

# Netlist Receives Favorable Claim Construction Order In ITC Investigation Of SK hynix

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IRVINE, Calif., Sept. 6, 2018 /PRNewswire/ -- [Netlist, Inc.](#) (NASDAQ: NLST) today announced that the United States International Trade Commission (ITC) issued a claim construction order in Investigation No. 337-TA-1089 (the 1089 Investigation) of SK hynix RDIMM and LRDIMM enterprise memory products. The order was favorable to Netlist with regard to both of its asserted patents, U.S. Patent Nos. 9,606,907, and 9,535,623.

The Administrative Law Judge (ALJ) sided with Netlist on the key claim construction issues at the heart of the 1089 Investigation. The claim construction order serves as the framework from which the ITC will ultimately decide if the patents are valid and infringed by SK hynix, and therefore represents a critical juncture in the case.

"We are very pleased with the order and believe this is an important turning point in our dispute with SK hynix," said Netlist's Chief Executive Officer, C.K. Hong. "In our view, the claim construction order was thorough, well-reasoned, and vindicates our belief as to the strength of our fundamental IP. This interpretation of the patents puts us in a strong position with respect to infringement, which was the only issue we didn't win in our first ITC action. The order gives us significant momentum heading into the trials scheduled later this year in both the ITC and in Germany."

On April 12, 2018, the ALJ granted SK hynix's motion for summary determination of non-infringement and terminated the 1089 Investigation. On May 29, 2018, in response to Netlist's petition, the ITC Commission remanded the investigation back to the ALJ to resolve the parties' claim construction disputes and continue the investigation. In the claim construction order, the ALJ resolved the parties' disputes in favor of Netlist on these key issues. Having conclusively established the meaning of the asserted patent claims, the focus now shifts to whether the operation of SK hynix's products, which is undisputed between the parties, falls within the scope of the claims.

The claim construction order is available to the public via the ITC's website. (<https://edis.usitc.gov/edis3-external/app>).

## About Netlist, Inc.

Netlist provides high-performance SSDs and modular memory subsystems to enterprise customers in diverse industries. Flagship products NVvault® and EXPRESSvault™ enable customers to accelerate data in their servers and storage and reliably protect enterprise-level cache, metadata and log data 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, in-memory databases, high-performance computing and advanced data storage solutions. Netlist also manufactures and provides a line of specialty and legacy memory products to storage customers, appliance customers, system builders and cloud and datacenter customers. Netlist holds a portfolio of patents, many seminal, in the areas of hybrid memory, storage class memory, rank multiplication and load reduction. To learn more, visit [www.netlist.com](http://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 Netlist's future performance. Forward-looking statements contained in this news release include express or implied statements about the outcome of the claim construction order issued by the ITC, including statements regarding Netlist's actions and beliefs in regard to the claim construction order.

All forward-looking statements reflect management's present assumptions, expectations and beliefs 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. These risks, uncertainties and other factors include, among others, risks associated with patent infringement litigation initiated by Netlist, such as ongoing proceedings against SK hynix Inc., as well as the costs and unpredictability of any such litigation and Netlist's strategies in connection with such litigation. Netlist can provide no assurance regarding the outcome of the ITC and German litigations, and if the process 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 annual report on Form 10-K for its most recently completed fiscal year filed on March 30, 2018, and the other filings it makes with the U.S. Securities and Exchange Commission from time to time, including any subsequently filed quarterly and current reports. In light of these risks, uncertainties and other factors, these forward-looking statements should not be relied on as predictions of future events. These forward-looking statements represent Netlist's assumptions, expectations and beliefs only as of the date they are 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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