

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-1269

In Re: PATHNET OPERATING, INCORPORATED,

Debtor.

36ONETWORKS (USA) INCORPORATED,

Creditor - Appellant,

versus

GORDON P. PEYTON, Chapter 7 Trustee,

Trustee - Appellee,

NORTEL NETWORKS, INCORPORATED; CISCO SYSTEMS
CAPITAL CORPORATION,

Creditors - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Leonie M. Brinkema, District Judge. (CA-04-567; CA-04-790; CA-04-791; BK-01-12266-SSM; BK-01-12267-SSM; BK-01-12268-SSM; BK-01-12269-SSM)

Argued: March 17, 2006

Decided: April 21, 2006

Before WIDENER and TRAXLER, Circuit Judges, and Cameron McGowan CURRIE, United States District Judge for the District of South Carolina, sitting by designation.

Affirmed by unpublished per curiam opinion.

ARGUED: Stephen Henry Nelsen, CLINE, WILLIAMS, WRIGHT, JOHNSON & OLDFATHER, L.L.P., Lincoln, Nebraska, for Appellant. K. Stewart Evans, Jr., PEPPER HAMILTON, L.L.P., Washington, D.C., for Appellees. **ON BRIEF:** Philip C. Baxa, Richard E. Hagerty, Vivieon E. Kelley, TROUTMAN SANDERS, L.L.P., Richmond, Virginia, for Appellant. R. Timothy Bryan, DLA PIPER RUDNICK GRAY CARY US, L.L.P., Reston, Virginia, for Appellee Nortel Networks, Incorporated; Cecily A. Dumas, Elaine Hammond, FRIEDMAN, DUMAS & SPRINGWATER, L.L.P., San Francisco, California, for Appellee Cisco Systems Capital Corporation; Marc D. Machlin, PEPPER HAMILTON, L.L.P., Washington, D.C., Barak A. Bassman, PEPPER HAMILTON, L.L.P., Philadelphia, Pennsylvania, for Appellees Gordon P. Peyton, Chapter 7 Trustee, and Cisco Systems Capital Corporation.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

360networks (USA) Incorporated ("360networks") appeals the order of the district court affirming an order entered by the United States Bankruptcy Court for the Eastern District of Virginia on January 21, 2004, and amended on March 4, 2004. Together, those orders granted the Chapter 7 Trustee's Motion to Sell Assets Free and Clear of Liens ("Sale Motion") under Section 363 of the Bankruptcy Code. The district court order also affirmed the bankruptcy court's denial of 360networks' motion in limine which sought to limit the grounds on which the Trustee could challenge amounts due 360networks.

We review the judgment of the district court sitting in review of the bankruptcy court de novo. We, therefore, apply the same standard of review as that applied to the bankruptcy court's orders by the district court. In re Merry-Go-Round Enters., 400 F.3d 219, 224 (4th Cir. 2005). The findings of fact of the bankruptcy court and supplemental findings by the district court* are reviewed for clear error, and their conclusions of law are reviewed de novo. Id. With these standards in mind, we affirm the decision below on the reasoning of the district court. 360networks (USA) Inc. v. Peyton, et al., No. 1:04-cv-567-LMB-TCB (January 19, 2005).

AFFIRMED

*The district court made findings of fact relating to 360networks' motion in limine.