

MICROS SYSTEMS INC
Form SC TO-T/A
July 08, 2014

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE TO
Tender Offer Statement under Section 14(d)(1) or 13(e)(1)
of the Securities Exchange Act of 1934
(Amendment No. 1)

MICROS SYSTEMS, INC.
(Name of Subject Company (issuer))
ROCKET ACQUISITION CORPORATION
(Offeror)
a subsidiary of
OC ACQUISITION LLC
(Parent of Offeror)
a subsidiary of
ORACLE CORPORATION
(Parent of Offeror)
(Names of Filing Persons)

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Common Stock, Par Value \$0.025 Per Share

(Title of Class of Securities)

594901100

(CUSIP Number of Class of Securities)

Dorian Daley

Senior Vice President, General Counsel and Secretary

Oracle Corporation

500 Oracle Parkway

Redwood City, California 94065

Telephone: (650) 506-7000

(Name, address and telephone number of person authorized to receive notices and communications on behalf of filing persons)

Copies to:

Keith A. Flaum

James R. Griffin

Weil, Gotshal & Manges LLP

201 Redwood Shores Parkway

Redwood City, California 94065

Telephone: (650) 802-3000

CALCULATION OF FILING FEE

Transaction valuation*

\$5,443,494,248

Amount of filing fee**

\$701,122.06

- * Estimated solely for purposes of calculating the filing fee. This calculation is based on the offer to purchase all of the issued and outstanding shares of common stock, par value \$0.025 per share, of MICROS Systems, Inc. (the Company), at a purchase price of \$68.00 per share, net to the seller in cash, without interest thereon and subject to any required tax withholding. Such shares consist of: (i) 74,817,363 shares of common stock of the Company that were issued and outstanding as of June 25, 2014; (ii) 4,175,192 shares common stock of the Company potentially issuable upon exercise of outstanding exercisable in-the-money stock options as of June 25, 2014; and (iii) 1,058,831 shares of common stock of the Company potentially issuable pursuant to outstanding stock options that may undergo accelerated vesting and be settled for shares of common stock of the Company in connection with the Offer. The foregoing figures have been provided by the issuer to the offeror and are as of June 25, 2014, the most recent practicable date.
- ** The filing fee was calculated in accordance with Rule 0-11 under the Securities Exchange Act of 1934, as amended, and Fee Rate Advisory No. 1 for Fiscal Year 2014, issued August 30, 2013, by multiplying the transaction value by 0.00012880.

- x Check box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid: \$701,122.06

Filing Party: Rocket Acquisition Corporation, OC Acquisition LLC and Oracle Corporation

Form or Registration No.: Schedule TO

Date Filed: July 3, 2014

- .. Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

- x third-party tender offer subject to Rule 14d-1.
.. issuer tender offer subject to Rule 13e-4.
.. going-private transaction subject to Rule 13e-3.
.. amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer ..

If applicable, check the appropriate box(es) below to designate the appropriate rule provision(s) relied upon:

- .. Rule 13e-4(i) (Cross-Border Issuer Tender Offer)
.. Rule 14d-1(d) (Cross-Border Third-Party Tender Offer)

This Amendment No. 1 (this Amendment) amends and supplements the Tender Offer Statement on Schedule TO (together with any subsequent amendments and supplements thereto, the Schedule TO), filed with the Securities and Exchange Commission on July 3, 2014 by Rocket Acquisition Corporation, a Maryland corporation (Purchaser), a subsidiary of OC Acquisition LLC, a Delaware limited liability company (Parent), which is a subsidiary of Oracle Corporation, a Delaware corporation (Oracle). The Schedule TO relates to the offer by Purchaser to purchase all of the issued and outstanding shares of common stock, par value, \$0.025 per share (the Shares), of MICROS Systems, Inc., a Maryland corporation (the Company), at a purchase price of \$68.00 per Share net to the seller in cash, without interest thereon and subject to any required tax withholding, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated July 3, 2014 (the Offer to Purchase) and in the related Letter of Transmittal (which, together with the Offer to Purchase, as they may be amended or supplemented from time to time, collectively constitute the Offer), copies of which are attached to the Schedule TO as Exhibits (a)(1)(A) and (a)(1)(B), respectively.

Except as otherwise set forth in this Amendment, the information set forth in the Schedule TO remains unchanged and is incorporated herein by reference to the extent relevant to the items in this Amendment. Capitalized terms used but not defined herein have the meanings ascribed to them in the Schedule TO.

Items 1 through 9 and Item 11.

The Offer to Purchase and Items 1 through 9 and Item 11 of the Schedule TO, to the extent such Items incorporate by reference the information contained in the Offer to Purchase, are hereby amended by:

Amending and restating the first paragraph in Section 16 Certain Legal Matters; Regulatory Approvals Legal Proceedings on page 43 of the Offer to Purchase to read as follows:

On June 26, 2014, June 27, 2014 and July 2, 2014, putative class action complaints were filed in the Circuit Court for Howard County by purported stockholders of the Company in connection with the pending Offer and the Merger. The actions captioned *Boudreaux v. MICROS Systems, Inc., et al.*, *Stein v. MICROS Systems, Inc., et al.* and *Rosenfeld IRA v. MICROS Systems, Inc. et al.* allege that the directors of the Company breached their fiduciary duties by, among other things, approving a merger that provides for inadequate consideration for the Company's stockholders and that the Merger Agreement includes allegedly preclusive deal protection provisions; and in *Boudreaux* and *Stein* that Oracle, Parent and Purchaser allegedly aided and abetted the directors in breaching their duties to the stockholders. *Stein* also brings a declaratory judgment claim against all defendants, and *Boudreaux* includes a claim that the Company aided and abetted the directors' breaches of fiduciary duties, as well as allegations about purported conflicts of interest. *Rosenfeld IRA* includes allegations about supposed special benefits that certain insiders will receive as a result of the Merger. The actions seek various remedies, including enjoining the Merger from being consummated, damages (in the *Stein* and *Rosenfeld IRA* cases only), and costs and fees relating to the lawsuits.

Item 12.

Item 12 of the Schedule TO is hereby amended and supplemented by adding the following exhibit:

**Index
No.**

- (a)(5)(H) Complaint captioned *Joel Rosenfeld IRA, Individually on Behalf of Itself and All Others Similarly Situated v. MICROS Systems, et al.*, filed on July 2, 2014, in the Circuit Court for Howard County, Maryland.

SIGNATURES

After due inquiry and to the best knowledge and belief of the undersigned, each of the undersigned certify that the information set forth in this statement is true, complete and correct.

Date: July 7, 2014

Rocket Acquisition Corporation

By: /s/ Dorian Daley
Name: Dorian Daley
Title: President

OC Acquisition LLC

By: /s/ Dorian Daley
Name: Dorian Daley
Title: President

Oracle Corporation

By: /s/ Dorian Daley
Name: Dorian Daley
Title: Senior Vice President, General Counsel
and

Secretary

EXHIBIT INDEX

| Exhibit No. | Description |
|--------------------|---|
| (a)(1)(A) | Offer to Purchase dated July 3, 2014.* |
| (a)(1)(B) | Letter of Transmittal (including Guidelines for Certification of Taxpayer Identification Number on IRS Form W-9).* |
| (a)(1)(C) | Notice of Guaranteed Delivery.* |
| (a)(1)(D) | Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.* |
| (a)(1)(E) | Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.* |
| (a)(1)(F) | Summary Advertisement dated July 3, 2014.* |
| (a)(5)(A) | Press Release issued by Oracle Corporation on June 23, 2014 (incorporated by reference to the Schedule TO filed by Oracle Corporation on June 23, 2014). |
| (a)(5)(B) | General Presentation issued by Oracle Corporation on June 23, 2014 (incorporated by reference to the Schedule TO filed by Oracle Corporation on June 23, 2014). |
| (a)(5)(C) | FAQ issued by Oracle Corporation on June 23, 2014 (incorporated by reference to the Schedule TO filed by Oracle Corporation on June 23, 2014). |
| (a)(5)(D) | Customer and Partner Letter issued by Oracle Corporation on June 23, 2014 (incorporated by reference to the Schedule TO filed by Oracle Corporation on June 23, 2014). |
| (a)(5)(E) | Website materials published by Oracle Corporation on June 23, 2014 (incorporated by reference to the Schedule TO filed by Oracle Corporation on June 23, 2014). |
| (a)(5)(F) | Complaint captioned <i>Shiva Y. Stein, Individually and on Behalf of Herself and All Others Similarly Situated v. MICROS Systems, Inc., et al.</i> , filed on June 27, 2014, in the Circuit Court for Howard County, Maryland.* |
| (a)(5)(G) | Complaint captioned <i>Tiffani Boudreaux, Individually on Behalf of Herself and All Others Similarly Situated v. MICROS Systems, Inc. et al.</i> , filed on June 26, 2014, in the Circuit Court for Howard County, Maryland.* |
| (a)(5)(H) | Complaint captioned <i>Joel Rosenfeld IRA, Individually on Behalf of Itself and All Others Similarly Situated v. MICROS Systems, et al.</i> , filed on July 2, 2014, in the Circuit Court for Howard County, Maryland. |
| (a)(7) | Notice of Merger of Rocket Acquisition Corporation with and into MICROS Systems, Inc.* |
| (b) | Not applicable. |
| (d)(1) | Agreement and Plan of Merger, dated as of June 22, 2014, among MICROS Systems, Inc., OC Acquisition LLC, Rocket Acquisition Corporation and (solely with respect to performance of its obligations set forth in certain specified sections thereof) Oracle Corporation (incorporated by reference to Exhibit 2.1 to the Current Report on Form 8-K/A filed by MICROS Systems, Inc. with the SEC on July 3, 2014). |
| (d)(2) | |

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Form of Tender and Support Agreement (incorporated by reference to Exhibit A to Exhibit 2.1 to the Current Report on Form 8-K/A filed by MICROS Systems, Inc. with the SEC on July 3, 2014).

- (d)(3) Confidential Disclosure Agreement, effective as of April 12, 2014, between Oracle Corporation and MICROS Systems, Inc. (incorporated by reference to Exhibit (e)(2) to the Schedule 14D-9 filed by MICROS Systems, Inc. on July 3, 2014).
- (d)(4) Exclusivity Agreement, dated as of June 6, 2014, between MICROS Systems, Inc. and Oracle Corporation (incorporated by reference to Exhibit (e)(3) to the Schedule 14D-9 filed by MICROS Systems, Inc. on July 3, 2014).
- (e) Not applicable.
- (g) Not applicable.
- (h) Not applicable.

* Previously filed with the Schedule TO