

FORTUNE BRANDS INC
Form S-4
February 22, 2006
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As filed with the Securities and Exchange Commission on February 22, 2006

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-4

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

FORTUNE BRANDS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

3430
(Primary Standard Industrial
Classification Code Number)

13-3295276
(IRS Employer
Identification No.)

520 Lake Cook Road

Deerfield, Illinois 60015

(847) 484-4400

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Mark A. Roche, Esq.

Senior Vice President, General Counsel and Secretary

Fortune Brands, Inc.

520 Lake Cook Road

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Deerfield, Illinois 60015

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

Copies to:

Gregory J. Bynan, Esq.

Winston & Strawn LLP

35 W. Wacker Drive

Chicago, Illinois 60601

(312) 558-5600

Approximate date of commencement of proposed sale to public: As soon as practicable after the effective date of this Registration Statement and after all other conditions to the proposed merger described herein have been satisfied or waived.

If the securities being registered on this Form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box: "

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Amount to be registered(1)	Proposed maximum offering price per share	Proposed maximum aggregate offering price	Amount of registration fee
Common Stock, \$3.125 par value per share	N/A	N/A	\$ 157,115,854(2)	\$ 16,812
Common Stock, \$3.125 par value per share	N/A	N/A	\$ 2,492,317(3)	\$ 267
Common Stock, \$3.125 par value per share	N/A	N/A	\$ 472,690(4)	\$ 51

- (1) Pursuant to Rule 457(o), the registration fee has been calculated on the basis of the maximum aggregate offering price, and the number of shares being registered has been omitted.
- (2) Calculated in accordance with Rule 457(f)(2) under the Securities Act of 1933, as amended (the Securities Act). Based on the book value per share (computed as of January 31, 2006, the most recent date for which such information is available) of the common stock of SBR to be exchanged in the merger. Calculated by multiplying the SBR book value per share of \$28.70 by 5,474,420, the estimated maximum number of shares of SBR common stock to be exchanged in the merger for shares of Fortune Brands common stock.
- (3) In connection with the proposed merger, Fortune Brands will acquire part of its interest in SBR through the related merger of a wholly-owned direct subsidiary of Fortune Brands with and into S. Byrl Enterprises, Inc. (SB Ross). Calculated in accordance with Rule 457(f)(2) under the Securities Act. Based on the book value of all outstanding shares of SB Ross (computed as of December 31, 2005, the most recent date for which such information is available).
- (4) In connection with the proposed merger, Fortune Brands will acquire part of its interest in SBR through the related merger of a wholly-owned direct subsidiary of Fortune Brands with and into Tres Investment Company (Tres). Calculated in accordance with Rule 457(f)(2) under the Securities Act. Based on the book value of all outstanding shares of Tres (computed as of December 31, 2005, the most recent date for which such information is available).

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until this Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

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The information in this proxy statement/prospectus is not complete and may be changed. We may not sell the securities discussed herein until the registration statement filed with the Securities and Exchange Commission is effective. This proxy statement/prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION DATED FEBRUARY 22, 2006

**PROXY STATEMENT OF
SBR, INC.**

**PROSPECTUS OF
FORTUNE BRANDS, INC.**

A Merger Proposal Your Vote is Important

[•] [•], 2006

To all SBR, Inc. Stockholders:

The boards of directors of both Fortune Brands, Inc. and SBR, Inc. have unanimously approved the merger of a subsidiary of Fortune Brands with and into SBR. In the merger, each share of SBR common stock and each option for, or right to purchase, a share of SBR common stock (sometimes referred to collectively herein as fully-diluted SBR shares) will be converted into the right to receive (1) shares of Fortune Brands common stock, (2) cash, or (3) in the event of an undersubscription or oversubscription for Fortune Brands common stock, a combination of cash and shares of Fortune Brands common stock, in each case based on the final merger consideration calculated as of the effective time of the merger pursuant to a formula set forth in the merger agreement. Each holder of fully-diluted SBR shares (sometimes referred to herein as fully-diluted SBR stockholders) may elect to receive all cash, all Fortune Brands common stock, or a combination of cash and Fortune Brands common stock. The stock and cash consideration to be received in the merger may be pro-rated as discussed in the attached proxy statement/prospectus.

Your election form setting forth the allocation of cash and/or Fortune Brands common stock you elect to receive for your fully-diluted SBR shares must be properly completed, signed and actually received no later than 5:00 p.m., [•] time, on [•][•], 2006. If the election form is not received by the election deadline, you will receive the type of consideration received for cash election shares. In order to receive your pro rata share of the merger consideration, your letter of transmittal should be properly completed and signed and accompanied by certificates representing all SBR common stock, endorsed in blank or otherwise in a form acceptable for transfer on SBR's books.

Fortune Brands common stock is quoted on the New York Stock Exchange under the symbol FO. On February 9, 2006, the day immediately prior to the announcement of the merger agreement, the closing price of Fortune Brands common stock was \$78.58 per share.

Fortune Brands will not acquire Woodcraft Supply Corp., Woodcraft Franchise Corporation and Dovetail Media, Inc. (the Woodcraft entities) in the merger and the merger agreement requires SBR to dispose of the Woodcraft entities prior to the merger. The SBR board of directors has approved the sale or transfer of the Woodcraft entities to Samuel B. Ross, II, or his designee, for \$10,948,000.

SBR's board of directors recommends a vote FOR approval of the merger and adoption of the merger agreement. The merger requires approval by holders of a majority of the issued and outstanding SBR Class A common stock and Class B common stock, voting as separate classes, entitled to vote at the special meeting. SBR stockholders holding approximately 67% of SBR's outstanding Class A common stock and approximately 33% of SBR's outstanding Class B common stock, making up approximately 72% of SBR's outstanding capital stock, have agreed to vote their stock in favor of adoption of the merger agreement.

Holders of SBR's Class B common stock are only entitled to vote on the proposal to approve the merger and adopt the merger agreement and are not entitled to vote on any other matters that properly come before the special meeting. Holders of SBR options and purchase rights are not entitled to vote at the special meeting, but must properly complete, sign and deliver an election form and a letter of transmittal as discussed above.

Please carefully review all of the accompanying materials, including the risks outlined under Risk Factors beginning on page 7.

[•]

Samuel B. Ross, II

Chairman of the Board of SBR, Inc.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of the securities to be issued in the merger or the terms of the merger agreement or passed upon the adequacy or accuracy of this document. Any representation to the contrary is a criminal offense.

This proxy statement/prospectus is dated [•] [•], 2006 and is first being mailed to SBR stockholders on or about [•] [•], 2006.

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NOTICE OF SPECIAL MEETING OF STOCKHOLDERS

To SBR, Inc. Class A and Class B Common Stockholders:

A special meeting of the Class A and Class B common stockholders of SBR, Inc. will be held on [•] [•], 2006, at [•] local time, at [•], for the following purposes:

1. To consider and vote upon a proposal to adopt the Agreement and Plan of Merger, dated as of February 9, 2006, by and among Fortune Brands, Inc., Brightstar Acquisition, LLC, a wholly-owned subsidiary of Fortune Brands, and SBR pursuant to which Brightstar Acquisition, LLC will merge with and into SBR and approve the merger contemplated thereby; and

2. To transact such other business as may properly come before the meeting or any adjournment or postponement of such meeting.

Only Class A and Class B common stockholders of record at the close of business on [•] [•], 2006 will be entitled to notice of and to vote upon the proposal to approve the merger and adopt the merger agreement at the meeting and any adjournments or postponements of the meeting. Only Class A common stockholders will be entitled to vote on any other business at the meeting and any adjournments or postponements of the meeting. The approval of the merger and adoption of the merger agreement requires the affirmative vote of holders of a majority of the issued and outstanding SBR Class A common stock and Class B common stock, voting as separate classes, entitled to vote at the special meeting. As of [•] [•], 2006, there were 5,346,453 shares of Class A common stock outstanding and 849,793 shares of Class B common stock outstanding and entitled to vote at the special meeting.

THE BOARD OF DIRECTORS OF SBR HAS DETERMINED THAT THE MERGER IS IN THE BEST INTERESTS OF SBR AND ITS STOCKHOLDERS AND UNANIMOUSLY RECOMMENDS THAT YOU VOTE FOR APPROVAL OF THE MERGER AND ADOPTION OF THE MERGER AGREEMENT.

In connection with the proposed merger, common stockholders of SBR have the right to dissent from the merger and obtain payment in cash of the fair value of their shares of SBR common stock under applicable provisions of West Virginia law. If the merger is effected and you meet all the requirements of this law, and follow all of its required procedures, you will receive cash in an amount equal to the fair market value, as determined under such law, of your shares of SBR common stock. The procedure for exercising your appraisal rights is summarized under the heading "Appraisal Rights" in the attached proxy statement/prospectus. The relevant provisions of West Virginia law are attached to this document as Annex B.

By Order of the Board of Directors

[•]

Samuel B. Ross, II

Chairman of the Board

Parkersburg, West Virginia

[•] [•], 2006

Whether or not you plan to attend the meeting, please complete, sign, date and return the accompanying proxy or voting instruction in the enclosed self-addressed stamped envelope.

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ADDITIONAL INFORMATION

Fortune Brands has filed with the Securities and Exchange Commission, or SEC, a registration statement on Form S-4 under the Securities Act of 1933, as amended, for the registration of the issuance of shares of Fortune Brands common stock proposed to be issued in the mergers described in this proxy statement/prospectus. This proxy statement/prospectus was filed as a part of such registration statement.

This proxy statement/prospectus incorporates by reference important business and financial information about Fortune Brands that is not included in or delivered with this document. See [Where You Can Find More Information](#) beginning on page 68.

This proxy statement/prospectus does not contain all of the information set forth in the registration statement, as certain parts are permitted to be omitted by the rules and regulations of the SEC. This information is available to you without charge upon your written or oral request. You can obtain documents incorporated by reference in this proxy statement/prospectus by requesting them in writing or by telephone from Fortune Brands at the following address and telephone number:

Fortune Brands, Inc.
Office of the Secretary
520 Lake Cook Road
Deerfield, Illinois 60015
(847) 484-4400

You may also obtain Fortune Brands documents at the SEC's website, www.sec.gov or at the SEC's public reference rooms. For information on the public reference rooms, see [Where You Can Find More Information](#) beginning on page 68.

You may obtain certain information regarding SBR without charge upon your written or oral request at the following address and telephone number:

SBR, Inc.
5300 Briscoe Road
Parkersburg, WV 26102
(304) 428-8261
Attn: Melissa K. Righter

SBR stockholders who would like to request any documents should do so no later than five business days before the SBR special meeting, or [•] [•], 2006, in order to timely receive the documents.

All information contained herein concerning Fortune Brands and its subsidiaries has been furnished by Fortune Brands. All information contained herein regarding SBR has been furnished by SBR. See [Where You Can Find More Information](#) beginning on page 68 for further information.

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