

# Smart Modular Patent Claims Rejected By The United States Patent & Trademark Office

December 10, 2012

IRVINE, CA -- (Marketwire) -- 12/10/12 -- Netlist, Inc. (NASDAQ: NLST), a leading provider of high performance memory solutions for the cloud computing market, announced today that the United States Patent and Trademark Office (USPTO) has ordered reexamination and rejected all of the claims of United States Patent No. 8,250,295 ('295 patent) which have been asserted in a patent infringement lawsuit filed by Smart Modular Technologies, Inc. ("SMART") against Netlist. Netlist requested reexamination of the claims on September 15, 2012 by presenting the USPTO with six different combinations of prior art that had not been considered in the original examination of the '295 patent. After reviewing Netlist's reexamination request, the USPTO concluded that there is a reasonable likelihood that these claims will be found invalid based on each of the six combinations and thus ordered reexamination. The USPTO then followed the order granting reexamination with an Office Action where it formally rejected the claims based on the same six prior art combinations.

"We are very pleased with the timely decision by the USPTO to reject all requested claims of the '295 patent in light of six different combinations of prior art," said Netlist President and CEO C.K. Hong. "The USPTO's recent decision to reject SMART's claims underscores the materiality of the prior art that had not yet been considered. In addition, the new patent law sets a higher threshold for ordering reexamination than in the past by requiring a reasonable likelihood of prevailing. For that reason, we feel strongly that the USPTO will ultimately cancel the claims of the '295 patent, thereby eliminating the sole basis for SMART's patent infringement lawsuit."

## About Netlist:

Netlist, Inc. designs and manufactures high-performance, logic-based memory subsystems for server and storage applications for cloud computing. Netlist's flagship products include HyperCloud, a patented memory technology that breaks traditional memory barriers, NVvault family of products that enables data retention during power interruption, EXPRESSvault, a PCI Express backup/recovery solution for cache data protection and a broad portfolio of industrial Flash and specialty memory subsystems including VLP (very low profile) DIMMs and Planar-X RDIMMs.

Netlist develops technology solutions for customer applications in which high-speed, high-capacity, small form factor and heat dissipation are key requirements for system memory. These customers include OEMs that design and build tower, rack-mounted, and blade servers, high-performance computing clusters, engineering workstations and telecommunications equipment. Founded in 2000, Netlist is headquartered in Irvine, CA with manufacturing facilities in Suzhou, People's Republic of China and an engineering design center in Silicon Valley, CA. Learn more at [www.netlist.com](http://www.netlist.com).

## Safe Harbor Statement:

This news release contains forward-looking statements regarding future events and the future performance of Netlist. These forward-looking statements involve risks and uncertainties that could cause actual results to differ materially from those expected or projected. These risks and uncertainties include, but are not limited to, risks associated with the launch and commercial success of our products, programs and technologies; the success of product partnerships; continuing development, qualification and volume production of EXPRESSvault, NVvault, HyperCloud and VLP Planar-X RDIMM; the rapidly-changing nature of technology; risks associated with

intellectual property, including the costs and unpredictability of litigation over infringement of our intellectual property and the possibility of the Company's patents being re-examined by the United States Patent and Trademark office; volatility in the pricing of DRAM ICs and NAND; changes in and uncertainty of customer acceptance of, and demand for, our existing products and products under development, including uncertainty of and/or delays in product orders and product qualifications; delays in the Company's and its customers' product releases and development; introductions of new products by competitors; changes in end-user demand for technology solutions; the Company's ability to attract and retain skilled personnel; the Company's reliance on suppliers of critical components and vendors in the supply chain; fluctuations in the market price of critical components; evolving industry standards; and the political and regulatory environment in the People's Republic of China. Other risks and uncertainties are described in the Company's annual report on Form 10-K filed on February 28, 2012, and subsequent filings with the U.S. Securities and Exchange Commission made by the Company from time to time. Except as required by law, Netlist undertakes no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

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