

COURT FILE NUMBER

2301 – 03785

COURT

COURT OF KING'S BENCH
OF ALBERTA

JUDICIAL CENTRE

CALGARY



C101154

APPLICANTS

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

AND IN THE MATTER OF CYXTERA TECHNOLOGIES, INC.
CYXTERA CANADA, LLC, CYXTERA COMMUNICATIONS
CANADA, ULC AND CYXTERA CANADA TRS, ULC

DOCUMENT

THIRD REPORT OF THE INFORMATION OFFICER

September 1, 2023

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

INFORMATION OFFICER

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APPENDICES

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INTRODUCTION

Cyxtera Chapter 11 Proceedings

1. On June 4, 2023 (the “**Petition Date**”):
 - a) Delaware incorporated entities Cyxtera Technologies, Inc. (“**CTI**”) and Cyxtera Canada, LLC (“**Cyxtera LLC**”);
 - b) Alberta incorporated entities Cyxtera Communications Canada, ULC (“**Communications ULC**”) and Cyxtera Canada TRS, ULC (“**TRS ULC**”) (collectively “**Cyxtera Canada**”); and
 - c) twelve other non-Canadian registered affiliates;

(each a “**Debtor**” and collectively, the “**Debtors**”, and together with their direct and indirect non-Debtor affiliates, “**Cyxtera**” or the “**Cyxtera Group**”),commenced voluntary reorganization proceedings¹ (the “**Chapter 11 Proceedings**”) pursuant to Chapter 11 of the U.S. Code (the “**U.S. Bankruptcy Code**”) before the United States Bankruptcy Court District of New Jersey (the “**U.S. Bankruptcy Court**”). A list of all the Debtors is attached hereto as **Appendix “A”**.
2. On June 6, 2023, the U.S. Bankruptcy Court granted various interim and final orders in the Chapter 11 Proceedings (the “**First Day Orders**”), including an order (the “**Foreign Representative Order**”) authorizing CTI to act as foreign representative of Cyxtera Canada and Cyxtera LLC (in such capacity, the “**Foreign Representative**”) in a proceeding to be commenced in the Court of King’s Bench of Alberta (the “**Canadian Court**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**” and these proceedings the “**CCAA Recognition Proceedings**”, and together with the Chapter

¹ On June 6, 2023, the U.S. Bankruptcy Court granted an order directing, for procedural purposes only, joint administration of the Chapter 11 Proceedings as Cyxtera Technologies Inc. *et al.* (the “**Joint Administration Order**”). This order does not provide for consolidation for substantive purposes.

11 Proceedings, the “**Restructuring Proceedings**”). The Foreign Representative Order also authorizes CTI to:

- a) seek recognition of the Chapter 11 Proceedings in a proceeding in Canada;
- b) request that the Canadian Court lend assistance to the U.S. Bankruptcy Court in protecting the property within the estates of the Debtors; and
- c) seek any other appropriate relief from the Canadian Court that CTI deems just and proper in furtherance of the protection of the Debtors’ estates.

CCAA Recognition Proceedings

3. On June 7, 2023, and as previously defined and discussed in prior reports², the Foreign Representative obtained two orders from the Canadian Court, namely an Initial Recognition Order and Supplemental Recognition Order, which, among other things, appointed Alvarez & Marsal Canada Inc. (“**A&M Canada**”) as information officer in respect of the CCAA Recognition Proceedings (in such capacity, the “**Information Officer**”) and granted certain super-priority charges over the Debtors’ Canadian assets, specifically the Administration Charge and the DIP Lender’s Charge (collectively, the “**CCAA Charges**”), as such terms described in the Pre-Filing Report.
4. In addition, the Supplemental Recognition Order recognized and gave effect in Canada to several of the First Day Orders of the U.S. Court, including, among others, the Foreign Representative Order, Joint Administration Order and several other First Day Orders of the U.S. Court, including the interim Cash Management Order and the interim DIP Financing Order.

² The Pre-Filing Report of the Proposed Information Officer dated June 7, 2023 (“**Pre-Filing Report**”), the First Report of the Information Officer dated June 30, 2023 (the “**First Report**”) and the Second Report of the Information Officer dated July 28, 2023 (the “**Second Report**”) are collectively referred to as the “**Prior Information Officer Reports**”.

5. In June and July 2023, the Foreign Representative obtained orders from the Canadian Court including, among other approvals, recognizing and giving effect in Canada to the second and third interim Cash Management Orders, a final DIP Financing Order, the Bidding Procedures Order and the Bar Date Order (each as defined and discussed in the Prior Information Officer Reports).
6. Further information regarding these CCAA Recognition Proceedings can be found on the Information Officer's website at www.alvarezandmarsal.com/CyxteraCanada (the "**Case Website**"). Copies of documents filed in the Chapter 11 Proceedings can be found on the case website maintained by Kurtzman Carson Consultants LLC ("**KCC**") at: www.kccllc.net/Cyxtera (the "**Chapter 11 Website**"), which can also be accessed via the Case Website.

TERMS OF REFERENCE AND DISCLAIMER

7. In preparing this Third Report of the Information Officer (the "**Third Report**"), the Information Officer has relied solely on information and documents provided by the Foreign Representative and their Canadian legal counsel (collectively, the "**Information**"). Except as otherwise described in this Third Report, the Information Officer has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Information Officer has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards ("**CASs**") pursuant to the *Chartered Professional Accountants Canada Handbook* (the "**Handbook**"), and accordingly, the Information Officer expresses no opinion or other form of assurance contemplated under CASs in respect of the Information.

8. This Third Report should be read in conjunction with the Affidavit of Mr. Koza sworn September 1, 2023 (the “**Fourth Koza Affidavit**”)³, which has been sworn and filed in connection with the CCAA Recognition Proceedings.
9. Unless otherwise stated, all monetary amounts contained herein are expressed in USD.

PURPOSE OF THIS THIRD REPORT

10. The purpose of this Third Report is to provide the Canadian Court with information or additional information regarding the following:
 - a) the status of the Chapter 11 Proceedings;
 - b) the Order of the U.S. Bankruptcy Court for which the Foreign Representative is seeking recognition of in Canada;
 - c) the activities of the Information Officer since the date of the Second Report;
 - d) CTI’s request for approval of the professional fees and costs of the Information Officer up to August 29, 2023, Cyxtera Canada’s legal counsel, Gowling WLG (Canada) LLP (“**Gowling**”) up to August 30, 2023, and the Information Officer’s legal counsel, McMillan LLP (“**McMillan**”) up to August 30, 2023; and
 - e) the Information Officer’s conclusions and recommendations.

STATUS OF THE CHAPTER 11 PROCEEDINGS

Bidding Procedures

11. On June 29, 2023, the U.S. Bankruptcy Court entered an Order through a certificate of no objection (the “**Bidding Procedures Order**”) (i) Approving the Bidding

³ The Fourth Koza Affidavit along with the Affidavit of Mr. Koza sworn June 6, 2023 (the “**First Koza Affidavit**”), the Affidavit of Mr. Koza sworn June 30, 2023 (the “**Second Koza Affidavit**”) and the Affidavit of Mr. Koza sworn July 27, 2023 (the “**Third Koza Affidavit**”) are collectively referred to as the “**Koza Affidavits**”.

Procedures (“**Bidding Procedures**”) and Auction, (ii) Approving the Stalking Horse Bid Protections, (iii) Scheduling Bid Deadlines and an Auction, and (iv) Approving the Form and Manner of Notice Thereof. On July 12, 2023, the Foreign Representative obtained an order from the Canadian Court recognizing and giving effect in Canada to the Bidding Procedures Order.

12. On July 14, 2023, as outlined in the Bidding Procedures, the Debtors provided notice that they received at least one acceptable non-binding written proposal (“**Acceptable Bidder**”).

13. The following schedule outlines the timelines of the Marketing Process, as approved in the Bidding Procedures Order, updated based on the receipt of at least one Acceptable Bidder:

Action	Deadline
Acceptable Bidder Deadline	July 10, 2023 at 5:00p.m. EST
Stalking Horse Deadline	July 24, 2023 at 5:00p.m. EST
Final Bid Deadline	July 31, 2023 at 5:00p.m. EST
Auction (if applicable)	August 7, 2023 at 10:00a.m. EST
Notice of Successful Bidder	As soon as reasonably practical after the conclusion of the Auction (if necessary)

14. The Bidding Procedures are described further in the First Report and attached thereto. The timeline in the Bidding Procedures is consistent with the case timeline in the Debtors’ DIP Facility agreement and allows for confirmation of a plan before September 22, 2023.

15. On July 31, 2023, the Debtors provided notice that they amended the sale schedule as follows, as, pursuant to Section XVII of the Bidding Procedures, the Debtors reserved their right to modify the Bidding Procedures in good faith, to further the goal of attaining the highest or otherwise best offer:

Action	Original Deadline	Amended Deadline
Stalking Horse Deadline	July 24, 2023 at 5:00 p.m. EST	August 16, 2023 at 5:00 p.m. EST
Final Bid Deadline	July 31, 2023 at 5:00 p.m. EST	August 18, 2023 at 5:00 p.m. EST

Auction (if applicable)	August 7, 2023 at 10:00 a.m. EST	August 23, 2023 at 10:00 a.m. EST
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16. The Debtors believed additional time was necessary to complete their comprehensive sale process, to receive and evaluate bids, and if necessary, hold an Auction to determine the best bid for the Sale Package.
17. On August 22, 2023, the Debtors provided notice that they received multiple bids and amended the sale schedule (pursuant to Section XVII of the Bidding Procedures), as follows:

Action	Original Deadline	Amended Deadline
Auction (if applicable)	August 23, 2023 at 10:00 a.m. EST	August 30, 2023 at 10:00 a.m. EST

18. The Debtors believed additional time was necessary to evaluate the multiple bids, and if necessary, hold an Auction to determine the best bid for the Sale Package.
19. On August 29, 202, the Debtors provided notice that they cancelled the Auction.

Other Chapter 11 Proceeding Matters

20. On June 20, 2023, the United States Trustee for Regions 3 and 9 (the “**U.S. Trustee**”), pursuant to Section 1102(a) of the U.S. Bankruptcy Code, appointed five creditors to the official committee of unsecured creditors (the “**UCC**”).
21. On July 19, 2023, the U.S. Bankruptcy Court entered an Order through a certificate of no objection (the “**Bar Date Order**”) (i) Setting Bar Dates for Submitting Proofs of Claim, including Requests for Payment Under Section 503(b)(9), (ii) Establishing an Amended Schedules Bar Date and a Rejection Damages Bar Date, (iii) Approving the Form, Manner, and Procedures for Filing Proofs of Claim, and (iv) Approving the Notice Thereof. On July 31, 2023, the Foreign Representative obtained an order from the Canadian Court recognizing and giving effect in Canada to the Bar Date Order.

22. On August 7, 2023, the Debtors filed a joint plan of reorganization (the “**Joint Plan**”) on behalf of CTI and its Debtor affiliates. On August 15, 2023, the Debtors submitted a disclosure statement (this “**Disclosure Statement**”), pursuant to section 1125 of the U.S. Bankruptcy Code, to holders of claims against the Debtors in connection with the solicitation of votes for acceptance of the Joint Plan.
23. On August 15, 2023, the Debtors filed a motion (the “**Disclosure Statement Motion**”) for entry of an Order approving (i) the adequacy of the Disclosure Statement, (ii) the solicitation procedures, (iii) the forms of ballots and notices in connection therewith, and (iv) certain dates with respect thereto. The Disclosure Statement Motion is scheduled to be heard by the U.S. Bankruptcy Court on September 21, 2023 at 10:00a.m. EST (the “**Disclosure Statement Hearing**”).
24. The Information Officer will monitor the status of the Joint Plan and the Disclosure Statement (including any alterations, amendments, modifications or supplementations) in advance of the Disclosure Statement Hearing. No relief is currently being sought before the Canadian Court in respect of the Joint Plan or the Disclosure Statement. The Information Officer will prepare a report on these matters when it is considered appropriate and relevant to the CCAA Recognition Proceedings, in response to any application brought forward by the Foreign Representative.

Updated Financial Information

25. On September 1, 2023, Cyxtera’s financial advisor provided the Information Officer with a cash flow forecast (including two weeks of actuals) of Communications ULC for the 13-week period from August 14, 2023, to November 12, 2023 (the “**Canadian Budget**”). The Canadian Budget is found in the Fourth Koza Affidavit. The Information Officer will review the Canadian Budget, including following up with any questions to Cyxtera’s financial advisor, and will provide the Court any additional analysis in a subsequent report, if considered appropriate and relevant to the CCAA Recognition Proceedings.

SUBSEQUENT ORDERS OF THE U.S. BANKRUPTCY COURT

Cash Management Order

26. Since the date of the First Report, the U.S. Bankruptcy Court made, among others, the fourth interim Cash Management Order for which recognition is sought in the Canadian Proceedings⁴.
27. Copies of the fourth interim Cash Management Order and other documents related to the Chapter 11 Proceedings are available on the Chapter 11 Website, a link to which is included on the Case Website.
28. No objections were filed in relation to the fourth interim Cash Management Order motion prior to the objection deadline.
29. The Cash Management Order, among other things, authorizes the Debtors on an interim basis to continue their Cash Management System and continue to perform Intercompany Transactions (as described in the Pre-Filing Report). Post-petition date transfers and payments from one Debtor to another Debtor under any Intercompany Transactions authorized under the Cash Management Order are accorded super-priority administrative expense status.
30. The fourth interim Cash Management Order is generally consistent with the third interim order.
31. As previously discussed in the Second Report, the Information Officer has been advised that the Debtors currently intend to continue to extend the Cash Management Order on an interim basis, as Cyxtera Canada has bank accounts in Canada that are not fully insured by a government backed insurance program, in particular the US Federal Deposit Insurance Corporation, and the U.S. Trustee cannot approve, on a final basis, bank accounts that are not fully insured by a government backed insurance program. The Information Officer has been advised

⁴ Additional information regarding the order can be found in the Koza Affidavits.

that Cyxtera Canada continues to take steps to review its options, including seeking alternative banking arrangements and insurance programs, or potentially moving sufficient funds from the Canadian bank accounts to maintain Communications ULC's operations and moving the remainder to a US bank account in the name of Cyxtera Canada, LLC, and discussing same with the U.S. Trustee.

ACTIVITIES OF THE INFORMATION OFFICER

32. The activities of the Information Officer since the date of the Second Report (July 28, 2023) until the date of this Report have included:

- a) reviewing relevant materials filed in the Chapter 11 Proceedings and drafts of the application materials for the CCAA Recognition Proceedings;
- b) reviewing, analyzing and considering the financial and other information received by the Information Officer;
- c) maintaining the Case Website for the CCAA Recognition Proceedings to make available copies of the orders granted in the Restructuring Proceedings and other relevant motion materials and reports;
- d) monitoring the Chapter 11 Website for activity in the Chapter 11 Proceedings;
- e) reviewing and considering the orders made in the Chapter 11 Proceedings;
- f) communicating with United States and Canadian counsel to CTI and the Cyxtera's financial advisor regarding matters relevant to the Restructuring Proceedings;
- g) attending the hearing before the Canadian Court on July 31, 2023;
- h) responding to inquiries from stakeholders and interested parties; and
- i) preparing this Fourth Report.

APPROVAL OF PROFESSIONAL FEES AND EXPENSES

33. The Foreign Representative previously obtained orders from the Canadian Court approving the accounts of the Foreign Representatives and Debtors' legal counsel, Gowling, the Information Officer and the Information Officer's independent legal counsel (the "**Canadian Professionals**") for the consolidated period between May 23, 2023 to July 24, 2023 as outlined previously in prior Information Officer reports.
34. CTI, Cyxtera Canada and Cyxtera LLC now seek approval from the Canadian Court of the Canadian Professionals fees and costs for the following amounts and time periods:
- a) Professional fees and costs rendered by the Information Officer, from July 22, 2023 to August 29, 2023, total CAD\$22,011.00 (exclusive of GST);
 - b) Professional fees and costs rendered by McMillan, the Information Officer's counsel, from July 22, 2023 to August 30, 2023, total CAD\$12,068.60 (exclusive of GST); and
 - c) Professional fees and costs rendered by Gowling, CTI's and the Debtors' Canadian counsel, from July 21, 2023 to August 30, 2023, total CAD\$108,825.85 (inclusive of GST).
35. The accounts of the Canadian Professionals outline the date of the work completed, the description of the work completed, the length of time taken to complete the work and the name of the individual who completed the work. Copies of the invoices of the Information Officer and McMillan will be made available to the Court and any interested party, if requested, at or before the Debtor's application set for September 6, 2023. Gowling's account is found in the Fourth Koza Affidavit.
36. The Information Officer respectfully submits that its professional fees and costs and those of its legal counsel and Gowling are fair and reasonable in the

circumstances, given the tasks required to be performed by the Canadian Professionals within the Restructuring Proceedings.

RECOMMENDATIONS

37. The Information Officer understands that recognition by the Canadian Court of the requested orders is necessary for the conduct of the Restructuring Proceedings, and that absent such recognition and relief, the restructuring efforts of the Debtors could be impaired.
38. The Information Officer has reviewed the fourth interim Cash Management Order.
39. CTI has advised that recognition of this Order is required for the protection of Debtors' property or protection of the interests of its creditors and/or are required in order for the Debtors to continue to operate in the ordinary course of their business and complete their restructuring efforts in the Chapter 11 Proceedings.
40. CTI has advised that no objections were filed by a Canadian creditor in the Chapter 11 Proceedings and that this Order treats Canadian creditors the same as creditors of the other Chapter 11 Debtors. Accordingly, the Information Officer is of the view that granting recognition of this order is reasonable and appropriate in the circumstances.
41. Based on the foregoing, the Information Officer respectfully recommends that the Canadian Court grant the relief requested by the Foreign Representative.

All of which is respectfully submitted this 1st day of September, 2023.

**ALVAREZ & MARSAL CANADA INC.,
in its capacity as the Information Officer of
Cyxtera Canada and not its personal or corporate capacity**



Orest Konowalchuk, CPA, CA, CIRP, LIT
Senior Vice President

Appendix “A”

CYXTERA TECHNOLOGIES, INC. ¹
CYXTERA CANADA, LLC
CYXTERA CANADA TRS, ULC
CYXTERA COMMUNICATIONS CANADA, ULC
CYXTERA COMMUNICATIONS, LLC
CYXTERA DATA CENTERS, INC.
CYXTERA DC HOLDINGS, INC.
CYXTERA DC PARENT HOLDINGS, INC.
CYXTERA DIGITAL SERVICES, LLC
CYXTERA EMPLOYER SERVICES, LLC
CYXTERA FEDERAL GROUP, INC.
CYXTERA HOLDINGS, LLC
CYXTERA MANAGEMENT, INC.
CYXTERA NETHERLANDS B.V.
CYXTERA TECHNOLOGIES, LLC
CYXTERA TECHNOLOGIES MARYLAND, INC.

¹ A complete list of each of the Debtors in the Chapter 11 Proceedings may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.kcellc.net/cyxtera>.