

## Inside the Nortel auction

In addition to Google (operating under the Ranger moniker during the sale process), four parties took part in the auction for the Nortel patent portfolio: Apple; Rockstar Bidco, a consortium of major technology companies consisting of Microsoft, EMC, Sony, Ericsson and RIM; Intel Corporation; and Norpax LLC, an offshoot of RPX Corp.

Prior to the auction each of the four submitted an opening bid. The one from Intel was chosen to be the starting bid. The auction got underway at 9:15 am on 27th June at the New York offices of Cleary Gottlieb Steen & Hamilton. Full details of how things progressed over the course of the following four days were revealed in documents released by the Ontario Superior Court of Justice on 6th July. An edited excerpt follows:

*The Intel bid was announced as the Starting Bid and the Qualified Bidders were advised that the minimum bid increment was set at \$5 million in accordance with the Bidding Procedures. The Qualified Bidders were also advised of certain rules and procedures ... including the requirement that each Qualified Bidder (other than one that submitted a bid deemed to be the Leading Bid in the immediately preceding round) submit a bid in each round in order to be eligible to continue to submit bids independently in the Auction.... All four of the other Qualified Bidders submitted new bids.*

*Following consultation ...the Auction was re-convened and the Sellers announced a new Leading Bid. The Sellers then asked for a second round of bidding, exercised their discretion ... to increase the incremental net value threshold for bids to \$50 million from the initial threshold of \$5 million, and adjourned the Auction again to allow the other Qualified Bidders to prepare revised offers.*

*In the second round of bidding, three bids were received. Norpax did not submit a bid in the second round, but elected to remain in attendance at the Auction in accordance with the Bidding Procedures. Following consultation among the relevant Nortel entities and their constituents as noted above, the Auction was reconvened, a new Leading Bid was declared, the incremental net value threshold was increased to \$100 million, and the Qualified Bidders were advised that*

*Norpax had not submitted a bid and therefore the number of Qualified Bidders participating in the Auction was reduced to four. The Auction was adjourned again.*

*The Auction continued for a further seventeen rounds of bidding over the course of June 27, 28, 29 and 30, 2011. Rockstar did not submit a bid in the fifth round and in accordance with the Auction rules ... was not permitted to submit further independent bids. Accordingly, the number of Qualified Bidders ... was reduced to three.*

*... Apple, with the consent of the Sellers, had discussions with Rockstar regarding potential partnership opportunities. Following these discussions, Apple indicated it wished to partner with Rockstar and adopt Rockstar's transaction structure (including using Rockstar as the purchaser). The Sellers consented to this proposal and the balance of Apple's bids at the Auction adopted the Rockstar structure. Following the sixth round of the Auction, Intel indicated it was withdrawing and would not be submitting further independent bids in round seven or in subsequent rounds. At this point, the Sellers gave their consent to the two remaining Qualified Bidders, being Ranger and Apple, to discuss partnering opportunities with those Qualified Bidders who were no longer able to participate independently ... Following the eighth round of bidding, Ranger asked for and was granted consent by the Sellers to allow it to partner with Intel ... Apple (in partnership with and using the Rockstar transaction structure) and Ranger exchanged counter-bids in rounds nine through 19 in increments of \$100 million dollars.*

*In the nineteenth round, Apple (in partnership with Rockstar) presented a bid of \$4.5 billion, which bid was declared the Leading Bid. At the beginning of the twentieth round, Ranger requested and was granted an adjournment by the Sellers. The Auction was reconvened at approximately 6:45 pm on June 30, 2011, and Ranger indicated it would not make a further bid.*

Source:

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