

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
 WASHINGTON, D.C. 20549

FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

NETLIST, INC.

(Exact name of registrant as specified in its charter)

Delaware
 (State or other jurisdiction of
 incorporation or organization)

95-4812784
 (I.R.S. Employer
 Identification No.)

175 Technology Drive, Suite 150
Irvine, California 92618
(949) 435-0025

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Gail M. Sasaki
Vice President, Chief Financial Officer and Secretary
175 Technology Drive, Suite 150
Irvine, California 92618
(949) 435-0025

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copy to:

Scott Stanton, Esq.
Jacquelyn Lewis, Esq.
 Mintz, Levin, Cohn, Ferris,
 Glovsky and Popeo, P.C.
 3580 Carmel Mountain Road, Suite 300
 San Diego, CA 92130
 Tel: (858) 314-1500

Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this registration statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box:

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box:

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Non-accelerated filer

Accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered(1)	Proposed maximum offering price per unit(2)	Amount of registration fee
Common Stock, \$0.001 par value	(3)	
Common Stock Warrants	(3)	
Common Stock, \$0.001 par value, issuable upon exercise of Warrants	(3)	
Total	\$ 2,881,085	\$ 358.70

(1) Pursuant to Rule 462(b) under the Securities Act of 1933, as amended, the proposed maximum offering price of the remaining securities eligible to be sold under the Prior Registration Statement is carried forward to this Registration Statement and an additional amount of securities having a proposed maximum aggregate offering price of no more than 20% thereof, or \$2,881,085, is registered hereby.

(2) Estimated solely for purposes of computing the amount of the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended.

(3) Includes securities which the purchasers have the right to purchase from the registrant.

This Registration Statement shall become effective upon filing with the Securities and Exchange Commission in accordance with Rule 462(b) of the Securities Act of 1933, as amended.

EXPLANATORY NOTE AND INCORPORATION BY REFERENCE

This registration statement on Form S-3 relates to the registered direct offering (the "Offering") of common stock and common stock warrants of Netlist, Inc. (the "Company") contemplated by the registration statement on Form S-3 (File No. 333-199446), as amended, filed by the Company with the Securities and Exchange Commission (the "Commission") pursuant to the Securities Act of 1933, as amended (the "Securities Act"), which was declared effective by the Commission on September 2, 2016 (the "Prior Registration Statement"). This registration statement is filed pursuant to Rule 462(b) promulgated under the Securities Act, solely to increase the total value of securities to be offered in the Offering by \$2,881,085.00. The additional securities that are being registered for sale are in an amount and at a price that together represent no more than 20% of the maximum aggregate offering price set forth in the Calculation of Registration Fee table contained in the Prior Registration Statement. The contents of the Prior Registration Statement, including all exhibits thereto, are hereby incorporated by reference herein.

The required opinions and consents are listed on an Exhibit Index attached hereto and filed herewith.

The Registrant hereby certifies that it (i) has instructed its bank to transmit to the Commission the filing fee set forth on the cover page of this Registration Statement by a wire transfer of such amount to the Commission's account at U.S. Bank as soon as practicable (but no later than the close of business on September 12, 2018), (ii) will not revoke such instructions, (iii) has sufficient funds in the relevant account to cover the amount of such filing fee and (iv) will confirm receipt of such instructions by its bank during the bank's regular business hours no later than September 12, 2018.

EXHIBIT INDEX

Exhibit Number	Description of Exhibit
5.1	Opinion of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
23.1	Consent of KMJ Corbin & Company LLP, Independent Registered Public Accounting Firm.
23.3	Consent of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. (included in Exhibit 5.1).
24.1*	Power of Attorney.

* Included on the signature page to the Registrant's registration statement on Form S-3 (File No. 333-199446), as amended, filed with the Securities and Exchange Commission on September 2, 2016 and incorporated by reference herein.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant has duly caused this registration statement on Form S-3 to be signed on its behalf by the undersigned, thereunto duly authorized, in in the city of Irvine, California, on the 12th day of September, 2018.

Netlist, INC.

/s/ Chun K. Hong

Chun K. Hong

President, Chief Executive Officer and Chairman of the Board

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement on Form S-3 has been signed by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Chun K. Hong</u> Chun K. Hong	Chief Executive Officer, President and Chairman of the Board <i>(Principal Executive Officer)</i>	September 12, 2018
<u>/s/ Gail M. Sasaki</u> Gail M. Sasaki	Vice President, Chief Financial Officer and Secretary <i>(Principal Financial Officer and Principal Accounting Officer)</i>	September 12, 2018
<u>*</u> Jun S. Cho	Director	September 12, 2018
<u>*</u> Kiho Choi	Director	September 12, 2018
<u>*</u> Blake A. Welcher	Director	September 12, 2018
<u>*By /s/ Gail M. Sasaki</u> Gail M. Sasaki, Attorney-in-fact		September 12, 2018

September 12, 2018

Netlist, Inc.
175 Technology Drive, Suite 150
Irvine, California 92618

Ladies and Gentlemen:

We have acted as legal counsel to Netlist, Inc., a Delaware corporation (the “Company”), in connection with the preparation and filing with the Securities and Exchange Commission (the “Commission”) of (i) a Registration Statement on Form S-3 filed pursuant to Rule 462(b) under the Securities Act of 1933, as amended (the “Securities Act”) (the “462(b) Registration Statement”) to that certain Registration Statement (File No. 333-199446) on Form S-3 (the “Initial Registration Statement”), pursuant to which the Company is registering the offering for sale under the Securities Act \$2,881,085 of shares (the “Shares”) of the Company’s common stock, par value \$0.001 per share (the “Common Stock”), and warrants to purchase shares of Common Stock (the “Warrants”) and (shares of Common Stock issuable upon exercise of the Warrants (the “Warrant Shares”); together with the Shares and the Warrants, the “Securities”). The Securities include Securities issuable subject to an underwriters’ option granted by the Company.

The Securities are to be sold by the Company pursuant to a Securities Purchase Agreement (the “Purchase Agreement”) to be entered into by and among the Company and the purchasers listed therein. This opinion is being rendered in connection with the filing of the 462(b) Registration Statement with the Commission.

In connection with this opinion, we have examined the Company’s Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws, each as currently in effect; the form of the Securities Purchase Agreement; the form of Common Warrant; and such other records of the corporate proceedings of the Company and certificates of the Company’s officers as we have deemed relevant; the Initial Registration Statement and the exhibits thereto; and the 462(b) Registration Statement and the exhibits thereto.

In our examination, we have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as certified or photostatic copies and the authenticity of the originals of such copies.

With respect to the Warrant Shares, we express no opinion to the extent that, notwithstanding its current reservation of shares of the Company’s common stock, future issuances of securities, including the Warrant Shares, of the Company and/or adjustments to outstanding securities, including the Warrants, of the Company may cause the Warrants to be exercisable for more shares of the Company’s common stock than the number that then remain authorized but unissued. Further, we have assumed the Exercise Price (as defined in the Warrants) will not be adjusted to an amount below the par value per share of the Company’s common stock.

Our opinion is limited to the General Corporation Law of the State of Delaware and we express no opinion with respect to the laws of any other jurisdiction. No opinion is expressed herein with respect to the qualification of the Shares under the securities or blue sky laws of any state or any foreign jurisdiction.

Please note that we are opining only as to the matters expressly set forth herein, and no opinion should be inferred as to any other matters. This opinion is based upon currently existing statutes, rules, regulations and judicial decisions, and we disclaim any obligation to advise you of any change in any of these sources of law or subsequent legal or factual developments which might affect any matters or opinions set forth herein.

Based upon the foregoing, we are of the opinion (i) that the Shares, when issued and sold in accordance with the form of the Securities Purchase Agreement, will be validly issued, fully paid and nonassessable,

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

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(ii) provided that the Warrants have been duly executed and delivered by the Company and duly delivered to the purchasers thereof against payment therefor, the Warrants, when issued and sold as contemplated in the Registration Statement will be valid and legally binding obligations of the Company, and (iii) the Warrant Shares, when issued and paid for in accordance with the terms of the Warrants and as contemplated by the Registration Statement, will be validly issued, fully paid and nonassessable.

We understand that you wish to file this opinion with the Commission as an exhibit to the 462(b) Registration Statement in accordance with the requirements of Item 601(b)(5) of Regulation S-K promulgated under the Securities Act and to reference the firm's name under the caption "Legal Matters" in the prospectus which is incorporated by reference in the 462(b) Registration Statement, and we hereby consent thereto. In giving this consent, we do not admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission promulgated thereunder.

Very truly yours,

/s/ Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Registration Statement on Form S-3 MEF of our report dated March 30, 2018, relating to the consolidated financial statements of Netlist, Inc. and subsidiaries, appearing in the Annual Report on Form 10-K of Netlist, Inc. and subsidiaries for the year ended December 30, 2017, and to the reference to us under the heading “Experts” in the Prospectus, which is part of this Registration Statement.

/s/ KMJ Corbin & Company LLP

Costa Mesa, California
September 12, 2018
