

1 George C. Lombardi (*pro hac vice*)
glombardi@winston.com
2 WINSTON & STRAWN LLP
35 West Wacker Drive
3 Chicago, IL 60601-9703
4 Telephone: (312) 558-5600
Facsimile: (312) 558-5700

5 E. Danielle T. Williams (*pro hac vice*)
dwilliams@winston.com
6 WINSTON & STRAWN LLP
300 South Tryon Street, 16th Floor
7 Charlotte, NC 28202
8 Telephone: (704) 350-7700
Facsimile: (704) 350-7800

9 Michael S. Elkin (*pro hac vice*)
melkin@winston.com
10 WINSTON & STRAWN LLP
200 Park Avenue
11 New York, NY 10166
12 Telephone: (212) 294-6700
Facsimile: (212) 294-4700

13 *Attorneys for Defendants*
14 BANK OF AMERICA CORPORATION
and BANK OF AMERICA, N.A.

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

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

20 Plaintiffs,

21 vs.

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

25 Defendants.
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Dustin J. Edwards (*pro hac vice*)
dedwards@winston.com
WINSTON & STRAWN LLP
800 Capital St., Suite 2400
Houston, TX 77002-2925
Telephone: (713) 651-2600
Facsimile: (713) 651-2700

Michael A. Tomasulo (SBN: 179389)
mtomasulo@winston.com
Diana Hughes Leiden (SBN: 267606)
dhleiden@winston.com
WINSTON & STRAWN LLP
333 S. Grand Avenue, 38th Floor
Los Angeles, CA 90071-1543
Telephone: (213) 615-1700
Facsimile: (213) 615-1750

Case No. 2:20-cv-07872-GW-PVC
DEFENDANTS' PRELIMINARY
ELECTION OF ASSERTED
PRIOR ART

1 **I. INTRODUCTION**

2 Pursuant to the Joint 26(f) Report (Dkt. No. 81) and the Court’s Scheduling Order
3 (Dkt. No. 91), Defendants Bank of America Corporation and Bank of America, N.A.
4 (collectively “Bank of America” or “Defendants”) hereby provide their Preliminary
5 Election of Asserted Prior Art.

6 **II. NANTWORKS’S PRELIMINARY ELECTION OF ASSERTED CLAIMS**

7 On May 11, 2021, NantWorks, LLC and Nant Holdings IP, LLC (“NantWorks”
8 or “Plaintiff”) served their Preliminary Election of Asserted Claims limiting the asserted
9 claims to forty-eight (48) total claims as follows:

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Asserted Patents	Asserted Claims
U.S. Pat. No. 7,881,529 (“529 patent”)	Claims 2, 4, 7, 9, 18, and 20
U.S. Pat. No. 7,899,252 (“252 Patent”)	Claims 18, 26–27, 29, and 31
U.S. Pat. No. 8,463,030 (“030 Patent”)	Claims 1, 3–4, 6–7, 19, 21, 25–26, 30, 32, and 37
U.S. Pat. No. 8,326,038 (“038 Patent”)	Claims 1, 3, 9–10, 16, and 19–20
U.S. Pat. No. 8,478,036 (“036 Patent”)	Claims 1, 10, 12–13, and 15
U.S. Pat. No. 8,520,897 (“897 Patent”)	Claims 25, 30, 33–34, 39, and 42
U.S. Pat. No. 9,324,004 (“004 Patent”)	Claims 1, 3, 6, and 18
U.S. Pat. No. 9,031,278 (“278 Patent”)	Claims 1 and 4–5

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1 **III. DEFENDANTS' PRELIMINARY ELECTION OF ASSERTED PRIOR ART**

2 Bank of America elects no more than fifteen (15) asserted prior art references¹
3 per Asserted Patent and no more than forty-eight (48) total references. Bank of America
4 may amend these limits on prior art references on agreement of the parties or by leave
5 of Court for good cause shown. For each Asserted Patent, Bank of America elects
6 the following prior art references:²

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

8

No.	Prior Art Reference Asserted to Render the Asserted Claims Obvious
1	Ogasawara and Bolle
2	Ogasawara and QBIC System
3	Ogasawara, Bolle, and Rhoads
4	Rhoads and QBIC System
5	Rhoads, QBIC System, and Krouse
6	Mault and QBIC System
7	Sizer and QBIC System
8	Sizer, QBIC System, and Krouse

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20 ¹ A “prior art reference” is a single prior art reference that is asserted to anticipate a
21 claim, or a combination of prior art references asserted to render a claim obvious. A
22 prior art instrumentality (such as a device or process) and associated references that
23 describe that instrumentality shall count as one “prior art reference.” By way of
24 example, if Bank of America asserts an invalidity theory that System X is prior art and
25 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 48 references or
obviousness combinations.

26 ² Bank of America reserves the right to rely on any materials, including any of the
27 references disclosed in its Preliminary Invalidity Contentions, for background or to
28 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 Invalidity Contentions to support
obviousness.

No.	Prior Art Reference Asserted to Render the Asserted Claims Obvious
9	Harris and QBIC System
10	Harris, QBIC System, and Krouse
11	Ehrhart and QBIC System
12	Ehrhart, QBIC System, and Krouse
13	Cooltown System and QBIC System
14	Cooltown System, QBIC System, and Krouse
15	Cooltown System, Krouse, and Ehrhart

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

No.	Prior Art Reference Asserted to Render the Asserted Claims Obvious
1	Ogasawara and Bolle
2	Ogasawara and QBIC System
3	Rhoads and QBIC System
4	Rhoads, QBIC System, and Krouse
5	Mault and QBIC System
6	Sizer and QBIC System
7	Sizer, QBIC System, and Krouse
8	Harris and QBIC System
9	Harris, QBIC System, and Krouse
10	Ehrhart and QBIC System
11	Ehrhart, QBIC System, and Krouse

No.	Prior Art Reference Asserted to Render the Asserted Claims Obvious
12	Cooltown System and QBIC System
13	Cooltown System, QBIC System, and Krouse
14	Cooltown System and Ehrhart
15	Cooltown System, Krouse, and Ehrhart

U.S. Pat. No. 8,463,030

No.	Prior Art Reference Asserted to Render the Asserted Claims Obvious
1	Ogasawara and Bolle
2	Ogasawara and QBIC System
3	Ogasawara, Bolle, and Rhoads
4	Rhoads and QBIC System
5	Rhoads, QBIC System, and Krouse
6	Mault and QBIC System
7	Sizer, Cooltown System, and Krouse
8	Sizer, Cooltown System, and QBIC System
9	Sizer, Mault, and QBIC System
10	Harris, Mault, and QBIC System
11	Harris, QBIC System, and Sizer
12	Cooltown System and Krouse
13	Cooltown System and QBIC System
14	Cooltown System, QBIC System, and Harris

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