

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE DIRECTOR

Samsung Electronics Co., Ltd.
Petitioner

v.

Netlist, Inc.
Patent Owner

IPR2022-00062
Patent No. 9,858,218

Order re: Netlist Renewed
Request for Extension of Time
under 37 C.F.R. § 90.3(c)(1)(ii)

ORDER

On July 26, 2023, the Office denied, without prejudice, Netlist, Inc.’s (“Netlist”) first request for an extension of time under 37 C.F.R. § 90.3(c)(1)(ii) and allowed Netlist to file a renewed request within seven calendar days. Netlist filed a Renewed Request, within the prescribed time, on August 2, 2023. On August 8, 2023, before the Office could decide Netlist’s Renewed Request, Samsung Electronics Co., Ltd. (“Samsung”) filed an Opposition to it. Neither the existing nor previous regulations governing requests for extension of time in which to pursue judicial review provide for the filing of an “opposition” or subsequent “reply” thereto. *See, e.g., Mitsubishi Cable Indus., Ltd., et al. v. Goto Denshi Co., Ltd., Memorandum and Order*, Paper 28 at 10 n.4 (IPR2015-01108) (May 3, 2017); *UWA v. AZL*, Decision on Request under 37 C.F.R. § 1.304(a)(3)(i), at 3-4 (Interference No. 106,013) (Feb. 26, 2016). However, the Office has the discretion

to consider such papers, and has done so in the past. *See id.* Thus, the Office has considered the Opposition filed by Samsung in this matter. In the interest of completeness, the Office grants Netlist **seven calendar days from the date of this paper to reply to Samsung’s Opposition.** Samsung should not file or seek permission to file a sur-reply or other responsive paper, and any such filing (unless directed by the Office) will not be considered. No extensions on Netlist’s Reply should be expected.

Although the Office is not ordering discovery in this matter, it would appreciate additional clarification from Netlist regarding the sequence of relevant events, including, but not limited to, a copy of the May 9, 2023 email to the Skiermont law firm identified by Mr. Sohi in his second declaration, and a clearer indication—preferably, a specific date—of when the conversation between Mr. Sohi and Mr. Sheasby occurred, as outlined in paragraph 7 of Mr. Sohi’s declaration and paragraph 3 of Mr. Sheasby’s declaration.

KATHERINE K. VIDAL
Under Secretary of Commerce for
Intellectual Property and Director of the
U.S. Patent and Trademark Office

DATE: August 10, 2023

By: /s/ Thomas W. Krause
Thomas W. Krause
Solicitor

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