

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

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DATATREASURY CORP.	:	
	:	
Plaintiff,	:	No. 2-06CV-72
v.	:	
	:	MOTION TO SEVER AND STAY
WELLS FARGO & CO., et al.,	:	
	:	
Defendant.	:	
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MOTION OF THE CLEARING HOUSE PAYMENTS COMPANY L.L.C. JOINING IN CO-DEFENDANTS’ MOTION TO SEVER AND STAY

COMES NOW Defendant The Clearing House Payments Company L.L.C. (“TCH”), to respectfully submit the instant motion joining in a motion filed by co-defendants Harris Bankcorp., Inc., Harris N.A., KeyBank National Association, KeyCorp, PNC Bank, The PNC Financial Services Group, Inc., SunTrust Bank, SunTrust Banks, Inc., and Electronic Data Systems Corp. (collectively, the “Moving Defendants”) to sever and stay the infringement claims of DataTreasury Corporation (“DataTreasury”) regarding U.S. Patent Nos. 5,910,988 and 6,032,137 (collectively, the “Ballard Patents”). The Moving Defendants’ motion to sever and stay claims relating to the Ballard Patents (the “Motion”) should be granted for all of the reasons set forth therein. In addition, the relief sought in the Motion is particularly appropriate as it relates to TCH.

DataTreasury first sued TCH for alleged infringement of the Ballard Patents in March 2004. (Civil Action No. 04-85 (the “Initial Litigation”)).¹ When First

¹The named defendant in the Initial Litigation is Small Value Payments Company (“SVPCo”). As TCH has repeatedly advised DataTreasury, SVPCo no longer exists

Data Corporation submitted ex parte requests for reexamination of the Ballard Patents to the United States Patent & Trademark Office, TCH moved to stay the Initial Litigation. In February 2006, DataTreasury initiated this suit against TCH, reasserting against TCH the infringement claims regarding the Ballard Patents that were the subject of the Initial Litigation. In addition, DataTreasury alleged infringement by TCH of U.S. Patent Nos. 5,717,868 and 5,265,007. TCH moved to have the Initial Litigation consolidated with this matter, and this Court granted TCH's consolidation motion on May 25, 2006.

On August 18, 2006, this Court denied without prejudice TCH's motion to stay the Initial Litigation. In so ordering, this Court held that "the issues raised by [TCH's] motion to stay are substantially impacted by the consolidation of [the Initial Litigation] with Wells Fargo, which the parties' briefing does not take into consideration. Thus, the Court finds that [TCH's] motion should be denied without prejudice subject to refiling in the consolidated case." (Initial Litigation, Docket No. 79). TCH therefore joins in the Moving Defendants' Motion to sever and stay the claims of DataTreasury relating to the Ballard Patents in this litigation.

since it merged into TCH in July 2004. TCH is the successor-in-interest to SVPCo.

In light of the foregoing, TCH respectfully requests that this Court grant this motion and the Motion of the Moving Defendants to sever and stay the claims relating to the Ballard Patents, and such other and further relief this Court deems necessary.

Dated: September 29, 2006

Respectfully submitted,



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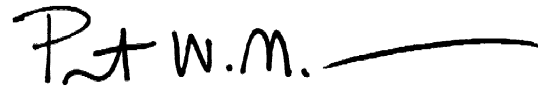
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CERTIFICATE OF CONFERENCE

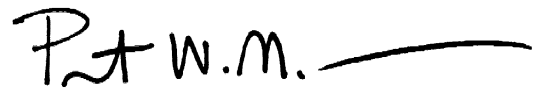
I hereby certify that on September 29, 2006, I conferred with Plaintiff DataTreasury Corporation's counsel, Karl Rupp in a good faith attempt to resolve this matter without court intervention. Mr. Rupp stated that Plaintiff opposes this Motion



Preston W. McGee

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record are are being served this 29th day of September 2006, with a copy of the foregoing via the Court's CM/ECF system per Local Rule CV-5(a)(3).



Preston W. McGee