

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

BOOKIT OY AJANVARAUSPALVELU,

Plaintiff,

v.

**BANK OF AMERICA CORPORATION AND
BANK OF AMERICA, N.A.**

Defendants.

Civil Action No. 3:17-cv-02577

JURY TRIAL

PLAINTIFF’S COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff BookIT Oy Ajanvarauspalvelu (“BookIT” or “Plaintiff”) files this Complaint against Defendants Bank of America Corporation and Bank of America, N.A. for patent infringement and alleges, based on its own personal knowledge with respect to its own actions and based upon information and belief with respect to all others’ actions, as follows:

PARTIES

1. Plaintiff BookIT Oy Ajanvarauspalvelu is a corporation incorporated under the laws of Finland with its principal place of business at Elimäenkatu 17-19 00510 Helsinki, Finland. Plaintiff’s U.S. operations are located at 6565 N. MacArthur Blvd., Suite 225, Irving, TX 75039.

2. Defendant Bank of America Corporation (“BAC”) is a Delaware corporation with its principal place of business at Bank of America Corporate Center, 100 N. Tryon Street, Charlotte, NC 28255. Bank of America can be served with process by serving CT Corporation System, 1999 Bryan St., Suite 900, Dallas, TX 75201-3140. Bank of America maintains offices and branches in Dallas, TX which is in the Northern District of Texas. See

https://locators.bankofamerica.com/search?q=dallas&rad=100&check_list=4519# (attached as Exhibit C; listing 27 different Bank of America facilities that accept appointments in Dallas and providing the locations of Bank of America facilities that accept appointments—i.e., brick and mortar customer-facing Bank of America banking locations—in the Dallas area). Bank of America maintains offices and branches in Fort Worth, TX which is in the Northern District of Texas. See https://locators.bankofamerica.com/search?q=Fort%20Worth,%20TX,%20US&rad=100&check_list=# (attached as Exhibit D; listing 22 different Bank of America facilities that accept appointments in Fort Worth and providing the locations of Bank of America facilities that accept appointments—i.e., brick and mortar customer-facing Bank of America banking locations—in the Fort Worth area).

3. Bank of America, N.A. (“BANA”) is a national banking association and a wholly owned subsidiary of Bank of America Corporation. Bank of America, N.A. maintains offices and branches in Dallas, TX which is in the Northern District of Texas. See https://locators.bankofamerica.com/search?q=dallas&rad=100&check_list=4519# (attached as Exhibit C; listing 27 different Bank of America facilities that accept appointments in Dallas and providing the locations of Bank of America facilities that accept appointments—i.e., brick and mortar customer-facing Bank of America banking locations—in the Dallas area). Bank of America, N.A. maintains offices and branches in Fort Worth, TX which is in the Northern District of Texas. See https://locators.bankofamerica.com/search?q=Fort%20Worth,%20TX,%20US&rad=100&check_list=# (attached as Exhibit D; listing 22 different Bank of America facilities that accept appointments in Fort Worth and providing the locations of Bank of America facilities that accept appointments—i.e., brick and mortar customer-facing Bank of America banking locations—in the Fort Worth area).

4. BAC and BANA are collectively referred to herein as “Bank of America.” On information and belief, Bank of America is engaged in the design, manufacture, sale within the United States, offering for sale in the United States, use within the United States, importation into the United States, and/or sale after importation into the United States of mobile banking functionality, including text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions, including related software, and components thereof. On information and belief, Defendants market, sell, and use these text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions throughout the United States.

JURISDICTION AND VENUE

5. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101 et seq., including 35 U.S.C. §§ 271 and 281-285. This Court has exclusive subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338.

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1400(b). Bank of America is subject to personal jurisdiction in this district. Additionally, Bank of America has regular and established places of business in this district, and upon information and belief, Bank of America has individually transacted business in this district and/or committed acts of patent infringement in this district.

7. This Court has personal jurisdiction over Bank of America. Bank of America has conducted and does conduct business within the Northern District of Texas. Bank of America, directly or through subsidiaries or intermediaries (including distributors, retailers, and others), ships, distributes, offers for sale, sells, and/or advertises (including through its web pages) its

products and services (including products and/or services that infringe the Asserted Patents, as described more particularly below) in the United States, the State of Texas, and the Northern District of Texas. Bank of America, directly and through subsidiaries or intermediaries (including distributors, retailers, and others), has purposefully and voluntarily placed one or more infringing products and/or services, as described below, into the stream of commerce with the expectation that they will be purchased and/or used by consumers in the Northern District of Texas. These infringing products and/or services have been and continue to be purchased and/or used by consumers in the Northern District of Texas. Bank of America has committed acts of patent infringement within the State of Texas and, more particularly, within the Northern District of Texas.

THE ASSERTED PATENTS

8. This lawsuit asserts causes of action for infringement of United States Patent Nos. 8,589,194 and 9,177,268 (collectively, the “Asserted Patents”).

9. On November 19, 2013, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 8,589,194 (“the ’194 Patent”) entitled, “BOOKING METHOD AND SYSTEM,” to Jukka Salonen. BookIT is the owner by assignment of the ’194 Patent and holds all right, title and interest to the ’194 Patent. A true and correct copy of the ’194 Patent is attached as Exhibit A.

10. The ’194 patent describes, among other things a method and system for communicating over a telecommunications network between a service provider and one or more users, wherein the service provider can have access to multiple distinct addresses in the telecommunications network and each user is identified by an address, more specifically, where a first message can be sent over at least a portion of the telecommunications network to a user's

address and based on a response from the user determining the message to which the response is a reply.

11. Claim 1 of the '194 patent is as follows:

1. A computer program product comprising a non-transitory recording medium, having encoded thereon a computer readable program executable by a computer, for performing functions of a mediator for controlling communications between a service provider and a client terminal device having a client identifier address, where communications between the service provider and the client terminal device use technology in which a reply to an inquiry does not automatically include an explicit reference to the inquiry, the mediator functions comprising:

- preparing at least one inquiry message pertaining to the service provider, the at least one inquiry message including a choice selection inquiry;
- associating a particular reply address to the at least one inquiry message, the particular reply address being selected from a plurality of addresses at which the mediator receives communications regarding the service provider;
- sending the at least one inquiry message to the client terminal device;
- receiving, from the client terminal device, a reply to the at least one inquiry message at the particular reply address associated with the received reply, the received reply including the client identifier address and a choice selection;
- determining the choice selection in the received reply; identifying the at least one inquiry message that the client has responded to based on the particular reply address at which the received reply is received; and
- storing information pertaining to the received reply including the client identifier address, the reply address and information indicating the choice selection, wherein the storing information includes relating the client identifier address, the reply address and information indicating the choice selection, wherein the client identifier address, reply address and information indicating the choice selection are related to one another by storing the client identifier address, reply address and information in a multi-dimensional data structure.

12. The '194 Patent is owned by BookIT and the technology covered by said patent was developed by BookIT, its predecessors, and/or related companies. BookIT has complied with 35 U.S.C. § 287 and is entitled to recover pre-suit damages.

13. On November 3, 2015, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 9,177,268 (“the ’268 Patent”) entitled, “BOOKING METHOD AND SYSTEM” to Jukka Salonen. BookIT is the owner by assignment of the ’268 Patent and holds all right, title and interest to the ’268 Patent. A true and correct copy of the ’268 Patent is attached as Exhibit B.

14. The ’268 patent describes, among other things a method and system for communicating over a telecommunications network between a service provider and one or more users, wherein the service provider can have access to multiple distinct addresses in the telecommunications network and each user is identified by an address, more specifically where a first message can be sent over at least a portion of the telecommunications network to a user's address and based on a response from the user determining the message to which the response is a reply to.

15. Claim 1 of the ’268 Patent is as follows:

1. Equipment comprising:
at least one network server which executes at least one application,
wherein the at least one application, when executed on the at least one network server controls electronic communication between a service provider computer having at least two electronic reply addresses and at least one mobile device having a client identifier address over at least one communication network,
wherein the at least one application, when executed on the at least one network server selects one of the at least two reply addresses to be a reply address for at least one electronic communication sent to at least one mobile device by the service provider computer, wherein the electronic communication sent to the at least one mobile device comprises the selected reply address,
wherein the at least one application, when executed on the at least one network server stores at least two items for each electronic communication sent from the service provider computer, wherein the at least two items are selected from:
content of the electronic communication from the service provider computer;

the client identifier address of the electronic communication from the service provider computer; and
the reply address for replying to the electronic communication from the service provider computer via the at least one communication network, the reply address being selected from the at least two reply addresses,
wherein the at least one application, when executed on the at least one network server further stores, for each reply electronic communication received from a client identifier address at any one of the reply addresses, at least the reply address at which the reply electronic communication was received or content of the reply communication, and
wherein the at least one application, when executed on the at least one network server further uses the stored information to determine electronic communication to which each received reply electronic communication is a reply.

16. The '268 Patent is owned by BookIT and the technology covered by said patent was developed by BookIT, its predecessors, and/or related companies. BookIT has complied with 35 U.S.C. § 287 and is entitled to recover pre-suit damages.

17. The Asserted Patents are valid and enforceable.

BACKGROUND

MR. SALONEN'S INVENTIONS

18. The inventions disclosed and claimed in the Asserted Patents were invented by Jukka Salonen.

19. Mr. Salonen holds an MBA from the Turku School of Economics in Finland and has worked in the communications field for over thirty years. Mr. Salonen has been a researcher and lecturer at the Helsinki University of Technology. Prior to founding BookIT, Mr. Salonen worked as an executive at Telecom Finland.

20. Mr. Salonen's innovative work has resulted in 36 issued U.S. patents to date (with another 25 pending), including the Asserted Patents. Mr. Salonen is named as an inventor on an additional 46 issued foreign patents (with another 11 pending) throughout the world.

21. Mr. Salonen is the CEO of BookIT. Mr. Salonen and his family have resided in Colleyville, Texas since 2016.

SESSION MANAGEMENT IN TWO-WAY COMMUNICATIONS

22. Text messaging is a communication medium used by people around the world. Text messages are so popular, in part, because they are direct forms of communications that are simple to use.

23. Unlike many other communications systems, text messaging is an asynchronous form of communication, meaning a reply to a message contains no explicit reference to the original message to which it is responsive. A user sending multiple text messages may receive a response from the recipient of those messages, but the sender would not generally be able to ascertain the message to which the recipient was replying. This is particularly true when the sender is a non-human sender, such as a software application.

24. In 1999, Jukka Salonen founded BookIT and has since developed session management for text messaging that enables interactive two-way, application-to-person (A2P) communication, which in turn allows business transactions to be conducted through text messaging. The inventions described in the Asserted Patents are implemented today in systems that employ text messages for business purposes.

25. BookIT operates in both the United States and in Europe, providing solutions to corporate customers and partners such as Nokia, Amadeus, DHL, American Express, Nashville MTA, Microsoft, Salesforce, Accenture, and Finnair, among others. In turn, over 7.3 million connected consumers have generated over 100 million mobile transactions with BookIT's mobile engagement solutions to manage ticket purchases, travel and event check-in, delivery scheduling, mobile payments, and one-touch upgraded services.


GENERAL ALLEGATIONS

26. Bank of America has directly and indirectly infringed and continues to directly and indirectly infringe the Asserted Patents by engaging in acts constituting infringement under 35 U.S.C. § 271(a) and (b), including, but not necessarily limited to, one or more of making, using, selling and offering to sell, in this District and elsewhere in the United States, and importing into this District and elsewhere in the United States, certain systems and/or methods that comprise mobile banking functionality.

27. On information and belief, Bank of America's mobile banking functionality includes the text banking service for personal and small business accounts (<https://www.bankofamerica.com/deposits/checking/checking-accounts/>) and the CashPro® automated alert notifications for businesses and institutions (<https://www.bofaml.com/en-us/content/explore-cashpro.html>).

28. On information and belief, Bank of America is making, using, selling, and/or offering to sell software applications that send and receive messages between Bank of America equipment and mobile user devices using multiple SMS short code numbers, for example as demonstrated and described below:

Bank of America



Mobile Banking

Sign in

Home

Locations

Contact us

Help

En español

Q

Overview

Features

Mobile Basics

Text Banking


Text Banking

The fastest account access

Get your account balance,
recent transactions and more


BAL

Current Balance:
\$1234.56



Enroll online
Sign in to Online Banking and go to:
Profile & Settings > Mobile Settings

or



Enroll by phone
call **1.800.604.9961**
24/7

Have a question?

Text Banking customer support
1.800.604.9961

Once you receive our welcome text, you're all set to start Text Banking.

Text any of these commands to MYBOFA (or 692632):

By texting us you agree to receive an automated text message reply. Not a condition of purchasing any products/services.

(<https://www.bankofamerica.com/online-banking/text-banking.go>)

10

Cash Management Essentials



Business solutions powered by CashPro® Online

Manage cash simply and cost effectively with a suite of cash management solutions that offers easy-to-understand, monthly pricing. From payments management to fraud protection, you have a core set of capabilities powered by CashPro® Online, our award-winning cash management platform used by many leading businesses worldwide.

Account management	Payments	Receivables	Fraud prevention	Account information and reporting
Up to five business checking accounts to segregate business funds	Check payments Online account transfers ACH and wire payments ¹ International payments ¹	Remote deposit Unlimited ATM business deposits Quick business deposits via night drop or banking center	Check positive pay Online stop payments ACH blocks and authorizations Robust security features for online and mobile access	365 days of historical transaction information, including images of paid, deposited and returned items for reporting and research ² Automatic alerts and notifications for critical cash management activities via email and SMS text Mobile access to administrative tasks, account balances and pending payment approvals 18-month availability to DDA Statements and Account Analysis Statements Online access to loan information for qualified clients

(<https://baml.bankofamerica.com/cme/Cash-Management-Essentials.pdf>)

U.S. SHORT CODE DIRECTORY

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[FAQ](#)
[Use Cases](#)
[Get a Short Code](#)
[About Us](#)

by **tatango**

Short Code Directory

Find ownership information on over 8,000 short codes.

ADVANCED SEARCH

Filter by Industry

All Industries

FILTERS

Short Code Style

☐ Non-Vanity
 ☐ Vanity

Short Code Length

☐ 4 Digits
 ☐ 5 Digits
 ☐ 6 Digits

Short Code Type

















☐ Dedicated Short Code

Messaging Type


☐ MMS
 ☐ SMS

COMPANY

SORT BY Popularity

	Bank of America 73981 - Non-Vanity Short Code	View Details
	Bank of America 53849 - Non-Vanity Short Code	View Details
	Bank of America 77053 - Non-Vanity Short Code	View Details
	Bank of America 58453 - Non-Vanity Short Code	View Details
	Bank of America 27590 - Non-Vanity Short Code	View Details
	Bank of America 83146 - Non-Vanity Short Code	View Details
	Bank of America 692632 - Non-Vanity Short Code	View Details
	Bank of America Mortgage 35422 - Non-Vanity Short Code	View Details
	Bank of America 37994 - Non-Vanity Short Code	View Details
	Bank of America 69262 - Non-Vanity Short Code	View Details
	Bank of America 98170 - Non-Vanity Short Code	View Details
	Bank of America 767262 - Non-Vanity Short Code	View Details
	Bank of America 26259 - Non-Vanity Short Code	View Details
	Bank of America 41021 - Non-Vanity Short Code	View Details
	Bank of America 33739 - Non-Vanity Short Code	View Details
	Bank of America 86006 - Vanity Short Code	View Details

(https://usshortcodedirectory.com/directory/?fwp_short_code_search=bank%20of%20america)

 Online Banking

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Online Banking Service Agreement

[Go to Online Banking Overview](#)

Online Banking and Transfers Outside Bank of America Service Agreement and Electronic Disclosure

Effective Date: July 19, 2017

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1. General Description of Online Banking and Transfers Outside Bank of America Service Agreement
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4. Other Terms and Conditions
5. Additional Provisions Applicable Only to Consumer Accounts
6. Additional Provisions Applicable Only to Business Accounts
7. Additional Services Intended for Businesses
8. Transfers Outside Bank of America Services
9. BankAmeriDeals®
10. My Portfolio Service (Not available through Mobile Banking Apps or Mobile Web)
11. FICO® Score Program for Consumer Credit Card Customers (Not available for all Mobile Banking Apps)
12. Additional Services (Not available through Mobile Banking Apps or Mobile Web)

(<https://www.bankofamerica.com/online-banking/service-agreement.go>)

F. Mobile Text Alerts

1. Online Banking Alerts via Text Message

You have the option of adding a mobile phone number to your Online Banking profile. By adding a mobile phone number to your Online Banking profile, you are certifying that you are the account holder for the mobile phone account or have the account holder's permission to use the mobile phone number for Online Banking. You are also consenting to receive Online Banking Alerts via text messages as further described in Section 2.E. Text message fees may apply. Text messages may be transmitted automatically.

Message frequency varies by account and preferences. Message and Data Rates may apply. You can text STOP to MyBoFA (692632) at any time to stop the mobile alerts that you activate on the Alerts page in Online Banking desktop. Alerts sent to your primary email address will be unaffected by this action. To restore Alerts on your mobile phone, just visit the Alerts tab in Online Banking and click the box next to your mobile number for the alerts you'd like to receive again. For help with SMS text alerts, send the word HELP to 692632 or call us at 800.604.9961.

Supported Carriers:

AT&T, Sprint, Verizon Wireless, T-Mobile, Cricket, and MetroPCS

2. Fraud Alerts via Text Message

We may also send you credit card, charge card, business line of credit and/or debit card fraud text alerts to your mobile phone number in your Online Banking profile when applicable.

Credit fraud alerts coming from 322632 will be a Free to End User (FTEU) campaign. However, data rates may apply depending of your mobile carrier plan. You can opt out of this campaign at anytime by sending the word STOP to 322632. For help with SMS, send the word HELP to 322632 or call us at 800-427-2449.

Supported Carriers for Credit Card, Charge Card, and/or Business Line of Credit Fraud Alerts:

AT&T, Sprint, Verizon Wireless, T-Mobile, and Cricket

Debit fraud alerts coming from 35422 will be a Free to End User (FTEU) campaign. However, data rates may apply depending of your mobile carrier plan. You can opt out of this campaign at anytime by sending the word STOP to 35422. For help with SMS, send the word HELP to 35422 or call us at 855-926-5104.


Supported Carriers for Debit Card Fraud Alerts:

AT&T, Sprint, Verizon Wireless, T-Mobile, and MetroPCS

For information about our privacy and security practices and a link to our U.S. Consumer Privacy Notice, go to our Web site at <https://www.bankofamerica.com/privacy>.

(<https://www.bankofamerica.com/online-banking/service-agreement.go>)

CashPro® Notifications

**Bank of America
Merrill Lynch** 

Access to information virtually anytime, anywhere.

One of the biggest challenges faced by treasury managers today is receiving critical information. CashPro Notifications is a convenient solution. You can receive important information you need, when and where you need it, through customized preferences.

Key features

While CashPro Online is still your single point of access for treasury management activities, you can elect to receive reminders and alerts for activities on your accounts.

CashPro Notifications can proactively notify you of important information, such as outgoing and incoming wire transfers, opening balance, Positive Pay exception items or investment orders.

Broad choice of notification options

There are multiple communication channels — you pick the method or methods that are right for you.

- Email – Obtain email notifications to a specified address.
- Voice – Receive voice messages at your office or on your cell phone, or other specified phone numbers.
- Fax – Have alerts sent directly to your fax machine.
- Wireless – View text/SMS messages¹ on your PDA, pager or mobile phone.

Focus on security

How the service works

When you are juggling numerous demands on your time, our convenient notifications can allow you to make more prompt and informed decisions.

You simply designate the accounts, including those at various other banks, for which you want to receive information, the types of messages you wish to receive, the transaction amount and how you want to be notified. CashPro Online checks for transactions that match your criteria and delivers the alert, according to your instructions, when the criteria are met.

Easy set up

Software is not required for CashPro Notifications. Once your company receives access to the notifications service, a Setup Wizard will easily guide you through the process. The choices you make during setup can quickly be changed through edits.

If you need assistance, CashPro University has an extensive help menu, available 24/7 through CashPro Online.

(http://corp.bankofamerica.com/publicpdf/landing/cpo/cpo_notifications.pdf)

Cash Management Essentials



Business solutions powered by CashPro® Online


Manage cash simply and cost effectively with a suite of cash management solutions that offers easy-to-understand, monthly pricing. From payments management to fraud protection, you have a core set of capabilities powered by CashPro® Online, our award-winning cash management platform used by many leading businesses worldwide.

Account management	Payments	Receivables	Fraud prevention	Account information and reporting
Up to five business checking accounts to segregate business funds	Check payments Online account transfers ACH and wire payments ¹ International payments ¹	Remote deposit Unlimited ATM business deposits Quick business deposits via night drop or banking center	Check positive pay Online stop payments ACH blocks and authorizations Robust security features for online and mobile access	365 days of historical transaction information, including images of paid, deposited and returned items for reporting and research ² Automatic alerts and notifications for critical cash management activities via email and SMS text Mobile access to administrative tasks, account balances and pending payment approvals 18-month availability to DDA Statements and Account Analysis Statements Online access to loan information for qualified clients

Capabilities that grow with your business

Cash Management Essentials offers scalable solutions to meet your company's growing needs. Supplemental wire, ACH and Image Lockbox packages are available for organizations that perform a greater number of monthly payment transactions or need a more customized receivables solution.

(<https://baml.bankofamerica.com/cme/Cash-Management-Essentials.pdf>)

Bank of America 
Close

Account Alerts
Choose from several types of custom account alerts, and receive them by email or by text message to your mobile phone. These alerts can help you stay on top of the balance information for your accounts; when payments are due; or when transactions have cleared.

Balance Alerts
Balance alerts notify you of changes to your account balances:

- Available balance
- Credit card balance approaching limit
- Cash credit balance approaching limit
- Low balance threshold
- Credit card balance above threshold (Small Business only)
- Credit card balance below threshold (Small Business only)

Credit Card Payment Alerts
Payment alerts notify you when payments are due and posted to your credit card account:

- Credit card payment due
- Credit card payment posted

Transaction Alerts
Transaction alerts notify you of transactions made in your checking, savings and credit card accounts:

- Cash transaction from credit card
- Debit card/ATM deduction from account
- Debit card charge made online, by phone, or mail
- Debit card transaction outside the United States
- Check deducted from account
- Check number posted
- Credit card charge
- Credit card charge made online, by phone, or mail
- Credit card transaction outside the United States
- Credit received on credit card
- Direct deposit credited to your account
- Electronic draft deducted from account
- Money transfer deducted from account
- Online bill payment deducted from account

Mortgage and HELOC Alerts
Mortgage and HELOC alerts notify you about mortgage or HELOC activity:

- Mortgage payment due
- Mortgage payment posted
- Mortgage: Insurance payment made
- Mortgage: Tax payment made
- Mortgage: Tax bill received
- Mortgage: Escrow refund check
- Mortgage payoff processed
- HELOC payment due
- HELOC payment posted

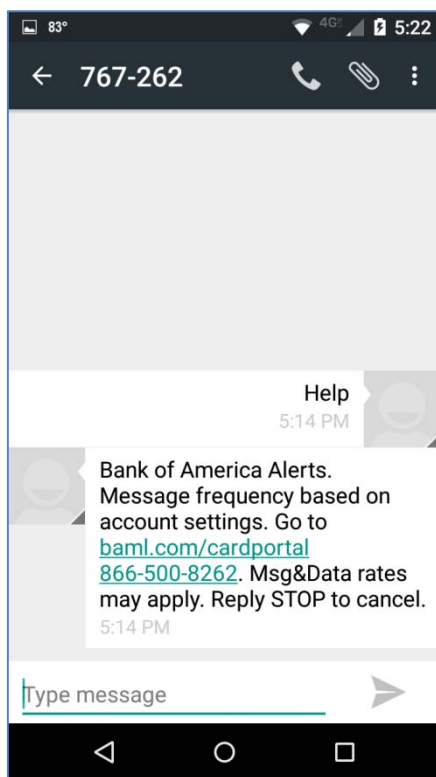
(<https://secure.bankofamerica.com/mycommunications/alerts/aboutAlertsOLBLink.go>)

General Alerts

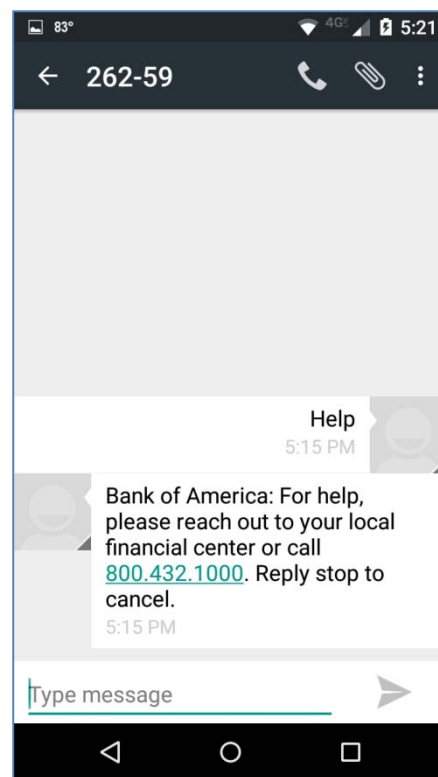
For your peace of mind, you'll receive alerts automatically any time there are changes to your Online Banking profile or if certain activities occur. You can choose not to receive these alerts, but we recommend keeping them active as they may help prevent fraud.

- Account has insufficient funds
- Address or phone number changed
- Courtesy balance notification
- Checks ordered
- Credit card access/convenience checks ordered online
- Email address changed
- Irregular debit card activity
- Irregular credit card activity
- Online Banking ID changed
- Online Banking ID looked up
- Online Banking sign-in error
- Online Banking Passcode reset
- Online transfer account added

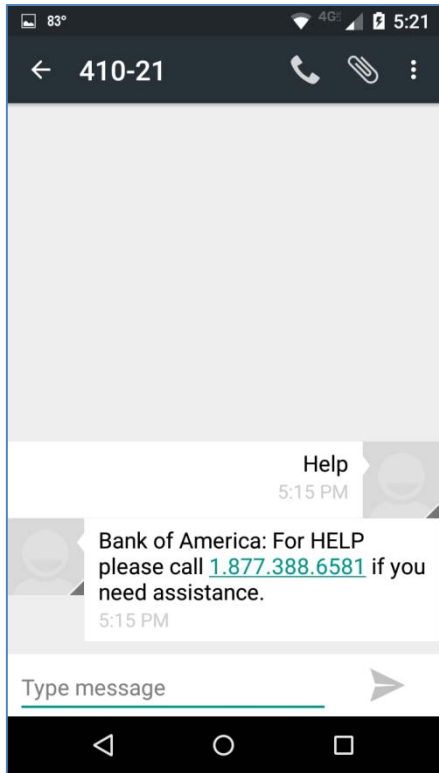
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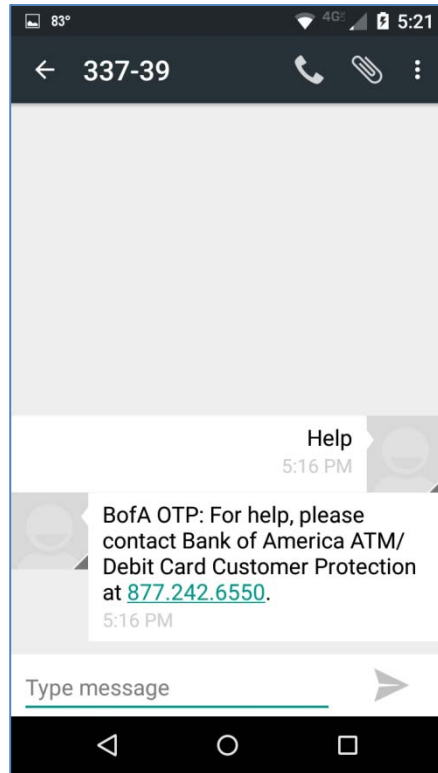
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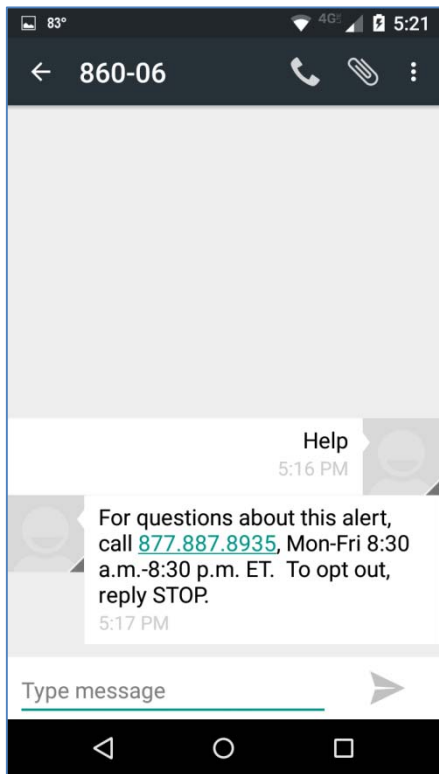
(screenshot taken 8/28/2017)



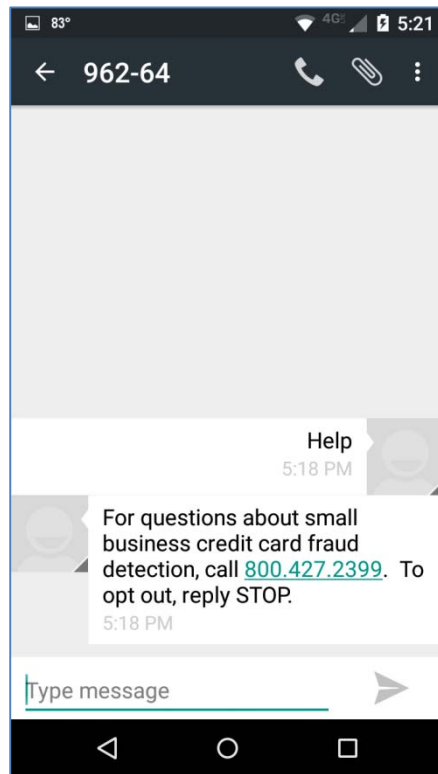
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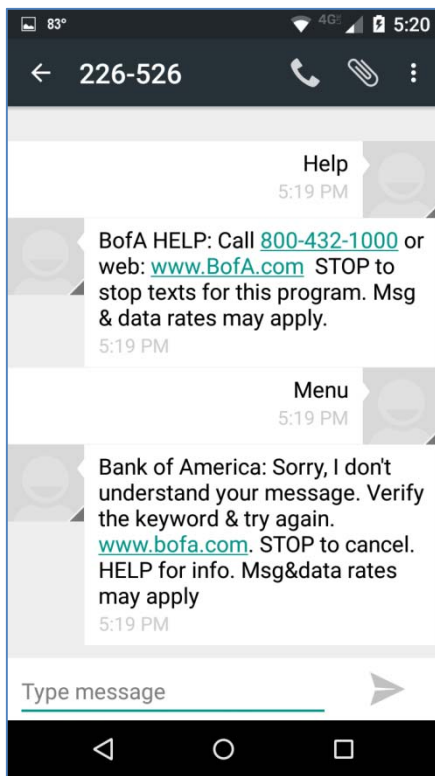
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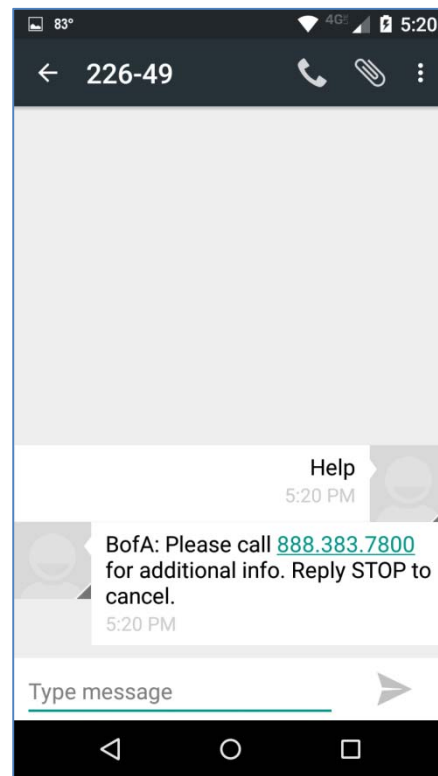
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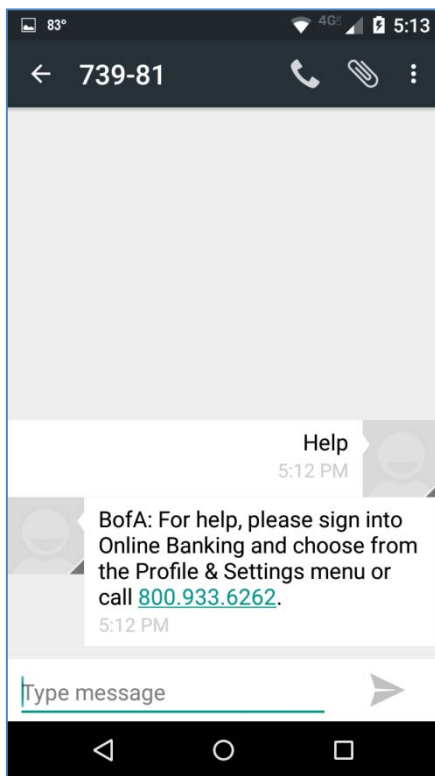
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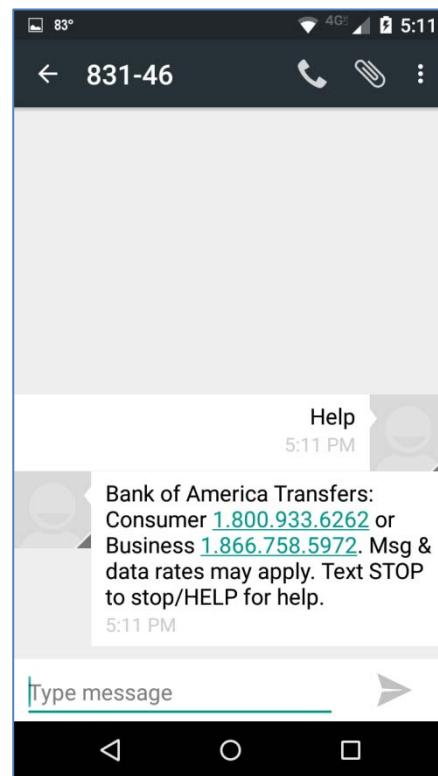
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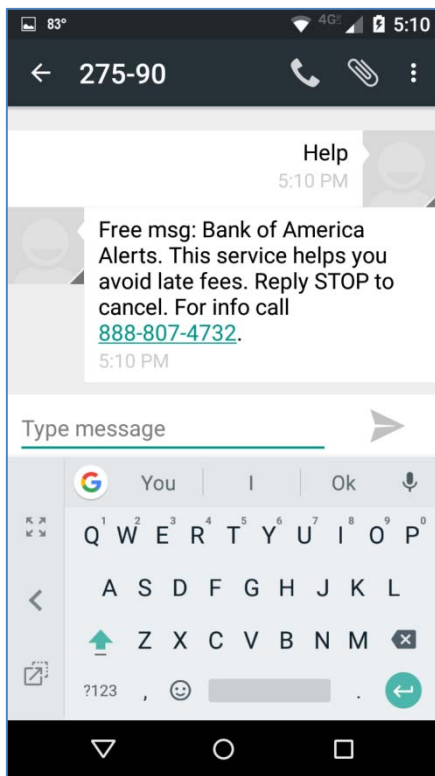
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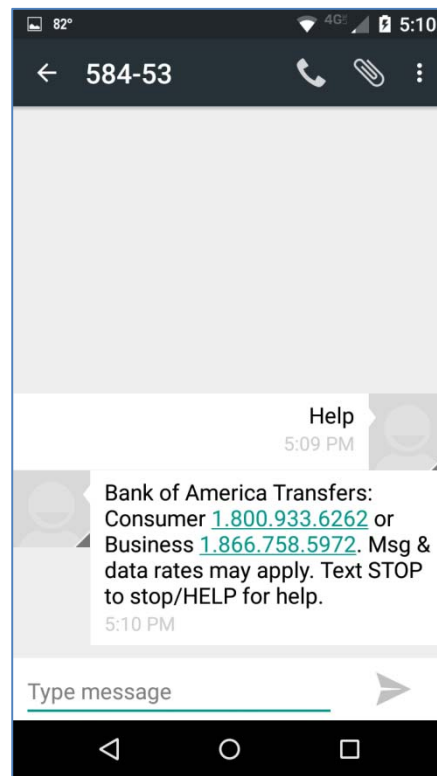
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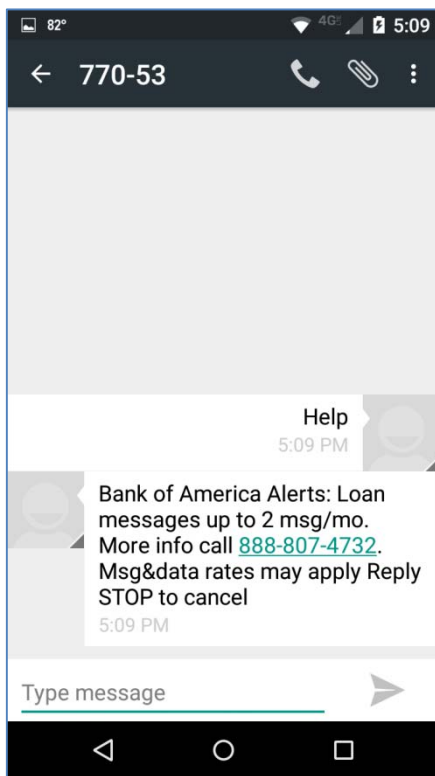
(screenshot taken 8/28/2017)



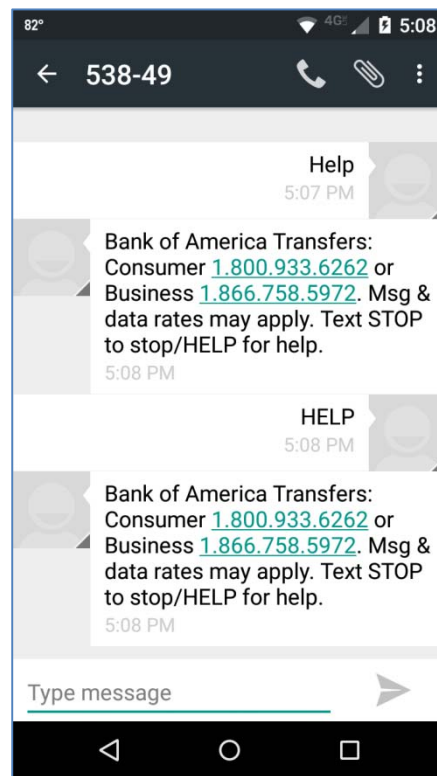
(screenshot taken 8/28/2017)



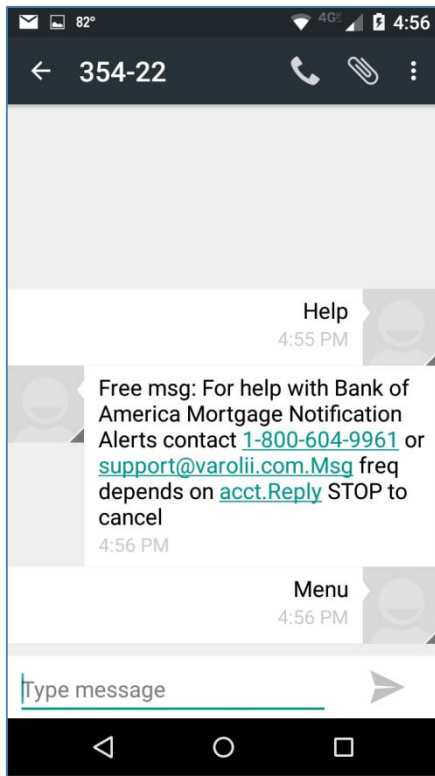
(screenshot taken 8/28/2017)



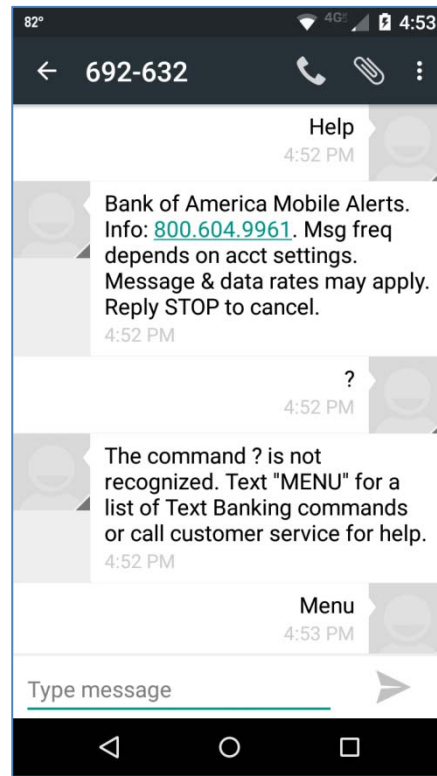
(screenshot taken 8/28/2017)



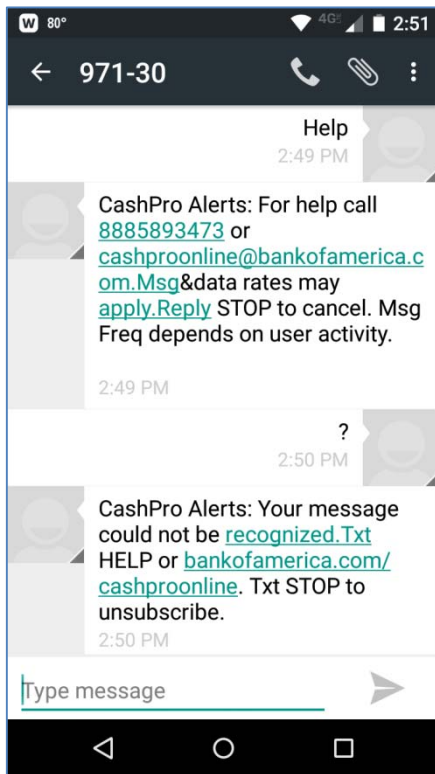
(screenshot taken 8/28/2017)



(screenshot taken 8/28/2017)



(screenshot taken 8/28/2017)



(screenshot taken 8/28/2017)

29. On information and belief, Bank of America is making, using, selling, and/or offering to sell software applications that send and receive messages between Bank of America equipment and mobile user devices and collecting and storing information relating to those messages, for example as demonstrated and described below:

Bank of America Collecting Information FAQs

[Sign In](#) [Home](#) [Locations](#) [Contact Us](#) [Help](#)

Bank of America

[Overview](#) [Privacy](#) [Account & Card Security](#) [Online & Mobile Security](#) [Report a Problem](#)

View questions about: [Go](#)

[PRINT](#)

Show all | Hide all

- ▶ Your notice says Federal law gives consumers the right to limit some, but not all, sharing. What are other ways you share under the law?
- ▶ What information is covered by your privacy notices and why do you collect information about me?
- ▼ What types of information do you collect?
We collect various types of information to service your accounts and better respond to your needs. Information we collect includes:
 - Information that identifies you, such as your name, address and telephone number.
 - Information you provide on your application, such as assets, income and other debt
 - Information about your transactions and account experience with us, such as your account balance, payment history and credit card usage
 - Information from credit reports regarding your creditworthiness or credit history
 - Information from other outside sources regarding employment, credit or other relationship with you (for example, your employment history, loan or credit card balances or your property insurance coverage)
 - Other general information from outside sources that is not assembled or used for the purpose of determining eligibility for a product or services (such as information from public records)
- ▶ When would you collect medical information about me?
- ▶ How do I know the information you have on file about me is accurate?

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Report suspicious activity

In your email:
To report a suspicious email that uses Bank of America's name, forward it to us immediately at abuse@bankofamerica.com.

In texts:
"SMShing" and Smishing are like phishing but sent via SMS text messages to access information. Report attempts at abuse@bankofamerica.com.

By phone:
"Vishing" uses the features of Voice over IP (VoIP) phones to steal personal and financial information. Report it at abuse@bankofamerica.com.

On your statement:
To report fraudulent activity on

[https://www.bankofamerica.com/privacy/faq/collecting-information-faq.go\[8/31/2017 9:19:52 AM\]](https://www.bankofamerica.com/privacy/faq/collecting-information-faq.go[8/31/2017 9:19:52 AM])

(<https://www.bankofamerica.com/privacy/faq/collecting-information-faq.go>)

30. Bank of America is doing business in the United States and, more particularly, in the Northern District of Texas, by making, using, selling, importing, and/or offering for sale mobile banking functionality, including text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions,

including related software, and components thereof.

31. BookIT has been damaged as a result of Bank of America's infringing conduct. Bank of America is therefore liable to BookIT in an amount that adequately compensates BookIT for Bank of America's infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

32. BookIT is the owner of all right, title, and interest in each of the Asserted Patents, which Bank of America is infringing and/or inducing others to infringe by making, using, offering to sell, and/or selling in the United States, and/or importing into the United States, products or processes that practice one or more inventions claimed in the Asserted Patents.

33. Bank of America has profited through infringement of the Asserted Patents. As a result of Bank of America's unlawful infringement of the Asserted Patents, BookIT has suffered and will continue to suffer damage. BookIT is entitled to recover from Bank of America the damages suffered by BookIT as a result of Bank of America's unlawful acts.

34. On information and belief, Bank of America intends to continue its unlawful infringing activity, and BookIT continues to and will continue to suffer irreparable harm—for which there is no adequate remedy at law—from such unlawful infringing activity unless Bank of America is enjoined by this Court.

BANK OF AMERICA'S INFRINGEMENT

35. In the interest of providing detailed averments of infringement, BookIT has identified below at least one exemplary claim per patent to demonstrate infringement by one exemplary product. These averments of infringement, and the selection of claims and products therein, should not be considered limiting. These averments of infringement are exemplary in nature and are made without the benefit of discovery. Additional infringing Bank of America

products and infringed claims of the Asserted Patents will be disclosed in compliance with the Court's rules related to infringement contentions.

A. Bank of America Makes, Imports, Uses, Sells, and/or Offers for Sale Products and Services that Infringe the '194 Patent.

36. Bank of America's products at issue include at least the Bank of America text banking service for personal and small business accounts and the CashPro® automated alert notifications for businesses and institutions (the "Accused Products").

37. The Accused Products infringe the '194 patent. For example, the Bank of America text banking service for personal and small business accounts infringes claim 1 of the '194 patent.

38. The Bank of America text banking service for personal and small business accounts comprises a computer program product comprising a non-transitory recording medium, having encoded thereon a computer readable program executable by a computer, for performing functions of a mediator for controlling communications between a service provider and a client terminal device having a client identifier address, where communications between the service provider and the client terminal device use technology in which a reply to an inquiry does not automatically include an explicit reference to the inquiry. The Bank of America text banking service for personal and small business accounts, through its use of text messaging satisfies this limitation.

39. The Bank of America text banking service for personal and small business accounts prepares at least one inquiry message pertaining to the service provider, the at least one inquiry message including a choice selection inquiry. By providing automatic alert notifications in the form of a text message, the Bank of America text banking service for personal and small business accounts satisfies this limitation.

40. The Bank of America text banking service for personal and small business accounts associates a particular reply address to the at least one inquiry message, the particular reply address being selected from a plurality of addresses at which the mediator receives communications regarding the service provider. By sending automatic alert notifications in the form of a text message from a plurality of SMS short code numbers, the Bank of America text banking service for personal and small business accounts satisfies this limitation.

41. The Bank of America text banking service for personal and small business accounts sends the at least one inquiry message to the client terminal device. By sending automatic alert notifications in the form of a text message from a plurality of SMS short code numbers to customer mobile devices, the Bank of America text banking service for personal and small business accounts satisfies this limitation.

42. The Bank of America text banking service for personal and small business accounts receives, from the client terminal device, a reply to the at least one inquiry message at the particular reply address associated with the received reply, the received reply including the client identifier address and a choice selection. By sending automatic alert notifications in the form of text messages from a plurality of SMS short code numbers to customer mobile devices and then receiving text message replies from customer mobile devices, the Bank of America text banking service for personal and small business accounts satisfies this limitation.

43. The Bank of America text banking service for personal and small business accounts determines the choice selection in the received reply and identifies the at least one inquiry message that the client has responded to based on the particular reply address at which the received reply is received. By responding to received text message replies from customer mobile devices, the Bank of America text banking service for personal and small business

accounts satisfies this limitation.

44. The Bank of America text banking service for personal and small business accounts stores information pertaining to the received reply including the client identifier address, the reply address and information indicating the choice selection, wherein the storing information includes relating the client identifier address, the reply address and information indicating the choice selection, wherein the client identifier address, reply address and information indicating the choice selection are related to one another by storing the client identifier address, reply address and information in a multi-dimensional data structure. By collecting and storing information relating to user phone numbers and account transactions, the Bank of America text banking service for personal and small business accounts satisfies this limitation.

45. Thus, as described above, the Bank of America text banking service for personal and small business accounts infringes one or more claims of the '194 patent, including claim 1.

46. The Accused Products are made, used, offered for sale, and/or sold in the United States, and/or imported by Bank of America to infringe the '194 patent. Bank of America provides online instructions that instruct the users of the Accused Products to use the Accused Products in a manner that infringes the '194 patent.

B. Bank of America Makes, Imports, Uses, Sells, and/or Offers for Sale Products and Services that Infringe the '268 Patent.

47. The Bank of America text banking service for personal and small business accounts comprises at least one network server which executes at least one application. The Bank of America text banking service for personal and small business accounts software application is hosted on a networked computer. Through the implementation of its text banking service for personal and small business accounts, the Bank of America text banking service for

personal and small business accounts satisfies this limitation.

48. The Bank of America text banking service for personal and small business accounts is equipment that comprises at least one application, when executed on the at least one network server controls electronic communication between a service provider computer having at least two electronic reply addresses and at least one mobile device having a client identifier address over at least one communication network. The Bank of America text banking service for personal and small business accounts software application is hosted on a networked computer and controls text messaging to and from customer mobile devices, and thus satisfies this limitation.

49. The Bank of America text banking service for personal and small business accounts comprises at least one application that, when executed on the at least one network server selects one of the at least two reply addresses to be a reply address for at least one electronic communication sent to at least one mobile device by the service provider computer, wherein the electronic communication sent to the at least one mobile device comprises the selected reply address. The Bank of America text banking service for personal and small business accounts software application is hosted on a networked computer and sends automatic alert notifications in the form of text messages from a plurality of SMS short code numbers to customer mobile devices and thus satisfies this limitation.

50. The Bank of America text banking service for personal and small business accounts comprises at least one application that, when executed on the at least one network server stores at least two items for each electronic communication sent from the service provider computer, wherein the at least two items are selected from: content of the electronic communication from the service provider computer; the client identifier address of the electronic

communication from the service provider computer; and the reply address for replying to the electronic communication from the service provider computer via the at least one communication network, the reply address being selected from the at least two reply addresses. The Bank of America text banking service for personal and small business accounts software application is hosted on a networked computer and sends automatic alert notifications in the form of text messages from a plurality of SMS short code numbers to customer mobile devices. In addition, by collecting and storing information relating to user phone numbers and account transactions, the Bank of America text banking service for personal and small business accounts satisfies this limitation.

51. The Bank of America text banking service for personal and small business accounts comprises at least one application that, when executed on the at least one network server further stores, for each reply electronic communication received from a client identifier address at any one of the reply addresses, at least the reply address at which the reply electronic communication was received or content of the reply communication. The Bank of America text banking service for personal and small business accounts software application is hosted on a networked computer and sends automatic alert notifications in the form of text messages from a plurality of SMS short code numbers to customer mobile devices. In addition, by collecting and storing information relating to user phone numbers and account transactions, the Bank of America text banking service for personal and small business accounts satisfies this limitation.

52. The Bank of America text banking service for personal and small business accounts comprises at least one application that, when executed on the at least one network server further uses the stored information to determine electronic communication to which each received reply electronic communication is a reply. The Bank of America text banking service

for personal and small business accounts software application is hosted on a networked computer and sends automatic alert notifications in the form of text messages from a plurality of SMS short code numbers to customer mobile devices. In addition, by collecting and storing information relating to user phone numbers and account transactions and by responding to received text message replies from customer mobile devices, the Bank of America text banking service for personal and small business accounts satisfies this limitation.

53. Thus, as described above, the Bank of America text banking service for personal and small business accounts infringes one or more claims of the '268 patent, including claim 1.

54. The Accused Products are made, used, offered for sale, and/or sold in the United States, and/or imported by Bank of America to infringe the '268 patent. Bank of America provides online instructions that instruct the users of the Accused Products to use the Accused Products in a manner that infringes the '268 patent.

COUNT I

BANK OF AMERICA INFRINGES THE '194 PATENT

55. BookIT repeats and realleges the allegations in paragraphs 1-54 as though fully set forth herein.

56. Bank of America has directly infringed and continues to directly infringe the '194 Patent by making, using, testing, selling, offering for sale, or importing into the United States products and/or methods covered by one or more claims of the '194 Patent. Bank of America products and/or services that infringe one or more claims of the '194 Patent include, but are not limited to, mobile banking functionality, including the text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions.

57. Bank of America has induced and continues to induce infringement of the '194 Patent by intending that others use, offer for sale, or sell in the United States, products and/or methods covered by one or more claims of the '194 Patent, including, but not limited to, mobile banking functionality, including the text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions. Bank of America provides these products to others, such as customers, resellers and end-use consumers who, in turn, use, offer for sale, or sell in the United States these text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions that infringe one or more claims of the '194 Patent.

58. Bank of America indirectly infringes the '194 Patent by inducing infringement by others, such as resellers, customers and end-use consumers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is a result of the activities performed by the resellers, customers and end-use consumers of the mobile banking functionality, including text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions.

59. Bank of America received notice of the '194 Patent at least as of the date this lawsuit was filed.

60. Bank of America's affirmative acts of selling the mobile banking functionality, including text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions, causing the text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions to be manufactured and distributed, and providing instructions for using the mobile banking functionality, including text message banking services

for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions, induce Bank of America's resellers, customers and end-use consumers to use the mobile banking functionality, including text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions in their normal and customary way to infringe one or more claims of the '194 Patent. Bank of America performs the acts that constitute induced infringement, and induce actual infringement, with the knowledge of the '194 Patent and with the knowledge or willful blindness that the induced acts constitute infringement.

61. Bank of America specifically intends for others, such as resellers, customers and end-use consumers, to directly infringe one or more claims of the '194 Patent, or, alternatively, has been willfully blind to the possibility that its inducing acts would cause infringement. By way of example, and not as limitation, Bank of America induces such infringement by its affirmative action by, among other things: (a) providing advertising on the benefits of using the mobile banking functionality, including text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions; (b) providing information regarding how to enable on customer mobile devices the mobile banking functionality, including text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions; (c) providing instruction on how to use the mobile banking functionality, including the text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions; and (d) providing hardware and/or software components required to infringe the claims of the '194 Patent.

62. Accordingly, a reasonable inference is that Bank of America specifically intends

for others, such as resellers, customers and end-use consumers, to directly infringe one or more claims of the '194 Patent in the United States because Bank of America has knowledge of the '194 Patent at least as of the date this lawsuit was filed and Bank of America actually induces others, such as resellers, customers and end-use consumers, to directly infringe the '194 Patent by using, selling, and/or distributing, within the United States, mobile banking functionality, including text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions.

63. As a result of Bank of America's acts of infringement, BookIT has suffered and will continue to suffer damages in an amount to be proved at trial.

COUNT II

BANK OF AMERICA INFRINGES THE '268 PATENT

64. BookIT repeats and realleges the allegations in paragraphs 1-63 as though fully set forth herein.

65. Bank of America has directly infringed and continues to directly infringe the '268 Patent by making, using, testing, selling, offering for sale, or importing into the United States products and/or methods covered by one or more claims of the '268 Patent. Bank of America products and/or services that infringe one or more claims of the '268 Patent include, but are not limited to, mobile banking functionality, including text banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions.

66. Bank of America has induced and continues to induce infringement of the '268 Patent by intending that others use, offer for sale, or sell in the United States, products and/or methods covered by one or more claims of the '268 Patent, including, but not limited to, mobile banking functionality, including the text message banking services for personal and small

business accounts and the CashPro[®] automated alert notifications for businesses and institutions. Bank of America provides these products to others, such as customers, resellers and end-use consumers who, in turn, use, offer for sale, or sell in the United States mobile banking functionality, including text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions that infringe one or more claims of the '268 Patent.

67. Bank of America indirectly infringes the '268 Patent by inducing infringement by others, such as resellers, customers and end-use consumers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is a result of the activities performed by the resellers, customers and end-use consumers of mobile banking functionality, including text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions.

68. Bank of America received notice of the '268 Patent at least as of the date this lawsuit was filed.

69. Bank of America's affirmative acts of selling the mobile banking functionality, including text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions, causing the mobile banking functionality, including text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions to be manufactured and distributed, and providing instructions for using the mobile banking functionality, including text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions, induce Bank of America's resellers, customers and end-use consumers to use the mobile banking functionality,

including text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions in their normal and customary way to infringe one or more claims of the '268 Patent. Bank of America performs the acts that constitute induced infringement, and induce actual infringement, with the knowledge of the '268 Patent and with the knowledge or willful blindness that the induced acts constitute infringement.

70. Bank of America specifically intends for others, such as resellers, customers and end-use consumers, to directly infringe one or more claims of the '268 Patent, or, alternatively, has been willfully blind to the possibility that its inducing acts would cause infringement. By way of example, and not as limitation, Bank of America induces such infringement by its affirmative action by, among other things: (a) providing advertising on the benefits of using the mobile banking functionality, including text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions; (b) providing information regarding how to enable the mobile banking functionality, including text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions on customer mobile devices; (c) providing instruction on how to use mobile banking functionality, including the text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions; and (d) providing hardware and/or software components required to infringe the claims of the '268 Patent.

71. Accordingly, a reasonable inference is that Bank of America specifically intends for others, such as resellers, customers and end-use consumers, to directly infringe one or more claims of the '268 Patent in the United States because Bank of America has knowledge of the

'268 Patent at least as of the date this lawsuit was filed and Bank of America actually induces others, such as resellers, customers and end-use consumers, to directly infringe the '268 Patent by using, selling, and/or distributing, within the United States, mobile banking functionality, including the text message banking services for personal and small business accounts and the CashPro[®] automated alert notifications for businesses and institutions.

72. As a result of Bank of America's acts of infringement, BookIT has suffered and will continue to suffer damages in an amount to be proved at trial.

PRAYER FOR RELIEF

WHEREFORE, BookIT respectfully requests that this Court enter judgment in its favor and grant the following relief:

- A. a judgment that Bank of America directly and/or indirectly infringes one or more claims of each of the Asserted Patents;
- B. award BookIT damages in an amount adequate to compensate BookIT for Bank of America's infringing products' infringement of the claims of the Asserted Patents, but in no event less than a reasonable royalty, and supplemental damages for any continuing post-verdict infringement until entry of the final judgment with an accounting as needed, under 35 U.S.C. § 284;
- C. award BookIT pre-judgment interest and post-judgment interest on the damages awarded, including pre-judgment interest, pursuant to 35 U.S.C. § 284, from the date of each act of infringement of the Asserted Patents by Bank of America to the day a damages judgment is entered, and an award of post-judgment interest, pursuant to 28 U.S.C. § 1961, continuing until such judgment is paid, at the maximum rate allowed by law;
- D. a judgment and order finding this to be an exceptional case and requiring Bank of America to pay the costs of this action (including all disbursements) and attorneys' fees, pursuant to 35 U.S.C. § 285;
- E. order an accounting for damages;
- F. award a compulsory future royalty for the Asserted Patents; and
- G. award such further relief as the Courts deems just and proper.

DEMAND FOR JURY TRIAL

BookIT hereby demands a jury trial for all issues so triable.

Dated: September 20, 2017.

McKool Smith, P.C.

/s/ Matt Rappaport

Mike McKool Jr.
Texas Bar No. 13732100
mmckool@mckoolsmith.com

McKool Smith, P.C.

300 Crescent Court
Suite 1500
Dallas, TX 75201
Telephone: (214) 978-4000
Telecopier: (214) 978-4044

Scott L. Cole
Texas Bar No. 00790481
scole@mckoolsmith.com
Matt Rappaport
Texas State Bar No. 24070472
mrappaport@McKoolSmith.com

McKool Smith, P.C.

300 West 6th Street
Suite 1700
Austin, Texas 78701
(512) 692-8700 (phone)
(512) 692-8744 (fax)

*ATTORNEYS FOR PLAINTIFF
BOOKIT OY AJANVARAUSPALVELU*