
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

POST-EFFECTIVE AMENDMENT NO. 1

File No. 333-254776

POST-EFFECTIVE AMENDMENT NO. 1

File No. 333-263233

TO

FORM S-8

**REGISTRATION STATEMENT
UNDER THE SECURITIES ACT OF 1933**

NETLIST, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

95-4812784
(I.R.S. Employer
Identification No.)

**111 Academy, Suite 100
Irvine, CA 92617**
(Address of Principal Executive Offices) (Zip Code)

**Amended and Restated 2006 Equity Incentive Plan of Netlist, Inc.
Employment Inducement Stock Option Agreement**
(Full title of the plan)

Chun K. Hong
President, Chief Executive Officer and Sole Director
111 Academy, Suite 100, Irvine, CA 92617
(Name and address of agent for service)

(949) 435-0025
(Telephone number, including area code, of agent for service)

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

DEREGISTRATION OF UNSOLD SECURITIES

Netlist, Inc. (the “Company” or “Registrant”) is filing these post-effective amendments (the “Post-Effective Amendments”) to the following Registration Statements on Form S-8 (each, a “Registration Statement,” and collectively, the “Registration Statements”), which have been previously filed with the Securities and Exchange Commission (the “SEC”), to deregister certain shares of the Company’s common stock, par value \$0.001 per share (“Common Stock”), registered but unsold or otherwise unissued under the below Registration Statements as follows:

- Registration Statement on Form S-8 (No. 333-254776) filed with the SEC on March 26, 2021, pertaining to the registration of (i) 1,200,000 shares of Common Stock available for issuance under the Amended and Restated 2006 Equity Incentive Plan of the Company and (ii) 450,000 shares of Common Stock that may be issued upon exercise of an employment inducement stock option award (the “Levy Inducement Award”) granted to Todd Levy pursuant to a Stock Option Agreement dated February 1, 2021 between the Company and Mr. Levy (the “Levy Agreement”).

With respect to the Common Stock subject to the Levy Inducement Award, 337,500 shares of Common Stock included in this Registration Statement are no longer issuable pursuant to the Levy Agreement.

- Registration Statement on Form S-8 (No. 333-263233) filed with the SEC on March 2, 2022, pertaining to the registration of (i) 1,200,000 shares of Common Stock available for issuance under the Amended and Restated 2006 Equity Incentive Plan of the Company and (ii) 55,000 shares of Common Stock that may be issued upon vesting of the Inducement RSU Awards (the “Kim, Lai, and Billitti Inducement Award”) granted to Tag Kim, Jeremy Lai, and Lani Billitti pursuant to Restricted Stock Unit Agreements dated as of February 9, 2022 between the Company and Mr. Kim, Mr. Lai, and Ms. Billitti (the “Kim, Lai, and Billitti Agreement”).

With respect to the Common Stock subject to the Kim, Lai, and Billitti Inducement Award, 5,000 shares of Common Stock included in this Registration Statement are no longer issuable pursuant to the Kim, Lai, and Billitti Agreement.

Therefore, in accordance with an undertaking made by the Company in the Registration Statements to remove from registration, by means of a post-effective amendment, the securities registered under the Registration Statements that have not been sold, the Company hereby amends the Registration Statements to deregister (i) 337,500 shares of Common Stock registered and unsold under the Registration Statement on Form S-8 (No. 333-254776) and (ii) 5,000 shares of Common Stock registered and unsold under the Registration Statement on Form S-8 (No. 333-263233).

INDEX TO EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>	<u>Filed Herewith</u>	<u>Incorporated by Reference</u>			
			<u>Form</u>	<u>File No.</u>	<u>Exhibit</u>	<u>Filing Date</u>
23.1	Consent of KMJ Corbin & Company LLP.	X				
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CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Post-Effective Amendment No. 1 to Registration Statements on Forms S-8 (333-254776 and 333-263233) of Netlist, Inc. of our reports dated March 1, 2022, relating to the consolidated financial statements of Netlist, Inc. and subsidiaries as of January 1, 2022 and January 2, 2021, the related consolidated statements of operations, stockholders' equity (deficit), and cash flows for each of the three years in the period ended January 1, 2022, and the related notes and financial statement schedule II, and the effectiveness of internal control over financial reporting as of January 1, 2022, which reports are included in the Annual Report on Form 10-K of Netlist, Inc. for the year ended January 1, 2022.

Our report dated March 1, 2022, on the effectiveness of internal control over financial reporting as of January 1, 2022, expresses our opinion that Netlist, Inc. and subsidiaries did not maintain effective internal control over financial reporting as of January 1, 2022 because of the effect of material weaknesses on the achievement of the objectives of the control criteria and contains an explanatory paragraph that states the following material weaknesses have been identified:

- The Company's sole member of the board of directors also serves in an executive management role at the Company. As a result, the Company has ineffective oversight of the financial reporting process due to the lack of an audit committee and the lack of an independent board of directors to ensure adequate monitoring and oversight of internal controls. Additionally, the Company (i) did not have an effective risk assessment process as it did not sufficiently identify and assess risks, including financial reporting risks, that may limit the achievement of Company objectives, (ii) did not have effective monitoring as it did not implement effective monitoring controls that were responsive to changes in the business or the timely remediation of identified control deficiencies.
- The Company has ineffective design and maintenance of controls over user access and program change management related to certain information technology (IT) systems that support the Company's financial reporting processes. User and privileged access were not appropriately provisioned, and program changes were not adequately reviewed prior to being placed in production. As a result, process level automated controls and manual controls that are dependent on the completeness and accuracy of information derived from the affected IT systems were also ineffective because they could have been adversely impacted. This material weakness was due to an insufficient number of IT personnel to identify and assess risks associated with changes in the IT environment resulting in inappropriate assignment of user and privileged access as well as insufficient documentation for control operations.

/s/ KMJ Corbin & Company LLP

Irvine, California
August 8, 2022
