

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
Jury Demanded

REPLY OF DEFENDANTS THE BANK OF NEW YORK Co., INC., THE BANK OF NEW YORK,
UNIONBANCAL CORP., AND UNION BANK OF CALIFORNIA, NATIONAL ASSOCIATION TO
PLAINTIFF'S RESPONSE TO MOTION TO SEVER AND STAY THE CLAIMS RELATING TO THE
BALLARD PATENTS PENDING REEXAMINATION OF THE BALLARD PATENTS

Defendants The Bank of New York Company Incorporated ("BNYC"), The Bank of New
York ("BNY"), UnionBanCal Corporation ("UnionBanCal"), and Union Bank of California,
National Association ("UBOC") reply in support of their Motion of Defendants The Bank of
New York Co., Inc., The Bank of New York, UnionBanCal Corp., and Union Bank of
California, National Association to Sever and Stay the Claims Relating to the Ballard Patents
Pending Reexamination of the Ballard Patents (Docket Entry #263) and oppose DataTreasury
Corp.'s Response to this Motion (Docket Entry #295 and #313).

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 Reply to Plaintiff's Consolidated
Response to Defendants' Motion to Sever and Stay the Claims Relating to the Ballard Patents
Pending Reexamination of the Ballard Patents on October 17, 2006 in this matter. (Docket Entry

#317). BNYC, BNY, UnionBanCal and UBOC adopt the arguments and authorities contained in that Reply, as if set out fully herein. Specifically, BNYC, BNY, UnionBanCal and UBOC assert that the Ballard Patents are unrelated to the Huntington Bank patents (U.S. Patent Nos. 5,717,868 and 5,265,007), and 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), and that they, like the KeyBank and PNC defendants, agree with the Plaintiff that an *Antor*-like stipulation would be inadvisable in this case.

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.

Respectfully submitted,

October 18, 2006

/s/ Jennifer Parker Ainsworth
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CERTIFICATE OF SERVICE

I certify that all counsel of record who are deemed to have consented to electronic service are being served this 18th day of October 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/ Jennifer P. Ainsworth

Jennifer P. Ainsworth