

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

DATA TREASURY CORPORATION	§	
Plaintiff	§	
	§	
vs.	§	Civil Action No. 2-06CV-72-DF
	§	
WELLS FARGO & COMPANY, et al.	§	
Defendants.	§	

**DEFENDANTS COMPASS BANK AND COMPASS
BANCSHARES, INC.'S REPLY IN SUPPORT OF MOTION TO DISMISS, OR IN
THE ALTERNATIVE, FOR MORE DEFINITE STATEMENT**

Defendants Compass Bank and Compass Bancshares, Inc. (the “Compass Defendants”) file this reply in support of their motion to dismiss Counts 1 and 2 of DataTreasury Corporation’s (“DTC”) First Amended Complaint for Patent Infringement (“Complaint”) for failure to state a claim upon which relief may be granted pursuant to Rule 12(b), or in the alternative, motion for more definite statement pursuant to Rule 12(e). In support of this reply and in the interest of brevity, the Compass Defendants rely on and incorporate the arguments and authorities presented in the Reply in Support of Defendants’ Motion to Dismiss or in the Alternative for More Definite Statement, Docket No. 186, filed on June 21, 2006, to the extent related to Counts 1 and 2. The Compass Defendants further state as follows:

DTC’s misplaced reliance on Form 16 of the Federal Rules of Civil Procedure cannot overcome the inadequacy of DTC’s Complaint. In cases such as this where there are a multitude of defendants, patents, and products, DTC’s skeletal pleading is not enough. *See Hewlett-Packard Co. v. Intergraph Corp.*, No. C 03-2517 MJJ, 2003 WL 23884794, at *1 (N.D. Cal. Sept. 6, 2003). Further, DTC appears to recognize that, at a minimum, it must plead “the means

by the which the defendants infringe the patents in issue.”¹ But that is precisely what DTC fails to do.

The Compass Defendants are thrown into a group with twenty-five other Defendants characterized as the “Viewpointe Defendant Group.”² Viewpointe offers a wide array of products and services, but DTC’s allegations say nothing as to which Viewpointe product any defendant, let alone the Compass Defendants, is using in a manner that allegedly infringes U.S. Patent No. 5,910,988 and U.S. Patent No. 6,032,137. Like the complaint held insufficient in *Hewlett-Packard*, this case involves many defendants using many products and DTC’s Complaint does not satisfy the pleading standards.

The Compass Defendants respectfully request the Court to dismiss DTC’s Complaint against them or, in the alternative, to order DTC to provide a more definite statement describing the allegations against the Compass Defendants in reasonable detail sufficient to allow them to form a responsive pleading.

¹ See Plaintiff DataTreasury Corporation’s Response to Defendants’ Various Motions to Dismiss, or in the Alternative for More Definite Statement, Docket No. 167, filed June 14, 2006.

² See Complaint, ¶ 62.

