

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SK HYNIX INC. and SK HYNIX AMERICA INC.,
Petitioners,

v.

NETLIST, INC.
Patent Owner.

Case No. IPR2020-01044
U.S. Patent No. 9,858,218

DECLARATION OF ANDREW H. DEVOOGD

I, Andrew H. DeVoogd, do hereby declare:

1. I am a member in the law firm of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo P.C. (“Mintz Levin”). Lead counsel in this *inter partes* review proceeding is William Meunier, who is also a member at Mintz Levin. Mr. Meunier is registered to practice before the United States Patent and Trademark Office and holds Registration No. 41,193. With respect to this proceeding, I will work closely with Attorney Meunier.

2. I am a member in good standing of the Bar of the Commonwealth of Massachusetts. My Massachusetts Bar membership is 670203. I am admitted to practice before the Supreme Court of the United States, the United States Courts of Appeals for the Federal and First Circuits, the United States District Court for the District of Massachusetts, and the United States District Courts for the Eastern and Western Districts of Texas.

3. I am an experienced patent litigation attorney with experience in numerous litigations involving patent infringement in District Courts throughout the United States and before the International Trade Commission.

4. I am particularly familiar with the subject matter at issue in this proceeding, as well as the parallel litigations involving U.S. Patent Nos. 9,858,218 (“the ’218 patent”), U.S. Patent No. 10,474,595 (“the ’595 patent”), and U.S. Patent No. 10,217,523 (“the ’523 patent”) filed by Patent Owner in the United

States District Court for the Western District of Texas (Civil Action No. 6:20-cv-00194-ADA and 6:20-cv-00525-ADA).

5. I have reviewed all the relevant materials for this matter, including the case pleadings, the '218 patent, its prosecution history, and the prior art references, and I have a thorough understanding of the grounds of unpatentability asserted in the Petition and the challenged claims of the '218 patent.

6. I have never been suspended or disbarred from practice before any court or administrative body, nor has a court or administrative body denied my application for admission to practice. I have not been sanctioned or cited for contempt by any court or administrative body.

7. I have read and will comply with the Office Patent Trial Practice Guide, the Trial Practice Guide updates, and the Board's Rules of Practice for Trials set forth in Part 42 of 37 C.F.R.

8. I agree to be subject to the United States Patent and Trademark Office Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 et seq., and disciplinary jurisdiction under 37 C.F.R. § 11.19(a).

9. I have not applied to appear pro hac vice in any proceeding before the Office in the last three (3) years.

10. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true;

and further that these statements are made with the knowledge that willful false statements and the like are punishable by fine, imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Respectfully submitted,

/s/ Andrew H. DeVoogd
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Dated: March 8, 2021