

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

DATATREASURY CORPORATION §
PLAINTIFF §

vs. §

WELLS FARGO & COMPANY; WELLS FARGO BANK, NATIONAL ASSOCIATION; BANK OF AMERICA CORPORATION; BANK OF AMERICA, NATIONAL ASSOCIATION; U.S. BANCORP; U.S. BANK, NATIONAL ASSOCIATION; WACHOVIA CORPORATION; WACHOVIA BANK, NATIONAL ASSOCIATION; SUNTRUST BANKS, INC.; SUNTRUST BANK; BB&T CORPORATION; BRANCH BANKING AND TRUST COMPANY; BANCORPSOUTH, INC.; BANCORPSOUTH BANK; COMPASS BANCSHARES, INC.; COMPASS BANK; CULLEN/FROST BANKERS, INC.; THE FROST NATIONAL BANK; FIRST HORIZON NATIONAL CORPORATION; FIRST TENNESSEE BANK, NATIONAL ASSOCIATION; HSBC NORTH AMERICA HOLDINGS INC.; HSBC BANK USA, N.A.; HARRIS BANKCORP, INC.; HARRIS N.A.; NATIONAL CITY CORPORATION; NATIONAL CITY BANK; ZIONS BANCORPORATION; ZIONS FIRST NATIONAL BANK; BANK OF NEW YORK CO., INC.; THE BANK OF NEW YORK; UNIONBANCAL CORPORATION; UNION BANK OF CALIFORNIA, NATIONAL ASSOCIATION; BANK OF TOKYO-MITSUBISHI UFJ, LTD.; CITIZENS FINANCIAL GROUP, INC. CITY NATIONAL CORPORATION; CITY NATIONAL BANK; COMERICA INCORPORATED; COMERICA BANK & TRUST, NATIONAL ASSOCIATION;

Civil Action No. 2:06cv72

JURY TRIAL DEMANDED

DEUTSCHE BANK TRUST COMPANY §  
 AMERICAS; FIRST CITIZENS §  
 BANCSHARES, INC.; FIRST CITIZENS §  
 BANK & TRUST COMPANY; KEYCORP; §  
 KEYBANK NATIONAL ASSOCIATION; §  
 LASALLE BANK CORPORATION; §  
 LASALLE BANK NA; M&T BANK §  
 CORPORATION; M&T BANK; THE PNC §  
 FINANCIAL SERVICES GROUP, INC.; §  
 PNC BANK, NATIONAL ASSOCIATION §  
 UBS AMERICAS, INC.; SMALL VALUE §  
 PAYMENTS COMPANY, LLC; THE §  
 CLEARING HOUSE PAYMENTS §  
 COMPANY, LLC; MAGTEK, INC; FIRST §  
 DATA CORPORATION; TELECHECK §  
 SERVICES, INC., REMITCO, LLC and §  
 ELECTRONIC DATA SYSTEMS CORP. §  
 § JURY TRIAL DEMANDED  
 §  
 DEFENDANTS §

**DATA TREASURY CORPORATION'S  
 RESPONSE TO MOTION TO SEVER AND STAY THE CLAIMS  
 RELATING TO THE BALLARD PATENTS  
 PENDING REEXAMINATION OF THE BALLARD PATENTS**

Comes now Plaintiff DataTreasury Corporation (“DataTreasury”) and files its Response to Defendant HSBC Bank USA, N.A.’s Joinder and Motion to Stay and Sever the Claims Relating to the Ballard Patents Pending Reexamination of the Ballard Patents (Dkt. No. 319). DataTreasury respectfully requests that this Court deny Defendants’ Motion in its entirety. In support thereof, DataTreasury incorporates, in its entirety, its Response (Dkt. No. 293) to 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. Motion to Sever and Stay the Claims Relating to the Ballard Patents Pending Reexamination of the Ballard Patents and the arguments and authorities cited therein.

Respectfully submitted,

          /s/ R. Benjamin King

**EDWARD L. VON HOHN**, Attorney in Charge

State Bar No. 09813240

**NIX PATTERSON & ROACH, L.L.P.**

205 Linda Drive

Daingerfield, Texas 75638

903.645.7333 (telephone)

903.645.4415 (facsimile)

[edhohn@nixlawfirm.com](mailto:edhohn@nixlawfirm.com)

**C. CARY PATTERSON**

State Bar No. 15587000

**BRADY PADDOCK**

State Bar No. 00791394

**ANTHONY BRUSTER**

State Bar No. 24036280

**R. BENJAMIN KING**

State Bar No. 24048592

**NIX PATTERSON & ROACH L.L.P.**

2900 St. Michael Drive, Suite 500

Texarkana, Texas 75503

903.223.3999 (telephone)

903.223.8520 (facsimile)

[akbruster@nixlawfirm.com](mailto:akbruster@nixlawfirm.com)

[bpaddock@nixlawfirm.com](mailto:bpaddock@nixlawfirm.com)

[benking@nixlawfirm.com](mailto:benking@nixlawfirm.com)

**JOE KENDALL**

State Bar No. 11260700

**KARL RUPP**

State Bar No. 24035243

**PROVOST \* UMPHREY, L.L.P.**

3232 McKinney Avenue, Ste. 700

Dallas, Texas 75204

214.744.3000 (telephone)

214.744.3015 (facsimile)

[jkendall@provostumphrey.com](mailto:jkendall@provostumphrey.com)

[krupp@provostumphrey.com](mailto:krupp@provostumphrey.com)

**ROD COOPER**

State Bar No. 90001628

**EDWARD CHIN**

State Bar No. 50511688

**NIX PATTERSON & ROACH LLP**

5215 N. O'Connor Blvd. Ste. 1900

Irving, Texas 75039

972.831.1188 (telephone)

972.692.5445 (facsimile)

[rcooper@cooperiplaw.com](mailto:rcooper@cooperiplaw.com)

[edchin@nixlawfirm.com](mailto:edchin@nixlawfirm.com)

**ERIC M. ALBRITTON**

State Bar No. 00790215

**ALBRITTON LAW FIRM**

P.O. Box 2649

Longview, Texas 75606

903.757.8449 (telephone)

903.758.7397 (facsimile)

[ema@emafirm.com](mailto:ema@emafirm.com)

**T. JOHN WARD, JR.**

State Bar No. 00794818

**LAW OFFICE OF T. JOHN WARD, JR.**

P.O. Box 1231

Longview, Texas 75601

903.757.6400 (telephone)

903.757.2323 (facsimile)

[jw@jwfirm.com](mailto:jw@jwfirm.com)

**ATTORNEYS FOR PLAINTIFF  
DATATREASURY CORPORATION**

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a) and served via the Court's electronic filing system on all counsel who have consented to electronic service on this the 3rd day of November, 2006.

\_\_\_\_\_/s/ R. Benjamin King\_\_\_\_\_  
Nix, Patterson & Roach LLP