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and BANK OF AMERICA, N.A.

16 **UNITED STATES DISTRICT COURT**
17 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
18

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

22 Plaintiffs,

23 vs.

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

27 Defendants.
28

CASE NO. 2:20-cv-7872-GW-PVC

**JOINT PROPOSED SCHEDULING
ORDER**

Hon. George H. Wu



1 Pursuant to the Court’s December 27, 2021 Order (ECF No. 154), Plaintiffs
2 Nantworks, LLC, and Nant Holdings IP, LLC (collectively, “Plaintiffs” or
3 “NantWorks”) and Defendants Bank of America Corp. and Bank of America, N.A.
4 (collectively, “Defendants” or “Bank of America”) submit this Joint Status Report
5 and Proposed Scheduling Order.

6 **STATUS REPORT**

7 The Parties have the following updates for the Court:

- 8 1. Status of IPR Proceedings: Defendants filed petitions for *inter partes* review
9 (“IPR”) challenging all eight asserted patents. [Dkt. Nos. 104, 105, 107, 109,
10 110, 112, 113, and 115] The Patent Trial and Appeal Board (“PTAB”)
11 instituted trial on Defendants’ IPR petition challenging the ’030 Patent on
12 December 1, 2021, and the parties expect a Final Written Decision by
13 December 2, 2022. The institution decision and subsequent clarification order
14 are collectively attached hereto as Exhibit 1. The Parties expect the PTAB to
15 issue institution decisions on the remaining seven pending petitions by March
16 14, 2022 on the following schedule:

17

| <u>Patent</u> | <u>Institution Decision</u> |
|----------------------|------------------------------------|
| 529 | January 13, 2022 |
| 036 | February 16, 2022 |
| 004 | February 19, 2022 |
| 252 | March 9, 2022 |
| 278 | March 9, 2022 |
| 897 | March 14, 2022 |
| 038 | March 14, 2022 |

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26 Consistent with this Court’s rulings on motions to stay pending IPR
27 proceedings in other cases, Defendants will wait to file a motion to stay the
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1 District Court proceedings after the PTAB has issued institution decisions on
 2 all pending IPR petitions, should those decisions warrant a motion to stay.

3
 4 **PROPOSED SCHEDULE**

5 The parties have agreed on many aspects of the proposed schedule, but a few
 6 disputes remain, reflected in the table below. The parties provide their respective
 7 positions on disputes after the table.

| Event | NW's Proposed Dates | BOFA's Proposed Dates |
|---|---------------------|---------------------------------|
| <p>11 Final Election of Asserted 12 Claims</p> <p>13 (Plaintiffs shall be limited to 14 no more than 5 asserted claims 15 from the claims previously 16 asserted per patent and 18 claims total.)¹</p> | | <p>Friday, January 14, 2022</p> |
| <p>17 Final Election of Asserted 18 Prior Art</p> <p>19 (Defendants shall be limited to 20 no more than 5 prior art 21 references per patent from 22 among the prior art references 23 previously asserted for each 24 patent and no more than a total 25 of 18 references. Defendants may amend these limits on prior art references on agreement of the parties or by</p> | | <p>Friday, January 28, 2022</p> |

26
 27 ¹ Based on Federal Circuit Advisory Committee's Model Order Limiting
 28 Excess Patent Claims and Prior Art, ¶ 3.

| Event | NW's Proposed Dates | BOFA's Proposed Dates |
|---|--|--------------------------------------|
| leave of Court for good cause shown.) ² | | |
| Motion to Stay Pending IPR Proceedings | No later than Monday, March 21, 2022 | |
| Response to Motion to Stay Pending IPR Proceedings | 14 days after Motion to Stay is filed | |
| Reply in support of Motion to Stay Pending IPR Proceedings | 7 days after Response to Motion to Stay is filed | |
| Deadline for Selection of Mediator | Thursday, June 30, 2022 | |
| Substantial Completion of Document Productions | Tuesday, March 29, 2022 | |
| Defendants to Serve Identification of Opinions of Counsel | Thursday, April 14, 2022 | |
| Fact Discovery Complete | Thursday, June 30, 2022 | Thursday, July 14, 2022 ³ |
| Final Infringement Contentions | Thursday, July 7, 2022 | Oppose inclusion |

² *Id.* The Parties' agreed definition of "prior art reference" provided in footnote 8 of Dkt. 81 applies here.

³ Defendants are requesting July 14, 2022 for the close of fact discovery to accommodate conflicts during the discovery period. Counsel for Defendants have a trial scheduled for May 4, 2022 and family graduation ceremonies scheduled for May 27 – June 6, 2022.



| Event | NW's Proposed Dates | BOFA's Proposed Dates |
|---|------------------------------|-----------------------|
| Final Identification of Trade Secrets | Thursday, July 7, 2022 | Oppose inclusion |
| Final Invalidity Contentions | Friday, July 22, 2022 | Oppose inclusion |
| Opening Expert Reports (reports for issues on which a party bears the burden of proof) | Thursday, August 4, 2022 | |
| Rebuttal Expert Reports (reports for issues on which a party does not bear the burden of proof) | Wednesday, August 31, 2022 | |
| Expert Discovery Complete | Friday, September 30, 2022 | |
| Mediation Deadline | Friday, October 14, 2022 | |
| Post-Mediation Status Conference | Thursday, October 20, 2022 | |
| Summary Judgment and Daubert Motions Due | Thursday, November 3, 2022 | |
| Oppositions to Summary Judgment and Daubert Motions Due | Wednesday, November 30, 2022 | |
| Replies to Summary Judgment and Daubert Motions Due | Wednesday, December 7, 2022 | |
| Hearing on Summary Judgment and Daubert Motions | Thursday, December 15, 2022 | |
| Compliance With Initial Deadlines in Standing Order | Tuesday, January 31, 2023 | |

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