Exhibit 3

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12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA

14 (OAKLAND DIVISION)

15

16 GOOGLE INC.,

17   Plaintiff,

18   v.

19 NETLIST, INC.,

20   Defendant.

21

22

AND RELATED COUNTERCLAIMS.

23

24

25

26

27

28

Case No. C 08-04144 SBA

[REDACTED] GOOGLE INC.'S
RESPONSIVE CLAIM CONSTRUCTION
BRIEF

Date: November 12, 2009
Time: 9:00 a.m.
Place: Courtroom 3, 3rd Floor
Judge: Hon. Saundra Brown Armstrong

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1 Bank Address and Address signal inputs in table of "Pin Descriptions"). JEDEC specifications are

2 particularly relevant since Netlist claims that its patent covers Mode C of a related JEDEC

3 standard for FBDIMM devices. Ex. 5 (Am. Infrg. Cont.);   . The

4 inventors' incorporation of a JEDEC standard into the patent demonstrates that JEDEC standards

5 are relevant to the alleged invention. 12:41-45.

2.   Netlist's Proposed Construction Lacks Intrinsic Support

7 Netlist's construction of "control signals" is overbroad and not supported by intrinsic *or*

8 extrinsic evidence. Nothing in the intrinsic record describes control signals as "signals... *that*

9 *regulate system operations*" – this language appears nowhere in the specification or prosecution

10 history. Neither of the specification excerpts Netlist cites refers to "regulat[ing] system

11 operations" or explain what it means to "regulate system operations." Op. Br. at 12: 6:64-7:2,

12 2:34-36. Furthermore, Netlist presents no extrinsic evidence to support this language. "Regulate

13 system operations" is so broad as to be virtually limitless, and would do more to confuse than to

14 enlighten the jury. In particular, Netlist's construction gives the jury no way to distinguish

15 "control signals" from other signals (like "command signals") sent by the computer system.

E.   "the set of input control signals corresponding to a second number of memory devices smaller than the first number of memory devices"

Google's Proposed Construction	Netlist's Proposed Construction
"the set of input control signals generated by the computer system to control a memory module having the second number of memory devices, based on the computer system understanding the memory module to have the second number of devices"[8]	no construction required, or, alternatively, "the set of input control signals received from the computer system, which is configured to utilize a memory module having a second number of memory devices"

23 The parties' dispute over this phrase stems from Netlist's effort to read the "corresponding

24 to" limitation – the heart of the alleged invention -- out of the claim entirely.[9]

25

26 [8] *See* footnotes 1 and 2, *supra*, for clarification of the terms "first number" and "second number."
   [9] Unless the two "corresponding to" limitations in the patent are construed to preclude a signal
27 from "corresponding to" both the actual number and the apparent number of memory devices and
   ranks of devices, the asserted claims are indefinite. The claims implicitly require that the signal
28 "corresponding to" the smaller, apparent number of devices or ranks does not also "correspond to"

14

I. **The Intrinsic Evidence Supports Google's Proposed Construction**

(a) **The Patent's Purpose Is To Allow A Module To Use More Memory Devices Than The System Is Configured To Operate**

The specification shows Google's construction is correct. It repeatedly indicates, including in the Summary of the Invention, that the patent's purpose is to allow a computer system to use a memory module with more memory devices or ranks than it was designed to operate, stating that:

- "In certain embodiments, the memory module 10 simulates a virtual memory module when the number of memory devices 30 of the memory module 10 is larger than the number of memory devices 30 per memory module for which the computer system is configured to utilize." 7:23-28.

- "In certain embodiments, the set of output control signals corresponds to a first number of ranks in which the plurality of memory devices 30 of the memory module 10 are arranged, and the set of input control signals corresponds to a second number of ranks per memory module for which the computer system is configured. The second number of ranks in certain embodiments is smaller than the first number of ranks." 7:6-14.

- "In certain embodiments, the computer system is configured for a number of ranks per memory module which is smaller than the number of ranks in which the memory devices 30 of the memory module 10 are arranged." 7:30-33; *see also* 7:33-43.

- "The logic element receives a set of input control signals from the computer system. The set of input control signals corresponds to a second number of memory devices smaller than the first number of memory devices. The logic element generates a set of output control signals in response to the set of input control signals. The set of output control signals corresponds to the first number of memory devices." 2:51-58; *see also* 2:63-3:3; 3:8-16.

the actual number of devices or ranks, and this is necessarily so; otherwise, the claims would encompass modules in which the actual number of memory devices and ranks is the same as the apparent number of devices and ranks, and such modules are clearly prior art.

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