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12 Attorneys for Defendant and Counterclaimant
NETLIST, INC.

13
14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 OAKLAND DIVISION

17
18 GOOGLE, INC.,
19 Plaintiff,
20 vs.
21 NETLIST, INC.,
22 Defendant.

Case No.: C-08-04144 (SBA)

[Related to Case No: C-09-05718 SBA]

**REDACTED DECLARATION OF STEVEN
R. HANSEN IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT ON
GOOGLE'S AFFIRMATIVE DEFENSES
BASED ON NETLIST'S JEDEC
ACTIVITIES**

Date: July 27, 2010
Time: 1:00 p.m.
Place: Courtroom 3
Judge: Hon. Sandra Brown Armstrong

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REPLY DECLARATION OF STEVEN R. HANSEN (CASE NO. C-08-04144 SBA)

1 **DECLARATION OF STEVEN R. HANSEN**

2 I, Steven R. Hansen, declare as follows:

3 1. I am an attorney admitted to practice in the states of California and
4 Michigan and before this Court, and am of counsel to Lee Tran & Liang APLC,
5 counsel for Defendant and Counterclaimant Netlist Inc. ("Netlist"). I state the facts
6 in this declaration based on my own personal knowledge and if called upon to do
7 so, could and would testify competently as to the following matters. This
8 declaration is made in support of Netlist's Motion for Summary Judgment on
9 Google's Affirmative Defenses Based On Netlist's JEDEC Activities.

10 2. On or about February 18, 2010, I took the deposition of Plaintiff
11 Google's Rule 20(b)(6) designee, Robert Sprinkle. True and correct copies of
12 relevant excerpts of Mr. Sprinkle's deposition transcript are attached hereto as
13 exhibit "A".

14 3. Certain portions of Mr. Sprinkle's deposition transcripts are
15 designated as HIGHLY CONFIDENTIAL-ATTORNEY'S EYES ONLY under
16 the parties stipulated protective order. Filed concurrently under seal as Exhibit
17 "B" are true and correct copies of relevant excerpts of the confidential portions
18 of Mr. Sprinkle's deposition transcript.

19 4. Filed concurrently under seal as Exhibit "C" is a true and correct copy
20 of JEDEC's Committee 1st Showing of the AMB Quad Rank Support Standard,
21 which was marked as exhibit 14 to the deposition of Mr. Sprinkle.

22 5. Filed concurrently under seal as Exhibit "D" is a true and correct copy
23 of an email containing Netlist's January 8, 2007 patent letter, which was attached to
24 Mr. Sprinkle's deposition transcript as exhibit 79.

25 6. On or about March 30, 2010, I attended the deposition of JEDEC's
26 general counsel, Mr. John Kelly. Mr. Kelly's deposition transcript is
27 designated as HIGHLY CONFIDENTIAL-ATTORNEY'S EYES ONLY
28

1 pursuant to the parties' stipulated protective order. Filed concurrently under seal
2 as Exhibit "E" are true and correct copies of relevant excerpts of Mr. Kelly's
3 confidential deposition testimony.

4 7. Netlist's January 8, 2007 patent letter was attached to Mr. Kelly's
5 deposition transcript as exhibit 9. A true and correct copy of exhibit 9 to the
6 deposition transcript of Mr. Kelly is attached hereto as Exhibit "F".

7 8. Filed concurrently under seal as Exhibit "G" is a true and correct copy
8 of JEDEC's May 5, 2007 meeting board meeting minutes reflecting adoption of the
9 AMB Quad Rank Support Standard which were attached to the deposition
10 transcript of John Kelly as exhibit 65.

11 9. On or about October 29, 2009, Google served responses to Netlist's
12 Requests for Admissions. In responses to Request for Admission No. 5, Google
13 has admitted to using Advanced Memory Buffers in its accused 4-Rank Fully-
14 Buffered Dual In-Line Memory Modules. In responses to Request for
15 Admission No. 3, Google admitted that its Advanced Memory Buffers operate
16 in "Mode C" of JEDEC's "AMB Quad Rank Support Standard." A true and
17 correct copy of Google's October 29, 2009 responses to Netlist's Requests for
18 Admission is attached hereto as exhibit "H".

19 10. Google has taken extensive discovery of Netlist's JEDEC activities
20 concerning the adoption of the AMB Quad Rank Standard, including, *inter alia*, the
21 deposition of Mr. John Kelly, JEDEC's General Counsel; the deposition of Mario
22 Martinez, Netlist's representative to JEDEC; and several requests for documents to
23 JEDEC. Nevertheless, Google has yet to identify any particular affirmative
24 defenses which it contends are supported by Netlist's alleged JEDEC activities.
25 While Netlist served discovery directed to the issue on or about February 25, 2010,
26 Google refused to answer it relying instead on a hyper-technical reading of FRCP
27 Rule 6. Netlist believes that Google will likely contend that Netlist's JEDEC
28

1 activities are somehow relevant to Google's estoppel and waiver affirmative
2 defenses.

3 11. The parties met and conferred before the filing of the Motion for
4 Summary Judgment on Google's Affirmative Defenses Based on Netlist's JEDEC
5 Activities as required by the Court's standing order.

6 I declare under penalty of perjury under the laws of the United States and the
7 State of California that the foregoing is true and correct.

8 Executed this 1st day of June 2010, at Waterford, Michigan

9

10

_____/s/ Steven R. Hansen_____

11

Steven R. Hansen

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EXHIBIT A

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

GOOGLE, INC.,)
)
Plaintiff,)
)
vs.)
)
NETLIST, INC.,)
)
Defendant,)
)
_____)
AND RELATED)
COUNTERCLAIMS.)
_____)

No. C-08-04144SBA

ORIGINAL

DEPOSITION OF: ROBERT S. SPRINKLE
DATE: THURSDAY, FEBRUARY 18, 2010
LOCATION: 333 TWIN DOLPHIN DRIVE
SUITE 400
REDWOOD CITY, CALIFORNIA
REPORTED BY: R. CHAYO AYON, CSR No. 12372

DCR

LITIGATION SERVICES

AM Best Award - Expert Service Provider 2009

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

GOOGLE, INC.,)	
)	
Plaintiff,)	
)	
vs.)	No. C-08-04144SBA
)	
NETLIST, INC.,)	
)	
Defendant,)	
)	
-----)	
AND RELATED)	
COUNTERCLAIMS.)	
-----)	

The 30(b)(1) and 30(b)(6) Videotaped deposition of ROBERT S. SPRINKLE, taken on behalf of the Defendants, at King & Spalding, 333 Twin Dolphin Drive, Suite 400, Redwood City, California 94065, beginning at 9:35 a.m. and ending at 7:24 p.m., on Thursday, February 18, 2010, before R. Chayo Ayon, CLR, CSR No. 12372.

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APPEARANCES OF COUNSEL:

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DCR LITIGATION SERVICES
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---oOo---

1 I N D E X

2 WITNESS: ROBERT S. SPRINKLE

3

4 PAGE

5 PROCEEDINGS 10

6 EXAMINATION BY MR. HANSEN 11

7 AFTERNOON SESSION 98

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10 *** PORTIONS MARKED ***

11 *** CONFIDENTIAL, ATTORNEYS' EYES ONLY ***

12 (Bound Separately)

13 (Pages 41 - Page 254)

14

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17

E X H I B I T S

18 DEFENDANT'S PAGE

19 Exhibit 69 14

20 Defendant Netlist, Inc.'s, Amended Rule(b)(6)
21 Notice of Deposition to Plaintiff Google, Inc.,
and Rule 34 Request for the Production of
22 Documents thereat

23 Exhibit 70 66

24 Document, Tally of particular server types that
currently exist in the U.S., Bates-stamped
GNET00289604 to GNET00289612, marked
25 "Confidential, Attorneys' Eyes Only"

	E X H I B I T S	
	DEFENDANT'S	PAGE
1		
2		
3	Exhibit 71	81
4	Document, Spreadsheet that summarizes the builds	
5	of Icarus servers, Bates-stamped GNET00286533,	
	marked "Confidential, Attorneys' Eyes Only"	
6	Exhibit 72	88
7	Document, List of Ilium Server Builds,	
8	Bates-stamped GNET00286663 to GNET00286751, marked	
	"Confidential, Attorneys' Eyes Only"	
9	Exhibit 73	103
10	E-mails from Rob Sprinkle to Andrew W. Heng;	
11	Hanjoo Na, Subject: FDDIMM builds, dated	
12	6/19/2007, and attachments, Bates-stamped	
	GNET023054 to GNET023059, marked	
	"Confidential, Attorneys' Eyes Only"	
13	Exhibit 74	115
14	E-mail from Paul Werner to Rob Sprinkle, Subject:	
15	Re: NEC AMB QR X4 Support, dated 9/18/2007, and	
16	attachments: Exhibit 15, NEC, User's Manual,	
	MUPD720901, Advanced Memory Buffer, Bates-stamped	
	GNET 183476 to GNET183776, marked	
	"Confidential, Attorneys' Eyes Only"	
17	Exhibit 75	171
18	E-mail from Rob Sprinkle to Maire Mahony, Subject:	
19	Re: FBDIMM spec, dated 5/29/2007, and attachments,	
20	Bates-stamped GNET081506 to GNET081634, marked	
	"Confidential, Attorneys' Eyes Only"	
21	Exhibit 76	179
22	E-mail from Andrew Dorsey to Rob Sprinkle,	
23	Subject: Re: Part Numbers for the new DIMMs,	
24	dated 10/15/2007, and attachments, Bates-stamped	
	GNET212212 to GNET212224, marked	
	"Confidential, Attorneys' Eyes Only"	
25	///	

	E X H I B I T S	
	DEFENDANT'S	PAGE
1		
2	Exhibit 77	188
3		
4	Document, List of all U.S. builds of Ilium Servers, Bates-stamped GNET00291686 to GNET00291767, marked "Confidential, Attorneys' Eyes Only"	
5		
6	Exhibit 78	191
7		
8	E-mail from Mark Kellogg: KCD Service to Robert Sprinkle, Subject: December '07 JC-45 Minutes, and attachments, dated 1/8/2008, Bates-stamped GNET261327 to GNET261388, marked "Confidential"	
9		
10	Exhibit 79	198
11		
12	E-mail from Phileasher Tanner to Robert Sprinkle, Subject: Netlist Patent Letter, 01/08/08, dated 1/10/2008, Bates-stamped GNET034096 to GNET034097, marked "Confidential, Attorneys' Eyes Only"	
13		
14	Exhibit 80	222
15		
16	Google, Warp19: System Design Specification, Bates-stamped GNET00285344 to GNET00285363, marked "Confidential, Attorneys' Eyes Only"	
17		
18	Exhibit 81	237
19		
20	Google, Argo Motherboard: Design Specification, Bates-stamped GNET00285364 TO GNET00285399, marked "Confidential, Attorneys' Eyes Only"	
21		
22	Exhibit 82	239
23		
24	Google, Icarus PVT2 - Revisited, A New Proposal 6/4/08, Bates-stamped GNET00285406 to GNET0028409, marked "Confidential, Attorneys' Eyes Only"	
25		
	Exhibit 83	240
	Google, Goo(F)MM8-16, 8/16 GB DDR2 Modules for Argo and (W)Icarus, Program Review, March 12, 2008, Bates-stamped GNET00285400 to GNET00285405, marked "Confidential, Attorneys' Eyes Only"	

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E X H I B I T S

DEFENDANT'S	PAGE
Exhibit 84	243
E-mail from Rob Sprinkle to Mike McDaid, Subject: Re: DxD Preliminary Product Brief Follow-up, Bates-stamped GNET023542 to GNET023544, marked "Confidential, Attorneys' Eyes Only"	

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A T T A C H M E N T S

Exhibit 4
Photograph of Ilium Server, marked
"Confidential, Attorneys' Eyes Only"

Exhibit 5
Photograph of Portion of a Google 4-rank Fully
Buffered DIMM, marked
"Confidential, Attorneys' Eyes Only"

Exhibit 11
JEDEC Standard, FBDIMM, Advanced Memory Buffer
(AMB), marked
"Confidential, Attorneys' Eyes Only"

Exhibit 14
JEDEC, Committee 1st Showing, Item JC-40-103.46,
Subject: AMB Quad Rank Support, dated 06/06/2007,
Bates-stamped GNET024109 to GNET024127, marked
"Confidential, Attorneys' Eyes Only"

Exhibit 15
NEC, User's Manual, MUPD720901, Advanced Memory
Buffer, Bates-stamped GNET 183543 to GNET183776,
marked "Confidential, Attorneys' Eyes Only"

7

A T T A C H M E N T S

1
2 Exhibit 16

3 E-mail from Rob Sprinkle to Rick Roy, cc Jeff
4 Solomon; Andrew Dorsey, Subject: Re: DxD
(Density Multiplier DIMM), Bates-stamped GNET002357
5 to GNET002358, marked
"Confidential, Attorneys' Eyes Only"

6 Exhibit 21

7 E-mail from Rick Roy to Roger Westberg, Subject:
8 Re: Meeting on 5/24 confirmation, dated May 16,
2007, Bates-stamped GNET002605, marked
"Confidential, Attorneys' Eyes Only"

9 Exhibit 24

10 E-mail from Roger Westberg to Andrew Dorsey,
11 Rob Sprinkle, Rick Roy and Andy Swing, Subject:
Netlist DxD proposal, dated May 24, 2007,
12 Bates-stamped GNET002946, marked
"Confidential, Attorneys' Eyes Only"

13 Exhibit 25

14 Netlist, Proposal, DxD-Rank Multiplication,
15 LRD-Load Reduction, May 2007, Bates-stamped
GNET002947, marked
16 "Confidential, Attorneys' Eyes Only"

17 Exhibit 26

18 E-mail from Roger Westberg to Andrew Dorsey,
19 Rob Sprinkle, Rick Roy and Andy Swing, Subject:
Netlist DxD Specification, Bates-stamped
20 GNET002980 to GNET002981, marked
"Confidential, Attorneys' Eyes Only"

21 Exhibit 27

22 Netlist, DxD/LRD Component Reference Sheet,
23 June 4, 2007, Bates-stamped GNET002982 to
GNET002988, marked
24 "Confidential, Attorneys' Eyes Only"

25 ///

A T T A C H M E N T S

1
2 Exhibit 29

3 Netlist, Statement of Work, prepared for Google,
4 Inc., August 20, 2007, Bates-stamped GNET003076
5 to GNET003079, marked
6 "Confidential, Attorneys' Eyes Only"

7 Exhibit 33

8 United States Patent, Bhakta et al., Patent No.:
9 US 7,289,386 B2, Date of Patent: October 30, 2007
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1 10:05:54 evolution to that.

2 10:05:58 BY MR. HANSEN:

3 10:05:58 Q. I'm sorry. Can you explain that?

4 10:05:59 A. So as I -- during the period when I became
5 10:06:02 a staff engineer, the solid state storage was my
6 10:06:07 primary responsibility. That was my primary
7 10:06:10 project.

8 10:06:10 Q. Is it still your primary project?

9 10:06:13 A. Yes.

10 10:06:17 Q. Okay. Are you currently doing work that
11 10:06:19 relates to DRAMs?

12 10:06:21 A. Not directly.

13 10:06:35 Q. Well, does it relate indirectly?

14 10:06:38 A. As Google JEDEC representative to where --
15 10:07:12 where DRAM specifications are discussed --

16 10:07:12 THE REPORTER: Where -- where what?

17 10:07:12 THE WITNESS: Where DRAM specifications are
18 10:07:14 discussed and consulting as needed for server design
19 10:07:29 team.

20 10:07:30 BY MR. HANSEN:

21 10:07:30 Q. You mentioned JEDEC. Is that J-E-D-E-C?

22 10:07:54 A. That's correct.

23 10:07:54 Q. Okay. And what is JEDEC?

24 10:07:54 A. It is a standards organization.

25 10:07:56 Q. Google's a member?

1 10:07:57 A. Yes.

2 10:07:59 Q. And you are currently the Google

3 10:08:01 representative to JEDEC?

4 10:08:03 A. Yes.

5 10:08:03 Q. Are you the only Google representative to

6 10:08:03 JEDEC?

7 10:08:03 A. I'm the -- I'm the primary representative,

8 10:08:05 and I'm the only one who has attended JEDEC

9 10:08:10 meetings.

10 10:08:11 Q. How long have you been Google's

11 10:08:27 representative to JEDEC?

12 10:08:28 A. Since approximately December of 2006.

13 10:08:30 Q. Are you a member of any JEDEC committees?

14 10:08:35 A. Yes.

15 10:08:36 Q. Which ones?

16 10:08:45 A. JC-40's, JC-42, and JC-45.

17 10:08:55 Q. JC-40 is the logic committee; is that

18 10:08:58 right?

19 10:08:58 A. That's correct.

20 10:08:59 Q. How long have you been a member of the

21 10:09:03 JC-40 committee?

22 10:09:20 A. I believe we only became members of JC-40

23 10:09:24 beginning in 2008.

24 10:09:26 Q. Is JC-45 the module committee?

25 10:09:30 A. Yes.

1 STATE OF CALIFORNIA)
)SS.
2 COUNTY OF SAN MATEO)
3

4 I, R. CHAYO AYON, hereby certify that the
5 witness in the foregoing deposition was by me duly
6 affirmed to testify to the truth, the whole truth
7 and nothing but the truth, in the within-entitled
8 cause; that said deposition was taken at the time
9 and place herein named; that the deposition is a
10 true record of the witness's testimony as reported
11 to the best of my ability by me, a duly Certified
12 Shorthand Reporter and disinterested person, and was
13 thereafter transcribed under my direction into
14 typewriting by computer; that the witness was given
15 an opportunity to read, correct and sign the
16 deposition.

17 I further certify that I am not interested in
18 the outcome of said action, nor connected with, nor
19 related to any of the parties in said action, nor to
20 their respective counsel.

21 
22
23 R. CHAYO AYON, CSR NO. 12372

24 ---oOo---

EXHIBIT B
Filed Under Seal Concurrently
Herewith

EXHIBIT C
Filed Under Seal Concurrently
Herewith

EXHIBIT D
Filed Under Seal Concurrently
Herewith

EXHIBIT E
Filed Under Seal Concurrently
Herewith

EXHIBIT F



NETLIST

1/8/2008

Mian Quddus, Ph.D.
Chairman, JEDEC Committee JC45
Samsung Semiconductor, Inc.
3655 North First Street
San Jose, CA. 95134
e-mail: mquddus@ssi.samsung.com

Re: U.S. Patent No. 7,289,386

Dear Dr. Quddus:

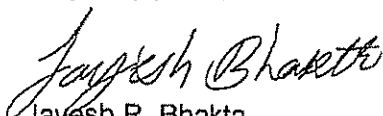
Netlist Inc. currently holds a patent No. 7,289,386 that may be required to implement mode "C" of four rank FBDIMM. The manner in which this patent No. 7,289,386 relates to the standard is as follows:

Claim 1 and 11 of this patent describes use of a logic element on a memory module to decode input signals comprising two chip select signals and an address signal, and generates set of output signals comprises four chip select signals. We believe that the mode "C" of quad rank FBDIMM utilize this concept.

This is to confirm that Netlist Inc. is willing to license the above patent to applicants for the purpose of implementing the standard with compensation on reasonable terms and conditions that are demonstrably free of unfair discrimination.

If you have any questions regarding this matter, please contact me by e-mail Jbhakta@netlist.com or telephone 1(949)679-0104.

Very truly yours,


Jayesh R. Bhakta
V.P. Engineering

cc: JEDEC Office

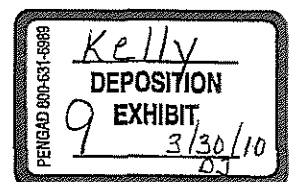


EXHIBIT G
Filed Under Seal Concurrently
Herewith

EXHIBIT H

1 Howard G. Pollack (CA Bar No. 162897/pollack@fr.com)
Shelley K. Mack (CA Bar No. 209596/mack@fr.com)
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4 Telephone: (650) 839-5070
Facsimile: (650) 839-5071
5

6 Attorneys for Plaintiff
GOOGLE INC.
7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 (OAKLAND DIVISION)
11

12 GOOGLE INC.,

13 Plaintiff,

14 v.

15 NETLIST, INC.,

16 Defendant.
17

Case No. C 08-04144 SBA

**PLAINTIFF GOOGLE INC.'S
RESPONSES TO NETLIST'S REQUEST
FOR ADMISSIONS SET NO. ONE [NOS.
1-26]**

18 AND RELATED COUNTERCLAIMS.

19 Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Plaintiff Google Inc.
20 ("Google") hereby responds to Defendant Netlist, Inc.'s ("Netlist") Request for Admissions, Set
21 No. 1, as follows. These responses are based upon information presently available and are
22 therefore made without prejudice to Google's right to use or rely upon subsequently discovered
23 information. As permitted by the Federal Rules of Civil Procedure, these responses may be
24 changed, modified, or supplemented. In responding to Netlist's Requests for Admission, Google
25 does not waive any objections on the grounds of privilege, competency, relevance, materiality,
26 authenticity, or admissibility of the information contained in these responses. Google also
27 expressly reserves the right to object later to the admissibility of any of this information into
28 evidence on any permissible grounds, including grounds not identified herein.

1 PRELIMINARY STATEMENT

2 Netlist's Requests, generally, request Google to admit or deny whether the accused
3 memory modules meet certain limitations, portions of limitations, or incorrect interpretations of
4 limitations of the asserted claims. The Court has not yet construed any limitation of any asserted
5 claim. The Court has not even held a hearing on these issues as of the date of these responses.
6 Accordingly, Netlist's requests are entirely premature. After the Court construes the disputed
7 limitations, Google will consider amending its responses.

8 Google recognizes its obligation, under Federal Rule 36(a)(4), to make a "reasonable
9 inquiry" before denying or partially denying a request based on lack of knowledge or information.
10 For each Request below which is fully or partially denied on the basis that it calls for a legal
11 conclusion and/or implicates disputed claim terms, Google reviewed the claim construction
12 positions of the parties, including all relevant briefing, to determine that this objection was well-
13 founded and that the Request in question in fact could not be answered without offering a legal
14 conclusion as to claim construction before the Court's hearing and order on that issue. Under the
15 circumstances, this is the most extensive inquiry that could be performed.

16 The following responses are given without prejudice to Google's right to produce evidence
17 of any facts which it may later discover. Google reserves the right to supplement the following
18 responses and to change any and all of its responses as additional facts are ascertained, analyses
19 are made, legal research is completed, contentions are made, or as a result of the Court's legal
20 determination of issues.

21 OBJECTIONS TO THE INSTRUCTIONS

22 Google objects to the Instructions to the extent Netlist seeks to impose obligations on
23 Google that are beyond the scope of or inconsistent with the Federal Rules of Civil Procedure, the
24 Local Rules of the United States District Court for the Northern District of California, and/or the
25 Court's Scheduling Order in this case. Google will respond to the Requests to the extent possible,
26 and subject to its objections set forth herein.

27 Google further objects to the Instructions to the extent they seek to require to Google to
28 produce information not in its possession, custody, or control. Google further objections to the

1 Instructions as vague and ambiguous as to at least the term “investigators.” Google will respond
2 to the Requests using information available to it after an investigation that is reasonable under the
3 circumstances.

4 OBJECTIONS TO THE DEFINITIONS

5 Google objects to the definition of the terms “Google,” “you,” and “your” to the extent
6 these definitions encompass entities other than plaintiff Google Inc. and to the extent Netlist
7 requests, through these definitions, information not within Google’s possession, custody, or
8 control. Google responds on its own behalf only. Google’s responses to these requests are made
9 without prejudice to Google’s right to produce relevant information obtained from third parties in
10 the future.

11 Google objects to the definitions of “JEDEC Mode C,” “JEDEC Mode A,” “Mode C,” and
12 “Mode A” as vague and ambiguous. Although Netlist professes to use those terms as defined in
13 JEDEC Standard number JESD82-20A, Google objects to their use in these Requests to the extent
14 that use is incompatible or inconsistent with the way the terms are used within that standard.
15 Google objects to the definitions of “Southbound Link,” “Rank Select Bit,” “Address Bit,” “Row
16 Address Bit,” “Column Address Bit,” “Chip Select Bit,” “Command Bit,” “Activate Command,”
17 “Write Command,” “Read Command,” “Precharge Command,” and “Refresh Command” as vague
18 and ambiguous. Although Netlist professes to use those terms as defined in JEDEC Standards
19 documents, Google objects to their use in these Requests to the extent that use is incompatible or
20 inconsistent with the way the terms are used within those standards.

21 GENERAL OBJECTIONS

22 Google’s responses are subject to the following General Objections, which Google
23 incorporates into its responses to each of Netlist’s requests, whether or not such General Objection
24 is expressly referenced. The incorporation by reference of any one of these General Objections
25 shall not be construed to exclude the incorporation of any other General Objection. Moreover,
26 Google does not waive its right to amend its objections.

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1 1. Google objects to the requests insofar as they are vague, ambiguous, indefinite,
2 overbroad, unduly burdensome, duplicative, cumulative, indefinite as to time or scope,
3 unintelligible, or otherwise unclear as to the precise information sought.

4 2. In particular, Google objects to the term “bit,” and variants, as used by Netlist in
5 the Requests. While Netlist ostensibly imports the definition of “bit” and related terms (“Rank
6 Select Bit,” “Address Bit,” etc.) from JEDEC standards documents, these terms are not expressly
7 defined in those documents and instead are only defined, if at all, by contextual use in relation to
8 other terms. In addition, the relation of these terms to disputed claim terms is ambiguous, and
9 even contradictory, as used in the JEDEC standards and in the Requests. For instance, the term
10 “bit” is nowhere expressly defined in either the Requests or in the JEDEC standards, although the
11 term “bit lane” is defined in document JESD206, where it is said to mean “[a] differential pair of
12 signals in one direction,” JESD206 at p. 1, Table 1-1 – which indicates that a bit may be derived
13 from multiple signals. However, as used in the Requests, e.g. where Netlist asks about “Input
14 Command Bits encoding” various commands, it appears that the Requests presume a
15 correspondence between a signal and a *series* of bits. Because Netlist defines these terms only by
16 reference to ambiguous documents, and further because Netlist clearly implies a connection
17 between these terms and various disputed claim terms, any Request using the term “bit” or any
18 variant is vague, ambiguous, and prematurely calls for a legal conclusion before the disputed claim
19 terms have been construed by the Court.

20 3. Google objects to the requests insofar as they seek information that is neither
21 relevant to a claim or defense of any party, nor reasonably calculated to lead to the discovery of
22 admissible evidence.

23 4. Google objects to the requests to the extent that they seek documents protected by
24 the attorney-client privilege or by the work-product doctrine, protected by any other applicable
25 privilege or immunity, prepared in connection with settlement discussions, prepared in
26 anticipation of adversarial proceedings such as litigation or for trial, prepared in connection with
27 any applicable joint defense agreement, or not otherwise within the scope of permissive discovery
28 under the Federal Rules of Civil Procedure and applicable Local Rules.

1 5. Google objects to the requests on the ground and to the extent they call for
2 information that Google is under an obligation to third parties to not disclose.

3 6. Google objects to the requests on the ground and to the extent they seek to obtain
4 information not in Google's possession, custody, or control.

5 7. Google objects to the requests as overly burdensome on the ground and to the
6 extent they seek information already in Netlist's possession or information that is a matter of
7 public record or that is otherwise equally available to Netlist.

8 8. Google objects to the requests to the extent they call for a legal opinion or
9 conclusion. Google neither expresses nor intends to express any legal opinion or conclusion by
10 responding to Netlist's requests.

11 9. Google objects to the requests to the extent that they fail to specify a relevant time
12 period for which information is requested, and/or to the extent the specified period is irrelevant.

13 10. Google objects to the Requests to the extent they are premature under any relevant
14 discovery and/or scheduling orders, and due to the fact that there has been no claim construction
15 hearing or order in this case.

16 11. Google objects to the Requests to the extent that they use terms that are not defined
17 or understood, or are vaguely and/or ambiguously defined, and therefore fail to identify with
18 reasonable particularity the information sought. Google will not speculate as to the meaning to
19 ascribe to such terms.

20 RESPONSES TO REQUEST FOR ADMISSIONS

21 REQUEST FOR ADMISSION NO. 1:

22 Google uses 4-Rank Fully Buffered Dual-In-Line Memory Modules in certain of its
23 servers ("Google's 4-Rank FBDIMMs").

24 RESPONSE TO REQUEST FOR ADMISSION NO. 1:

25 Google incorporates by reference each of the General Objections. Google further objects
26 to this request as vague and ambiguous as to the term "4-Rank Fully Buffered Dual-In-Line
27 Memory Modules," which is not defined in the requests either explicitly or via reference to a
28 standard.

1 Subject to, without waiving, and based upon the foregoing objections, Google responds as
2 follows: as Google understands the term “4-Rank FBDIMM,” Google admits that it uses 4-Rank
3 FBDIMMs. Google reserves the right to supplement or amend its response at an appropriate time.

4 REQUEST FOR ADMISSION NO. 2:

5 The server that Google provided to Netlist for inspection on August 19, 2009 is
6 representative of Google's servers that include Google's 4-Rank FBDIMMs.

7 RESPONSE TO REQUEST FOR ADMISSION NO. 2:

8 Google incorporates by reference each of the General Objections. Google further objects
9 to this Request as vague and ambiguous as to the term “representative.”

10 Subject to, without waiving, and based upon the foregoing objections, Google responds as
11 follows: Google admits that the server presented for inspection on August 19, 2009 is functionally
12 representative of servers using the allegedly infringing 4-rank FBDIMM memory modules in
13 Google's data centers, in that it allowed Netlist to operate the allegedly infringing 4-rank
14 FBDIMM memory module in a manner functionally representative of the memory module as used
15 in servers in Google's data centers. To the extent that Netlist uses the term “representative” in any
16 other sense, Google is unable to admit or deny the remainder of this Request. Google reserves the
17 right to supplement or amend its response at an appropriate time.

18 REQUEST FOR ADMISSION NO. 3:

19 In certain of Google's servers, Google operates Google's 4-Rank FBDIMMs in JEDEC
20 Mode C.

21 RESPONSE TO REQUEST FOR ADMISSION NO. 3:

22 Google incorporates by reference each of the General Objections. In addition, insofar as
23 the term “Mode C” has the same meaning as in the JEDEC Standard JESD82-20A, it invokes the
24 terms “chip select signal” by implication, as those terms are in turn used to define “Mode C” in the
25 standards documents. The definitions of “chip select signal” in the context of the patent are
26 currently subject to debate by the parties, as is the relevance of the JEDEC standards in
27 determining this meaning. Google further objects to this Request as vague and ambiguous as to
28 the term “Mode C.”

1 Subject to, without waiving, and based upon the foregoing objections, Google responds as
2 follows: Google admits that certain FBDIMMs used in certain of its servers follow the Mode C
3 serial channel communication protocol set forth in the JEDEC standard for the respective DRAM
4 used on the DIMM. To the extent not admitted, Google lacks sufficient information to admit or
5 deny this Request. Google reserves the right to supplement or amend its response at an
6 appropriate time.

7 REQUEST FOR ADMISSION NO. 4:

8 Google's 4-Rank FBDIMMs include a plurality of DRAM chips coupled to a printed
9 circuit board.

10 RESPONSE TO REQUEST FOR ADMISSION NO. 4:

11 Google incorporates by reference each of the General Objections. Google further objects
12 to this Request as vague and ambiguous as to the terms "DRAM chips" and "printed circuit
13 board."

14 Subject to, without waiving, and based upon the foregoing objections, Google responds as
15 follows: without acceding to Netlist's definitions of the aforementioned vague, ambiguous, and/or
16 disputed terms, Google admits that certain of its memory modules include DRAM chips coupled
17 to a printed circuit board. To the extent not admitted, Google lacks sufficient information to either
18 admit or deny this Request at this time. Google reserves the right to supplement or amend its
19 response at an appropriate time.

20 REQUEST FOR ADMISSION NO. 5:

21 Google's 4-Rank FBDIMMs include an Advanced Memory Buffer ("Google's AMB").

22 RESPONSE TO REQUEST FOR ADMISSION NO. 5:

23 Google incorporates by reference each of the General Objections. Google further objects
24 to this Request as vague and ambiguous as to the term "Advanced Memory Buffer" (AMB).

25 Subject to, without waiving, and based upon the foregoing objections, Google responds as
26 follows: without acceding to Netlist's definitions of the aforementioned vague, ambiguous, and/or
27 disputed terms, Google admits that the FBDIMMs used by Google include what it understands to
28 be an Advanced Memory Buffer. To the extent not admitted, Google lacks sufficient information

1 to either admit or deny this Request at this time. Google reserves the right to supplement or
2 amend its response at an appropriate time.

3 REQUEST FOR ADMISSION NO. 6:

4 Certain of Google's AMBs include a hardware circuit that receives bits as input ("Input
5 Bits") and which performs at least one predefined function on the Input Bits.

6 RESPONSE TO REQUEST FOR ADMISSION NO. 6:

7 Google incorporates by reference each of the General Objections. Google further objects
8 to this Request as vague and ambiguous as to at least the terms "hardware circuit" and "predefined
9 function." Google further specifically objects to this Request on the basis of General Objection
10 No. 2, above, concerning the "bit" terms. Google further objects to this Request as prematurely
11 calling for a legal conclusion before the Court construes the claims, as it includes terms alleged by
12 Netlist to define the disputed term "logic element."

13 Subject to, without waiving, and based upon the foregoing objections, Google responds as
14 follows: Google lacks sufficient information to either admit or deny this Request at this time.
15 Google reserves the right to supplement or amend its response at an appropriate time.

16 REQUEST FOR ADMISSION NO. 7:

17 Certain of Google's AMBs include a hardware circuit that performs a predefined function
18 on Input Bits to generate output bits.

19 RESPONSE TO REQUEST FOR ADMISSION NO. 7:

20 Google incorporates by reference each of the General Objections. Google further objects
21 to this Request as vague and ambiguous as to at least the terms "hardware circuit," "predefined
22 function," and "output bits." Google further specifically objects to this Request on the basis of
23 General Objection No. 2, above, concerning the "bit" terms. Google further objects to this
24 Request as prematurely calling for a legal conclusion before the Court construes the claims, as it
25 includes terms alleged by Netlist to define the disputed term "logic element."

26 Subject to, without waiving, and based upon the foregoing objections, Google responds as
27 follows: denied.

28

1 REQUEST FOR ADMISSION NO. 8:

2 DRAM chips on Google's 4-Rank FBDIMMs are arranged in ranks.

3 RESPONSE TO REQUEST FOR ADMISSION NO. 8:

4 Google incorporates by reference each of the General Objections. Google further objects
5 to this request as vague and ambiguous as to the term "arranged."

6 Subject to, without waiving, and based upon the foregoing objections, Google responds as
7 follows: Per the parties' stipulated construction of the term "rank," the allocation of DRAM chips
8 into ranks is not a matter of physical arrangement, but rather of electrical connection and logical
9 relationship. Based on that construction, Google admits that its 4-Rank FBDIMMs include
10 DRAM chips organized in ranks. Google reserves the right to supplement or amend its response
11 at an appropriate time.

12 REQUEST FOR ADMISSION NO. 9:

13 DRAM chips on Google's 4-Rank FBDIMMs are arranged in rows.

14 RESPONSE TO REQUEST FOR ADMISSION NO. 9:

15 Google incorporates by reference each of the General Objections.

16 Subject to, without waiving, and based upon the foregoing objections, Google responds as
17 follows: without acceding to Netlist's definitions any disputed claim terms, Google admits that
18 some of the DRAM chips on certain of its FBDIMMs are physically laid out in rows. To the
19 extent not admitted, Google denies this request.

20 REQUEST FOR ADMISSION NO. 10:

21 In certain of Google's servers, at least one Google AMB is electrically coupled to the
22 server's memory controller.

23 RESPONSE TO REQUEST FOR ADMISSION NO. 10:

24 Google incorporates by reference each of the General Objections. Google further objects
25 to this request as vague and ambiguous as to at least the terms "Google AMB," "electrically
26 coupled" and "memory controller."

27 ///

28 ///

1 Subject to, without waiving, and based upon the foregoing objections, Google responds as
2 follows: without acceding to Netlist's definitions of the aforementioned vague, ambiguous, and/or
3 disputed terms, as Google understands it, this Request is admitted.

4 REQUEST FOR ADMISSION NO. 11:

5 In certain of Google's servers, at least one Google AMB receives bits ("Google's AMB
6 Input Bits") from the server's memory controller.

7 RESPONSE TO REQUEST FOR ADMISSION NO. 11:

8 Google incorporates by reference each of the General Objections. Google further objects
9 to this Request as vague and ambiguous as to at least the terms "Google AMB," "receives" and
10 "memory controller." Google further specifically objects to this Request on the basis of General
11 Objection No. 2, above, concerning the "bit" terms.

12 Subject to, without waiving, and based upon the foregoing objections, Google responds as
13 follows: Google lacks sufficient knowledge or information to admit or deny this Request at this
14 time. Google reserves the right to supplement its response at an appropriate time.

15 REQUEST FOR ADMISSION NO. 12:

16 In certain of Google's servers, a Southbound Link is electrically coupled to at least one
17 Google AMB and to the server memory controller.

18 RESPONSE TO REQUEST FOR ADMISSION NO. 12:

19 Google incorporates by reference each of the General Objections. Google further objects
20 to this Request as vague and ambiguous as to at least the terms "Google AMB," "electrically
21 coupled" and "memory controller."

22 Subject to, without waiving, and based upon the foregoing objections, Google responds as
23 follows: without acceding to Netlist's definitions of the aforementioned vague, ambiguous, and/or
24 disputed terms, as Google understands it, this Request is admitted.

25 REQUEST FOR ADMISSION NO. 13:

26 In certain of Google's servers, at least one Google AMB receives DRAM Address Bits
27 from the server's memory controller.

1 RESPONSE TO REQUEST FOR ADMISSION NO. 13:

2 Google incorporates by reference each of the General Objections. Google further objects
3 to this Request as vague and ambiguous as to at least the terms “Google AMB,” “Address Bits”
4 and “memory controller.” Google further specifically objects to this Request on the basis of
5 General Objection No. 2, above, concerning the “bit” terms.

6 Subject to, without waiving, and based upon the foregoing objections, Google responds as
7 follows: Google lacks sufficient knowledge and information to admit or deny this Request at this
8 time. Google reserves the right to supplement its response at an appropriate time.

9 REQUEST FOR ADMISSION NO. 14:

10 In certain of Google’s servers, at least one Google AMB receives DRAM Row Address
11 Bits from the server’s memory controller.

12 RESPONSE TO REQUEST FOR ADMISSION NO. 14:

13 Google incorporates by reference each of the General Objections. Google further objects
14 to this Request as vague and ambiguous as to at least the terms “Google AMB,” “Row Address
15 Bits” and “memory controller.” Google further specifically objects to this Request on the basis of
16 General Objection No. 2, above, concerning the “bit” terms.

17 Subject to, without waiving, and based upon the foregoing objections, Google responds as
18 follows: Google lacks sufficient knowledge and information to admit or deny this Request at this
19 time. Google reserves the right to supplement its response at an appropriate time.

20 REQUEST FOR ADMISSION NO. 15:

21 In certain of Google’s servers, at least one Google AMB receives DRAM Column Address
22 Bits from the server’s memory controller.

23 RESPONSE TO REQUEST FOR ADMISSION NO. 15:

24 Google incorporates by reference each of the General Objections. Google further objects
25 to this Request as vague and ambiguous as to at least the terms “Google AMB,” “Column Address
26 Bits” and “memory controller.” Google further specifically objects to this Request on the basis of
27 General Objection No. 2, above, concerning the “bit” terms.

28 ///

1 Subject to, without waiving, and based upon the foregoing objections, Google responds as
2 follows: Google lacks sufficient knowledge and information to admit or deny this Request at this
3 time. Google reserves the right to supplement its response at an appropriate time.

4 REQUEST FOR ADMISSION NO. 16:

5 In certain of Google's servers, at least one Google AMB receives DRAM Bank Address
6 Bits from the server's memory controller.

7 RESPONSE TO REQUEST FOR ADMISSION NO. 16:

8 Google incorporates by reference each of the General Objections. Google further objects
9 to this Request as vague and ambiguous as to at least the terms "Google AMB," "Bank Address
10 Bits" and "memory controller." Google further specifically objects to this Request on the basis of
11 General Objection No. 2, above, concerning the "bit" terms.

12 Subject to, without waiving, and based upon the foregoing objections, Google responds as
13 follows: Google lacks sufficient knowledge and information to admit or deny this Request at this
14 time. Google reserves the right to supplement its response at an appropriate time.

15 REQUEST FOR ADMISSION NO. 17:

16 In certain of Google's servers, at least one Google AMB receives a number of Rank Select
17 Bits ("AMB Input Rank Select Bits") from the server's memory controller.

18 RESPONSE TO REQUEST FOR ADMISSION NO. 17:

19 Google incorporates by reference each of the General Objections. Google further objects
20 to this Request as vague and ambiguous as to at least the terms "Google AMB," "Rank Select
21 Bits" and "memory controller." Google further specifically objects to this Request on the basis of
22 General Objection No. 2, above, concerning the "bit" terms.

23 Subject to, without waiving, and based upon the foregoing objections, Google responds as
24 follows: Google lacks sufficient knowledge and information to admit or deny this Request at this
25 time. Google reserves the right to supplement its response at an appropriate time.

26 REQUEST FOR ADMISSION NO. 18:

27 In certain of Google's servers, at least one Google AMB receives a number of AMB Input
28 Rank Select Bits and generates a number of Rank Select Bits ("AMB Output Rank Select Bits")

1 wherein the number of AMB Output Rank Select Bits is greater than the number of AMB Input
2 Rank Select Bits.

3 RESPONSE TO REQUEST FOR ADMISSION NO. 18:

4 Google incorporates by reference each of the General Objections. Google further objects
5 to this Request as vague and ambiguous as to at least the term "Google AMB," "Rank Select
6 Bits." Google further specifically objects to this Request on the basis of General Objection No. 2,
7 above, concerning the "bit" terms.

8 Subject to, without waiving, and based upon the foregoing objections, Google responds as
9 follows: denied. Google reserves the right to supplement or amend its response at an appropriate
10 time.

11 REQUEST FOR ADMISSION NO. 19:

12 In certain of Google's servers, at least one Google AMB receives Chip Select Bits that are
13 collectively capable of activating no more than two ranks of DRAM chips (AMB Input Chip
14 Select Bits).

15 RESPONSE TO REQUEST FOR ADMISSION NO. 19:

16 Google incorporates by reference each of the General Objections. Google further objects to
17 this Request as vague and ambiguous as to at least the terms "Google AMB," "Chip Select Bits,"
18 "collectively capable of activating," and "capable of activating no more than two ranks." Google
19 further specifically objects to this Request on the basis of General Objection No. 2, above,
20 concerning the "bit" terms.

21 Subject to, without waiving, and based upon the foregoing objections, Google responds as
22 follows: as phrased, Google lacks sufficient information to either admit or deny this Request at
23 this time. Google reserves the right to supplement or amend its response at an appropriate time.

24 REQUEST FOR ADMISSION NO. 20:

25 In certain of Google's servers, at least one Google AMB receives Google's AMB Input
26 Chip Select Bits and generates Chip Select Bits that are collectively capable of activating four
27 ranks of DRAM chips.

28 ///

1 RESPONSE TO REQUEST FOR ADMISSION NO. 20:

2 Google incorporates by reference each of the General Objections. Google further objects to
3 this Request as vague and ambiguous as to at least the terms “Google AMB,” “Chip Select Bits”
4 and “collectively capable of activating.” Google further specifically objects to this Request on the
5 basis of General Objection No. 2, above, concerning the “bit” terms.

6 Subject to, without waiving, and based upon the foregoing objections, Google responds as
7 follows: denied. Google reserves the right to supplement or amend its response at an appropriate
8 time.

9 REQUEST FOR ADMISSION NO. 21:

10 In certain of Google’s servers, at least one Google AMB receives DRAM Command Bits
11 from the server’s memory controller (“Google’s AMB Input Command Bits”).

12 RESPONSE TO REQUEST FOR ADMISSION NO. 21:

13 Google incorporates by reference each of the General Objections. Google further objects
14 to this Request as vague and ambiguous as to at least the terms “Google AMB,” “Command Bits”
15 and “memory controller.” Google further specifically objects to this Request on the basis of
16 General Objection No. 2, above, concerning the “bit” terms.

17 Subject to, without waiving, and based upon the foregoing objections, Google responds as
18 follows: Google lacks sufficient knowledge and information to either admit or deny this Request
19 at this time. Google reserves the right to supplement or amend its response at an appropriate time.

20 REQUEST FOR ADMISSION NO. 22:

21 Certain of Google’s AMB Input Command Bits encode DRAM Activate Commands.

22 RESPONSE TO REQUEST FOR ADMISSION NO. 22:

23 Google incorporates by reference each of the General Objections. Google further objects
24 to this Request as vague and ambiguous as to at least the terms “Google’s AMB,” “Command
25 Bits,” “encode,” and “Activate Commands.” Google further specifically objects to this Request on
26 the basis of General Objection No. 2, above, concerning the “bit” terms.

27 ///

28 ///

1 Subject to, without waiving, and based upon the foregoing objections, Google responds as
2 follows: Google lacks sufficient knowledge and information to either admit or deny this Request
3 at this time. Google reserves the right to supplement or amend its response at an appropriate time.

4 REQUEST FOR ADMISSION NO. 23:

5 Certain of Google's AMB Input Command Bits encode DRAM Write Commands.

6 RESPONSE TO REQUEST FOR ADMISSION NO. 23:

7 Google incorporates by reference each of the General Objections. Google further objects
8 to this Request as vague and ambiguous as to at least the terms "Google's AMB," "Command
9 Bits," "encode," and "Write Commands." Google further specifically objects to this Request on
10 the basis of General Objection No. 2, above, concerning the "bit" terms.

11 Subject to, without waiving, and based upon the foregoing objections, Google responds as
12 follows: Google lacks sufficient knowledge and information to either admit or deny this Request
13 at this time. Google reserves the right to supplement or amend its response at an appropriate time.

14 REQUEST FOR ADMISSION NO. 24:

15 Certain of Google's AMB Input Command Bits encode DRAM Precharge Commands.

16 RESPONSE TO REQUEST FOR ADMISSION NO. 24:

17 Google incorporates by reference each of the General Objections. Google further objects
18 to this Request as vague and ambiguous as to at least the terms "Google's AMB," "Command
19 Bits," "encode," and "Precharge Commands." Google further specifically objects to this Request
20 on the basis of General Objection No. 2, above, concerning the "bit" terms.

21 Subject to, without waiving, and based upon the foregoing objections, Google responds as
22 follows: Google lacks sufficient knowledge and information to either admit or deny this Request
23 at this time. Google reserves the right to supplement or amend its response at an appropriate time.

24 REQUEST FOR ADMISSION NO. 25:

25 Certain of Google's AMB Input Command Bits encode DRAM Refresh Commands.

26 RESPONSE TO REQUEST FOR ADMISSION NO. 25:

27 Google incorporates by reference each of the General Objections. Google further objects
28 to this Request as vague and ambiguous as to at least the terms "Google's AMB," "Command

1 Bits,” “encode,” and “Refresh Commands.” Google further specifically objects to this Request on
2 the basis of General Objection No. 2, above, concerning the “bit” terms.

3 Subject to, without waiving, and based upon the foregoing objections, Google responds as
4 follows: Google lacks sufficient knowledge and information to either admit or deny this Request
5 at this time. Google reserves the right to supplement or amend its response at an appropriate time.

6 REQUEST FOR ADMISSION NO. 26:

7 Certain of Google’s AMB Input Command Bits encode DRAM Read Commands.

8 RESPONSE TO REQUEST FOR ADMISSION NO. 26:

9 Google incorporates by reference each of the General Objections. Google further objects
10 to this Request as vague and ambiguous as to at least the terms “Google’s AMB,” “Command
11 Bits,” “encode,” and “Read Commands.” Google further specifically objects to this Request on
12 the basis of General Objection No. 2, above, concerning the “bit” terms.

13 Subject to, without waiving, and based upon the foregoing objections, Google responds as
14 follows: Google lacks sufficient knowledge and information to either admit or deny this Request
15 at this time. Google reserves the right to supplement or amend its response at an appropriate time.

16
17 Dated: October 27, 2009

FISH & RICHARDSON P.C.

18
19 By: 

20 Robert J. Kent

21 Attorneys for Plaintiff
22 GOOGLE INC.

23 50675868.doc
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PROOF OF SERVICE

I am employed in the County of San Mateo. My business address is Fish & Richardson P.C., 500 Arguello Street, Suite 500, Redwood City, California 94063. I am over the age of 18 and not a party to the foregoing action.

I am readily familiar with the business practice at my place of business for collection and processing of correspondence for personal delivery, for mailing with United States Postal Service, for facsimile, and for overnight delivery by Federal Express, Express Mail, or other overnight service.

On October 27, 2009, I caused a copy of the following document(s):

PLAINTIFF GOOGLE INC.'S RESPONSES TO NETLIST'S REQUEST FOR ADMISSIONS SET NO. ONE [NOS. 1-26]

to be served on the interested parties in this action by placing a true and correct copy thereof, enclosed in a sealed envelope, and addressed as follows:

Erica J. Pruetz
Email: ejpruetz@pruetzlaw.com
Adrian M. Pruetz
Email: ampruetz@pruetzlaw.com
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Attorneys for Defendant and Counterclaimant
NETLIST, INC.

MAIL: Such correspondence was deposited, postage fully paid, with the United States Postal Service on the same day in the ordinary course of business.

PERSONAL: Such envelope was delivered by hand to the offices of the addressee.

FACSIMILE: Such document was faxed to the facsimile transmission machine with the facsimile machine number stated above. Upon completion of the transmission, the transmitting machine issued a transmission report showing the transmission was complete and without error.

ELECTRONIC MAIL: Such document was transmitted by electronic mail to the addressees' email addresses as stated above.

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FEDERAL EXPRESS:

Such correspondence was deposited on the same day in the ordinary course of business with a facility regularly maintained by Federal Express.

EXPRESS MAIL:


Such correspondence was deposited on the same day in the ordinary course of business with a facility regularly maintained by the United States Postal Service.

OVERNIGHT DELIVERY:

Such correspondence was given on the same day in the ordinary course of business to an authorized courier or a driver authorized by that courier to receive documents.

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

I declare under penalty of perjury that the above is true and correct. Executed on October 27, 2009, at Redwood City, California.


Cheryl Marchesi-Sherwood

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