UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner

v.

NETLIST, INC.,
Patent Owner

Case IPR2026-00018
U.S. Patent No. 12,373,366

PATENT OWNER NETLIST, INC.'S AUTHORIZED REPLY TO PETITIONER'S OPPOSITION TO DISCRETIONARY DENIAL

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On March 4, 2026, Samsung stipulated that SEC, **SEA**, and SSI would forego presenting certain invalidity defenses in other forums so long as the Director institutes review and maintains institution of this proceeding. EX1149.

I. Samsung's stipulation confirms that SEA is an unnamed RPI.

Samsung's stipulation is "on behalf of the Samsung respondents in the ITC action," which includes **SEA**. EX1149, 1; EX2015. SEA's stipulation further confirms that it has an interest in and would benefit from this IPR. SEA has affirmatively selected this forum to contest validity along with SEC and SSI. SEA is indisputably an unnamed RPI.[1] *See* DD Br. (Paper 8), 14-16; POPR (Paper 12), 5-15.

II. Samsung's untimely stipulation does not mitigate the concerns undergirding *Fintiv* because it does not bind Google and Super Micro.

The Director should give no weight to Samsung's stipulation because it does not bind the other ITC respondents, Google and Super Micro, and it is untimely.

Samsung's stipulation does not bind Google and Super Micro (SMCI), and thus does not mitigate the concerns (e.g., duplication of efforts and inconsistent results) that undergird the policy behind *Fintiv*. The ITC trial is scheduled to begin November 23, 2026—about six months before the projected FWD date of May 20,

[1] Netlist requested Director Review in IPR2025-01431 (Paper 26) and PGR2025-00071 (Paper 25) because Samsung failed to name SEA as an RPI. Samsung's stipulation also applies to those proceedings, EX1149, confirming SEA is an RPI.

2027. EX2062, iv. Because neither Google nor SMCI submitted a stipulation, each will have the full arsenal of invalidity challenges to present at the ITC hearing, including the Perego-Harris-Amidi combination presented here. And, in fact, Google and SMCI served joint invalidity contentions on March 4, 2026, that attached Samsung's Petition and expressly incorporated its invalidity grounds:[2]

> With regard to the Perego, Harris, and Amidi references, the Google-SMCI Respondents attach as Appendices D-1 and D-2 hereto Samsung's Petitions for PGR and IPR for the '366 patent. These Petitions and the invalidity grounds discussed therein are incorporated herein by reference as though fully set forth herein. The Google-SMCI Respondents also attach exemplary invalidity

Google-SMCI Joint Invalidity Contentions, p. 74. Thus, there is significant risk this IPR and the ITC proceeding will substantially overlap, resulting in duplicative effort and the potential for inconsistent results. *See* DD Brief (Paper 8), 11-14.

Additionally, Samsung's stipulation is untimely. Samsung waited until *after* all discretionary briefing was complete before filing its stipulation. Such late notification to Netlist of a stipulation should not be considered. *See* Interim Process § I.D (stipulations should be filed "as soon as practicable, so that the patent owner may address the impact of the stipulation in its discretionary denial brief"). To avoid the issues that will be caused by this IPR not being a "true alternative," the Director should deny institution and allow the ITC to resolve the parties' dispute.

[2] Netlist will provide a copy of the relevant contentions, if deemed necessary.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX PLLC

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

I certify that the above-captioned **PATENT OWNER NETLIST, INC.'S AUTHORIZED REPLY TO PETITIONER'S OPPOSITION TO DISCRETIONARY DENIAL** was served in its entirety on March 11, 2026, upon the following parties via electronic mail:

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