

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

TIME 1:55 (OPEN)

DATE 8/29/06

JUDGE David Folsom

REPORTER Libby Crawford

DATA TREASURY CORP

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V.

CIVIL ACTION NO. 2:03CV459

BANK OF AMERICA

STATUS CONFERENCE

ATTORNEYS FOR PLAINTIFF: Ed Hohn; Shepard Lane; Carey Patterson;

ATTORNEYS FOR DEFENDANT: Thomas Melsheimer; Robert Parker; Bill Boyce

LAW CLERK: David Keyzer

THIS DAY CAME THE PARTIES BY THEIR ATTORNEYS AND THE FOLLOWING PROCEEDINGS WERE HAD:

1:55 ICC ct/ which case should we be here on; Parker/ '06 case; ct/ common to all cases is mo to stay; full or partial; Hohn/ mo to stay should be denied but only covers several patents; Patterson/ we recognize until it comes out of re-exam we can not go to trial but we should be wide open and ready for trial when it comes out of re-exam; Mesheimer/ responds; ct/ partial stay talking to Ballard group; Melsheimer/ yes sir; ct/ discovery going on concerning them; Melsheimer/ partial stay as to Ballard part of the case; Boyce/ separate groups of patents and different issues so discovery would not be duplicate and stay of Ballard patents makes sense; ct/ thought to grouping; Melsheimer/ grouping of patents we have given thought to that; hohn/ Wachovia is intertwined with Wells Fargo; melsheimer/ operation system not CEO's; when you sue a bank you are suing several different; Boyce/ your not suing different banks but the predecessor systems; ct/ common understanding among dfts re: grouping; Boyce/ there is some logic to group; ct/ what needs to be done to accomplish that; Melsheimer/ need to know what is accused; ct/ has one been filed on all 50; Melsheimer/ yes; Hohn/ responds; 2:10 Parker/ virtually un-triable in its present state; ct/ struggling with same issue in Katz; need to think of some way to streamline this case and need to think in terms of 10 claims; ct/ how many asserted claims; hohn/ it will be in this 10's; Melsheimer/ some commonality; Parker/ view point of the world from 2 camps is that substantial part of case will be tried and need to know early on how it will be structured; Boyce/ need to look at individual patents and might make more sense grouping patents and dfts; Parker/ would it be helpful for pty's to confer and send letter letting ct know what we came up with; Hohn/ don't have time and have worked to file joint scheduling order; 2:17 Melsheimer/ responds can work great when dealing with one or two but here they have sued 50; ct/ discovery in trial management; trying all is impossible and maybe premature to try and decide; ct/ will have to decide the stay, an agreement can't be reached; Melsheimer/ we need to know what we are accused of doing;

2:20 ct/ will enter detailed scheduling order; looking for something manageable 2 maybe 3 week trial; Hohn/ we can do that; ct/ when more information is obtained it will be easier to stream line; ct/ do we set a MC; and get everybody working; Hohn/ can be ready quickly Wells, Wachovia, Suntrust and Bankcorp South; Boyce/ can we have picks before MC and grouping; Hohn/ we would be happy to give Mr. Boyce his picks and can have that to them in 2 weeks; 2:25 Patterson/ we've given it a stab to try and figure out some groups; Melsheimer/ need more information; ct/ reasonable date to set rule 16 conference and if ptys can't work through it then ct will need to decide; Hohn/ 9/15th; ct/ will be tied up the next few weeks; Hohn/ we can go down the line and try to work it out; Melsheimer/ would certainly be ready October; ct/ have in mind at the earliest the trial date and ct will deal with stay issue; will set for hrg in Marshall 10/4th or could have it afternoon of 10/19th; ct/ will set for 10/19th at 2pm this is set for 2:06cv72 case; ct/ SM concerning discovery thoughts and who do you suggest; Hohn/ no problem with Danny Williams; Melsheimer/ can't decide for the others; parker/ tech advisor and can ptys try to agree on someone; Melsheimer/ would be easier to send this offshore; Hohn/ needs to be somebody who knows these claims; Melsheimer/ don't agree with qualifications; Parker/ can suggest 2 each; ct/ generally go with a list of three but it may be helpful to give 2 to each; 2:35 Melsheimer/ mo that we have not been told enough and that is really what issue is; ct/ might be helpful to give these gentlemen more information by the 19th; that is an order Mr. Hohn; Hohn/ yes sir; ct/ will try to rule on Ballard group by the 19th; Melsheimer/ keeping separate cases makes sense; Boyce/ banks in '05 case do not want to be consolidated; Boyce/ confusing to have everything back in one case; ct/ hope conference has been helpful; ptys it has; 2:43 recess;

DAVID J. MALAND, CLERK
BY: Mel Martin
Courtroom Deputy

TIME: 2:43 (ADJOURN)