

MARKS & WEINBERG, P.C.

Polivy v. Air One, Inc.

CV94-0534828 (Superior Court, Conn. 6/13/95)

In a case that may see further action, plaintiff and defendant each took security interests in an aircraft, including its engine (which had less than 750 horsepower), its propeller and other equipment. Defendant filed with the FAA; plaintiff filed a Connecticut's UCC-1. The Uniform Commercial Code states that federal aviation law pre-empts UCC law to the extent the federal law so specifies.

The key issue was whether the federal law, pre-empts state filings as to the equipment in question. The Federal Aviation Act states that FAA recording is exclusive for security interests in "any civil aircraft . . . or . . . any specifically identified aircraft engine of seven hundred and fifty or more rated takeoff horsepower."

The court ruled that, as the FAA central registry was the exclusive place for filing on the aircraft, the defendant's security interest in the engine, propeller and other equipment were perfected when the FAA filing was made.

This ruling, along with the infamous Red Baron Aviation case, indicates the difficulty often experienced in dealing with aviation filings and the reason why many practitioners recommend belt-and-suspenders filings under the UCC.



Marks & Weinberg, PC is a law firm with significant experience in dealing with virtually every type of equipment and facility lease financing. The lawyers of the firm have participated in leasing financings for more than a billion dollars of equipment and are recognized throughout the industry. If you would like more cases or articles on leasing, or have any questions or comments about this Article or other leasing issues, please visit leaselawyer.com or contact Barry Marks at 205.251.8303 or Ken Weinberg at 205.251.8307.

