

I. INTRODUCTION

Plaintiffs’ First Amended Complaint (“FAC”) fares no better than the original Complaint as to the very claims Bank of America moved to dismiss in October 2020. Once again, NantWorks asserts twelve separate claims for relief against Bank of America—patent infringement claims related to eight patents, violation of the Defend Trade Secrets Act (“DTSA”), misappropriation of trade secrets under the California Uniform Trade Secrets Act (“CUTSA”), breach of contract under California and New York law, and copyright infringement. But NantWorks’s second effort does not show entitlement to the relief sought for any of the non-patent claims.

First, NantWorks has no standing to bring a claim for copyright infringement. Only the legal or beneficial owner of a copyright is entitled to bring suit. 17 U.S.C. § 501. And a copyright registration is a prerequisite to bringing a copyright infringement suit. 17 U.S.C. § 411(a); *Fourth Estate Pub. Benefit Corp. v. Wall-Street.com, LLC*, 139 S. Ct. 881, 891 (2019). The claimant on the only copyright registration asserted is NantMobile LLC—which is not a party to this case. Plaintiffs assert they have standing based on an assignment; but that agreement conveyed only the [REDACTED] and not any exclusive rights under the Copyright Act, which is insufficient as a matter of law to confer standing. NantWorks’s copyright claim thus still fails at the outset. And even if NantWorks had standing to bring any copyright infringement claim, it has failed to allege facts sufficient to sustain a claim for contributory or vicarious infringement.

Second, NantWorks’s misappropriation of trade secrets claims under both the DTSA and the CUTSA are time-barred. In an effort to cure the defects in its original Complaint, NantWorks alleges it provided its mobile deposit software containing its trade secrets to Bank of America in 2013, and Bank of America allegedly misappropriated these trade secrets in 2014, 2015, 2016, 2017 and 2018. The FAC, however, makes clear NantWorks provided no alleged trade secrets to Bank of America after 2013. Because the alleged first use in 2014 triggered the statute of limitations, and