

# Netlist Prevails Over Smart Modular in Patent Case

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IRVINE, CA -- (Marketwired) -- 06/03/13 -- Netlist, Inc. (NASDAQ: NLST), a leading provider of high performance and hybrid (DRAM to Flash) memory solutions for the cloud computing and storage markets, announced today that the United States District Court has ruled against Smart Modular's motion for a preliminary injunction against Netlist's flagship product HyperCloud®. The Court denied the motion because it found that Smart Modular was unlikely to succeed on the merits of the case.

Smart Modular's case involves a patent (U.S. Patent No. 8,250,295) whose validity the Court found to be in doubt. Last December, the US Patent and Trademark Office (USPTO) concluded there was a reasonable likelihood that the '295 claims asserted against Netlist would be found invalid based on multiple combinations of prior art references that had not been considered in the original examination of the patent, and thus ordered reexamination of the '295 patent. Simultaneously, the USPTO issued an Office Action rejecting all of Smart Modular's asserted claims against Netlist as invalid based on those multiple combinations of prior art references. Netlist believes that at least one material prior art reference was purposely withheld by Smart Modular from the USPTO. In addition to denying Smart Modular's motion for a preliminary injunction, the Court granted Netlist's motion to stay the litigation pending the results of the reexamination.

"In the lawsuit, Netlist contends that Smart Modular has misled the market and the public in several ways, which we have detailed in our filings with the Court. The Court's decision in our favor serves as yet another affirmation of the strength of our industry-leading technology and the investments we have made to bring it to market," said Netlist President and CEO, C.K. Hong. "We remain focused on leveraging our extensive patent portfolio to introduce our advanced product portfolio to the next-generation high-speed server and storage markets."

Netlist has steadily invested in and grown its intellectual property, which now includes five separate patent families. These patent families include 33 issued patents and more than 35 US and foreign pending patent applications in the areas of high performance and high density memory subsystems and hybrid memory technologies. Netlist's patents have increasingly been cited by others such as Google and Micron as they seek to patent their work in the high-performance memory arena. Analysts anticipate the market for HyperCloud®-like products to grow by 300% next year and explode exponentially over the next decade through DDR4.

## *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™ and EXPRESSvault™ family of products that significantly accelerate system performance and provide mission critical fault tolerance, 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 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 29, 2013, 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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