

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

DATATREASURY CORPORATION,

Plaintiff

v.

WELLS FARGO & COMPANY, ET AL.,

Defendants

2:06-CV-72 DF

**JOINT UNOPPOSED MOTION
TO MODIFY AMENDED DOCKET CONTROL ORDER**

All Defendants jointly move the Court to modify its Amended Docket Control Order (Docket No. 328) to extend several deadlines related to the Defendants' service of preliminary invalidity contentions and production of accompanying documents.¹

Despite the Defendants' reasonable diligence, an extension of time is needed to serve the Defendants' preliminary invalidity contentions and produce the accompanying documents due to the breadth of the issues at stake and the large number of patents-at-issue. Furthermore, the Defendants are coordinating efforts among 56 parties in order to develop the contentions in the most efficient manner possible. At this stage, however, this coordination adds an initial layer of complexity that contributes to the need for additional time. Due to these needed deadline changes, it is also necessary to alter the deadline for the exchange of any proposed terms and claim elements for construction so that the parties can properly prepare for and execute this exchange. The rest of the Court's scheduling order does not need to be disturbed beyond these few modifications.

¹ First Citizens BancShares, Inc.'s joinder of this motion is subject to, and without waiver of, its Motion to Dismiss for Lack of Personal Jurisdiction.

Accordingly, the Defendants respectfully move the Court to extend the deadlines below in the following manner:

1. The Defendants' service of preliminary invalidity contentions from **January 29** to **February 5, 2007**.
2. The Defendants' production of documents accompanying preliminary invalidity contentions from **January 29** to **February 26, 2007**.
3. The exchange of any proposed terms and claim elements for construction from **February 5** to **February 7, 2007**.

Plaintiff Data Treasury Corporation is not opposed to the relief sought herein, and thus, an agreed order is submitted herewith. *See* SECOND AMENDED DOCKET CONTROL ORDER, attached hereto as EXHIBIT "1." The extensions requested herein are brought so that justice may be done; not for purposes of delay. Accordingly, Defendants respectfully request that the Court modify its Amended Docket Control Order to change the deadlines as listed above.

Respectfully submitted,

Dated: January 18, 2007

FISH & RICHARDSON P.C.

By: /s/ Thomas M. Melsheimer

Thomas M. Melsheimer
Texas Bar No. 13922550
1717 Main Street
Suite 5000
Dallas, TX 75201
214-747-5070 (Telephone)
214-747-2091 (Telecopy)

Robert E. Hillman
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
617-542-5070 (Telephone)
617-542-8906 (Telecopy)

Robert M. Parker
Robert Christopher Bunt
Parker & Bunt, P.C.
100 E. Ferguson, Suite 1114
Tyler, Texas 75702
903-531-3535 (Telephone)
903-533-9687 (Telecopy)

Michael E. Jones
Texas Bar No. 10929400
E. Glenn Thames, Jr.
Texas Bar No. 00785097
Potter Minton
500 Plaza Tower
110 North College, Suite 500
Tyler, TX 75702

Attorneys for Defendants
**BANK OF AMERICA CORPORATION,
BANK OF AMERICA, NATIONAL
ASSOCIATION**

By: /s/ Thomas M. Melsheimer by permission on
behalf of the following counsel:

Danielle Williams
KILPATRICK STOCKTON LLP
1001 West Fourth Street
Winston-Salem, NC 27101

Bill Boice
Audra Dial

KILPATRICK STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309-4530

Kenneth Godlewski
Stephen Baskin
KILPATRICK STOCKTON LLP
607 14th Street, NW, Suite 900
Washington, DC 20005-2018

**ATTORNEYS FOR DEFENDANTS
BB&T CORPORATION, BRANCH BANKING
& TRUST CO., COMERICA BANK & TRUST,
N.A., COMERICA, INC., M&T BANK, M&T
CORPORATION, WACHOVIA
CORPORATION, WACHOVIA BANK, N.A.**

John G. Flaim
Brian Hurst
Brian C. McCormack
BAKER & MCKENZIE
2001 Ross Avenue, Suite 2300
Dallas, TX 75201-0800

**ATTORNEYS FOR DEFENDANTS
WELLS FARGO & COMPANY, WELLS
FARGO BANK, N.A.**

Raymond Sweigart
Jack Barufka
Scott Pivnick
PILLSBURY WINTHROP SHAW PITTMAN LLP
1650 Tysons Blvd.
McLean, VA 22102-4859

**ATTORNEYS FOR DEFENDANTS
BANK OF NEW YORK CO., INC., THE BANK
OF NEW YORK, UNION BANK OF
CALIFORNIA, N.A., UNIONBANCAL
CORPORATION**

David L. Ward, Jr.
Donalt J. Eglinton
WARD AND SMITH, P.A.
1001 College Court
New Bern, NC 28562

Larry Carlson
David Taylor
BAKER BOTTS L.L.P.
2001 Ross Avenue
Dallas, TX 75201-2980

**ATTORNEYS FOR DEFENDANTS
FIRST CITIZENS BANCSHARES, INC.,
FIRST CITIZENS BANK & TRUST CO.**

James H. Carter
James T. Williams
Jane Jaang
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004-2493

**ATTORNEYS FOR DEFENDANTS
THE CLEARINGHOUSE PAYMENTS CO.,
L.L.C. F/K/A
SMALL VALUE PAYMENTS CO., L.L.C.**

Glen Boudreaux
Tim Leonard
Edward J. Nicholas
BOUDREAUX LEONARD HAMMOND CURCIO
2 Houston Center
909 Fannin Street, Suite 2350
Houston, TX 77010

**ATTORNEYS FOR DEFENDANTS
HSBC NORTH AMERICA HOLDINGS, INC.,
HSBC BANK USA, N.A.**

Kurt M. Sauer
DAFFER MCDANIEL
The Chase Building
700 Lavaca, Suite 720
Austin, TX 78701-3119

**ATTORNEYS FOR DEFENDANTS
CULLEN/FROST BANKERS, INC., THE
FROST NATIONAL BANK**

Irah Donner
WILMER, CUTLER, PICKERING, HALE &
DORR
399 Park Ave.
New York, NY 10022

**ATTORNEY FOR DEFENDANTS
HSBC NORTH AMERICA HOLDINGS, INC.,
HSBC BANK USA, N.A.**

Sam Baxter
Lead Attorney
Texas Bar No. 01938000
sbaxter@mckoolsmith.com
McKOOL SMITH, P.C.
505 East Travis Street, Suite 105
Marshall, Texas 75670
903-927-2111 (Telephone)
903-927-2622 (Telecopy)

Theodore Stevenson, III

Texas Bar No. 19196650
tstevenson@mckoolsmith.com
L. David Anderson
Texas Bar No. 00796126
danderson@mckoolsmith.com
McKOOL SMITH P.C.
300 Crescent Court, Suite 1500
Dallas, TX 75201
214-978-4000 (Telephone)
214-978-4044 (Telecopy)

Peter J. Ayers
Texas Bar No. 24009882
payers@mckoolsmith.com
Geoffrey L. Smith
Texas Bar No. 24041939
gsmith@mckoolsmith.com
McKOOL SMITH P.C.
300 W. 6th Street, Suite 1700
Austin, Texas 78701
512-692-8700 (Telephone)
512-692-8744 (Telecopy)

**ATTORNEYS FOR DEFENDANTS
SUNTRUST BANKS, INC., SUNTRUST BANK,
THE PNC FINANCIAL SERVICES GROUP,
INC., PNC BANK, KEYCORP, AND
KEYBANK NA**

Theodore Stevenson, III
Lead Attorney
Texas Bar No. 19196650
tstevenson@mckoolsmith.com
Garret W. Chambers
Texas Bar No. 00792160
gchambers@mckoolsmith.com
L. David Anderson
Texas Bar No. 00796126
danderson@mckoolsmith.com
McKOOL SMITH, P.C.
300 Crescent Court, Suite 1500
Dallas, TX 75201
214-978-4000 (Telephone)
214-978-4044 (Telecopy)

Peter J. Ayers
Texas Bar No. 24009882
payers@mckoolsmith.com
Geoffrey L. Smith
Texas Bar No. 24041939
gsmith@mckoolsmith.com
McKOOL SMITH P.C.
300 W. 6th Street, Suite 1700
Austin, Texas 78701
512-692-8700 (Telephone)
512-692-8744 (Telecopy)

**ATTORNEYS FOR DEFENDANT
ELECTRONIC DATA SYSTEMS CORP.**

Robert M. Manley
Lead Attorney
Texas Bar No. 00787955
rmanley@mckoolsmith.com
Sam Baxter
Texas Bar No. 01938000
sbaxter@mckoolsmith.com
L. David Anderson
Texas Bar No. 00796126
danderson@mckoolsmith.com
McKOOL SMITH, P.C.
300 Crescent Court, Suite 1500
Dallas, TX 75201
214-978-4000 (Telephone)
214-978-4044 (Telecopy)

Peter J. Ayers
Texas Bar No. 24009882
payers@mckoolsmith.com
Geoffrey L. Smith
Texas Bar No. 24041939
gsmith@mckoolsmith.com
McKOOL SMITH, P.C.
300 W. 6th Street, Suite 1700
Austin, Texas 78701
512-692-8700 (Telephone)
512-692-8744 (Telecopy)

Robert Masters
robertmasters@paulhastings.com
Paul Wilson
paulwilson@paulhastings.com
Brandon White
brandonwhite@paulhastings.com
Paul, Hastings, Janofsky & Walker, LLP
875 15th Street, N.W.
Washington, DC 20005
202-551-1763 (Telephone)
202-551-1705 (Telecopy)

**ATTORNEYS FOR DEFENDANTS HARRIS
BANKCORP, INC. AND HARRIS N.A.**

Edward G. Poplawski (Pro Hac Vice)
EPoplaws@Sidley.com
Jeffrey A. Finn (Pro Hac Vice)
JFinn@Sidley.com
Carissa A. Tener (Pro Hac Vice)
CTener@Sidley.com
SIDLEY AUSTIN L.L.P.
555 West Fifth Street, Suite 4000
Los Angeles, California 90013

213-896-6000 (Telephone)
213-896-6600 (Telecopy)

Lance Lee
WLanceLee@aol.com
Texas Bar No. 240004762
YOUNG, PICKETT & LEE, L.L.P.
4122 Texas Blvd.
P.O. Box 1897
Texarkana, Texas 75504
903-794-1303 (Telephone)
903-792-5098 (Telecopy)

**COUNSEL FOR FIRST DATA
CORPORATION, TELECHECK SERVICES,
INC.;REMITCO, LLC, LASALLE BANK
CORPORATION, LASALLE BANK NA,
DEUTSCHE BANK TRUST COMPANY
AMERICAS, BANK OF TOKYO-MITSUBISHI
UFJ, LTD.**

Jerry L. Beane
Texas Bar No. 01966000
jerrybeane@andrewskurth.com
Gerald C. Conley
Texas Bar No. 04664200
geraldconley@andrewskurth.com
Kay Lynn Brumbaugh
Texas Bar No. 00785152
kaylynnbrumbaugh@andrewskurth.com
Tonya M. Gray
Texas Bar No. 24012726
tonyagray@andrewskurth.com
ANDRWS KURTH LLP
1717 Main Street, Suite 3700
Dallas, TX 75201
214-659-4400 (Telephone)
214-659-4401 (Telecopy)

**ATTORNEYS FOR DEFENDANTS COMPASS
BANCSHARES, INC. AND COMPASS BANK,
FIRST HORIZON NATIONAL
CORPORATION
FIRST TENNESSEE BANK, N.A.**

William L. LaFuze
Texas Bar No. 11792500
wlafuze@velaw.com
D. Ferguson McNiel
Texas Bar No. 13830300
fmcniel@velaw.com
VINSON & ELKINS LLP
2300 First City Tower
1001 Fannin St.
Houston, TX 77002
713-758-2595 (Telephone)

713-615-5017 (Telecopy)

Scott W. Breedlove
Texas Bar No. 00790361
sbreedlove@velaw.com
VINSON & ELKINS LLP
3700 Trammell Crow Center
2001 Ross Ave.
Dallas, TX 75201-2975
214-220-7700 (Telephone)
214-220-7716 (Telecopy)

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
903-934-8450 (Telephone)
903-934-9257 (Telecopy)

**ATTORNEYS FOR
UBS AMERICAS, INC.**

Edward G. Poplawski (Pro Hac Vice)
EPoplaws@Sidley.com
Jeffrey A. Finn (Pro Hac Vice)
JFinn@Sidley.com
Carissa A. Tener (Pro Hac Vice)
CTener@Sidley.com
SIDLEY AUSTIN L.L.P.
555 West Fifth Street, Suite 4000
Los Angeles, California 90013
213-896-6000 (Telephone)
213-896-6600 (Telecopy)

Kurt M. Sauer
DAFFER MCDANIEL
The Chase Building
700 Lavaca, Suite 720
Austin, TX 78701-3119

Sidney Calvin Capshaw, III
State Bar No. 03783900
Andrew W. Spangler
State Bar No. 20401960
Elizabeth L. DeRieux
State Bar No. 05770585
Brown McCarroll
1127 Judson Road, Suite 220
Longview, TX 75601
P.O. Box 3999

Longview, TX 75606-3999
903-236-9800
Fax: 903-236-8787

ccapshaw@mailbmc.com
aspangler@mailbmc.com
ederieux@mailbmc.com

**ATTORNEYS FOR
CITY NATIONAL BANK
CITY NATIONAL CORP.**

Melvin R. Wilcox, III
mrw@smeadlaw.com
SMEAD, ANDERSON & DUNN LLP
2110 Horseshoe Lane
P.O. Box 3343
Longview, TX 75606
903-232-1892 (Telephone)
903-232-1881 (Telecopy)

Of Counsel:
John J. Feldhaus
jfeldhaus@foley.com
Anthony H. Son
ason@foley.com
FOLEY & LARDNER LLP
3000 K Street, N.W.
Washington, DC 20007
202-672-5300 (Telephone)

**ATTORNEYS FOR
U.S. BANCORP, U.S. BANK, NATIONAL
ASSOCIATION, NATIONAL CITY
CORPORATION AND NATIONAL CITY
BANK, ZIONS BANCORPORATION AND
ZIONS FIRST NATIONAL BANK**

Daniel A. DeVito
SKADDEN ARPS SLATE MEAGHER & FLOM
4 Times Square
New York, NY 10036
212-735-3210 (Telephone)
917-777-3210 (Telecopy)
ddevito@skadden.com

Philip Philbin
Russ Emerson
HAYNES & BOONE
901 Main St., Suite 3100
Dallas, TX 75202
214-651-5684 (Telephone)
214-200-0672 (Telecopy)

**ATTORNEYS FOR
VIEWPOINTE ARCHIVE SERVICES, LLC**

John H. McDowell, Jr.

john.mcdowell@hughesluce.com

Greg Perrone

gregory.perrone@hughesluce.com

HUGHES & LUCE LLP

1717 Main Street, Suite 2800

Dallas, TX 75201

214-939-5413 (Telephone)

214-939-5849 (Telecopy)

**ATTORNEYS FOR
BANCORPSOUTH, INC., AND
BANCORPSOUTH BANK**

Jeffrey Standley

jstandley@standleyllp.com

STANDLEY LAW GROUP LLP

495 Metro Place South, Suite 210

Dublin, OH 43017

614-792-5555 (Telephone)

614-792-5536 (Telecopy)

Claude Welch

cwelch@consolidated.net

115 W. Shepherd Ave.

Lufkin, TX 75904-3808

936-639-3311 (Telephone)

936-639-3049 (Telecopy)

**ATTORNEYS FOR
CITIZENS FINANCIAL GROUP, INC.**

CERTIFICATE OF CONFERENCE

This certifies that Brett Johnson, counsel for Bank of America, conferred with Karl Rupp, counsel for plaintiff concerning plaintiff's position on this motion, and Mr. Rupp stated that plaintiff does not oppose the motion to extend the time for Defendants to answer.

/s/ Thomas M. Melsheimer
Thomas M. Melsheimer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Thomas M. Melsheimer
Thomas M. Melsheimer

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