MIDDLEBY CORP
Form 10-Q
November 06, 2008

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

(Mark One)
x Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

For the quarterly period ended September 27, 2008

or

o Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Commission File No. 1-9973

THE MIDDLEBY CORPORATION
(Exact Name of Registrant as Specified in its Charter)

Delaware (State or Other Jurisdiction of Incorporation or Organization)	**36-3352497** (I.R.S. Employer Identification No.)
1400 Toastmaster Drive, Elgin, Illinois (Address of Principal Executive Offices)	**60120** (Zip Code)

Registrant's Telephone No., including Area Code **(847) 741-3300**

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days.
Yes x No o

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 definition of "accelerated filer, large accelerated filer and smaller reporting company" in Rule 12b-2 of the Exchange Act.
Large accelerated filer x Accelerated filer o Non accelerated filer o Smaller reporting company o

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes o No x

As of October 31, 2008, there were 16,993,843 shares of the registrant's common stock outstanding.

THE MIDDLEBY CORPORATION AND SUBSIDIARIES

QUARTER ENDED SEPTEMBER 27, 2008

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PART I. FINANCIAL INFORMATION

Item 1. Condensed Consolidated Financial Statements

THE MIDDLEBY CORPORATION AND SUBSIDIARIES
CONDENSED CONSOLIDATED BALANCE SHEETS
(Amounts In Thousands, Except Share Data)
(Unaudited)

	Sep. 27, 2008	Dec. 29, 2007
ASSETS		
Current assets:		
Cash and cash equivalents	$ 7,027	$ 7,463
Accounts receivable, net of reserve for doubtful accounts of $7,684 and $5,818	91,633	73,090
Inventories, net	94,360	66,438
Prepaid expenses and other	9,697	10,341
Prepaid taxes	7,627	17,986
Current deferred taxes	14,788	11,095
Total current assets	225,132	186,413
Property, plant and equipment, net of accumulated depreciation of $43,046 and $41,114	44,562	36,774
Goodwill	248,779	134,800
Other intangibles	125,726	52,581
Other assets	3,836	3,079
Total assets	$ 648,035	$ 413,647
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Current maturities of long-term debt	$ 7,803	$ 2,683
Accounts payable	34,377	26,576
Accrued expenses	98,535	95,581
Total current liabilities	140,715	124,840
Long-term debt	249,850	93,514
Long-term deferred tax liability	20,856	2,568
Other non-current liabilities	18,847	9,813
Stockholders' equity:		
Preferred stock, $0.01 par value; nonvoting; 2,000,000 shares authorized; none issued	—	—
Common stock, $0.01 par value; 47,500,000 shares authorized; 21,068,556 and 20,732,836 shares issued in 2008 and 2007, respectively	120	120
Paid-in capital	106,739	104,782
Treasury stock at cost; 4,074,713 and 3,855,044 shares in 2008 and 2007, respectively	(102,000)	(89,641)
Retained earnings	213,484	166,896
Accumulated other comprehensive income	(576)	755
Total stockholders' equity	217,767	182,912
Total liabilities and stockholders' equity	$ 648,035	$ 413,647

See accompanying notes

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THE MIDDLEBY CORPORATION AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF EARNINGS
(In Thousands, Except Per Share Data)
(Unaudited)

	Three Months Ended		Nine Months Ended	
	Sep. 27, 2008	Sep. 29, 2007	Sep. 27, 2008	Sep. 29, 2007
Net sales	$ 166,472	$ 135,996	$ 500,868	$ 354,939
Cost of sales	101,735	84,600	310,221	217,552
Gross profit	64,737	51,396	190,647	137,387
Selling expenses	16,822	13,507	49,743	36,575
General and administrative expenses	16,962	12,465	51,443	35,380
Income from operations	30,953	25,424	89,461	65,432
Net interest expense and deferred financing amortization	3,168	1,621	9,910	4,138
Other expense (income), net	850	(316)	1,798	(1,053)
Earnings before income taxes	26,935	24,119	77,753	62,347
Provision for income taxes	10,645	10,063	31,165	24,989
Net earnings	$ 16,290	$ 14,056	$ 46,588	$ 37,358
Net earnings per share:				
Basic	$ 1.02	$ 0.89	$ 2.91	$ 2.39
Diluted	$ 0.96	$ 0.83	$ 2.72	$ 2.22
Weighted average number of shares				
Basic	15,911	15,743	15,985	15,632
Dilutive stock options[1]	1,106	1,191	1,158	1,225
Diluted	17,017	16,934	17,143	16,857

[1] There were no anti-dilutive stock options excluded from common stock equivalents for any period presented.

See accompanying notes

THE MIDDLEBY CORPORATION AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In Thousands)
(Unaudited)

	Nine Months Ended	
	Sep. 27, 2008	Sep. 29, 2007
Cash flows from operating activities-		
Net earnings	$ 46,588	$ 37,358
Adjustments to reconcile net earnings to cash provided by operating activities:		
Depreciation and amortization	10,256	4,850
Deferred taxes	2,593	1,417
Non-cash share-based compensation	8,421	5,540
Unrealized loss on derivative financial instruments	169	—
Changes in assets and liabilities, net of acquisitions		
Accounts receivable, net	100	(5,674)
Inventories, net	(7,022)	(2,992)
Prepaid expenses and other assets	13,243	(4,576)
Accounts payable	(2,108)	6,866
Accrued expenses and other liabilities	(8,248)	3,195
Net cash provided by operating activities	63,992	45,984
Cash flows from investing activities-		
Net additions to property and equipment	(3,408)	(1,689)
Acquisition of Houno	—	(179)
Acquisition of Jade	—	(7,779)
Acquisition of Carter-Hoffmann	(167)	(16,152)
Acquisition of MP Equipment	(3,000)	(15,193)
Acquisition of Wells Bloomfield	(317)	(28,803)
Acquisition of Star	(188,241)	—
Acquisition of Giga	(9,918)	—
Acquisition of Frifri	(3,050)	—
Net cash (used in) investing activities	(208,101)	(69,795)
Cash flows from financing activities-		
Net proceeds under revolving credit facilities	156,450	36,750
Repayments under senior secured bank notes	—	(11,250)
Net proceeds (payments) under foreign bank loan	525	(822)
Debt issuance costs	(1,002)	—
Purchase of treasury stock	(12,359)	—
Net proceeds from stock issuances	270	3,121
Net cash provided by financing activities	143,884	27,799
Effect of exchange rates on cash and cash equivalents	(211)	94

Changes in cash and cash equivalents-				
Net (decrease) increase in cash and cash equivalents		**(436)**		**4,082**
Cash and cash equivalents at beginning of year		**7,463**		**3,534**
Cash and cash equivalents at end of quarter	**$**	**7,027**	**$**	**7,616**
Supplemental disclosure of cash flow information:				
Interest paid	**$**	**8,524**	**$**	**3,844**
Income tax payments	**$**	**19,582**	**$**	**24,815**

See accompanying notes

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THE MIDDLEBY CORPORATION AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

September 27, 2008
(Unaudited)

1) Summary of Significant Accounting Policies

A) Basis of Presentation

The condensed consolidated financial statements have been prepared by The Middleby Corporation (the "company"), pursuant to the rules and regulations of the Securities and Exchange Commission. The financial statements are unaudited and certain information and footnote disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States of America have been condensed or omitted pursuant to such rules and regulations, although the company believes that the disclosures are adequate to make the information not misleading. These financial statements should be read in conjunction with the financial statements and related notes contained in the company's 2007 Form 10-K/A.

In the opinion of management, the financial statements contain all adjustments necessary to present fairly the financial position of the company as of September 27, 2008 and December 29, 2007, and the results of operations for the three and nine months ended September 27, 2008 and September 29, 2007 and cash flows for the nine months ended September 27, 2008 and September 29, 2007.

Subsequent to the issuance of the company’s condensed consolidated financial statements for the fiscal period ended March 29, 2008, the company determined that purchase accounting methodology had been improperly applied as it related to the calculation of deferred tax assets and liabilities for certain acquisitions, including Nu-Vu Foodservice Systems, Jade Products Company, Carter-Hoffman, MP Equipment, and Wells Bloomfield. Specifically, in each of these acquisitions, the company allocated a portion of the purchase price to deferred tax assets to reflect the expected tax benefit to be realized from the future amortization of goodwill deductible for tax purposes. This restatement had no impact on the company’s condensed consolidated statements of earnings or cash flows for the three month period ended March 29, 2008.

B) Non- Cash Share-Based Compensation

The company estimates the fair value of market-based stock awards and stock options at the time of grant and recognizes compensation cost over the vesting period of the awards and options. Non-cash share-based compensation expense was $2.9 million and $2.2 million for the third quarter of 2008 and 2007, respectively. Non-cash share-based compensation expense was $8.4 million and $5.5 million for the nine-month periods ended September 27, 2008 and September 29, 2007, respectively.

C) Income Tax Contingencies

In July 2006, the Financial Accounting Standards Board, ("FASB") issued Interpretation No. 48 "Accounting for Uncertainty in Income Taxes" ("FIN 48"). This interpretation prescribes a comprehensive model for how a company should recognize, measure, present and disclose in its financial statements uncertain tax positions that the company has taken or expects to take on a tax return. FIN 48 states that a tax benefit from an uncertain tax position may be recognized only if it is "more likely than not" that the position is sustainable, based on its technical merits. The tax benefit of a qualifying position is the largest amount of tax benefit that is greater than 50% likely of being realized upon settlement with a taxing authority having full knowledge of all relevant information. A tax benefit from an uncertain position was previously recognized if it was probable of being sustained. Under FIN 48, the liability for unrecognized tax benefits is classified as non-current unless the liability is expected to be settled in cash within 12 months of the reporting date. FIN 48 was effective as of the beginning of the first fiscal year beginning after December 15, 2006. The company adopted the provisions of FIN 48 on the first day of fiscal 2007 as required.

As of December 29, 2007, the total amount of liability for unrecognized tax benefits related to federal, state and foreign taxes was approximately $7.7 million plus approximately $1.0 million of accrued interest and $1.3 million of penalties. As of September 27, 2008, the corresponding balance of liability for unrecognized tax benefits was approximately $9.6 million plus approximately $1.6 million of accrued interest and $1.3 million of penalties. The company recognizes interest and penalties accrued related to unrecognized tax benefits in income tax expense, which is consistent with reporting in prior periods.

During the second quarter of 2008 the U.S. Internal Revenue Service completed an audit of the company's 2005 and 2006 federal income tax returns. Results of these audits have been considered in the company's evaluation of the reserve requirements under FIN 48. The company does not anticipate that total unrecognized tax benefits will significantly change due to any settlement of audits and the expiration of statute of limitations within the next twelve months.

The company operates in multiple taxing jurisdictions; both within the United States and outside of the United States, and faces audits from various tax authorities. The company remains subject to examination until the statute of limitations expires for the respective tax jurisdiction. Within specific countries, the company and its operating subsidiaries may be subject to audit by various tax authorities and may be subject to different statute of limitations expiration dates. A summary of the tax years that remain subject to examination in the company's major tax jurisdictions are:

United States – federal	2007
United States – states	2002 - 2007
China	2006 - 2007
Denmark	2006 - 2007
Mexico	2006 - 2007
Philippines	2004 - 2007
South Korea	2004 - 2007
Spain	2005 - 2007

Taiwan	2005 - 2007
United Kingdom	2006 - 2007

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D) Fair Value Measures

In September 2006, the FASB issued Statement of Financial Accounting Standards ("SFAS") No. 157 "Fair Value Measurements". This statement defines fair value, establishes a framework for measuring fair value in generally accepted accounting principles and expands disclosure about fair value measurements. This statement is effective for interim reporting periods in fiscal years beginning after November 15, 2007. The company adopted SFAS No. 157 on December 30, 2007 (first day of fiscal year 2008).

FASB Staff Position No. FAS 157-2, "Effective Date of FASB Statement No. 157" delays the effective date of the application of SFAS No. 157 to fiscal years beginning after November 15, 2008 for all nonfinancial assets and nonfinancial liabilities that are recognized or disclosed at fair value in the financial statements on a non-recurring basis. The company adopted SFAS No. 157 with the exception of the application of the statement to non-recurring nonfinancial assets and liabilities. Non-recurring nonfinancial assets and nonfinancial liabilities for which the company has not applied the provisions of SFAS No. 157 primarily include those measured at fair value in goodwill and long-lived asset impairment testing, those initially measured at fair value in a business combination, and nonfinancial liabilities for exit or disposal activities.

SFAS No. 157 defines fair value as the price that would be received for an asset or paid to transfer a liability (an exit price) in the principal most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. SFAS No. 157 establishes a fair value hierarchy, which prioritizes the inputs used in measuring fair value into the following levels:

Level 1 – Quoted prices in active markets for identical assets or liabilities
Level 2 – Inputs, other than quoted prices in active markets, that are observable either directly or indirectly.
Level 3 – Unobservable inputs based on our own assumptions.

The company's financial assets that are measured at fair value on a recurring basis are categorized using the fair value hierarchy at September 27, 2008 are as follows (in thousands):

	Fair Value Level 1	Fair Value Level 2	Fair Value Level 3	Total
Financial Assets:				
None	—	—	—	—
Financial Liabilities:				
Interest rate swaps	—	12	—	12

In February 2007, the FASB issued SFAS No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities – Including an amendment of FASB Statement No. 115." This statement permits entities to choose to measure many financial instruments and certain other items at fair value. This statement is effective for fiscal years beginning after November 15, 2007. Upon adoption, the company has elected to not apply SFAS No. 159 to measure selected financial instruments and certain other items; therefore, there was no impact to the financial statements upon adoption. Subsequent to the initial adoption of SFAS No. 159, the company has not made any elections during the three and nine months ended September 27, 2008.

2) Acquisitions and Purchase Accounting

Jade

On April 1, 2007, the company completed its acquisition of the assets and operations of Jade Products Company ("Jade"), a leading manufacturer of commercial and residential cooking equipment from Maytag Corporation ("Maytag") for an aggregate purchase price of $7.4 million in cash plus transaction costs.

The company has accounted for this business combination using the purchase method to record a new cost basis for the assets acquired and liabilities assumed. The difference between the purchase price and the fair value of the assets acquired and liabilities assumed has been recorded as goodwill in the financial statements.

The final allocation of cash paid for the Jade acquisition is summarized as follows (in thousands):

	Apr. 1, 2007	Adjustments	Sep. 27, 2008
Current assets	$ 6,727	$ (2,357)	$ 4,370
Property, plant and equipment	2,029	—	2,029
Goodwill	250	2,858	3,108
Other intangibles	1,590	—	1,590
Current liabilities	(3,205)	(50)	(3,255)
Total cash paid	$ 7,391	$ 451	$ 7,842

The goodwill and other intangibles of $1.4 million associated with the trade name, are subject to the non-amortization provisions of SFAS No. 142, "Goodwill and Other Intangible Assets", from the date of acquisition. Other intangibles of $0.2 million allocated to customer relationships are to be amortized over a period of 10 years. Goodwill and other intangibles of Jade are allocated to the Commercial Foodservice Equipment Group for segment reporting purposes. These assets are expected to be deductible for tax purposes.

Carter-Hoffmann

On June 29, 2007, the company completed its acquisition of the assets and operations of Carter-Hoffmann ("Carter-Hoffmann"), a leading manufacturer of commercial cooking and warming equipment, from Carrier Commercial Refrigeration Inc., a subsidiary of Carrier Corporation, which is a unit of United Technologies Corporation, for an aggregate purchase price of $15.9 million in cash plus transaction costs.

The company has accounted for this business combination using the purchase method to record a new cost basis for the assets acquired and liabilities assumed. The difference between the purchase price and the fair value of the assets acquired and liabilities assumed has been recorded as goodwill in the financial statements.

The final allocation of cash paid for the Carter-Hoffmann acquisition is summarized as follows (in thousands):

	Jun. 29, 2007	Adjustments	Sep. 27, 2008
Current assets	$ 7,912	$ (2,125)	$ 5,787
Property, plant and equipment	2,264	—	2,264
Goodwill	9,452	(1,254)	8,198
Other intangibles	—	3,910	3,910
Current liabilities	(3,646)	(50)	(3,696)
Other non-current liabilities	(54)	—	(54)
Total cash paid	$ 15,928	$ 481	$ 16,409

The goodwill and $2.3 million of other intangibles associated with the trade name are subject to the non-amortization provisions of SFAS No. 142. Other intangibles also includes $1.6 million allocated to customer relationships are to be amortized over a period of 4 years. Goodwill and other intangibles of Carter-Hoffmann are allocated to the Commercial Foodservice Equipment Group for segment reporting purposes. These assets are expected to be deductible for tax purposes.

MP Equipment

On July 2, 2007, the company completed its acquisition of the assets and operations of MP Equipment ("MP Equipment"), a leading manufacturer of food processing equipment for a purchase price of $15.0 million in cash plus transaction costs. During the quarter ended September 27, 2008, additional payments amounting to $3.0 million were made to the sellers pursuant to the agreement upon the business reaching certain profit targets.

The company has accounted for this business combination using the purchase method to record a new cost basis for the assets acquired and liabilities assumed. The difference between the purchase price and the fair value of the assets acquired and liabilities assumed has been recorded as goodwill in the financial statements.

The final allocation of cash paid for the MP Equipment acquisition is summarized as follows (in thousands):

	Jul. 2, 2007	Adjustments	Sep. 27, 2008
Current assets	$ 5,315	$ —	$ 5,315
Property, plant and equipment	297	(152)	145
Goodwill	9,290	2,044	11,334
Other intangibles	6,420	(770)	5,650
Other assets	16	—	16
Current liabilities	(4,018)	(46)	(4,064)
Other non-current liabilities	(2,127)	2,000	(127)
Total cash paid	$ 15,193	$ 3,076	$ 18,269

The goodwill and $3.3 million of other intangibles associated with the trade name are subject to the non-amortization provisions of SFAS No. 142. Other intangibles also includes $0.3 million allocated to backlog, $0.3 million allocated to developed technology and $1.8 million allocated to customer relationships which are to be amortized over periods of 6 months, 5 years and 5 years, respectively. Goodwill and other intangibles of MP Equipment are allocated to the Food Processing Equipment Group for segment reporting purposes. These assets are expected to be deductible for tax purposes.

Wells Bloomfield

On August 3, 2007, the company completed its acquisition of the assets and operations of Wells Bloomfield ("Wells Bloomfield"), a leading manufacturer of commercial cooking and beverage equipment from Carrier Commercial Refrigeration Inc., a subsidiary of Carrier Corporation, which is a unit of United Technologies Corporation, for an aggregate purchase price of $28.4 million in cash plus transaction costs.

The company has accounted for this business combination using the purchase method to record a new cost basis for the assets acquired and liabilities assumed. The difference between the purchase price and the fair value of the assets acquired and liabilities assumed has been recorded as goodwill in the financial statements.

The final allocation of cash paid for the Wells Bloomfield acquisition is summarized as follows (in thousands):

	Aug. 3, 2007	Adjustments	Sep. 27, 2008
Cash	$ 2	$ —	$ 2
Current assets	15,133	(838)	14,295
Property, plant and equipment	3,961	(87)	3,874
Goodwill	5,835	3,135	8,970
Other intangibles	8,130	(200)	7,930
Other assets	21	—	21
Current liabilities	(4,277)	(1,587)	(5,864)
Total cash paid	$ 28,805	$ 423	$ 29,228

The goodwill and $5.5 million of other intangibles associated with the trade name are subject to the non-amortization provisions of SFAS No. 142. Other intangibles of $2.4 million allocated to customer relationships are to be amortized over a period of 4 years. Goodwill and other intangibles of Wells Bloomfield are allocated to the Commercial Foodservice Equipment Group for segment reporting purposes. These assets are expected to be deductible for tax purposes.

Star

On December 31, 2007, the company acquired the stock of New Star International Holdings, Inc. and subsidiaries ("Star"), a leading manufacturer of commercial cooking equipment for an aggregate purchase price of $188.4 million in cash plus transaction costs.

The company has accounted for this business combination using the purchase method to record a new cost basis for the assets acquired and liabilities assumed. The difference between the purchase price and the fair value of the assets acquired and liabilities assumed has been recorded as goodwill in the financial statements. The allocation of the purchase price to the assets, liabilities and intangible assets is under review and is subject to change based upon finalization of the valuation of the assets and liabilities acquired.

The preliminary allocation of cash paid for the Star acquisition is summarized as follows (in thousands):

	Dec. 31, 2007	Adjustments	Sep. 27, 2008
Cash	$ 376	$ —	$ 376
Current assets	27,783	—	27,783
Property, plant and equipment	8,225	—	8,225
Goodwill	101,365	350	101,715
Other intangibles	75,150	—	75,150
Other assets	71	—	71
Current liabilities	(10,205)	(164)	(10,369)
Deferred tax liabilities	(8,837)	—	(8,837)
Other non-current liabilities	(4.295)	—	(4,295)
Total cash paid	$ 189,633	$ 186	$ 189,819

The goodwill and $47.0 million of other intangibles associated with the trade name are subject to the non-amortization provisions of SFAS No. 142. Other intangibles also includes $0.4 million allocated to backlog, $3.8 million allocated to developed technology and $24.0 million allocated to customer relationships which are to be amortized over periods of 1 month, 7 years and 7 years, respectively. Goodwill and other intangibles of Star are allocated to the Commercial Foodservice Equipment Group for segment reporting purposes. These assets are not expected to be deductible for tax purposes.

Pro forma Financial Information

The following unaudited pro forma results of operations for the year ended December 29, 2007, assumes the Star acquisition was completed on December 31, 2006. The pro forma results include adjustments to reflect additional interest expense to fund the acquisition, amortization of intangibles associated with the acquisition, and the effects of adjustments made to the carrying value of certain assets.

	December 29, 2007	December 30, 2006
Net sales	$ 592,513	$ 487,283
Net earnings	$ 51,769	$ 40,672
Net earnings per share:		
Basic	$ 3.30	$ 2.66
Diluted	$ 3.06	$ 2.46

The pro forma financial information presented above is not necessarily indicative of either the results of operations that would have occurred had the acquisition of Star, been effective on December 31, 2006 or of future operations of the company. Also, the pro forma financial information does not reflect the costs which the company has or may incur to integrate Star.

<u>Giga</u>

On April 22, 2008, the company acquired the stock of Giga Grandi Cucine S.r.l. ("Giga"), a leading European manufacturer of ranges, ovens and steam cooking equipment for a purchase price of $9.7 million in cash plus transaction costs. The company also assumed $5.1 million of debt included as part of the net assets of Giga. An additional deferred payment of $5.4 million is also due the seller ratably over a three year period. The purchase price is subject to adjustment based upon a working capital provision within the purchase agreement.

The company has accounted for this business combination using the purchase method to record a new cost basis for the assets acquired and liabilities assumed. The difference between the purchase price and the fair value of the assets acquired and liabilities assumed has been recorded as goodwill in the financial statements. The allocation of the purchase price to the assets, liabilities and intangible assets is under review and is subject to change based upon finalization of the valuation of the assets and liabilities acquired.

The preliminary allocation of cash paid for the Giga acquisition is summarized as follows (in thousands):

	Apr. 22, 2008	Adjustments	Sep. 27, 2008
Cash	$ 222	$ —	$ 222
Current assets	14,645	—	14,645
Property, plant and equipment	628	—	628
Goodwill	10,135	25	10,160
Other intangibles	3,330	—	3,330
Other assets	473	—	473
Current maturities of long-term debt	(5,105)	—	(5,105)
Current liabilities	(8,757)	—	(8,757)
Other non-current liabilities	(5,431)	—	(5,431)
Total cash paid	$ 10,140	$ 25	$ 10,165

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The goodwill and $2.4 million of other intangibles associated with the trade name are subject to the non-amortization provisions of SFAS No. 142. Other intangibles also includes $0.1 million allocated to backlog and $0.8 million allocated to customer relationships, which are to be amortized over periods of 3 months and 4 to 10 years, respectively. Goodwill and other intangibles of Giga are allocated to the Commercial Foodservice Equipment Group for segment reporting purposes. These assets are not expected to be deductible for tax purposes.

Frifri

On April 23, 2008, the company acquired the assets of FriFri aro SA (“FriFri”), a leading European supplier of frying systems for an aggregate purchase price of $3.4 million plus transaction costs. The purchase price is subject to adjustment based upon a working capital provision within the purchase agreement.

The company has accounted for this business combination using the purchase method to record a new cost basis for the assets acquired and liabilities assumed. The difference between the purchase price and the fair value of the assets acquired and liabilities assumed has been recorded as goodwill in the financial statements. The allocation of the purchase price to the assets, liabilities and intangible assets is under review and is subject to change based upon finalization of the valuation of the assets and liabilities acquired.

The preliminary allocation of cash paid for the Frifri acquisition is summarized as follows (in thousands):

	Apr. 23, 2008	Adjustments	Sep. 27, 2008
Cash	$ 469	$ —	$ 469
Current assets	4,263	127	4,390
Property, plant and equipment	460	—	460
Goodwill	1,155	(147)	1,008
Current liabilities	(2,828)	29	(2,799)
Total cash paid	$ 3,519	$ 9	$ 3,528

The goodwill is subject to the non-amortization provisions of SFAS No. 142. Goodwill of Frifri is allocated to the Commercial Foodservice Equipment Group for segment reporting purposes. These assets are not expected to be deductible for tax purposes.

TurboChef

On August 12, 2008, the company announced that it had agreed to acquire TurboChef Technologies, Inc. (“TurboChef”). At the effective time of the Merger (the “Effective Time”), each issued and outstanding share of TurboChef’s common stock will be automatically converted into the right to receive 0.0486 shares (the “Exchange Ratio”) of the common stock of Middleby (“Middleby Common Stock”) and $3.67 in cash (the “Cash Consideration”, and together with Middleby Common Stock, the “Merger Consideration”) for a total value of $6.47 based on Middleby’s closing stock price of $57.60 on August 11, 2008, the last trading date prior to the announcement of the contemplated transaction. Consummation of the Merger is subject to various conditions, including the approval of TurboChef’s stockholders and other customary closing conditions.

3) Stock Split

On May 3, 2007, the company's Board of Directors authorized a two-for-one split of the company's common stock in the form of a stock dividend. The stock dividend was paid on June 15, 2007 to company shareholders of record as of June 1, 2007. The company's common stock began trading on a split-adjusted basis on June 18, 2007. All references in the accompanying condensed consolidated financial statements and notes thereto to net earnings per share and the number of shares have been adjusted to reflect this stock split.

4) Litigation Matters

From time to time, the company is subject to proceedings, lawsuits and other claims related to products, suppliers, employees, customers and competitors. The company maintains insurance to partially cover product liability, workers compensation, property and casualty, and general liability matters. The company is required to assess the likelihood of any adverse judgments or outcomes to these matters as well as potential ranges of probable losses. A determination of the amount of accrual required, if any, for these contingencies is made after assessment of each matter and the related insurance coverage. The reserve requirement may change in the future due to new developments or changes in approach such as a change in settlement strategy in dealing with these matters. The company does not believe that any pending litigation will have a material adverse effect on its financial condition, results of operations or cash flows of the company.

5) Recently Issued Accounting Standards

In December 2007, the FAS issued SFAS No. 141R, "Business Combinations". This statement provides companies with principles and requirements on how an acquirer recognizes and measures in its financial statements the identifiable assets acquired, liabilities assumed, and any noncontrolling interest in the acquiree as well as the recognition and measurement of goodwill acquired in a business combination. This statement also requires certain disclosures to enable users of the financial statements to evaluate the nature and financial effects of the business combination. Acquisition costs associated with the business combination will generally be expensed as incurred. This statement is effective for business combinations occurring in fiscal years beginning after December 15, 2008. Early adoption of FASB Statement No. 141R is not permitted. The company is evaluating the impact the application of this guidance will have on the company's financial position, results of operations and cash flows. The company will adopt this statement for acquisitions consummated after the statement's effective date.

In December 2007, the FASB issued SFAS No. 160, "Noncontrolling Interests in Consolidated Financial Statements – an amendment of ARB No. 51". This statement amends ARB 51 to establish accounting and reporting standards for the noncontrolling interest (minority interest) in a subsidiary and for the deconsolidation of a subsidiary. Upon its adoption, effective as of the beginning of the company's 2009 fiscal year, noncontrolling interests will be classified as equity in the company's financial statements and income and comprehensive income attributed to the noncontrolling interest will be included in the company's income and comprehensive income. The provisions of this standard must be applied retrospectively upon adoption. The company does not anticipate that the adoption of SFAS No. 160 will have a material impact on its financial statements.

In March 2008, the FASB issued SFAS No. 161, “Disclosures about Derivative Instruments and Hedging Activities—an amendment of FASB Statement No. 133.” This statement amends SFAS No. 133 to require enhanced disclosures about an entity’s derivative and hedging activities. This Statement is effective for financial statements issued for fiscal years and interim periods beginning after November 15, 2008, with early application encouraged. The company is evaluating the impact the application of this guidance will have on the company’s financial position, results of operations and cash flows.

In May 2008, the FASB issued SFAS No. 162, “The Hierarchy of Generally Accepted Accounting Principles.” This statement identifies the sources of accounting principles and the framework for selecting the principles to be used in the preparation of financial statements of nongovernmental entities that are presented in conformity with generally accepted accounting principles (GAAP) in the United States. This statement directs the hierarchy to the entity, rather than the independent auditors, as the entity is responsible for selecting accounting principles for financial statements that are presented in conformity with generally accepted accounting principles. This statement is effective 60 days following the SEC’s approval of the Public Company Accounting Oversight Board amendments to remove the hierarchy of generally accepted accounting principles from the auditing standards. The company does not anticipate that the adoption of SFAS No. 162 will have a material impact on its financial statements.

6) Other Comprehensive Income

The company reports changes in equity during a period, except those resulting from investments by owners and distributions to owners, in accordance with SFAS No. 130, "Reporting Comprehensive Income."

Components of other comprehensive income were as follows (in thousands):

	Three Months Ended		Nine Months Ended	
	Sep. 27, 2008	Sep. 29, 2007	Sep. 27, 2008	Sep. 29, 2007
Net earnings	$ 16,290	$ 14,056	$ 46,588	$ 37,358
Currency translation adjustment	(2,556)	320	(1,571)	596
Unrealized gain on interest rate swaps, net of tax	20	(202)	240	(301)
Comprehensive income	$ 13,754	$ 14,174	$ 45,257	$ 37,653

Accumulated other comprehensive income is comprised of unrecognized pension benefit costs of $(0.9) million, net of taxes of $(0.6) million as of September 27, 2008 and December 29, 2007, foreign currency translation adjustments of $0.1 million as of September 27, 2008 and $1.7 million as of December 29, 2007, and an unrealized gain on interest rate swaps of $0.2 million, net of taxes of $0.4 million, as of September 27, 2008.

7) Inventories

Inventories are composed of material, labor and overhead and are stated at the lower of cost or market. Costs for inventory at two of the company's manufacturing facilities have been determined using the last-in, first-out ("LIFO") method. These inventories under the LIFO method amounted to $16.8 million at September 27, 2008 and $16.4 million at December 29, 2007 and represented approximately 17% and 25% of the total inventory in each respective period. Costs for all other inventory have been determined using the first-in, first-out ("FIFO") method. The company estimates reserves for inventory obsolescence and shrinkage based on its judgment of future realization. Inventories at September 27, 2008 and December 29, 2007 are as follows:

	Sep. 27, 2008	Dec. 29, 2007
	(in thousands)	
Raw materials and parts	$ 36,473	$ 25,047
Work-in-process	21,782	11,033
Finished goods	37,485	30,669
	95,740	66,749
LIFO adjustment	(1,380)	(311)
	$ 94,360	$ 66,438

8) Accrued Expenses

Accrued expenses consist of the following:

	Sep. 27, 2008	Dec, 29, 2007
	(in thousands)	
Accrued payroll and related expenses	$ 20,874	$ 21,448
Accrued warranty	13,190	12,276
Accrued customer rebates	12,768	16,326
Accrued product liability and workers comp	10,121	6,978
Advance customer deposits	8,009	7,971
Accrued commission	5,214	4,265
Other accrued expenses	28,360	26,317
	$ 98,536	$ 95,581

9) Warranty Costs

In the normal course of business the company issues product warranties for specific product lines and provides for the estimated future warranty cost in the period in which the sale is recorded. The estimate of warranty cost is based on contract terms and historical warranty loss experience that is periodically adjusted for recent actual experience. Because warranty estimates are forecasts that are based on the best available information, claims costs may differ from amounts provided. Adjustments to initial obligations for warranties are made as changes in the obligations become reasonably estimable.

A rollforward of the warranty reserve is as follows:

	Nine Months Ended Sep. 27, 2008 (in thousands)	
Beginning balance	$	12,276
Warranty reserve related to acquisitions		1,442
Warranty expense		10,943
Warranty claims		(11,471)
Ending balance	$	13,190

10) Financing Arrangements

	Sep. 27, 2008		Dec. 29, 2007	
	(in thousands)			
Senior secured revolving credit line	$	247,800	$	91,350
Foreign loan		9,853		4,847
Total debt	$	257,653	$	96,197
Less: Current maturities of long-term debt		7,803		2,683
Long-term debt	$	249,850	$	93,514

During the third quarter of 2008 the company amended its senior secured credit facility. The original agreement provided for $450.0 million of availability under a revolving credit line. The amendment currently provides for $497.5 million of availability under a revolving credit line. As of September 27, 2008, the company had $247.8 million of borrowings outstanding under this facility. The company also has $5.6 million in outstanding letters of credit, which reduces the borrowing availability under the revolving credit line.

Borrowings under the senior secured credit facility are assessed at an interest rate at 1.25% above LIBOR for long-term borrowings or at the higher of the Prime rate and the Federal Funds Rate. At September 27, 2008 the average interest rate on the senior debt amounted to 3.87%. The interest rates on borrowings under the senior bank facility may be adjusted quarterly based on the company’s defined indebtedness ratio on a rolling four-quarter basis. Additionally, a commitment fee based upon the indebtedness ratio is charged on the unused portion of the revolving credit line. This variable commitment fee amounted to 0.25% as of September 27, 2008.

In August 2006, the company completed its acquisition of Houno A/S in Denmark. This acquisition was funded in part with locally established debt facilities with borrowings in Danish Krone. On September 27, 2008 these facilities amounted to $4.7 million in US dollars, including $2.5 million outstanding under a revolving credit facility and $2.2 million of a term loan. The interest rate on the revolving credit facility is assessed at 1.25% above Euro LIBOR, which amounted to 6.5% on September 27, 2008. The term loan matures in 2013 and the interest rate is assessed at 6.4%.

In April 2008, the company completed its acquisition of Giga Grandi Cucine S.r.l in Italy. This acquisition was funded in part with locally established debt facilities with borrowings in denominated in Euro. On September 27, 2008 these facilities amounted to $5.2 million in US dollars. The borrowings under these facilities are collateralized by the receivables of the company. The interest rate on the credit facilities is tied to six month Euro LIBOR. The facilities mature in April of 2015.

The company believes that its current capital resources, including cash and cash equivalents, cash generated from operations, funds available from its revolving credit facility and access to the credit and capital markets will be sufficient to finance its operations, debt service obligations, capital expenditures, product development and integration expenditures for the foreseeable future.

The company has historically entered into interest rate swap agreements to effectively fix the interest rate on its outstanding debt. The agreements swap one-month LIBOR for fixed rates. As of September 27, 2008 the company had the following interest rate swaps in effect:

Notional Amount	Fixed Interest Rate	Effective Date	Maturity Date
$ 10,000,000	5.030%	3/3/2006	12/21/2009
$ 10,000,000	2.520%	2/19/2008	2/19/2009
$ 20,000,000	2.635%	2/6/2008	2/6/2009
$ 25,000,000	3.350%	1/14/2008	1/14/2010
$ 10,000,000	2.920%	2/1/2008	2/1/2010
$ 10,000,000	2.785%	2/6/2008	2/8/2010
$ 10,000,000	3.033%	2/6/2008	2/7/2011
$ 10,000,000	2.820%	2/1/2008	2/1/2009
$ 10,000,000	3.590%	6/10/2008	6/10/2011
$ 20,000,000	3.350%	6/10/2008	6/10/2010
$ 10,000,000	3.460%	9/8/2008	9/6/2011
$ 15,000,000	3.130%	9/8/2008	9/7/2010
$ 20,000,000	2.800%	9/8/2008	9/8/2009
$ 25,000,000	3.670%	9/26/2008	9/23/2011

The terms of the senior secured credit facility limit the paying of dividends, capital expenditures and leases, and require, among other things, ratios of indebtedness of 3.5 debt to earnings before interest, taxes, depreciation and amortization (“EBITDA”) and fixed charge coverage of 1.25 EBITDA to fixed charges. The credit agreement also provides that if a material adverse change in the company’s business operations or conditions occurs, the lender could declare an event of default. Under terms of the agreement a material adverse effect is defined as (a) a material adverse change in, or a material adverse effect upon, the operations, business properties, condition (financial and otherwise) or prospects of the company and its subsidiaries taken as a whole; (b) a material impairment of the ability of the company to perform under the loan agreements and to avoid any event of default; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against the company of any loan document. A material adverse effect is determined on a subjective basis by the company's creditors. The credit facility is secured by the capital stock of the company’s domestic subsidiaries, 65% of the capital stock of the company’s foreign subsidiaries and substantially all other assets of the company. At September 27, 2008, the company was in compliance with all covenants pursuant to its borrowing agreements.

11) Financial Instruments

In June 1998, the FASB issued SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities". SFAS No. 133, as amended, establishes accounting and reporting standards for derivative instruments. The statement requires an entity to recognize all derivatives as either assets or liabilities and measure those instruments at fair value. Derivatives that do not qualify as a hedge must be adjusted to fair value in earnings. If the derivative does qualify as a hedge under SFAS No. 133, changes in the fair value will either be offset against the change in fair value of the hedged assets, liabilities or firm commitments or recognized in other accumulated comprehensive income until the hedged item is recognized in earnings. The ineffective portion of a hedge's change in fair value will be immediately recognized in earnings.

Foreign Exchange: The company has entered into derivative instruments, principally forward contracts to reduce exposures pertaining to fluctuations in foreign exchange rates. As of September 27, 2008, the company had no forward contracts outstanding.

Interest Rate: The company has entered into interest rate swaps to fix the interest rate applicable to certain of its variable-rate debt. The agreements swap one-month LIBOR for a fixed rates. The company has designated these swaps as cash flow hedges and all changes in fair value of the swaps are recognized in accumulated other comprehensive income. As of September 27, 2008, the fair value of these instruments was less than $0.1 million. The change in fair value of these swap agreements in the first nine months of 2008 was a gain of $0.8 million, net of taxes.

Notional Amount	Fixed Interest Rate	Effective Date	Maturity Date	Fair Value Sep. 27, 2008	Changes In Fair Value (net of taxes)
$ 10,000,000	5.030%	3/03/2006	12/21/2009	$ (234,000)	$ 137,000[1]
$ 10,000,000	2.520%	2/19/2008	2/19/2009	$ 32,000	$ 36,000
$ 20,000,000	2.635%	2/6/2008	2/6/2009	$ 49,000	$ 69,000
$ 25,000,000	3.350%	1/14/2008	1/14/2010	$ (91,000)	$ 224,000
$ 10,000,000	2.920%	2/1/2008	2/1/2010	$ 30,000	$ 82,000
$ 10,000,000	2.785%	2/6/2008	2/8/2010	$ 22,000	$ 42,000
$ 10,000,000	3.033%	2/6/2008	2/7/2011	$ 49,000	$ 78,000
$ 10,000,000	2.820%	2/1/2008	2/1/2009	$ 92,000	$ 115,000
$ 10,000,000	3.590%	6/10/2008	6/10/2011	$ (8,000)	$ 16,000
$ 20,000,000	3.350%	6/10/2008	6/10/2010	$ (39,000)	$ (28,000)
$ 10,000,000	3.460%	9/8/2008	9/6/2011	$ 41,000	$ 24,000
$ 15,000,000	3.130%	9/8/2008	9/7/2010	$ 42,000	$ 25,000
$ 20,000,000	2.800%	9/8/2008	9/8/2009	$ 52,000	$ 31,000
$ 25,000,000	3.670%	9/26/2008	9/23/2011	$ (49,000)	$ (30,000)

[1] Previous to the fiscal quarter ended March 29, 2008, this swap had not been designated as an effective cash flow hedge. The swap was designated as an effective cash flow hedge during the quarter ended March 29, 2008. In accordance with SFAS No. 133, the net reduction of $0.2 million in the fair value of this swap prior to the designation date has been recorded as a loss in earnings for the first quarter 2008.

12) Segment Information

The company operates in three reportable operating segments defined by management reporting structure and operating activities.

The Commercial Foodservice Equipment Group manufactures cooking equipment for the restaurant and institutional kitchen industry. This business segment has manufacturing facilities in California, Illinois, Michigan, Missouri, Nevada, New Hampshire, North Carolina, Tennessee, Vermont, Denmark, Italy, the Philippines and Switzerland. The Commercial Foodservice Equipment Group manufactures conveyor ovens, convection ovens, fryers, ranges, toasters, combi ovens, steamers, broilers, deck ovens, baking ovens, proofers, beverage systems and beverage dispensing equipment, counter-top cooking and warming equipment. This business segment’s principal product lines include Middleby Marshall® and CTX® conveyor oven equipment, Blodgett® convection ovens, conveyor ovens, deck oven equipment, Blodgett Combi® cooking equipment, Blodgett Range® ranges, Nu-Vu® baking ovens and proofers, Pitco Frialator® fryer equipment, Southbend® ranges, convection ovens and heavy-duty cooking equipment, Toastmaster® toasters and counterline cooking and warming equipment, Jade Range® ranges and ovens, Carter Hoffmann® warming, holding and transporting equipment, Bloomfield® beverage systems and beverage dispensing equipment, Wells® convection ovens, counterline cooking equipment and ventless cooking systems, Star® light duty cooking equipment, Holman® toasting equipment, Lang® ovens and ranges, Houno® combi-ovens and baking ovens, Giga® ranges, ovens and steam equipment, Frifri® frying systems and MagiKitch'n® charbroilers and catering equipment.

The Food Processing Equipment Group manufactures cooking and packaging equipment for the food processing industry. This business segment has manufacturing facilities in Georgia and Wisconsin. Its principal products include Alkar® batch ovens, conveyorized ovens and continuous process ovens, RapidPak® food packaging machinery and MP Equipment® breading, battering, mixing, forming, and slicing equipment.

The International Distribution Division provides integrated sales, export management, distribution and installation services through its operations in China, India, Lebanon, Mexico, the Philippines, Russia, South Korea, Spain, Sweden, Taiwan and the United Kingdom. The division sells the company’s product lines and certain non-competing complementary product lines throughout the world. For a local country distributor or dealer, the company is able to provide a centralized source of foodservice equipment with complete export management and product support services.

The accounting policies of the segments are the same as those described in the summary of significant accounting policies. The chief decision maker evaluates individual segment performance based on operating income. Management believes that intersegment sales are made at established arms-length transfer prices.

Net Sales Summary
(dollars in thousands)

	Three Months Ended				Nine Months Ended			
	Sep. 27, 2008		Sep. 29, 2007		Sep. 27, 2008		Sep. 29, 2007	
	Sales	Percent	Sales	Percent	Sales	Percent	Sales	Percent
Business Divisions:								
Commercial Foodservice	$ 138,327	83.1	$ 109,667	80.6	$ 419,212	83.7	$ 290,597	81.9
Food Processing	21,079	12.7	20,780	15.3	61,435	12.3	46,329	13.0
International Distribution(1)	16,162	9.7	15,059	11.1	47,380	9.4	43,156	12.2
Intercompany sales (2)	(9,096)	(5.5)	(9,510)	(7.0)	(27,159)	(5.4)	(25,143)	(7.1)
Total	$ 166,472	100.0%	$ 135,996	100.0%	$ 500,868	100.0%	$ 354,939	100.0%

(1) Consists of sales of products manufactured by Middleby and products manufactured by third parties.

(2) Represents the elimination of sales from the Commercial Foodservice Equipment Group to the International Distribution Division

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The following table summarizes the results of operations for the company's business segments[1](in thousands):

	Commercial Foodservice	Food Processing	International Distribution	Corporate and Other[2]	Eliminations[3]	Total
Three months ended September 27, 2008						
Net sales	$ 138,327	$ 21,079	$ 16,162	$ —	$ (9,096)	$ 166,472
Operating income	34,068	4,189	1,341	(9,102)	457	30,953
Depreciation expense	1,281	98	53	39	—	1,471
Net capital expenditures	678	12	(40)	15	—	665
Nine months ended September 27, 2008						
Net sales	$ 419,212	$ 61,435	$ 47,380	$ —	$ (27,159)	$ 500,868
Operating income	102,272	10,275	3,507	(27,251)	658	89,461
Depreciation expense	3,926	305	152	111	—	4,494
Net capital expenditures	3,122	88	161	37	—	3,408
Total assets	527,204	71,495	27,780	30,774	(9,218)	648,035
Long-lived assets[4]	367,426	43,656	649	11,172	—	422,903
Three months ended September 29, 2007						
Net sales	$ 109,667	$ 20,780	$ 15,059	$ —	$ (9,510)	$ 135,996
Operating income	25,155	4,009	1,245	(5,267)	282	25,424
Depreciation expense	898	131	41	36	—	1,106
Net capital expenditures	508	53	52	7	—	620
Nine months ended September 29, 2007						
Net sales	$ 290,597	$ 46,329	$ 43,156	$ —	$ (25,143)	$ 354.939
Operating income	69,234	10,026	3,227	(17,748)	693	65,432
Depreciation expense	2,401	381	125	109	—	3,016
Net capital expenditures	1,436	65	107	81	—	1,689
Total assets	280,999	73,931	28,741	11,741	(8,116)	387,296
Long-lived assets[4]	166,241	43,948	456	10,430	—	221,075

(1) Non-operating expenses are not allocated to the operating segments. Non-operating expenses consist of interest expense and deferred financing amortization, foreign exchange gains and losses and other income and expense items outside of income from operations.

(2) Includes corporate and other general company assets and operations.

(3) Includes elimination of intercompany sales, profit in inventory and intercompany receivables. Intercompany sale transactions are predominantly from the Commercial Foodservice Equipment Group to the International

Distribution Division.

(4) *Long-lived assets of the Commercial Foodservice Equipment Group includes assets located in the Philippines, which amounted to $1,848 and $1,937 in third quarter 2008 and 2007, respectively, assets located in Denmark which amounted to $2,402 and $1,645 in third quarter 2008 and 2007, respectively, assets located in Italy which amounted to $14,906 in third quarter of 2008 and assets located in Switzerland which amounted to $1,229 in third quarter 2008.*

Net sales by major geographic region, including those sales from the Commercial Foodservice Equipment Group direct to international customers, were as follows (in thousands):

	Three Months Ended		Nine Months Ended	
	Sep. 27, 2008	Sep. 29, 2007	Sep. 27, 2008	Sep. 29, 2007
United States and Canada	$ 133,923	$ 109,291	$ 405,495	$ 286,832
Asia	9,242	10,003	25,752	21,645
Europe and Middle East	18,672	11,994	55,532	35,266
Latin America	4,635	4,708	14,089	11,196
Net sales	$ 166,472	$ 135,996	$ 500,868	$ 354,939

13) Employee Retirement Plans

(a) Pension Plans

The company maintains a non-contributory defined benefit plan for its union employees at the Elgin, Illinois facility. Benefits are determined based upon retirement age and years of service with the company. This defined benefit plan was frozen on April 30, 2002 and no further benefits accrue to the participants beyond this date. Plan participants will receive or continue to receive payments for benefits earned on or prior to April 30, 2002 upon reaching retirement age. The employees participating in the defined benefit plan were enrolled in a newly established 401K savings plan on September 30, 2002, further described below.

The company also maintains a retirement benefit agreement with its Chairman. The retirement benefits are based upon a percentage of the Chairman’s final base salary. Additionally, the company maintains a retirement plan for non-employee directors. The plan provides for an annual benefit upon a change in control of the company or retirement from the Board of Directors at age 70, equal to 100% of the director’s last annual retainer, payable for a number of years equal to the director’s years of service up to a maximum of 10 years.

Contributions under the union plan are funded in accordance with provisions of The Employee Retirement Income Security Act of 1974. There are no contributions expected to be made in 2008. Contributions to the directors' plan are based upon actual retirement benefits as they retire.

(b) 401K Savings Plans

The company maintains two separate defined contribution 401K savings plans covering all employees in the United States. These two plans separately cover the union employees at the Elgin, Illinois facility and all other remaining union and non-union employees in the United States. The company makes profit sharing contributions to the various plans in accordance with the requirements of the plan. Profit sharing contributions for the Elgin Union 401K savings plans are made in accordance with the agreement.

14) Treasury Stock

In July 1998, the company's Board of Directors adopted a stock repurchase program that authorized the purchase of common shares in open market purchases. As of September 27, 2008, 1,167,868 shares had been purchased under the 1998 stock repurchase program.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

Informational Notes

This report contains forward-looking statements subject to the safe harbor created by the Private Securities Litigation Reform Act of 1995. The company cautions readers that these projections are based upon future results or events and are highly dependent upon a variety of important factors which could cause such results or events to differ materially from any forward-looking statements which may be deemed to have been made in this report, or which are otherwise made by or on behalf of the company. Such factors include, but are not limited to, volatility in earnings resulting from goodwill impairment losses which may occur irregularly and in varying amounts; variability in financing costs; quarterly variations in operating results; dependence on key customers; international exposure; foreign exchange and political risks affecting international sales; ability to protect trademarks, copyrights and other intellectual property; changing market conditions; the impact of competitive products and pricing; the timely development and market acceptance of the company's products; the availability and cost of raw materials; and other risks detailed herein and from time-to-time in the company's Securities and Exchange Commission filings, including the company's 2007 Annual Report on Form 10-K/A and Item 1A of this Form 10-Q.

The economic outlook for 2009 is extremely uncertain at this time, with substantial turmoil in financial markets and unprecedented government intervention around the world. As a global business, the company's operating results are impacted by the health of the North American, European, Asian and Latin American economies. While the response by governments and central banks around the world may restore global liquidity, the depth and duration of economic decline and the timing and strength of the recovery are very uncertain.

On August 12, 2008, the company announced that it had agreed to acquire TurboChef Technologies, Inc. ("TurboChef"). At the effective time of the Merger (the "Effective Time"), each issued and outstanding share of TurboChef's common stock will be automatically converted into the right to receive 0.0486 shares (the "Exchange Ratio") of the common stock of Middleby ("Middleby Common Stock") and $3.67 in cash (the "Cash Consideration", and together with Middleby Common Stock, the "Merger Consideration") for a total value of $6.47 based on Middleby's closing stock price of $57.60 on August 11, 2008, the last trading date prior to the announcement of the contemplated transaction. Consummation of the Merger is subject to various conditions, including the approval of TurboChef's stockholders and other customary closing conditions.

Net Sales Summary
(dollars in thousands)

	Three Months Ended				Nine Months Ended			
	Sep. 27, 2008		Sep. 29, 2007		Sep. 27, 2008		Sep. 29, 2007	
	Sales	Percent	Sales	Percent	Sales	Percent	Sales	Percent
Business Divisions:								
Commercial Foodservice	$ 138,327	83.1	$ 109,667	80.6	$ 419,212	83.7	$ 290,597	81.9
Food Processing	21,079	12.7	20,780	15.3	61,435	12.3	46,329	13.0
International Distribution(1)	16,162	9.7	15,059	11.1	47,380	9.4	43,156	12.2
Intercompany sales (2)	(9,096)	(5.5)	(9,510)	(7.0)	(27,159)	(5.4)	(25,143)	(7.1)
Total	$ 166,472	100.0%	$ 135,996	100.0%	$ 500,868	100.0%	$ 354,939	100.0%

(1) Consists of sales of products manufactured by Middleby and products manufactured by third parties.

(2) Represents the elimination of sales from the Commercial Foodservice Equipment Group to the International Distribution Division.

Results of Operations

The following table sets forth certain consolidated statements of earnings items as a percentage of net sales for the periods.

	Three Months Ended		Nine Months Ended	
	Sep. 27, 2008	Sep. 29, 2007	Sep. 27, 2008	Sep. 29, 2007
Net sales	100.0%			