

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

DATATREASURY CORPORATION,

Plaintiff,

v.

WELLS FARGO & COMPANY, et al.

Defendants.

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

JURY TRIAL DEMANDED

**NOTICE OF DEFENDANTS FIRST-CITIZENS BANK & TRUST COMPANY AND  
FIRST CITIZENS BANCSHARES, INC. REGARDING PROPOSED STIPULATION**

Defendants First-Citizens Bank & Trust Company and First Citizens BancShares, Inc. hereby notify the Court of their position regarding the stipulation proposed in this Court's October 25, 2006 Order (Docket No. 326) granting as modified the Motions to Sever and Stay the Claims Relating to the Ballard Patents Pending Reexamination of the Ballard Patents, conditioned on entering the proposed stipulation.

First-Citizens Bank & Trust Company agrees that the stay will be granted only on condition that First-Citizens Bank & Trust Company agrees not to challenge United States Patent Numbers 5,910,988 and/or 6,032,137 based on any prior art printed publications that were considered in the reexamination process. To satisfy the Court's condition, if the Court enters the stay, First-Citizens Bank & Trust Company agrees not to challenge United States Patent Numbers 5,910,988 and/or 6,032,137 based on any prior art printed publications that were considered in the reexamination process.

First Citizens BancShares, Inc., without waiving its jurisdictional defense, hereby notifies the Court that it stands ready to execute the stipulation, if necessary, pending this Court's

disposition of its Motion to Dismiss for Lack of Personal Jurisdiction (Docket No. 84).

Respectfully submitted,

/s/ Larry D. Carlson

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ATTORNEYS FOR DEFENDANTS FIRST-  
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FIRST CITIZENS BANCSHARES, INC.

### CERTIFICATE OF SERVICE

I certify that on the 3rd day of November, 2006, all counsel who are deemed to have consented to electronic service are being served with a copy of this document by the Court's Electronic Filing System, pursuant to Local Rule CV-5(a)(3)(A).

/s/ Larry D. Carlson

Larry D. Carlson