

NOTE: This disposition is nonprecedential.

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

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**KELLOGG BROWN & ROOT SERVICES, INC.,**  
*Plaintiff-Appellant,*

v.

**UNITED STATES,**  
*Defendant-Cross Appellant.*

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2012-5106, -5115

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Appeals from the United States Court of Federal  
Claims in No. 09-CV-351, Judge Christine O.C. Miller.

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**ON PETITION FOR PANEL REHEARING AND  
REHEARING EN BANC**

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Before RADER, *Chief Judge*, NEWMAN, LOURIE, DYK,  
PROST, MOORE, O'MALLEY, REYNA, WALLACH, TARANTO,  
and CHEN, *Circuit Judges*.<sup>1</sup>

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<sup>1</sup> Circuit Judge Hughes did not participate.

PER CURIAM.

### **ORDER**

Plaintiff-appellant Kellogg Brown & Root Services, Inc. filed a petition for rehearing en banc. A response to the petition was invited by the court and filed by the defendant-cross-appellant. Plaintiff-appellant moved for leave to file a reply in support of its petition. The petition was referred to the panel that heard the appeal, and thereafter the petition for rehearing en banc, the response, and the motion for leave to file a reply were referred to the circuit judges who are in regular active service.

Defendant-cross-appellant United States also filed a combined petition for panel rehearing and rehearing en banc. A response to the petition was invited by the court and filed by the plaintiff-appellant. The petition was referred to the panel that heard the appeal, and thereafter the petition for rehearing en banc and response were referred to the circuit judges who are in regular active service.

Upon consideration thereof,

It Is Ordered That:

- (1) The petition for panel rehearing filed by plaintiff-appellant Kellogg Brown & Root Services, Inc. is denied.
- (2) The petition for rehearing en banc filed by plaintiff-appellant Kellogg Brown & Root Services, Inc. is denied.
- (3) The petition for panel rehearing filed by defendant-cross-appellant United States is granted-in-part for the limited purpose of deleting the words

“at the Court of Federal Claims” from page 1366 of the opinion, reported at 728 F.3d 1348. An errata sheet is attached. The panel denies the petition for panel rehearing in all other respects.

- (4) The petition for rehearing en banc filed by defendant-cross-appellant United States is denied.
- (5) The motion of plaintiff-appellant to withdraw counsel Eric A. White is granted.
- (6) The motion of plaintiff-appellant for leave to file a reply in support of its petition for rehearing en banc is denied.
- (7) The mandate of the court will issue on April 4, 2014.

FOR THE COURT

March 28, 2014

Date

/s/ Daniel E. O’Toole

Daniel E. O’Toole  
Clerk of Court

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

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March 28, 2014

**ERRATA**

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Appeal Nos. 2012-5106, -5115

**KELLOGG BROWN & ROOT SERVICES, INC.**

**v.**

**UNITED STATES**

Decided: September 5, 2013  
Precedential Opinion

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Please make the following change:

Page 29, line 30, delete “at the Court of Federal Claims.”