

# **EXHIBIT “B”**

**EXHIBIT B**

**DataTreasury Corporation v. Wells Fargo & Company, et al.**

**PLAINTIFF'S CONSTRUCTIONS FOR U.S. PATENT NO. 5,717,868**

No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
	<b>Claim 1</b>		
1.	The defendants argue that the preamble should be construed as limiting.	Preamble is not limiting and the language in preamble does not need to be construed. See, e.g., Catalina Mktg. Int'l Inc. v. Coolsavings.com Inc., 289 F.3d 801 (Fed. Cir. 2002); DeGeorge v. Bernier, 768 F.2d 1318 (Fed. Cir. 1985).	
2.	"financial instruments being exchanged between and among the institutions"	Documents in writing by which some financial obligation by one person to pay another is represented, such as a check, paper, cash items, money orders, share orders, drafts, notes, bonds, or coupons, that are exchanged between and among institutions.	<b><u>Intrinsic Evidence:</u></b>  Col. 5:16-21 "...items such as checks, paper cash items, money orders, share orders, drafts and other physical instruments as well as electronic funds transfers. Hence, the term "check" is also intended to include these items. Moreover, the Federal Reserve System's standard definition of a "cash item" is incorporated by reference here."
3.	"means for receiving a data file from an originating institution, said data file containing co-mingled records of a plurality of separate financial	This term should be construed under 35 U.S.C. § 112(6).  <b><u>Function:</u></b> Receiving a data file from an	<b><u>Intrinsic Evidence</u></b>  '868 Patent, at Fig. on front page; Fig. 2;

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	instruments, said data file being in a first file format established by the originating institution and containing a designation by the originating institution that information in the data file is to be received by one or more than one predetermined institution”	<p>originating institution.</p> <p><u>Corresponding Structure</u>: Translator 1 [Fig. 1; 6:6-10; Fig. 2 (block 10)].</p>	<p>Col. 3:48-57 (“The foregoing objectives are achieved in an electronic payment interchange concentrator system for effecting one or more of the reception, transmission, translation and storage of data files containing information relating to financial instruments among and between multiple institutions. The invention includes a means for receiving a data file from an originating institution. data file is in a first file format established by the originating institution and contains a designation that the information in the data file is to be received by a predetermined institution or institutions.”)</p> <p>4:50-58 (“The electronic payment interchange concentrator, EPIC, allows financial institutions to receive electronic information such as usually associated with categories appearing in check MICR line data, representing financial instruments and electronic funds transfers, and additional system generated information such as trace number, bank of first deposit, account deposited to, and the like, from a variety of sources originating in a plurality of industry data file formats.”)</p> <p>6:6-10 (“processor, within translator 1, employing data processing and signal generation procedures, translates the first data file format received from originating institution O1 into a second data file format selected by the institution that is the intended recipient of the financial instrument</p>

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			<p>information R1.”)            5:28-33; (“Translator 1 receives the data file which contains information relating to financial instrument information to be exchanged between originating institution O1 and a receiving institution R1.”)</p> <p>8:21-24 (“The system's master processor 21 identifies and segregates the information designated for each of the receiving institutions from each file received.”)</p> <p><b><u>Extrinsic Evidence</u></b></p> <p>Testimony from persons of ordinary skill in the art and/or individuals who manage such persons</p>
4.	“predetermined institution”	Participant institution that has previously agreed to exchange financial instrument information with another participant institution.	<p><b><u>Intrinsic Evidence</u></b></p> <p>Col. 5: 63-67: “The present invention resolves this problem. The system validates identifying information contained in the data file with respect to the originating institution and the receiving institution designated by the originating institution to insure that both are system participants.”</p>
5.	“institution”	A business, bank, or other commercial entity.	<p><b><u>Intrinsic Evidence</u></b></p> <p>Col. 5: 63-67: “The present invention resolves this problem. The system validates identifying information contained in the data</p>

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			file with respect to the originating institution and the receiving institution designated by the originating institution to insure that both are system participants.”
6.	“co-mingled records”	<p><i>Co-mingled</i>: “combined financial instrument information intended for one or more of a multiple of receiving institutions or settlement mechanisms.”</p> <p><i>Records</i>: “portions of files sent and received between financial institutions, which contain various data fields.”</p>	<p><b><u>Intrinsic Evidence</u></b></p> <p>'868 Patent, at Col. 3:59-61 (“The data file may contain co-mingled financial instrument information, portions of which are intended for one or more of a multiple of receiving institutions or settlement mechanisms.”)</p> <p><b><u>Extrinsic Evidence</u></b></p> <p>Webster’s Encyclopedic Unabridged Dictionary of the English Language, Random House, Inc., p. 296 (1994) (defining “commingle” as “to mix or mingle together; combine.”)</p> <p><b><u>Intrinsic Evidence</u></b></p> <p>'868 Patent, at Col. 5:33-40 (“The file structure comprises a plurality of header, detail and trailer records. Each record contains data fields having a unique address wherein a character or number is stored. The file format specifies the arrangement of information within individual data fields or ranges of data fields within a particular record.”)</p>

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			<p>6:60-63 ("The single data file includes separate and unique header records for instruments associated with each receiving institution. Upon receipt of this data file, the system determines which financial instrument information is intended for a receiving institution and translates that information to a different format selected by that particular receiving institution.")</p> <p>8:53-58 ("Each originating institution O1, O2 . . . ON transfers data files to the system which contain multiple header, detail, and trailer records for several receiving institutions R1, R2 . . . RN. This allows the originating institution to transfer a single file to EPIC and communicate with several receiving institutions utilizing multiple data file formats.")</p> <p>9:59-10:3 ("Accordingly, a detail record included in the data file may contain specific information including an originating bank identification, a bank of first deposit identification, and an account number associated with the bank of first deposit to which the funds were transferred. If a check is exchanged, the detail record also includes full MICR line information (separate fields), a sender bank trace number, a bank of first deposit trace number, an "also known as" (AKA) trace number, an image location, a physical document location, one or more filler fields, a return code, and a photo request code as this information is known in the</p>

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			<p>industry.”)</p> <p><b><u>Extrinsic Evidence</u></b>  Modern Dictionary of Electronics, 6<sup>th</sup> ed., Graf, p. 834 (1997). (defining “record: as “(2) a group of related facts or fields of information handled as a unit; thus a listing of information, usually printed or in printable form . . . (5) relating to data that is treated as a unit of logical information.”)</p>
7.	“file format”	The arrangement of data fields within a record, and the arrangement of, and definitions of different types of, records within a data file.	<p><b><u>Intrinsic Evidence</u></b></p> <p>Col. 6: 33-35. (“The information contained in the data file is authenticated to ensure that the data arrangement corresponds to the parameters associated with the format utilized.”)</p> <p>Claim 45(b)</p> <p>5:37-40. (“The file format specifies the arrangement of information within individual data fields or ranges of data fields within a particular record. For example, data fields 1 through 30 in a header record may contain the name of the originating institutions.” )</p> <p>Claim 45(c)</p>
8.	“processor”	A central processing unit programmed to perform a specified function.	<p><b><u>Intrinsic Evidence</u></b></p>

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			<p>'868 Patent, at Item 21, Fig. 2;</p> <p>Col. 8: 21-23 ("The system's master processor 21 identifies and segregates the information designated for each of the receiving institutions from each file received.")</p>
9.	"financial instrument information"	Information representing financial instruments and electronic funds transfers, and additional system generated information.	<p><b><u>Intrinsic Evidence</u></b></p> <p>'868 Patent, at Col. 4:50-64 ("The electronic payment interchange concentrator, EPIC, allows financial institutions to receive electronic information such as usually associated with categories appearing in check MICR line data, representing financial instruments and electronic funds transfers, and additional system generated information such as trace number, bank of first deposit, account deposited to, and the like, from a variety of sources originating in a plurality of industry data file formats. EPIC translates the information sent by the originating institution(s) into a format selected by the receiving institution. EPIC provides individual memory storage for each receiving institution which allows retrieval of financial instrument information on a timely basis by the receiving institution according to clearing requirements or options determined by the institution.")</p>
10.	"translating the records in each bundle of said financial instrument information records from said first data file format into a data file format"	Converting the records in each bundle from the first file format to a second file format determined in advance by the receiving institution.	<p><b><u>Intrinsic Evidence</u></b></p> <p>Col. 3:5-10 ("...and one or more receiving institutions, separating and translating the first</p>



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	<p>selected by the predetermined institution designated to receive the information”</p>		<p>data file into one or more data files and data file formats corresponding to each of the designated receiving institutions, and transmitting the separated and translated data files to each of the receiving institutions.”</p> <p>3:13-15 (“...originating in a variety of standard data formats, translating the information into a second data format selected by the receiving institution...”</p> <p>5:63--6:10 (“The present invention resolves this problem. The system validates identifying information contained in the data file with respect to the originating institution and the receiving institution designated by the originating institution to insure that both are system participants. The identifying information ensures: (a) the originating institution is authorized to access the system; (b) the intended receiving institution is recognized by the system; and (c) the receiving institution’s selected data file format is one which the system acknowledges. A processor, within translator 1, employing data processing and signal generating procedures, translates the first data file format received from originating institution 01 into a second data file format selected by the institution that is the intended recipient of the financial instrument information.”</p> <p>8:20-23 (“...receiving institutions to one or</p>

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			<p>more settlement mechanisms, is present in the data file. The system's master processor 21 identifies and segregates the information designated for each of the receiving institutions from each file received."</p>
11.	<p>"program means for separating and bundling and for translating said records"</p>	<p>This term should be construed under 35 U.S.C. § 112(6).</p> <p><u>Function</u>: Separating and bundling and for translating said records.</p> <p><u>Corresponding Structure</u>: Data processing and signal generation procedures along with file format translation protocols.</p>	<p><b><u>Intrinsic Evidence</u></b>:</p> <p>'868 Patent at Col. 3:5-10 ("...separating and translating the first data file into one or more data files and data file formats corresponding to each of the designated receiving institutions, and transmitting the separated and translated data files to each of the receiving institutions.")</p> <p>6:6-10 ("A processor, within translator 1, employing data processing and signal generation procedures, translates the first data file format received from originating institution O1 into a second data file format selected by the institution that is the intended recipient of the financial instrument information R1.")</p> <p>6:27 -7:5 ("In the preferred embodiment, the receiving institution determines the data file</p>

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			<p>format in which it desires to receive the financial instrument information. (As explained above, a specific data file format has associated with it a particular arrangement of information within individual data fields dependent upon the format utilized (ACH, ECP, etc.)). The information contained in the data file is authenticated to ensure that the data arrangement corresponds to the parameters associated with the format utilized.</p> <p>In the simplified example of FIG. 1, originating institution 01, a bank of deposit of a financial instrument, transfers a data file containing information about that instrument in the ECP data file format to translator 1 through communication link 11 and specifies receiving institution R1 as the intended recipient thereof. The receiving institution's selected data file format is ACH. The translator receives the first data file format (ECP), recognizes that R1 is the receiving institution and that R1 has selected a second data file format (ACH) in which it is capable of receiving information. Using a logical sequence of data interpretation and signal generation steps, translator 1 translates the ECP information from 01 into the ACH format to be received by R1 by way of the communication link 12 between the translator and R1. The paper check is presented to R1 by direct physical transport or clearinghouse mechanism 8 from</p>

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			<p>O1. The processing of the funds representing the physical instrument may be effected by way of settlement mechanism 16, to which the translated data is also sent, as shown by the dashed lines 15 in FIG. 1. The funds represented by the physical instrument may also be exchanged between originating institution O1 and R1 directly as illustrated by path 14.</p> <p>In a multiple institution application a single data file transferred by an originating institution to the translator in a first file format may contain co-mingled financial instrument information intended for multiple receiving institutions. The single data file includes separate and unique header records for instruments associated with each receiving institution. Upon receipt of this data file, the system determines which financial instrument information is intended for a receiving institution and translates that information to a different format selected by that particular receiving institution. In this manner, an originating institution can transfer one data file containing information intended for a plurality of receiving institutions. The system translates and compiles the information consistent with the second data file format selected by each receiving institution.”)</p> <p>8:20-32 (“The system's master processor 21 identifies and segregates the information designated for each of the receiving</p>

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			<p>institutions from each file received.</p> <p>Based on the data file format selected by each receiving institution, master processor 21, according to a file format translation protocol, translates the data file received from each of the originating institutions O1, O2,. . . ON, into a second data file format selected by each of the receiving institutions R1, R2, . . . RN. The information contained in the data file which is intended for each receiving institution is stored in memory M23, M24 . . . MN uniquely allocated to each receiving institution R1, R2 . . . RN respectively.”)</p> <p>8:59 – 9:8 (“By way of example, originating institution O2 determines a first file format, such as ACH, in which it will transfer a single data file containing co-mingled financial instrument information to the system with the intended recipients as receiving institutions R1 and R2 which have selected to receive data files, for example, in the ECL and ECP formats respectively. The system segregates the received ACH information designated for each receiving institution; translates the segment of the ACH data file into the ECL format for receiving institution R1; translates the ACH segment of the data file into the ECP format for receiving institution R2; and stores each translated data file in separate memory categories M23 and M24 uniquely accessible by receiving institutions R1 and R2</p>

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			<p>respectively. The receiving institutions can retrieve information contained in the data files through communication links 12a and 12b upon demand, based on instructions by the originating institution or within a prearranged time period.”)</p> <p>10:8-26 (“The trailer file record includes total cash letter count, total detail record count, dollar hash totals and filler fields.</p> <p>Thus, the system described herein increases the number of institutions which can exchange financial instrument information and the speed of the exchange, while reducing the expense thereof, by providing a common central facility which translates information contained in a first data file format transferred by an originating institution into a second data file format selected by the institution that is to receive the information. Previously, institutions which desired to exchange financial instrument information among and between themselves were required to enter into multiple bilateral agreements between each participating institution and expend substantial development costs, including both software and hardware, to support creation of data files in multiple standard formats. Financial institutions which formerly could not exchange financial information which represented physical instruments and/or electronic funds</p>

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			<p>transfers because of dissimilar data file format processing, are now capable of accessing a system which translates their present data file format into one or more standard formats.”)</p> <p>10:59 – 11:2 (“a processor for separating said co-mingled records of financial instrument information into separate bundles corresponding to each of the one or more predetermined institution designated by the originating institution to receive said records and for translating the records in each bundle of said financial instrument information records from said first data file format into a data file format selected by the predetermined institution designated to receive the information, said processor including program means for separating and bundling and for translating such records;”)</p> <p><b><u>Extrinsic Evidence</u></b></p> <p>Testimony from persons of ordinary skill in the art and/or individuals who manage such persons</p>
12.	“means for storing said bundled financial instrument information in an addressable media where the bundled financial instrument information is uniquely accessible to the institution designated to receive	<p>This term should be construed under 35 U.S.C. § 112(6).</p> <p><u>Function</u>: Storing said bundled financial instrument information in an addressable media.</p>	<p><b><u>Intrinsic Evidence</u></b></p> <p>'868 Patent, at Fig. on front page; Fig. 2; Col. 3:18-20 (“...providing a means for a receiving institution to access such stored data, transmitting the data to the receiving</p>

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	the information”	<u>Corresponding Structure</u> : Archival storage 25 or memory M23, M24...MN.	<p>institution, and providing an archival memory storage device.”)</p> <p>4:19-26 (“...the translation of a data file containing financial instrument information from a first file format established by an originating institution to a second file format established by a receiving institution; a memory storage area within EPIC accessible to a specific originating and/or receiving institution; the transmission of the second file format to the receiving institution; the optional transmission of information to a settlement mechanism; and an archival mechanism for permanently storing the financial instrument information.”)</p> <p>7:5-8 (“A memory storage mechanism that is uniquely accessible to a particular receiving institution is included in the system. An institution may receive several files representing financial instrument information from many originating institutions at different times during a typical business day.”)</p> <p>8:44-48 (“Archival memory 25 is provided for audit purposes and preserves financial instrument information exchanged between originating and receiving institutions as well as information transmitted to settlement mechanisms.”)</p>
13.	“means for the institution designed to receive the information to transmit to and to receive from the means for	This term should be construed under 35 U.S.C. § 112(6).	<b><u>Intrinsic Evidence</u></b> '868 Patent, at Fig. 1; Fig. 2;



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	storing”	<p><u>Function</u>: For the institution designed to receive the information to transmit to and to receive from the means for storing.</p> <p><u>Corresponding Structure</u>: Communication link 12.</p>	<p>Col. 8:4-11 (“The present system enables the originating institutions O1, O2 . . . ON to transfer a data file in a first file format (ACH, ECL, etc.) containing financial instrument information to the system via communication links referenced generally at 11a, 11b, 11n. Security procedures are provided which limit only authorized originating and receiving institutions to effect one or more of the reception, transmission, translation and storage of the data files within the system.”)</p> <p>8:41 (“The present system also includes communication link 30 for transmitting all or a portion of the information contained in the data file to one or more of a plurality of settlement mechanisms referenced generally at 31.”)</p> <p>8:48-52 (“The communication links 11a, 11b, 11n and 12a, 12b, 12n are typically bi-directional to allow return transmissions such as confirmation of receipt and communication in general to and from the institutions and the system.”)</p> <p><b><u>Extrinsic Evidence</u></b></p> <p>Testimony from persons of ordinary skill in the art and/or individuals who manage such persons</p>

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14.	<p>"means for transmitting a bundle of said stored financial instrument information from the addressable storage media to the institution designated to receive the information upon the receipt of an instruction"</p>	<p>This term should be construed under 35 U.S.C. § 112(6).</p> <p><u>Function</u>: Transmitting a bundle of said stored financial instrument information from the addressable storage media.</p> <p><u>Corresponding Structure</u>: Communication link 12.</p>	<p><b><u>Intrinsic Evidence</u></b></p> <p>'868 Patent, at Fig. 1; Fig. 2;</p> <p>Col. 1:43-62 ("Financial institutions which exchange financial instrument information electronically must communicate data in the same data file formats. Several distinct formats are currently used to process financial instrument transactions, such as payment of checks, electronically. An originating institution in receipt of a check deposited by a customer transmits data derived from Magnetic Ink Character Recognition (MICR) line codes from the check, including the check amount, account number, serial number and routing transit number, and/or other information, in one of several standardized formats. If the format required by the receiving (payor) institution is different, dedicated software is required to translate the originator's file into a format readable by the receiving institution. If this is the case, substantial monetary investment is required to provide both hardware and software capabilities at the originating and/or receiving institution to allow the exchange of electronic check data if different data formats are involved with respect to the receiving or originating institutions. Usually, institutions using different formats do not communicate on a bilateral basis.")</p>

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			<p>4:65 – 5:1 (“Many financial institutions are now capable of transmitting and receiving data files, however they are not usually capable of exchanging data files in a plurality of different file formats associated with other institutions.”)</p> <p>5:27-28 (“The link facilitates the transfer of data files containing financial instrument information.”)</p> <p>8:4-11 (“The present system enables the originating institutions O1, O2 . . . ON to transfer a data file in a first file format (ACH, ECL, etc.) containing financial instrument information to the system via communication links referenced generally at 11a, 11b, 11n. Security procedures are provided which limit only authorized originating and receiving institutions to effect one or more of the reception, transmission, translation and storage of the data files within the system.”)</p> <p>8:35-41 (“Communication links, referenced generally at 12a, 12b, 12n, enable each receiving institution to retrieve the information contained in the data files from memory M23, M24...MN upon demand, based on instructions by the originating institution(s) or within a prearranged time period. The present system also includes communication link 30 for transmitting all or a portion of the</p>

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			<p>information contained in the data file to one or more of a plurality of settlement mechanisms referenced generally at 31.”)</p> <p>8:48-52 (“The communication links 11a, 11b, 11n and 12a, 12b, 12n are typically bi-directional to allow return transmissions such as confirmation of receipt and communication in general to and from the institutions and the system.”)</p> <p>9:5-9 (“The receiving institutions can retrieve information contained in the data files through communication links 12a and 12b upon demand, based on instructions by the originating institution or within a prearranged time period.”)</p> <p><b><u>Extrinsic Evidence</u></b></p> <p>Testimony from persons of ordinary skill in the art and/or individuals who manage such persons</p>
	<b>Claim 2</b>		
15.	“means for . . . validating the identifying information of the originating institution and said designated receiving institution”	<p>Plaintiff contends this element is not governed by 35 USC § 112(6).</p> <p><u>Plaintiff’s Construction</u>: A central processing unit.</p>	<p><b><u>Intrinsic Evidence</u></b></p> <p>Col. 6:6-26 (processor) (“A processor, within translator 1, employing data processing and signal generation procedures, translates the first data file format received from originating institution 01 into a second data file format selected by the institution that is the intended</p>

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			<p>recipient of the financial instrument information R1. Security procedures are utilized to limit only authorized originating and receiving institutions to effect one or more of the reception, transmission, translation and storage of the financial instrument information contained in the data file. Procedures are also used to authenticate information contained in the first data file format with respect to predetermined data format parameters. This includes validating that the data file submitted by the originating institution is in a format which the system recognizes; that the data fields with respect to items in the file are accurate according to format parameters; and that the minimum amount of information required to successfully translate the file is present whether the information is to be transmitted to a receiving institution or to one or more settlement mechanisms. (Some formats have optional fields that are not "necessary" for the purposes herein.)</p> <p>14:37-39 ("said processor: (a) validating the identifying information of the originating institution and the receiving institutions")</p> <p>See also Col. 5:63-67 ("The present invention resolves this problem. The system validate identifying information contained in the data file with respect to the originating institution and the receiving institution designated by</p>

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			<p>the originating institution to insure that both are system participants.”)</p> <p><b><u>Extrinsic Evidence</u></b></p> <p>Testimony from persons of ordinary skill in the art and/or individuals who manage such persons</p>
16.	<p>“means for . . . authenticating the financial instrument information contained in said first data file format with respect to predetermined data format parameters”</p>	<p>This term should be construed under 35 U.S.C. § 112(6).</p> <p><u>Function</u>: Authenticating the financial instrument information contained in said first data file format with respect to predetermined data format parameters.</p> <p><u>Corresponding Structure</u>: A central processing unit.</p>	<p><b><u>Intrinsic Evidence</u></b>:</p> <p>Col. 6:6-26. (“A processor, within translator 1, employing data processing and signal generation procedures, translates the first data file format received from originating institution 01 into a second data file format selected by the institution that is the intended recipient of the financial instrument information R1. Security procedures are utilized to limit only authorized originating and receiving institutions to effect one or more of the reception, transmission, translation and storage of the financial instrument information contained in the data file. Procedures are also used to authenticate information contained in the first data file format with respect to predetermined data format parameters. This includes validating that the data file submitted by the originating institution is in a format which the system recognizes; that the data fields with respect to items in the file are accurate according to format parameters; and that the minimum</p>

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			<p>amount of information required to successfully translate the file is present whether the information is to be transmitted to a receiving institution or to one or more settlement mechanisms. (Some formats have optional fields that are not “necessary” for the purposes herein.”)</p> <p><b><u>Extrinsic Evidence</u></b></p> <p>Testimony from persons of ordinary skill in the art and/or individuals who manage such persons</p>
17.	“predetermined data format parameter(s)”	Predetermined standards associated with data file formats regarding the arrangement of data within data fields where the arrangement conforms to the particular parameters associated with a specific file transfer protocol.	<p><b><u>Intrinsic Evidence</u></b></p> <p>Col 5:33-48 (“The data file received by the translator is arranged in a first format. Conventionally, data file transmission is based on a file structure and format. The file structure comprises a plurality of header, detail and trailer records. Each record contains data fields having a unique address wherein a character or number is stored. The file format specifies the arrangement of information within individual data fields or ranges of data fields within a particular record. For example, data fields 1 through 30 in a header record may contain the name of the originating institution. Similarly, data fields 1 through 20 in the first detail record may contain the amount (e.g., the dollar value) of the financial instrument being exchanged. As</p>

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			<p>a result, a receiving institution, if unable to process the particular format utilized by the originating institution is incapable of receiving information or of receiving that information accurately.”)</p> <p>6:29-35 (“(As explained above, a specific data file format has associated with it a particular arrangement of information within individual data fields dependent upon the format utilized (ACH, ECP, etc.)) The information contained in the data file is authenticated to ensure that the data arrangement corresponds to the parameters associated with the format utilized.”)</p>
18.	“means for . . . determining a data file format acceptable to the designated institution”	<p>This term should be construed under 35 U.S.C. § 112(6).</p> <p><u>Function</u>: Determining a data file format acceptable to the designated institution.</p> <p><u>Corresponding Structure</u>: Central processing unit validation procedure or program routine.</p>	<p><b><u>Intrinsic Evidence</u></b></p> <p>Col. 6:33-35 (“The information contained in the data file is authenticated to ensure that the data arrangement corresponds to the parameters associated with the format utilized.”)</p> <p><b><u>Extrinsic Evidence</u></b></p> <p>Testimony from persons of ordinary skill in the art and/or individuals who manage such persons</p>
	<b>Claim 3</b>		
19.	“a security mechanism for preventing the unauthorized one or more of the	Plaintiff contends that this phrase is not governed by 35 USC § 112(6).	<b><u>Intrinsic Evidence</u></b>



No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
	reception, transmission, translation and storage of financial instrument information”	Software running on a processor which limits only authorized originating and receiving institutions to receive, transmit, translate, and/or store financial instrument information.	<p>'868 Patent, at Col. 6:11-26 (“Security procedures are utilized to limit only authorized originating and receiving institutions to effect one or more of the reception, transmission, translation and storage of the financial instrument information contained in the data file. Procedures are also used to authenticate information contained in the first data file format with respect to predetermined data format parameters. This includes validating that the data file submitted by the originating institution is in a format which the system recognizes; that the data fields with respect to items in the file are accurate according to format parameters; and that the minimum amount of information required to successfully translate the file is present whether the information is to be transmitted to a receiving institution or to one or more settlement mechanisms. (Some formats have optional fields that are not "necessary" for the purposes herein.)”)</p> <p>8:8-23 (“Security procedures are provided which limit only authorized originating and receiving institutions to effect one or more of the reception, transmission, translation and storage of the data files within the system. This ensures that the originating institutions O1, O2 . . . ON and the receiving institutions R1, R2 . . . RN are authorized to access the system, as well as preventing misappropriation of financial information contained in the data files by non-authorized parties. A further data validation protocol is</p>

No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
			<p>provided to verify that the minimum amount of information to facilitate translation and transfer between the originating and receiving institutions, or from the originating and receiving institutions to one or more settlement mechanisms, is present in the data file. The system's master processor 21 identifies and segregates the information designated for each of the receiving institutions from each file received.”)</p> <p><b><u>Extrinsic Evidence</u></b></p> <p>Testimony from persons of ordinary skill in the art and/or individuals who manage such persons</p>
	<b>Claim 24</b>		
20.	The defendants argue that the preamble should be construed as limiting.	Preamble is not limiting and the language in preamble does not need to be construed. See, e.g., Catalina Mktg. Int'l Inc. v. Coolsavings.com Inc., 289 F.3d 801 (Fed. Cir. 2002); DeGeorge v. Bernier, 768 F.2d 1318 (Fed. Cir. 1985).	
21.	“means for receiving a data file from the originating institution, said data file being in a first file format established by the originating institution and comprising co-mingled financial instrument information intended for multiple receiving	<p>This term should be construed under 35 U.S.C. § 112(6).</p> <p><u>Function</u>: Means for receiving a data file from the originating institution....</p> <p><u>Corresponding Structure</u>: Translator 1 within a</p>	<p><b><u>Intrinsic Evidence</u></b></p> <p>'868 Patent, at Fig. on front page; Fig. 2</p> <p>Col. 3:48-57; (“The foregoing objectives are achieved in an electronic payment interchange concentrator system for effecting one or more of the reception, transmission,</p>

No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
	institutions, the data file further including a designation that specified information in the data file is to be received by a predetermined receiving institution”	central processing unit.	<p>translation and storage of data files containing information relating to financial instruments among and between multiple institutions. The invention includes a means for receiving a data file from an originating institution. The data file is in a first file format established By the originating institution and contains a designation that the information in the data file is to be received by a predetermined institution or institutions.”)</p> <p>4:50-58 (“The electronic payment interchange concentrator, EPIC, allows financial institutions to receive electronic information such as usually associated with categories appearing in check MICR line data, representing financial instruments and electronic funds transfers, and additional system generated information such as trace number, bank of first deposit, account deposited to, and the like, from a variety of sources originating in a plurality of industry data file formats. EPIC translates the information sent by the originating...”)</p> <p>6:6-10 (“A processor, within translator 1, employing data processing and signal generation procedures, translates the first data file format received from originating institution 01 into a second data file format selected by the institution that is the intended recipient of the financial instrument information.”)</p> <p>5:28-33 (“...containing financial instrument</p>

No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
			<p>information. Translator 1 receives the data file which contains information relating to financial instrument information to be exchanged between originating institution 01 and a receiving institution R1.”)</p> <p>8:21-24 (“The system’s master processor 21 identifies and segregates the information designated for each of the receiving institutions from each file received.”)</p> <p><b><u>Extrinsic Evidence</u></b></p> <p>Testimony from persons of ordinary skill in the art and/or individuals who manage such persons</p>
22.	<p>“means for storing said separated financial instrument information according to the separate portions thereof in a memory storage device in a manner such that each separate portion is uniquely accessible to the receiving institution associated therewith”</p>	<p>This term should be construed under 35 U.S.C. § 112(6).</p> <p><u>Function</u>: Storing said separated financial instrument information according to the separate portions thereof....</p> <p><u>Corresponding Structure</u>: Archival storage 25 or memory M23, M24...MN.</p>	<p><u>Intrinsic Evidence</u>:</p> <p>'868 Patent, at Fig. 2;</p> <p>Col. 3:64-67 (“Also included is a means for storing the financial instrument information in the second data file format in memory which is uniquely accessible to each institution that is to receive the information.”)</p> <p>4:60-64 (“EPIC provides individual memory storage for each receiving institution which allows retrieval of financial instrument information on a timely basis by the receiving institution according to clearing requirements or options determined by the institution.”)</p>

No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
			7:6 (“A memory storage mechanism that is uniquely accessible ...”)
23.	“means for transmitting each portion of said separated financial instrument information stored in the memory storage device to, and in the format selected by, the receiving institution associated therewith”.	<p>This term should be construed under 35 U.S.C. § 112(6).</p> <p><u>Function:</u> Transmitting each portion of said separated financial instrument information stored in the memory storage device to, and in the format selected by, the receiving institution associated therewith.</p> <p><u>Corresponding Structure:</u> Communication link 12.</p>	<p><u>Intrinsic Evidence:</u></p> <p>'868 Patent, at Fig. 1; Fig. 2;</p> <p>Col. 5:27-28 (“The link facilitates the transfer of data files containing financial instrument information.”)</p> <p>8:7 (“...to the system via communication links...”)</p> <p>8:35-41 (“Communication links, referenced generally at 12a, 12b, 12n, enable each receiving institution to retrieve the information contained in the data files from memory M23, M24...MN upon demand, based on instructions by the originating institution(s) or within a prearranged time period. The present system also includes communication link 30 for transmitting all or a portion of the information contained in the data file to one or more of a plurality of settlement mechanisms referenced generally at 31.”)</p> <p>8: 48-52 (“The communication links 11a, 11b, 11n, and 12a, 12b, 12n are typically bi-directional to allow return transmissions such as confirmation of receipt and communication in general to and from the institutions and the system.</p>

No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
			<p>9:5-9 (“The receiving institutions can retrieve information contained in the data files through communication links 12a and 12b upon demand, based on instructions by the originating institutions or within a prearranged time period.”)</p> <p><u>Extrinsic Evidence</u></p> <p>Testimony from persons of ordinary skill in the art and/or individuals who manage such persons</p>
24.	<p>“co-mingled financial instrument information”</p> <p>“co-mingled financial instrument information intended for multiple receiving institutions”</p>	<p>“Co-mingled” should be construed as “combined financial instrument information intended for one or more of a multiple of receiving institutions or settlement mechanisms.”</p> <p>“Financial instrument information” should be construed as “information representing financial instruments and electronic funds transfers, and additional system generated information.”</p> <p>“Intended for multiple receiving institutions” is self-explanatory, so there is no need to construe that phrase separately.</p>	<p><u>Intrinsic Evidence</u></p> <p>'868 Patent, at Col. 3:59-61 (“The data file may contain co-mingled financial instrument information, portions of which are intended for one or more of a multiple of receiving institutions or settlement mechanisms.”)</p> <p><u>Extrinsic Evidence</u></p> <p>Webster’s Encyclopedic Unabridged Dictionary of the English Language, Random House, Inc., p. 296 (1994) (defining “commingle” as “to mix or mingle together; combine.”)</p> <p><u>Intrinsic Evidence</u></p> <p>'868 Patent, at Col. 4:50-64 (“The electronic</p>

No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
			<p>payment interchange concentrator, EPIC, allows financial institutions to receive electronic information such as usually associated with categories appearing in check MICR line data, representing financial instruments and electronic funds transfers, and additional system generated information such as trace number, bank of first deposit, account deposited to, and the like, from a variety of sources originating in a plurality of industry data file formats. EPIC translates the information sent by the originating institution(s) into a format selected by the receiving institution. EPIC provides individual memory storage for each receiving institution which allows retrieval of financial instrument information on a timely basis by the receiving institution according to clearing requirements or options determined by the institution.”)</p>
25.	<p>“translating each portion of said separated financial instrument information in said first data file format into a data file format preselected by the receiving institution associated therewith”</p>	<p>Converting each portion of said separated financial instrument information from the first file format to a second file format determined in advance by the receiving institution.</p>	<p><b><u>Intrinsic Evidence</u></b></p> <p>Col. 3:5-10 (“...and one or more receiving institutions, separating and translating the first data file into one or more data files and data file formats corresponding to each of the designated receiving institutions, and transmitting the separated and translated data files to each of the receiving institutions.”)</p> <p>3:13-15 (“...originating in a variety of standard data formats, translating the information into a second data format selected by the receiving</p>

No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
			<p>institution...")</p> <p>5:63--6:10 ("The present invention resolves this problem. The system validates identifying information contained in the data file with respect to the originating institution and the receiving institution designated by the originating institution to insure that both are system participants. The identifying information ensures: (a) the originating institution is authorized to access the system; (b) the intended receiving institution is recognized by the system; and (c) the receiving institution's selected data file format is one which the system acknowledges. A processor, within translator 1, employing data processing and signal generating procedures, translates the first data file format received from originating institution 01 into a second data file format selected by the institution that is the intended recipient of the financial instrument information.")</p> <p>8:20-23 ("...receiving institutions to one or more settlement mechanisms, is present in the data file. The system's master processor 21 identifies and segregates the information designated for each of the receiving institutions from each file received.")</p>
	<b>Claim 27</b>		



No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
26.	"security procedures for preventing unauthorized reception, transmission, translation and storage of any financial instrument information"	<p>Plaintiff contends that this term is not governed by 35 USC § 112(6).</p> <p><u>Plaintiff's Construction:</u>            Programs running on a processor which limits only authorized originating and receiving institutions to receive, transmit, translate, and/or store financial instrument information.</p>	<p><b><u>Intrinsic Evidence</u></b></p> <p>'868 Patent, at Col. 6:11-26 ("Security procedures are utilized to limit only authorized originating and receiving institutions to effect one or more of the reception, transmission, translation and storage of the financial instrument information contained in the data file. Procedures are also used to authenticate information contained in the first data file format with respect to predetermined data format parameters. This includes validating that the data file submitted by the originating institution is in a format which the system recognizes; that the data fields with respect to items in the file are accurate according to format parameters; and that the minimum amount of information required to successfully translate the file is present whether the information is to be transmitted to a receiving institution or to one or more settlement mechanisms. (Some formats have optional fields that are not "necessary" for the purposes herein.)")</p> <p>8:8-23 ("Security procedures are provided which limit only authorized originating and receiving institutions to effect one or more of the reception, transmission, translation and storage of the data files within the system. This ensures that the originating institutions O1, O2 . . . ON and the receiving institutions R1, R2 . . . RN are authorized to access the</p>

No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
			<p>system, as well as preventing misappropriation of financial information contained in the data files by non-authorized parties. A further data validation protocol is provided to verify that the minimum amount of information to facilitate translation and transfer between the originating and receiving institutions, or from the originating and receiving institutions to one or more settlement mechanisms, is present in the data file. The system's master processor 21 identifies and segregates the information designated for each of the receiving institutions from each file received.”)</p> <p><b><u>Extrinsic Evidence</u></b></p> <p>Testimony from persons of ordinary skill in the art and/or individuals who manage such persons</p>
	<b>Claim 45</b>		
27.	The defendants argue that the preamble should be construed as limiting.	Preamble is not limiting and the language in preamble does not need to be construed. See, e.g., Catalina Mktg. Int'l Inc. v. Coolsavings.com Inc., 289 F.3d 801 (Fed. Cir. 2002); DeGeorge v. Bernier, 768 F.2d 1318 (Fed. Cir. 1985).	
28.	“master processor”	A central processing unit.	<p><b><u>Intrinsic Evidence:</u></b></p> <p>Col. 3:61-63 (“A processor translates the</p>

No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
			<p>financial institution information in the first data file format into a second data file format selected by each institution that is to receive the information.”)</p> <p>5:58-62 (“However, if a financial institution which is to receive this information does not have processing capabilities compatible with this format, the originating and receiving institutions are incapable of communicating with regard to information contained in the data files.)</p> <p>6:6-10 (“A processor, within translator 1, employing data processing and signal generation procedures, translates the first data file format received from originating institution 01 into a second data file format selected by the institution that is the intended recipient of the financial instrument information R1.”)</p>
29.	<p>“means for temporarily storing each bundle of said separated financial instrument information in memory unique to the receiving institution associated therewith”</p>	<p>This term should be construed under 35 U.S.C. § 112(6).</p> <p><u>Function</u>: Temporarily storing each bundle of said separated financial instrument information in memory unique to the receiving institution associated therewith.</p> <p><u>Corresponding Structure</u>: memory/mailboxes M23, M24...MN.</p>	<p><b><u>Intrinsic Evidence:</u></b></p> <p>’868 Patent, at Fig. 2</p> <p>Col. 3:64-67 (“Also included is a means for storing the financial instrument information in the second data file format in memory which is uniquely accessible to each institution that is to receive the information.”)</p> <p>4:60-64 (“EPIC provides individual memory</p>

No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
			<p>storage for each receiving institution which allows retrieval of financial instrument information on a timely basis by the receiving institution according to clearing requirements or options determined by the institution.”)</p> <p>7:6 (“A memory storage mechanism that is uniquely accessible...”)</p>
30.	“co-mingled information about financial instruments”	“Co-mingled information about financial instruments” appears only in the preamble, and does not need to be construed.	
31.	“translating each bundle of said separated financial instrument information into a data file format preselected by the receiving institution corresponding thereto”	Converting the records in each bundle from the first file format to a second file format determined in advance by the receiving institution.	<p><b><u>Intrinsic Evidence</u></b></p> <p>Col. 3:5-10 (“...and one or more receiving institutions, separating and translating the first data file into one or more data files and data file formats corresponding to each of the designated receiving institutions, and transmitting the separated and translated data files to each of the receiving institutions.”)</p> <p>3:13-15 (“...originating in a variety of standard data formats, translating the information into a second data format selected by the receiving institution...”)</p> <p>5:63--6:10 (“The present invention resolves this problem. The system validates identifying information contained in the data file with respect to the originating institution</p>

No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
			<p>and the receiving institution designated by the originating institution to insure that both are system participants. The identifying information ensures: (a) the originating institution is authorized to access the system; (b) the intended receiving institution is recognized by the system; and (c) the receiving institution's selected data file format is one which the system acknowledges. A processor, within translator 1, employing data processing and signal generating procedures, translates the first data file format received from originating institution 01 into a second data file format selected by the institution that is the intended recipient of the financial instrument information."</p> <p>8:20-23 ("...receiving institutions to one or more settlement mechanisms, is present in the data file. The system's master processor 21 identifies and segregates the information designated for each of the receiving institutions from each file received."</p>
	<b>Claim 48</b>		
32.	"security procedures for preventing unauthorized reception, transmission, translation and storage of any financial instrument information within the system"	Software running on a processor which limits only authorized originating and receiving institutions to receive, transmit, translate, and/or store financial instrument information.	<p><b><u>Intrinsic Evidence</u></b></p> <p>'868 Patent at Col. 6:11-26 ("Security procedures are utilized to limit only authorized originating and receiving institutions to effect one or more of the reception, transmission,</p>

No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
			<p>translation and storage of the financial instrument information contained in the data file. Procedures are also used to authenticate information contained in the first data file format with respect to predetermined data format parameters. This includes validating that the data file submitted by the originating institution is in a format which the system recognizes; that the data fields with respect to items in the file are accurate according to format parameters; and that the minimum amount of information required to successfully translate the file is present whether the information is to be transmitted to a receiving institution or to one or more settlement mechanisms. (Some formats have optional fields that are not "necessary" for the purposes herein.)")</p> <p>8:8-23 ("Security procedures are provided which limit only authorized originating and receiving institutions to effect one or more of the reception, transmission, translation and storage of the data files within the system. This ensures that the originating institutions O1, O2 . . . ON and the receiving institutions R1, R2 . . . RN are authorized to access the system, as well as preventing misappropriation of financial information contained in the data files by non-authorized parties. A further data validation protocol is provided to verify that the minimum amount of information to facilitate translation and</p>

No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
			<p>transfer between the originating and receiving institutions, or from the originating and receiving institutions to one or more settlement mechanisms, is present in the data file. The system's master processor 21 identifies and segregates the information designated for each of the receiving institutions from each file received.")</p> <p><b><u>Extrinsic Evidence</u></b></p> <p>Testimony from persons of ordinary skill in the art and/or individuals who manage such persons</p>
	<b>Claim 61</b>		
33.	The defendants argue that the preamble should be construed as limiting.	Preamble is not limiting and the language in preamble does not need to be construed. See, e.g., Catalina Mktg. Int'l Inc. v. Coolsavings.com Inc., 289 F.3d 801 (Fed. Cir. 2002); DeGeorge v. Bernier, 768 F.2d 1318 (Fed. Cir. 1985).	
34.	"co-mingled financial instrument information addressed to multiple receiving institutions"	<p><i>Co-mingled</i>: "combined financial instrument information intended for one or more of a multiple of receiving institutions or settlement mechanisms."</p> <p><i>Financial instrument information</i>: "information representing financial instruments and electronic funds transfers, and additional system generated information."</p>	<p><b><u>Intrinsic Evidence</u></b></p> <p>'868 Patent, at Col. 3:59-61 ("The data file may contain co-mingled financial instrument information, portions of which are intended for one or more of a multiple of receiving institutions or settlement mechanisms.")</p>

No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
			<p>'868 Patent, at Col. 4:50-64 ("The electronic payment interchange concentrator, EPIC, allows financial institutions to receive electronic information such as usually associated with categories appearing in check MICR line data, representing financial instruments and electronic funds transfers, and additional system generated information such as trace number, bank of first deposit, account deposited to, and the like, from a variety of sources originating in a plurality of industry data file formats. EPIC translates the information sent by the originating institution(s) into a format selected by the receiving institution. EPIC provides individual memory storage for each receiving institution which allows retrieval of financial instrument information on a timely basis by the receiving institution according to clearing</p> <p><b><u>Extrinsic Evidence</u></b></p> <p>Webster's Encyclopedic Unabridged Dictionary of the English Language, Random House, Inc., p. 296 (1994) (defining "commingle" as "to mix or mingle together; combine.")</p>
35.	"translating each bundle of said separated financial instrument information in said first data file format into a data file format selected by the receiving institution associated therewith"	Converting the records in each bundle from the first file format to a second file format determined in advance by the receiving institution.	<p><b><u>Intrinsic Evidence</u></b></p> <p>Col. 3:5-10 ("...and one or more receiving institutions, separating and translating the first data file into one or more data files and data file formats corresponding to each of the</p>



No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
			<p>designated receiving institutions, and transmitting the separated and translated data files to each of the receiving institutions.”</p> <p>3:13-15 (“...originating in a variety of standard data formats, translating the information into a second data format selected by the receiving institution...”</p> <p>5:63--6:10 (“The present invention resolves this problem. The system validates identifying information contained in the data file with respect to the originating institution and the receiving institution designated by the originating institution to insure that both are system participants. The identifying information ensures: (a) the originating institution is authorized to access the system; (b) the intended receiving institution is recognized by the system; and (c) the receiving institution’s selected data file format is one which the system acknowledges. A processor, within translator 1, employing data processing and signal generating procedures, translates the first data file format received from originating institution 01 into a second data file format selected by the institution that is the intended recipient of the financial instrument information.”</p> <p>8:20-23 (“...receiving institutions to one or more settlement mechanisms, is present in the data file. The system’s master processor</p>

No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
			21 identifies and segregates the information designated for each of the receiving institutions from each file received.”
	<b>Claim 80</b>		
36.	The defendants argue that the preamble should be construed as limiting.	Preamble is not limiting and the language in preamble does not need to be construed. See, e.g., Catalina Mktg. Int'l Inc. v. Coolsavings.com Inc., 289 F.3d 801 (Fed. Cir. 2002); DeGeorge v. Bernier, 768 F.2d 1318 (Fed. Cir. 1985).	
37.	“translating each portion of said data file in said first file format into a file format selected by the receiving institution”	“Converting each portion of said data file from the first file format to a second file format determined in advance by the receiving institution.”	<p><b><u>Intrinsic Evidence</u></b></p> <p>Col. 3:5-10 (“...and one or more receiving institutions, separating and translating the first data file into one or more data files and data file formats corresponding to each of the designated receiving institutions, and transmitting the separated and translated data files to each of the receiving institutions.”)</p> <p>3:13-15 (“...originating in a variety of standard data formats, translating the information into a second data format selected by the receiving institution...”)</p> <p>5:63--6:10 (“The present invention resolves this problem. The system validates identifying information contained in the data file with respect to the originating institution and the receiving institution designated by the</p>

No.	'868 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
			<p>originating institution to insure that both are system participants. The identifying information ensures: (a) the originating institution is authorized to access the system; (b) the intended receiving institution is recognized by the system; and (c) the receiving institution's selected data file format is one which the system acknowledges. A processor, within translator 1, employing data processing and signal generating procedures, translates the first data file format received from originating institution 01 into a second data file format selected by the institution that is the intended recipient of the financial instrument information.")</p> <p>8:20-23 ("...receiving institutions to one or more settlement mechanisms, is present in the data file. The system's master processor 21 identifies and segregates the information designated for each of the receiving institutions from each file received.")</p>