

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

DATATREASURY CORPORATION,

Plaintiff

v.

WELLS FARGO & COMPANY, ET AL.,

Defendants

2:06-CV-72 DF

**DEFENDANT BANK OF AMERICA'S UNOPPOSED MOTION FOR AN
EXTENSION OF TIME TO FILE A REPLY BRIEF IN SUPPORT OF ITS
MOTION FOR SUMMARY JUDGMENT OF CLAIM INVALIDITY AS TO
U.S. PATENT NO. 5,265,007**

Defendants Bank of America Corporation and Bank of America, National Association (collectively, "Bank of America" or "Defendants") file this unopposed motion for an extension of time from July 9, 2007 to July 12, 2007, to file its Reply in support of its Motion for Summary Judgment of Claim Invalidity Based on Indefiniteness for U.S. Patent No. 5,265,007 ("Motion"), and, in support thereof, would show the Court as follows:

1. On June 8, 2007, Bank of America filed its "Motion for Summary Judgment for Claim Invalidity Based on Indefiniteness of U.S. Patent No. 5,265,007." *See* Docket No. 710. On June 26, 2007, Plaintiff Datatreasury Corporation ("Plaintiff") served its response to the Motion. *See* Docket No. 731.¹

¹ Plaintiff served its Response on June 25, 2007, at 7:17 p.m. CDT. Under Local Rule 5(a)(3)(C), "documents filed electronically after 5 p.m. local time of the recipient shall be deemed served on the following day." Thus, Plaintiff's Response is deemed served on June 26, 2007.

2. Bank of America's reply to Plaintiff's Response is currently due on or before July 9, 2007. *See* Local Rule 7(e). This is the same date that all defendants in this matter are to file their response brief(s) on claim construction issues as to all four patents-in-suit. Thus, Bank of America seeks to extend its reply deadline by three days from July 9, 2007 to July 12, 2007. The bases for the requested extension are to alleviate the pressure and inefficiency of drafting and filing two substantive briefs on the same date and to most efficiently utilize the time and skill of the legal personnel involved in these briefs.

3. Pursuant to Federal Rule of Civil Procedure 6(b), "for cause shown" the Court may enlarge a period of time "with or without motion or notice . . . if request therefore is made before the expiration of the period originally prescribed." FED. R. CIV. P. 6(b). Bank of America makes this request for an extension of time before the expiration of the current deadline for filing a reply. Moreover, this request is made so that justice may be done and not solely for purposes of delay or any other improper purpose.

4. Plaintiff's counsel does not oppose this request.

WHEREFORE, Defendants Bank of America Corporation and Bank of America, National Association respectfully request that the Court grant this Motion, and that the Court grant such other and further relief at law and equity to which Defendants may be justly entitled.

Dated: June 28, 2007

Respectfully submitted,

FISH & RICHARDSON P.C.

By: /s/Thomas M. Melsheimer

Thomas M. Melsheimer
Texas Bar No. 13922550
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

Counsel for Defendants
BANK OF AMERICA CORPORATION AND
BANK OF AMERICA, NATIONAL
ASSOCIATION

CERTIFICATE OF CONFERENCE

On June 27, 2007, Counsel for Defendants, Brett Johnson, conferred via e-mail with Counsel for Plaintiff, Karl Rupp, regarding the relief requested by this Motion. Mr. Rupp indicated that Plaintiff is unopposed to the relief sought.

/s/M. Brett Johnson

Counsel for Defendants Bank of
America Corporation and Bank of
America, National Association.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on June 28, 2007 to all counsel of record pursuant to the Court's CM/ECF system.

/s/ M. Brett Johnson

M. Brett Johnson

90229464.2.doc