

Federal Court



Cour fédérale

Date: 20160615

Docket: T-2579-91

Ottawa, Ontario, June 15, 2016

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

**ROGER SOUTHWIND, FOR HIMSELF,
AND ON BEHALF OF THE MEMBERS OF
THE LAC SEUL BAND OF INDIANS,
AND LAC SEUL FIRST NATIONS**

Plaintiffs

and

**HER MAJESTY THE QUEEN IN RIGHT
OF CANADA**

Defendant

and

**HER MAJESTY THE QUEEN IN RIGHT
OF ONTARIO**

Third Party

and

**HER MAJESTY THE QUEEN IN RIGHT
OF MANITOBA**

Third Party

ORDER

UPON reading the Parties agreement to an Electronic Trial Plan;

THIS COURT ORDERS THAT:

1. The Parties shall conduct the trial scheduled to commence on September 12, 2016, electronically as per the Electronic Trial Plan that has been signed by their respective solicitors and is attached as Appendix “A”.
2. In addition to the individuals listed at paragraph 2(a) of the Electronic Trial Plan, Canada will supply the Court’s Law Clerk with a monitor for use at trial.

“Russel W. Zinn”

Judge

APPENDIX "A"

Court File No. T-2579-91

FEDERAL COURT

BETWEEN:

**ROGER SOUTHWIND, for himself, and on behalf
Of The Members of the Lac Seul Band of Indians
and Lac Seul First Nation**

Plaintiffs

and

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

Defendant

and

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Third Party

and

HER MAJESTY THE QUEEN IN RIGHT OF MANITOBA

Third Party

ELECTRONIC TRIAL PLAN

This is the formal electronic trial ("e-trial") plan of the Plaintiffs, Her Majesty the Queen in Right of Canada ("Canada"), Her Majesty the Queen in Right of Ontario ("Ontario"), and Her Majesty the Queen in Right of Manitoba ("Manitoba") ("the Parties"), setting out how they will conduct the trial electronically.

Courtroom:

1. The trial is scheduled to commence on September 12th, 2016 for a duration of 100 days. The location of the trial is the Supreme Court of Canada Building, East Courtroom, 301 Wellington Street, in the City of Ottawa, Ontario.
2. Canada will supply the following basic equipment required to conduct the e-trial:

- a) monitors as follows: one for the Judge, one for the witness, one for the Court Registry Officer, one for the Court reporter, one large screen TV for the Court gallery, and two for each Party;
 - b) splitter, switch box and cables; and,
 - c) extension and power cords, as required.
3. Canada will be responsible for the set-up, maintenance, service, and take down of the equipment listed in paragraph 2. In order to ensure that the courtroom is properly set-up for the commencement of trial, Canada will need access to the courtroom the week of September 5th, 2016 in order to install and test the equipment. During the week of September 5th, the Parties and the Court Registry ("Registry") shall confer and, subject to any Direction from the Judge, reach agreement on the proper layout of computers and monitors for the courtroom.
 4. Each Party is required to provide their own laptop(s) to conduct the e-trial, and arrange for the maintenance and service of said laptop(s).
 5. The Registry has confirmed that it is able to provide wireless internet access for the duration of the trial at no cost to the Parties.

Joint Book of Documents:

6. The Parties shall agree on an electronic Joint Book of Documents ("JBD") that will be hosted outside the courtroom and accessed remotely by the Parties during the course of the trial through an internet connection. The Parties will coordinate with the Registry to ensure that the courtroom has a functioning internet connection that allows remote access to the JBD.
7. Each document in the JBD will have its own unique document identification number ("JB Number"). The other fields to be included in the JBD will be agreed between the Parties and shall include: date; title; author; recipient; type; production number(s); and production cross reference number(s);
8. Documents in the JBD will be OCR searchable, if document quality permits. The OCR will be generated by REDI Analysis ("REDI").
9. The Parties intend to reach an agreement on a process for adding additional documents to the JBD during the course of the trial.

3rd Party Provider:

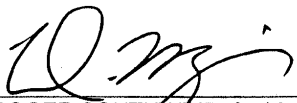
10. The Parties agree that REDI will host the JBD in a secure website. Each Party and the Judge will have access to the secure website. The Parties agree that REDI will perform the following tasks:
 - a) create a custom database in the File Maker Pro software program for use at trial;
 - b) load agreed upon documents into the database;
 - c) train the Parties, Judge, and Registry Officer(s) in the use of the File Maker Pro software program;
 - d) provide ongoing training and support for the duration of the trial; and,
 - e) host the database on its secure server.
11. The Parties, Registry and REDI will work together to develop an appropriate back-up plan to allow the trial to continue in the event that the wireless network is temporarily unavailable.
12. Parties are free to include any additional information or coding they wish in their individual File Maker Pro databases. This additional information and/or coding will not be visible or made available to any of the other parties or the Court. Should any the additional information and/or coding be mistakenly displayed or made available to another party it will be considered privileged and immediately reported and returned to the originating party.
13. Each Party will be responsible for the cost of their own licenses and training. The Parties will split equally the cost for the licenses, training, and support for the Court. REDI will bill each party directly for their individual costs and for their portion of the Court's costs.
14. Subject to any further Order by the Judge, the Parties shall agree on a schedule to provide comments, changes, or corrections to the proposed JBD that will allow REDI sufficient time to prepare and finalize the JBD in advance of trial. REDI will require final agreement on the JBD, with images and associated data load file to be provided by Canada, by no later than August 9, 2016 in order to have the JBD ready for the commencement of trial.
15. The budget for the work to be performed by REDI is attached as Appendix A to the E-Trial Plan.

Trial Procedure:

16. When examining a witness, the examining counsel shall control the JBD and select the documents from the JBD to display during the course of the examination. The video splitter allows the selected documents to be displayed on the video monitors of the

Judge, witness, Registry Officer, gallery and other counsel. Once cross-examination begins, control over the JBD is transferred to cross-examining counsel who then displays documents in the same manner.

- 17. Read-ins from examinations for discovery will be provided electronically to the Judge.
- 18. In the event the Parties are unable to reach agreement on any issue related to conducting the e-trial, a case conference should be scheduled with the Judge so that any outstanding issue(s) can be addressed as soon as possible.
- 19. The expenses associated with the e-trial will be divided between the Parties as indicated above and will be dealt with by the Judge at the conclusion of trial as part of costs.



ROGER SOUTHWIND, for himself
And on behalf of the Members of the
Lac Seul Band of Indians and Lac
Seul First Nation
Per: William Major
Dated: June 3, 2016



HER MAJESTY THE QUEEN
IN RIGHT OF CANADA
Per: Michael Roach

Dated: June 3, 2016

HER MAJESTY THE QUEEN IN
RIGHT OF ONTARIO
Per: Leonard Marsello

Dated: _____

HER MAJESTY THE QUEEN IN
RIGHT OF MANITOBA
Per: Glenn McFetridge

Dated: _____

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Dated: _____

HER MAJESTY THE QUEEN
IN RIGHT OF CANADA
Per: Michael Roach

Dated: _____

William

HER MAJESTY THE QUEEN IN
RIGHT OF ONTARIO
Per: Leonard Marsello

HER MAJESTY THE QUEEN IN
RIGHT OF MANITOBA
Per: Glenn McFetridge

Dated: June 6, 2016

Dated: _____

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Per: William Major
Dated: _____

HER MAJESTY THE QUEEN
IN RIGHT OF CANADA
Per: Michael Roach

Dated: _____

HER MAJESTY THE QUEEN IN
RIGHT OF ONTARIO
Per: Leonard Marsello

Dated: _____



HER MAJESTY THE QUEEN IN
RIGHT OF MANITOBA
Per: Glenn McFetridge

Dated: 6/6/16

APPENDIX A TO E-TRIAL PLAN

Southwind
REDI Analysis
Estimated Budget

as of June 1, 2016

		Each Parties' Share
A) License(s) for FileMake Pro		
\$600 per license @ 10 licenses (2 per party and 2 for Court)	\$ 6,000.00	\$ 1,500.00
B) Training *		
i) Initial training		
32 hours (4 days @ 8hrs) - group session	\$ 3,200.00	
8 hours (1 day @ 8hrs)- Judge and Registry Staff	\$ 800.00	\$ 1,000.00
ii) On going training for Parties		
40 hours (5 days @ 8 hrs)	\$ 4,000.00	\$ 1,000.00
iii) Post modification/customization training		
16 hours (2 days @ 8hrs)	\$ 1,600.00	\$ 400.00
C) Modification and Customization of Database*		
40 hours (5 days @ 8 hrs)	\$ 4,000.00	\$ 1,000.00
D) Database Hosting		
\$750 per month @ 10 months (August 2016 - May 2017)	\$ 7,500.00	\$ 1,875.00
E) Ongoing Support and Attendance at Trial *		
80 hours (10 days @ 8 hrs)	\$ 8,000.00	\$ 2,000.00
F) Disbursements		
Milage, Parking, Courier, Photocopies, etc.	\$ 2,000.00	\$ 500.00
SUB TOTAL	\$ 37,100.00	\$ 9,275.00
HST @ 13%	\$ 4,823.00	\$ 1,205.75
TOTAL	\$ 41,923.00	\$ 10,480.75

* NOTE: Support and training is provided at the rate of \$100 per hour and is only billed if/when it is used

** NOTE: Parties will only billed if/when a service is used