

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

**DATATREASURY CORPORATION,**

**Plaintiff**

**v.**

**WELLS FARGO & CO., et al.,**

**Defendants**

**CIVIL ACTION NO. 2:06-CV-72 DF**

**DEFENDANTS THE PNC FINANCIAL SERVICES GROUP, INC.'S AND PNC BANK,  
NATIONAL ASSOCIATION'S MOTION TO DISMISS, OR IN THE ALTERNATIVE,  
FOR MORE DEFINITE STATEMENT**

Defendants The PNC Financial Services Group, Inc. and PNC Bank, National Association (collectively "PNC"), hereby move pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, to dismiss Plaintiff DataTreasury Corporation's ("DTC") First Amended Complaint for Patent Infringement for failure to state a claim upon which relief may be granted. In the alternative, PNC hereby moves pursuant to Rule 12(e) of the Federal Rules of Civil Procedure for a more definite statement of DTC's claims.

In support of this Motion and in the interest of brevity, PNC relies on and incorporates herein by reference as if set forth verbatim the arguments presented in the Joint Motion of Defendants to Dismiss, or in the Alternative, for More Definite Statement<sup>1</sup> ("Joint Motion") filed

---

<sup>1</sup> The Joint Motion was filed on behalf of Defendants Bank of America Corporation; Bank of America, N.A.; Bank of New York Co., Inc.; Bank of Tokyo-Mitsubishi UFJ, Ltd.; BB&T Corporation; Branch Banking and Trust Company; Citizens Financial Group, Inc.; Comerica Bank & Trust, N.A.; Comerica, Inc.; Cullen/Frost Bankers, Inc.; Deutsche Bank Trust Company Americas; First Data Corporation; LaSalle Bank Corporation; LaSalle Bank, N.A.; M&T Bank Corporation.; M&T Bank; Remitco, LLC; TeleCheck Services, Inc.; The Bank of New York; The Frost National Bank; UBS Americas, Inc.; Union Bank of California, N.A.;

on June 1, 2006 (Docket No. 80). PNC bases this Motion on the arguments and legal authorities set forth in the Joint Motion, and seeks the same relief requested therein.

Dated: June 1, 2006

Respectfully submitted,

**McKOOL SMITH, P.C.**

/s/ Sam Baxter  
SAM BAXTER  
Lead Attorney  
Texas State Bar No. 01938000  
[sbaxter@mckoolsmith.com](mailto:sbaxter@mckoolsmith.com)  
THEODORE STEVENSON, III  
Texas State Bar No. 19196650  
[tstevenson@mckoolsmith.com](mailto:tstevenson@mckoolsmith.com)  
GARRET W. CHAMBERS  
Texas State Bar No. 00792160  
[gchambers@mckoolsmith.com](mailto:gchambers@mckoolsmith.com)  
L. DAVID ANDERSON  
Texas State Bar No. 00796126  
[danderson@mckoolsmith.com](mailto:danderson@mckoolsmith.com)  
300 Crescent Court  
Suite 1500  
Telephone: (214) 978-4000  
Telecopier: (214) 978-4044]

PETER J. AYERS  
Texas State Bar No. 24009882  
[payers@mckoolsmith.com](mailto:payers@mckoolsmith.com)  
300 W. 6th Street, Suite 1700  
Austin, Texas 78701  
Telephone: (512) 692-8700  
Telecopy: (512) 692-8744

**ATTORNEYS FOR DEFENDANTS THE  
PNC FINANCIAL SERVICES GROUP,  
INC. AND PNC BANK, NATIONAL  
ASSOCIATION**

---

UnionBanCal Corporation; Wachovia Bank, N.A.; Wachovia Corporation; Wells Fargo & Company; and Wells Fargo Bank, N.A.

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this motion was served on all counsel who have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by electronic mail by agreement of the parties on this the 1<sup>st</sup> day of June, 2006.

/s/ L. David Anderson  
L. David Anderson