

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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SAMSUNG ELECTRONICS CO., LTD, MICRON TECHNOLOGY, INC.,  
MICRON SEMICONDUCTOR PRODUCTS, INC., and MICRON  
TECHNOLOGY TEXAS LLC,<sup>1</sup>  
Petitioners.

v.

NETLIST, INC.,  
Patent Owner.

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Case IPR2022-00996  
Patent No. 11,016,918

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**PATENT OWNER NETLIST, INC.'S NOTICE OF APPEAL**

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<sup>1</sup> Micron Technology, Inc., Micron Semiconductor Products, Inc., and Micron Technology Texas LLC filed a motion for joinder and a petition in IPR2023-00406 and have been joined as petitioners in this proceeding.

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Pursuant to 35 U.S.C. §§ 141, 142, and 319, and in accordance with 37 C.F.R. §§ 90.2-90.3, Patent Owner Netlist, Inc. (“Netlist”) appeals to the United States Court of Appeals for the Federal Circuit from the Final Written Decision of the Patent Trial and Appeal Board (“Board”) entered on December 6, 2023 in IPR2022-00996 (Paper No. 49) (“Final Written Decision”), attached as Exhibit A; the Order denying Director Review of the Final Written Decision dated March 18, 2024 (Paper 53) (“Decision on Director Review Request”), attached as Exhibit B; and from all underlying findings, determinations, rulings, opinions, orders, and decisions regarding the *inter partes* review (Case IPR2022-00996) of U.S. Patent No. 11,016,918 (the “918 Patent”).

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Netlist states that the issues on appeal include, but are not limited to: the Board’s determination that Claims 1 through 30 of the ‘918 Patent have been shown by a preponderance of the evidence to be unpatentable; the Board’s construction of the challenged claims and application of its construction of the claims to the facts of record; the Board’s procedural rulings, including its rulings regarding the adequate and timely preservation of certain of the parties’ arguments and denial of submission of supplemental evidence that came into being after the sur-reply; the adequacy of the Board’s consideration of the expert testimony, prior art, and other evidence in the record, including, but not limited to, evidence and testimony from related district court proceedings between Petitioner

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and Patent Owner; the Board's factual findings, conclusions of law, or other determinations supporting or related to those issues (such as motivation to combine or reasonable expectation of success); the Board's compliance with the Administrative Procedure Act, including whether the Final Written Decision, the denial of Director Review and the denial of Netlist's request for submitting supplemental evidence are arbitrary, capricious, an abuse of discretion, not in accordance with law, or in excess of the Board's jurisdiction, and any procedural irregularities associated with the review proceeding; as well as all other issues decided adversely to Netlist in any orders, decisions, rulings, and opinions.

This Notice of Appeal is being e-filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit, along with payment of the required docketing fees. In addition, a copy of this Notice of Appeal is being filed simultaneously with the Patent Trial and Appeal Board and filed by e-mail to the Director of the United States Patent and Trademark Office at [efileSO@uspto.gov](mailto:efileSO@uspto.gov).

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Dated: May 20, 2024

Respectfully submitted,

/Hong Zhong/

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**CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. § 42.6, the undersigned certifies that on May 20, 2024, a copy of the foregoing **PATENT OWNER'S NOTICE OF APPEAL** was served by electronic mail, as agreed to by the parties, upon the following:

**BAKER BOTTS L.L.P.**

Eliot D. Williams, Reg. No. 50,822  
Theodore W. Chandler, Reg. No. 50,319  
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I also certify that in addition to being filed electronically with the Board, a copy of this Notice of Appeal was filed on May 20, 2024, for delivery to the Director of the United States Patent and Trademark Office at the following e-mail address: [efileSO@uspto.gov](mailto:efileSO@uspto.gov).

I further certify that a copy of the foregoing Notice of Appeal is being filed via CM/ECF on May 20, 2024, with the United States Court of Appeals for the Federal Circuit.

*/Susan M. Langworthy/*  
Susan M. Langworthy

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