

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 17-1354-JEJ
)	
PARKER-HANNIFIN CORPORATION,)	
and CLARCOR INC.,)	
)	
Defendants.)	

**DEFENDANTS PARKER-HANNIFIN CORPORATION’S AND CLARCOR INC.’S
ANSWER AND DEFENSES TO PLAINTIFF’S COMPLAINT**

Defendants Parker-Hannifin Corporation (“Parker-Hannifin”) and CLARCOR Inc. (“CLARCOR”), jointly respond to Plaintiff’s Complaint as set forth below. Defendants deny any allegation not expressly and explicitly admitted and (except as noted below) any allegations concerning the actions, statements, or intent of any third parties. Defendants expressly reserve the right to amend this Answer as they discover additional facts in the ordinary course of business or in this litigation.

INTRODUCTION

On February 28, 2017, Parker-Hannifin completed its previously announced acquisition of CLARCOR for approximately \$4.3 billion. This highly complementary acquisition created a combined organization with a comprehensive portfolio of filtration products and technologies, and the potential to create cost synergies of \$140 million or more over the three years immediately following the merger. As the President of Parker-Hannifin’s Filtration Group explained, the acquisition of CLARCOR “deeply expands [Parker’s] ability to help make our world cleaner and safer while equipping [Parker’s] team members with new opportunities to

innovate and grow.”¹

After entering into a definitive agreement with respect to the transaction on December 1, 2016, Defendants fully complied with the premerger notification requirements imposed by the Hart-Scott-Rodino Antitrust Improvements Act, 15 U.S.C. § 18a (“HSR Act”), by submitting the required materials to the Federal Trade Commission and Department of Justice’s Antitrust Division (“Division”), on December 15, 2016. Upon receiving and reviewing Defendants’ submissions, neither agency requested additional information or documents, attempted to block the proposed transaction, or otherwise expressed any concern with the proposed transaction. The 30-day waiting period prescribed by the HSR Act expired on January 17, 2017, and Defendants completed the acquisition approximately 45 days later, on February 28, 2017.

Promptly after completing the acquisition, Defendants began to integrate the two companies by appointing integration management staff, identifying several areas of efficiencies and cost savings, and taking initial steps towards realizing \$140 million or more in projected cost synergies (some of which Parker-Hannifin has already started to realize).

The Division initiated an investigation into the acquisition in late March 2017—a month after the parties closed the deal and more than three months after the parties submitted their HSR filings. The Division issued a Civil Investigative Demand in late July 2017 and filed this action on September 26, 2017 (approximately 8 months after closing).² The Government now alleges—based on information that has been in its possession since Defendants’ made their HSR filing on December 15, 2016—that the acquisition violates the Clayton Act because it combines

¹ Parker-Hannifin Corp., *Parker Hannifin Completes CLARCOR Acquisition* (Feb. 28, 2017), available at <https://goo.gl/5xsfjJ>.

² On October 13, 2017 (D.I. No. 19), the parties agreed to, and filed with the court, a proposed order requiring Defendants to preserve and maintain certain assets at issue in this suit.

two competitors in alleged markets for certain qualified aviation fuel filtration products, a business that represents a miniscule portion of the merger's overall value. The Government's request that Parker-Hannifin now be ordered to unwind and/or divest that business should be denied. *See* Compl. ¶ 52.

ANSWER

1. Defendants admit that a large number of flights travel through U.S. airspace every day; that access to uncontaminated fuel is one of many factors that may affect aircraft safety; and that aviation fuel must be cleaned and filtered before it is used in commercial and military aircraft. Otherwise, Defendants deny the allegations in Paragraph 1 of the Complaint.

2. Defendants admit that the Energy Institute ("EI") has promulgated standards applicable to some fuel filtration products, and that certain entities have adopted those standards. Otherwise, Defendants deny the allegations of Paragraph 2 of the Complaint.

3. Defendants admit that, prior to the merger, they were the only manufacturers of EI-qualified aviation ground fuel filtration products in the U.S. Defendants further admit that, presently, the only other EI-qualified manufacturer of such products is located in Germany, though Defendants understand that other manufacturers are currently in the process of obtaining and/or pursuing EI qualification for their products. Except as specifically admitted, Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the third sentence of Paragraph 3 and therefore deny them.

4. Defendants state that the allegation in the first sentence of Paragraph 4 of the Complaint contains a legal conclusion to which a response is not required. To the extent that a response is required, Defendants deny that allegation. Defendants admit that the language quoted in Paragraph 4 appeared in an affidavit in an unrelated trade-secrets matter, but has been

distorted out of context here.

5. Defendants deny the allegation in the first sentence of Paragraph 5 of the Complaint. Defendants admit that the Vice President of Business Development for Parker Hannifin's Filtration Group circulated comments on a draft document on or about November 12, 2016, and that the draft document contained the phrases quoted in Paragraph 5. Defendants further admit that the document was provided to the Department of Justice in connection with the companies' Hart-Scott-Rodino filing on December 15, 2016. However, Defendants deny the characterization of the document and the remaining allegations of Paragraph 5 of the Complaint.

6. Defendants state that the allegations in Paragraph 6 of the Complaint contain legal conclusions to which a response is not required. To the extent that a response is required, Defendants deny the allegations in Paragraph 6.

7. Defendants admit that Parker-Hannifin is an Ohio corporation headquartered in Cleveland, Ohio, and is a diversified manufacturer of filtration products and other motion and control technologies for mobile, industrial, and aerospace customers with operations worldwide and \$11.4 billion in sales for its fiscal year 2016. Otherwise, Defendants deny the allegations of Paragraph 7 of the Complaint.

8. Defendants admit the allegations in the first, third, and fourth sentences of Paragraph 8 of the Complaint. Defendants deny the allegation in the second sentence of Paragraph 8.

9. Defendants admit that prior to its acquisition by Parker-Hannifin, defendant CLARCOR was a Delaware corporation headquartered in Franklin, Tennessee; that CLARCOR was a diversified marketer and manufacturer of mobile, industrial, and environmental filtration products with annual net sales of approximately \$1.4 billion in 2016; and that it had facilities in

the United States to develop and manufacture products, and provide service and technical support for its U.S. qualified aviation ground fuel filtration customers. Otherwise, Defendants deny the allegations of Paragraph 9 of the Complaint.

10. Defendants admit the allegations in Paragraph 10 of the Complaint, though they note that \$4.3 billion was the approximate, not exact, value of the acquisition.

11. Defendants admit the allegations in Paragraph 11 of the Complaint.

12. Defendants admit that crude oil is processed into aviation fuel, which may then be transported to end users through a variety of means. Otherwise, Defendants deny the allegations of Paragraph 12 of the Complaint.

13. Defendants admit that access to uncontaminated aviation fuel, which can be filtered at multiple stages along the distribution chain, is one of many factors that may affect aircraft safety. Otherwise, Defendants deny the allegations of Paragraph 13 of the Complaint.

14. Defendants admit that the quality of aviation fuel, including some filtration processes, is regulated by the Federal Aviation Administration in the United States. Otherwise, Defendants deny the allegations of Paragraph 14 of the Complaint.

15. Defendants admit that Airlines for America has published standards for jet fuel quality control at airports, and that ATA members “recognize the importance of using quality jet fuel for ensuring the highest degree of flight safety.” Defendants further admit that ATA 103 prescribes a “Standard for Jet Fuel Quality Control at Airports.” Otherwise, Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in Paragraph 15 of the Complaint and therefore deny them.

16. Defendants admit that several government agencies and private entities purport to regulate aviation fuel quality or safety. Otherwise, Defendants lack sufficient knowledge or

information to form a belief about the truth of the allegation in the first sentence of Paragraph 16 of the Complaint and therefore deny it. Defendants deny the allegations in the second sentence of Paragraph 16 to the extent they are inconsistent with ATA Specification 103, which speaks for itself.

17. Defendants deny the allegations of Paragraph 17 to the extent they are inconsistent with ATA Specification 103, which speaks for itself.

18. Defendants admit that purchasers of EI-qualified aviation fuel filtration products include commercial airline ground fueling agents, fixed based operators at airports, airport fuel storage operators, and manufacturers of fueling equipment. Otherwise, Defendants deny the allegation in the first sentence of Paragraph 18 of the Complaint. Defendants deny that all of these customers must follow ATA Specification 103 and are required to purchase and use EI-qualified filtration products. Defendants admit that some customers supplying aviation fuel to U.S. airports use EI-qualified filtration products, but are otherwise without sufficient knowledge or information to form a belief about the truth of the remainder of the allegation in the last sentence of Paragraph 18 of the Complaint and therefore deny it.

19. Defendants admit that the Department of Defense sets fuel-related performance standards for U.S. military jets. Otherwise, Defendants deny the remaining allegations of Paragraph 19 of the Complaint.

20. Defendants admit that an aviation fuel filtration system is comprised, in part, of pressurized vessels that house consumable filter elements, but otherwise deny the allegation in the first sentence of Paragraph 20 of the Complaint. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegation in the second sentence of Paragraph 20 and therefore deny it. Defendants admit that ATA Specification 103 sets forth standards for

replacing filter elements, but otherwise deny the allegation in the third sentence of Paragraph 20.

21. Defendants admit that, prior to the transaction, they were the only two U.S. manufacturers of EI-qualified aviation ground fuel filtration products, but otherwise deny the allegation in the first sentence of Paragraph 21 of the Complaint. Defendants admit that, pursuant to EI qualification standards, all of their EI-qualified filter products are interoperable; that, pursuant to EI qualification standards, they cross-referenced part numbers for those products; and that prior to the merger customers could choose between Parker-Hannifin and CLARCOR filter products for their vessels. Otherwise, Defendants deny the allegations in the second, third, and fourth sentences of Paragraph 21.

22. Defendants deny the allegations of the first sentence of Paragraph 22 to the extent they are inconsistent with ATA Specification 103, which speaks for itself. Defendants admit that microfilter systems, filter water separator systems, and filter monitor systems use different filter elements.

23. Defendants admit that a microfilter system is a filtration product comprised, in part, of vessels that house consumable filter products, but otherwise deny the allegation in the first sentence of Paragraph 23 of the Complaint. Defendants admit the allegation in the second sentence of Paragraph 23.

24. Defendants admit that a FWS system is typically comprised, in part, of filter products that remove contaminants from aviation fuel, but otherwise deny the allegation in the first sentence of Paragraph 24 of the Complaint. Defendants admit the allegations in the second and third sentences of Paragraph 24.

25. Defendants admit that a filter monitor system is a filtration product comprised, in part, of vessels that house a filter monitor, but otherwise deny the allegation in the first sentence

of Paragraph 25 of the Complaint. Defendants admit the allegation in the second sentence of Paragraph 25.

26. Defendants admit that Parker-Hannifin offers filter/separator vessels with a flow rate of between 50 and 2,500 gallons per minute. Otherwise, Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in Paragraph 26 of the Complaint and therefore deny them.

27. Defendants admit that, for its aviation fuel filtration processes, the U.S. military uses microfilter systems, FWS systems, and associated filter elements. Otherwise, Defendants deny the allegations of Paragraph 27 of the Complaint.

28. Defendants admit that aviation fuel filtration customers look to aviation fuel filtration manufacturers for service and technical support, and that access to uncontaminated fuel is one of many factors that may affect aircraft safety. Otherwise, Defendants deny the allegations in Paragraph 28.

29. Defendants admit that they provide on-site testing, lab testing, analytical services, and training classes to customers. Otherwise, Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in Paragraph 29 of the Complaint and therefore deny them.

30. Defendants state that the allegations of Paragraph 30 of the Complaint contain legal conclusions to which a response is not required. To the extent that a response is required, Defendants deny the allegations of Paragraph 30.

31. Defendants state that the allegations of Paragraph 31 of the Complaint contain legal conclusions to which a response is not required. To the extent that a response is required, Defendants deny the allegations of Paragraph 31.

32. Defendants state that the allegations of Paragraph 32 of the Complaint contain legal conclusions to which a response is not required. To the extent that a response is required, Defendants deny the allegations of Paragraph 32.

33. Defendants state that the allegations of Paragraph 33 of the Complaint contain legal conclusions to which a response is not required. To the extent that a response is required, Defendants deny the allegations in Paragraph 33.

34. Defendants state that the allegation in Paragraph 34 of the Complaint is a legal conclusion to which a response is not required. To the extent that a response is required, Defendants deny the allegation in Paragraph 34.

35. Defendants admit that they provide sales, technical support and training, and distribution to U.S. customers, and that aviation fuel filtration products are needed to filter aviation fuel. Otherwise, Defendants deny the allegations of Paragraph 35 of the Complaint.

36. Defendants deny the allegation in Paragraph 36 of the Complaint as it pertains to them, but lack sufficient knowledge or information to form a belief about the truth of the allegation in Paragraph 36 as to other suppliers, and therefore deny the allegation.

37. Defendants state that the allegations of Paragraph 37 of the Complaint are legal conclusions to which a response is not required. To the extent a response is required, Defendants deny the allegations of Paragraph 37.

38. Defendants deny the allegations of Paragraph 38 of the Complaint.

39. Defendants admit that they offer timely delivery of their goods and services to customers. Defendants further admit that they have considered how best to combine and operate the Parker-Hannifin and former CLARCOR facilities more efficiently. Otherwise, Defendants deny the allegations of Paragraph 39 of the Complaint.

40. Defendants admit that, presently, the only other EI-qualified manufacturer of aviation fuel filtration products is located in Germany, though Defendants understand that other manufacturers are currently in the process of obtaining and/or pursuing EI qualification for their products. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the second sentence of Paragraph 40 of the Complaint and therefore deny them. Otherwise, Defendants deny the remaining allegations in Paragraph 40.

41. Defendants state that the first sentence of Paragraph 41 of the Complaint contains a legal conclusion to which a response is not required. To the extent that a response is required, Defendants deny the allegation in the first sentence of Paragraph 41. Defendants deny the allegation in the second sentence of Paragraph 41. Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations in the third and fourth sentences of Paragraph 41 and therefore deny them.

42. Defendants state that the allegations in the first, fourth, and fifth sentences of Paragraph 42 of the Complaint contain legal conclusions to which a response is not required. To the extent that a response is required, Defendants deny the allegations in the first, fourth, and fifth sentences of Paragraph 42. Defendants deny the allegations in the second and third sentences of Paragraph 42.

43. Defendants deny the allegation in the first sentence of Paragraph 43. Defendants admit that the language quoted in Paragraph 43 appeared in an affidavit in an unrelated trade-secrets matter, but has been distorted out of context here.

44. Defendants admit that the referenced court filing averred that “[o]thers would have to expend significant time and money to acquire and duplicate” Velcon LLC’s trade secrets, which included its customer lists, customer contact and purchasing habits, and business

strategies, as well as technical information related to unspecified products, including unspecified product designs and drawings. Otherwise, Defendants deny the allegations in Paragraph 44 of the Complaint.

45. Defendants state that the allegations of Paragraph 45 of the Complaint contain legal conclusions to which a response is not required. To the extent that a response is required, Defendants admit that Plaintiff alleges that it brings this action pursuant to Section 7 of the Clayton Act. Otherwise, Defendants deny the allegations of Paragraph 45.

46. Defendants state that the allegations in Paragraph 46 of the Complaint contain legal conclusions to which a response is not required. To the extent that a response is required, Defendants admit that they develop, manufacture, and sell EI-qualified aviation fuel filtration products in the United States. Otherwise, Defendants deny the allegations of Paragraph 46.

47. Defendants admit the allegation in the first sentence of Paragraph 47 of the Complaint. Defendants deny the allegation in the second sentence of Paragraph 47. The allegation in the third sentence of Paragraph 47 of the Complaint contains a legal conclusion to which a response is not required.

48. Defendants state that the allegation in Paragraph 48 of the Complaint contains a legal conclusion to which a response is not required.

49. The allegation in the first sentence of Paragraph 49 of the Complaint contains a legal conclusion to which a response is not required. Defendants admit the allegations in the second sentence of Paragraph 49. Defendants further admit the allegation in the third sentence of Paragraph 49, but note that the quoted provisions of the Merger Agreement relate to possible disputes among the companies, not those with the Government. Defendants lack sufficient knowledge or information to form a belief about the truth of the allegation in the fourth sentence

of Paragraph 49 and therefore deny it.

50. Defendants state that the allegation in Paragraph 50 of the Complaint contains a legal conclusion to which a response is not required. To the extent that a response is required, Defendants deny the allegation in Paragraph 50.

51. Defendants admit that CLARCOR is a wholly owned subsidiary of Parker-Hannifin. Defendants deny the remaining allegations of Paragraph 51 of the Complaint.

52. Defendants deny that Plaintiff is entitled to any of the relief requested, and request that Defendants be awarded the costs incurred in defending this action, and any and all other relief the Court may deem just and proper.

FIRST DEFENSE

Without assuming any burden of proof not required by law, Defendants state that the Complaint fails to adequately allege any relevant product markets or relevant geographic markets.

SECOND DEFENSE

Without assuming any burden of proof not required by law, Defendants state that other firms that manufacture and sell fuel-filtration equipment are likely to enter the market in a timely fashion and in a manner sufficient to deter or counteract any anticompetitive effects that the merger might otherwise produce.

THIRD DEFENSE

Without assuming any burden of proof not required by law, Defendants state that granting the relief sought is contrary to the public interest.

FOURTH DEFENSE

Without assuming any burden of proof not required by law, Defendants state that the

proposed merger is procompetitive and will result in substantial acquisition-specific and cognizable efficiencies and other procompetitive effects that will directly benefit consumers. These benefits greatly outweigh any alleged anticompetitive effects.

FIFTH DEFENSE

Without assuming any burden of proof not required by law, Defendants state that Plaintiff delayed in filing suit for an unreasonable and inexcusable length of time after it knew or reasonably should have known of its claim against Defendants, and such unreasonable delay caused Defendants to suffer material prejudice.

OF COUNSEL:

John M. Majoras (admitted *pro hac vice*)
Julie E. McEvoy (admitted *pro hac vice*)
JONES DAY
51 Louisiana Avenue, NW
Washington, DC 20001
T: (202) 879-3939
F: (202) 626-1700
jmmajoras@jonesday.com
jmcevoy@jonesday.com

Aaron M. Healey (admitted *pro hac vice*)
JONES DAY
325 John H. McConnell Blvd., Suite 600
Columbus, OH 43215
T: (614) 469-3939
F: (614) 461-4198
ahealey@jonesday.com

/s/ Jeffrey L. Moyer

Jeffrey L. Moyer (#3309)
Katharine L. Mowery (#5629)
Richards, Layton & Finger, P.A.
One Rodney Square
920 North King Street
Wilmington, DE 19801
T: (302) 651-7700
moyer@rlf.com
mowery@rlf.com

Attorneys for Defendants

Dated: October 18, 2017