

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 CITY NATIONAL CORPORATION AND
CITY NATIONAL BANK’S AMENDED COUNTERCLAIMS**

Plaintiff/Counter-Defendant DataTreasury Corporation hereby files its Answer to City National Corporation and City National Bank’s (collectively “City National Defendants”) Amended Counterclaims to Plaintiff’s Complaint for Patent Infringement and in support thereof, states as follows:

1. In paragraph 35 of Defendants’ Counterclaim, City National Defendants have incorporated Paragraphs 26 through 34 of Defendants’ Amended Answer which are affirmative defenses by Defendant City National 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 26 through 34 as denied.

2. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 36 of City National Defendants’ Amended Counterclaim.

3. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 37 of City National Defendants' Amended Counterclaim.

4. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 38 of City National Defendants' Amended Counterclaim.

FIRST COUNTERCLAIM
(Declaratory Judgment of NonInfringement)

5. In paragraph 39 of Defendants' Amended Counterclaim, City National Defendants have incorporated Paragraphs 26 through 34 of Defendants' Amended Answer which are affirmative defenses by Defendant City National 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 26 through 34 as denied.

6. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 40 of the first counterclaim of City National Defendants' Amended Counterclaims.

7. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 41 of the first counterclaim of City National Defendants' Amended Counterclaims.

8. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 42 of the first counterclaim of City National Defendants' Amended Counterclaims.

SECOND COUNTERCLAIM
(Declaratory Judgment of Invalidity)

9. In paragraph 43 of Defendants' Amended Counterclaim, City National Defendants have incorporated Paragraphs 26 through 34 of Defendants' Amended Answer which are affirmative defenses by Defendant City National 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 26 through 34 as denied.

10. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 44 of the second counterclaim of City National Defendants' Amended Counterclaims.

THIRD COUNTERCLAIM
(Declaratory Judgment of Unenforceability)

11. In paragraph 45 of Defendants' Amended Counterclaim, City National Defendants have incorporated Paragraphs 26 through 34 of Defendants' Amended Answer which are affirmative defenses by Defendant City National 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 26 through 34 as denied.

12. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 46 of the third counterclaim of City National Defendants' Amended Counterclaims.

FOURTH COUNTERCLAIM
(Laches and/or Statute of Limitation)

13. In paragraph 47 of Defendants' Amended Counterclaim, City National Defendants have incorporated Paragraphs 26 through 34 of Defendants' Amended Answer which are affirmative defenses by Defendant City National 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 26 through 34 as denied.

14. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 48 of the fourth counterclaim of City National Defendants' Amended Counterclaims.

FIFTH COUNTERCLAIM
(Exceptional Case)

15. In paragraph 49 of Defendants' Amended Counterclaim, City National Defendants have incorporated Paragraphs 26 through 34 of Defendants' Amended Answer which are affirmative defenses by Defendant City National 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 26 through 34 as denied.

16. Plaintiff/Counter-Defendant denies that Defendant City National Defendants are entitled to recover reasonable attorneys fees as alleged in paragraph 50 of the fifth counterclaim of City National Defendants' Amended 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 18th day of April, 2007.

_____/S/_____
Edward Lewis von Hohn