



7/11/06

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TRANSACTION DESCRIPTION AND ANALYSIS

FACTS

Corporation A is, among other things, (i) the original equipment manufacturer (“OEM”) of systems for commercial aircraft (ii) the manufacturer and distributor of spare parts for such systems and (iii) engaged in the maintenance, repair and overhaul (“MRO”) of such systems. Over the years, Corporation A has upgraded the systems, and there are now several newer versions of the systems. Corporation A has determined that it no longer wants to be an MRO service provider for certain parts of an older system (the “Older System”) or be responsible for the manufacturing and distribution of certain OEM spare parts for the Older System.. However, Corporation A wants users of the Older System to have access to an OEM authorized MRO provider for those parts of the Older System and to be able to obtain OEM spare parts for those parts of the Older System, which will continue to be sold through Corporation A’s parts catalog. Corporation A will remain an MRO service provider the other parts of the Older System and for the newer systems and will continue to manufacture and distribute OEM parts for the newer systems.

Corporation B is, among other things, an MRO service provider for certain parts of systems manufactured by Corporation A, including the Older System, and of certain parts of systems manufactured by others. Corporation B would like to expand its MRO business and to become an OEM authorized MRO service provider for certain parts of the Older System. Corporation B currently arranges for the manufacture of certain non-OEM parts for the systems in connection with its MRO work, and Corporation B would also be willing to be responsible for the manufacturing and distribution of certain OEM parts of the Older System.

To accomplish the foregoing purposes, Corporation A will designate Corporation B as the exclusive OEM authorized MRO service provider for certain parts of the Older System. In connection with the designation, Corporation B will perform MRO services in accordance with the standards of Corporation A, including the use of OEM parts and



procedures, and will receive the non-exclusive right to use certain intellectual property of Corporation A dealing with the authorized MRO procedures. Corporation B will receive a non-exclusive license to use Corporation A's trademark for the Older System, which it may use in connection with its advertising for MRO services, and for the use of such trademark Corporation B will pay to Corporation A an amount equal to 4% of its gross revenue on MRO service work relating to certain parts of the Older System. In addition, Corporation B will purchase from Corporation A certain contracts with certain customers to perform MRO services for certain parts of the Older System, and Corporation B will purchase from Corporation A its existing inventory of certain parts of the Older System that can be utilized with such customers. Corporation B currently utilizes those parts in the performance of its MRO work.

In connection with the assumption of responsibility for manufacture and distribution of OEM parts, Corporation B will purchase from Corporation A its existing inventory of certain parts for the Older System that are no longer in regular production, as well as tooling for making those parts. In addition, Corporation B will arrange for the manufacture of those parts in accordance with the standards of Corporation A, and Corporation B will receive the non-exclusive right to use certain intellectual property of Corporation A dealing with the manufacturing of those parts. Corporation B will also maintain an inventory of those parts for users of the Older System, which will be sold through Corporation A's parts catalog. Corporation B currently utilizes those parts in the performance of its MRO work.

Corporation A and Corporation B satisfy the size-of-the-parties test. In connection with the transactions, Corporation B will not acquire any facilities of Corporation A or hire any employees of Corporation A. The value of the contract rights, inventory and tooling to be acquired (all items other than the licenses) is less than \$56.7 million.

QUESTION

Is any filing required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "Act"), in connection with the transactions described above?

ANALYSIS

The acquisition of assets is reportable under the Act if the value of the assets is \$56.7 million (the current threshold, subject to adjustment). For purposes of the Act, the acquisition of a license of a trademark or other intellectual property is not considered the acquisition of an asset unless the license is exclusive. Here, the license of Corporation B to use the trademark is non-exclusive, and Corporation A will continue to use the trademark in its business. In addition, the license to use intellectual property relating to MRO procedures is non-exclusive, and Corporation A will continue to provide such intellectual property to users of the Older System. Further, the license to use intellectual property relating to the manufacturing of OEM parts will continue to be used by Corporation A in its business. Therefore, the acquisition of the licenses described above do not constitute the acquisition of an asset for purposes of the Act.

In view of the foregoing, it is our understanding that the transactions described above would be exempt from the filing requirements under the Act.

AGNEZ
Bredner
7/11/06