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9   UNITED STATES DISTRICT COURT

10   FOR THE CENTRAL DISTRICT OF CALIFORNIA

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12 NANTWORKS, LLC, a Delaware limited liability company, and NANT HOLDINGS IP, LLC, a Delaware limited liability company, 14 Plaintiffs, 15 vs. 16 BANK OF AMERICA CORPORATION, a Delaware corporation, and BANK OF AMERICA, N.A., a national banking association, 19 Defendants.	CASE NO.: 2:20-cv-7872 **COMPLAINT FOR PATENT INFRINGEMENT, COPYRIGHT INFRINGEMENT, TRADE SECRET MISAPPROPRIATION, AND BREACH OF CONTRACT** **JURY TRIAL DEMANDED** Trial Date: None Set

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COMPLAINT FOR PATENT INFRINGEMENT, COPYRIGHT INFRINGEMENT,

1   Plaintiffs NantWorks, LLC and Nant Holdings IP, LLC ("Nant IP")

2 (collectively, "NantWorks" or "Plaintiffs"), through their attorneys and for their

3 claims against Defendants Bank of America Corporation ("BAC") and Bank of

4 America, N.A. ("BNA") (collectively, "BoA" or "Defendants"), allege as follows:

5 <div align="center">**THE PARTIES**</div>

6   1.   Plaintiff NantWorks, LLC is a Delaware limited liability company with

7 its principal place of business at 9920 Jefferson Boulevard, Culver City, CA 90232.

8   2.   Plaintiff Nant Holdings IP, LLC is a Delaware limited liability company

9 with its principal place of business at 9920 Jefferson Boulevard, Culver City, CA

10 90232.

11   3.   Upon information and belief, Defendant Bank of America Corporation

12 is a Delaware corporation with its principal place of business at Bank of America

13 Corporate Center, 100 N. Tryon Street, Charlotte, NC 28255.

14   4.   Upon information and belief, Defendant Bank of America, N.A. is a

15 federally chartered national banking association organized and existing under the laws

16 of the United States and a wholly owned subsidiary of Bank of America Corporation,

17 with its principal place of business at Bank of America Corporate Center, 100 N.

18 Tryon Street, Charlotte, NC 28255.

19 <div align="center">**JURISDICTION AND VENUE**</div>

20   5.   This civil action contains claims for patent infringement arising under

21 the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

22   6.   This civil action contains claims for copyright infringement arising under

23 the copyright laws of the United States, 17 U.S.C. § 1 *et seq.*

24   7.   This civil action contains claims for trade secret misappropriation arising

25 under the Defend Trade Secrets Act of 2016, 18 U.S.C. § 1836 *et seq.*

26   8.   This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and

27 1338(a) because this action arises under the patent laws of the United States, 35

28 U.S.C. § 1 *et seq.*, the copyright laws of the United States, 17 U.S.C. § 1 *et seq.*, and

1   the Defend Trade Secrets Act of 2016, 18 U.S.C. § 1836 *et seq.*

2   9.   This Court has supplemental jurisdiction over NantWorks' state law

3   claims pursuant to 28 U.S.C. §1367(a).

4   10.   This Court has personal jurisdiction over BoA because it has committed

5   acts in this District that give rise to all acts of infringement and misappropriation

6   asserted herein. This Court also has personal jurisdiction over BoA because it has

7   substantial, systematic and continuous contacts with this District. BoA has a regular

8   and established place of business in the State of California and in this District,

9   including operating hundreds of bank branches and ATMs in California and in this

10 judicial District, and conducts business with its customers residing in this District both

11 through its bank branches and ATMs and its online and mobile banking services.

12   11.   BoA has committed and continues to commit acts of infringement in

13 violation of 35 U.S.C. § 271, and has made, used, marketed, distributed, offered for

14 sale, sold, and/or imported infringing products in the State of California, including in

15 this District, and engaged in infringing conduct within and directed at or from this

16 District. For example, on information and belief, BoA has numerous customers who

17 utilize BoA's mobile check deposit software for mobile check deposit, thereby

18 infringing and causing BoA to infringe the Asserted Patents.

19   12.   Venue is proper in this District under the provisions of 28 U.S.C.

20 §§ 1391 and 1400(b) at least because a substantial part of the events or omissions

21 giving rise to the claims occurred in this judicial district, and because BoA has

22 committed acts of infringement in this District and has a regular and established place

23 of business in this District.

24   **INTRODUCTION**

25   13.   This dispute is based on BoA's unauthorized use and misappropriation

26 of NantWorks' pioneering image recognition technology in BoA's widely used

27 mobile check deposit solution.

28   14.   In early 2010, Matt Calman, a BoA executive, witnessed a demonstration

COMPLAINT FOR PATENT INFRINGEMENT, COPYRIGHT INFRINGEMENT,

of NantWorks' image recognition technology.[1]   He was "very impressed" by NantWorks' technology and approached NantWorks regarding a partnership involving image recognition solutions for mobile devices.   The companies then entered into a series of agreements that would allow BoA to evaluate NantWorks' image recognition technology and for both companies to collaborate in commercializing this technology in new and impactful applications, including mobile check deposit.

15.   Pursuant to their agreements, during 2011 and 2012 NantWorks developed mobile check deposit software that vastly outperformed BoA's then existing solution. BoA was intrigued by the performance of NantWorks' mobile check deposit software and led NantWorks to believe that BoA would incorporate NantWorks' mobile check deposit software into the commercial version of BoA's Mobile Banking application and compensate NantWorks for the use of its technology. After delivering a complete version of NantWorks' software and related confidential technical information, however, NantWorks did not receive further updates on the project. NantWorks assumed that BoA decided to pursue its existing technology.

16.   Several years later, NantWorks uncovered information demonstrating that BoA not only continued to use NantWorks' software without authorization, but that BoA had incorporated NantWorks' proprietary image recognition technology and NantWorks' intellectual property into its mobile check deposit solution. As explained below, BoA's actions give rise to NantWorks' claims for patent infringement, copyright infringement, trade secret misappropriation, and breach of contract.

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[1]   Formed in 2011, NantWorks (through predecessor companies) acquired a number of image recognition companies, including IPPLEX in August 2010 and Evryx in February 2011. Reference to Nantworks in this Complaint refers to both Nantworks and its predecessor entities including IPPLEX and Evryx.

FACTUAL BACKGROUND

NantWorks, Evryx, and IPPLEX

17.   NantWorks was formed in 2011 to, among other things, develop solutions to real-world machine vision and image recognition challenges. NantWorks recognized the benefits of using mobile devices to recognize features in digital images and the application of such technology to numerous industries, including financial services.   To expand its depth in this field, NantWorks (through predecessor companies) acquired a number of image recognition companies, including IPPLEX in August 2010 and Evryx in February 2011.

18.   Evryx had developed and patented fundamental image recognition technology in the early 2000s. Its technology allowed mobile devices to capture images/video, recognize specific features in the images/video, and provide information associated with the recognized features to users. Evryx's technology was years ahead of its time, being developed well before the introduction of the first iPhone in 2007 and other early smartphones. Indeed, Evryx's technology was developed when mobile phones had very limited functionality and certainly nothing approaching the image recognition technologies that are in use today. For example, one of the most successful mobiles phones released in the early 2000s was the Nokia 3310 shown below, which did not include any capability for image recognition technology, let alone an integrated camera[2]:

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[2]   https://en.wikipedia.org/wiki/Nokia_3310#/media/File:Nokia_3310_blue.jpg

COMPLAINT FOR PATENT INFRINGEMENT, COPYRIGHT INFRINGEMENT,

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