

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

DATATREASURY CORPORATION,	§	
Plaintiff/Counter-Defendant	§	
	§	Civil Action No. 2:06cv72
vs.	§	
	§	Jury Trial Demanded
WELLS FARGO & COMPANY, et al.	§	
Defendants/Counter-Plaintiffs	§	

**MOTION OF DEFENDANT UBS AMERICAS, INC.  
TO SEVER AND STAY THE CLAIMS RELATING TO  
THE BALLARD PATENTS PENDING REEXAMINATION**

Defendant UBS Americas, Inc. (“UBS”) moves 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). UBS adopts the arguments and authorities advanced by that Motion to Sever and Stay, as if set out fully herein.

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: October 11, 2006

Respectfully submitted,

/s/ Scott W. Breedlove  
William L. LaFuze  
Texas Bar No. 11792500  
wlafuze@velaw.com  
D. Ferguson McNiel, III  
Texas Bar No. 13830300  
fmcniel@velaw.com  
Vinson & Elkins LLP  
2300 First City Tower  
1001 Fannin Street  
Houston, TX 77002  
Telephone: 713.758.2222  
Facsimile: 713.758.2346

Scott W. Breedlove  
Texas Bar No. 00790361  
sbreedlove@velaw.com  
Vinson & Elkins LLP  
3700 Trammell Crow Center  
2001 Ross Avenue  
Dallas, TX 75201-2975  
Telephone: 214.220.7700  
Facsimile: 214.220.7716

Harry Lee Gillam, Jr.  
Texas Bar No. 07921800  
Gil@gillamsmithlaw.com  
Melissa Richards Smith  
Texas Bar No. 24001351  
Melissa@gillamsmithlaw.com  
Gillam & Smith LLP  
110 South Bolivar, Suite 204  
Marshall, TX 75670  
Telephone: 903.934.8450  
Facsimile: 903.934.9257

Attorneys for UBS Americas, Inc.

**CERTIFICATE OF CONFERENCE**

I certify that on October 5, 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 the Plaintiff opposes this Motion.

/s/ Scott W. Breedlove  
Scott W. Breedlove

**CERTIFICATE OF SERVICE**

The undersigned certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3)(A) on October 11, 2006.

/s/ Scott W. Breedlove  
Scott W. Breedlove