

# EXHIBIT A

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

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

19 Plaintiffs,

20 vs.

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

24 Defendants.  
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**Case No. 2:20-cv-07872-GW-PVC**

**DEFENDANTS' FINAL ELECTION OF  
ASSERTED PRIOR ART**

1 **I. INTRODUCTION**

2 Pursuant to the Court’s Scheduling Order (Dkt. Nos. 155, 157, 160), Defendants  
3 Bank of America Corporation and Bank of America, N.A. (collectively “Bank of  
4 America” or “Defendants”) hereby provide their Final Election of Asserted Prior Art.

5 **II. NANTWORKS’S FINAL ELECTION OF ASSERTED CLAIMS**

6 On January 14, 2022, NantWorks, LLC and Nant Holdings IP, LLC  
7 (“NantWorks” or “Plaintiffs”) served their Final Election of Asserted Claims limiting  
8 the asserted claims to eighteen (18) total claims and no more than five claims per  
9 Asserted Patents follows:<sup>1</sup>

10 <b>Asserted Patents</b>	<b>Asserted Claims</b>
11 U.S. Pat. No. 7,881,529 (“’529 patent”)	Claims 4 and 20
12 U.S. Pat. No. 7,899,252 (“’252 Patent”)	Claims 18, 27, 29, and 31
13 U.S. Pat. No. 8,478,036 (“’036 Patent”)	Claim 1
14 U.S. Pat. No. 8,520,897 (“’897 Patent”)	Claims 25, 30, 33–34, and 39
15 U.S. Pat. No. 9,324,004 (“’004 Patent”)	Claims 1, 6, and 18
16 U.S. Pat. No. 9,031,278 (“’278 Patent”)	Claims 1 and 4–5
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23 <sup>1</sup> Plaintiffs dropped their infringement allegations asserting U.S. Pat. No. 8,463,030  
24 (“’030 Patent”) and U.S. Pat. No. 8,326,038 (“’038 Patent”) (including Counts III and  
25 IV of their First Amended Complaint). The parties are working on an agreement, which  
26 includes a stipulated motion to dismiss, to resolve the claims related to the ’030 Patent  
27 and ’038 Patent in this case. Bank of America anticipates that motion will be filed in  
28 short order for the Court’s consideration. To the extent that the parties fail to reach  
agreement, Bank of America reserves the right to continue to maintain its counterclaims  
of non-infringement and invalidity of the ’030 Patent and ’038 Patent and to amend this  
Final Election to include prior art references that invalidate the claims of the ’030 Patent  
and ’038 Patent.

**III. DEFENDANTS’ FINAL ELECTION OF ASSERTED PRIOR ART**

Bank of America elects no more than five (5) asserted prior art references<sup>2</sup> per Asserted Patent and eighteen (18) total references. Bank of America may amend these limits on prior art references on agreement of the parties or by leave of Court for good cause shown. For each Asserted Patent, Bank of America elects the following prior art references:<sup>3</sup>

**U.S. Pat. No. 7,881,529**

No.	Prior Art Reference Asserted to Render the Asserted Claims Invalid
1	Rhoads and QBIC System
2	Rhoads, QBIC System, and Krouse
3	Ehrhart, QBIC System, and Krouse
4	Cooltown System and QBIC System
5	Cooltown System, QBIC System, and Krouse

**U.S. Pat. No. 7,899,252**

No.	Prior Art Reference Asserted to Render the Asserted Claims Invalid
1	Rhoads and QBIC System

<sup>2</sup> A “prior art reference” is a single prior art reference that is asserted to anticipate a claim, or a combination of prior art references asserted to render a claim obvious. A prior art instrumentality (such as a device or process) and associated references that describe that instrumentality shall count as one “prior art reference.” By way of example, if Bank of America asserts an invalidity theory that System X is prior art and supports that theory with Document A, B, C, etc., that collection of evidence (System X + Document A, B, C, etc.) would constitute one prior art reference. The same prior art reference or obviousness combination asserted against multiple patents counts only as a single prior art reference with respect to the overall limit of 18 references or obviousness combinations.

<sup>3</sup> Bank of America reserves the right to rely on any materials, including any of the references disclosed in its Preliminary or Supplemental Invalidity Contentions, for background or to show the state of the art or knowledge of one of ordinary skill in the art. Bank of America further reserves the right to rely on any of the KSR theories / explanations under S.P.R. 2.5.2 disclosed in its Preliminary or Supplemental Invalidity Contentions to support obviousness.

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No.	Prior Art Reference Asserted to Render the Asserted Claims Invalid
2	Mault and QBIC System
3	Harris and QBIC System
4	Ehrhart and QBIC System
5	Cooltown System and QBIC System

**U.S. Pat. No. 8,478,036**

No.	Prior Art Reference Asserted to Render the Asserted Claims Invalid
1	Rhoads and QBIC System
2	Mault, QBIC System, and Sizer
3	Harris and QBIC System
4	Ehrhart and QBIC System
5	Cooltown System and QBIC System

**U.S. Pat. No. 8,520,897**

No.	Prior Art Reference Asserted to Render the Asserted Claims Invalid
1	Rhoads and QBIC System
2	Rhoads, QBIC System, and Krouse
3	Sizer and QBIC System
4	Sizer, QBIC System, and Krouse
5	Harris, QBIC System, and Krouse

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