

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>	§	

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**DATATREASURY’S ANSWER TO UNIONBANCAL CORPORATION’S  
COUNTERCLAIM TO PLAINTIFF’S FIRST AMENDED COMPLAINT FOR  
PATENT INFRINGEMENT**

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Plaintiff/Counter-Defendant DataTreasury Corporation hereby files its Answer to UnionBanCal Corporation’s (“UBC) Counterclaims to Plaintiff’s First Amended Complaint for Patent Infringement and in support thereof, states as follows:

**JURISDICTION AND VENUE**

1. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 99 of UBC’s Counterclaim.
2. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 100 of UBC’s Counterclaim.
3. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 101 of UBC’s Counterclaim.
4. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 102 of UBC’s Counterclaim.
5. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 103 of UBC’s Counterclaim.

**THE PARTIES**

6. Plaintiff/Counter-Defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 104 of UBC's Counterclaim.

7. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 105 of UBC's Counterclaim.

8. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 106 of UBC's Counterclaim.

9. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 107 of UBC's Counterclaim.

**COUNTERCLAIM ONE: INVALIDITY OF THE '007 PATENT**

10. In paragraph 108 of Defendant's Counterclaim, UBC has incorporated Paragraphs 93 through 100 which are affirmative defenses by Defendant UBC, for which Defendant has 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.

11. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 109 of UBC's Counterclaim.

**COUNTERCLAIM TWO: NON-INFRINGEMENT OF THE '007 PATENT**

12. In paragraph 110 of Defendant's Counterclaim, UBC has incorporated Paragraphs 93 through 100 which are affirmative defenses by Defendant UBC, for which Defendant has 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.

13. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 111 of UBC's Counterclaim.

**COUNTERCLAIM THREE: INVALIDITY OF THE '868 PATENT**

14. In paragraph 112 of Defendant's Counterclaim, UBC has incorporated Paragraphs 93 through 100 which are affirmative defenses by Defendant UBC, for which Defendant has 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 the allegations contained in paragraph 113 of UBC's Counterclaim.

**COUNTERCLAIM FOUR: NON-INFRINGEMENT OF THE '868 PATENT**

16. In paragraph 114 of Defendant's Counterclaim, UBC has incorporated Paragraphs 93 through 100 which are affirmative defenses by Defendant UBC, for which Defendant has 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.

17. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 115 of UBC'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,

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/S/

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DEFENDANT, DATA TREASURY  
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 21<sup>st</sup> day of June, 2007.

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Edward Lewis von Hohn