

# Netlist Comments on Appeal of First International Trade Commission Investigation of SK hynix

December 13, 2019

**IRVINE, CA / ACCESSWIRE / December 13, 2019** / Netlist, Inc. (OTCQX:NLST) today announced that the United States Court of Appeals for the Federal Circuit (CAFC) has affirmed the Patent Trial and Appeal Board's (PTAB) decision with respect to the invalidity of U.S. Pat. Nos. 8,869,064, 8,001,434 and 8,359,501 via a Rule 36 summary affirmance relating to Netlist's first action at the United States International Trade Commission (ITC) against SK hynix. The related appeal with respect to the Final Determination of Netlist's first action at the ITC (Investigation No. 337-TA-1023) was found to be moot in light of the affirmances. Netlist and its counsel are exploring its legal options in view of the ruling at the CAFC.

On October 31, 2017, Netlist filed a second action at the ITC against SK hynix related to RDIMM and LRDIMM enterprise memory products involving other patents. On October 21, 2019 Netlist received the notice of Initial Determination from the ITC in regard to the Company's second ITC action against SK hynix (Investigation No. 337-TA-1089). According to the ID, the ITC determined that SK hynix infringed Netlist Patent No. 9,606,907 in violation of Section 337 of the Tariff Act of 1930, as amended. As a result, SK hynix is currently facing an exclusion order on the sale, sale for importation, and importation into the United States of billions of dollars annually of certain server memory modules. A Final Determination, in this second action, is currently scheduled to be issued by the ITC commission on February 21, 2020.

## About Netlist

Netlist provides high-performance SSDs and modular memory subsystems to enterprise customers in diverse industries. 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 statements about Netlist's ability to execute on its strategic initiatives. All forward-looking statements reflect management's present expectations 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 related to Netlist's plans for its intellectual property, including its strategies for monetizing, licensing, expanding, and defending its patent portfolio; risks associated with patent infringement litigation

initiated by Netlist, such as its ongoing proceedings against SK hynix Inc., or by others against Netlist, as well as the costs and unpredictability of any such litigation; risks associated with Netlist's product sales, including the market and demand for products sold by Netlist and its ability to successfully develop and launch new products that are attractive to the market; the success of product, joint development and licensing partnerships, including its relationship with Samsung Electronics Co., Ltd.; the competitive landscape of Netlist's industry; and general economic, political and market conditions. 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 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 22, 2019, 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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**SOURCE:** Netlist, Inc.

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