

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

DATATREASURY CORPORATION,

Plaintiff,

v.

WELLS FARGO & COMPANY, ET AL.

Defendants.

CIVIL ACTION NO. 2:06-CV-72 (DF)

Jury Demanded

**MOTION OF DEFENDANTS CITY NATIONAL BANK AND CITY NATIONAL CORPORATION TO SEVER AND STAY THE CLAIMS RELATING TO THE BALLARD PATENTS PENDING REEXAMINATION OF THE BALLARD PATENTS**

Defendants City National Bank and City National Corporation (collectively “City National”) move for a severance and stay of the claims related to U.S. Patent Nos. 5,910,988 (“the ‘988 patent”) and 6,032,137 (“the ‘137 patent”) (collectively the “Ballard patents”) until the reexamination of those two patents is complete.

Defendants Harris Bankcorp., Inc., Harris N.A., KeyBank National Association, KeyCorp, PNC Bank, The PNC Financial Services Group, Inc., Sun Trust Bank, Sun Trust Banks, Inc., and Electronic Data Systems Corp. filed a Motion to Sever and Stay the Claims Relating to the Ballard Patents Pending Reexamination of the Ballard Patents on September 19, 2006 in this matter. (Docket Entry # 260). City National adopts the arguments and authorities advanced by that Motion to Sever and Stay, as if set out fully herein. Specifically, the City National defendants assert that they, like the KeyBank and PNC defendants, seek to avoid substantial time and expense in defending DataTreasury Corporation’s claims of patent infringement related to the Ballard patents and instead focus on the claims asserted under the Huntington Patents (U.S. Patent Nos. 5,717,868 and 5,265,007).

In the interest of justice and of judicial economy, this Court should sever and stay the claims related to the Ballard patents pending the completion of their reexamination.

DATED: September 25, 2006

Respectfully Submitted,

By: /s/ David I. Gindler by permission SCC

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ATTORNEYS FOR DEFENDANTS  
CITY NATIONAL BANK and CITY  
NATIONAL CORPORATION

**CERTIFICATE OF CONFERENCE**

I certify that on September 25, 2006, I conferred with Plaintiff Data Treasury Corporation's counsel, Eric M. Albritton, in a good faith attempt to resolve this matter without court intervention. Mr. Albritton stated the Plaintiff opposes this Motion.

/s/ Elizabeth L. DeRieux

Elizabeth L. DeRieux

**CERTIFICATE OF SERVICE**

I certify that all counsel of record who are deemed to have consented to electronic service are being served this 25<sup>th</sup> day of September 2006, with a copy of the foregoing via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by, electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ S. Calvin Capshaw

S. Calvin Capshaw