

1 SEAN C. CUNNINGHAM, Bar No. 174931  
 sean.cunningham@dlapiper.com  
 2 JOHN D. KINTON, Bar No. 203250  
 john.kinton@dlapiper.com  
 3 JESSE HINDMAN, Bar No. 222935  
 jesse.hindman@dlapiper.com  
 4 DLA PIPER LLP (US)  
 401 B Street, Suite 1700  
 5 San Diego, CA 92101-4297  
 Tel: 619.699.2700  
 6 Fax: 619.699.2701

DONALD F. ZIMMER (SBN 112279)  
 fzimmer@kslaw.com  
 CHERYL A. SABNIS (SBN 224323)  
 csabnis@kslaw.com  
 KING & SPALDING LLP  
 101 Second Street - Suite 2300  
 San Francisco, CA 94105  
 Telephone: (415) 318-1200  
 Facsimile: (415) 318-1300

7 JOHN M. GUARAGNA, Bar No. 199277  
 john.guaragna@dlapiper.com  
 8 DLA PIPER LLP (US)  
 401 Congress Avenue, Suite 2500  
 9 Austin, TX 78701-3799  
 Telephone: (512) 457-7125  
 10 Facsimile: (512) 721-2325

SCOTT T. WEINGAERTNER  
 (pro hac vice/sweingaertner@kslaw.com)  
 ROBERT F. PERRY (rperry@kslaw.com)  
 ALLISON ALTERSOHN  
 (pro hac vice/aaltersohn@kslaw.com)  
 KING & SPALDING LLP  
 1185 Avenue of the Americas  
 New York, NY 10036-4003  
 Telephone: (212) 556-2100  
 Facsimile: (212) 556-2222

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 12 Attorneys for Plaintiff  
 13 NETLIST, INC.

Attorneys for Defendant  
 GOOGLE INC.

14 UNITED STATES DISTRICT COURT  
 15 NORTHERN DISTRICT OF CALIFORNIA  
 16 OAKLAND DIVISION

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

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

**JOINT STIPULATION TO STAY  
 PROCEEDINGS PENDING  
 REEXAMINATION OF U.S.  
 PATENT NO. 7,619,912**

1           1.    WHEREAS, on September 1, 2010 the United States Patent and Trademark Office  
2 (“USPTO”) ordered the *inter partes* reexamination of United States Patent Number 7,619,912  
3 (“the ‘912 patent” or “patent-in-suit”) pursuant to a request for reexamination filed by Inphi Corp.  
4 (reexamination control no. 95/001,339);

5           2.    WHEREAS, on October 20, 2010 Smart Modular Technologies filed a request for *inter*  
6 *partes* reexamination of the ‘912 patent with the USPTO (reexamination control no. 95/000,578);

7           3.    WHEREAS, on October 21, 2010 Defendant Google Inc. filed a separate request for  
8 *inter partes* reexamination of the ‘912 patent with the USPTO (reexamination control no.  
9 95/000,579);

10          4.    WHEREAS, counsel for Netlist and Google have met and conferred regarding the status  
11 of this case and agree that a stay of the current litigation is appropriate;

12          5.    WHEREAS, the parties stipulate that the current litigation be stayed and all hearings and  
13 deadlines in this matter to be taken off calendar until final exhaustion of the aforementioned *inter*  
14 *partes* reexamination proceedings, including any appeals, of the ‘912 patent;

15          6.    WHEREAS, this Court has previously issued schedule modification Orders in this matter  
16 first continuing a September 9, 2010 Claim Construction Hearing to December 8, 2010 (Dkt. No.  
17 57) and then subsequently rescheduling the Claim Construction Hearing to March 17, 2011 (Dkt.  
18 No. 64);

19          7.    WHEREAS, the requested stay would have minimal impact on the case schedule—no  
20 trial date has been set and there are no other Court deadlines besides the March 17, 2011 Claim  
21 Construction Hearing and further Case Management Conference scheduled to take place  
22 immediately following such hearing;

23          8.    WHEREAS, on September 14, 2010 this Court entered an Order Granting Plaintiff’s  
24 Unopposed Motion to Stay Pending Reexamination in the Related Case No. 4:08-cv-04144-SBA  
25 (Dkt. No. 188) until the *inter partes* reexamination of U.S. Patent No. 7,289,386, a related patent  
26 to the ‘912 patent, is complete;

27          9.    WHEREAS, the requested stay would further interests of judicial economy and  
28 conservation of the parties’ and the Court’s resources;

1 10. WHEREAS, in consideration of the foregoing factors, the parties respectfully request  
2 that all proceedings before the Court in Case Number 4:09-cv-05718-SBA be stayed until all of  
3 the pending aforementioned *inter partes* reexamination proceedings, including any appeals, of the  
4 '912 patent before the USPTO are complete;

5 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between  
6 Plaintiff Netlist, Inc. and Defendant Google Inc. through their respective counsel, subject to the  
7 approval of the Court, that all proceedings before the Court in Case Number 4:09-cv-05718-SBA  
8 be stayed until all of the pending aforementioned *inter partes* reexamination proceedings,  
9 including any appeals, of the '912 patent before the USPTO are complete.

10 Dated: December 27, 2010

Dated: December 27, 2010

11 DLA PIPER LLP (US)

KING & SPALDING LLP

12 By /s/ Sean C. Cunningham

By /s/ Allison Altersohn

13  
14 Sean C. Cunningham (Bar No. 174931)  
15 John D. Kinton (Bar No. 203250)  
16 Jesse Hindman (Bar No. 222935)  
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18 401 B Street, Suite 1700  
19 San Diego, CA 92101-4297  
20 Tel: 619.699.2700  
21 Fax: 619.699.2701

22 John M. Guaragna (Bar No. 199277)  
23 401 Congress Avenue, Suite 2500  
24 Austin, TX 78701-3799  
25 Tel: (512) 457-7125  
26 Fax: (512) 721-2325

27 Attorneys for Plaintiff  
28 NETLIST, INC.

DONALD F. ZIMMER (SBN 112279)  
fzimmer@kslaw.com  
CHERYL A. SABNIS (SBN 224323)  
csabnis@kslaw.com  
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San Francisco, CA 94105  
Telephone: (415) 318-1200  
Facsimile: (415) 318-1300

SCOTT T. WEINGAERTNER  
(*pro hac vice*/sweingaertner@kslaw.com)  
ROBERT F. PERRY (rperry@kslaw.com)  
ALLISON ALTERSOHN  
(*pro hac vice*/aaltersohn@kslaw.com)  
1185 Avenue of the Americas  
New York, NY 10036-4003  
Telephone: (212) 556-2100  
Facsimile: (212) 556-2222

Attorneys for Defendant  
GOOGLE INC.