

Spirit AeroSystems Holdings, Inc.
Form S-8
May 08, 2014

As filed with the Securities and Exchange Commission on May 8, 2014

Registration No.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

SPIRIT AEROSYSTEMS HOLDINGS, INC.

(Exact name of the registrant as specified in the charter)

Delaware
(State or other jurisdiction of
Incorporation or organization)

20-2436320
(I.R.S. Employer
Identification No.)

3801 South Oliver

Wichita, Kansas 67210

(Address, with zip code, of principal executive offices)

SPIRIT AEROSYSTEMS HOLDINGS, INC. 2014 OMNIBUS INCENTIVE PLAN

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(Full Title of the Plan)

Larry A. Lawson

Chief Executive Officer

Spirit AeroSystems Holdings, Inc.

3801 South Oliver

Wichita, Kansas 67210

(316) 526-9000

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

Jon D. Lammers, Esq.

Senior Vice President, General Counsel and Secretary
Spirit AeroSystems Holdings, Inc.
3801 South Oliver
Wichita, Kansas 67210
(316) 526-9000

Mark Kingsley

Kaye Scholer LLP
425 Park Avenue
New York, NY 10022
(212) 836-7092

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Securities Exchange Act of 1934. (Check one):

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company
(Do not check if a smaller reporting company)

CALCULATION OF REGISTRATION FEE

| Title of Securities To Be Registered | Amount to Be Registered | Proposed Maximum Offering Price Per Share(1) | Proposed Maximum Aggregate Offering Price(1) | Amount of Registration Fee |
|---|--------------------------------|---|---|-----------------------------------|
| Class A Common Stock, \$0.01 par value per share SPIRIT AEROSYSTEMS HOLDINGS, INC., 2014 OMNIBUS INCENTIVE PLAN | 8,500,000 | \$ 30.17 | \$ 256,445,000 | \$ 33,030.12 |

(1) Estimated solely for the purpose of calculating the registration fee. Pursuant to Rule 457(h) under the Securities Act of 1933, the proposed maximum offering price per share and the proposed maximum offering price in respect of the Plan have been determined based on the average of the high and low prices reported on the New York Stock Exchange Composite Tape on May 1, 2014.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The documents containing the information specified in Part I of Form S-8 will be sent or given to employees as specified by Rule 428(b)(1) promulgated under the Securities Act of 1933, as amended (the Securities Act).

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed or to be filed by the Registrant with the Securities and Exchange Commission (the Commission) are incorporated by reference into this Registration Statement:

(a) The Annual Report on Form 10-K for the year ended December 31, 2013 filed by the Registrant with the Commission on February 19, 2014.

(b) All other reports filed pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (the Exchange Act) since the end of the fiscal year covered by the Registrant document referred to in (a) above.

(c) The description of the Registrant's Class A Common Stock, which is contained in Amendment No. 1 to the Registration Statement on Form S-1 filed under the Securities Exchange Act of 1934 (the Exchange Act) on May 14, 2007, including any amendment or report filed for the purpose of updating such description.

(d) All documents filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act prior to the filing of a post-effective amendment that indicates that all securities offered pursuant to this Registration Statement have been sold or which de-registers all securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of filing of such documents.

Item 4. Description of Securities.

Common Stock

Not Applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers

Delaware General Corporation Law

The Registrant is incorporated under the laws, as amended, of the State of Delaware. Under Section 145 of the Delaware General Corporation Law, or the DGCL, a corporation may indemnify its directors, officers, employees and agents and its former directors, officers, employees and agents and those who serve, at the corporation's request, in such capacities with another enterprise, against expenses, including attorneys' fees, as well as judgments, fines and settlements in nonderivative lawsuits, actually and reasonably incurred in connection with the defense of any action, suit or proceeding in which they or any of them were or are made parties or are threatened to be made parties by reason of their serving or having served in such capacity. The DGCL provides, however, that

such person must have acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interests of the corporation and, in the case of a criminal action, such person must have had no reasonable cause to believe his or her conduct was unlawful. In addition, the DGCL does not permit indemnification in an action or suit by or in the right of the corporation, where such person has been adjudged liable to the corporation, unless, and only to the extent that, a court determines that such person fairly and reasonably is entitled to indemnity for costs the court deems proper in light of liability adjudication. Indemnity is mandatory to the extent a claim, issue or matter has been successfully defended.

Certificate of Incorporation and By-Laws

The Registrant's certificate of incorporation provides that none of its directors shall be personally liable for breach of fiduciary duty as a director, except that they may be liable for (i) any breach of the director's duty of loyalty to the Registrant or its stockholders, (ii) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law, (iii) the payment of unlawful dividends and unlawful repurchase or redemption of the Registrant's capital stock prohibited by the DGCL, and (iv) any transaction from which the director derived any improper personal benefits. Any repeal or modification of that provision shall not adversely affect any right or protection, or any limitation of the liability of, any of our directors existing at, or arising out of facts or incidents occurring prior to, the effective date of such repeal or modification. Both the Registrant's certificate of incorporation and its by-laws provide for the indemnification of the Registrant's directors and officers to the fullest extent permitted by the DGCL.

Indemnification Agreements

Additionally, the Registrant has entered into indemnification agreements with certain of its directors and officers which may, in certain cases, be broader than the specific indemnification provisions contained in our certificate of incorporation and by-laws. The indemnification agreements may require the Registrant among other things, to indemnify such officers and directors against certain liabilities that may arise by reason of their status or service as directors, officers or employees of the Registrant and to advance the expenses incurred by such parties as a result of any threatened claims or proceedings brought against them as to which they could be indemnified.

Liability Insurance

The Registrant's directors and officers are covered by insurance policies maintained by the Registrant against certain liabilities for actions taken in their capacities as such, including liabilities under the Securities Act or the Exchange Act.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

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| Exhibit No. | Description |
|--------------------|--|
| *4.1 | Specimen Copy of the Registrant's Class A Common Stock Certificate |
| 5.1 | Opinion of Kaye Scholer LLP |
| 10.1 | Spirit AeroSystems Holdings, Inc. 2014 Omnibus Incentive Plan |
| 23.1 | Consent of PricewaterhouseCoopers LLP |
| 23.2 | Consent of Kaye Scholer LLP is contained in Exhibit 5.1 to this Registration |
| 24.1 | Power of Attorney is contained on the first signature page of this Registration Statement. |

* Incorporated by reference to the Registrant's Amendment No. 5 to Form S-1 (Commission File No. 333-135486) filed on November 17, 2006.

Item 9. Undertakings.

(a) The Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form or prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective Registration Statement.

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement.

Provided, however, that:

Paragraphs (a)(1)(i) and (a)(1)(ii) of this Section do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in the Registration Statement;

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof;

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

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(b) The Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the Registration Statement shall be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the provisions described under Item 6 - Indemnification of Directors and Officers or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8, and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Wichita, State of Kansas on May 7, 2014.

SPIRIT AEROSYSTEMS HOLDINGS, INC.

By: */s/ Sanjay Kapoor*
 Name: Sanjay Kapoor
 Title: Senior Vice President and Chief Financial Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS that each person whose signature appears below constitutes and appoints SANJAY KAPOOR and LARRY A. LAWSON and both or either one of them, his true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement, and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or either of them, or their or his substitutes or substitute, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

| Signature | Title | Date |
|---|--|-------------|
| <i>/s/ LARRY A. LAWSON</i> LARRY A. LAWSON | President, Chief Executive Officer and Director (Principal Executive Officer) | May 7, 2014 |
| <i>/s/ SANJAY KAPOOR</i> SANJAY KAPOOR | Senior Vice-President and Chief Financial Officer (Principal Financial Officer) | May 7, 2014 |
| <i>/s/ MARK SUCHINSKI</i> MARK SUCHINSKI | Corporate Controller (Principal Accounting Officer) | May 7, 2014 |
| CHARLES L. CHADWELL | Director | |
| IVOR EVANS | Director | |

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PAUL FULCHINO

Director

/s/ RICHARD GEPHARDT
RICHARD GEPHARDT

Director

May 7, 2014

| | | |
|---|----------|-------------|
| <i>/s/ ROBERT JOHNSON</i> ROBERT JOHNSON | Director | May 7, 2014 |
| <i>/s/ RONALD KADISH</i> RONALD KADISH | Director | May 7, 2014 |
| <i>/s/ CHRISTOPHER E. KUBASIK</i> CHRISTOPHER E. KUBASIK | Director | May 7, 2014 |
| TAWFIQ POPATIA | Director | |
| <i>/s/ FRANCIS RABORN</i> FRANCIS RABORN | Director | May 7, 2014 |

INDEX TO EXHIBITS

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