

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 8-K

**CURRENT REPORT
Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934**

Date of Report (Date of Earliest Event Reported): **November 4, 2019**

NETLIST, INC.

(Exact Name of Registrant as Specified in its Charter)

Delaware
(State or Other Jurisdiction of
Incorporation)

001-33170
(Commission
File Number)

95-4812784
(IRS Employer
Identification Number)

**175 Technology Drive, Suite 150
Irvine, California 92618**
(Address of Principal Executive Offices)

(949) 435-0025
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of each exchange on which registered</u>
Common stock, par value \$0.001 per share	NLST	None

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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 13(a) of the Exchange Act.

Item 2.02. Results of Operations and Financial Condition.

On November 4, 2019 Netlist, Inc. (the “Company”) issued a press release announcing the Company’s results of operations for the quarter and nine months ended September 28, 2019. The press release is attached hereto as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated herein in its entirety.

The information included in this Item 2.02 of Current Report on Form 8-K, including the attached Exhibit 99.1, shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit Number</u>	<u>Description</u>
99.1	Press Release of Netlist, Inc., dated November 4, 2019

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

NETLIST, INC.

Date: November 4, 2019

By: /s/ Gail M. Sasaki
Gail M. Sasaki
Vice President and Chief Financial Officer

NETLIST REPORTS THIRD QUARTER 2019 RESULTS

IRVINE, CALIFORNIA, November 4, 2019 - Netlist, Inc. (OCTQX: NLST) today reported financial results for the third quarter ended September 28, 2019.

Net sales for the third quarter ended September 28, 2019 were \$6.1 million, compared to net sales of \$7.2 million for the quarter ended September 29, 2018. Gross profit for the quarter ended September 28, 2019 was \$0.5 million, or 7.4% of net sales, compared to a gross profit of \$0.6 million, or 8.1% of net sales, for the quarter ended September 29, 2018.

Net loss for the third quarter ended September 28, 2019 was (\$3.1) million, or a loss per share of (\$0.02), compared to a net loss in the prior year period of (\$4.6) million, or a loss per share of (\$0.04). These results include stock-based compensation expense of \$0.2 million and \$0.2 million for the quarters ended September 28, 2019 and September 29, 2018, respectively.

As of September 28, 2019, cash, cash equivalents and restricted cash was \$8.6 million, total assets were \$17.0 million, working capital was \$1.9 million, total debt and accrued interest, net of debt discount, was \$18.2 million, and stockholders' deficit was (\$11.7) million.

“During the third quarter we grew product revenue sequentially and improved operating performance on both a sequential and year over year basis,” said Netlist’s Chief Executive Officer, C.K. Hong. “We recently received a favorable Notice of Initial Determination from the United States International Trade Commission (ITC) which represents a major milestone in the multi-year effort to protect our valuable intellectual property.”

On October 21, 2019 the ITC issued a Notice of Initial Determination finding that Netlist’s standard-essential ‘907 patent is being infringed by Korean manufacturer SK hynix’s sale, sale for importation, and importation into the United States of accused LRDIMM memory modules in violation of Section 337 of the Tariff Act.

Conference Call Information

C.K. Hong, Chief Executive Officer, and Gail Sasaki, Chief Financial Officer, will host an investor conference call today, November 4, 2019 at 12:00 p.m. Eastern Time to review Netlist’s results for the third quarter ended September 28, 2019. The dial-in number for the call is 1-412-317-5443. The live webcast and archived replay of the call can be accessed for 90 days in the Investors section of Netlist’s website at www.netlist.com.

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.

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.

(Tables Follow)

For more information, please contact:

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Netlist, Inc.
Gail M. Sasaki
Chief Financial Officer
(949) 435-0025

Netlist, Inc. and Subsidiaries
Condensed Consolidated Balance Sheets
(in thousands)

	(unaudited) September 28, 2019	December 29, 2018
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 6,386	\$ 14,802
Restricted cash	2,250	1,850
Accounts receivable, net	2,488	2,917
Inventories	2,398	2,946
Prepaid expenses and other current assets	703	677
Total current assets	<u>14,225</u>	<u>23,192</u>
Property and equipment, net	313	279
Operating lease right-of-use assets	1,133	—
Other assets	1,375	1,394
Total assets	<u>\$ 17,046</u>	<u>\$ 24,865</u>
LIABILITIES AND STOCKHOLDERS' DEFICIT		
Current liabilities:		
Accounts payable	\$ 8,520	\$ 9,497
Revolving line of credit	1,515	2,293
Accrued payroll and related liabilities	475	604
Accrued expenses and other current liabilities	808	343
Convertible promissory note and accrued interest, net of debt discounts	997	—
Note payable	—	376
Total current liabilities	<u>12,315</u>	<u>13,113</u>
Convertible promissory notes and accrued interest, net of debt discounts	15,665	17,346
Operating lease liabilities	630	—
Other liabilities	146	78
Total liabilities	<u>28,756</u>	<u>30,537</u>
Commitments and contingencies		
Stockholders' deficit:		
Preferred stock	—	—
Common stock	154	139
Additional paid-in capital	173,979	169,355
Accumulated deficit	(185,843)	(175,166)
Total stockholders' deficit	<u>(11,710)</u>	<u>(5,672)</u>
Total liabilities and stockholders' deficit	<u>\$ 17,046</u>	<u>\$ 24,865</u>

Netlist, Inc. and Subsidiaries
Condensed Consolidated Statements of Operations (Unaudited)
(in thousands, except per share amounts)

	Three Months Ended		Nine Months Ended	
	September 28, 2019	September 29, 2018	September 28, 2019	September 29, 2018
Net sales	\$ 6,116	\$ 7,203	\$ 16,733	\$ 24,508
Cost of sales(1)	5,666	6,617	15,600	23,061
Gross profit	450	586	1,133	1,447
Operating expenses:				
Research and development(1)	583	535	1,738	2,326
Intellectual property legal fees	979	2,760	3,567	6,359
Selling, general and administrative(1)	1,747	1,745	5,724	5,021
Total operating expenses	3,309	5,040	11,029	13,706
Operating loss	(2,859)	(4,454)	(9,896)	(12,259)
Other expense, net:				
Interest expense, net	(245)	(183)	(775)	(463)
Other expense, net	(4)	(7)	(5)	(12)
Total other expense, net	(249)	(190)	(780)	(475)
Loss before provision for income taxes	(3,108)	(4,644)	(10,676)	(12,734)
Provision for income taxes	—	—	1	—
Net loss	\$ (3,108)	\$ (4,644)	\$ (10,677)	\$ (12,734)
Net loss per common share:				
Basic and diluted	\$ (0.02)	\$ (0.04)	\$ (0.07)	\$ (0.13)
Weighted-average common shares outstanding:				
Basic and diluted	148,058	115,402	142,624	96,516

(1) Amounts include stock-based compensation expense as follows:

Cost of sales	\$ 6	\$ 7	\$ 20	\$ 19
Research and development	67	46	163	182
Selling, general and administrative	170	104	599	370
Total stock-based compensation	\$ 243	\$ 157	\$ 782	\$ 571