

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

**DATATREASURY CORPORATION,**

**Plaintiff**

v.

**2:06-CV-72 DF**

**WELLS FARGO & COMPANY, et al.**

**Defendants**

**JOINT MOTION TO MODIFY DEADLINE FOR  
COMPLETION OF CLAIM CONSTRUCTION DISCOVERY**

Defendants<sup>1</sup> jointly move with Plaintiff DataTreasury Corporation to modify the deadline stated in the Court's Second Amended Docket Control Order [Docket No. 451] as outlined below:

<b>Step</b>	<b>Action</b>	<b>Rule</b>	<b>Date Due</b>
14	Completion of Claim Construction Discovery	Patent L.R. 4-4	04/27/07

The Parties agree that the Completion of Claim Construction Discovery deadline shall be modified in that all Parties retain the right to depose Terry L. Geer and David L. James regarding claim construction issues after April 27, 2007. The Parties further agree that any individuals as for whom an affidavit or declaration is filed by either plaintiff or any defendant may be deposed within 30 days from filing of the affidavit or declaration, or by the due date for the next claim construction brief, whichever occurs first. Parties will advise each other no later than 14 days before the Claim Construction Hearing whether they intend to present live testimony from an individual previously identified in the Patent L.R. 4-3 Joint Claim Construction and Prehearing Statement, and to whom no affidavit or declaration has been filed, and the identity of such

<sup>1</sup> First Citizens Bancshares, Inc., HSBC North America Holdings Inc., and UnionBanCal Corporation join this Motion subject to, and without waiver of, their lack of personal jurisdiction defenses.

witness. In such event, the anticipated witness will be made available for deposition before the Claim Construction Hearing.

All Parties agree with the above modification. Accordingly, the Parties respectfully request the Court enter an order modifying the deadline as set forth above. The modification of this deadline does not change or affect any other deadline in the Court's Second Amended Docket Control Order.

Dated: April 27, 2007

Respectfully submitted,

By: /s/ Thomas M. Melsheimer by permission on behalf of the Plaintiff:

Edward L. Von Hohn, Attorney in Charge  
State Bar No. 09813240  
Rod Cooper  
State Bar No. 90001628  
Edward Chin  
State Bar No. 50511688  
NIX PATTERSON & ROACH LLP  
5215 N. O'Connor Blvd. Ste. 1900  
Irving, Texas 75039  
972.831.1188 (telephone)  
972.692.5445 (facsimile)  
[edhohn@nixlawfirm.com](mailto:edhohn@nixlawfirm.com)  
[rodcooper@nixlawfirm.com](mailto:rodcooper@nixlawfirm.com)  
[edchin@nixlawfirm.com](mailto:edchin@nixlawfirm.com)

C. Cary Patterson  
State Bar No. 15587000  
Brady Paddock  
State Bar No. 00791394  
Anthony Bruster  
State Bar No. 24036280  
R. Benjamin King  
State Bar No. 24048592  
NIX PATTERSON & ROACH L.L.P.  
2900 St. Michael Drive, Suite 500  
Texarkana, Texas 75503  
903.223.3999 (telephone)  
903.223.8520 (facsimile)  
[akbruster@nixlawfirm.com](mailto:akbruster@nixlawfirm.com)  
[bpaddock@nixlawfirm.com](mailto:bpaddock@nixlawfirm.com)  
[benking@nixlawfirm.com](mailto:benking@nixlawfirm.com)

Joe Kendall  
State Bar No. 11260700  
Karl Rupp  
State Bar No. 24035243  
PROVOST \* UMPHREY, L.L.P.  
3232 McKinney Avenue, Ste. 700  
Dallas, Texas 75204  
214.744.3000 (telephone)  
214.744.3015 (facsimile)  
[jkendall@provostumphrey.com](mailto:jkendall@provostumphrey.com)

By: /s/ Thomas M. Melsheimer

Thomas M. Melsheimer  
Texas Bar No. 13922550  
FISH & RICHARDSON P.C.  
1717 Main Street  
Suite 5000  
Dallas, TX 75201  
214-747-5070 (Telephone)  
214-747-2091 (Telecopy)

Robert E. Hillman  
FISH & RICHARDSON P.C.  
225 Franklin Street  
Boston, MA 02110-2804  
617-542-5070 (Telephone)  
617-542-8906 (Telecopy)

Robert M. Parker  
Robert Christopher Bunt  
PARKER & BUNT, P.C.  
100 E. Ferguson, Suite 1114  
Tyler, Texas 75702  
903-531-3535 (Telephone)  
903-533-9687 (Telecopy)

Michael E. Jones  
Texas Bar No. 10929400  
E. Glenn Thames, Jr.  
Texas Bar No. 00785097  
POTTER MINTON  
500 Plaza Tower  
110 North College, Suite 500  
Tyler, TX 75702

**ATTORNEYS FOR DEFENDANTS  
BANK OF AMERICA CORPORATION,  
BANK OF AMERICA, NATIONAL  
ASSOCIATION**

By: /s/ Thomas M. Melsheimer by permission on behalf of the following counsel:

Danielle Williams  
KILPATRICK STOCKTON LLP  
1001 West Fourth Street  
Winston-Salem, NC 27101

Bill Boice  
Audra Dial  
KILPATRICK STOCKTON LLP

krupp@provostumphrey.com

Eric M. Albritton  
State Bar ;No. 00790215  
ALBRITTON LAW FIRM  
P.O. Box 2649  
Longview, Texas 75606  
903.757.8449 (telephone)  
903.758.7397 (facsimile)  
ema@emafirm.com

T. John Ward, Jr.  
State Bar No. 00794818  
LAW OFFICE OF T. JOHN WARD, JR.  
P.O. Box 1231  
Longview, Texas 75601  
903.757.6400 (telephone)  
903.757.2323 (facsimile)  
jw@jwfirm.com

**ATTORNEYS FOR PLAINTIFF  
DATATREASURY CORPORATION**

1100 Peachtree Street, Suite 2800  
Atlanta, Georgia 30309-4530

Kenneth Godlewski  
Stephen Baskin  
KILPATRICK STOCKTON LLP  
607 14<sup>th</sup> Street, NW, Suite 900  
Washington, DC 20005-2018

**ATTORNEYS FOR DEFENDANTS  
BB&T CORPORATION, BRANCH  
BANKING & TRUST CO., COMERICA  
BANK & TRUST, N.A., COMERICA, INC.,  
M&T BANK, M&T CORPORATION,  
WACHOVIA CORPORATION,  
WACHOVIA BANK, N.A.**

Raymond Sweigart  
William P. Atkins  
Scott Pivnick  
PILLSBURY WINTHROP SHAW PITTMAN  
LLP  
1650 Tysons Blvd.  
McLean, VA 22102-4859

**ATTORNEYS FOR DEFENDANTS  
BANK OF NEW YORK CO., INC., THE  
BANK OF NEW YORK, UNION BANK OF  
CALIFORNIA, N.A., UNIONBANCAL  
CORPORATION**

David L. Ward, Jr.  
Donalt J.Eglinton  
WARD AND SMITH, P.A.  
1001 College Court  
New Bern, NC 28562

Larry Carlson  
David Taylor  
BAKER BOTTS L.L.P.  
2001 Ross Avenue  
Dallas, TX 75201-2980

**ATTORNEYS FOR DEFENDANTS  
FIRST CITIZENS BANCSHARES, INC.,  
FIRST CITIZENS BANK & TRUST CO.**

James H. Carter  
James T. Williams  
Jane Jaang  
SULLIVAN & CROMWELL LLP  
125 Broad Street  
New York, New York 10004-2493

**ATTORNEYS FOR DEFENDANTS  
THE CLEARINGHOUSE PAYMENTS**

**CO., L.L.C. F/K/A SMALL VALUE  
PAYMENTS CO., L.L.C.**

Glen Boudreaux  
Tim Leonard  
Edward J. Nicholas  
BOUDREAUX LEONARD HAMMOND  
CURCIO  
2 Houston Center  
909 Fannin Street, Suite 2350  
Houston, TX 77010

**ATTORNEYS FOR DEFENDANTS  
HSBC NORTH AMERICA HOLDINGS,  
INC., HSBC BANK USA, N.A.**

Irah Donner  
WILMER, CUTLER, PICKERING, HALE &  
DORR  
399 Park Ave.  
New York, NY 10022

**ATTORNEY FOR DEFENDANTS  
HSBC NORTH AMERICA HOLDINGS,  
INC., HSBC BANK USA, N.A.**

Sam Baxter  
Lead Attorney  
Texas Bar No. 01938000  
[sbaxter@mckoolsmith.com](mailto:sbaxter@mckoolsmith.com)  
McKOOL SMITH, P.C.  
505 East Travis Street, Suite 105  
Marshall, Texas 75670  
903-927-2111 (Telephone)  
903-927-2622 (Telecopy)

Theodore Stevenson, III  
Texas Bar No. 19196650  
[tstevenson@mckoolsmith.com](mailto:tstevenson@mckoolsmith.com)  
L. David Anderson  
Texas Bar No. 00796126  
[danderson@mckoolsmith.com](mailto:danderson@mckoolsmith.com)  
McKOOL SMITH P.C.  
300 Crescent Court, Suite 1500  
Dallas, TX 75201  
214-978-4000 (Telephone)  
214-978-4044 (Telecopy)

Peter J. Ayers  
Texas Bar No. 24009882  
[payers@mckoolsmith.com](mailto:payers@mckoolsmith.com)  
Geoffrey L. Smith  
Texas Bar No. 24041939  
[gsmith@mckoolsmith.com](mailto:gsmith@mckoolsmith.com)  
McKOOL SMITH P.C.  
300 W. 6th Street, Suite 1700

Austin, Texas 78701  
512-692-8700 (Telephone)  
512-692-8744 (Telecopy)

**ATTORNEYS FOR DEFENDANTS PNC  
FINANCIAL SERVICES GROUP, INC.,  
PNC BANK NATIONAL ASSOCIATION,  
KEYCORP, AND KEYBANK NA**

Edward G. Poplawski (Pro Hac Vice)  
[EPoplaws@Sidley.com](mailto:EPoplaws@Sidley.com)  
Jeffrey A. Finn (Pro Hac Vice)  
[JFinn@Sidley.com](mailto:JFinn@Sidley.com)  
Carissa A. Tener (Pro Hac Vice)  
[CTener@Sidley.com](mailto:CTener@Sidley.com)  
SIDLEY AUSTIN L.L.P.  
555 West Fifth Street, Suite 4000  
Los Angeles, California 90013  
213-896-6000 (Telephone)  
213-896-6600 (Telecopy)

Lance Lee  
[WLanceLee@aol.com](mailto:WLanceLee@aol.com)  
Texas Bar No. 240004762  
YOUNG, PICKETT & LEE, L.L.P.  
4122 Texas Blvd.  
P.O. Box 1897  
Texarkana, Texas 75504  
903-794-1303 (Telephone)  
903-792-5098 (Telecopy)

**COUNSEL FOR FIRST DATA  
CORPORATION, TELECHECK  
SERVICES, INC.;REMITCO, LLC,  
DEUTSCHE BANK TRUST COMPANY  
AMERICAS, BANK OF TOKYO-  
MITSUBISHI UFJ, LTD.**

Edward G. Poplawski (Pro Hac Vice)  
[EPoplaws@Sidley.com](mailto:EPoplaws@Sidley.com)  
Jeffrey A. Finn (Pro Hac Vice)  
[JFinn@Sidley.com](mailto:JFinn@Sidley.com)  
Carissa A. Tener (Pro Hac Vice)  
[CTener@Sidley.com](mailto:CTener@Sidley.com)  
SIDLEY AUSTIN L.L.P.  
555 West Fifth Street, Suite 4000  
Los Angeles, California 90013  
213-896-6000 (Telephone)  
213-896-6600 (Telecopy)

Sidney Calvin Capshaw, III  
State Bar No. 03783900  
Andrew W. Spangler  
State Bar No. 20401960  
Elizabeth L. DeRieux  
State Bar No. 05770585

Brown McCarroll  
1127 Judson Road, Suite 220  
Longview, TX 75601  
P.O. Box 3999  
Longview, TX 75606-3999  
903-236-9800  
Fax: 903-236-8787  
[ccapshaw@mailbmc.com](mailto:ccapshaw@mailbmc.com)  
[aspangler@mailbmc.com](mailto:aspangler@mailbmc.com)  
[ederieux@mailbmc.com](mailto:ederieux@mailbmc.com)

**COUNSEL FOR LASALLE BANK  
CORPORATION AND LASALLE BANK  
NA**

William L. LaFuze  
Texas Bar No. 11792500  
[wlafuze@velaw.com](mailto:wlafuze@velaw.com)  
D. Ferguson McNiel  
Texas Bar No. 13830300  
[fmcniel@velaw.com](mailto:fmcniel@velaw.com)  
VINSON & ELKINS LLP  
2300 First City Tower  
1001 Fannin St.  
Houston, TX 77002  
713-758-2595 (Telephone)  
713-615-5017 (Telecopy)

Scott W. Breedlove  
Texas Bar No. 00790361  
[sbreedlove@velaw.com](mailto:sbreedlove@velaw.com)  
VINSON & ELKINS LLP  
3700 Trammell Crow Center  
2001 Ross Ave.  
Dallas, TX 75201-2975  
214-220-7700 (Telephone)  
214-220-7716 (Telecopy)

Harry Lee Gillam, Jr.  
Texas Bar No. 07921800  
[gil@gillamsmithlaw.com](mailto:gil@gillamsmithlaw.com)  
Melissa Richards Smith  
Texas Bar No. 24001351  
[melissa@gillamsmithlaw.com](mailto:melissa@gillamsmithlaw.com)  
GILLAM & SMITH LLP  
110 South Bolivar, Suite 204  
Marshall, TX 75670  
903-934-8450 (Telephone)  
903-934-9257 (Telecopy)

**ATTORNEYS FOR  
UBS AMERICAS, INC.**

Edward G. Poplawski (Pro Hac Vice)  
[EPoplaws@Sidley.com](mailto:EPoplaws@Sidley.com)  
Jeffrey A. Finn (Pro Hac Vice)

JFinn@Sidley.com  
Carissa A. Tener (Pro Hac Vice)  
CTener@Sidley.com  
SIDLEY AUSTIN L.L.P.  
555 West Fifth Street, Suite 4000  
Los Angeles, California 90013  
213-896-6000 (Telephone)  
213-896-6600 (Telecopy)

Kurt M. Sauer  
DAFFER MCDANIEL  
The Chase Building  
700 Lavaca, Suite 720  
Austin, TX 78701-3119

Sidney Calvin Capshaw, III  
State Bar No. 03783900  
Andrew W. Spangler  
State Bar No. 20401960  
Elizabeth L. DeRieux  
State Bar No. 05770585  
Brown McCarroll  
1127 Judson Road, Suite 220  
Longview, TX 75601  
P.O. Box 3999  
Longview, TX 75606-3999  
903-236-9800  
Fax: 903-236-8787  
ccapshaw@mailbmc.com  
aspangler@mailbmc.com  
ederieux@mailbmc.com

**ATTORNEYS FOR  
CITY NATIONAL BANK  
CITY NATIONAL CORP.**

Melvin R. Wilcox, III  
mrw@smeadlaw.com  
SMEAD, ANDERSON & DUNN LLP  
2110 Horseshoe Lane  
P.O. Box 3343  
Longview, TX 75606  
903-232-1892 (Telephone)  
903-232-1881 (Telecopy)

Of Counsel:  
John J. Feldhaus  
jfeldhaus@foley.com  
Anthony H. Son  
ason@foley.com  
George C. Beck  
gbeck@foley.com  
FOLEY & LARDNER LLP  
3000 K Street, N.W.  
Washington, DC 20007  
202-672-5300 (Telephone)



**ATTORNEYS FOR  
U.S. BANCORP, U.S. BANK, NATIONAL  
ASSOCIATION, NATIONAL CITY  
CORPORATION AND NATIONAL CITY  
BANK**

Jeffrey Standley  
[jstandley@standleyllp.com](mailto:jstandley@standleyllp.com)  
STANDLEY LAW GROUP LLP  
495 Metro Place South, Suite 210  
Dublin, OH 43017  
614-792-5555 (Telephone)  
614-792-5536 (Telecopy)

Claude Welch  
[cwelch@consolidated.net](mailto:cwelch@consolidated.net)  
115 W. Shepherd Ave.  
Lufkin, TX 75904-3808  
936-639-3311 (Telephone)  
936-639-3049 (Telecopy)

**ATTORNEYS FOR  
CITIZENS FINANCIAL GROUP, INC.**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on April 27, 2007 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

*/s/ Tim K. Brown*

\_\_\_\_\_

Tim K. Brown