

1 George C. Lombardi (*pro hac vice*)  
glombardi@winston.com  
2 WINSTON & STRAWN LLP  
35 West Wacker Drive  
3 Chicago, IL 60601-9703  
Telephone: (312) 558-5600  
4 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  
Telephone: (704) 350-7700  
8 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  
Telephone: (212) 294-6700  
12 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  
limited liability company, and  
18 NANT HOLDINGS IP, LLC, a  
Delaware limited liability company,

19 Plaintiffs,

20 vs.

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

24 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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11 <b>Asserted Patents</b>	11 <b>Asserted Claims</b>
12 U.S. Pat. No. 7,881,529 (“529 patent”)	Claims 2, 4, 7, 9, 18, and 20
13 U.S. Pat. No. 7,899,252 (“252 Patent”)	Claims 18, 26–27, 29, and 31
14 U.S. Pat. No. 8,463,030 (“030 Patent”)	Claims 1, 3–4, 6–7, 19, 21, 25–26, 30, 32, 15 and 37
16 U.S. Pat. No. 8,326,038 (“038 Patent”)	Claims 1, 3, 9–10, 16, and 19–20
17 U.S. Pat. No. 8,478,036 (“036 Patent”)	Claims 1, 10, 12–13, and 15
18 U.S. Pat. No. 8,520,897 (“897 Patent”)	Claims 25, 30, 33–34, 39, and 42
19 U.S. Pat. No. 9,324,004 (“004 Patent”)	Claims 1, 3, 6, and 18
20 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 references<sup>1</sup>  
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:<sup>2</sup>

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 <sup>1</sup> 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  
26 X + Document A, B, C, etc.) would constitute one prior art reference. The same prior  
27 art reference or obviousness combination asserted against multiple patents counts only  
28 as a single prior art reference with respect to the overall limit of 48 references or  
obviousness combinations.

<sup>2</sup> Bank of America reserves the right to rely on any materials, including any of the  
references disclosed in its Preliminary Invalidity Contentions, for background or to  
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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