UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, *Plaintiff,* v. AMSTED INDUSTRIES, INC., *Defendant.*	CASE No.: 1:07-cv-00710 JUDGE: John D. Bates DECK TYPE: Antitrust DATE STAMP: FILED:

PLAINTIFF'S UNOPPOSED MOTION TO MODIFY FINAL JUDGMENT

Plaintiff, the United States of America ("United States") respectfully moves the Court, pursuant to Federal Rule of Civil Procedure 60(b)(5) and Section XIII of the Final Judgment entered in this matter on July 16, 2007 ("Final Judgment"),[1] to modify the Final Judgment by entering the attached proposed Modified Final Judgment. Defendant, Amsted Industries, Inc. ("Amsted") does not oppose this motion.

Under the terms of the Final Judgment, Amsted was required to divest FM Industries, Inc.'s tangible and intangible assets to Wabtec Corporation ("Wabtec") to enable Wabtec to enter the United States end-of-car cushioning units ("EOCC") market. Paragraph IV.D of the Final Judgment provides that if Wabtec fails to deliver an EOCC manufactured or reconditioned by Wabtec within one year of the entry of the Final Judgment, Progress Rail Services Holding

[1] Section XIII of the Final Judgment provides that "[t]his Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time . . . to modify any of its provisions."

Corporation ("Progress Rail") will be released from its covenant not to compete with Amsted in the market for EOCCs.

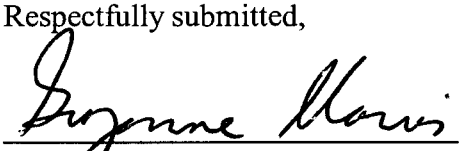
The United States seeks a modification of the Final Judgment to allow Wabtec additional time to sell its first EOCC before Progress Rail is released from its covenant not to compete. Plaintiff proposes to modify Paragraph IV.D of the Final Judgment to read as follows:

> Amsted shall unilaterally release all persons from any Restrictive Covenants related to the production, development, or sale of EOCCs. If after eighteen months from the entry of this Final Judgment, the Acquirer has failed to deliver an EOCC manufactured or reconditioned by the Acquirer to a railroad industry customer, Amsted shall also unilaterally release Progress Rail from Section 8.7 of Amsted's Asset Purchase Agreement with Progress Rail dated December 1, 2005 ("Post-Closing Non-Compete").

The proposed modification is equitable in nature and serves the public interest by effectuating the remedy intended in the Final Judgment. Accordingly, the United States respectfully requests that the Court grant the Motion and enter the proposed Modified Final Judgment attached hereto as Exhibit A.

Dated: July 14, 2008

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of July 2008, I caused a copy of the foregoing Motion of Plaintiff United States to Modify Final Judgment, by U.S. mail, postage prepaid, to the attorneys listed below:

Suzanne Morris

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