



NETLIST WINS MAJOR LEGAL VICTORY IN TRADE SECRET, BREACH OF CONTRACT LAWSUIT AGAINST DIABLO TECHNOLOGIES, INC.

Press Release

12, January 2015

Oakland, California

A federal district court judge today took the rare step of ordering a preliminary injunction against a Canadian company from manufacturing, using, distributing or selling high-speed memory interface chips used by SanDisk and other major computer manufacturers. [View a pdf of the Order.](#)

Judge Yvonne Gonzalez Rogers, of the United States District Court for the Northern District of California, granted BartkoZankel client Netlist's Motion for Preliminary Injunction against Diablo Technologies, Inc., for controller chips used by SanDisk in its high-speed ULLtraDIMM SSD product line. Under the Court's order, Diablo and SanDisk are prohibited from manufacturing and selling the controller chipset used by SanDisk in the ULLtraDIMM, and as a result from further sale or distribution of the ULLtraDIMM itself.

Judge Gonzalez Rogers found that "the evidence indicates that Netlist is likely to prevail by showing that the Netlist Technology ... was used by Diablo to develop" its controller chips. "By misusing the technology that Diablo had been given in confidence under the Supply Agreement [with Netlist], Diablo gained an advantage it would not have otherwise had."

The judge also rejected SanDisk's motion for reconsideration, asking that it be allowed to sell existing inventory of the enjoined products. The Court found that the injunction properly barred SanDisk from selling these products, and that based on the long contractual partnership between Diablo and SanDisk with respect to the ULLtraDIMM module, SanDisk and Smart Storage "are 'persons who are in active concert with' Diablo." The Court advanced the trial date by four months, to March 9, 2015.

The BartkoZankel legal team consists of [Ben Riley](#), [Rob Bunzel](#), [Griff Towle](#), Paul Schuck, [Sony Barari](#), Simon Goodfellow and [Sean McTigue](#). Ben Riley commented: “We are very pleased that Judge Gonzalez Rogers has issued the Preliminary Injunction we requested. We proved that Diablo obtained an unfair advantage over Netlist by improperly using the memory channel technology it learned from Netlist under the parties’ contract. The injunction will help eliminate the unfair head start in the market obtained by Diablo, allowing Netlist to develop and sell its own cutting-edge memory products.” Riley added that: “We look forward to trying the case in March and obtaining a permanent injunction.” The court found that the trade secret and breach of contract claims substantially overlap, and that Netlist’s “conclusive showing on the contract claim means that the Court need not reach the question of likelihood of success on the trade secret claims” in order to grant the preliminary injunction. The Court also observed that “the showing of a head-start advantage to Diablo, based upon an improper use of Netlist’s technology, is sufficient to establish” irreparable harm. [See a PDF copy](#) of the Daily Journal article.

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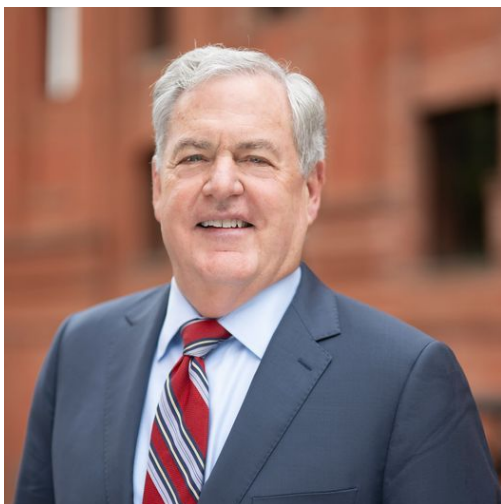
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