

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SK HYNIX INC., SK HYNIX AMERICA INC., and SK HYNIX  
MEMORY SOLUTIONS INC.,  
Petitioner,

v.

NETLIST, INC.,  
Patent Owner.

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Case IPR2017-00548 (Patent 8,489,837 B1)  
Case IPR2017-00549 (Patent 8,756,364 B1)  
Case IPR2017-00560 (Patent 8,689,064 B1)  
Case IPR2017-00587 (Patent 8,671,243 B2)

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Record of Oral Hearing  
Held: February 14, 2018

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Before STEPHEN C. SIU, MATTHEW R. CLEMENTS, and SHEILA F.  
McSHANE, *Administrative Patent Judges*.

Case IPR2017-00548 (Patent 8,489,837 B1)  
Case IPR2017-00549 (Patent 8,756,364 B1)  
Case IPR2017-00560 (Patent 8,689,064 B1)  
Case IPR2017-00587 (Patent 8,671,243 B21)

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The above-entitled matter came on for hearing on Wednesday, February 14, 2018, commencing at 1:04 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

Case IPR2017-00548 (Patent 8,489,837 B1)  
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1 PROCEEDINGS

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3 JUDGE McSHANE: Good afternoon. We are here today. We  
4 have hearings in case numbers IPR2017-00548, 549, 560, 587. These are  
5 SK Hynix, a variety of different companies there, America and Memory  
6 Solutions, Inc., v. Netlist.

7 Can we have appearances, please.

8 MR. MICALLEF: Good morning, Your Honors. Joe Micallef  
9 from Sidley Austin for the petitioners. I have a number of lawyers. I don't  
10 know if you want me to introduce them all now or they can introduce  
11 themselves when they come up, but at counsel table is Wonjoo Suh, also  
12 from Sidley.

13 JUDGE McSHANE: So you are going to have several people  
14 speaking today?

15 MR. MICALLEF: Yes, Your Honor. I'm going to make the first  
16 argument and then each proceeding will have a different lawyer making the  
17 argument.

18 JUDGE McSHANE: Okay. We'll introduce them as they come  
19 through. And for patent owner, please.

20 MR. ARJOMAND: Good morning, Mehran Arjomand of  
21 Morrison & Foerster for patent owner, Netlist. With me today is David  
22 Kim.

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1 MR. WIMBISCUS: Good afternoon, Your Honors. Thomas  
2 Wimbiscus on behalf of Netlist also. With me is Wayne Bradley. Thank  
3 you.

4 JUDGE McSHANE: All right. So we sent out a trial order on  
5 January 25th with a general outline where we'll allow 30 minutes per side  
6 per case. And that was the general allocation. Any comments on that  
7 allocation? Is that how you want to proceed?

8 MR. MICALLEF: That's fine with us, Your Honor.

9 MR. ARJOMAND: Fine with us, Your Honor.

10 JUDGE McSHANE: Thank you. So the way that we are going to  
11 do this is petitioner is going to start. They'll present their case, each specific  
12 case as we go along. We are doing each case separately as we move  
13 through. I assume we are going to start with the 548 case?

14 MR. MICALLEF: Yes, Your Honor.

15 JUDGE McSHANE: And then patent owner is going to present its  
16 opposition, and petitioner can reserve rebuttal time. Now, I assume you are  
17 going to use demonstratives here. And if you could, and I know it's  
18 sometimes tough when you get going, but if you could try to refer to the  
19 page number for the exhibits, that would be great, the demonstrative sheets.  
20 It helps for record purposes and it also helps Judge Clements and Judge Siu,  
21 who I'll introduce here for the record purposes, who are attending here via  
22 video. So thank you.

23 And let's see, try to use the microphone. That helps the record as  
24 well. And also please don't interrupt the other party if you have objections.

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1 Wait until it's your time to speak and then present those objections during  
2 your argument time, please.

3 And petitioner, you can proceed, please.

4 MR. MICALLEF: Thank you, Your Honor. Once again, Joe  
5 Micallef from Sidley for petitioner in the 548 matter. I would like to reserve  
6 10 minutes of my time for rebuttal.

7 Your Honor, this proceeding involves the '837 patent. The Board  
8 has instituted trial on two grounds, one on the combination of LeClerg and  
9 Lee and another ground on the combination of LeClerg, Lee and Kim.

10 Now, I have a lot of slides here. I don't expect that I'm going to  
11 use all of them. I may skip over a few. I'm happy to jump back or forward  
12 and deal with whatever Your Honors would like to deal with in whatever  
13 order, but I don't actually intend to use all of them. I have put together a  
14 basic roadmap that I would like to go through. But again, if there's any  
15 reason to jump around, please let me know.

16 I'm going to start with just a very basic overview of the '837 patent.  
17 It's directed to systems and methods for handshaking with a memory  
18 module. It describes and claims a memory module that can be put into an  
19 initialization mode and provide a notification signal back to the memory  
20 controller providing a status on that initialization. The patent says that the  
21 module can be in two different modes, an initialization mode and operational  
22 mode and explicitly says that in either mode a standard memory operation  
23 such as read and write, recharge and refresh can be used.

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