

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

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|-------------------------------------|---|---------------------|
| DATATREASURY CORPORTION | § | |
| <i>Plaintiff/Counter-Defendant</i> | § | |
| | § | |
| vs. | § | No. 2:06cv72 (DF) |
| | § | Jury Trial Demanded |
| WELLS FARGO & COMPANY; | § | |
| WELLS FARGO BANK, NATIONAL | § | |
| ASSOCIATION | § | |
| <i>Defendants/Counter-Plaintiff</i> | § | |

DATATREASURY’S ANSWER TO BB&T CORPORATION’S AND BRANCH BANKING AND TRUST COMPANY’S FIRST AMENDED COUNTERCLAIMS

Plaintiff/Counter-Defendant DataTreasury Corporation hereby files its Answer to BB&T Corporation and Branch Banking and Trust Company’s (collectively “Branch Banking”), First Amended Counterclaims to Plaintiff’s First Amended Complaint for Patent Infringement and in support thereof, states as follows:

COUNTERCLAIM

1. Plaintiff/Counter-Defendant denies that Branch Banking is entitled to a declaration of non-infringement as to the ‘007 and ‘868 Patents as alleged in paragraph 1 of Branch Banking’s First Amended Counterclaim.
2. Plaintiff/Counter-Defendant denies that Branch Banking is entitled to a declaration of invalidity as to the ‘007 and ‘868 Patents as alleged in paragraph 2 of Branch Banking’s First Amended Counterclaim.

JURISDICTION AND VENUE

3. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 3 of Branch Banking’s First Amended Counterclaim.

4. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 4 of Branch Banking.'s First Amended Counterclaim.

THE PARTIES

5. Plaintiff/Counter-Defendant can neither admit or deny that Branch Banking is a state chartered bank authorized to do business under the laws of [the] North Carolina as alleged in paragraph 5 of Branch Banking's First Amended Counterclaim. Plaintiff/Counter-Defendant admits that DataTreasury is a Delaware corporation with its principal place of business at 101 East Park Boulevard, #600, Plano, Texas 75074, as alleged in paragraph 5 of Branch Banking's First Amended Counterclaim.

COUNT 1

(Declaratory Judgment of Non-Infringement, 28 U.S.C. §§ 2201-2202)

6. Plaintiff/Counter-Defendant admits the allegations contained in paragraphs 6 thru 7 of Branch Banking's First Amended Counterclaim.

7. Plaintiff/Counter-Defendant denies that Branch Banking is entitled to a Declaratory Judgment of Non-Infringement, as to the '007 Patent as alleged in paragraphs 8 thru 9 of the first counterclaim of Branch Banking's First Amended Counterclaim.

COUNT II

(Declaratory Judgment of Non-Infringement, 28. U.S.C. §§ 2201-2202)

8. Plaintiff/Counter-Defendant admits the allegations contained in paragraphs 10 thru 11 of Branch Banking's First Amended Counterclaim.

9. Plaintiff/Counter-Defendant denies that Branch Banking is entitled to a Declaratory Judgment of Non-Infringement, as to the '868 Patent as alleged in paragraphs 12 thru 13 of the second counterclaim of Branch Banking's First Amended Counterclaim.

COUNT III

(Declaratory Judgment of Invalidity, 28 U.S.C. §§ 2201-2202)

10. Plaintiff/Counter-Defendant admits that it has alleged that Branch Banking has infringed, contributed to the infringement of, or induced others to infringe the '007 Patent as alleged in paragraph 14 of the third counterclaim of Branch Banking's First Amended Counterclaim. Plaintiff/Counter-Defendant denies that some or all of the claims of the '007 Patent are invalid as alleged in paragraph 14 of the third counterclaim of Branch Banking's First Amended Counterclaim.

11. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 15 of the third counterclaim of Branch Banking's First Amended Counterclaim.

12. Plaintiff/Counter-Defendant denies that Branch Banking is entitled to a Declaratory Judgment of Invalidity, as to the '007 Patent as alleged in paragraphs 16 thru 17 of the third counterclaim of Branch Banking's First Amended Counterclaim.

COUNT IV

(Declaratory Judgment of Invalidity, 28 U.S.C. §§ 2201-2202)

13. Plaintiff/Counter-Defendant admits that it has alleged that Branch Banking has infringed, contributed to the infringement of, or induced others to infringe the '868 Patent as alleged in paragraph 18 of the fourth counterclaim of Branch Banking's First Amended Counterclaim. Plaintiff/Counter-Defendant denies that some or all of the

claims of the '868 Patent are invalid as alleged in paragraph 18 of the fourth counterclaim of Branch Banking's First Amended Counterclaim.

14. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 19 of the fourth counterclaim of Branch Banking's First Amended Counterclaim.

15. Plaintiff/Counter-Defendant denies that Branch Banking is entitled to a Declaratory Judgment of Invalidity, as to the '868 Patent as alleged in paragraphs 20 thru 21 of the fourth counterclaim of Branch Banking's First Amended Counterclaim.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff/Counter-Defendant prays for judgment against Defendants/Counter-Plaintiffs as follows:

- A. For judgment dismissing the counterclaims with prejudice;
- B. For a declaration that this is an exceptional case, and an award to Plaintiff/Counter-Defendant of its costs and attorneys' fees incurred herein;
- C. An award of the costs of this action; and
- D. That Plaintiff/Counter-Defendant be awarded such other and further relief as the Court may deem just and proper, including all relief requested in Plaintiff's Complaint.

Respectfully submitted,

/S/

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**ATTORNEYS FOR PLAINTIFF/COUNTER-
DEFENDANT, DATA TREASURY
CORPORATION**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been served on all counsel of record, via CM/ECF, on the 1st day of March, 2007.

_____/S/_____
Edward Lewis von Hohn