

1 TIMOTHY T. SCOTT (SBN 126971/[tscott@kslaw.com](mailto:tscott@kslaw.com))  
 GEOFFREY M. EZGAR (SBN 184243/[gezgar@kslaw.com](mailto:gezgar@kslaw.com))  
 2 LEO SPOONER III (SBN 241541/[lspooner@kslaw.com](mailto:lspooner@kslaw.com))  
 KING & SPALDING LLP  
 3 333 Twin Dolphin Drive, Suite 400  
 Redwood Shores, CA 94065  
 4 Telephone: (650) 590-0700  
 Facsimile: (650) 590-1900

5 SCOTT T. WEINGAERTNER (*pro hac vice*/[sweingaertner@kslaw.com](mailto:sweingaertner@kslaw.com))  
 6 ROBERT F. PERRY ([rperry@kslaw.com](mailto:rperry@kslaw.com))  
 ALLISON ALTERSOHN (*pro hac vice*/[aaltersohn@kslaw.com](mailto:aaltersohn@kslaw.com))  
 7 DANIEL MILLER (*pro hac vice*/[dmiller@kslaw.com](mailto:dmiller@kslaw.com))  
 SUSAN KIM (*pro hac vice*/[skim@kslaw.com](mailto:skim@kslaw.com))  
 8 KING & SPALDING LLP  
 1185 Avenue of the Americas  
 9 New York, NY 10036-4003  
 Telephone: (212) 556-2100  
 10 Facsimile: (212) 556-2222

11 Attorneys for Plaintiff  
 12 GOOGLE INC.

13  
 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. CV08-04144 SBA  
 [Related to Case No: CV09-05718 SBA]

**GOOGLE INC.'S NOTICE OF MOTION  
 AND MOTION TO SHORTEN TIME**

1           **TO THE PARTIES AND THEIR ATTORNEYS OF RECORD:**

2           PLEASE TAKE NOTICE that pursuant to Civ. L.R. 6-3, Plaintiff Google, Inc. (“Google”)  
3 hereby move this Court for an order shortening the time on its *Motion to Stay Pending*  
4 *Reexamination of U.S. Patent No. 7,289,386*. This motion is supported by the following  
5 argument, the Declaration of Allison Altersohn in Support of Google’s Motion to Shorten Time  
6 (“Decl.”), the facts established in this case, the evidence on file, and Google’s Motion to Stay  
7 Pending Reexamination of U.S. Patent 7,289,386 and the Declaration of Allison Altersohn in  
8 Support of Google Inc.’s Motion to Stay Pending Reexamination of U.S. Patent No. 7,289,386  
9 filed concurrently herewith.

10                                   **ARGUMENT**

11           Pursuant to Civil Local Rule 6-3, Google respectfully seeks the Court’s leave for a hearing  
12 on its *Motion to Stay Pending Reexamination of U.S. Patent No. 7,289,386* either on September  
13 14, 2010, or as soon thereafter as reasonably possible. As set forth in Google’s Motion to Stay,  
14 the United States Patent and Trademark Office (“USPTO”) recently granted earlier this month  
15 Google’s request for *inter partes* reexamination of U.S. Patent No. 7,289,386 (“the ‘386 Patent”).  
16 (Decl. Ex. A.) In view of the USPTO finding seven (7) substantial new questions of patentability  
17 for all asserted claims of the ‘386 Patent based on multiple prior art references, Google is moving  
18 the Court for a stay in this case until the current reexamination of the ‘386 Patent is concluded.

19           Pursuant to the local rules, the next available date on this Court’s calendar to that is at least  
20 35 days from today would be October 26, 2010. However, this would be after the Court already  
21 conducts a hearing on the parties’ pending motions for summary judgment, which is set to take  
22 place on September 14, 2010, and further holds the pretrial conference for this matter on October  
23 19, 2010. As explained in Google’s Motion to Stay, a stay is appropriate in this case because it  
24 will further the interest of judicial economy, particularly because the pending *inter partes*  
25 reexamination is likely to resolve all issues in the litigation, and because a stay does not unduly  
26 prejudice or present a clear tactical disadvantage to Netlist. Therefore, Google requests that its  
27 Motion to Stay be heard as soon as practically possible so the parties and especially the Court can  
28 avoid expending significant work in preparing for the remaining portions of this case.

1 In accordance with the Court's Standing Order, Google met and conferred with Netlist  
2 before filing this motion and Netlist refused to agree to stipulate to such motion.

3 **CONCLUSION**

4 For all these reasons, Google respectfully requests this motion to shorten time be granted.  
5

6 DATED: August 26, 2010

**KING & SPALDING LLP**

7 By: /s/ Geoffrey Ezgar.  
8 Geoffrey Ezgar (SBN 184243)  
9 Attorneys for Plaintiff  
GOOGLE INC.

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28