

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 HSBC NORTH AMERICA HOLDINGS
 INC.’S COUNTERCLAIM TO PLAINTIFF’S FIRST AMENDED COMPLAINT
 FOR PATENT INFRINGEMENT**

Plaintiff/Counter-Defendant DataTreasury Corporation hereby files its Answer to HSBC North America Holdings Inc.’s (“HSBC”) 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 104 of HSBC’s Counterclaim.
2. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 105 of HSBC’s Counterclaim.
3. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 106 of HSBC’s Counterclaim.

FIRST COUNTERCLAIM FOR RELIEF

(Declaratory Judgment – Non-Infringement)

4. In paragraph 107 of Defendant's Counterclaim, HSBC has incorporated Paragraphs 93 through 102 which are affirmative defenses by Defendant HSBC, 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 102 as denied.

5. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 108 of the first counterclaim of HSBC's Counterclaim.

6. Plaintiff/Counter-Defendant admits the allegations contained in paragraph 109 of the first counterclaim of HSBC's Counterclaim.

7. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 110 of the first counterclaim of HSBC's Counterclaim.

8. Plaintiff/Counter-Defendant denies that HSBC is entitled to a Declaratory Judgment of Non-Infringement, as alleged in paragraph 111 of the first counterclaim of HSBC's Counterclaim.

SECOND COUNTERCLAIM FOR RELIEF

(Declaratory Judgment – Invalidity)

9. In paragraph 112 of Defendant's Counterclaim, HSBC has incorporated Paragraphs 93 through 102 which are affirmative defenses by Defendant HSBC, 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 102 as denied.

10. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 113 of the second counterclaim of Defendant HSBC's Counterclaim.

11. Plaintiff/Counter-Defendant denies that HSBC is entitled to a Declaratory Judgment of Invalidity, as alleged in paragraph 114 of the second counterclaim of defendant HSBC'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,

/S/

EDWARD L. VON HOHN, Attorney in Charge

State Bar No. 09813240

ROD COOPER

State Bar No. 90001628

EDWARD CHIN

STATE BAR NO. 50511688B

NICOLE REED

STATE BAR NO. 24041759

NIX PATTERSON & ROACH LLP

5215 N. O'Connor Blvd. Ste. 1900

Irving, Texas 75039

972.831.1188 (telephone)

972.692.5445 (facsimile)

rcooper@cooperiplaw.com

edchin@nixlawfirm.com

edhohn@nixlawfirm.com

nicolereed@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

bpaddock@nixlawfirm.com

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

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/COUNTER-
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 21st day of June, 2007.

_____/S/_____
Edward Lewis von Hohn