

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD

3
4 SAMSUNG ELECTRONICS CO., LTD.,

5 Petitioner,

6 vs.

7 NETLIST, INC.,

8 Patent Owner.

Case No. IPR2022-00062

Case No. IPR2022-00064

U.S. Patent No. 10,217,523

9
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11
12
13 DEPOSITION OF JOHN BENTLEY HALBERT, III

14 July 22, 2022

15 8:58 a.m.

16
17 555 Mission Street, Suite 3000

18 San Francisco, California
19
20
21
22

23 Reported by: QUYEN N. DO, CSR No. 12447
24

25 FILE NO. 214101

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INDEX TO EXAMINATION

WITNESS: JOHN BENTLEY HALBERT, III

EXAMINATION

PAGE

By Mr. Sim

5, 57

By Mr. Chandler

32, 59

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INDEX TO EXHIBITS

JOHN BENTLEY HALBERT, III

SAMSUNG ELECTRONICS CO., LTD., vs. NETLIST, INC., et al.

Friday, July 22, 2022

Quyen N. Do, CSR No. 12447

MARKED	DESCRIPTION	PAGE
Exhibit 1071	The Wayback Machine capture of JEDEC 2009 Meetings Schedule	33
Exhibit 1072	JEDEC Catalogue	39
Exhibit 1073	The Wayback Machine capture of www.jedec.org/join_jedec/default.cfm	43
Exhibit 1074	The Wayback Machine capture of www.jedec.org/service_members/New_Members/memberco.cfm	46
Exhibit 1075	The Wayback Machine capture of www.jedec.org/join_jedec/benefits.cfm	47

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1 SAN FRANCISCO, CALIFORNIA;

2 FRIDAY, JULY 22, 2022, 8:58 A.M.

3 --oOo--

4 JOHN BENTLEY HALBERT, III,

5 having been first duly sworn, was examined and

6 testified as follows:

7 --oOo--

8 MR. SIM: This is Charlie Sim, C-h-a-r-l-i-e
9 S-i-m, of Gibson Dunn & Crutcher on behalf of Patent
10 Owner Netlist, Inc., in IPR Nos. 2022-62 and 2022-64,
11 and I'm joined here today by my colleague, Ray LaMagna,
12 also from Gibson Dunn.

13 MR. CHANDLER: Good morning. Ted Chandler
14 from law firm of Baker Botts LLP on behalf of the
15 Petitioner Samsung Electronics Co. Limited.

16 EXAMINATION

17 BY MR. SIM:

18 Q Would you please state your name for the
19 record.

20 A John Bentley Halbert, III.

21 Q Morning, Mr. Halbert. Thank you for your time
22 today, first of all.

23 Could you also please state your current
24 address for the record.

25 A 8784 Southwest Marseilles,

1 M-a-r-s-e-i-l-l-e-s, Drive, Beaverton, Oregon 97007.

2 Q Have you ever been deposed?

3 A Yes.

4 Q And how many times have you been deposed?

5 A This is my third rodeo.

6 Q Right on.

7 And in what circumstances?

8 A First one was for Rambus vs. hynix, second one
9 was for hynix vs. Netlist, and then this one.

10 Q All right. So let's take those in order.

11 In the Rambus matter, were you testifying as a
12 fact witness or as an expert witness?

13 A A fact witness, I believe.

14 Q And, at a high level, without disclosing
15 anything, what was the subject of your testimony?

16 A RDRAM, Rambus DRAM.

17 Q Could you go into little more detail for me?

18 A It was Rambus DRAM architecture versus DDR2
19 and some of the cost-reduction work I did on Rambus
20 DRAM.

21 Q Understood. And then, in the hynix matter,
22 were you testifying as a fact witness or as an expert
23 witness?

24 A Expert witness.

25 Q And what was the subject of your testimony in

1 that case?

2 A It had to do with JEDEC, how patents were
3 handled within JEDEC.

4 Q Understood. Okay. Well, let me go through
5 the rules of the road for depositions regardless.

6 Yeah, you know what, let's back up for a
7 moment. Let's go back to the hynix litigation. Was
8 that a patent infringement litigation?

9 A Which one?

10 Q The hynix matter you mentioned.

11 A Oh. It was hynix vs. Rambus and hynix vs.
12 Netlist. So which one are you asking about?

13 Q Oh, I'm sorry. The hynix vs. Netlist case.

14 A Okay. It was a patent matter.

15 Q Was that in a district court in the United
16 States?

17 A No. It was -- what was it? The ITC,
18 International Trade Commission.

19 Q Got it. All right, now let's go back to the
20 formalities. Let's just quickly go through the rules of
21 deposition here. I'm be asking you questions, and
22 you'll be providing the answers. Does that sound good?

23 A Mm-hm.

24 Q The court reporter will be transcribing
25 everything we say today, and we're not being

1 video-recorded today.

2 A Thank you.

3 Q So I will need verbal responses to each of my
4 questions so that the reporter has something to write
5 down. Sound good?

6 A Yes.

7 Q Excellent.

8 MR. CHANDLER: So no mm-hms.

9 THE WITNESS: Hm?

10 MR. CHANDLER: No mm-hms.

11 THE WITNESS: Okay.

12 BY MR. SIM:

13 Q If I ask a question that you don't understand,
14 please just let me know, and I can rephrase the
15 question, okay?

16 A Okay.

17 Q Is it fair for me to assume, though, that if
18 you don't ask for clarification, that you understand the
19 question I'm asking?

20 A That's fair.

21 Q Great. From time to time, your counsel may
22 object. Unless they specifically instruct you not to
23 answer a question, I'm still going to need a response
24 notwithstanding the objection. Does that make sense?

25 A Makes sense.

1 Q Great. Okay, so I don't think we're going to
2 be here too long today, but if, at any point, you want
3 to take a break, just let me know.

4 A Okay.

5 Q I'll just ask that if we're in the middle of a
6 line of questioning, so a bunch of related questions
7 that are following on from each other, that you let me
8 get to the end of that line of questioning, and then
9 we'll take the break. Is that fair?

10 A Okay. Okay.

11 Q Great. Is there any reason you are not able
12 to testify truthful and accurate today?

13 A No reason.

14 Q Okay. So, I'm going to introduce and discuss
15 with you Petitioner's Exhibit 1054 in IPR Nos. 2022-62
16 and -64, and I understand you have that in front of you;
17 is that correct?

18 A I do.

19 Q And I understand you have no other materials
20 you brought to [sic] you with [sic] the deposition today
21 in front of you.

22 A No.

23 Q Is that correct?

24 A That is correct.

25 Q Great. Okay. So, I also then -- well . . .

1 does the version of the declaration you brought to the
2 deposition today state IPR No. 2022-00062 on the first
3 page?

4 A IPR -- -02, yes, it does.

5 Q Okay. Then I'm also going to hand to you
6 Petitioner's Exhibit 1054 from IPR No. 2022-64, which, I
7 believe, is also your declaration; is that correct?

8 A Yes.

9 Q Okay. So, I'll give you a minute to look that
10 over, if you'd like.

11 A Okay.

12 Q So the two documents you have in front of you
13 are the same declaration, but each has a slightly
14 different cover page; is that correct?

15 A Yes.

16 Q And you see, on the cover page of the one you
17 initially had before you, it lists IPR2022-62, and the
18 '218 patent; is that correct?

19 A Yes.

20 Q And the other cover page lists IPR2022-64, and
21 the '595 patent; is that correct?

22 A Yes.

23 Q Okay. And the declaration that is behind
24 those two cover sheets is your declaration, correct?

25 A Yes.

1 Q Okay. So just so we understand each other,
2 given the two declarations are the same, I'm just going
3 to refer to them as your declaration or Exhibit 1054; is
4 that fair?

5 A Yes.

6 Q Okay. So just for simplicity's sake, let's
7 work off the '218 declaration that you initially had
8 before you, and if you could please turn to page 6 of
9 that declaration. It is dated September 14, 2021; is
10 that correct?

11 A That is correct.

12 Q And that's your signature at the end of the
13 declaration?

14 A Yes.

15 Q Did you draft this declaration by yourself?

16 A Yes.

17 Q Did anyone assist you in drafting it?

18 A Yes. Counsel helped me.

19 Q Understood. What counsel was that?

20 A Ted Chandler.

21 Q When did you draft this declaration?

22 MR. CHANDLER: Objection. Form.

23 BY MR. SIM:

24 Q So you still need to answer my question
25 notwithstanding the objection.

1 A Before September 14th.

2 Q At what time before September 14th?

3 A I don't have a exact date.

4 Q Was it more than a year before September 14th?

5 MR. CHANDLER: Objection. Form.

6 THE WITNESS: Some of it. I mean, the early
7 part --

8 (Reporter clarification)

9 THE WITNESS: The first few sections were from
10 the previous Netlist lawsuit, so it was just copied.

11 BY MR. SIM:

12 Q Understood. But there are parts of this
13 declaration that were not from the first Netlist matter.

14 A Unless I have the other declaration in front
15 of me, I can't be a hundred percent sure.

16 Q When were you retained by counsel for Samsung?

17 A It was last fall. September -- or October --
18 or, no. Sorry. Excuse me. August, I believe.

19 Q Was that the first time you had been retained
20 by Samsung as an expert?

21 A Yes.

22 Q All right. So then let's turn back to
23 paragraph 9 of your declaration, please.

24 Okay. So you state here that you "served as a
25 representative Intel Corp. at JEDEC from approximately

1 2001 to 2003, and from approximately 2010 to 2017."

2 Did I read that right?

3 A Yes.

4 Q So you were a representative at JEDEC up until
5 2003 and then resumed working with JEDEC in 2010; is
6 that right?

7 MR. CHANDLER: Objection. Form.

8 THE WITNESS: Partially correct. So, from
9 2001 to 2003, I attended JEDEC committee meetings, and
10 in 2010 I started again, but in between I was attending
11 JEDEC task group meetings.

12 BY MR. SIM:

13 Q Understood. Were you attending these JEDEC
14 task group meetings on behalf of -- of Intel? Sorry.

15 A On behalf of Intel, correct.

16 Q And, when you restarted committee meetings in
17 2010, that was also on behalf of Intel.

18 A Yes.

19 Q So is it fair to say that you had a change of
20 role as Intel's representative to JEDEC during that
21 period?

22 MR. CHANDLER: Objection. Form.

23 THE WITNESS: Rephrase the question.

24 BY MR. SIM:

25 Q Well, I suppose maybe you could explain to me.

1 So, how does a JEDEC task group differ from a JEDEC
2 committee?

3 A Ah. So a task group is where the work
4 actually gets done, technical work, and then the task
5 group will approve a ballot to send to the committee,
6 and then the committee will then vote to -- there'll be
7 votes, and the -- the ballot will then pass and then
8 move into the -- eventually the spec. So, the JEDEC
9 committees meet once a quarter to do voting and JEDEC
10 business, and the task groups will meet what -- at least
11 once a week.

12 Q Is another term for a JEDEC task group a JEDEC
13 working group?

14 A I suppose you could use that, but the -- the
15 term that everybody use is a task group.

16 Q Got it, okay. Okay. Well, now let's go down
17 to paragraph -- actually, let's stay here for a moment.

18 So, when you talk about the -- sorry, scratch
19 that. Let me back up.

20 So, when you became a committee representative
21 for Intel to JEDEC in 2010, do you recall about when in
22 2010 that happened?

23 A Sorry. I believe it was the June meeting; if
24 not, then the September meeting for the committee.

25 Q Okay. All right. So now let's look a little

1 further down in paragraph 9 in your declaration and --
2 and the last line on this page that starts there, you
3 state that you have "personal knowledge of JEDEC
4 policies and business practices regarding the processes
5 involved in the development of JEDEC standards within
6 JEDEC's committees." Is that correct?

7 A Yes.

8 Q So here you're referring to the knowledge you
9 gained during your time as a JEDEC representative to a
10 JEDEC committee. Is that correct?

11 MR. CHANDLER: Objection. Form.

12 MR. SIM: That's fair. Let me reask the
13 question.

14 Q (By Mr. Sim) So you're referring here to the
15 knowledge you gained during your time as a JEDEC
16 committee member representative; is that correct?

17 A Not totally. I also gained knowledge through
18 working in the task groups.

19 Q Understood. So your experience working in
20 JEDEC task groups informed your understanding of JEDEC
21 policies generally; is that fair to say?

22 A Yes.

23 Q Okay. So then let's keep going down and now
24 look at paragraph 11, and you can take a moment to look
25 this over, and I'll ask you a couple questions about it.

1 Let me know when you're ready.

2 A Go.

3 Q All right. So you state here that:

4 "While [you] participated in JEDEC on
5 Intel's behalf, there was no rule or other
6 requirement that members treat ballots,
7 technology presentations, or meeting minutes
8 as confidential. Rather, these documents were
9 freely disclosed and distributed within
10 JEDEC's committees and subcommittees between
11 JEDEC members manufacturing memory related
12 products."

13 Did I read all that right?

14 A Yes.

15 Q So, you expected that you would need to
16 discuss JEDEC materials within your organization at
17 Intel as well as with other JEDEC committee members; is
18 that right?

19 A Yes.

20 Q Okay. So then you go on to explain in
21 paragraph 11 of your declaration that:

22 "JEDEC members are expected to discuss
23 proposed technology -- such as in ballots,
24 technology presentations or meeting minutes --
25 within their company and among all

1 third-parties interested in [the]
2 interoperability of memory products."

3 Did I read that one correct?

4 A Yes.

5 Q When you say here that JEDEC members discussed
6 proposed technologies among third parties interested in
7 the interoperability of memory-related products, the
8 parties you're referring to there are the other JEDEC
9 member companies; is that right?

10 A They are other JEDEC member companies and
11 business partners or customers of Intel.

12 Q All right, let me break that down a little
13 bit. So, when you say "business partners," are you
14 referring to Intel's business partners as well?

15 A Yes.

16 Q And would those business partners themselves
17 be JEDEC members?

18 A Possibly. There's never any checking that we
19 did beforehand.

20 Q Understood. So, it is your understanding,
21 then, that JEDEC policies permit JEDEC committee members
22 such as Intel to distribute ballots and technology
23 proposals to the general public prior to them being
24 published by JEDEC?

25 A My statement was that we would discuss the

1 technology proposals, ballot proposals, with Intel
2 business partners.

3 Q So then is it your understanding that JEDEC
4 policies allow JEDEC members to publish or distribute
5 committee ballots or proposals to non-JEDEC members
6 before JEDEC has approved the publication?

7 MR. CHANDLER: Objection. Form.

8 THE WITNESS: And my question is, What do you
9 mean by publish?

10 BY MR. SIM:

11 Q Why don't you explain to me the publication
12 process of JEDEC. We can start there.

13 A Publication process. So, if a JEDEC committee
14 member wanted to be interviewed by the press, you would
15 need prior permission from JEDEC, and if you wanted to
16 send a ballot, let's say, to EE Times or some other
17 publication like that, you'd need prior permission from
18 JEDEC.

19 Q Understood. So . . .

20 A And from Intel.

21 Q So it's your understanding of JEDEC policy,
22 then, that, for instance, a ballot, as you say, could
23 not be sent to The New York Times without permission
24 from JEDEC to do so. Is that a fair assessment?

25 A Yes.

1 Q But it is also your understanding that JEDEC
2 policy permits distribution to -- of, again, ballots
3 (let's use your example) to non-JEDEC members that are
4 somehow affiliated with JEDEC members?

5 A So our -- our policy at Intel was that we
6 would discuss relevant ballots or proposals at JEDEC
7 with business partners or people that have a stake in
8 the memory technology being developed at JEDEC.

9 Q Okay. So is it your understanding, then, that
10 Intel, as a JEDEC committee member, can distribute
11 ballots, pending committee ballots, to partners and
12 customers?

13 A Usually, we would digest the ballots. I mean,
14 not send the actual form of the ballot, but take the
15 relevant parts out of the ballot and then discuss with
16 partners ahead of JEDEC committee meetings, especially
17 if there was something controversial going into a spec.

18 Q Is it your understanding that JEDEC policy
19 permitted this practice?

20 A Yes.

21 Q So, in the sharing you were describing with
22 Intel business partners and customers, is the discussion
23 of the subject matter of a pending ballot, or are you
24 physically handing them a copy of a pending ballot for
25 their own review?

1 A We don't hand -- well, there's really no
2 reason to hand out the physical copy of the ballot. We
3 will actually digest or bring out the relevant --
4 relevant pieces that we want to discuss with the
5 customer. So it may be -- we'll snip a section out of a
6 spec and put it into a PowerPoint or a ballot, if you
7 will.

8 Q So, let me just make sure I understand that,
9 then. So the -- if the committee ballot is distributed
10 for voting by JEDEC members in a committee, that ballot
11 itself is not distributed to business partners or to
12 customers. Is that your understanding?

13 MR. CHANDLER: Objection. Form.

14 THE WITNESS: Repeat the question, sorry.

15 BY MR. SIM:

16 Q Maybe I'll have you some context.

17 I'm just trying to understand what the
18 practice was while you were a Intel representative for
19 JEDEC.

20 So are you saying that -- are you saying that
21 the subject matter of a committee ballot may be
22 discussed with business partners or customers, but that
23 you would never take a committee ballot that had been
24 distributed for voting and give that distributed
25 committee ballot to a customer or an Intel business

1 partner?

2 A There was no reason to give the whole ballot.
3 If there was -- frankly, you wouldn't do that in a
4 technical meeting, because you're trying to bury them in
5 a whole lot of verbiage. You want to bring out the
6 relevant sections of the -- the ballot or the spec that
7 is being discussed and make that the business partner or
8 the people you're discussing with understand that
9 section. So, again, we would snip out sections of the
10 ballot, section -- which is actually a portion of the
11 spec and discuss that.

12 Q And, when you say discuss that with Intel
13 business partners or customers, do you mean literally
14 discuss, as in talk about the information that is in
15 that portion of the spec--?

16 A Yes.

17 Q Let me finish my question, please.

18 A Sorry.

19 Q So, when you say discuss that with Intel
20 partners or customers, do you mean literally talk about
21 the subject matter at hand, or would you provide them
22 with a copy of JEDEC specification prior to its
23 publication?

24 MR. CHANDLER: Objection. Form.

25 THE WITNESS: Typically, when the ballots are

1 being presented at JEDEC, they're only specific sections
2 of the spec. So maybe it's only discussing one maybe
3 timing parameters or how one particular function works,
4 and that would be the subject of the technical
5 discussion with the business partner.

6 BY MR. SIM:

7 Q Okay. And, when you say the subject of the
8 technical discussion with the business partner, is that
9 portion of the spec that represents the committee ballot
10 actually given to that business partner? Is it provided
11 to them for discussion, or is the discussion just on the
12 subject?

13 MR. CHANDLER: Objection. Form.

14 THE WITNESS: It can actually occur both ways.

15 BY MR. SIM:

16 Q So, is it then your understanding that JEDEC
17 policy does allow JEDEC committee members to distribute
18 pending committee ballots to non-JEDEC members?

19 MR. CHANDLER: Objection. Form.

20 THE WITNESS: Again, in my practice at Intel,
21 we would discuss -- actually --

22 MR. SIM: I'm going to stop you there.

23 THE WITNESS: Okay.

24 MR. SIM: I'm sorry. Move to strike that
25 response as nonresponsive.

1 Q (By Mr. Sim) This is just a yes-or-no
2 question. So, please answer it.

3 Is it your understanding that JEDEC policy
4 permits JEDEC committee members to distribute pending
5 committee ballots to non-JEDEC entities?

6 MR. CHANDLER: Objection. Form.

7 THE WITNESS: So the answer . . . you're
8 saying is it against policy to distribute ballots to
9 non-JEDEC members? That answer is, yes, it is against
10 policy.

11 BY MR. SIM:

12 Q Okay. So just to clarify, because we ended up
13 in a situation where you were asking a question there.

14 Is it contrary to JEDEC policy to -- for a
15 JEDEC committee member to distribute a pending committee
16 ballot to a non-JEDEC entity?

17 MR. CHANDLER: Objection. Form.

18 THE WITNESS: Yes.

19 BY MR. SIM:

20 Q All right. Okay, so let's back up a little.
21 You're aware that JEDEC has written policies and
22 procedures that are provided to members; is that
23 correct?

24 A Yes.

25 Q And are you familiar with those policies and

1 procedures?

2 A Yes.

3 Q And did you look at those policies and
4 procedures in preparing your declaration for this case?

5 A No.

6 Q When is the last time you reviewed JEDEC
7 policy and procedures?

8 A Probably two years ago or more.

9 Q And, at the time you note, was that the first
10 time you had reviewed JEDEC policies and procedures?

11 A Probably not.

12 Q But you can't say for sure?

13 A At least at my time at Intel, I can't recall a
14 time that I sat down and actually went through all the
15 policies and procedures.

16 Q Okay. Well, I'll show you one, see if it jogs
17 your memory. Actually, let's hold off on that.

18 Are you aware of any JEDEC member being
19 reprimanded for disclosing JEDEC information prior to
20 its official publication by JEDEC?

21 A I don't have a direct recollection. It's
22 possible.

23 Q Is it your understanding that, if a JEDEC
24 member -- sorry, scratch that.

25 What is the JEDEC office?

1 A A JEDEC office is the JEDEC headquarters.
2 I've never been there.

3 Q Does JEDEC office also have a -- have an --
4 does it also refer to a group of individuals within
5 JEDEC?

6 A So there are -- there's the JEDEC secretary,
7 there's JEDEC legal counsel, and there's some other
8 administrators within the JEDEC office. But when you
9 say JEDEC members, are you talking about committee
10 people voting, or are you talking about -- what's your
11 definition?

12 Q Well, my understanding was that the JEDEC
13 office was some administrative entity within JEDEC that
14 performs functions such as, you know, akin to how the
15 JEDEC board of directors purports -- provide -- excuse
16 me, performs functions within JEDEC. So I suppose my
17 question so you is, Are you aware of the JEDEC office as
18 an administrative entity within JEDEC and not just a
19 building?

20 A Yes.

21 Q Understood. What are -- what are the roles
22 performed by the JEDEC office?

23 A JEDEC office has a secretary that takes
24 minutes in the committee meetings. There is another
25 administrator that tracks all the presentations that are

1 done within JEDEC and the task groups. They get what's
2 called an item number for tracking. Beyond that, I'm
3 not sure. There's an IT person also.

4 Q So let's go back to your experience -- scratch
5 that.

6 You indicated previously that you served as a
7 task group representative for Intel in JEDEC; is that
8 correct?

9 A Yes.

10 Q And task groups are where JEDEC members first
11 propose subject matter for standardization; is that
12 correct?

13 A Yes.

14 Q What is the mechanism for a JEDEC member to
15 bring new subject matter to -- to a JEDEC task group and
16 begin the standardization process?

17 A You post a presentation, and then it's
18 discussed in the task group prior to the meeting
19 beginning. Usually, there's a rule that it has to be
20 posted, oh, maybe six to twelve hours before the
21 meeting, give people a chance to read it.

22 Q And then, in a task group meeting, that
23 presentation is discussed among the JEDEC members that
24 are part of that task group; is that correct?

25 A Yes.

1 Q And, if the members of that task group vote --
2 I'm sorry. Scratch that.

3 How does a proposal in a task group become a
4 ballot that is sent to a committee?

5 A First, the task group has to have
6 authorization to ballot certain material, so the
7 committee votes to authorize the task group to create
8 the ballot, committee then discusses different
9 proposals, and then, in the end, there is as ballot
10 draft that is circulated within the task group. It may
11 take several meetings to kind of fix up language or
12 typos, and then the task group approves the ballot and
13 then it's sent to the committee.

14 MR. SIM: Would you mind if we take a quick
15 break to discuss among ourselves, and we can come back
16 in maybe five minutes?

17 MR. CHANDLER: Sounds good.

18 MR. SIM: Thank you very much.

19 (Break taken from 9:34 a.m. to
20 9:42 a.m.)

21 BY MR. SIM:

22 Q Okay, Mr. Halbert, I want to go back to the
23 hynix against Netlist ITC matter you previously told me
24 about. Do you remember that?

25 A Yes.

1 Q So, who retained you in that matter?

2 A Sidley, Sidley Austin.

3 Q And do you remember who Sidley Austin
4 represented in that matter?

5 A [Indicating]. Who -- they represented hynix.
6 Sorry.

7 Q No problem.

8 Did you submit a report in that matter?

9 A Yes.

10 Q What was -- at a high level, what was the
11 subject matter of the report you submitted in that
12 matter?

13 A The subject matter was the patent list that
14 JEDEC collects of possible patents infringing on a
15 particular JEDEC spec.

16 Q So there was a JEDEC rule at issue in that
17 case; is that correct?

18 A In that case, it was -- the patent list was
19 being used as a way to value the Netlist patent. So
20 looking at the total patent list and how many time -- I
21 believe how many times the Netlist patent got
22 referenced. There was an economist that was trying to
23 use that list of patents to value the Netlist patent.

24 Q Did you testify at the hearing in that matter?

25 A Close, but didn't quite make it.

1 Q But you were deposed in that matter.

2 A Yes.

3 Q Have you written expert reports in cases in
4 which you were not deposed?

5 A No.

6 Q So I suppose another way of saying that is,
7 this is your third deposition and also your third expert
8 report; is that right?

9 MR. CHANDLER: Objection. Form.

10 THE WITNESS: Second expert report, third
11 deposition.

12 BY MR. SIM:

13 Q Understand. My mistake.

14 So you were previously deposed in the hynix
15 against Netlist matter after you had been retained by
16 hynix; is that correct?

17 A Yes.

18 Q And then you previously submitted an expert
19 declaration in an inter partes review proceeding when
20 you were retained by hynix against Netlist; is that
21 correct?

22 A Yes.

23 Q And now you are submitting an expert report
24 after you've -- excuse me, been retained by Samsung
25 against Netlist in this proceeding; is that correct?

1 A Yes.

2 Q So is it true that your entire career of
3 litigation consulting has been against Netlist?

4 MR. CHANDLER: Objection. Form.

5 THE WITNESS: No.

6 BY MR. SIM:

7 Q No.

8 And are you referring to the Rambus matter
9 we've previously discussed?

10 A Yes.

11 Q And who were you retained by in that matter?

12 A I don't remember if it was Micron or hynix. I
13 got volunteered.

14 Q What do you mean you got volunteered?

15 A By Intel.

16 Q Okay. So, other than that Rambus matter,
17 every other case in your litigation consulting career
18 has been brought against Netlist; is that correct?

19 MR. CHANDLER: Objection. Form.

20 THE WITNESS: Yes.

21 BY MR. SIM:

22 Q Okay, what did you do to prepare for this
23 deposition?

24 A Let's see, I had a brief one-hour meeting with
25 my counsel last Monday for an hour, and then we met for

1 three hours -- three hours yesterday, and here I am
2 today.

3 Q And what counsel was that?

4 A Ted Chandler.

5 Q Did you review any documents in preparation
6 for this deposition?

7 A My report.

8 Q And no other documents other than your report?

9 A No.

10 Q Let me go back to your history of litigation
11 consulting one more time here.

12 So, you mentioned that you were volunteered by
13 Intel to work in the Rambus matter you mentioned; is
14 that correct?

15 A Yes.

16 Q So that matter occurred while you were still
17 employed by Intel; is that correct?

18 A Yes.

19 Q So, every litigation consult -- excuse me.
20 Let me -- let me restart. So all of your litigation
21 consulting, after you left Intel, has been against
22 Netlist; is that correct?

23 A Yes.

24 MR. SIM: I don't have any further questions
25 at this time, so I'll pass the witness.

1 MR. CHANDLER: Can we go off the record? And
2 I'll think about questions.

3 (Break taken from 9:49 a.m. to
4 10:00 a.m.)

5 EXAMINATION

6 BY MR. CHANDLER:

7 Q Mr. Halbert, I'd like to follow up on some of
8 the questions that counsel for Netlist asked you. Would
9 that be okay?

10 A Yes.

11 Q Did you participate in JEDEC on Intel's behalf
12 from 2001 to 2017?

13 A Yes.

14 Q And, as result of participating in JEDEC
15 between 2001 and 2017, do you believe that you gained an
16 understanding of how JEDEC's committees, task groups,
17 policies and procedures worked?

18 MR. SIM: Objection. Outside the scope of the
19 direct and a leading question.

20 THE WITNESS: Yes.

21 BY MR. CHANDLER:

22 Q I want to focus on the years 2009 and 2010.
23 So can we agree that, unless stated otherwise, all of my
24 questions and all of your answers will be as of 2009 and
25 2010?

1 A Yes. Okay.

2 Q In 2009 and 2010, was the existence of JEDEC a
3 secret?

4 A No.

5 Q Did JEDEC have a website that was available to
6 the public?

7 MR. SIM: Objection. Outside the scope.

8 THE WITNESS: Yes.

9 BY MR. CHANDLER:

10 Q Did JEDEC publicize, on its website, all of
11 its upcoming committee meetings, including the committee
12 meetings that counsel/Netlist was asking you about?

13 MR. SIM: Objection. Outside the scope and a
14 leading question.

15 THE WITNESS: Yes.

16 MR. CHANDLER: I'd like to mark as
17 Exhibit 1071. And I'll -- it's a printout, but I'll
18 e-mail PDF copies to everyone later.

19 (Exhibit 1071 marked)

20 MR. LaMAGNA: Hold on one second. So you're
21 going to introduce this?

22 MR. CHANDLER: Correct.

23 MR. LaMAGNA: Okay.

24 BY MR. CHANDLER:

25 Q Do you recognize--?

1 MR. SIM: Hold on, hold on. I have some
2 objections to this document.

3 Objection to the extent this document is late
4 or untimely. There's no reason it should not have been
5 included earlier in this case. Objection to the extent
6 this is hearsay. Objection on the grounds that this is
7 irrelevant. Objection to lack of authentication, and
8 objection that this is outside the scope of -- of the
9 declaration and the cross-examination.

10 BY MR. CHANDLER:

11 Q Do you recognize Exhibit 1071 as a printout
12 from the JEDEC website available to the public, listing
13 out all of the JEDEC meetings in 2009?

14 MR. SIM: Objection. Lack of foundation and
15 leading question.

16 THE WITNESS: Yes.

17 BY MR. CHANDLER:

18 Q Back when you were participating in JEDEC, did
19 you personally go to JEDEC's website to get the dates
20 and locations for JEDEC's upcoming meetings?

21 MR. SIM: Objection. It's outside the scope
22 of the declaration. Outside the scope of the
23 cross-examination, and it is a leading question.

24 BY MR. CHANDLER:

25 Q Did JEDEC keep the dates or locations of its

1 meetings a secret?

2 MR. SIM: Objection. That's outside the scope
3 of the declaration and to the cross-examination, and it
4 is a leading question.

5 THE WITNESS: No.

6 BY MR. CHANDLER:

7 Q Back when you were participating in JEDEC, did
8 you personally go to JEDEC's website to get the dates
9 and locations for JEDEC's upcoming meetings?

10 MR. SIM: Objection. Outside the scope of the
11 declaration and the cross-examination, and it's a
12 leading question and objection to form.

13 THE WITNESS: Yes.

14 BY MR. CHANDLER:

15 Q Please turn to the bottom of Exhibit 1071. Do
16 you see the meetings listed for December of 2009?

17 A Yes.

18 Q Where did JEDEC hold its meeting in December
19 of 2009?

20 MR. SIM: Objection. It's outside the scope
21 of the direct examination. It's outside the scope of
22 the cross.

23 THE WITNESS: Maui, the -- ground Grand
24 Wailea.

25 BY MR. CHANDLER:

1 Q And Maui, Grand Wailea.

2 MR. SIM: Objection. This is outside the
3 scope.

4 THE WITNESS: It's a hotel resort in Maui.

5 BY MR. CHANDLER:

6 Q Was it common for JEDEC to hold its meetings
7 in hotels?

8 MR. SIM: Objection. It's outside the scope.

9 THE WITNESS: Yes. Always.

10 BY MR. CHANDLER:

11 Q Can you briefly describe for us approximately
12 how many people attended a given JEDEC meeting and what
13 the physical setup of the meeting was like?

14 MR. SIM: Objection to form. Objection. It's
15 outside the scope.

16 THE WITNESS: 150, maybe 200, people and just
17 rows of chairs in the conference room, a screen up
18 front, and then a couple of microphones in the center.

19 BY MR. CHANDLER:

20 Q At the JEDEC meetings, would presentations be
21 displayed on the screen up front for everyone in the
22 room to see?

23 MR. SIM: Objection to form. Objection. It's
24 a leading question. Objection to the scope. Outside
25 the scope.

1 THE WITNESS: Yes.

2 BY MR. CHANDLER:

3 Q At the hotels where JEDEC held its meetings,
4 was there a security guard to prevent nonmembers from
5 attending the JEDEC meetings?

6 MR. SIM: Objection. It's outside the scope.

7 THE WITNESS: No.

8 BY MR. CHANDLER:

9 Q As a practical matter, did anything stop
10 anyone from the public from walking into a JEDEC meeting
11 and observing the presentations being given at the JEDEC
12 meeting?

13 MR. SIM: Objection. It's leading. Objection
14 to the form of the question. Objection. It is outside
15 the scope.

16 THE WITNESS: No. There was nothing impeding
17 anybody from walking in.

18 BY MR. CHANDLER:

19 Q At the bottom of Exhibit 1071, do you see
20 where it says "Event/Committee"?

21 A Where?

22 Q In the center column.

23 A Yes.

24 Q What does the number 40 mean under the heading
25 "Event/Committee" on this public JEDEC Web page?

1 MR. SIM: Objection. It's outside the scope.

2 THE WITNESS: That's the logic committee.

3 BY MR. CHANDLER:

4 Q What does the number 42 mean under the heading
5 "Event/Committee" --

6 MR. SIM: Objection.

7 BY MR. CHANDLER:

8 Q -- on this public JEDEC Web page?

9 MR. SIM: Objection. It's outside the scope.

10 THE WITNESS: DRAM committee.

11 BY MR. CHANDLER:

12 Q What does the No. 45 mean under the heading
13 "Event/Committee" under public JEDEC Web page?

14 A 45 --

15 MR. SIM: Objection. Outside the scope.

16 THE WITNESS: 45 is the module committee.

17 BY MR. CHANDLER:

18 Q Were JEDEC's committees a secret?

19 A No.

20 Q Did JEDEC publicize that it had different
21 committees focused on different technical areas, such as
22 digital logic, DRAM memory, and memory modules?

23 MR. SIM: Objection to the form of the
24 question. Leading and outside the scope.

25 THE WITNESS: Yes.

1 MR. CHANDLER: Like to mark this Exhibit 1072.

2 (Exhibit 1072 marked)

3 MR. SIM: All right. We're going to object
4 that this document is late. There's no reason this
5 document could not have been included in the Petitioner
6 declaration. Objection to hearsay, relevancy, lack of
7 authentication, and that this is outside the scope of
8 both the declaration and cross-examination.

9 BY MR. CHANDLER:

10 Q If you look at the top of the first page of
11 Exhibit 1072, do you see that this exhibit is a capture
12 by The Wayback Machine in the year 2009 of the publicly
13 accessible Web page www.jedec.org/Catalog/display.cfm?

14 MR. SIM: Objection. Lack of foundation.
15 Leading question and outside the scope.

16 THE WITNESS: Yes.

17 BY MR. CHANDLER:

18 Q Please turn to page 59 of 1072 and let me know
19 when you are there.

20 A There.

21 Q On page 59 of Exhibit 1072, do you see,
22 towards the bottom, it says in blue "JC-40"?

23 MR. SIM: Objection. This is outside the
24 scope.

25 THE WITNESS: Yes.

1 BY MR. CHANDLER:

2 Q What is JC-40?

3 MR. SIM: Objection. This is outside the
4 scope.

5 THE WITNESS: JC-40 is the digital logic
6 committee, the digital logic being the logic that goes
7 on the DIMM.

8 BY MR. CHANDLER:

9 Q Did JEDEC publicize that JC-40 was the
10 committee working on digital logic --

11 MR. SIM: Objection.

12 BY MR. CHANDLER:

13 Q -- for memory modules?

14 MR. SIM: Objection to foundation, and this is
15 outside the scope.

16 THE WITNESS: Yes.

17 BY MR. CHANDLER:

18 Q Please turn to page 61 of Exhibit 1072.

19 What are JC-40.1, JC-40.3, and JC-40.4?

20 MR. SIM: Objection. It's outside the scope.

21 THE WITNESS: These are subcommittees under
22 JC-40 for particular components used in memory.

23 BY MR. CHANDLER:

24 Q Did JEDEC publicize the subcommittees, the
25 JC-40, including JC-40.1, JC-40.3, and JC-40.4?

1 MR. SIM: Objection. It's leading question
2 and it's outside the scope.

3 THE WITNESS: Yes.

4 BY MR. CHANDLER:

5 Q Was JEDEC trying to keep these subcommittees a
6 secret?

7 MR. SIM: Objection. It's outside the scope.
8 It's a leading question, and to the form of the
9 question.

10 THE WITNESS: No.

11 BY MR. CHANDLER:

12 Q What is JC-42.3?

13 MR. SIM: Objection. It's outside the scope.

14 THE WITNESS: Is the -- for the clock driver
15 and the PLL.

16 (Reporter clarification)

17 THE WITNESS: Clock -- sorry, clock driver and
18 PLL.

19 BY MR. CHANDLER:

20 Q And next to JC-423 it says "RAM Memories."
21 What are those?

22 MR. SIM: Objection. Lacks foundation. Form
23 of the question. It's outside the scope.

24 THE WITNESS: Oh, RDIMM, you mean? 82-17
25 JESD? Is that the line you're talking about?

1 MR. CHANDLER: No.

2 Q (By Mr. Chandler) At the bottom of page 61 --

3 A Oh.

4 Q -- of Exhibit 1072 what is "JC-42.3 RAM
5 Memories"?

6 MR. SIM: Objection. It's outside the scope.

7 THE WITNESS: Sorry. I misunderstood.

8 RAM memory is -- is DRAM memories.

9 BY MR. CHANDLER:

10 Q Did JEDEC publicize that JC-42.3 was the
11 committee working on DRAM memories?

12 MR. SIM: Objection. Form. Outside the
13 scope.

14 THE WITNESS: Yes.

15 BY MR. CHANDLER:

16 Q What is DDR2 and DDR3?

17 MR. SIM: Objection. It's outside the scope.

18 THE WITNESS: DDR2 is the second-generation
19 DRAM memory standardized by JEDEC, and DDR3 is the third
20 generation. Each have different speed ranges.

21 BY MR. CHANDLER:

22 Q If you turn to the next page, which is page 62
23 of Exhibit 1071 [sic], what is JC-45.4?

24 MR. SIM: Objection. This is outside the
25 scope.

1 THE WITNESS: 45.4 was for FB-DIMM modules.

2 BY MR. CHANDLER:

3 Q Did JEDEC publicize that JC-45.4 was the
4 subcommittee working on those memory modules?

5 MR. SIM: Objection to form. Leading
6 question. It's outside the scope.

7 THE WITNESS: Yes.

8 BY MR. CHANDLER:

9 Q If an interested member of the public wanted
10 to join JEDEC, how easy was it to become a member of
11 JEDEC?

12 MR. SIM: Objection to form of the question,
13 leading, and it's outside the scope.

14 THE WITNESS: Just bring your checkbook.

15 BY MR. CHANDLER:

16 Q Are you aware of any examples where JEDEC
17 refused to allow someone from joining JEDEC?

18 MR. SIM: Objection. Form of the question,
19 leading, and outside the scope.

20 THE WITNESS: No.

21 MR. CHANDLER: Mark this as Exhibit 1073.

22 (Exhibit 1073 marked)

23 MR. SIM: All right. We're going to object to
24 this document. It is late. There's no reason it could
25 not have been included in the Petitioner declaration.

1 Objection on the basis of hearsay, relevancy, lack of
2 authentication, and that this is outside the scope of
3 both the direct and declaration and the
4 cross-examination.

5 BY MR. CHANDLER:

6 Q If you look at the top the first page of
7 Exhibit 1073, do you see that this exhibit is a capture
8 by The Wayback Machine in the year 2009 of the publicly
9 accessible Web page
10 www.jedec.org/join_jedec/default.cfm

11 MR. SIM: Objection. Form of the question,
12 leading question, and it is outside the scope.

13 THE WITNESS: Yes.

14 BY MR. CHANDLER:

15 Q Based on your personal knowledge, would it be
16 fair to say that, in 2009 and 2010, JEDEC was the
17 leading developer of standards for the semiconductor
18 industry?

19 MR. SIM: Objection. Form of the question,
20 leading question, and it's outside the scope.

21 THE WITNESS: I think they're the only. The
22 only standards committee.

23 BY MR. CHANDLER:

24 Q So would you agree?

25 A Yes. They would be the leading one since

1 they're the only one.

2 Q Based on your personal knowledge, would it be
3 fair to say that, in 2009 and 2010, membership in JEDEC
4 was open to independent entities that manufactured
5 semiconductor products or provided related services or
6 equipment?

7 MR. SIM: Objection. Leading and outside the
8 scope.

9 THE WITNESS: Yes.

10 BY MR. CHANDLER:

11 Q Based on your personal knowledge, would it be
12 fair to say that, in 2009 and 2010, membership in JEDEC
13 cost a few thousand dollars per yearly for all the
14 employees of a given company?

15 MR. SIM: Objection. Form, leading question,
16 and outside the scope.

17 THE WITNESS: Yes.

18 BY MR. CHANDLER:

19 Q In 2009 and 2010, were there many companies
20 that were members of JEDEC?

21 MR. SIM: Objection. Form. Outside the
22 scope.

23 THE WITNESS: There were a lot.

24 BY MR. CHANDLER:

25 Q Was your company, Intel, a member of JEDEC in

1 2009 and 2010?

2 MR. SIM: Objection. Leading. Outside the
3 scope.

4 THE WITNESS: Yes.

5 MR. CHANDLER: Like to mark this as
6 Exhibit 1074.

7 (Exhibit 1074 marked)

8 MR. SIM: All right. Objection to this
9 document to the extent it's late. There's no reason
10 this document could not have been included in the
11 Petitioner declaration. It is hearsay. Objection to
12 relevancy. Objection to lack of authentication, and it
13 is outside the scope of both the declaration and
14 cross-examination.

15 BY MR. CHANDLER:

16 Q If you look at the top of the first page of
17 Exhibit 1074, do you see that this exhibit is a capture
18 by The Wayback Machine in the year 2009 of a publicly
19 accessible JEDEC Web page, listing out the members of
20 JEDEC in alphabetical order?

21 MR. SIM: Objection. Lack of foundation.
22 Form of the question, leading question, and outside the
23 scope.

24 THE WITNESS: Yes.

25 BY MR. CHANDLER:

1 Q Looking at Exhibit 1074, are there companies
2 that you recognize that were members of JEDEC?

3 MR. SIM: Objection. Outside the scope.

4 THE WITNESS: Yes.

5 BY MR. CHANDLER:

6 Q Could you name some?

7 MR. SIM: Objection. Outside the scope.

8 THE WITNESS: Oh, MetaRAM, Intel, EMD, NVIDIA.
9 Who else? Weird ones like MOSAID, National Semi, to
10 name a few.

11 BY MR. CHANDLER:

12 Q And would there be others if we took --

13 A Oh --

14 Q -- more time?

15 A Oh, a lot more, yes.

16 Q Was Netlist a member of JEDEC?

17 MR. SIM: Objection. Outside the scope.

18 Leading question.

19 THE WITNESS: At this time, yes.

20 MR. CHANDLER: I'd like to mark as
21 Exhibit 1075.

22 (Exhibit 1075 marked)

23 BY MR. CHANDLER:

24 Q Do you have that exhibit in front of you?

25 A Yes.

1 MR. SIM: All right, we're going to object
2 this exhibit that it's late. There's no reason this
3 document could not have been included in the Petitioner
4 declaration. Objection. Hearsay. Objection to lack of
5 relevancy. Objection. No authentication, and it's
6 outside the scope of both the declaration and the
7 cross-examination.

8 BY MR. CHANDLER:

9 Q If you look at the top of the first page of
10 Exhibit 1075, do you see that this exhibit is a capture
11 by The Wayback Machine in the year 2009 of a publicly
12 accessible JEDEC Web page
13 www.jedec.org/join_jedec/benefits.cfm

14 MR. SIM: Objection. Foundation, leading
15 question, and it's outside the scope.

16 THE WITNESS: Yes.

17 BY MR. CHANDLER:

18 Q Based on your personal knowledge, would it be
19 fair to say that a benefit of JEDEC membership was
20 admission to meetings of the JEDEC committees?

21 MR. SIM: Objection. Form. Leading question,
22 and it's outside the scope.

23 THE WITNESS: Yes.

24 BY MR. CHANDLER:

25 Q Based on your personal knowledge, would it be

1 fair to say that a benefit of JEDEC membership was
2 access to ballots, surveys, minutes, and manuals for the
3 committees of interest?

4 MR. SIM: Objection. Form. It's a leading
5 question and outside the scope.

6 THE WITNESS: Yes.

7 BY MR. CHANDLER:

8 Q Based on your personal knowledge, would it be
9 fair to say that a benefit of JEDEC membership was
10 access to free copies of standards, publications,
11 bulletins, and guidelines?

12 MR. SIM: Objection. Form. Leading question.
13 Outside the scope.

14 THE WITNESS: Yes.

15 BY MR. CHANDLER:

16 Q Based on your knowledge, would it be fair to
17 say that a benefit of JEDEC membership was permission to
18 reproduce JEDEC-copyrighted works for internal company
19 use without restriction?

20 MR. SIM: Objection. Form. Leading question.
21 Outside the scope.

22 THE WITNESS: Yes.

23 BY MR. CHANDLER:

24 Q Based on your personal knowledge, would it be
25 fair to say that JEDEC offered free distribution of all

1 JEDEC standards and publications to its member companies
2 via e-mail and also an e-mail distribution of all other
3 JEDEC materials?

4 MR. SIM: Objection. Leading. Outside the
5 scope.

6 THE WITNESS: Yes.

7 BY MR. CHANDLER:

8 Q You testified earlier, in response to
9 questions from counsel for Netlist, that you believed it
10 would be against JEDEC policy to distribute pending
11 ballots to non-JEDEC members; is that correct?

12 MR. SIM: Objection. Form. It's a leading
13 question. Outside the scope.

14 THE WITNESS: Yes.

15 BY MR. CHANDLER:

16 Q Based on your understanding, does JEDEC own
17 the copyright to JEDEC standards and other JEDEC
18 documents, such as draft JEDEC standards?

19 MR. SIM: Objection. Form. Leading. Calls
20 for a legal conclusion.

21 THE WITNESS: Yes, it is, as far as I
22 understand copyright.

23 BY MR. CHANDLER:

24 Q Based on your understanding, does The New York
25 Times own the copyright to the front page of the New

1 York Times?

2 MR. SIM: Objection. Form. Leading. Calls
3 for a legal conclusion.

4 THE WITNESS: Yes.

5 BY MR. CHANDLER:

6 Q Based on your understanding, would it be
7 against the law to make copies of the front page of the
8 New York Times and to distribute them without permission
9 from The New York Times?

10 MR. SIM: Objection. Form. Leading. Calls
11 for a legal conclusion.

12 THE WITNESS: Yes.

13 BY MR. CHANDLER:

14 Q Do you consider the front page of The New York
15 Times to be confidential?

16 MR. SIM: Objection. Vague. Form of the
17 question. And it calls for a legal conclusion.

18 THE WITNESS: No.

19 BY MR. CHANDLER:

20 Q Before JEDEC finalized a standard, would
21 drafts of those standards be presented at JEDEC
22 meetings?

23 MR. SIM: Objection. Leading question.
24 Outside the scope.

25 THE WITNESS: Yes.

1 BY MR. CHANDLER:

2 Q Could you briefly explain that process for us?

3 MR. SIM: Objection. Outside the scope.

4 THE WITNESS: So, for a standard, there would
5 be several drafts. Probably takes several quarters to
6 clean up the draft before it could be sent to the board
7 of directors. It would be presented in the committee.
8 People would have a chance to read it and then bring up
9 objections to parameters that were in the spec, point
10 out typographical errors and such, and then it would be
11 sent back to the task group to clean up, and then it
12 would repeat begin until everybody was satisfied. Then
13 it would be voted on in committee and then sent to the
14 board of directors.

15 BY MR. CHANDLER:

16 Q Do member of JEDEC get access to the
17 presentations that were made at JEDEC meetings?

18 MR. SIM: Objection. Foundation. Leading
19 question. And it's outside the scope.

20 THE WITNESS: Yes.

21 BY MR. CHANDLER:

22 Q Does JEDEC organize its documents and
23 presentations by committee member?

24 MR. SIM: Objection. Foundation. Leading
25 question. Outside the scope.

1 THE WITNESS: Yes.

2 BY MR. CHANDLER:

3 Q If you are interested in JEDEC documents and
4 presentations related to a particular technical area
5 such as memory modules, can you use the committee number
6 to easily find relevant documents?

7 MR. SIM: Objection. Foundation. Leading
8 question and it's outside the scope.

9 THE WITNESS: Yes.

10 BY MR. CHANDLER:

11 Q Could you briefly explain how?

12 A So you can go to the JEDEC website, click on
13 the committee, and then there's a -- a search box. You
14 can search for particular words, by date, by item
15 number, however you want to search for the document
16 you're interested in.

17 Q Does JEDEC create minutes of its meetings that
18 summarize the documents that were presented at the
19 meeting?

20 MR. SIM: Objection. Foundation. Leading
21 question and it's outside the scope.

22 THE WITNESS: Yes.

23 BY MR. CHANDLER:

24 Q Could you briefly tell us about that.

25 A So there's minutes plus agendas that are

1 published and updated as the committee meeting
2 progresses. It lists the item number and the title of
3 the presentations that are going to be presented to the
4 committee and whether they're first or second showings.

5 Q Are the minutes of JEDEC meetings distributed
6 to JEDEC members?

7 A Yes.

8 MR. SIM: Objection. Foundation. Leading
9 question and it's outside the scope.

10 THE WITNESS: Yes.

11 BY MR. CHANDLER:

12 Q Is it possible to use the minutes of the JEDEC
13 meetings to find relevant documents that were presented
14 at prior JEDEC meetings in a given technical area?

15 MR. SIM: Objection. Form. Leading question
16 and it's outside the scope.

17 THE WITNESS: Yes. Because you can search by
18 item number.

19 BY MR. CHANDLER:

20 Q If you ever needed help trying to find a JEDEC
21 document, was there a person at JEDEC you could call who
22 could help you find what you were looking for?

23 MR. SIM: Objection. Foundation. It's a
24 leading question, and it is outside the scope.

25 THE WITNESS: Yes.

1 BY MR. CHANDLER:

2 Q Can you tell us little bit about that?

3 MR. SIM: Objection. It is outside the scope.

4 THE WITNESS: Yeah. So Donna McEntire was one
5 person you could call. There was another person you
6 could call who was in charge of the item numbers or
7 assigning item numbers to documents. You could also
8 call her for help to find documents.

9 BY MR. CHANDLER:

10 Q Was JEDEC a secret society?

11 MR. SIM: Objection. Form, leading question,
12 and it's outside the scope.

13 THE WITNESS: No. No.

14 BY MR. CHANDLER:

15 Q Did JEDEC try to keep its activity secret?

16 MR. SIM: Objection. Form, leading, and it's
17 outside the scope.

18 THE WITNESS: No.

19 BY MR. CHANDLER:

20 Q Did you ever sign a nondisclosure agreement
21 with JEDEC?

22 MR. SIM: Objection. Foundation. It's
23 outside the scope.

24 THE WITNESS: No.

25 BY MR. CHANDLER:

1 Q Are you aware of any nondisclosure agreements
2 that JEDEC had with anyone?

3 MR. SIM: Objection. Foundation. It's a
4 leading question. It's outside the scope.

5 THE WITNESS: No.

6 BY MR. CHANDLER:

7 Q At any of the JEDEC meetings that you
8 attended, do you ever recall taking an oath of secrecy?

9 MR. SIM: Objection. Form. It's a leading
10 question, calls for a legal conclusion, and is outside
11 the scope.

12 THE WITNESS: No.

13 BY MR. CHANDLER:

14 Q At any of the JEDEC meetings that you
15 attended, between 2001 and 2017, do you ever recall
16 being instructed by anyone that you had to keep the
17 information learned at that meeting a secret?

18 MR. SIM: Objection. Form, leading, calls for
19 a legal conclusion, and is outside the scope.

20 THE WITNESS: No.

21 MR. CHANDLER: Pass the witness.

22 MR. LaMAGNA: You sure you don't have any more
23 exhibits you want to throw in?

24 MR. CHANDLER: Not yet. I'll think about it.

25 MR. LaMAGNA: Do you want to -- should we just

1 maybe remove the petition, and we could start over and
2 redo a new declaration for him?

3 MR. SIM: Let's go off the record.

4 MR. LaMAGNA: All right.

5 MR. SIM: All right, we're going to take a
6 break.

7 (Break taken from 10:30 a.m. to
8 10:51 a.m.)

9 MR. SIM: Let's go back on the record, please.

10 REEXAMINATION

11 BY MR. SIM:

12 Q So, Mr. Halbert, during redirect, your counsel
13 introduced five new exhibits. Those are Exhibits 1071,
14 1072, 1073, 1074, and 1075. Do you have those all in
15 front of you?

16 A Those all in front of me, but they are not
17 marked as to which is Exhibit is which, so I didn't
18 write anything down on them.

19 Q Understood. These question may not require
20 them to be marked. You didn't yourself go in The
21 Wayback Machine and create these exhibits, correct?

22 A That's correct.

23 Q Was today the first time you saw these
24 exhibits?

25 A No.

1 Q When was the last time you saw these exhibits?

2 A I think yesterday.

3 Q And who -- under what circumstances did you
4 see these exhibits?

5 A It was during our meeting yesterday.

6 Q Were they shown to you by counsel?

7 A Yes.

8 Q And was that the first time you saw these
9 exhibits?

10 MR. CHANDLER: Objection. Form.

11 THE WITNESS: I believe so, yes.

12 BY MR. SIM:

13 Q So now I'd like to you look at -- and I
14 understand you don't have them numbered, but it is the
15 exhibit in front of you that is marked 1071.

16 (Discussion off the record)

17 THE WITNESS: Okay.

18 BY MR. SIM:

19 Q Do you have Exhibit 1071 in front of you?

20 A Yes.

21 Q So, during redirect, your counsel pointed out,
22 on page 2 of this exhibit, a December 2009 JEDEC meeting
23 in Maui, Hawaii. Do you remember that?

24 A Yes.

25 Q You were not at that meeting, correct?

1 A I don't believe so. I'd have to go back and
2 check my expense reports.

3 Q But you don't remember, sitting here today.

4 A I don't remember, sitting here today.

5 MR. SIM: All right. I have no further
6 questions. Pass the witness, if you do.

7 MR. CHANDLER: One follow-up question.

8 REEXAMINATION

9 BY MR. CHANDLER:

10 Q Mr. Halbert, based on your 16 years of
11 experience participating in JEDEC, did you observe that
12 JEDEC meetings proceeded in the same way?

13 MR. SIM: Objection. Form of the question.
14 It's a leading question, and it's outside the scope of
15 both the direct and cross.

16 THE WITNESS: Yes.

17 BY MR. CHANDLER:

18 Q So do you have any reason to believe that the
19 December 2009 JEDEC meeting at the Grand Wailea in Maui
20 proceeded in a manner different from any of the other
21 JEDEC meetings that you personally attended?

22 MR. SIM: Objection. Form of the question,
23 calls for speculation, and it is outside the scope.

24 THE WITNESS: I attended several JEDEC
25 meetings in Maui at the Grand Wailea, and the ones that

1 I did attend were all exactly the same.

2 BY MR. CHANDLER:

3 Q And so do you stand by your prior testimony
4 about JEDEC meetings--?

5 (Reporter clarification)

6 BY MR. CHANDLER:

7 Q Do you stand by your prior testimony about
8 JEDEC meetings, and do you believe it would apply
9 equally to the December 2009 JEDEC meeting at the Grand
10 Wailea in Maui, Hawaii?

11 MR. SIM: Objection to the form the question.
12 Calls for speculation. It's a leading question and it
13 is outside the scope.

14 THE WITNESS: Yes. All the JEDEC meetings
15 that I attended were conducted exactly the same.

16 MR. CHANDLER: Nothing further.

17 MR. SIM: All right. No further questions
18 from me either.

19 MR. CHANDLER: Great.

20 MR. SIM: Thank you very much for your time
21 today, Mr. Halbert.

22 MR. CHANDLER: One last thing: We would
23 request a copy of the transcript for the opportunity to
24 review and make corrections, if appropriate. I'd like a
25 rough and the final in one week.

1 THE REPORTER: Same?

2 MR. SIM: Yes, we'd like one as well, please,
3 and we can go off the record. Thank you.

4 (The deposition concluded at 10:56 a.m.)

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,

Petitioner,

v.

NETLIST, INC.,

Patent Owner

IPR2022-00062

Patent No. 9,858,218

**ERRATA TO THE DEPOSITION OF
JOHN HALBERT (JULY 22, 2022)**

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,

Petitioner,

v.

NETLIST, INC.,

Patent Owner

IPR2022-00064

Patent No. 10,474,595

**ERRATA TO THE DEPOSITION OF
JOHN HALBERT (JULY 22, 2022)**

I, JOHN HALBERT, have read the transcript of my deposition taken on July 22, 2022. Listed below are changes to the transcript that I wish to make and the reasons for making them:

<u>Page:Line</u>	<u>Now Reads</u>	<u>Should Read</u>	<u>Reason for Change</u>
12:25	So you state here that you "served as a representative Intel Corp.	So you state here that you "served as a representative <u>for</u> Intel Corp.	Typographical error
20:5--:7	we'll snip a section out of a spec and put it into a <u>PowerPoint or a ballot</u> , if you will	we'll snip a section out of a spec and put it into a <u>PowerPoint, or a ballot</u> , if you will	Typographical error
20:16	Maybe I'll <u>have</u> you some context.	Maybe I'll <u>give</u> you some context.	Typographical error
21:3--:9	frankly, you wouldn't do that in a technical meeting, because you're <u>trying to bury</u> them in a whole lot of verbiage. You want to bring out the relevant sections of the -- the ballot or the spec that is being discussed and make <u>that</u> the business partner or the people you're discussing with understand that section.	frankly, you wouldn't do that in a technical meeting, because you're <u>trying not to bury</u> them in a whole lot of verbiage. You want to bring out the relevant sections of the -- the ballot or the spec that is being discussed and make <u>sure</u> the business partner or the people you're discussing with understand that section.	Typographical errors

<u>Page:Line</u>	<u>Now Reads</u>	<u>Should Read</u>	<u>Reason for Change</u>
22:2--:3	So maybe it's only discussing <u>one maybe timing parameters</u>	So maybe it's only discussing <u>maybe one timing parameter</u>	Typographical error
23:14--:18	Is it contrary to JEDEC policy to -- for a JEDEC committee member to distribute a pending committee ballot to a non-JEDEC entity? THE WITNESS: Yes.	[see note]	No change, but I later clarified this testimony at 50:8--51:18.
25:17	question <u>so</u> you is, Are you	question <u>to</u> you is, Are you	Typographical error
27:9--:10	there is <u>as</u> ballot draft	there is <u>a</u> ballot draft	Typographical error
33:12	counsel/Netlist was asking you about	counsel <u>for</u> Netlist was asking you about	Typographical error
36:1	Q And Maui, Grand Wailea.	Q <u>What's</u> Maui, Grand Wailea?	Typographical error
40:24--:25	Q Did JEDEC publicize the subcommittees, <u>the</u> JC-40, including JC-40.1, JC-40.3, and JC-40.4?	Q Did JEDEC publicize the subcommittees <u>to</u> JC-40, including JC-40.1, JC-40.3, and JC-40.4?	Typographical error
41:20	JC- <u>423</u>	JC- <u>42.3</u>	Typographical error

<u>Page:Line</u>	<u>Now Reads</u>	<u>Should Read</u>	<u>Reason for Change</u>
42:22–:23	Q If you turn to the next page, which is page 62 of Exhibit 1071 [sic], what is JC-45.4?	[see note]	No change, but given the context I understood the question to refer to Exhibit 1072, not 1071.
45:13	dollars per <u>yearly</u>	dollars per <u>year</u>	Typographical error
47:8	Intel, <u>EMD</u>	Intel, <u>AMD</u>	Typographical error
52:11–:12	then it would repeat <u>begin</u> until everybody was satisfied	then it would repeat <u>again</u> until everybody was satisfied	Typographical error
52:16	Do <u>member</u> of JEDEC	Do <u>members</u> of JEDEC	Typographical error
52:22–:23	Does JEDEC organize its documents and presentations by committee <u>member</u> ?	Does JEDEC organize its documents and presentations by committee <u>number</u> ?	Typographical error

I hereby certify that the transcript of my deposition on July 22, 2022, as corrected above, is a true and accurate transcription of my testimony.

I, John Halbert, do hereby declare and state, that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, under Section 1001 of Title 18 of the United States Code.

Executed on: August 3, 2022

DocuSigned by:

John B. Halbert

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John Halbert

DECLARATION UNDER PENALTY OF PERJURY

I, JOHN HALBERT, do hereby certify, under penalty of perjury, that I have read the foregoing transcript of my deposition taken on July 29, 2022; that I have made such corrections as appear noted on the Deposition Errata Page, attached hereto, signed by me; that my testimony as contained herein, as corrected, is true and correct.

Dated this _____ day of _____,
20____, at _____, _____.
(City) (State)

JOHN HALBERT

1 STATE OF CALIFORNIA)
2 COUNTY OF SAN FRANCISCO)

3

4 I, Quyen N. Do, a Certified Shorthand
5 Reporter, do hereby certify:

6 That prior to being examined, the witness in
7 the foregoing proceedings was by me duly sworn to
8 testify to the truth, the whole truth, and nothing but
9 the truth;

10 That said proceedings were taken before me at
11 the time and place therein set forth and were taken down
12 by me in shorthand and thereafter transcribed into
13 typewriting under my direction and supervision;

14 I further certify that I am neither counsel
15 for, nor related to, any party to said proceedings, not
16 in anywise interested in the outcome thereof.

17 In witness whereof, I have hereunto subscribed
18 my name.

19

20 Dated: July 29, 2022

21 *Quyen Do*
22 _____

23 Quyen N. Do
24 CSR No. 12447

25

26

ERRATA SHEET

1

2 Case Name:

3 Deposition Date:

4 Deponent:

5 Pg. No. Now Reads Should Read Reason

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Signature of Deponent

SUBSCRIBED AND SWORN BEFORE ME

23 THIS _____ DAY OF _____, 2022.

24 _____

25 (Notary Public) MY COMMISSION EXPIRES: _____