

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  
Petitioner,

v.

NETLIST, INC.,  
Patent Owner.

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

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**PATENT OWNER'S MOTION TO SUBMIT SUPPLEMENTAL  
INFORMATION PURSUANT TO 37 C.F.R. §42.123(b)**

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Case No. IPR2022-00996

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Netlist respectfully moves to submit the deposition transcript excerpts attached to this motion as supplemental information under 37 C.F.R. §42.123(b).

### **I. Nature of Supplemental Information Sought to be Submitted**

The supplemental information consists of testimony from Micron's corporate representative, Boe Holbrook, given in a parallel litigation between Patent Owner and Petitioner Micron in which the '918 patent is at issue. *See* Attachment A, 1; EX2071, 1.

Mr. Holbrook has been with Micron since 2002 and his title is Senior Manager in the Module Development Group. EX2065, ¶2; *see also* Attachment A, 10:17-21. In the parallel litigation, Micron designated Mr. Holbrook as its 30(b)(6) corporate representative on over a dozen topics, including non-infringement EX2066, 29 (Topic #89); EX2067 (Micron's counsel designating Mr. Holbrook for Topic #89). In order to testify on "all facts and circumstances" relating to non-infringement of the '918 patent, Mr. Holbrook reviewed the '918 patent: "Q. You understand that Micron is accused of infringing a number of Netlist patents in this case. Correct? A. I understand that. Q. And did you review those patents in preparation for your testimony? A. Yes, sir." Mr. Holbrook testified he led the design of memory modules at Micron: "Q. Is there anyone more senior than you in module development? A. No, sir." Attachment A, 10:17-19.

The testimony is non-hearsay under FRE 801(2) as Mr. Holbrook testified on the operation and structure of DDR5 modules that are covered by the '918 patent. EX2066, 13 (Topics #14-17); EX2067 (showing Mr. Holbrook was designated for same topics). The testimony is admissible against Samsung under FRE 804(3) for the same reason, coupled with the fact that the statement removes a prior art design in which information is sent in packetized form from the scope of the '918 patent claims, which harms Mr. Holbrook's employers' interest.

## **II. Relevance of the Supplemental Information**

The '918 patent recites "edge connections configured to couple power, data, address, and control signals between the memory modules and the host system." *See e.g.*, EX1001, Cl. 1. The Petitioners point to signals transiting from the AMB to the DRAM chips in FBDIMMs as satisfying this element: "A0-A15," "RAS, CAS, WE, CS"). Pet., 21-25. The claims, however, require the recited signals to pass from the host system to the memory module via the memory module's edge connections. Samsung's expert, Dr. Wolf, testified that, across the edge in FBDIMM, "the information is sent to the advanced memory before in the form of serialized packets." EX2030, 10:7-11. In order to backfill, in its reply Samsung changed arguments and maintained that the serialized packets sent across the edge constitute the required signals. Paper 25, 7-9. In addition to being an improper new argument, it is contradicted by Mr. Holbrook.

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