

EXHIBIT “C”

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

PLAINTIFF’S CONSTRUCTIONS FOR U.S. PATENT NO. 5,583,759

No.	' 759 Claim Terms for Construction	DTC Proposed Construction	Intrinsic and Extrinsic Evidence
	Claim 1		
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. <i>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).</i>	
2.	“financial instruments drawn on different institutions that are received by a payee at a first location”	<p>Preamble is not limiting and the language in preamble does not need to be construed. <i>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).</i></p> <p>Alternatively, Plaintiff’s construction is: the plain meaning of the words.</p> <p>“Financial instrument”: A document 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, coupons.</p>	<p><u>Intrinsic Evidence</u></p> <p>Col. 1:19-20 (“The financial instruments are checks and other cash items.”)</p> <p>Col. 6:28-30 (“The instruments are presented for payment to multiple institutions in the check payment system.”).</p> <p><u>Extrinsic Evidence</u></p> <p>The Dictionary of Banking, Woelfel (1994), pg. 106 (defining “financial instrument” as “Cash, evidence of an ownership interest in an entity, or a contract that has both of the following characteristics which place emphasis on the future receipts, payments or</p>

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			<p>Exchange of cash or other financial instruments that ultimately result in cash: (1) the contract imposes on one entity a contractual obligation to deliver cash or another financial instrument to a second entity or to exchange financial instruments on potentially unfavorable terms with the second entity, and (2) the contract conveys to the second entity a contractual right to receive cash or another financial instrument from the first entity or to exchange other financial instruments on potentially favorable terms with the first entity. Financial instruments include: currency, trade receivables and payables, debt securities and common stock, certain insurance contracts, financial futures and forward contracts, interest rate swaps and caps, collateralized mortgage obligations and financial guarantees.”)</p>
3.	<p>“said first location determined by the payee remote from the payee's collecting and clearing bank”</p>	<p>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).</p> <p>Alternatively, Plaintiff's construction is:</p>	<p><u>Intrinsic Evidence</u></p> <p>Col.4:4-6 (“In contrast, the present system provides that the utility, in its own processing of the checks, at a site distant from the location of the depository bank, indorses the check for payment ...”)</p>

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		A location separate from the payee's collecting and clearing bank, but connected by a communication link.	Col.5:7-9 ("At a location 17 remote from collecting and clearing bank 10, the checks from the customers of correspondent Bank #1, correspondent Institution #2, etc. are indorsed respectively in the names of correspondent Bank #1...")
4.	"for applying to the instruments . . . a separate indorsement on behalf of each of the payee and the collecting and clearing bank with respect to each instrument received"	<p>"<i>Separate indorsement</i>" is defined, below.</p> <p>"Collecting and clearing bank": "A bank that deposits funds in the payee's account based on received cash letter."</p>	<p><u>Intrinsic Evidence</u> '759 Patent, at Col. 1:28-30 ("That bank handling the payee's account and the deposited check presents the check through the check payment system to the drawer's bank for payment.")</p> <p>2:17-19 ("A communication link is established between the first location and the collecting and clearing bank which reports to the collecting and clearing bank information in the cash letters in anticipation of a deposit in the payee's account corresponding to the cash letter.")</p> <p>See intrinsic evidence for terms 3, 5.</p>
5.	"a separate indorsement"	<p>"<i>Indorsement</i>": Payment instructions and the identity of the indorser applied to an instrument.</p> <p>"<i>Separate</i>": One on behalf of the payee, and one on behalf of the collecting and clearing bank."</p>	<p><u>Intrinsic Evidence</u> '759 Patent, at Col. 2:9-12 ("Indorsements on behalf of the payee and the collecting and clearing bank with respect to each instrument received are applied to each instrument by a printer.")</p>

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			<p>3:4-7 (“An institutional indorsement is conventionally applied as a stamp that prints payment instructions and the identity of the indorser on the reverse side of a check.”)</p> <p>5:13-15 (“An indorsement is also applied to the checks by the indorser on behalf of bank of second deposit 10.”)</p> <p>See Abstract</p> <p><u>Extrinsic Evidence</u></p> <p>Dictionary of Banking Terms (Barron’s 1990), at 218 (defining “endorsement” as “signature on the back of a negotiable instrument, such as a check. Endorsement legally transfers ownership to another party.”);</p> <p>Webster’s Encyclopedic Unabridged Dictionary of the English Language, Random House, Inc., p. 472, 726 (1994) (defining “endorsement” as “(2) the placing of one’s signature, instructions, etc., on a document.”)</p>
6.	“means at the first location for preparing one or more cash letters associated with each assembled group of instruments”	<p>This term should be construed under 35 U.S.C. § 112(6).</p> <p><u>Function</u>: Preparing one or more cash letters at the first location</p>	<p><u>Intrinsic Evidence</u></p> <p>’759 Patent, at Fig. 1</p> <p>Col. 2:2-15 (“The invention includes alternative embodiments involving a</p>

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		<p><u>Corresponding Structure</u>: Central processing unit 13 or sorter 1 as in Fig. 1</p>	<p>bank of first deposit and a bank of second deposit.”)</p> <p>3:29-35 (“The system is illustrated in FIG. 1 in which the check payee and bank customer 1 may be a public utility such as a telephone company. In this example, the "bank customer" is a banking client of the bank of first deposit, and is referred to as the "check payee".)</p> <p>3:52-63 (“In that process, the bank of first deposit would physically sort the checks received from and deposited by the utility. Check sorting by MICR codes, the addition of the check amount to the MICR line, and other facets of check processing, including MICR code sorting by routing transit numbers, and the use of sorter machines, are known.”)</p> <p>4:12-16 (“...utility or check payee in accordance with predetermined sort pattern categories selected by the depository institution; and, the utility prepares a cash letter in the name of the depository bank for each group of checks within the predetermined sort category.”)</p> <p>4:19-21 (“Upon the sorting and preparation of the cash letter, the utility or check payee 1 transmits, between</p>

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			<p>the utility's CPU (Central Processing Unit) 13 and the depository bank's CPU 14, check MICR line information to the depository bank 2..."</p> <p>5:40-45 ("The preparation of the cash letters for the sorted checks that are delivered from the sorter directly into the check payment system is in accordance with sort pattern criteria determined by the bank of subsequent deposit for collecting and clearing.")</p> <p>5:63-65 ("The cash letters for the sorted checks on behalf of the collecting and clearing bank are prepared at the remote customer's or sorter's location.")</p> <p>6:36-44 ("Indorsements of the instruments on behalf of the payee and the depository bank with respect to each check received are applied by a printer or stamping mechanism before, during or after the sort process. The sorter will generally assemble the sorted instruments into discrete groups with respect to the predetermined sort pattern categories. A cash letter is associated with each assembled group of sorted instruments is prepared by the payee on behalf of the depository bank.")</p> <p>See Abstract</p> <p><u>Extrinsic Evidence</u></p>

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			Testimony from persons of ordinary skill in the art and/or individuals who manage such persons
7.	"transport means for delivering the groups of instruments and the one or more cash letters from the first location to a second location for receipt into the payment system according to parameters determined by the payee's collecting and clearing bank"	<p>This term should be construed under 35 U.S.C. § 112(6).</p> <p><u>Function</u>: Delivering groups of instruments and one or more cash letters.</p> <p><u>Corresponding Structure</u>: Air or ground transportation [Fig. 1, 2].</p>	<p><u>Intrinsic Evidence</u></p> <p>'759 Patent, at Col.6:65-68 ("The transport of the groups of instruments and the associated cash letters from the first location to a payment system endpoint is effected by conventional ground or air delivery.")</p>
8.	"delivering the groups of instruments and the one or more cash letters from the first location to a second location"	Transporting from the first location to the check payment system via air or ground transportation [Fig. 1, 2].	'759 Patent, at Col.6:65-68 ("The transport of the groups of instruments and the associated cash letters from the first location to a payment system endpoint is effected by conventional ground or air delivery.")
9.	"second location"	A site for the check payment system that is remote or separate from the first location.	<p><u>Intrinsic Evidence</u></p> <p>'759 Patent, at Claim 1;</p> <p>4:25-35 ("The utility, or check payee 1, however, in lieu of actually transporting the physical checks to the depository bank 2 to make the deposit, as illustrated in FIG. 1 by the solid line with the word "Possible" contiguous thereto, transports the doubly indorsed checks, and accompanying cash letters, for</p>

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			<p>submission directly into the check payment system. The direct submission of the doubly indorsed checks into the check payment system is depicted by the lines connecting payee 1 and check payment system 3 bearing the legend "Category Sorted Checks and Cash Letters".)</p> <p>6:65-7 ("The transport of the groups of instruments and the associated cash letters from the first location to a payment system endpoint is effected by conventional ground or air delivery.")</p>
10.	"settlement of accounts"	A calculation of aggregate amounts owing and payable in each account.	<p><u>Intrinsic Evidence</u></p> <p>'759 Patent, at Col. 3: 63-67 ("Such a settlement involves the physical transport and exchange of the checks, and a calculation of aggregate amounts owing and payable by participants in either a bi-lateral or multi-lateral settlement at a predetermined time.")</p> <p>6:59-64 ("The recording of the checks as a deposit in the payee's account with the depository bank, or the collecting and clearing bank, is thus coordinated with the timing of the issue of a credit to the bank when a settlement of the accounts represented by the checks is received through the check payment system.")</p> <p><u>Extrinsic Evidence</u></p>

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			Dictionary of Banking Terms (Barron's 1990), at 562 (defining "settlement" as "the accounting process recording the respective debit and credit positions of the two parties involved in a transfer of funds.").
	Claim 5		
11.	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).	
12.	The defendants argue that this claim should be construed to require a specific order of performing the steps below	Plaintiff contends that these steps are not required to take place in any particular order.	<u>Extrinsic Evidence</u> Testimony from persons of ordinary skill in the art and/or individuals who manage such persons
13.	"first location remote from the payee's collecting and clearing bank"	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). Alternatively, Plaintiff's construction is: A location separate from the payee's collecting and clearing bank, but connected by a communication link.	<u>Intrinsic Evidence</u> Col.4:4-6 ("In contrast, the present system provides that the utility, in its own processing of the checks, at a site distant from the location of the depository bank, indorses the check for payment ...") Col.5:7-9 ("At a location 17 remote from collecting and clearing bank 10, the checks from the customers of correspondent Bank #1, correspondent Institution #2, etc. are indorsed

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			respectively in the names of correspondent Bank #1..."
14.	"separate indorsements"	<p>"Indorsement": payment instructions and the identity of the indorser applied to an instrument.</p> <p>"Separate": one on behalf of the payee, and one on behalf of the collecting and clearing bank.</p>	<p><u>Intrinsic Evidence</u></p> <p>'759 Patent, at Abstract;</p> <p>Col. 2:9-12 ("Indorsements on behalf of the payee and the collecting and clearing bank with respect to each instrument received are applied to each instrument by a printer.")</p> <p>3:4-7 ("An institutional indorsement is conventionally applied as a stamp that prints payment instructions and the identity of the indorser on the reverse side of a check.")</p> <p>5:13-15 ("An indorsement is also applied to the checks by the indorser on behalf of bank of second deposit 10.")</p> <p>See Abstract</p> <p><u>Extrinsic Evidence</u></p> <p>Dictionary of Banking Terms (Barron's 1990), at 218 (defining "endorsement" as "signature on the back of a negotiable instrument, such as a check. Endorsement legally transfers ownership to another party.");</p> <p>Webster's Encyclopedic Unabridged Dictionary of the English Language, Random House, Inc., p. 472, 726</p>

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			(1994) (defining “endorsement” as “(2) the placing of one’s signature, instructions, etc., on a document.”)
15.	“sequence coordinated with the timing of a settlement of the collecting and clearing bank’s account”	The recording of the checks as a deposit in the payee’s account is coordinated with the timing of the issue of a credit to the bank when a settlement of the accounts represented by the checks is received through the check payment system.	<p><u>Intrinsic Evidence</u></p> <p>’759 Patent at Claim 5, Col. 8:23-27 (“coordinating the recordation of the deposit of funds represented by the instruments with the collecting and clearing bank in a sequence coordinated with the timing of a settlement of the collecting and clearing bank’s account in the check payment system.”)</p> <p>6:59-64 (“The recording of the checks as a deposit in the payee’s account with the depository bank, or the collecting and clearing bank, is thus coordinated with the timing of the issue of a credit to the bank when a settlement of the accounts represented by the checks is received through the check payment system.”)</p>
16.	“Applying to the instruments . . . separate indorsements on behalf of each of the payee and the collecting and clearing bank with respect to each instrument	<p>This term does not need to be construed as a phrase.</p> <p>“Separate indorsements” is defined, above (see term 15).</p>	<p><u>See Intrinsic and Extrinsic Evidence for Term 15.</u></p> <p><u>Intrinsic Evidence</u></p>

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	received”	<p>“Collecting and clearing bank” should be construed as “a bank that deposits funds in the payee’s account based on received cash letter.”</p> <p>The rest of the phrase is plain meaning.</p>	<p>’759 Patent, at Col. 1:28-30 (“That bank handling the payee’s account and the deposited check presents the check through the check payment system to the drawer’s bank for payment.”)</p> <p>2:17-19 (“A communication link is established between the first location and the collecting and clearing bank which reports to the collecting and clearing bank information in the cash letters in anticipation of a deposit in the payee’s account corresponding to the cash letter.”)</p>
17.	“Delivering the assembled groups of instruments and the one or more cash letters associated therewith from the first location to a second location”	Transporting from the first location to the check payment system via air or ground transportation [Fig. 1, 2].	<p><u>Intrinsic Evidence</u></p> <p>’759 Patent, at Col.6:65-68 (“The transport of the groups of instruments and the associated cash letters from the first location to a payment system endpoint is effected by conventional ground or air delivery.”)</p>
	Claim 11		
18.	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).	
19.	“financial instruments drawn on	The language is in the preamble, which does	<u>Intrinsic Evidence</u>

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	different institutions that are received by different payees”	<p>not need to be construed.</p> <p>Alternatively,</p> <p>Plain meaning. “financial instruments”: A document 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, coupons.</p>	<p>Col. 1:19-20 (“The financial instruments are checks and other cash items.”)</p> <p>Col. 6:28-30 (“The instruments are presented for payment to multiple institutions in the check payment system.”).</p> <p><u>Extrinsic Evidence</u></p> <p>The Dictionary of Banking, Woelfel (1994) pg.106 (defining “financial instrument” as “Cash, evidence of an ownership interest in an entity, or a contract that has both of the following characteristics which place emphasis on the future receipts, payments or Exchange of cash or other financial instruments that ultimately result in cash: (1) the contract imposes on one entity a contractual obligation to deliver cash or another financial instrument to a second entity or to exchange financial instruments on potentially unfavorable terms with the second entity, and (2) the contract conveys to the second entity a contractual right to receive cash or another financial instrument from the first entity or to exchange other financial instruments on potentially favorable terms with the first entity.</p>

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			Financial instruments include: currency, trade receivables and payables, debt securities and common stock, certain insurance contracts, financial futures and forward contracts, interest rate swaps and caps, collateralized mortgage obligations and financial guarantees.”)
20.	“a means at said first location for applying separate indorsements to the instruments on behalf of each of the one or more banks of first deposit and payees, and the bank of subsequent deposit with respect to each instrument received”	<p>This term should be construed under 35 U.S.C. § 112(6).</p> <p><u>Function</u>: Applying separate indorsements to the instruments.</p> <p><u>Corresponding Structure</u>: A printer or stamping mechanism.</p>	<p><u>Intrinsic Evidence</u></p> <p>'759 Patent, at Col. 2:9-12 (“Indorsements on behalf of the payee and the collecting and clearing bank with respect to each instrument received are applied to each instrument by a printer.”)</p> <p>3:4-7 (“An institutional indorsement is conventionally applied as a stamp that prints payment instructions and the identity of the indorser on the reverse side of a check.”)</p> <p>5:59 (“...with the sorter and indorsement applier is...”)</p> <p>6:35-40 (“The sorter sorts the instruments according to predetermined sort pattern categories determined by the depository bank. Indorsements of the instruments on behalf of the payee and the depository bank with respect to each check received are applied by a printer or stamping mechanism before, during or after the sort process.”)</p> <p>Fig. 2 [indorsement applier 11].</p>

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			<p><u>Extrinsic Evidence</u></p> <p>Testimony from persons of ordinary skill in the art and/or individuals who manage such persons</p>
21.	<p>“means for preparing one or more cash letters associated with each assembled group of sorted instruments”</p>	<p>This term should be construed under 35 U.S.C. § 112(6).</p> <p><u>Function</u>: Preparing one or more cash letters associated with each assembled group of sorted instruments.</p> <p><u>Corresponding Structure</u>: A central processing unit operating alone or by an operator [Fig. 1].</p>	<p><u>Intrinsic Evidence</u></p> <p>’759 Patent, at Fig. 1</p> <p>Col. 3:29-35 (“The system is illustrated in FIG. 1 in which the check payee and bank customer 1 may be a public utility such as a telephone company. In this example, the "bank customer" is a banking client of the bank of first deposit, and is referred to as the "check payee".)</p> <p>3:52-63 (“In that process, the bank of first deposit would physically sort the checks received from and deposited by the utility. Check sorting by MICR codes, the addition of the check amount to the MICR line, and other facets of check processing, including MICR code sorting by routing transit numbers, and the use of sorter machines, are known. The sorted checks would then be delivered in a cash letter (i.e., a listing of checks and the amounts of the checks drawn on a particular institution or group of institutions from a particular</p>

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			<p>area) into the check payment system where settlements with other financial institutions on which the checks were drawn would be effected.”).</p> <p>4:12-16 (“...utility or check payee in accordance with predetermined sort pattern categories selected by the depository institution; and, the utility prepares a cash letter in the name of the depository bank for each group of checks within the predetermined sort category.”)</p> <p>4:19-21 (“Upon the sorting and preparation of the cash letter, the utility or check payee 1 transmits, between the utility's CPU (Central Processing Unit) 13 and the depository bank's CPU 14, check MICR line information to the depository bank 2...”)</p> <p>5:40-45 (“The preparation of the cash letters for the sorted checks that are delivered from the sorter directly into the check payment system is in accordance with sort pattern criteria determined by the bank of subsequent deposit for collecting and clearing.”)</p> <p>5:63-65 (“The cash letters for the sorted checks on behalf of the collecting and clearing bank are prepared at the remote customer's or sorter's location.”)</p> <p>6:36-44 (“Indorsements of the</p>

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			<p>instruments on behalf of the payee and the depository bank with respect to each check received are applied by a printer or stamping mechanism before, during or after the sort process. The sorter will generally assemble the sorted instruments into discrete groups with respect to the predetermined sort pattern categories. A cash letter is associated with each assembled group of sorted instruments is prepared by the payee on behalf of the depository bank.”)</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>
22.	<p>“transport means for delivering the groups of instruments and the one or more cash letters from the first location to a second location for introduction into the payment system according to parameters determined by the bank of subsequent deposit”</p>	<p>This term should be construed under 35 U.S.C. § 112(6).</p> <p><u>Function</u>: Delivering groups of instruments and one or more cash letters.</p> <p><u>Corresponding Structure</u>: air or ground transportation [Fig. 1, 2].</p>	<p><u>Intrinsic Evidence</u></p> <p>’759 Patent, at Col.6:65-68 (“The transport of the groups of instruments and the associated cash letters from the first location to a payment system endpoint is effected by conventional ground or air delivery.”)</p>
23.	<p>“a control unit interconnecting the banks and predetermining the timing and monitoring the transport of the sorted instruments”</p>	<p>A central processing unit and communication link connecting the banks.</p>	<p><u>Intrinsic Evidence</u></p> <p>’759 Patent, at Col. 2:24-26 (“The processing unit also coordinates the checks’ deposit with the collecting and</p>

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			<p>clearing bank in a sequence coordinated with the timing of a settlement of accounts in the check payment system.”)</p> <p>5:60 (“...effected by electronic communications and a control system...”)</p> <p>6:53-64 (“These physical means are coordinated by a central processing unit and communication links between the parties involved in the check payment process. In this manner the timing of the physical transport of the instruments for submission into the check payment system is controlled and the delivery of the sorted checks into the check payment system is confirmed and verified. The recording of the checks as a deposit in the payee’s account with the depository bank, or the collecting and clearing bank, is thus coordinated with the timing of the issue of a credit to the bank when a settlement of the accounts represented by the checks is received through the check payment system.”)</p>
24.	“coordinate the recordation of the deposit of the funds represented by the instruments in the account with the collecting and clearing bank in a sequence coordinated with the timing of settlement in the check payment system”	The recording of the checks as a deposit in the payee’s account is coordinated with the timing of the issue of a credit to the bank when a settlement of the accounts represented by the checks is received through the check payment system.	<p><u>Intrinsic Evidence</u></p> <p>’759 Patent at Claim 5, Col. 8:23-27 (“...coordinating the recordation of the deposit of funds represented by the instruments with the collecting and clearing bank in a sequence</p>

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			<p>coordinated with the timing of a settlement of the collecting and clearing bank's account in the check payment system.”)</p> <p>6:59-64 (“The recording of the checks as a deposit in the payee's account with the depository bank, or the collecting and clearing bank, is thus coordinated with the timing of the issue of a credit to the bank when a settlement of the accounts represented by the checks is received through the check payment system.”)</p>
	Claim 14		
25.	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).	
26.	The defendants argue that this claim should be construed to require a specific order of performing the steps below	Plaintiff contends that these steps are not required to take place in any particular order.	<p><u>Extrinsic Evidence</u></p> <p>Testimony from persons of ordinary skill in the art and/or individuals who manage such persons</p>
27.	“delivering the groups of instruments and the one or more cash letters”	Transporting from the first location to the check payment system via air or ground transportation [Fig. 1, 2].	‘759 Patent, at Col.6:65-68 (“The transport of the groups of instruments and the associated cash letters from the first location to a payment system endpoint is effected by conventional

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			ground or air delivery.”)