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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]

**DEFENDANT NETLIST, INC.'S
OBJECTION TO GOOGLE INC.'S
EVIDENCE**

Date: July 27, 2010

Time: 1:00 p.m.

Place: Courtroom 3

Judge: Hon. Sandra Brown Armstrong

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25 AND RELATED COUNTERCLAIMS.
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1 Defendant Netlist, Inc. hereby objects to the following evidence presented by Plaintiff
2 Google, Inc. in connection with the motions for summary judgment set for hearing on July 27,
3 2010 before this court:

4 1. Transcript of deposition of Robert Sprinkle, dated February 18, 2010: page 128, line 17
5 through page 130, line 24. This portion of Mr. Sprinkle's transcript is cited in Google's
6 Opposition to Netlist's Motion for Summary Judgment of Infringement and Counter-Motion for
7 Summary Judgment of Non-Infringement at pages 11 and 14 (Docket No. 152). This evidence is
8 objected to on the ground that it is inadmissible for lack of personal knowledge and as hearsay.
9 See Fed. R. Evid. 602, 802; *Orr v. Bank of Am.*, 285 F.3d 764, 773 (9th Cir. 2002) ("A trial court
10 can only consider admissible evidence in ruling on a motion for summary judgment."). The
11 witness affirmatively asserted a lack of personal knowledge on the subject. See Sprinkle Dep. at
12 124:17-125:9 (Hansen Reply Decl., Ex. 1); see also *id.* at 133:4-9; 135:10-12; 135:19-136:23;
13 137:17-18; 142:11-16; 143:9-12; 144:5-10; 146:8-11; 147:13-17; 156:10-12. As a Google
14 corporate designee under Federal Rule of Civil Procedure 30(b)(6), Mr. Sprinkle's testimony is
15 admissible *against* Google without a showing of personal knowledge, however, *Google* cannot
16 rely on Mr. Sprinkle's testimony given his lack of personal knowledge on the subject of the
17 above-referenced testimony. Fed. R. Civ. P. 32(a)(3); Fed. R. Evid. 801(d)(2).

18 Defendant Netlist, Inc. will respectfully request the court at the hearing on the motions to
19 sustain the above objections and to strike the evidence referred to above.

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21 Dated: July 6, 2010

LEE TRAN & LIANG, APLC

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24 By: /s/ Steven R. Hansen
25 Steven R. Hansen
26 *Attorneys for Defendant and Counterclaimant*
27 NETLIST, INC.
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