

Court File No. 08-CL-7841

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**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 INTERTAN CANADA LTD.
AND TOURMALET CORPORATION**

APPLICANTS

SIXTEENTH REPORT OF THE MONITOR

ALVAREZ & MARSAL CANADA ULC

October 6, 2010

INTRODUCTION

1. By Order of this Honourable Court dated November 10, 2008, as subsequently amended and restated on December 5, 2008 (the "Initial Order"), InterTAN Canada Ltd. ("InterTAN") and Tourmalet Corporation ("Tourmalet" and together with InterTAN, the "Applicants") obtained protection from their creditors under the *Companies' Creditors Arrangement Act* (the "CCAA") and Alvarez & Marsal Canada ULC ("A&M") was appointed monitor of the Applicants (the "Monitor"). These proceedings are referred to herein as the "CCAA Proceedings".
2. Concurrent with the commencement of the CCAA Proceedings, the Applicants' ultimate parent company, Circuit City Stores, Inc. ("Circuit City"), and certain of its U.S. affiliates (collectively, the "U.S. Debtors"), commenced proceedings under Chapter 11, Title 11 of the *United States Code*. These proceedings are referred to herein as the "Chapter 11 Proceedings".
3. The Applicants will be bringing a motion returnable on October 13, 2010, seeking, *inter alia*, (a) an Order authorizing the acquisition by Tourmalet of all of the issued and

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outstanding common shares in the capital stock of InterTAN, Inc. from Ventoux International, Inc. ("Ventoux") for consideration of one common share in the capital of Tourmalet; (b) an Order authorizing InterTAN to apply for a certificate of continuance in order to continue as a company limited by shares under the Nova Scotia *Companies Act*, R.S.N.S. 1989, c. 81; (c) an Order authorizing Tourmalet, on the anticipated dissolution of InterTAN, Inc., to receive a distribution of all of InterTAN, Inc.'s property, including all of the issued and outstanding common shares in the capital stock of InterTAN, and to assume all of the liabilities and obligations of InterTAN, Inc.; (d) an Order that InterTAN, or any successor entity thereof, shall take no further steps to address the potential French tax liability relating to InterTAN France SNC or any related businesses or the claim of Revenu Québec without the consent of the Monitor or the Monitor's counsel; and (e) an Order approving this report (the "Sixteenth Report") and the actions and activities of the Monitor described herein.

4. The purpose of the Sixteenth Report is to provide the Court and the Applicants' stakeholders with information in support of the Applicants' motion to proceed with the Transfer, the Continuance and the Assumption (all as hereinafter defined). For the reasons discussed below, the Monitor respectfully recommends that the Court grant the relief requested by the Applicants.
5. All terms not otherwise defined herein shall have the meanings ascribed to them in the Monitor's previous reports.

TERMS OF REFERENCE

6. In preparing this report, the Monitor has relied upon unaudited financial information, InterTAN's books and records, financial information prepared by InterTAN and its advisors, and discussions with management of InterTAN and its advisors. The Monitor has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of the information and, accordingly, the Monitor expresses no opinion or other form of assurance on the information contained in this report.

7. Certain of the information referred to in this report may consist of or include forecasts and/or projections. An examination or review of financial forecasts and projections, as outlined in the Canadian Institute of Chartered Accountants Handbook, has not been performed. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.
8. The Monitor has requested that the Applicants' legal and tax advisors and Post-Closing Officer, Ms. Katie Bradshaw, bring to its attention any significant matters that were not addressed in the course of its specific inquiries. Accordingly, this report is based solely on the information (financial or otherwise) made available to the Monitor.
9. All references to dollars in this report are in Canadian currency unless otherwise noted.

BACKGROUND

10. Further background to InterTAN, Tourmalet and Circuit City is contained in the materials filed relating to the Initial Order, including the Affidavit of Mark Wong sworn November 10, 2008. These documents, together with other information regarding the CCAA Proceedings, including the Initial Order and supporting affidavit, have been posted by the Monitor on its website at www.alvarezandmarsal.com/intertan.
11. On November 10, 2008, the U.S. Debtors commenced the Chapter 11 Proceedings in the United States Bankruptcy Court for the Eastern District of Virginia (the "U.S. Bankruptcy Court"). The U.S. Debtors have subsequently commenced and substantially completed a liquidation of their assets and property in the Chapter 11 Proceedings. The U.S. Bankruptcy Court also recently confirmed a plan of reorganization in respect of the U.S. Debtors. A hyperlink to information concerning the U.S. Debtors' restructuring and liquidation can be found at www.kccllc.net.
12. Additional background information can be found in the prior reports submitted by the Monitor to this Honourable Court.

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13. On July 1, 2009, a sale of substantially all of the assets of InterTAN was completed. The Monitor has overseen a Court-ordered claims process, and substantially all of the creditors of InterTAN have been paid in full, including interest. The only claim remaining to be resolved pursuant to the Court-ordered claims process is the claim of Revenu Québec. Issues also remain with respect to the claims, if any, of French taxing authorities related to the liquidation of the French subsidiary of InterTAN, all of which are detailed in the Monitor's Twelfth, Thirteenth, Fourteenth and Fifteenth Reports. Tourmalet had no assets or liabilities other than the preferred shares of InterTAN, Inc., none of the proceeds held by the Monitor relate to the assets of Tourmalet and no claims were filed against Tourmalet in the claims process.

PROPOSED TRANSACTIONS

14. The Monitor is advised that, in May 2004, for consideration of approximately \$260 million, Circuit City completed the acquisition of 100% of the common stock of InterTAN, Inc., a company incorporated pursuant to the laws of Delaware and the owner of 100% of the common shares of InterTAN. InterTAN, Inc. is a U.S. Debtor. InterTAN's current corporate structure results from the 2004 acquisition by Circuit City.
15. InterTAN was a leading specialty retailer of consumer electronics in Canada. It is a privately held Ontario corporation and the sole direct subsidiary of InterTAN, Inc. InterTAN, Inc. is owned by Ventoux, a Delaware corporation (and also a U.S. Debtor) and Tourmalet, a Nova Scotia unlimited liability company. Tourmalet is a non-operating holding company whose sole asset is the preferred stock of InterTAN, Inc. Tourmalet is in turn wholly owned by Ventoux, which is wholly owned by Circuit City. As such, InterTAN is an indirect wholly-owned subsidiary of Ventoux and therefore of Circuit City. A copy of a chart showing the organizational structure of the Applicants and related companies is attached hereto as Appendix "A".
16. Depending upon the resolution of the remaining claims in the estate of InterTAN, there may well be funds remaining which would have to be distributed to InterTAN's shareholder. However, the Monitor has been advised that the tax basis of the shares of InterTAN held by InterTAN, Inc. is zero, such that a distribution of equity to InterTAN,

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Inc. would likely result in a capital gain and tax being assessed on such distribution, despite the fact that the distribution will not under any circumstances exceed the amount originally invested by the Circuit City group to acquire InterTAN.

17. Accordingly, the Applicants and the U.S. Debtors, with input from the Official Committee of Unsecured Creditors in the Chapter 11 Proceedings (the "UCC") and from the Monitor, have proposed a series of corporate transactions in order to ensure that InterTAN will be able to return any cash remaining after all claims of InterTAN have been resolved to the U.S. Debtors in the most tax efficient manner (the "Proposed Transactions"). The ultimate objective of the Proposed Transactions is to make Ventoux the sole and direct shareholder of the InterTAN corporate entity.
18. As a result of the discussions between the Applicants, the U.S. Debtors, the UCC and the Monitor, the Applicants and InterTAN, Inc. have obtained an Advance Income Tax Ruling from the Canada Revenue Agency dated September 7, 2010 regarding the Proposed Transactions. A copy of the Advance Income Tax Ruling is attached hereto as Appendix "C". The rulings provided in the Advance Tax Ruling are binding on the Canada Revenue Agency provided that the Proposed Transactions are completed by March 31, 2011. To the extent necessary, extensions to the March 31, 2011 date will be sought.
19. The Proposed Transactions being contemplated by the Applicants and the U.S. Debtors essentially consist of six steps, which are set out below (and are intended to proceed in the order set out below):
 - a) Ventoux will transfer all of the issued and outstanding common shares in the capital stock of InterTAN, Inc. to Tourmalet, for a purchase price equal to the fair market value of such shares, which is expected to be nominal. Tourmalet will satisfy the purchase price by issuing to Ventoux one common share in the capital stock of Tourmalet having a fair market value equal to the purchase price (the "Transfer");
 - b) InterTAN will, pursuant to the provisions of the *Nova Scotia Companies Act*, R.S.N.S. 1989, c. 81, apply for and obtain a certificate of continuance to continue as a

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company limited by shares under the Nova Scotia *Companies Act*, R.S.N.S. 1989, c. 81 (the "Continuance");

- c) InterTAN, Inc. will commence winding-up under the applicable Delaware law. In connection with its winding up, InterTAN, Inc. will distribute all of its property to Tourmalet, including all of the issued and outstanding common shares in the capital stock of InterTAN, and all of the liabilities and obligations of InterTAN, Inc. will be assumed by Tourmalet. In due course, InterTAN, Inc. will file a certificate of dissolution and upon the effectiveness of the certificate of dissolution, the corporate existence of InterTAN, Inc. will cease and its shares will be cancelled (the "Assumption");
- d) Tourmalet and InterTAN will effect a vertical short-form amalgamation under the provisions of the Nova Scotia *Companies Act*, R.S.N.S. 1989, c. 81, to form an unlimited liability company referred to herein as "Amalco" (the "Amalgamation");
- e) Once Amalco has settled all of the claims of the creditors of the Canadian estate, and subject to receiving the required approval from this Honourable Court, Amalco will distribute its remaining cash (if any) to Ventoux as one or more returns of capital in respect of the common shares of InterTAN held by Ventoux (the "Distribution"); and
- f) Following the foregoing transactions, in due course, Amalco will be liquidated and dissolved (the "Dissolution").

- 20. The U.S. Bankruptcy Court has now granted orders in the Chapter 11 Proceedings confirming a joint plan of liquidation (the "**Plan**") for the U.S. Debtors. The Monitor understands that the Plan, among other things, contemplates the dissolution of InterTAN, Inc., and the establishment of a liquidating trust to collect and distribute to the unsecured creditors of the U.S. Debtors all of the remaining assets. The Monitor further understands that, among the conditions precedent to the effectiveness of the Plan are the first three steps of the Proposed Transactions. The U.S. Debtors and the UCC did not move forward with the confirmation of the Plan until after the Advance Tax Ruling had been received and they had consulted with the Applicants and the Monitor to understand

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which of the steps of the Proposed Transactions that the Applicants and the Monitor would be prepared to see happen at this stage of the CCAA Proceedings.

21. Accordingly, at this time, the Applicants, with the support of the Monitor, are only seeking authorization to complete the first three steps of the Proposed Transactions (i.e. the Transfer, the Continuance and the Assumption). As noted above, the Transfer, the Continuance and the Assumption are conditions precedent to the effectiveness of the Plan in the Chapter 11 Proceedings.
22. The Monitor has been advised by the U.S. Debtors and the UCC that, in the Chapter 11 Proceedings, the only remaining claims being asserted against InterTAN, Inc. are claims asserted by three insurance companies related to policies of different types applicable to all of the U.S. Debtors and in respect of which claims have been filed against all of the U.S. Debtors. The Monitor has been advised by counsel for the U.S. Debtors that one of these three claimants has agreed that it has no claim against InterTAN, Inc., and that the other two claims will likely be resolved in a similar manner shortly. In any event, Tourmalet, which will be assuming these potential liabilities through the Transfer and the Assumption, has no assets and no claims were filed against Tourmalet in these proceedings. Therefore, to assist in allowing the Advance Income Tax Ruling to be complied with and the Plan to go effective, the Monitor is prepared to support the Transfer, the Assumption and the Continuance proceeding at this stage.
23. If and when the remaining claims being asserted by the insurance companies against InterTAN, Inc. are resolved on a zero liability basis, such that the Applicants and the Monitor can be satisfied that there are no claims against InterTAN, Inc. which could be asserted in the Canadian proceedings concerning InterTAN, then the Monitor expects that it will be in a position to support permitting the Amalgamation to proceed.
24. Notwithstanding the foregoing commentary, the Monitor wishes to confirm that, in the discussions among the Applicants, the U.S. Debtors, the UCC and the Monitor concerning the Proposed Transactions, the Monitor has repeatedly and consistently advised the Applicants, the U.S. Debtors, the UCC and all of their advisors that the Monitor will not support any Distribution unless and until the Monitor is satisfied, in its

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sole discretion, that the potential French tax liability issue described in prior Monitor's Reports (and in the Confidential Appendix (Appendix "B") hereto) has been resolved.

POTENTIAL FRENCH TAX LIABILITY

25. As previously reported in the Monitor's Twelfth, Thirteenth, Fourteenth and Fifteenth Reports, InterTAN has a subsidiary company located in France that has not operated for more than 10 years. The Monitor learned on April 16, 2010 that there was also a branch office of InterTAN in France. It appears that the subsidiary and the branch were not formally wound up after operations ceased. In connection with the winding up of the Applicants' operations, InterTAN may need to wind-up its French branch and subsidiary, which may result in potential tax liabilities to the French taxing authorities. The Monitor has been advised that InterTAN has received legal advice, from a French law firm, that it could be held directly liable under French tax law for any taxes assessed by the French authorities. The Monitor understands that InterTAN and the UCC are working towards a resolution of the potential French tax liability. The Monitor has also engaged French counsel to help it assess this potential liability and to assist in assessing how and when such liability may be resolved. The Monitor attached to its Fourteenth Report, as a separate confidential Appendix, a summary of the assessment of the potential French tax liability, which illustrated the different possible scenarios and corresponding potential liabilities, based on the advice provided by InterTAN's French counsel. However, the potential French tax liability could take years to resolve.
26. Attached hereto as a Confidential Appendix is a summary of the issues giving rise to the potential French tax liability and a recommendation to permit InterTAN to take the first step towards attempting to address and hopefully resolve those potential liabilities.
27. The matters discussed in the Confidential Appendix to this Report could, if they were made public, adversely affect the interests of certain stakeholders. However, the Monitor believes it is important for this Court to be aware of these issues. Accordingly, the Monitor requests that this Honourable Court seal the Confidential Appendix until further Order on notice to the Monitor. The Monitor believes that disclosure of this information presents a serious risk to an important interest and there are no reasonable alternative

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measures that will prevent the risk. Moreover, the salutary effects of the order sought outweigh any deleterious effects as no third party has a legitimate expectation to review the privileged advice received by InterTAN or the Monitor, and those who might be curious would be prejudging the opportunities of themselves and others with economic interests in the estate to receive additional proceeds.

ONGOING MATTERS

28. Once the Transfer, the Continuance and the Assumption are complete, and the Plan has gone effective, the ultimate control of InterTAN will reside with the liquidating trust contemplated by the Plan. Given that there are currently only two remaining claims/potential liabilities in the estate of InterTAN (Revenu Québec and the potential French tax liability), that the Monitor has been involved in discussions concerning both of those claims/potential liabilities, and that the Monitor has advised all parties that it will not support the Amalgamation at this time or any Distribution unless and until it is satisfied in its sole discretion with the resolution of those claims/potential liabilities, the Monitor believes that it is now appropriate to ensure that any steps taken to address and resolve those claims/potential liabilities, or any steps in connection with the Amalgamation, the Distribution or the Dissolution, may only be taken with the consent of the Monitor or the Monitor's counsel. To that end, the Monitor seeks an order to that effect.

MONITOR'S RECOMMENDATION

29. For the foregoing reasons, the Monitor respectfully recommends that:
- (i) the Transfer of all of the issued and outstanding common shares in the capital stock of InterTAN, Inc. from Ventoux to Tourmalet be authorized on the terms noted above;
 - (ii) InterTAN be authorized to apply for a certificate of continuance in order to continue as a company limited by shares under the Nova Scotia *Companies Act*, R.S.N.S. 1989, c. 81;

- (iii) the Assumption by Tourmalet of InterTAN, Inc.'s property, including all of the issued and outstanding common shares in the capital stock of InterTAN, and of InterTAN, Inc.'s liabilities and obligations be authorized;
- (iv) InterTAN be authorized to take the step outlined in the Confidential Appendix hereto in furtherance of the resolution of the potential French tax liabilities described therein; and
- (v) this Sixteenth Report and the activities of the Monitor described herein be approved.

30. The Monitor respectfully recommends and requests that:

- (i) InterTAN, or any successor entity thereof, be ordered not to take any further steps to address the potential French tax liability or the claim of Revenu Québec, or to take any steps in connection with the Amalgamation, the Distribution or the Dissolution, without the consent of the Monitor or the Monitor's counsel; and
- (ii) Appendix "B" to the Sixteenth Report be treated as confidential, sealed and not form part of the public record, pending further Order of this Court.

ALL OF WHICH IS RESPECTFULLY SUBMITTED at Toronto, Ontario this 6th day of October, 2010.

ALVAREZ & MARSAL CANADA ULC
in its capacity as Court appointed Monitor of
InterTAN Canada Ltd. and Tourmalet Corporation

Per: 

Name: Douglas R. McIntosh

Title: Managing Director

I have the authority to bind the corporation