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NETLIST, INC.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SMART MODULAR TECHNOLOGIES, INC.,

Plaintiff,

v.

NETLIST,

Defendant.

Case No. 2:12-CV-02319-MCE-EFB

STIPULATION AND ORDER TO INCREASE PAGE LIMIT FOR DEFENDANT NETLIST'S OPPOSITION TO PLAINTIFF SMART MODULAR'S MOTION FOR PRELIMINARY INJUNCTION AND TO INCREASE PAGE LIMIT FOR PLAINTIFF'S REPLY BRIEF

Judge: Hon. Morrison C. England, Jr.

Pursuant to Local Rule 143 and Order Requiring Joint Status Report (ECF No. 6) section 8, Plaintiff Smart Modular Technologies Inc. ("Smart Modular") and Defendant Netlist, Inc. ("Netlist") stipulate as follows:

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WHEREAS, on September 10, 2012, Smart Modular filed an *ex parte* application for leave to file a brief in support of its motion for preliminary injunction in excess of 20 pages, which application Netlist did not oppose and which application the Court granted on September 21, 2012. (ECF. Nos. 7-9, 18.)

WHEREAS, on September 21, 2012, Smart Modular filed its motion for preliminary injunction with a twenty-three page memorandum of points and authorities (excluding the cover page and tables of contents and authorities), supported by six declarations, including two expert declarations and more than fifty exhibits. (ECF Nos. 22, 25.)

WHEREAS, on October 12, 2012, Magistrate Judge Brennan issued an order allowing the parties to conduct preliminary injunction-related discovery. (ECF No. 52.) In response to this order, Netlist deposed five of the Smart Modular witnesses who provided declarations in support of Smart Modular's motion for preliminary injunction. Smart Modular also produced more than 80,000 pages of documents in response to the order.

WHEREAS, based on the length of Smart Modular's memorandum of points and authorities in support of it motion for preliminary injunction, the declarations and exhibits supporting the motion, and the discovery conducted to date, Netlist believes that it needs up to five additional pages for its memorandum in opposition to Smart Modular's motion for preliminary injunction, for a total of twenty-five pages excluding the cover page and tables of contents and authorities.

WHEREAS, Smart Modular does not oppose Netlist's request for five additional pages for its opposition brief.

WHEREAS, based on the page limit increase requested by Netlist and the discovery to be conducted by Smart Modular, Smart Modular believes that it needs up to five additional pages for its reply memorandum in support of its motion for preliminary injunction, for a total of fifteen pages excluding the cover page and tables of contents and authorities.

WHEREAS, Netlist does not oppose Smart Modular's request for five additional pages for its reply brief.

WHEREAS, Netlist's opposition to Smart Modular's motion for preliminary injunction is due on November 30, 2012. (ECF No. 59.)

NOW, THEREFORE, the parties, by and through their counsel, hereby respectfully request that the Court approve their stipulation and enter an order granting Netlist leave to file a memorandum in opposition to Smart Modular's motion for preliminary injunction of up to twnty-five pages excluding the cover page and tables of contents and authorities and granting Smart Modular leave to file a reply memorandum in support of its motion for preliminary injunction of up to fifteen pages excluding the cover page and tables of contents and authorities.

Dated: November 14, 2012

Orrick, Herrington & Sutcliffe LLP

By: /s/ Stacy E. Don
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Dated: November 14, 2012

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ATTESTATION CLAUSE

I attest under penalty of perjury that the concurrence in the filing of this document has been obtained from its signatories.

Dated: November 14, 2012

By: /s/ Rajiv Dharnidharka
RAJIV DHARNIDHARKA

IT IS SO ORDERED.

Dated: November 21, 2012

MORRISON C. ENGLAND, JR
UNITED STATES DISTRICT JUDGE