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 NETLIST, INC.

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 18 UNITED STATES DISTRICT COURT
 19 NORTHERN DISTRICT OF CALIFORNIA
 20 OAKLAND DIVISION

22 GOOGLE INC.,
 23 Plaintiff,
 24 v.
 25 NETLIST, INC.,
 26 Defendant.

Case No. 08-04144 SBA

**JOINT STIPULATION AND
 [PROPOSED] ORDER DISMISSING
 COUNT OF CONTRIBUTORY
 INFRINGEMENT WITHOUT
 PREJUDICE**

1 WHEREAS Plaintiff Google Inc. (“Google”) and Defendant Netlist, Inc. (“Netlist”) wish
2 to dismiss their respective contributory infringement claims and counterclaims with regard to U.S.
3 Patent No. 7,289,386 (“the ’386 Patent”), which are now pending in the action entitled Google
4 Inc. v. Netlist, Inc., Case No. 08-04144 SBA;

5 IT IS HEREBY THEREFORE STIPULATED by and between Google and Netlist,
6 through their respective counsel of record, that pursuant to Rule 15(a) of the Federal Rules of Civil
7 Procedure, all contributory infringement claims and counterclaims made under the ’386 Patent
8 shall be dismissed without prejudice. *See Gronholz v. Sears, Roebuck & Co.*, 836 F.2d 515, 517-
9 18 (Fed. Cir. 1987) (noting that voluntary dismissal of fewer than all claims in an action is treated
10 as an amendment of the pleadings pursuant to Fed. R. Civ. Proc. 15). This stipulation has no
11 effect upon any other claims or counterclaims arising under the ’386 Patent asserted in this action.

12 Dated: June 12, 2009

MORRISON & FOERSTER LLP

13
14 By: /s/ L. Scott Oliver

L. SCOTT OLIVER

Attorneys for Defendant
NETLIST, INC.

15
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17 Dated: June 12, 2009

FISH & RICHARDSON P.C.

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19 By: /s/Christina D. Jordan

CHRISTINA D. JORDAN

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DECLARATION OF CONSENT

Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest under penalty of perjury that concurrence in the filing of this document has been obtained from L. Scott Oliver.

Dated: June 12, 2009

FISH & RICHARDSON P.C.

By: /s/Christina D. Jordan
CHRISTINA D. JORDAN

Attorneys for Plaintiff
GOOGLE, INC.

IT IS SO ORDERED.

All contributory infringement claims and counterclaims made under the '386 Patent shall be dismissed without prejudice. This order has no effect upon any other claims or counterclaims arising under the '386 Patent asserted in this case.

Dated: June ____, 2009

SAUNDRA BROWN ARMSTRONG
United States District Judge

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