

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

FILED-CLERK
DISTRICT COURT
05 JUN 28 PM 3:14
TX: EASTERN-MARSHALL

DATA TREASURY CORPORATION

Plaintiff

vs

WELLS FARGO & COMPANY;
WELLS FARGO BANK, NATIONAL
ASSOCIATION,

Defendants

§
§
§
§
§
§
§
§
§
§

Civil Action No. 2-05CV-201

BY _____

TJW

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

I. THE PARTIES

1 Plaintiff **Data Treasury Corporation** ("Data Treasury") is a Delaware corporation that maintains its principal place of business at 175 Pinelawn Drive, Melville, New York 11747.

2. Defendant **Wells Fargo & Company** is a Delaware Corporation that maintains its principal place of business at 420 Montgomery Street, San Francisco, California 94104. This Defendant does business in Texas and can be served with process by mailing a copy of this Complaint and summons by registered or certified mail (restricted to addressee only), return receipt requested, to Wells Fargo & Company, 420 Montgomery Street, San Francisco, California 94104.

3. Defendant **Wells Fargo Bank, National Association** is a banking subsidiary of Defendant Wells Fargo & Company. This Defendant does business in

Texas and can be served with process through its Registered Agent for Service, Corporation Service Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

II. JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. The Court's jurisdiction over this action is proper under the above statutes, including 35 U.S.C. § 271 et seq. and 28 U.S.C. § 1338.

5. Personal jurisdiction exists generally over Defendants pursuant to 28 U.S.C. § 1391 because Defendants have sufficient minimum contacts with the forum as a result of business conducted within the State of Texas and within this district. Personal jurisdiction also exists specifically over Defendants because of Defendants' conduct in making, using, selling, offering to sell, and/or importing, directly, contributorily, and/or by inducement, specific infringing remote image capture with centralized processing and storage systems, and related processes, products and services within the State of Texas and within this district.

6. Venue is proper in this Court under 28 U.S.C. §§1391(b), (c), and (d), as well as 28 U.S.C., § 1400(b) for the reasons set forth above and below.

III. PATENT INFRINGEMENT

7. Data Treasury is the owner as assignee of all rights, title and interest in and under United States Patent No. 5,910,988 ("the '988 patent"), which duly and legally issued on June 8, 1999, with Claudio Ballard as the named inventor, for an invention in remote image capture with centralized processing and storage.

8. Data Treasury is the owner as assignee of all rights, title, and interest in and under United States Patent No. 6,032,137 ("the '137 patent"), which duly and legally issued on February 29, 2000, with Claudio Ballard as the named inventor, for an invention in a remote image capture with centralized processing and storage.

9. Defendants have been and are infringing the '988 and '137 patents by making, using, selling, offering for sale, and/or importing in or into the United States, directly, contributorily, and/or by inducement, without authority, products and services that fall within the scope of the claims of the '988 and '137 patents. Specifically, among other infringing services and products, Defendants have provided, sold, installed, utilized, and assisted others to use and utilize image-based banking and archival solutions in a manner that infringes Plaintiff's patents. Defendants will continue to engage in this infringing conduct unless enjoined by this Court. Data Treasury is without an adequate remedy at law.

10. Defendants have been and are actively inducing and/or contributing to the infringement of the '988 and '137 patents among themselves and by others.

11. Defendants' infringement of the '988 and '137 patents has been and is willful.

12. This is an exceptional case within the meaning of 35 U.S.C. § 285.

13. Data Treasury Corporation specifically demands a trial by jury.

IV. PRAYER FOR RELIEF

Data Treasury respectfully requests the following relief:

A. That the Court declare that the '988 and '137 patents are valid and enforceable and that they are infringed by the Defendants;

B That the Court enter a preliminary and thereafter a permanent injunction against Defendants' direct infringement of the '988 and '137 patents;

C That the Court enter a preliminary and thereafter a permanent injunction against Defendants' active inducement of infringement and/or contributory infringement of the '988 and '137 patents among themselves and by others;

D That the Court award damages to Data Treasury to which it is entitled for patent infringement;

E That the Court award interest on the damages to Data Treasury;

F That the Court treble all damages and interest for willful infringement;

G That the Court award to Data Treasury its costs and attorney's fees incurred in this action; and

H Such other and further relief as the Court deems just and proper

Respectfully submitted,



ATTORNEY IN CHARGE

Edward L. Hohn

Texas Bar No. 09813240

Nix Patterson & Roach, L.L.P.

205 Linda Drive

Daingerfield, Texas 75638

Tel. (903)645-7333; Fax (903)645-4415

C. Cary Patterson

State Bar No. 15587000

Nix Patterson & Roach, L.L.P.

2900 St. Michael Dr, 5th Floor

Texarkana, TX 75503

Tel (903)223-3999; Fax (903)223-8520

Rod A. Cooper
Texas Bar No. 90001628
The Cooper Law Firm
545 E. John Carpenter Frwy, Ste 1460
Irving, Texas 75062
Tel. (972)831-8979; Fax (972)692-5445

Joe Kendall
Texas Bar No 11260700
Provost Umphrey, L.L.P.
3232 McKinney Avenue, Suite 700
Dallas, Texas 75204
Tel. (214)774-3000; Fax (214) 744-3015

Eric M. Albritton
Texas Bar No. 00790215
Albritton Law Firm
109 W Tyler
Longview, Texas 75601
Tel. (903)757-8449; Fax (903)758-6397

T. John Ward, Jr.
Texas Bar No. 00794818
Law Office of T. John Ward, Jr. P.C.
109 W. Tyler
Longview, Texas 75601
Tel. (903)757-6400; Fax (903)758-7397

Counsel for Plaintiff Data Treasury Corporation