

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

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 TOM&T BANK CORPORATION AND M&T
BANK'S COUNTERCLAIMS**

Plaintiff/Counter-Defendant DataTreasury Corporation hereby files its Answer to M&T Bank Corporation and M&T Bank's (collectively "M&T"), Counterclaims to Plaintiff's First Amended Complaint for Patent Infringement and in support thereof, states as follows:

COUNTERCLAIM

1. Plaintiff/Counter-Defendant denies that M&T is entitled to a declaration of non-infringement as to the '988, '137, '007 and '868 Patents as alleged in paragraph 1 of M&T's Counterclaim.
2. Plaintiff/Counter-Defendant denies that M&T is entitled to a declaration of invalidity as to the '988, '137, '007 and '868 Patents as alleged in paragraph 2 of M&T's Counterclaim.

JURISDICTION AND VENUE

3. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 3 of M&T's Counterclaim.

4. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 4 of M&T's Counterclaim.

THE PARTIES

5. Plaintiff/Counter-Defendant can neither admit or deny that M&T Bank is a national banking association authorized to do business under the laws of the United States as alleged in paragraph 5 of M&T's 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 M&T's 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 M&T's Counterclaim.

7. Plaintiff/Counter-Defendant denies that M&T 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 M&T's 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 M&T's Counterclaim.

9. Plaintiff/Counter-Defendant denies that M&T 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 M&T's Counterclaim.

COUNT III

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

10. Plaintiff/Counter-Defendant admits that it has alleged that M&T 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 M&T's 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 M&T's Counterclaim.

11. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 15 of the third counterclaim of M&T's Counterclaim.

12. Plaintiff/Counter-Defendant denies that M&T 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 M&T's Counterclaim.

COUNT IV

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

13. Plaintiff/Counter-Defendant admits that it has alleged that M&T 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 M&T's 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 M&T's Counterclaim.

14. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 19 of the fourth counterclaim of M&T's Counterclaim.

15. Plaintiff/Counter-Defendant denies that M&T 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 M&T's 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-
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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