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 12 Attorneys for Plaintiff  
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13  
 14 UNITED STATES DISTRICT COURT  
 15 NORTHERN DISTRICT OF CALIFORNIA  
 16 OAKLAND DIVISION

17 NETLIST, INC.,  
 18 Plaintiff,  
 19 v.  
 20 GOOGLE, INC.,  
 21 Defendant.

Case No. C 09-05718 SBA  
 [Related to Case No. C 08-04144 SBA]

**DECLARATION OF JESSE HINDMAN IN  
 SUPPORT OF PLAINTIFF NETLIST, INC.'S  
 UNOPPOSED MOTION TO CONTINUE  
 THE CLAIM CONSTRUCTION HEARING  
 DATE**

1 I, Jesse Hindman, declare as follows:

2 1. I am an attorney at law duly licensed to practice before this Court. I am an  
3 associate in the law firm of DLA Piper LLP (US), counsel of record for Plaintiff Netlist, Inc.  
4 (“Netlist”) and offer this declaration in support of Netlist’s Unopposed Motion to Continue the  
5 Claim Construction Hearing Date. Unless the context indicates otherwise, I have personal  
6 knowledge of the facts stated herein and, if called upon to do so, could and would competently  
7 testify thereto.

8 2. DLA Piper was ordered substituted into this case as counsel for Netlist on October  
9 26, 2010.

10 3. This case deals with highly technical subject matter. Given DLA Piper’s very  
11 recent substitution, Netlist requests a brief continuance of the claim construction hearing so that  
12 DLA Piper has adequate time to study the relevant technology, analyze the parties’ claims and  
13 defenses, and prepare for the hearing which is presently scheduled for December 8, 2010.

14 4. On October 27, 2010 my office contacted Judge Armstrong’s calendar clerk to  
15 inquire about alternative claim construction hearing dates in late February 2011 or early March  
16 2011 and was informed that Judge Armstrong was available on March 9, 10, 16, 17, 23 and 24,  
17 2011.

18 5. On October 28, 2010 my office communicated to counsel for Defendant Google  
19 Inc. (“Google”), the Court’s available dates for the claim construction hearing.

20 6. On October 29, 2010 counsel for Google informed my office that Google was  
21 amenable to either the March 17 or 23, 2011 alternative dates and would not oppose a motion by  
22 Netlist to continue the hearing.

23 7. During the week of November 2, 2010 my office was in further contact with  
24 Google’s counsel seeking Google’s consent to join in a motion for continuance or to stipulate to  
25 the continuance. Google declined to stipulate or join in the motion, but reiterated that it would  
26 not oppose Netlist’s motion.

27 8. Netlist may suffer prejudice if the Court denies the requested continuance. This  
28 case involves advanced computer memory module technology. DLA Piper only recently

1 substituted into this case and the requested continuance would provide DLA Piper adequate time  
2 to become familiar with the parties' claims and defenses, the evidentiary record and the complex  
3 technology at issue.

4  
5 9. Other than extensions granted during the pleadings stage of this case, the only  
6 relevant prior case schedule modification involved the Court vacating a September 9, 2010 claim  
7 construction hearing date and, pursuant to the parties' stipulation, rescheduling the same for  
8 December 8, 2010.

9 10. Netlist's requested continuance will not adversely affect the case schedule. Other  
10 than the currently scheduled claim construction hearing and case management conference  
11 (scheduled immediately following the claim construction hearing) there are no other outstanding  
12 Court deadlines. Claim construction briefing is complete and no trial date has been set.  
13 Therefore the requested schedule modification would have little effect on the case schedule other  
14 than to continue the claim construction hearing and case management conference approximately  
15 100 days.

16 Dated: November 5, 2010

DLA PIPER LLP (US)

By 

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