

**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

DECLARATION

I, Geoffrey L. Smith, declare:

1. I am an attorney at law licensed to practice in the State of Texas and admitted to practice in this District. I am an associate in the law firm of McKool Smith, P.C., and an attorney of record in this matter for Defendants KeyBank National Association, KeyCorp, PNC Bank National Association, and the PNC Financial Services Group, Inc. The following declaration is based on my personal knowledge. If called as a witness I could and would competently testify to the facts set forth below.

2. Attached hereto as Exhibit A is a chart listing a subset of the disputed claim terms by patent and providing side-by-side comparisons of the parties' respective constructions of those terms.

3. Attached hereto as Exhibit B is a true and correct copy of U.S. Patent No. 5,717,868 (the "'868 patent").

4. Attached hereto as Exhibit C is a true and correct copy of the Applicant's Amendment and Response of June 13, 1997—a portion of the prosecution history of the '868

patent.

5. Attached hereto as Exhibit D is a true and correct copy of U.S. Patent No. 5,265,007 (the “‘007 patent”).

6. Attached hereto as Exhibit E is a true and correct copy of the Applicant’s Amendment of May 13, 1991—a portion of the prosecution history of the ‘007 patent.

7. Attached hereto as Exhibit F is a true and correct copy of the Applicant’s Amendment of May 29, 1991—a portion of the prosecution history of the ‘007 patent.

8. Attached hereto as Exhibit G is a true and correct copy of the Applicant’s Amendment of January 2, 1992—a portion of the prosecution history of the ‘007 patent.

9. Attached hereto as Exhibit H is a true and correct copy of the Applicant’s Amendment of May 14, 1992—a portion of the prosecution history of the ‘007 patent.

10. Attached hereto as Exhibit I is a true and correct copy of the Applicant’s Amendment of December 8, 1992—a portion of the prosecution history of the ‘007 patent.

11. Attached hereto as Exhibit J is a true and correct copy of the Applicant’s Amendment After Final Action and Statement of May 5, 1993—a portion of the prosecution history of the ‘007 patent.

12. Attached hereto as Exhibit K is a true and correct copy of the Applicant’s Second Amendment After Final Action and Statement of June 29, 1993—a portion of the prosecution history of the ‘007 patent.

13. Attached hereto as Exhibit L are true and correct copies of definitions drawn from the following dictionaries: Banking Terminology (1996), The Dictionary of Banking (1994), The International Dictionary of Data Communications (1998), Random House Webster’s Computer & Internet Dictionary (1999), Webster’s New World Dictionary of Computer Terms

(1997), and Webster's Encyclopedic Unabridged Dictionary of the English Language (1996).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 9th day of July in Austin, Texas.

/s/ Geoffrey L. Smith
Geoffrey L. Smith