

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

DATATREASURY CORP.,

Plaintiff,

v.

WELLS FARGO & CO., et al.

Defendants.

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No. 2:06-CV-72

Judge David Folsom

**UNOPPOSED MOTION FOR LEAVE TO FILE  
SUPPLEMENTAL RESPONSIVE CLAIM CONSTRUCTION BRIEF  
OF DEFENDANTS KEY AND PNC**

The Court’s “Order From Scheduling Conference and Docket Control Order,” filed on October 25, 2006, provided that Defendants would file one joint, responsive claim construction brief “limited to forty (40) pages and, upon leave of Court, each Litigant group may file a responsive brief concerning issues about which it disagrees with the other Defendants, if any, limited to ten (10) pages.” [Dkt. No. 325 at 2]. Pursuant to that Order, and pursuant to P.R. 4-5(b), Defendants KeyBank National Association and KeyCorp (collectively, “Key”), and PNC Bank and The PNC Financial Services Group, Inc. (collectively, “PNC”), respectfully move the Court for leave to file the attached, ten-page supplemental responsive claim construction brief addressing certain of the disputed claim terms of U.S. Patent Nos. 5,717,868 and 5,265,007 (the “’868 patent,” and “’007 patent” respectively). [Exhibit 1].

With respect to many of the disputed terms drawn from the ‘868 and ‘007 patents, Key and PNC agree and join with the constructions as proposed and argued in Defendants’ joint responsive brief. With respect to a number of terms (and related variants) drawn from these patents, however, Key and PNC propose constructions that differ from those offered by the other Defendants. These differences are encapsulated in the claim-construction comparison chart

attached as Exhibit A to the supplemental responsive brief of Key and PNC. The ten-page supplemental brief attached as Exhibit 1 to this motion addresses the proper constructions for eight of these terms in dispute—terms on which the remaining parties have not agreed with the constructions proposed by Key and PNC. Key and PNC thus respectfully request that the Court grant this unopposed motion for leave to file their supplement responsive claim construction brief.

DATED: July 9, 2007

Respectfully submitted,  
**McKOOL SMITH, P.C.**

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

**CERTIFICATE OF CONFERENCE**

The undersigned certifies that counsel for Defendants and for Plaintiff have conferred amongst each other, and there is no opposition to this motion.

/s/ Peter J. Ayers  
Peter J. Ayers

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a), contemporaneously served upon all counsel who have consented to electronic service, and served by first class mail on other counsel on this the 9th day of July, 2007.

/s/ Sam Baxter  
Sam Baxter