commenced and within the jurisdiction of this Court.

Dated: January 10, 2022.

BY THE COURT



Hon. Michael E. Romero
United States Bankruptcy Judge