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 GOOGLE INC.

14 UNITED STATES DISTRICT COURT FOR THE
 15 NORTHERN DISTRICT OF CALIFORNIA
 16 OAKLAND DIVISION

17 GOOGLE INC.

18 Plaintiff,

19 v.

20 NETLIST, INC.,

21 Defendant.

Case No. 08-04144 SBA
 [Related to Case No: C09-05718 SBA]

**[CORRECTED] GOOGLE INC.'S
 ADMINISTRATIVE MOTION TO FILE A
 PORTION OF ITS OPPOSITION TO
 NETLIST'S MOTION FOR LEAVE TO
 AMEND INFRINGEMENT
 CONTENTIONS, AND CERTAIN
 EXHIBITS TO THE DECLARATION OF
 ALLISON ALTERSOHN, UNDER SEAL**

1 **APPLICATION TO FILE UNDER SEAL**

2 Pursuant to Civil Local Rules 7-11 and 79-5, Plaintiff Google Inc. (“Google”) hereby
3 requests (i) Plaintiff’s Opposition to Defendant Netlist Inc.’s Motion for Leave to Amend
4 Infringement Contentions (Patent L.R. 3-1 and 3-6), and (ii) the Confidential and Confidential
5 Attorneys’ Eyes Only Exhibits 1-4, 8-10, and 12 to the Declaration of Allison Altersohn In
6 Support of Google Inc.’s Opposition to Defendant Netlist Inc.’s Motion for Leave to Amend
7 Infringement Contentions (Patent L.R. 3-1 and 3-6) (“the Altersohn Declaration”), be placed under
8 seal. This request is based on this application, the Declaration of Leo Spooner, III, in support
9 thereof, and such oral argument as the Court may entertain. As required by the Civil Local Rule
10 79-59(c), the following additional papers are being lodged with the Court: (1) redacted copies of
11 said papers; and the following shall papers be lodged with the Court: (2) a Chamber’s copy of
12 said papers containing the sealable portions of the document.

13 A party may be permitted to file court documents under seal to protect confidential and
14 trade secret information. *See, eg., Johnson Controls, Inc. v. Phoenix control Sys., Inc.* 886 F.2d
15 1173, 1176 (9th Cir. 1988); *Hope X-Ray Prods., Inc. v. Marron Caarrel, Inc.*, 674 F.2d 1336,
16 1343 (9th Cir. 1982).

17 Plaintiff’s Opposition to Defendant Netlist Inc.’s Motion for Leave to Amend Infringement
18 Contentions (Patent L.R. 3-1 and 3-6) contains (i) excerpts of testimony and references to
19 company-internal communications relating to the technology as issue in this litigation and
20 designated as CONFIDENTIAL or CONFIDENTIAL ATTORNEYS’ EYES ONLY by Netlist
21 pursuant to the Protective Order entered in this action (Dkt. No. 25, April 27, 2009) (“the
22 Protective Order”); and (ii) references to company-internal communications relating to technology
23 alleged to be at issue in this litigation and designated as CONFIDENTIAL ATTORNEYS’ EYES
24 ONLY by Google pursuant to the Protective Order. *See* Spooner Decl. ¶ 2.

25 The deposition transcript excerpted at Exhibit 1 to the Altersohn Declaration contains
26 testimony relating to confidential communications concerning the technology at issue in this
27

1 litigation and is designated as CONFIDENTIAL material by Netlist pursuant to the Protective
2 Order”. *See* Spooner Decl. ¶ 3.

3 The document at Exhibit 2 to the Altersohn Declaration contains company-internal
4 communications relating to the technology at issue in this litigation and is designated as
5 CONFIDENTIAL material by Netlist pursuant to the Protective Order. *See* Spooner Decl. ¶ 4.

6 The deposition transcript excerpted at Exhibit 3 to the Altersohn Declaration contains
7 testimony relating to confidential communications concerning the technology at issue in this
8 litigation that is designated as CONFIDENTIAL ATTORNEYS’ EYES ONLY material by Netlist
9 pursuant to the Protective Order. *See* Spooner Decl. ¶ 5.

10 The document at Exhibit 4 to the Altersohn Declaration contains company-internal
11 communications relating to the technology at issue in this litigation and that is designated
12 CONFIDENTIAL ATTORNEYS’ EYES ONLY material by Netlist pursuant to the Protective
13 Order. *See* Spooner Decl. ¶ 6.

14 The document at Exhibit 8 to the Altersohn Declaration contains company-internal
15 communications relating to the technology alleged to be at issue in this litigation and that is
16 designated CONFIDENTIAL ATTORNEYS’ EYES ONLY material by Google pursuant to the
17 Protective Order. *See* Spooner Decl. ¶ 7.

18 The document at Exhibit 9 to the Altersohn Declaration contains company-internal
19 communications relating to the technology alleged to be at issue in this litigation and that is
20 designated CONFIDENTIAL ATTORNEYS’ EYES ONLY material by Google pursuant to the
21 Protective Order. *See* Spooner Decl. ¶ 8.

22 The document at Exhibit 10 to the Altersohn Declaration contains company-internal
23 communications relating to the technology alleged to be at issue in this litigation and that is
24 designated CONFIDENTIAL ATTORNEYS’ EYES ONLY material by Google pursuant to the
25 Protective Order. *See* Spooner Decl. ¶ 9.

26 The deposition transcript excerpted at Exhibit 10 to the Altersohn Declaration contains
27 testimony relating to confidential communications concerning the technology at issue in this

1 litigation that is designated as CONFIDENTIAL material by Netlist pursuant to the Protective
2 Order. *See* Spooner Decl. ¶ 10.

3 Therefore, Google respectfully requests that the Court grant its application to file the
4 foregoing document under seal.

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6 DATED: April 14, 2010

KING & SPALDING LLP

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8 By: /s/ Leo Spooner III
9 Leo Spooner III

10 Attorneys for Plaintiff
11 GOOGLE INC.
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