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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

NANTWORKS, LLC, a Delaware limited liability company, and NANT HOLDINGS IP, LLC, a Delaware limited liability company,

Plaintiffs,

vs.

BANK OF AMERICA CORPORATION, a Delaware corporation, and BANK OF AMERICA, N.A., a national banking association,

Defendants.

Case No. 2:20-cv-07872 GW (PVCx)

STIPULATED PROTECTIVE ORDER

1. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal

1 principles. The parties further acknowledge, as set forth in subsection 14.3, below, that
2 this Stipulated Protective Order does not entitle them to file confidential information
3 under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and
4 the standards that will be applied when a party seeks permission from the court to file
5 material under seal.

6 2. DEFINITIONS

7 2.1 Challenging Party: a Party or Non-Party that challenges the designation of
8 information or items under this Order.

9 2.2 “CONFIDENTIAL” Information or Items: all Discovery Material, and all
10 information contained therein, and other information designated as confidential, to the
11 extent that the Party or non-party designating the Discovery Material as confidential in
12 good faith reasonably believes that such Discovery Material contains non-public
13 information, confidential information, trade secrets, proprietary business information,
14 competitively or commercially sensitive information, nonpublic personal information
15 within the meaning of the Gramm-Leach-Bliley Act (15 U.S.C. § 6801) or similar
16 applicable state or local consumer privacy protective laws and/or “consumer reports”
17 within the meaning of the Fair Credit Reporting Act (15 U.S.C. § 1681a) (collectively,
18 the “Acts”), that may be collected or produced in connection with originating,
19 purchasing, or servicing a mortgage loan, or other information, the disclosure of which
20 would, in the good faith judgment of the Producing Party (defined below) be detrimental
21 to the conduct of that Party’s business or the business of any of the Party’s customers
22 or clients.

23 2.3 Counsel (without qualifier): Outside Counsel of Record and House
24 Counsel (as well as their support staff).

25 2.4 Designating Party: a Party or Non-Party that designates information or
26 items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL”
27 or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY
28 CONFIDENTIAL – SOURCE CODE.”

1 2.5 Discovery Material: all items or information, regardless of the medium or
2 manner in which it is generated, stored, or maintained (including, among other things,
3 testimony, transcripts, and tangible things), that are produced or generated in
4 disclosures or responses to discovery in this matter.

5 2.6 Expert: a person with specialized knowledge or experience in a matter
6 pertinent to the litigation, as well as their immediate support staff, provided that
7 disclosure is only necessary to perform such work, who (1) has been retained by a Party
8 or its counsel to serve as an expert witness or as a consultant in this action, (2) is not a
9 current employee of a Party or of a Party's competitor,¹ and (3) at the time of retention,
10 is not anticipated to become an employee of a Party or of a Party's competitor.

11 2.7 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"
12 Information or Items: extremely sensitive "Confidential Information or Items,"
13 disclosure of which to another Party or Non-Party would create a substantial risk of
14 serious harm that could not be avoided by less restrictive means. This designation shall
15 signify that (i) at the time of the designation the Discovery Material contains or
16 constitutes trade secrets or confidential business or financial information, (ii) there is a
17 substantial and imminent risk that absent such designation, its receipt by the Receiving
18 Party could cause competitive and/or economic harm to the Producing Party, and (iii)
19 such Discovery Material would not otherwise be adequately protected under the
20 procedures set forth herein for "Confidential Information." Nothing in this subsection
21 shall preclude counsel from giving advice to his or her client in this litigation that
22 includes a general evaluation of Highly Confidential Information, provided that counsel
23 shall not disclose the contents of any Highly Confidential Information contrary to the
24 terms of this Stipulated Protective Order.

25 2.8 "HIGHLY CONFIDENTIAL – SOURCE CODE" Information or Items:
26 extremely sensitive "Confidential Information or Items" representing computer code

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28 ¹ The Parties retain the right to object to a past employee of a Party or of a Party's competitor under subsection 7.5.

1 and associated comments and revision histories, formulas, engineering specifications,
2 or schematics that define or otherwise describe in detail the algorithms or structure of
3 software or hardware designs, disclosure of which to another Party or Non-Party would
4 create a substantial risk of serious harm that could not be avoided by less restrictive
5 means.

6 2.9 House Counsel: two (2) designated attorneys who are employees of a Party
7 to this action. House Counsel does not include Outside Counsel of Record or any other
8 outside counsel. A Party may, for good cause, replace a designated House Counsel
9 attorney.

10 2.10 Non-Party: any natural person, partnership, corporation, association, or
11 other legal entity not named as a Party to this action.

12 2.11 Outside Counsel of Record: attorneys who are not employees of a party to
13 this action but are retained to represent or advise a party to this action and have appeared
14 in this action on behalf of that party or are affiliated with a law firm which has appeared
15 on behalf of that party, as well as staff of such counsel to whom it is reasonably
16 necessary to disclose or allow access to Protected Material for this litigation.

17 2.12 Party: any party to this action, including all of its officers, directors,
18 employees, consultants, retained experts, and Outside Counsel of Record (and their
19 support staffs).

20 2.13 Party Representative: two (2) designated representatives of a Party (e.g.,
21 officers, directors, and employees) who are required in good faith to provide assistance
22 in the conduct of this litigation, including any settlement discussions.

23 2.14 Producing Party: a Party or Non-Party that produces Discovery Material in
24 this action, including in depositions, document productions or otherwise, or the Party
25 or non-party asserting the confidentiality of such material, as the case may be.

26 2.15 Professional Vendors: persons or entities that provide litigation support
27 services (e.g., photocopying, videotaping, translating, preparing exhibits or
28

1 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
2 their employees and subcontractors.

3 2.16 Protected Material: any Discovery Material that is designated as
4 “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
5 ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE.”

6 2.17 Receiving Party: a Party that receives Discovery Material from a
7 Producing Party, including in depositions, document productions or otherwise.

8 3. SCOPE

9 3.1 The protections conferred by this Stipulated Protective Order cover not
10 only Protected Material (as defined above), but also (1) any information copied or
11 extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations
12 of Protected Material; and (3) any testimony, conversations, or presentations by Parties
13 or their Counsel that might reveal Protected Material. However, the protections
14 conferred by this Stipulated Protective Order do not cover the following information:
15 (a) any information that is in the public domain at the time of disclosure to a Receiving
16 Party or becomes part of the public domain after its disclosure to a Receiving Party as
17 a result of publication not involving a violation of this Order, including becoming part
18 of the public record through trial or otherwise; and (b) any information known to the
19 Receiving Party prior to the disclosure or obtained by the Receiving Party after the
20 disclosure from a source who obtained the information lawfully and under no obligation
21 of confidentiality to the Designating Party. Any use of Protected Material at trial shall
22 be governed by a separate agreement or order, but this Order shall govern in the absence
23 of such an agreement or order.

24 3.2 Nothing in this Protective Order shall prevent or restrict a Producing
25 Party’s own disclosure or use of its own Protected Material for any purpose, and nothing
26 in this Order shall preclude any Producing Party from showing its Protected Material to
27 an individual who prepared or was involved in the preparation of the Protected Material.
28

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