

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

DATATREASURY CORPORATION	§	
<i>PLAINTIFF</i>	§	
vs.	§	No. 2:06cv72
	§	
WELLS FARGO & COMPANY, <i>et al</i>	§	JURY TRIAL DEMANDED
<i>DEFENDANTS</i>	§	

**PLAINTIFF'S MOTION TO AUTHORIZE JURISDICTIONAL DISCOVERY AGAINST
DEFENDANT HSBC NORTH AMERICA HOLDINGS, INC.**

Pursuant to Federal Rule of Civil Procedure 26(a) & (d) and Local Rule CV-26(d), Plaintiff, DataTreasury Corporation (“DataTreasury”), files this Motion to Authorize Jurisdictional Discovery against Defendant HSBC North America Holdings, Inc. (“HSBC NA”) and states:

1. DataTreasury filed its original Complaint in this patent infringement action on February 27, 2006. Before any defendant answered, Plaintiff filed a First Amended Complaint on March 28, 2006.

2. On June 1, 2006, HSBC NA filed a Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(2). In the motion, HSBC NA contends that this Court lacks personal jurisdiction over it and thus the claims against it should be dismissed.

3. DataTreasury has filed a Response to HSBC NA’s Motion to Dismiss. In its Response, DataTreasury outlines the basis for this Court’s jurisdiction over HSBC NA, and discusses in detail the numerous troubling inconsistencies between the sworn statement of

Defendant's executive filed in this case and the representations these Defendants make elsewhere to the general public and the federal government.

4. However, in the event that the Court believes additional evidence on these issues is necessary, DataTreasury requests that the Court enter an Order authorizing it to conduct specific jurisdictional discovery regarding HSBC NA. DataTreasury anticipates that this discovery would entail the following issues: (A) document production surrounding HSBC NA's office locations in Texas; (B) the performance of infringing activities within the State of Texas; and (C) positions of the persons with the most knowledge of various sworn statements made pursuant to the Sarbanes-Oxley Act by HSBC NA executives in their most recent 20-F. Other discovery may be necessary as well, but these items are certainly relevant to HSBC NA's claims that it does not conduct business in Texas and within this District.

5. The requested discovery and disclosures are relevant to the jurisdictional defenses raised by HSBC NA. In addition, the discovery and disclosures will provide DataTreasury with additional evidence to include in an Amended Complaint and to submit in amended opposition to Defendant's Motion to Dismiss. Thus, the Court should authorize and order the requested discovery and disclosures.

6. Pursuant to Federal Rule of Civil Procedure 26(a) & (d) and Local Rule CV-26(d) and for those reasons stated herein, DataTreasury respectfully requests that the Court grant this Motion. Specifically, DataTreasury requests: (1) that it be allowed to propound interrogatories, requests for production, and requests for admissions to HSBC NA dealing specifically with the jurisdictional issues; (2) that these discovery requests not count against the limited number of discovery requests available to Plaintiff under the Federal Rules of Civil Procedure and this Court's local rules; (3) that it be allowed to depose Rule 30(b)(6) representatives with the most

knowledge of the jurisdictional issues raised by HSBC NA; (4) that the Defendant be ordered to produce all documents and information relevant to their jurisdictional defenses within 30 days; and (5) that DataTreasury be allowed to file an amended Response to HSBC NA's Motion and an Amended Complaint after receiving this discovery.

7. Before filing this Motion, Counsel for DataTreasury conferred in good faith with counsel for HSBC NA with regard to the requests in this motion. Unfortunately, the parties cannot resolve this dispute without Court intervention.

WHEREFORE, DataTreasury prays that the Court grant its Motion and enter an order authorizing the requested discovery and mandating the requested disclosures.

Respectfully Submitted,



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**ATTORNEYS FOR PLAINTIFF
DATATREASURY CORPORATION**

CERTIFICATE OF CONFERENCE

I hereby certify that Plaintiff's counsel spoke with Defendant's counsel concerning the foregoing Motion. Defendant's counsel indicated that they do not oppose portions of the relief requested herein; specifically, Defendant does not oppose Plaintiff deposing the Affiant from Defendant's Motion to Dismiss or a knowledgeable 30(b)(6) witness. Plaintiff's Motion requests further relief, specifically other discovery mechanisms, more depositions, and a ruling that these discovery procedures not count against the limited number available to Plaintiff under the Federal Rules; Defendant's indicated that they would like to reserve the right to object and oppose that requested discovery. As such, Plaintiff has filed this as an Opposed Motion, since all relief requested herein is not agreed to by Defendant.



ANTHONY K. BRUSTER

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served on all counsel of record through the Court's electronic mail this 23rd day of June, 2006.



A handwritten signature in black ink, appearing to read 'Anthony K. Bruster', is written over a horizontal line.

ANTHONY K. BRUSTER