

# Court Throws Out Diablo's Countersuit Against Netlist

January 14, 2015

OAKLAND, Calif., Jan. 14, 2015 /PRNewswire/ -- Netlist, Inc. (NASDAQ: NLST) announced today that Judge Yvonne Gonzalez Rogers of the United States District Court for the Northern District of California granted Netlist's Special Motion to Strike Diablo's claims against Netlist for breach of contract, unfair competition, and interference with Diablo's customers. The Court also ruled that Netlist is entitled to reasonable attorneys' fees and costs associated with Netlist's filing of the Special Motion to Strike.

With all of its claims having now been stricken, Diablo has no affirmative claims to pursue in the trade secret lawsuit while Netlist's claims for misappropriation and breach of contract remain intact as the March 9, 2014 trial date approaches. Under the Court's order issued January 12, Judge Gonzales Rogers found that Netlist's actions, including filing the trade secret law suit and discussing the suit with customers, fell squarely within California statutes designed to protect constitutional free speech and statements related to litigation. One of these statutes allows for *early dismissal of meritless* claims aimed at chilling protected speech, so as to avoid costly, time-consuming litigation.

"We are pleased that the court acted quickly in striking Diablo's frivolous claims", said C.K. Hong, Netlist's Chief Executive Officer. "We remained confident throughout that Diablo's claims would not survive legal scrutiny. Thankfully, neither we nor the court will be forced to waste any more resources on Diablo's claims, and Diablo will cover the expenses we incurred to bring this to the court's attention."

This ruling came on the heels of Judge Gonzalez Rogers taking the rare step of ordering a preliminary injunction against Diablo from manufacturing, using, distributing or selling high-speed memory chips used by SanDisk and other major computer manufacturers.

## **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 NVvault™ and EXPRESSvault™ family of hybrid memory products that significantly accelerate system performance and provide mission critical fault tolerance, HyperCloud®, a patented memory technology that breaks traditional performance barriers, and a broad portfolio of industrial Flash and specialty memory subsystems including VLP (very low profile) DIMMs and Planar-X RDIMMs. Netlist has steadily invested in and grown its worldwide IP portfolio, which now includes 81 issued and pending patents in the areas of high performance memory and hybrid memory technologies.

Netlist develops technology solutions for customer applications in which high-speed, high-capacity, small form factor and efficient heat dissipation are key requirements for system memory. These customers include OEMs and hyperscale datacenter operators that design and build servers, storage systems and 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. 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 timing and magnitude of the anticipated decrease in sales to our key customer; our ability to leverage our NVvault™ technology in a more diverse customer base; the rapidly-changing nature of technology; risks associated with intellectual property, including patent infringement litigation against us as well as the costs and unpredictability of litigation over infringement of our intellectual property and the possibility of our patents being reexamined 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 March 18, 2014, 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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