

ASPECT MEDICAL SYSTEMS INC
Form SC 13D/A
November 06, 2009

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 13D

Under the Securities Exchange Act of 1934

(Amendment No. 1)*

ASPECT MEDICAL SYSTEMS, INC.

(Name of Issuer)

Common Stock, \$0.01 par value per share

(Title of Class of Securities)

045235108

(CUSIP Number)

John H. Masterson

Senior Vice President and General Counsel

Covidien

15 Hampshire Street, Mansfield, Massachusetts 02048

(508) 261-8000

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications)

with copies to:

Keith F. Higgins

Ropes & Gray LLP

One International Place

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Boston, Massachusetts 02110

(617) 951-7000

November 6, 2009

(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box. "

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See §240.13d-7 for other parties to whom copies are to be sent.

* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page. The information required on the remainder of this cover page shall not be deemed to be filed for the purpose of Section 18 of the Securities Exchange Act of 1934 (Act) or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

CUSIP No. 045235108

SCHEDULE 13D

1. Names of Reporting Persons.

Covidien plc

I.R.S. Identification Nos. of above persons (entities only)

98-0624794

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a) (b)

3. SEC Use Only

4. Source of Funds (See Instructions)

AF

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)

6. Citizenship or Place of Organization

Ireland

Number of 7. Sole Voting Power

Shares

8. Shared Voting Power

Beneficially

Owned by

100

Each 9. Sole Dispositive Power

Reporting

Person 10. Shared Dispositive Power

With

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100

11. Aggregate Amount Beneficially Owned by Each Reporting Person

100

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) "

13. Percent of Class Represented by Amount in Row (11)

100.0%

14. Type of Reporting Person (See Instructions)

CO, HC

CUSIP No. 045235108

SCHEDULE 13D

1. Names of Reporting Persons.

Covidien International Finance S.A.

I.R.S. Identification Nos. of above persons (entities only)

98-0518567

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a) (b)

3. SEC Use Only

4. Source of Funds (See Instructions)

AF

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)

6. Citizenship or Place of Organization

Luxembourg

Number of 7. Sole Voting Power

Shares

8. Shared Voting Power

Beneficially

Owned by

100

Each 9. Sole Dispositive Power

Reporting

Person 10. Shared Dispositive Power

With

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100

11. Aggregate Amount Beneficially Owned by Each Reporting Person

100

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) "

13. Percent of Class Represented by Amount in Row (11)

100.0%

14. Type of Reporting Person (See Instructions)

CO, HC

CUSIP No. 045235108

SCHEDULE 13D

1. Names of Reporting Persons.

United States Surgical Corporation

I.R.S. Identification Nos. of above persons (entities only)

13-2518270

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a) (b)

3. SEC Use Only

4. Source of Funds (See Instructions)

WC

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)

6. Citizenship or Place of Organization

Delaware

Number of 7. Sole Voting Power

Shares

8. Shared Voting Power

Beneficially

Owned by

Each 100
9. Sole Dispositive Power

Reporting

Person 10. Shared Dispositive Power

With

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100

11. Aggregate Amount Beneficially Owned by Each Reporting Person

100

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) "

13. Percent of Class Represented by Amount in Row (11)

100.0%

14. Type of Reporting Person (See Instructions)

CO

CUSIP No. 045235108

SCHEDULE 13D

1. Names of Reporting Persons.

Transformer Delaware Corp.

I.R.S. Identification Nos. of above persons (entities only)

N/A

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a) (b)

3. SEC Use Only

4. Source of Funds (See Instructions)

AF

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)

6. Citizenship or Place of Organization

Delaware

Number of 7. Sole Voting Power

Shares

8. Shared Voting Power

Beneficially

Owned by

0

Each 9. Sole Dispositive Power

Reporting

Person 10. Shared Dispositive Power

With

0

11. Aggregate Amount Beneficially Owned by Each Reporting Person

0

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) "

13. Percent of Class Represented by Amount in Row (11)

0.0%

14. Type of Reporting Person (See Instructions)

CO

This Amendment No. 1 (the *Amendment*) amends and supplements the statement on Schedule 13D originally filed by Covidien plc, Covidien International Finance S.A., United States Surgical Corporation and Transformer Delaware Corp. (the *Reporting Persons*) with the Securities and Exchange Commission (the *SEC*) on October 7, 2009 (as hereby supplemented, the *Schedule 13D*). Unless otherwise indicated, each capitalized term used but not defined herein shall have the meaning assigned to such term in the Schedule 13D.

ITEM 1. SECURITY AND ISSUER.

Item 1 is hereby amended and restated in its entirety as follows:

This Statement on Schedule 13D relates to the Common Stock, \$0.01 par value per share of Aspect Medical Systems, Inc., (*Aspect*), a Delaware corporation. The principal executive offices of Aspect are located at c/o Covidien, 15 Hampshire Street, Mansfield, MA 02048.

ITEM 3. SOURCE AND AMOUNT OF FUNDS OR OTHER CONSIDERATION.

Item 3 is hereby amended and supplemented with the following:

On November 6, 2009, Purchaser purchased approximately 16,195,245 Shares validly tendered and not withdrawn from the Offer, for an aggregate consideration of \$194,342,940 (prior to any deduction for withholding taxes). Subsequently, pursuant to the terms of the Merger Agreement, Purchaser exercised its option to purchase directly from Aspect an additional number of Shares sufficient to give Purchaser ownership of one Share more than 90% of Aspect's then outstanding Shares, when combined with the Shares purchased by Purchaser in the Offer. On November 6, 2009, Purchaser purchased with a promissory note an additional 756,076 Shares from Aspect at a purchase price of \$12.00 per Share, which together with the Shares purchased in the Offer, represented approximately 90% of the outstanding Shares. Pursuant to the terms of the Merger Agreement, Purchaser completed the Merger through a short-form merger under the DGCL, with Aspect continuing as the surviving corporation and a wholly owned subsidiary of USSC. By virtue of the Merger, each issued and outstanding Share (other than Shares held as treasury stock, Shares held by the Reporting Persons or Shares held by stockholders who properly demand and perfect appraisal rights under the DGCL) was cancelled and converted into the right to receive \$12.00 in cash per outstanding Share, without interest, less any applicable withholding and transfer taxes. Shares held as treasury stock and held by the Reporting Persons were automatically cancelled.

ITEM 4. PURPOSE OF TRANSACTION.

The final four paragraphs of Item 4 are hereby amended and replaced in their entirety as follows:

Following completion of the Offer and the Merger, the Reporting Persons intend to operate the Aspect business through one or more subsidiaries of Covidien plc under the direction of Covidien plc's management. The Reporting Persons intend to continue to review the business, operations, capitalization and management of Aspect. Accordingly, the Reporting Persons reserve the right to change their plans and intentions at any time, as they deem appropriate. Following the Merger, the directors and officers of Purchaser became the directors and officers of Aspect.

As a result of the Merger, Aspect became a privately held company and ceased trading on the Nasdaq Global Market (*Nasdaq*). Following the effectiveness of the Merger, Nasdaq filed a Form 25 with the SEC to delist the Aspect Shares. Aspect expects to file a Form 15 with the SEC, suspending its reporting obligations under Sections 12 and 15 of the Securities Act of 1934, as amended.

Except as otherwise set forth in this Schedule 13D, the Reporting Persons have no present plans or proposals which relate to or would result in:

- a) The acquisition by any person of additional securities of the issuer, or the disposition of securities of the issuer;
- b) An extraordinary corporate transaction, such as a merger, reorganization or liquidation, involving the issuer or any of its subsidiaries;
- c) A sale or transfer of a material amount of assets of the issuer or any of its subsidiaries;

- d) Any change in the present board of directors or management of the issuer, including any plans or proposals to change the number or term of directors or to fill any existing vacancies on the board;
- e) Any material change in the present capitalization or dividend policy of the issuer;
- f) Any other material change in the issuer's business or corporate structure including but not limited to, if the issuer is a registered closed-end investment company, any plans or proposals to make any changes in its investment policy for which a vote is required by section 13 of the Investment Company Act of 1940;
- g) Changes in the issuer's charter, bylaws or instruments corresponding thereto or other actions which may impede the acquisition of control of the issuer by any person;
- h) Causing a class of securities of the issuer to be delisted from a national securities exchange or to cease to be authorized to be quoted in an inter-dealer quotation system of a registered national securities association;
- i) A class of equity securities of the issuer becoming eligible for termination of registration pursuant to Section 12(g)(4) of the Securities Exchange Act of 1934; or
- j) Any action similar to any of those enumerated above.

ITEM 5. INTEREST IN SECURITIES OF THE ISSUER.

Item 5 is hereby amended and restated in its entirety as follows:

The information set forth and/or incorporated by reference in Items 2, 3 and 4 is hereby incorporated by reference into this Item 5.

- a) As a result of the Merger, USSC is the sole shareholder of Aspect and owns 100 Shares, which represents 100.0% of the outstanding Shares. The separate corporate existence of Purchaser has ceased, and therefore, Purchaser owns no Shares.
- b) USSC, CIFSA and Covidien plc have shared power to vote or direct the vote and to dispose or direct the disposition of all 100 Shares. Purchaser has no authority to vote or direct the vote for any Shares.
- c) Except for the transactions described herein, to the best of the Reporting Persons' knowledge as of the date hereof, neither the Reporting Persons nor any of the Reporting Persons' directors and executive officers named in Schedule I hereto has effected any transaction in Shares during the past 60 days.
- d) Other than the persons named in Schedule I hereto, to the best of the Reporting Persons' knowledge as of the date hereof, neither the Reporting Persons nor the Reporting Persons' directors and executive officers named in Schedule I hereto has or knows any other person who has the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, any Shares beneficially owned by the Reporting Persons.
- e) As a result of the termination of its corporate existence in connection with the Merger, Purchaser ceased to be the beneficial owner of any securities of Aspect.

ITEM 6. CONTRACTS, ARRANGEMENTS, UNDERSTANDINGS OR RELATIONSHIPS WITH RESPECT TO SECURITIES OF THE ISSUER.

The fourth paragraph of Item 6 is hereby amended and replaced in its entirety with the following:

Except for the agreements described above, to the knowledge of the Reporting Persons, there are no contracts, arrangements, understandings or relationships (legal or otherwise), including, but not limited to, transfer or voting of any of the securities, finder's fees, joint ventures, loan or option arrangements, puts or calls, guarantees of profits, division of profits or loss, or the giving or withholding of proxies, between the persons enumerated in Item 2, and any other person, with respect to any securities of Aspect, including any securities pledged or otherwise subject to a contingency the occurrence of which would give another person voting power or investment power over such securities other than standard default and similar provisions contained in loan agreements.

ITEM 7. MATERIAL TO BE FILED AS EXHIBITS.

| Exhibit | Description |
|----------------|--|
| 1 | Joint Filing Agreement, between Covidien plc, Covidien International Finance, S.A., United States Surgical Corporation and Transformer Delaware Corp., dated November 6, 2009. |

SIGNATURES

After reasonable inquiry and to the best of its knowledge and belief, the undersigned certifies that the information set forth in this Statement is true, complete and correct.

Dated: November 6, 2009

COVIDIEN PLC

By: /s/ JOHN H. MASTERSON
Name: **John H. Masterson**
Title: **Senior Vice President and General Counsel**

COVIDIEN INTERNATIONAL FINANCE S.A.

By: /s/ MICHELANGELO F. STEFANI
Name: **Michelangelo F. Stefani**
Title: **Managing Director**

UNITED STATES SURGICAL CORPORATION

By: /s/ MATTHEW J. NICOLELLA
Name: **Matthew J. Nicolella**
Title: **Vice President and Assistant Secretary**

TRANSFORMER DELAWARE CORP.

By: Aspect Medical Systems, Inc.,
As successor-in-interest by merger

By: /s/ MATTHEW J. NICOLELLA
Name: **Matthew J. Nicolella**
Title: **Vice President and Assistant Secretary**

JOINT FILING AGREEMENT

In accordance with Rule 13d-1(k)(1) under the Securities Exchange Act of 1934, as amended, the undersigned hereby agree that this Statement on Schedule 13D relating to the beneficial ownership of Common Stock, \$0.01 par value per share, of Aspect Medical Systems, Inc. is being filed with the Securities and Exchange Commission on behalf of each of them. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Dated: November 6, 2009

COVIDIEN PLC

By: /s/ JOHN H. MASTERTSON
Name: John H. Masterson
Title: Senior Vice President and General Counsel

COVIDIEN INTERNATIONAL FINANCE S.A.

By: /s/ MICHELANGELO F. STEFANI
Name: Michelangelo F. Stefani
Title: Managing Director

UNITED STATES SURGICAL CORPORATION

By: /s/ MATTHEW J. NICOLELLA
Name: Matthew J. Nicolella
Title: Vice President and Assistant Secretary

TRANSFORMER DELAWARE CORP.

By: Aspect Medical Systems, Inc.,
As successor-in-interest by merger

By: /s/ MATTHEW J. NICOLELLA
Name: Matthew J. Nicolella
Title: Vice President and Assistant Secretary

SCHEDULE 1

The names of the directors and executive officers (or functional equivalents) of Covidien plc, CIFSA, USSC and Aspect Medical Systems, Inc., as successor in interest by merger of Transformer Delaware Corp. (*Purchaser*), and their present principal occupations or employment are set forth below. Unless otherwise indicated, each director and executive officer (or functional equivalent) has been so employed for a period in excess of five years. Unless otherwise indicated, (i) the principal business address for each director of Covidien plc is Cherrywood Business Park, Block G, First Floor, Loughlinstown, Co., Dublin, Ireland, and the business telephone number for each such director or officer is +353 1 439-3000, (ii) the principal business address for each director of CIFSA is 3b Bld Prince Henri, L-1724, Luxembourg and (iii) the principal business address for each for each officer of Covidien plc and each director and officer of USSC and Purchaser is 15 Hampshire Street, Mansfield, Massachusetts 02048 and the business telephone number for each such director and officer is (508) 261-8000. Unless otherwise indicated, each director and executive officer (or functional equivalent) is a citizen of the United States. References below to Covidien include Covidien plc, its predecessor, Covidien Ltd., and the healthcare business of Tyco International for all periods prior to the separation of Covidien Ltd. from Tyco International.

COVIDIEN PLC

Directors

Richard J. Meelia Chairman of the Board of Directors, President and Chief Executive Officer of Covidien. Mr. Meelia is also President of USSC and the Purchaser. Mr. Meelia's principal business address is 15 Hampshire Street, Mansfield, Massachusetts 02048 and his business telephone number is (508) 261-8000.

Craig Arnold Chief Executive Officer, Fluid Power Group of Eaton Corporation, a diversified industrial manufacturer.

Robert H. Brust Chief Financial Officer of Sprint Nextel Corporation, a wireless and wireline communications company.

John M. Connors, Jr. Chairman Emeritus of Hill, Holliday, Connors, Cosmopolos, Inc., a full-service advertising agency that is part of The Interpublic Group of Companies, Inc.

Christopher J. Coughlin Executive Vice President and Chief Financial Officer of Tyco International, a global provider of security products and services, fire protection and detection products and services, valves and controls, and other industrial products.

Timothy M. Donahue Member of the Board of Directors of Eastman Kodak Company, NVR, Inc. and Tyco International Ltd.

Kathy J. Herbert Member of the Board of Directors of Covidien plc.

Randall J. Hogan, III Chairman and Chief Executive Officer of Pentair, Inc., an industrial manufacturing company.

Dennis H. Reilley Member of the Board of Directors of H.J. Heinz Company, Marathon Oil Corporation and The Dow Chemical Company.

Tadatoka Yamada President of the Global Health Program of the Bill & Melinda Gates Foundation.

Joseph A. Zaccagnino Member of the Board of Directors of NewAlliance Bancshares, Inc. and Chairman of the Board of VHA, Inc., a 2,500 member healthcare organization cooperative.

Officers

Richard J. Meelia See above under Covidien plc Directors.

Charles J. Dockendorff Executive Vice President and Chief Financial Officer of Covidien and Vice President of USSC and Purchaser.

Jose E. Almeida Senior Vice President & President, Medical Devices of Covidien.

Timothy R. Wright Senior Vice President of Covidien and President, Pharmaceutical Products and Imaging Solutions of Covidien. Mr. Wright's principal business address is 675 McDonnell Blvd., Hazelwood, Missouri 63042 and his business telephone number is (314) 654-2000.

Eric A. Kraus Senior Vice President, Corporate Communications of Covidien.

John H. Masterson Senior Vice President and General Counsel of Covidien and Vice President and Assistant Secretary of Purchaser.

Amy A. McBride-Wendell Senior Vice President, Strategy and Business Development of Covidien.

Michael P. Dunford Senior Vice President, Human Resources of Covidien.

Richard G. Brown, Jr. Vice President, Chief Accounting Officer and Corporate Controller of Covidien and Vice President of USSC and Purchaser.

Kevin G. DaSilva Vice President and Treasurer of Covidien and member of the board of directors and Vice President and Treasurer of USSC and Purchaser.

Eric C. Green Vice President and Chief Tax Officer of Covidien and Vice President and Assistant Treasurer of USSC and Purchaser.

Coleman N. Lannum Vice President, Investor Relations of Covidien.

COVIDIEN INTERNATIONAL FINANCE S.A.

Anton Stadtbaumer Managing director and Director Regional Treasurer EMEA/APAC of CIFSA. Mr. Stadtbaumer has German citizenship.

Michelangelo Stefani Managing director of CIFSA. Mr. Stefani has Italian citizenship.

Kevin G. DaSilva See above under Covidien plc Officers.

Eric C. Green See above under Covidien plc Officers.

Erik De Gres Member of the board of directors of CIFSA. Mr. De Gres has Belgian citizenship.

UNITED STATES SURGICAL CORPORATION

Directors

Kevin G. DaSilva See above under Covidien plc Officers.

John W. Kapples Member of the board of directors and a Vice President and Secretary of both USSC and Purchaser and Vice President and Secretary of Tyco Healthcare Group LP, d/b/a Covidien.

Matthew J. Nicolella Member of the board of directors and a Vice President and Assistant Secretary of both USSC and Purchaser and Vice President and Chief Mergers & Acquisitions/Licensing Counsel of Tyco Healthcare Group LP d/b/a Covidien.

Officers

Richard J. Meelia See above under Covidien plc Directors.

Richard G. Brown See above under Covidien plc Officers.

Stephen C. Carey Vice President and Assistant Treasurer of USSC and Purchaser and Vice President, Tax Reporting of Tyco Healthcare Group LP d/b/a/ Covidien.

Kevin G. DaSilva See above under Covidien plc Officers.

Charles J. Dockendorff See above under Covidien plc Officers.

Mark Farber Vice President and Assistant Secretary of USSC and Vice President and General Counsel, Surgical Devices, of Tyco Healthcare Group LP, d/b/a Covidien. Mr. Farber's principal business address is 150 Glover Avenue, Norwalk, Connecticut 06850 and his business telephone number is (203) 845-1000.

Eric. C. Green See above under Covidien plc Officers.

John W. Kapples See above under United States Surgical Corporation Directors.

Michael W. Lyons Vice President and Assistant Secretary of USSC and Associate General Counsel, Surgical Devices, of Tyco Healthcare Group LP, d/b/a Covidien. Mr. Lyons' principal business address is 150 Glover Avenue, Norwalk, Connecticut 06850 and his business telephone number is (203) 845-1000.

John H. Masterson See above under Covidien plc Officers.

Matthew J. Nicolella See above under United States Surgical Corporation Directors.

Lawrence T. Weiss Vice President and Assistant Secretary of USSC and Purchaser and Vice President and Chief International Counsel of Tyco Healthcare Group LP d/b/a/ Covidien.

Joseph Wuestner Vice President and Assistant Secretary of USSC and Vice President, Legal of Mallinckrodt Inc., a subsidiary of Covidien. Mr. Wuestner's principal business address is 675 McDonnell Blvd., Hazelwood, MO 63042 and his business telephone number is (314) 654-2000.

ASPECT MEDICAL SYSTEMS, INC.

Directors

Kevin G. DaSilva See above under Covidien plc Officers.

John W. Kapples See above under United States Surgical Corporation Directors.

Matthew J. Nicolella See above under United States Surgical Corporation Directors.

Officers

Richard J. Meelia See above under Covidien plc Directors.

Richard G. Brown See above under Covidien plc Officers.

Stephen C. Carey See above under United States Surgical Corporation Officers.

Kevin G. DaSilva See above under Covidien plc Officers.

Charles J. Dockendorff See above under Covidien plc Officers.

Eric. C. Green See above under Covidien plc Officers.

John W. Kapples See above under United States Surgical Corporation Directors.

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John H. Masterson See above under Covidien plc Officers.

Matthew J. Nicolella See above under United States Surgical Corporation Directors.

Lawrence T. Weiss See above under United States Surgical Corporation Officers.