

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,

Petitioner,

v.

NETLIST, INC.,

Patent Owner

IPR2025-01431
Patent 10,025,731

**PETITIONER'S AUTHORIZED SUR-REPLY
TO PATENT OWNER'S DISCRETIONARY DENIAL REQUEST**

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EXHIBIT LIST

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1001	U.S. Patent No. 10,025,731
1002	File History of U.S. Patent No. 10,025,731 (Application No. 14/715,491), <i>available at</i> https://patentcenter.uspto.gov/applications/14715491/ifw/docs?application= >
1003	Declaration of Dr. Andrew Wolfe
1004	Curriculum Vitae of Dr. Andrew Wolfe
1005	U.S. Patent App. Publication No. 2006/0277355 by <u>Ellsberry</u> et al.
1006	U.S. Patent No. 7,024,518 to <u>Halbert</u> et al.
1007	U.S. Patent Application Publication No. 2006/0117152 to <u>Amidi</u> et al.
1008	U.S. Patent Application Publication No. 2006/0262586 by <u>Solomon</u> et al.
1009	JEDEC Standard Double Data Rate (DDR) SDRAM Specification, <u>JESD79</u> (June 2000)
1010	JEDEC Standard 21-C, DDR SDRAM Registered DIMM Design Specification (January 2002)
1011	JEDEC Standard DDR2 SDRAM Specification, <u>JESD79-2B</u> (January 2005)
1012	Declaration of John J. Kelly Regarding Records of Joint Electron Device Engineering Council (JEDEC)
1013	U.S. Patent No. 7,289,386 to Bhakta et al.
1014	U.S. Patent No. 7,532,537 to Solomon et al.
1015	U.S. Patent No. 8,417,870 to Lee et al.
1016	U.S. Patent Application Publication No. 2005/0052200 to <u>Nguyen</u> et al.
1017	U.S. Patent No. 8,516,185 to Lee et al.
1018	U.S. Patent No. 7,020,818 to <u>Dour</u> et al.
1019	U.S. Patent Application Publication No. 2007/0247185 to <u>Oie</u> et al.
1020	U.S. Patent No. 7,079,446 to <u>Murtagh</u> et al.
1021	U.S. Patent No. 7,646,213 to <u>Kao</u>

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1022	U.S. Provisional Application No. 61/044,839 (filed Apr. 14, 2008), <i>available at</i> "><https://patentcenter.uspto.gov/applications/61044839/ifw/docs?application=>
1023	U.S. Provisional Application No. 61/044,825 (filed Apr. 14, 2008), <i>available at</i> "><https://patentcenter.uspto.gov/applications/61044825/ifw/docs?application=>
1024	U.S. Provisional Application No. 61/044,801 (filed Apr. 14, 2008), <i>available at</i> "><https://patentcenter.uspto.gov/applications/61044801/ifw/docs?application=>
1025	File History of U.S. Patent Application No. 12/422,853 (filed Apr. 13, 2009), <i>available at</i> "><https://patentcenter.uspto.gov/applications/12422853/ifw/docs?application=>
1026	U.S. Patent No. 8,154,901
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1028	U.S. Patent No. 8,782,350
1029	File History of U.S. Patent Application No. 14/324,990 (filed July 7, 2014), <i>available at</i> "><https://patentcenter.uspto.gov/applications/14324990/ifw/docs?application=>
1030	U.S. Patent No. 9,037,809
1031	U.S. Patent No. 7,782,082 to <u>Oh</u> et al.
1032	U.S. Patent No. 7,977,968 to <u>Kim</u> et al.
1033	U.S. Patent No. 7,945,793 to <u>Wilcox</u>
1034	U.S. Patent No. 7,068,064 to <u>Yen</u>
1035	<u>Stone</u> , H.S. <i>Microcomputer Interfacing</i> , Reading, MA: Addison Wesley, 1982
1036	U.S. Patent Application Publication No. 2006/0066351 to <u>Lau</u>

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1037	Stephen <u>Brown</u> et al., <i>Fundamentals of Digital Logic with Verilog Design</i> (2d ed. 2008)
1038	Applications Note: Understanding DRAM Operation, IBM (1996), downloaded from https://web.archive.org/web/20150619221528/https://compas.cs.stonybrook.edu/~nhonarmand/courses/sp15/cse502/res/dramop.pdf [EX2010 in IPR2022-00639]
1039	U.S. Patent Application Publication No. 2008/0218290 to <u>Abadeer</u> et al.
1040	Bruce Jacob, <i>Synchronous DRAM Architectures, Organizations, and Alternative Technologies</i> (Dec. 10, 2002)
1041	Bruce Jacob et al., Memory System: Cache, DRAM, Disk (2008) (excerpts)
1042	Proposed First Amended Complaint, <i>Samsung Electronics Co., Ltd. et al. v. Netlist, Inc.</i> , No. 1:25-cv-00626 (D. Del. filed Aug. 1, 2025) (U.S. Patent No. 10,025,731)
1043	Complaint in <i>Micron Technology, Inc. et al. v. Netlist, Inc.</i> , No. 1:25-cv-00863 (D. Del. filed July 10, 2025) (U.S. Patent No. 10,025,731)
1044	First Amended Complaint, <i>Netlist, Inc. v. Samsung Electronics Co., Ltd. et al.</i> , No. 2:25-cv-00557 (E.D. Tex. filed July 8, 2025) (U.S. Patent No. 10,025,731)
1045	First Amended Complaint, <i>Netlist, Inc. v. Micron Technology, Inc.</i> , No. 2:25-cv-00558 (E.D. Tex. filed July 8, 2025) (U.S. Patent No. 10,025,731)
1046	Netlist’s infringement contentions against Samsung (Redacted Exhibit B-1) in <i>Netlist, Inc. v. Samsung Electronics Co., Ltd. et al.</i> , No. 2:25-cv-00557 (E.D. Tex. July 16, 2025) (U.S. Patent No. 10,025,731)
1047	Netlist’s infringement contentions against Samsung (Redacted Exhibit B-2) in <i>Netlist, Inc. v. Samsung Electronics Co., Ltd. et al.</i> , No. 2:25-cv-00557 (E.D. Tex. July 16, 2025) (U.S. Patent No. 10,025,731)

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1048	JEDEC Standard DDR3 SDRAM Standard, <u>JESD79-3</u> (June 2007), <i>available at</i> https://web.archive.org/web/20070717214353/http://www.jedec.org/Catalog/display.cfm , https://web.archive.org/web/20070926225257/http://www.jedec.org/DOWNLOAD/search/JESD79-3.pdf
1049	Declaration of Julie Carlson re: JEDEC Standard Double Data Rate (DDR) SDRAM Specification, <u>JESD79</u> (June 2000)
1050	Declaration of Julie Carlson re: <u>JEDEC Standard 21-C</u> , DDR SDRAM Registered DIMM Design Specification (January 2002)
1051	JEDEC Standard DDR2 SDRAM Specification, <u>JESD79-2A</u> (January 2004)
1052	Declaration of Julie Carlson re: JEDEC Standard DDR2 SDRAM Specification, <u>JESD79-2A</u> (January 2004)
1053	Final Written Decision, <i>SK hynix Inc. et al. v. Netlist, Inc.</i> , IPR2017-00577, Paper No. 26 (July 5, 2018) (U.S. Patent No. 8,516,185)
1054	U.S. Patent No. 9,606,907
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1063	[omitted]
1064	Dismissal of Patent Owner's Appeal in IPR2018-00362 and -00363 (July 15, 2020) ('907 patent)
1065	U.S. Patent 10,949,339
1066	Final Written Decision, <i>Samsung Electronics Co., Ltd. et al. v. Netlist, Inc.</i> , IPR2022-00639, Paper 45 (PTAB Oct. 18, 2023) ('339 patent)

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1067	Decision Denying Patent Owner’s Request on Rehearing of Final Written Decision, <i>Samsung Electronics Co., Ltd. et al. v. Netlist, Inc.</i> , IPR2022-00639, Paper 48 (PTAB Feb. 9, 2024) (’339 patent)
1068	[omitted]
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1070	[omitted]
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1072	[omitted]
1073	[omitted]
1074	[omitted]
1075	[omitted]
1076	[omitted]
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1078	Final Written Decision, <i>Samsung Electronics Co., Ltd. et al. v. Netlist, Inc.</i> , IPR2022-00615, Paper 96 (PTAB Apr. 17, 2024) (’912 patent)
1079	U.S. Patent No. 7,619,912 (’912 patent)
1080	Final Written Decision, <i>SK hynix Inc. et al. v. Netlist, Inc.</i> , IPR2017-00549, Paper No. 30 (PTAB May 3, 2018) (’364 patent)
1081	U.S. Patent No. 8,756,364 (’364 patent)
1082	U.S. Patent Application Publication No. 2002/0112119 to <u>Halbert et al.</u>
1083	U.S. Patent No. 8,250,295 to <u>Amidi et al.</u>
1084	U.S. Patent No. 9,014,318 to <u>Hollis</u>
1085	Netlist’s Technology Tutorial
1086	JEDEC Standard, FBDIMM: Advanced Memory Buffer (AMB), JESD82-20 (March 2007) (“JESD82-20”)
1087	DDR2 SDRAM datasheet (2006), <i>available at</i> https://web.archive.org/web/20060324202631/http://www.micron.com/products/dram/ddr2sdram/part.aspx?part=MT47H128M8BT-3 >, https://web.archive.org/web/20060324085459/http://download.micron.com/pdf/datasheets/dram/ddr2/1GbDDR2.pdf >

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1088	Declaration of Julie Carlson for JESD82-20
1089	Transcript of deposition of Andrew Wolfe, Ph.D. (Jan. 4, 2023) in IPR2022-00615 ('912 patent) [EX2103 in IPR2022-00615]
1090	Transcript of deposition of Michael C. Brogioli, Ph.D. (Oct 3, 2023) in IPR2022-00615 ('912 patent) [EX1101 in IPR2022-00615]
1091	[omitted]
1092	Transcript of deposition of Michael C. Brogioli, Ph.D. (Mar. 30, 2023) in IPR2022-00639 ('339 patent)
1093	Invalidity claim chart by Dr. Andrew Wolfe
1094	Netlist Form 10-K (Annual Report) for 2023, <i>available at</i> < https://investors.netlist.com/filings-financials/sec-filings >.
1095	Netlist Form 10-K (Annual Report) for 2024, <i>available at</i> < https://investors.netlist.com/filings-financials/sec-filings >.
1096	Netlist Form 10-Q (Quarterly Report) through September 2025, <i>available at</i> < https://investors.netlist.com/filings-financials/sec-filings >.
1097	Final Written Decision, <i>Samsung Electronics Co., Ltd. v. Netlist, Inc.</i> , IPR2022-00999, Paper 51 (PTAB Dec. 5, 2023) (U.S. Patent No. 11,232,054)
1098	Final Written Decision, <i>Samsung Electronics Co., Ltd. v. Netlist, Inc.</i> , IPR2022-00996, Paper 49 (PTAB Dec. 6, 2023) (U.S. Patent No. 11,016,918)
1099	Order Denying Director Review, <i>Samsung Electronics Co., Ltd. v. Netlist, Inc.</i> , IPR2022-00996 and -00999, Papers 53 & 56 (PTAB Mar. 18, 2024) (U.S. Patent Nos. 11,016,918 and 11,232,054)
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1101	Order Denying Director Review, <i>Samsung Electronics Co., Ltd. v. Netlist, Inc.</i> , IPR2022-00615, Paper 103 (PTAB July 10, 2024) (U.S. Patent No. 7,619,912)
1102	Final Written Decision, <i>Samsung Electronics Co., Ltd. v. Netlist, Inc.</i> , IPR2023-00454, Paper 45 (PTAB July 30, 2024) (U.S. Patent No. 11,093,417)

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1103	Order Denying Director Review, <i>Samsung Electronics Co., Ltd. v. Netlist, Inc.</i> , IPR2023-00454, Paper 47 (PTAB Oct. 8, 2024) (U.S. Patent No. 11,093,417)
1104	Notice of Oral Argument on December 5, 2025, <i>Samsung Electronics Co., Ltd. v. Netlist, Inc.</i> , No. 2025-1378 (Fed. Cir. Oct. 21, 2025) (IPR2023-00847 of U.S. Patent No. 10,268,608)
1105	Order Granting Motion to Stay, <i>Samsung Electronics Co., Ltd. et al. v. Netlist, Inc.</i> , No. 1:21-cv-01453 (D. Del. Dec. 1, 2023) (U.S. Patent No. 10,217,523)
1106	Samsung’s Motion to Dismiss for Improper Venue, <i>Netlist, Inc. v. Samsung Electronics Co., Ltd. et al.</i> , No. 2:25-cv-00557 (E.D. Tex. Nov. 24, 2025) (U.S. Patent No. 10,025,731)
1107	Micron’s Motion to Dismiss for Improper Venue, <i>Netlist, Inc. v. Micron Technology, Inc. et al.</i> , No. 2:25-cv-00558 (E.D. Tex. July 22, 2025) (U.S. Patent No. 10,025,731)
1108	U.S. District Courts–Combined Civil and Criminal Federal Court Management Statistics (March 31, 2025), <i>available at</i> < https://www.uscourts.gov/data-news/data-tables/2025/03/31/federal-court-management-statistics/n-a-1 >
1109	ITC, Notice of Receipt of Complaint, 90 Fed. Reg. 51,406 (Nov. 17, 2025), <i>available at</i> < https://www.federalregister.gov/documents/2025/11/17/2025-19973/notice-of-receipt-of-complaint-solicitation-of-comments-relating-to-the-public-interest >
1110	ITC, Tolling of Deadlines (Nov. 14, 2025), <i>available at</i> < https://www.usitc.gov/press_room/2025_lapse_of_appropriations >
1111	Section 337 Statistics: Average Length of Investigations (Apr. 11, 2025), <i>available at</i> < https://www.usitc.gov/intellectual_property/337_statistics_average_length_investigations.htm >
1112	Memorandum re: Director Institution of AIA Trial Proceedings (Oct. 17, 2025), <i>available at</i> < https://www.uspto.gov/subscription-center/2025/director-institution-aia-trial-proceedings >

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1113	Memorandum re: Interim Processes for PTAB Workload Management (Mar. 26, 2025), <i>available at</i> <https://www.uspto.gov/subscription-center/2025/uspto-issues-new-interim-process-concerning-institution-aia-proceedings>
1114	Memorandum re: Final Written Decision Procedures for AIA Trial Proceedings (July 29, 2025), <i>available at</i> <https://www.uspto.gov/subscription-center/2025/ptab-issued-memorandum-aia-trials>
1115	Samsung Semiconductor, About Us, <i>available at</i> <https://semiconductor.samsung.com/about-us/locations/us/>
1116	Samsung Semiconductor, Inc., Articles of Incorporation in California (July 13, 1992), <i>available at</i> <https://bizfileonline.sos.ca.gov/search/business>
1117	Samsung Semiconductor, Inc., California Statement of Information (Apr. 15, 2025), <i>available at</i> <https://bizfileonline.sos.ca.gov/search/business>
1118	Final Written Decision, <i>Samsung Electronics Co., Ltd. v. Netlist, Inc.</i> , IPR2022-01428, Paper 48 (PTAB Apr. 1, 2024) (U.S. Patent No. 8,787,060)
1119	Final Written Decision, <i>Samsung Electronics Co., Ltd. v. Netlist, Inc.</i> , IPR2022-01427, Paper 48 (PTAB Apr. 1, 2024) (U.S. Patent No. 9,318,160)
1120	Order Denying Director Review, <i>Samsung Electronics Co., Ltd. v. Netlist, Inc.</i> , IPR2022-01427 and -01428, Paper 52 (PTAB June 17, 2024)
1121	Memorandum re: Guidance on USPTO’s recission of “Interim Procedure for Discretionary Denials in AIA Post-Grant Proceedings with Parallel District Court Litigation” (Mar. 24, 2025), <i>available at</i> <https://www.uspto.gov/patents/ptab/resources>
1122	Complaint, <i>Netlist, Inc. v. Samsung Electronics Co., Ltd. et al.</i> , No. 2:21-cv-00463 (E.D. Tex. filed Dec. 20, 2021) (accusing DDR5 RDIMMs, DDR5 SODIMMs, and DDR5 UDIMMs of infringement)

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1123	CPC Classification G06F (Electrical Digital Data Processing), <i>available at</i> https://www.uspto.gov/web/patents/classification/cpc/html/cpc-G06F.html >
1124	CPC Classification G11C (Static Stores), <i>available at</i> https://www.uspto.gov/web/patents/classification/cpc/html/cpc-G11C.html >
1125	Class 326 (Electronic Digital Logic Circuitry), <i>available at</i> https://www.uspto.gov/web/patents/classification/uspc326/sched326.htm >
1126	Samsung investments in the United States, <i>available at</i> https://semiconductor.samsung.com/sas/company/taylor/ >
1127	Notice postponing vote on institution until December 29, 2025, <i>In the Matter of Certain Dynamic Random Access Memory (DRAM) Devices, Products Containing the Same, and Components Thereof</i> , Inv. No. 337-TA-3854 (USITC Dec. 10, 2025) (U.S. Patent No. 10,025,731)
1128	Samsung's withdrawal of indefiniteness contentions, <i>Netlist, Inc. v. Samsung Electronics Co., Ltd. et al.</i> , No. 2:25-cv-00557 (E.D. Tex. Dec. 16, 2025) (U.S. Patent No. 10,025,731)
1129	Declaration of James Kiczek (SEA), <i>Netlist, Inc. v. Samsung Electronics Co., Ltd. et al.</i> , No. 2:25-cv-00557 (E.D. Tex. Sept. 11, 2025)
1130	Declaration of Danny Kim (SSI), <i>Netlist, Inc. v. Samsung Electronics Co., Ltd. et al.</i> , No. 2:25-cv-00557 (E.D. Tex. Sept. 11, 2025)
1131	Order determining Google is not a Real Party-in-Interest or Privy of Samsung, <i>Samsung Electronics Co., Ltd. v. Netlist, Inc.</i> , IPR2022-00615, Paper 64 (PTAB July 13, 2023)
1132	Complaint for Declaratory Judgment, <i>Samsung Electronics Co., Ltd. and Samsung Semiconductor, Inc. v. Netlist, Inc.</i> , No. 1:25-cv-01453 (D. Del. filed Oct. 15, 2021)
2001	Joint Development and License Agreement, November 12, 2015
2002	Stock Purchase Warrant, November 18, 2015
2003	Senior Secured Convertible Promissory Note, November 18, 2015

Exhibit #	Description
2004	Security Agreement by and between Netlist, Inc. and SVIC No. 28 New Technology Business Investment L.L.P., November 18, 2025
2005	Samsung Venture Investment Corporation website, available at https://www.samsungventure.co.kr/english/jsp/company/company.jsp (last accessed October 12, 2025)
2006	Recorded Assignment and IP Security Agreement, Reel No. 037150, Frame No. 0897, November 20, 2015
2007	Release of Assignment, Reel No. 065629, Frame No. 0330, November 20, 2023
2008	Redacted First Amended Complaint for Breach of Contract and Declaratory Relief, <i>Netlist Inc. v. Samsung Electronics Co., Ltd.</i> , Case No. 8:20-cv-00993-JAK (C.D. Cal.), August 31, 2020
2009	Judgment, <i>Netlist Inc. v. Samsung Electronics Co., Ltd.</i> , Case No. 8:20-cv-00993-JAK (C.D. Cal.), April 7, 2025
2010	Median time to trial statistics for the International Trade Commission, Docket Navigator report generated October 6, 2025)
2011	Consolidation Order, <i>Netlist Inc. v. Samsung Electronics Co., Ltd.</i> , Case No. 2:25-cv-00557 (E.D. Tex.), June 26, 2025
2012	Docket Control Order, <i>Netlist Inc. v. Samsung Electronics Co., Ltd.</i> , Case No. 2:25-cv-00557 (E.D. Tex.), July 25, 2025
2013	First Amended Complaint, <i>Netlist Inc. v. Samsung Electronics Co., Ltd.</i> , Case No. 2:25-cv-00557 (E.D. Tex.), July 8, 2025
2014	Verdict Form, <i>Netlist, Inc. v. Samsung Electronics Co. et al.</i> , Case No. 2:21-cv-00463-JRG (E.D. Tex.), April 21, 2023
2015	Complaint, <i>In the Matter of Certain Dynamic Random Access Memory (DRAM) Devices, Products Containing the Same, and Components Thereof</i> , Investigation No. 337-TA-3854 (I.T.C.), September 29, 2025
2016	Samsung Defendants' P.R. 3-3 Invalidity Contentions, <i>Netlist Inc. v. Samsung Electronics Co., Ltd.</i> , Case No. 2:25-cv-00557 (E.D. Tex.), September 24, 2025
2017	Verdict Form, <i>Netlist, Inc. v. Samsung Electronics Co. et al.</i> , Case No. 2:22-cv-00293-JRG (E.D. Tex.), November 22, 2024

Exhibit #	Description
2018	List of Patent Trial and Appeal Board proceedings filed by Samsung Electronics Co., Ltd. against Netlist, Inc.’s Patents, Docket Navigator, generated November 3, 2025
2019	Notice of Proposed Rulemaking, 90 Fed. Reg. 48,335 (Oct. 17, 2025)
2020	Excerpts from PTAB 2025 Intelligence Report, Patexia, Inc.
2021	Ramkumar, A., “Trump Takes Aim at Chip Makers With New Plan to Throttle Imports,” <i>The Wall Street Journal</i> , September 26, 2025, accessible at https://www.wsj.com/economy/trade/trump-chip-tariffs-exemptions-90fa2ab3 (last accessed September 26, 2025)
2022	Netlist, Inc. Form 8-K, United States Securities and Exchange Commission, November 12, 2015
2023	“Netlist and SK hynix Enter into Strategic Agreements for Patents, Technology and Product Supply,” Netlist Press Release, April 5, 2021
2024	“Precedential designation of <i>Corning Optical Communications RF, LLC v. PPC Broadband Inc.</i> , IPR2014-00440, Paper 68 (PTAB Aug. 18, 2015) (except for § II.E.1),” United States Patent and Trademark Office Memorandum, October 28, 2025
2025	Public Redated Version of Proposed First Amended Complaint for Declaratory Judgment of Non-Infringement, <i>Samsung Electronics Co., Ltd. et al. v. Netlist, Inc.</i> , Case No. 1:25-cv-00626-JLH (D. Del.), July 29, 2025
2026	Defendants Samsung Semiconductor, Inc. and Samsung Electronics America, Inc.’s Motion to Dismiss for Improper Venue, <i>Netlist, Inc. v. Samsung Electronics Co., Ltd. et al.</i> , Case No. 2:25-cv-00557-JRG (E.D. Tex.), November 24, 2025
2027	Plaintiff’s Corporate Disclosure Statement, <i>Samsung Electronics Co., Ltd. et al. v. Netlist, Inc.</i> , Case No. 1:25-cv-00626-JLH (D. Del.), May 20, 2025
2028	List of Patent Trial and Appeal Board proceedings listing Samsung Electronics America, Inc. as Petitioner, Docket Navigator, generated December 3, 2025
2029	Word Count of Petition in IPR2025-01431, including image annotations

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2030	Trial Transcript, Volume 3, <i>Netlist, Inc. v. Samsung Electronics Co., Ltd. et al.</i> , Case No. 2:21-cv-00463-JRG (E.D. Tex.), April 18, 2023
2031–39	[omitted]
2040	Judgment under Federal Circuit Rule 36, <i>Samsung Elecs. Co., Ltd. v. Netlist, Inc.</i> , Appeal No. 23-2133 (Fed. Cir.), March 5, 2025
2041	Judgment under Federal Circuit Rule 36, <i>Samsung Electronics Co., Ltd. v. Netlist, Inc.</i> , Appeal No. 25-1378 (Fed. Cir.), December 9, 2025
2042	Netlist’s Petition for the Director to Suspend the Rules and Deny the Request for Reexamination Under 35 U.S.C. §§ 303(a) and 325(d), <i>Ex Parte</i> Reexamination Control No. 90/015,449, filed October 17, 2025
2043	Complaint, <i>Netlist, Inc. v. Samsung Elecs. Co., Ltd. et al.</i> , Case No. 2:25-cv-00748-JRG (E.D. Tex.), July 28, 2025
2044	Complaint, <i>Samsung Elecs. Co., Ltd. et al. v. Netlist, Inc.</i> , Case No. 1:25-cv-01371-JLH (D. Del.), November 11, 2025
2045	Commission Determination, <i>In the Matter of Certain Unmanned Aerial Vehicles and Components Thereof</i> , Investigation No. 337-TA-1133 (I.T.C.), September 8, 2020

I. Netlist’s retaliatory ITC action has not even been instituted, so the *Fintiv* factors favor this proceeding (DD Reply 1–2, 3–4)

Netlist is incorrect that “[t]he ITC is the best forum for resolving this dispute.” Paper 16 (“DD Reply”) at 1. Netlist’s retaliatory ITC action has not even been instituted, *see* EX1127, so “[t]his proceeding is far ahead,” Paper 11 (“DD Opp’n”) at 13–14. Under *Fintiv* Factor 2, Netlist again focuses on the ITC’s potential “hearing and initial determination” dates (assuming institution, which is speculative), *see* DD Reply 3, but Netlist does not dispute that the Board’s *Fintiv* policy focuses on the ITC’s “**final** determination date,” DD Opp’n 14, which Netlist does not dispute would be long **after** the statutory deadline here. For Factors 3 and 4, Netlist complains that Samsung “has not made *any* stipulation” or “agreed to forgo [invalidity] theories at the ITC,” DD Reply 3–4, but **there is no ITC action** (because it has not been instituted) so there is nothing for Samsung to “stipulate[e]” or “forgo.” Furthermore, Netlist does not dispute that even if the ITC action is instituted, the ITC will defer to the Final Written Decision here, “thus avoiding inconsistency and promoting efficiency,” DD Opp’n 13–14, meaning Factor 1 favors institution. Netlist points to an unrelated “suit with Micron” scheduled for trial on March 15, 2027, *see* DD Reply 3, but again that is **after** the statutory deadline here, *see* DD Opp’n 14–15, and furthermore that suit is subject to a motion to dismiss for improper venue so there is no evidence that case has had (or will have) any overlap with this proceeding.

Netlist also does not dispute that “[t]he large number and wide scope of the patents asserted in the district court [and ITC] litigation weighs against discretionary denial, as the Board is better suited to review a large number of patents involving diverse subject matter,’ especially here where the Board has already invalidated related patents in all 5 patent families in the ITC.” *Id.* 16–17.

Netlist argues that “Samsung is estopped from challenging two of the six ITC patents,” DD Reply 1 (referring to the ’523 and ’608 patents), but Netlist does not dispute that (1) “the ’523 patent . . . has been stayed in district court **for over two years** (without Netlist filing an ITC action until now), EX1105, showing its lack of importance to the parties’ dispute,” DD Opp’n 15, and (2) the “’608 patent is the subject of an *ex parte* reexam, see No. 90/015,449, which was filed months before Netlist’s ITC action and ‘will be conducted with special dispatch,’ 37 C.F.R. § 1.550(a), meaning it should also beat the ITC,” *id.* Netlist argues that the “reexam [against the ’608 patent] should...be terminated as an improper serial challenge,” DD Reply 1, but omits that the Office specifically considered and rejected that argument when it granted the reexam, see No. 90/015,449. Netlist points to no authority for its argument that the Director should order “Samsung to confirm that it did not play *any role* in requesting this reexam,” DD Reply 2, but in any event Samsung can confirm it did not play any role in requesting that reexam.

II. The Petition correctly named all Real Parties in Interest, unlike Netlist (DD Reply 2–3, 4)

Netlist is incorrect that the Petitions “fail to name all RPIs,” DD Reply 2–3, as explained in Paper 15 (filed before Netlist’s argument). In particular, SEA (a separate subsidiary) and Avnet (a third-party customer) are not *real* parties in interest, they are just token defendants Netlist named to try to establish venue in the Eastern District of Texas. See Paper 15, 1–4; EX1130, ¶¶ 5–6; EX1129, ¶ 7; EX2026, 3–4; EX1131, 13–14, 18–19. Thus, Petitioner correctly named its RPIs and has clean hands, unlike Netlist, see DD Opp’n 10–11. Netlist does not dispute that “[g]iven [its] lack of money...clearly someone other than Netlist is funding the repeated assertion of invalid patents against Samsung, but Netlist has not identified who it really is.” *Id.* Instead Netlist argues the PTAB “is not the right forum” to address that issue. DD Reply 4. But the law requires Patent Owners (not just petitioners) to disclose any “real party-in-interest,” see 37 C.F.R. § 42.8(a)(2), (b)(1), and Netlist’s evasive response fails to show that Netlist actually complied with this requirement, see DD Reply 4, which raises “national security concerns” given “Samsung’s critical contributions to this country’s dominance in computing technology,” DD Opp’n 10–11; EX1126; EX2024, 2 (“Opaque investment structures have been used by foreign adversaries to gain influence over...U.S. intellectual-property assets and proceedings....in sectors such as semiconductors, artificial intelligence, quantum computing....”).

III. The Examiner made material errors (DD Reply 4)

Netlist is incorrect the Examiner made “no material errors.” DD Reply 4. First Netlist argues any errors by the Examiner were not “*material*” given alleged “secondary considerations” from the JDLA “license,” DD Reply 4, but Netlist ignores that the ’731 patent issued in 2018 *after* the JDLA was signed in 2015 and that patents related to the ’731 patent were *repeatedly* invalidated after 2018 (which is why Netlist kept the ’731 patent “in a drawer” and instead asserted a different patent, which was also found invalid), *see* DD Opp’n 12–13, 7–9. Thus the “secondary considerations” support *obviousness* not non-obviousness. Next Netlist argues that the Examiner’s errors in searching the prior art were “irrelevant” and “immaterial” because the exact phrase “impedance matching” is not found in Ellsberry or Dour. DD Reply 4. But Dour uses *both* of the terms “impedance” and “matching,” EX1018, 5:1-4, 7:15-19, 3:15-17, and Abadeer expressly teaches the exact phrase “impedance matching” in virtually every paragraph, *see* EX1039, Abstract, ¶¶[0014], [0016]–[0020], [0022]–[0024], [0028]–[0036]; Pet. 36–38, 55–58, 72. Thus, the Examiner made “egregious material errors” when he “repeatedly only searched for the misspelled word ‘impedence’ (which unsurprisingly did not generate many hits). . . . The Examiner’s misspelled searches were material error. So too was failing to search the classes specifically devoted to ‘impedance matching.’” DD Opp’n 3–4.

Dated: December 22, 2025

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CERTIFICATE OF COMPLIANCE

I hereby certify that this **Petitioner's Authorized Sur-Reply to Patent Owner's Discretionary Denial Request**, excluding the parts of the brief exempted by 37 C.F.R. § 42.24, complies with the page limits provided by the Board's email on December 16, 2025, which stated: "Patent Owner is authorized to file a 4-page reply in PGR2025-00071, IPR2025-01402, and IPR2025-01431, due no later than Thursday, December 18, 2025, limited to addressing the below matters in Petitioner's Opposition to Discretionary Denial. Petitioner is authorized to file a 4-page sur-reply, due no later than Monday, December 22, 2025." EX3101.

Dated: December 22, 2025

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on this 22nd day of December, 2025, **Petitioner's Authorized Sur-Reply to Patent Owner's Discretionary Denial Request** was served by email on the following counsel for Patent Owner:

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