

**ONTARIO
SUPERIOR COURT OF JUSTICE - COMMERCIAL LIST**

B E T W E E N :

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
INSCAPE CORPORATION, INSCAPE (NEW YORK) INC., AND INSCAPE INC.
(collectively, the "**Applicants**")

Applicants

**STATEMENT OF LAW
(Settlement Approval)**

PART I – NATURE OF THE MOTION

1. This statement of law is filed in support of the motion brought by the Applicants for an Order:
 - (a) approving a settlement agreement made between Prevolv, Inc. ("**Prevolv**") and the Applicants and dated as of May 30, 2023 ("**Settlement Agreement**"); and
 - (b) vacating the motion date scheduled for July 11, 2023 for the hearing of the Applicants' Constructive Trust Motion (as defined below).

PART II – THE LAW

2. The *Companies' Creditors Arrangement Act*, R.S.C. 1985, C. C-36 ("**CCAA**") is a flexible statute, and the court has jurisdiction to approve major transactions, including settlement agreements, during the CCAA proceedings.¹
3. Section 11 of the CCAA provides as follows:

¹ [*Nortel Networks Corp., Re.*](#) 2010 ONSC 1708 (Ont. S.C.J. [Commercial List]), paras 66.70.

General power of court

11 Despite anything in the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

4. The CCAA affords courts broad jurisdiction to make orders and “fill in the gaps in legislation so as to give effect to the objects of the CCAA”.²
5. When considering whether to approve a settlement in the context of the CCAA the Court must be satisfied that:³
 - (i) the transaction is fair and reasonable;
 - (ii) the transaction would be beneficial to the debtor and its stakeholders generally; and
 - (iii) the settlement is consistent with the purpose and spirit of the CCAA.

² *Re Canadian Red Cross Society*, 1998 CanLII 14907 (ON SC) at para 43.

³ *Nortel Networks Corporation (Re)*, 2018 ONSC 6257, 2018 CarswellOnt 18952 at para 24; *Labourers' Pension Fund of Central and Eastern Canada v. Sino-Forest Corp.*, 2013 ONSC 1078 (Ont. S.C.J. [Commercial List]) at para 49.

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
INSCAPE CORPORATION, INSCAPE (NEW YORK) INC., AND INSCAPE INC.

Court File No.: CV-23-00692784-00CL

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Proceeding commenced at TORONTO

STATEMENT OF LAW
(returnable June 9, 2023)

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