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

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

21 Plaintiffs,

22 vs.

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

27 Defendants.

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

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

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: Excerpts of the Expert Report of 15 Dan Schonfeld Regarding the 16 Infringement of the Asserted Claims.	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: Transcript of the April 10, 2024 25 Deposition of Dan Schonfeld, Ph.D.	Designated by Defendants as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under the parties’ stipulated protective orders (Dkt. Nos. 102, 210).
26 Exhibit 3 to the Declaration of Danielle 27 Williams in Support of the Motion for	Designated by Defendants as “HIGHLY CONFIDENTIAL – ATTORNEYS’

Document Description	Nature of Information to be Sealed
<p>1 Partial Summary Judgment of Non- 2 Infringement for Certain Asserted 3 Patents: Transcript of the April 11, 2024 4 Deposition of Dan Schonfeld, Ph.D.</p>	<p>EYES ONLY” under the parties’ stipulated protective orders (Dkt. Nos. 102, 210).</p>
<p>6 Exhibit 4 to the Declaration of Danielle 7 Williams in Support of the Motion for 8 Partial Summary Judgment of Non- 9 Infringement for Certain Asserted 10 Patents: Rebuttal Expert Report of James 11 Storer, Ph.D. dated March 19, 2024</p>	<p>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.</p>
<p>16 Exhibit 5 to the Declaration of Danielle 17 Williams in Support of the Motion for 18 Partial Summary Judgment of Non- 19 Infringement for Certain Asserted 20 Patents: Transcript of the October 19, 21 2023 Deposition of Chris Harbinson</p>	<p>Designated by Defendants as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under the parties’ stipulated protective orders (Dkt. Nos. 102, 210).</p>
<p>23 Exhibit 6 to the Declaration of Danielle 24 Williams in Support of the Motion for 25 Partial Summary Judgment of Non- 26 Infringement for Certain Asserted 27 Patents: Transcript of the October 10, 28 2023 Deposition of Pavan Chayanam</p>	<p>Designated by Defendants as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under the parties’ stipulated protective orders (Dkt. Nos. 102, 210).</p>

Document Description	Nature of Information to be Sealed
<p>Exhibit 7 to the Declaration of Danielle Williams in Support of the Motion for Partial Summary Judgment of Non-Infringement for Certain Asserted Patents: Transcript of the November 16, 2023 Deposition of Fred Fernandez</p>	<p>Designated by third-party Mitek as “Highly Confidential – Attorneys’ Eyes Only.” Plaintiffs and Mitek do not oppose sealing this exhibit in its entirety.</p>
<p>Exhibit 8 to the Declaration of Danielle Williams in Support of the Motion for Partial Summary Judgment of Non-Infringement for Certain Asserted Patents: document bearing the Bates number of BOFA00030781–824</p>	<p>Designated by Defendants in its entirety as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Plaintiffs do not oppose sealing this exhibit in its entirety.</p>
<p>Memorandum in Support of the Defendants’ Motion for Partial Summary Judgment of Non-infringement of the Certain Asserted Patents</p>	<p>Designated by Defendants in its entirety because it includes references to information designated by Defendants and by third-party Mitek as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Plaintiffs do not oppose sealing this exhibit in its entirety.</p>
<p>Statement of Uncontroverted Facts in Support of Defendants’ Motion for Partial Summary Judgment of Non-Infringement for Certain Asserted Patents</p>	<p>Designated by Defendants in its entirety because it includes references to information designated by Defendants and by third-party Mitek as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Plaintiffs and Mitek do not oppose sealing this document.</p>

I. Background

As set forth in the Corrected Declaration of Danielle Williams in Support of Defendants' Corrected 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* Corrected Declaration of Danielle T. Williams (the "Corrected Williams Decl."), ¶¶ 2–9, 12. Defendants make this application because (i) Exhibit Nos. 1–7, 9, 12 contain information that is "Highly Confidential – Attorneys Eyes Only" and/or "Highly Confidential – Source Code" of Bank of America; (ii) Exhibit Nos. 1–4, 8, 12 contain information that is "Highly Confidential – Attorneys Eyes Only" and/or "Highly Confidential – Source Code" of Mitek Systems, Inc. ("Mitek"). *Id.*, ¶¶ 2–9, 12. 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 entirety of these materials under seal. Counsel for Defendants also conferred with counsel for Mitek in a similar manner, and Mitek's counsel requested that the entirety of these documents be filed under seal. *Id.*, ¶ 11.

The Corrected Williams Declaration sets forth the information Defendants seek to file under seal, the basis for the Application, and good cause to seal Bank of America confidential information. *Id.*, ¶¶ 1–13. Due to the sensitive nature of the information in the foregoing materials, good cause exists to approve Bank of America's application to file these materials under seal pursuant to Local Rule 79-5.2.2(a), and, pursuant to Local Rule 79-5.2.2(b)(i), Mitek shall separately demonstrate such good cause.

II. Good Cause Exists to File Materials Under Seal

The decision to seal records is left to the discretion of the District Court. *Hagestad v. Tragesser*, 49 F.3d 1430, 1434 (9th Cir. 1995) (citing *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 599 (1978)). Rule 26(c)(1)(G) of the Federal

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