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 15 NETLIST, INC.

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

20 GOOGLE INC.,

21 Plaintiff,

22 v.

23 NETLIST, INC.,

24 Defendant.
 25

Case No. 08-04144 SBA

**JOINT INSPECTION PROTOCOL
 AND [PROPOSED] ORDER**

1 WHEREAS this Court granted Defendant Netlist, Inc.'s ("Netlist") request to inspect a
2 functioning server of the type used in Plaintiff Google Inc.'s ("Google") data centers and utilizing
3 the accused 4-rank FBDIMMs on an attorneys' eyes only basis, and directed the parties to meet
4 and confer on the inspection protocol and submit a proposed order containing the agreed upon
5 protocol to the Court;

6 IT IS HEREBY THEREFORE STIPULATED by and between Google and Netlist,
7 through their respective counsel of record, that Netlist's inspection of Google's server will adhere
8 to the following inspection protocol. Netlist will perform the following steps in its inspection:

- 9 1. Obtain information about the server's platform, including:
 - 10 a. Memory controller hub information (vendor and model) for the platform;
 - 11 b. Number of DIMM sockets per board for the platform;
 - 12 c. BIOS information (manufacturer, version, and last update date) for the
13 platform;
- 14 2. Obtain information about the FBDIMM, including:
 - 15 a. AMB manufacturer and part number/revision number;
 - 16 b. Memory density, number of DRAMs per module, number of AMBs
 - 17 c. DRAM information (part number and organization);
- 18 3. Use the provided serial console interface to verify that the memory reported by the
19 system includes all four ranks of memory devices on the installed FBDIMMs;
- 20 4. Read and write to the AMB Registers outlined in the JEDEC FBDIMM AMB
21 specification in order to:
 - 22 a. verify that on start-up the memory controller hub activates Mode C;
 - 23 b. verify system memory utilization;
 - 24 c. de-activate Mode C
- 25 5. Observe power consumption by the FBDIMM installed on the server. To do this,
26 Netlist will:
27
28

1 a. unplug the power lines running to the server and to the memory modules,
2 connect those power lines into an oscilloscope or voltmeter, and plug the output from the scope or
3 voltmeter into the server or memory module;

4 b. measure the voltage and/or current consumed by the FBDIMM produced by
5 Google while the server operates in Mode C, and also while the server operates with Mode C
6 deactivated;

7 c. disconnect the FBDIMM produced by Google from the server;

8 d. as above, measure the voltage and/or current consumed in Mode C and non-
9 Mode C by commercially available FBDIMMs to be provided by Netlist; to do this, Netlist will
10 disconnect the Google FBDIMM from the slot in which it is installed and install into the server
11 commercially available FBDIMMs having each of the following configurations (rank/bit width):
12 2-rank/x4, 2-rank/x8, 4-rank/x4, 4-rank/x8; and
13

14 e. return the server and FBDIMM to their original condition.

15 6. Monitor thermal characteristics of the server while operating in Mode C and non-
16 Mode C using an infrared thermometer; during this monitoring, Netlist will run a computationally
17 intensive program (which Google may propose) to exercise the CPU and memory;

18 7. Photograph the server and the memory modules, including the memory controller
19 hub and connections to the FBDIMMs, subject to the following conditions:
20

21 a. the maximum number of photographs taken will be twenty (20), excluding
22 those not retained because of poor quality;

23 b. the photographs shall be designated Confidential – Attorneys Eyes Only
24 under the Protective Order;

25 c. the Protective Order will be amended to include a provision specific to
26 photographs similar to the current provisions applicable to source code and limiting to ten (10) the
27

1 total number of Netlist representatives who will be permitted to view or possess copies of the
2 photographs;

3 d. Netlist will maintain a log identifying the chain of custody for each
4 photograph taken, including identifying where each photograph is stored, any individuals to whom
5 it is transmitted, the date(s) of any such transmissions, and where each transmitted photograph is
6 stored (e.g., personal computer of a named individual, directory on a shared server, etc.).
7

8 IT IS FURTHER STIPULATED by and between Netlist and Google, through their counsel
9 of record, as follows:

10 1. The server provided by Google will be functionally representative of servers using
11 the allegedly infringing 4-rank FBDIMM memory modules in Google's data centers, in that it will
12 allow Netlist to operate the allegedly infringing 4-rank FBDIMM memory module in a manner
13 functionally representative of the memory module as used in servers in Google's data centers.
14

15 2. The server will have a command line interface allowing Netlist to read and write to
16 the memory registers and verify the system memory available.

17 3. The inspection will take place at the offices of Fish & Richardson P.C., at 500
18 Arguello St., Suite 500, Redwood City, California 94063. Two Google representatives must be
19 present at the inspection, including a legal representative and a technical representative, and the
20 inspection will be videotaped. Netlist will be provided with a private break-out room.

21 4. Netlist will not conduct any inspection that poses, in part or in whole, a reasonable
22 likelihood of damaging Google's server or FBDIMM.

23 5. Netlist will provide model numbers of the commercially available FBDIMMs it
24 intends to use in its inspection to Google as soon as possible, and no later than five (5) business
25 days before the inspection.

26 6. In the event that technical information currently unknown to the parties renders the
27 protocol detailed above technically unfeasible or unreasonably difficult, the parties agree to meet
28 and confer in order to amend this agreement to appropriately address such difficulties.

1 7. The protocol detailed above delineates the outer limits of Netlist’s permissible
2 inspection of Google’s server.

3
4 Dated: June 24, 2009

MORRISON & FOERSTER LLP

5
6 By: /s/ Daniel A. Zlatnik
 DANIEL A. ZLATNIK

7 Attorneys for Defendant
8 NETLIST, INC.

9 Dated: June 24, 2009

FISH & RICHARDSON P.C.

10
11 By: /s/ Christina D. Jordan
 CHRISTINA D. JORDAN

12 Attorneys for Plaintiff
13 GOOGLE INC.

14
15 **DECLARATION OF CONSENT**

16 Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest under
17 penalty of perjury that concurrence in the filing of this document has been obtained from Daniel
18 A. Zlatnik.

19
20 Dated: June 24, 2009

FISH & RICHARDSON P.C.

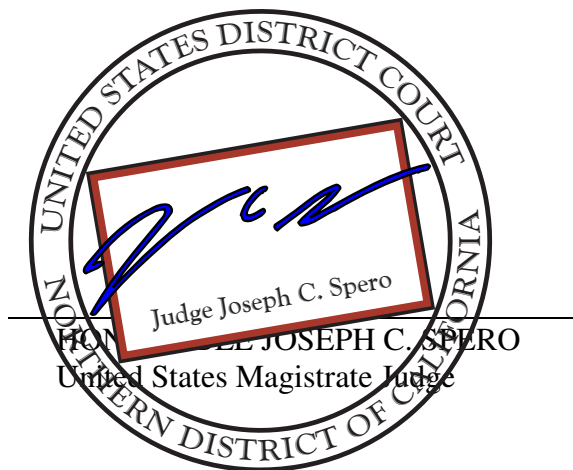
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22 By: /s/ Christina D. Jordan
 Christina D. Jordan

23 Attorneys for Plaintiff
24 GOOGLE INC.

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IT IS SO ORDERED.

Dated: June 25, 2009



HONORABLE JOSEPH C. SPERO
United States Magistrate Judge

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