

# Netlist Comments On PTAB Decisions In Appeal Of DDR3 Patents

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IRVINE, Calif., June 1, 2016 /PRNewswire/ -- Netlist, Inc. (NASDAQ: NLST), today announced the Patent Trial and Appeal Board (PTAB) issued decisions on appeal in the reexaminations of U.S. Pat. Nos. 7,619,912 ("912 Patent") and 7,864,627 ("627 Patent"). The '912 and '627 Patents are generally related to the concept of rank multiplication used in DDR3 LRDIMM.



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In its decision issued yesterday, the PTAB maintained the patentability of two original claims in the '912 Patent covering important features of DDR3 LRDIMM designs. The remaining claims stand rejected. In the '627 reexamination, the PTAB maintained the Examiner's prior rejection of all claims. These reexaminations have been pending for more than five years. Netlist asserted the '912 Patent along with other patents in 2009 in separate actions against Google Inc. and Inphi Corporation. Both law suits are currently stayed. The '627 Patent has never been the subject of any litigation.

The decisions in the '912 and '627 reexaminations, where the patents are focused more on rank multiplication, will have no impact on Netlist's other patents directed to load reduction and the distributed buffer architecture. Netlist holds numerous other patents with many more claims directed to fundamental aspects of DDR3 LRDIMM. The decisions will also have no impact on Netlist's strong patent coverage of DDR4 LRDIMM. These patents have fared exceptionally well in validity challenges. For example, the reexamination of U.S. Pat. No. 7,532,537 ("537 Patent") successfully concluded last month, and U.S. Pat. No. 8,516,185 ("185 Patent") prevailed against two Inter Partes Review (IPR) petitions filed last year by SanDisk and Smart Modular.

"We disagree with aspects of the PTAB's most recent decisions and will continue to pursue what we believe are valid positions in the '912 and '627 reexaminations," said Netlist's Vice President of Intellectual Property and Licensing, Noel Whitley. "In the meantime, we remain focused on capturing licensing opportunities for DDR3 LRDIMM, past and present, as well as the fast growing

DDR4 LRDIMM market. The substantive impact of the PTAB's decisions on the value of Netlist's overall portfolio is nominal, and will not affect our ability to execute on these opportunities."

The '912 and '637 reexaminations will continue with Netlist having the option to either reopen prosecution or request rehearing of the PTAB decisions. Once the reexamination process at the United States Patent and Trademark Office is complete, all parties will then have the opportunity to appeal the PTAB's decisions to the U.S. Court of Appeals for the Federal Circuit.

### **About Netlist, Inc.**

Netlist creates solutions that accelerate turning data into information. We design and manufacture controller and software-based memory solutions for our OEM and Hyperscale customers in the server and storage space. Flagship products NVvault® and EXPRESSvault™ accelerate system performance and provide mission critical fault tolerance. HyperVault®, Netlist's next-generation architecture, expands the performance and capacity of memory channel storage. The company holds a portfolio of patents, many seminal, in the area of hybrid memory, rank multiplication and load-reduction, among others. To learn more, visit [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. A forward-looking statement is neither a prediction nor a guarantee of future events or circumstances and is based on currently available market, operating, financial and competitive information and assumptions. Forward-looking statements involve risks and uncertainties that could cause actual results to differ materially from those expected or projected, including, among others, risks associated with the launch and commercial success of our products, programs and technologies; the success of product, joint development and licensing partnerships; continuing development, qualification and volume production of HyperVault™, EXPRESSvault™, NVvault®, HyperCloud® and VLP Planar-X RDIMM; the timing and magnitude of the continued decrease in our sales; our ability to leverage our NVvault® and EXPRESSvault™ technology in a more diverse customer base; our need to raise additional capital and our ability to obtain financing when necessary; 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 or reviewed by the United States Patent and Trademark office and the Patent Trial and Appeal Board; volatility in the pricing of DRAM ICs and NAND flash; 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 our and our customers' product releases and development; introductions of new products by competitors; changes in end-user demand for technology solutions; our ability to attract and retain skilled personnel; our reliance on suppliers of critical components and vendors in the supply chain; fluctuations in the market price of critical components; evolving industry standards; the political and regulatory environment in the People's Republic of China; and general economic and market conditions. Other risks and uncertainties are described in our annual report on Form 10-K filed on March 4, 2016, and subsequent filings with the U.S. Securities and Exchange Commission we make from time to time. Except as required by law, we undertake 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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