Paper No. 42

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,

Petitioner,

v.

NETLIST, INC.,

Patent Owner

PGR2025-00071
Patent 12,308,087

JOINT MOTION TO EXPUNGE

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.56, now that this proceeding has been terminated due to settlement, *see* Paper 41, Petitioner and Patent Owner jointly move to expunge the following documents from the record, which the Board has not relied on because these documents were filed after the Institution Decision and before any Final Written Decision:

- Paper 31 (June 8, 2026): Patent Owner's Response (HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL EYES' ONLY)
- EX2061 (June 8, 2026): Kennedy Declaration (HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL'S EYES ONLY)
- EX2080 (June 8, 2026): Email (CONFIDENTIAL - PROTECTIVE ORDER MATERIAL)
- EX2081 (June 8, 2026): Term Sheet (Preliminary Outline) (CONFIDENTIAL - PROTECTIVE ORDER MATERIAL)
- EX2093 (June 8, 2026): Sales Data (HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL EYES' ONLY)
- EX2094 (June 8, 2026): Email from Raymond Jiang to Neal Knuth (CONFIDENTIAL - PROTECTIVE ORDER MATERIAL)

II. ARGUMENT

The documents above were filed under seal by Patent Owner in connection

with its Patent Owner Response (Paper 31) pursuant to the Modified Protective Order entered by the Board (Papers 33, 36, 37).

Good cause exists for expunging these documents because they contain confidential business information, as confirmed by the Board's order sealing these documents (Paper 37), and the Board has not relied on these documents because they were filed after the Institution Decision and before any Final Written Decision. Therefore, the public's interest in being able to access these documents does not outweigh the parties' need to protect their confidential information. In similar situations the Board has granted a joint motion to expunge. *See, e.g.*, *FireKing Sec. Prods., LLC v. Ellenby Techs., Inc.*, IPR2021-00531, Paper 24, at 4 (PTAB Feb. 17, 2022) ("We did not rely on [these documents] in rendering the decision granting institution; indeed, each of these documents was submitted after the decision was rendered on August 23, 2021. Furthermore, we have not relied on [these documents] in this Order terminating the proceeding. Thus, we find the public's interest in being able to access this information does not outweigh the parties' need to protect their confidential information. Accordingly, we grant the parties' request to expunge [these documents]."); *see also Atlanta Gas Light Co. v. Bennett Regul. Guards, Inc.*, IPR2013-00453, Paper 97, at 4 (PTAB Apr. 15, 2015) ("After expungement of the documents requested by Petitioner, the record will retain material that provides the factual underpinnings for our Termination

Order."); 37 C.F.R. § 42.56 ("After denial of a petition to institute a trial or after final judgment in a trial, a party may file a motion to expunge confidential information from the record."); Trial Practice Guide § I.E.6 ("There is an expectation that information will be made public where the existence of the information is referred to in a decision to grant or deny a request to institute a review or is identified in a final written decision following a trial. A party seeking to maintain the confidentiality of information, however, may file a motion to expunge the information from the record prior to the information becoming public."), *available at* <https://www.uspto.gov/patents/ptab/trial-practice-guide#1E6Expungement_confidential_info>.

III. CONCLUSION

For the reasons above, Paper 31 and Exhibits 2061, 2080–81, and 2093–94 should be expunged from the record. If the Board denies in whole or in part this Joint Motion to Expunge, the parties respectfully request that any document(s) the Board previously ordered sealed but does not order expunged remain confidential.

Dated: September 2, 2026

/Richard M. Bemben/
Richard M. Bemben, Reg. #68,658
STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1101 K Street NW, 10th Floor
Washington, DC 20005
T: (202) 772-8549
F: (202) 371-2540

Lead Counsel for Patent Owner
Netlist, Inc.

Dated: September 2, 2026

/Eliot D. Williams/
Eliot D. Williams, Reg. #50,822
BAKER BOTTS L.L.P.
700 K Street NW
Washington, DC 20001
T: (202) 639-1334
F: (202) 639-1167

Lead Counsel for Petitioner
Samsung Electronics Co., Ltd.

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on this 2nd day of September, 2026, this **Joint Motion to Expunge** was served by email on the following counsel for Patent Owner:

Richard M. Bemben (Reg. No. 68,658) STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1101 K Street NW, 10th Floor Washington, DC 20005 Phone: (202) 772-8549 Fax: (202) 371-2540 Email: PTAB@sternekessler.com rbemben-PTAB@sternekessler.com	Jennifer Meyer Chagnon (Reg. No. 55,440) STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1101 K Street NW, 10th Floor Washington, DC 20005 Phone: (202) 772-8890 Fax: (202) 371-2540 Email: PTAB@sternekessler.com jchagnon-PTAB@sternekessler.com
Richard C. Kim (Reg. No. 40,046) NETLIST, INC. 111 Academy Way, Suite 100 Irvine, California 92617 Phone: (949) 679-0124 Email: PTAB@sternekessler.com rkim@netlist.com	Raymond K. Chan (Reg. No. 66,164) NETLIST, INC. 111 Academy Way, Suite 100 Irvine, California 92617 Phone: (949) 679-0101 Email: PTAB@sternekessler.com rchan@netlist.com
Francisco A. Rubio-Campos (Reg. No. 45,358) NETLIST, INC. 111 Academy Way, Suite 100 Irvine, California 92617 Phone: (949) 377-0296 Email: PTAB@sternekessler.com frubio@netlist.com	

Dated: September 2, 2026

/Eliot D. Williams/
Eliot D. Williams, Reg. #50,822
BAKER BOTTS L.L.P.
700 K Street NW
Washington, DC 20001
T: (202) 639-1334
F: (202) 639-1167

Counsel for Petitioner Samsung Electronics Co., Ltd.