

Netlist Comments On Patent Infringement Actions Against SK hynix

December 7, 2017

IRVINE, Calif., Dec. 7, 2017 /PRNewswire/ -- Netlist, Inc. (NASDAQ: NLST), today confirmed more details on the Initial Determination ("ID") received from the United States International Trade Commission (ITC) in its investigation of SK hynix RDIMM and LRDIMM enterprise memory products. The public version of the ID was issued by Administrative Law Judge (ALJ) Bullock on December 5, 2017.

According to the ID, ALJ Bullock determined that Netlist's five asserted patents are valid, and that Netlist satisfied the economic domestic industry requirement. Further, with respect to the public interest issue, the ALJ determined that Netlist complied with its reasonable and non-discriminatory (RAND) licensing obligations. However, the ALJ found that SK hynix does not infringe the asserted patents, and for this reason concluded there was no violation of section 337 of the Tariff Act.

"While we are pleased with the ALJ's positive determinations as to validity, domestic industry, and public interest, we are disappointed in the initial findings on infringement. Netlist will challenge the ALJ's recommendations on infringement and hopes to prevail on this issue in the final determination," said Netlist's Chief Executive Officer, C.K. Hong. "We will also build on the positive findings of this ID in the second ITC action we filed against SK hynix with new, stronger patents."

As part of the regular procedure at the ITC, the parties are in the process of submitting an additional briefing to the Commission. The Commission's role is to review the ID, and reach a Final Determination (FD) which may affirm, set aside, or modify the ID. The FD is currently scheduled to be issued by March 14, 2018.

The ITC instituted the second investigation into SK hynix's RDIMM and LRDIMM products on November 28, 2017, based on Netlist's U.S. Patent Nos. 9,606,907, and 9,535,623. Netlist expects this investigation will proceed quickly, with a trial likely in mid-2018. In the meantime, Netlist expects a preliminary infringement ruling in January, 2018, from the court in Munich, Germany, where Netlist has asserted patent claims related to those in the ITC proceedings. Similar claims have also been asserted in China, with a trial expected in the second half of 2018.

About Netlist, Inc.

Netlist is a leading provider of high-performance modular memory subsystems serving customers in diverse industries that require superior memory performance to empower critical business decisions. Flagship products NVvault® and EXPRESSvault® enable customers to accelerate data running through their servers and storage and reliably protect enterprise-level cache, metadata and log data by providing near instantaneous recovery in the event of a system failure or power outage. HybriDIMM™, Netlist's next-generation storage class memory product, addresses the growing need for real-time analytics in Big Data applications and in-memory databases. Netlist holds a portfolio of patents, many seminal, in the areas of hybrid memory, storage class memory, rank multiplication and load reduction. Netlist is part of the Russell Microcap® Index. To learn more, visit www.netlist.com.

Safe Harbor Statement

This news release contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements are statements other than historical facts and often address future events or the future performance of Netlist. Forward-looking statements contained in this news release include express or implied statements about the outcome of the Final Determination. All forward-looking statements reflect management's present expectations regarding future events and are subject to known and unknown risks, uncertainties and other factors that could cause actual results to differ materially from those expressed in or implied by any forward-looking statements. Netlist can provide no assurance regarding the outcome of the final review by the Commissioners at the ITC, and if the final determination concludes that Netlist's patents were not violated or that remedies will not be imposed, then Netlist's prospects and financial condition may be materially adversely affected. These and other risks and uncertainties are described in Netlist's quarterly report on Form 10-Q filed on May 16, 2017, and subsequent filings with the U.S. Securities and Exchange Commission it makes from time to time. Given these risks, uncertainties and other important factors, undue reliance should not be placed on these forward-looking statements. These forward-looking statements represent Netlist's estimates and assumptions only as of the date made, and except as required by law, Netlist undertakes no obligation to revise or update any forward-looking statements for any reason.

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