

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 TO FIRST DATA CORPORATION,
 TELECHECK SERVICES, INC., AND REMITCO, LLC’S COUNTERCLAIMS**

Plaintiff/Counter-Defendant DataTreasury Corporation hereby files its Answer to First Data Corporation’s, TeleCheck Services, Inc.’s, and Remitco, LLC’s (collectively “FDC Defendants”) Counterclaims to Plaintiff’s First Amended Complaint for Patent Infringement and in support thereof, states as follows:

1. In paragraph 101 of Defendants’ Counterclaim, FDC Defendants have incorporated Paragraphs 93 through 100 of Defendants’ Answer which are affirmative defenses by Defendant FDC Defendants for which Defendants have the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 93 through 100 as denied.
2. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 102 of FDC Defendants’ Counterclaim.

3. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 103 of FDC Defendants' Counterclaim.

4. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 104 of FDC Defendants' Counterclaim.

FIRST COUNTERCLAIM
(Declaratory Judgment of NonInfringement)

5. In paragraph 105 of Defendants' Counterclaim, FDC Defendants have incorporated Paragraphs 93 through 100 of Defendants' Answer which are affirmative defenses by Defendant FDC Defendants for which Defendants have the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 93 through 100 as denied.

6. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 106 of the first counterclaim of FDC Defendants' Counterclaims.

7. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 107 of the first counterclaim of FDC Defendants' Counterclaims.

8. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 108 of the first counterclaim of FDC Defendants' Counterclaims.

SECOND COUNTERCLAIM
(Declaratory Judgment of Invalidity)

9. In paragraph 109 of Defendants' Counterclaim, FDC Defendants have incorporated Paragraphs 93 through 100 of Defendants' Answer which are affirmative defenses by Defendant FDC Defendants for which Defendants have the burden of proof,

and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 93 through 100 as denied.

10. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 110 of the second counterclaim of FDC Defendants' Counterclaims.

THIRD COUNTERCLAIM
(Actual and/or Implied License)

11. In paragraph 111 of Defendants' Counterclaim, FDC Defendants have incorporated Paragraphs 93 through 100 of Defendants' Answer which are affirmative defenses by Defendant FDC Defendants for which Defendants have the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 93 through 100 as denied.

12. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 112 of the third counterclaim of FDC Defendants' Counterclaims.

FOURTH COUNTERCLAIM
(Laches and/or Statute of Limitations)

13. In paragraph 113 of Defendants' Counterclaim, FDC Defendants have incorporated Paragraphs 93 through 100 of Defendants' Answer which are affirmative defenses by Defendant FDC Defendants for which Defendants have the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation

responds to each of the affirmative defenses contained in paragraphs 93 through 100 as denied.

14. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 114 of the fourth counterclaim of FDC Defendants's Counterclaims.

FIFTH COUNTERCLAIM
(Exceptional Case)

15. In paragraph 115 of Defendants' Counterclaim, FDC Defendants have incorporated Paragraphs 93 through 100 of Defendants' Answer which are affirmative defenses by Defendant FDC Defendants for which Defendants have the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 93 through 100 as denied.

15. Plaintiff/Counter-Defendant denies that Defendant FDC Defendants is entitled to recover reasonable attorneys fees as alleged in paragraph 115 of the fifth counterclaim of FDC Defendants' Counterclaims.

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