

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

DATA TREASURY CORP.	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 2:05-CV-294 (DF)
	§	
CITIGROUP INC. and CITIBANK	§	
NATIONAL ASSOCIATION,	§	
	§	
Defendants.	§	

DATA TREASURY CORP.	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 2:06-CV-72 (DF)
	§	
WELLS FARGO and COMPANY, et al.,	§	
	§	
Defendants.	§	
	§	

ORDER

Currently scheduled before the Court in *Data Treasury v. Citigroup*, 2:05-cv-294 (hereafter the “*Citigroup* action”) is an April 26, 2007 Claim Construction Hearing. The Court has recently received correspondence from Defendants in *Data Treasury v. Wells Fargo*, 2:06-cv-72, (hereafter the “*Wells Fargo* action”) concerning the possibility of consolidating the claim construction hearings in the two cases. While Plaintiff does not contest this idea, Defendants in the *Citigroup* action oppose the consolidation. See Letter from Robert Chiaviello (April 19, 2007). Defendants in the *Citigroup* action contend that delaying the claim construction hearing would delay the March 2008

trial setting in that case. After considering this concern, however, the Court finds that consolidating the claim construction hearings in both actions is the most reasonable and efficient alternative. First, both actions are stayed as to the Ballard patents. As a result, the April 26, 2007 hearing in the *Citigroup* action would proceed only as to the Huntington patents and an additional claim construction hearing would likely be necessary before the *Citigroup* action could proceed to trial. Until the PTO takes further action concerning the Ballard patents neither case is likely to go to trial. Further, conducting a single claim construction hearing concerning the patents-in-suit will preserve the Court's time and resources. Even if no further action in the reexamination of the Ballard patents occurs by the time of the consolidated claim construction hearing, the Court will still be able to construe the terms in the Huntington patents in a single hearing and order. As a result, the Court ORDERS:

That the April 26, 2007 claim construction hearing in the *Citigroup* action is CANCELLED;

That the claim construction in the *Citigroup* action is CONSOLIDATED with the claim construction in *Wells Fargo* action;

That the Clerk of Court shall make the three letters received from the parties part of the record.

The Court also notes that the claim construction hearing in the *Wells Fargo* action is currently scheduled for September 24, 2007, at 10 a.m. *See* 2:06-cv-72, Doc. No. 451. The Court hereby resets the time of that hearing for **September 24, 2007, at 9 a.m.**

The Court has previously allocated each side in the *Wells Fargo* action four (4) hours to present their arguments. The Court will keep this time limit in place and all defendants are

ORDERED to allocate the time among themselves. In the event that the Defendants are unable to reach such an agreement the Defendants from the *Citigroup* action shall have two (2) hours, and the Defendants from the *Wells Fargo* action shall have two (2) hours.

IT IS SO ORDERED.

SIGNED this 20th day of April, 2007.

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE