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

18 NantWorks, LLC, a Delaware limited
liability company, and NANT
19 HOLDINGS IP, LLC, a Delaware
limited liability company,

20 Plaintiffs,

21 vs.

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

25 Defendants.
26
27
28

Case No. 2:20-CV-7872-GW-PVC

**DEFENDANTS' UNOPPOSED
APPLICATION TO FILE
DOCUMENTS UNDER SEAL IN
CONNECTION WITH
DEFENDANTS' OF MOTION FOR
PARTIAL SUMMARY JUDGMENT
OF NON- INFRINGEMENT FOR
CERTAIN ASSERTED PATENTS.**

Local Rule 79-5.2.2(b)

[Filed concurrently with Declaration of
Danielle Williams and Proposed Order]

1 TO THE COURT, PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

2 NOTICE IS HEREBY GIVEN that, pursuant to Local Rule 79-5.2.2.(b),
 3 Defendants Bank of America Corporation and Bank of America, N.A. (collectively,
 4 “Defendants” or “Bank of America”), hereby request that this Court enter an order
 5 permitting them to file under seal the materials described below that are filed in
 6 connection with Defendants’ Motion for Partial Summary Judgment of Non-
 7 infringement of Certain Asserted Patents:

Document Description	Nature of Information to be Sealed
10 Exhibit 1 to the Declaration of Danielle 11 Williams in Support of the Motion for 12 Partial Summary Judgment of Non- 13 Infringement for Certain Asserted 14 Patents	Designated by Plaintiffs in its entirety as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” and “HIGHLY CONFIDENTIAL – SOURCE CODE,” and contains excerpts of documents designated by Bank of America and third-party Mitek as “Highly Confidential – Attorneys’ Eyes Only.” Plaintiffs and Mitek do not oppose sealing this exhibit in its entirety.
20 Exhibit 2 to the Declaration of Danielle 21 Williams in Support of the Motion for 22 Partial Summary Judgment of Non- 23 Infringement for Certain Asserted 24 Patents	Designated by Defendants as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under the parties’ stipulated protective orders (Dkt. Nos. 102, 210).
25 Exhibit 3 to the Declaration of Danielle 26 Williams in Support of the Motion for 27 Partial Summary Judgment of Non- 28	Designated by Defendants as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under the parties’

Document Description	Nature of Information to be Sealed
Infringement for Certain Asserted Patents	stipulated protective orders (Dkt. Nos. 102, 210).
Exhibit 4 to the Declaration of Danielle Williams in Support of the Motion for Partial Summary Judgment of Non-Infringement for Certain Asserted Patents	Designated by Defendants' in its entirety as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" and "HIGHLY CONFIDENTIAL – SOURCE CODE," and contains excerpts of documents designated by Bank of America and third-party Mitek as "Highly Confidential – Attorneys' Eyes Only." Plaintiffs and Mitek do not oppose sealing this exhibit in its entirety.
Exhibit 5 to the Declaration of Danielle Williams in Support of the Motion for Partial Summary Judgment of Non-Infringement for Certain Asserted Patents	Designated by Defendants as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the parties' stipulated protective orders (Dkt. Nos. 102, 210).
Exhibit 6 to the Declaration of Danielle Williams in Support of the Motion for Partial Summary Judgment of Non-Infringement for Certain Asserted Patents	Designated by Defendants as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the parties' stipulated protective orders (Dkt. Nos. 102, 210).
Exhibit 7 to the Declaration of Danielle Williams in Support of the Motion for Partial Summary Judgment of Non-Infringement for Certain Asserted Patents	Designated by third-party Mitek as "Highly Confidential – Attorneys' Eyes Only." Plaintiffs and Mitek do not oppose sealing this exhibit in its entirety.

Document Description	Nature of Information to be Sealed
Patents	
Exhibit 8 to the Declaration of Danielle Williams in Support of the Motion for Partial Summary Judgment of Non-Infringement for Certain Asserted Patents	Designated by Defendants in its entirety as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Plaintiffs do not oppose sealing this exhibit in its entirety.
Memorandum in Support of the Defendants’ Motion for Partial Summary Judgment of Non-infringement of the Certain Asserted Patents	Designated by Defendants in its entirety as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Plaintiffs do not oppose sealing this exhibit in its entirety.

I. Background

As set forth in the Declaration of Danielle Williams in Support of Defendants’ Application to File Under Seal submitted herewith, Defendants make this application because the foregoing documents are marked and designated as “Highly Confidential – Attorneys Eyes Only” and/or “Highly Confidential – Source Code” as follows pursuant to the parties’ Stipulated Protective Order (Dkt. No. 210). *See* Declaration of Danielle Williams (the “Williams Decl.”), ¶¶ 2–9. Defendants make this application because (i) materials nos. 2–7, 9 contain information that is “Highly Confidential – Attorneys Eyes Only” and/or “Highly Confidential – Source Code” of Bank of America; (ii) materials nos. 2–4 and 8 contain information that is “Highly Confidential – Attorneys Eyes Only” and/or “Highly Confidential – Source Code” of Mitek Systems, Inc. (“Mitek”). *Id.*, ¶¶ 2–9. As required by Local Rule 79-5.2.2(b), counsel for Plaintiffs and Defendants conferred about Defendants’ filing these materials to limit, if not entirely avoid, the necessity of this Application. *Id.*, ¶ 10. Plaintiffs’ counsel does not oppose filing the

1 entirety of these materials under seal. Counsel for Defendants also conferred with
2 counsel for Mitek in a similar manner, and Mitek’s counsel requested that the entirety
3 of these documents be filed under seal. *Id.*, ¶ 11.

4 The Williams declaration sets forth the information Defendants seek to file under
5 seal, the basis for the Application, and good cause to seal Bank of America confidential
6 information. *Id.*, ¶¶ 1–12. Due to the sensitive nature of the information in the
7 foregoing materials, good cause exists to approve Bank of America’s application to file
8 these materials under seal pursuant to Local Rule 79-5.2.2(a), and, pursuant to Local
9 Rule 79-5.2.2(b)(i), Mitek shall separately demonstrate such good cause.

10 II. Good Cause Exists to File Materials Under Seal

11 The decision to seal records is left to the discretion of the District Court.
12 *Hagestad v. Tragesser*, 49 F.3d 1430, 1434 (9th Cir. 1995) (citing *Nixon v. Warner*
13 *Communications, Inc.*, 435 U.S. 589, 599 (1978)). Rule 26(c)(1)(G) of the Federal
14 Rules of Civil Procedure allows parties, upon a showing of “good cause,” to file under
15 seal documents containing “confidential . . . commercial information.” *See also IMAX*
16 *Corp. v. Cinematech, Inc.*, 152 F.3d 1161, 1168 n.9 (9th Cir. 1998) (noting that
17 confidential and proprietary business information is “to be filed under seal.”); *Sun*
18 *Microsystems Inc. v. Network Appliance*, No. C-08-01641 EDL, 2009 WL 5125817, at
19 *9 (N.D. Cal. Dec. 21, 2009) (granting sealing requests because the documents “contain
20 confidential [business] information, much of which has been designated as Confidential
21 or Highly Confidential under the parties’ stipulated protective order, that could cause
22 competitive harm if disclosed.”); *In re Adobe Systems, Inc. Securities Litigation Master*
23 *File*, 141 F.R.D. 155, 161-162 (N.D. Cal. 1992) (“Protective orders and filings under
24 seal are the primary means by which the courts ensure full disclosure of relevant
25 information, while still preserving the parties’ (and third parties’) legitimate expectation
26 that confidential business information, proprietary technology and trade secrets will not
27 be publicly disseminated.”).

28 Bank of America respectfully requests that the Court grant its application to file

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