

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

K-MAR INDUSTRIES, INC.,
Plaintiff-Appellant,

v.

UNITED STATES,
Defendant-Appellee,

AND

FIVE RIVERS SERVICES LLC,
Defendant.

2010-5090

Appeal from the United States Court of Federal
Claims in case no. 08-CV-877, Senior Judge Loren A.
Smith.

ON MOTION

Before SCHALL, *Circuit Judge.*

O R D E R

The United States move to strike certain arguments
included in K-Mar Industries, Inc.'s (K-Mar) reply brief

or, in the alternative, moves to treat its motion as a sur-reply. K-Mar moves for an extension of time to file an opposition and opposes the motion to strike. The United States replies. K-Mar also moves to amend its reply brief.

Upon consideration thereof,

IT IS ORDERED THAT:

(1) The United States' motions are deferred to the merits panel assigned to hear this case. Copies of the motion, opposition, reply, and this order shall be transmitted to the merits panel.

(2) K-Mar's motion for an extension of time is granted. K-Mar's motion to amend its reply brief is denied.

FOR THE COURT

OCT 28 2010

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Marilyn H. David, Esq.
William P. Rayel, Esq.

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FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

OCT 28 2010

JAN HORBALY
CLERK