

**ORIGINAL**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION

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TEXAS-EASTERN

BY Shoel

DATATREASURY CORPORATION,  
*Plaintiff,*

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v.

FIRST DATA CORPORATION,  
FIRST DATA MERCHANT SERVICES  
CORPORATION, and  
TELECHECK SERVICES, INC. *d/b/a*  
TELECHECK INTERNATIONAL, INC.  
*Defendants.*

CIVIL ACTION NO. 502CV094

**PLAINTIFF'S FIRST AMENDED 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, Second Floor, Melville, New York 11747.

2. Defendant First Data Corporation is a Delaware corporation that maintains its principal place of business at 6200 South Quebec Street, Greenwood Village, Colorado 80111.

3. Defendant First Data Merchant Services Corporation is a Florida corporation that is authorized to do business in the State of Texas and that may be served through its registered agent, the Corporation Service Company, 800 Brazos, Austin, Texas 78701.

4. Defendant TeleCheck Services, Inc., *d/b/a* TeleCheck International, Inc. ("TeleCheck") is a Delaware corporation that maintains its principal place of business at 5151 Westheimer, Houston, Texas 77056-5412. Defendant TeleCheck is a corporation authorized to do business in the State of Texas and may be served through its registered agent, the Corporation

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Service Company, 800 Brazos, Austin, Texas 78701.

## II. JURISDICTION AND VENUE

5. 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.

6. Personal jurisdiction exists generally over each of the Defendants because each has sufficient minimum contact with the forum as a result of business conducted within the State of Texas and within the Eastern District of Texas. Personal jurisdiction also exists specifically over each of the Defendants because of Defendants' conduct in making, using, selling, offering to sell, and/or importing infringing products and practices within the State of Texas and within the Eastern District of Texas.

7. 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).

## III. PATENT INFRINGEMENTS

8. DataTreasury 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 a remote image capture with centralized processing and storage.

9. DataTreasury 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.

10. Defendants have been and are infringing the '988 Patent and the '137 Patent by making, using, selling, offering for sale, and/or importing in or into the United States, without authority, products and practices that fall within the scope of the claims of the '988 Patent and the '137 Patent. Defendants will continue to infringe the '988 Patent and the '137 Patent unless enjoined by this Court. DataTreasury is without an adequate remedy at law.

11. Defendants' infringements of the '988 Patent and the '137 Patent have been and are willful.

12. Defendants have been and are actively inducing and/or contributing to the infringements of the '988 Patent and the '137 Patent by others.

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

#### **IV. PRAYER FOR RELIEF**

DataTreasury respectfully requests the following relief:

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

B. That the Court enter a preliminary and thereafter a permanent injunction against Defendants' direct infringements of the '988 Patent and the '137 Patent;

C. That the Court enter a preliminary and thereafter a permanent injunction against Defendants' active inducements of infringement and/or contributory infringements of the '988 Patent and the '137 Patent by others;

D. That the Court award damages to DataTreasury to which it is entitled for patent infringement;

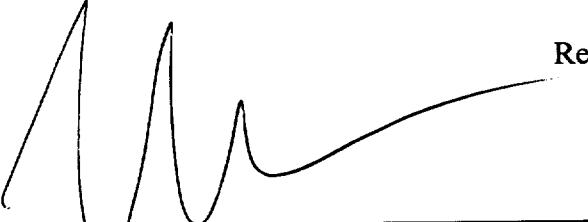
E. That the Court award interest on the damages to DataTreasury;

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

G. That the Court award to DataTreasury its costs and attorneys fees incurred in this action; and

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

Respectfully submitted,



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**ATTORNEYS FOR PLAINTIFF DATATREASURY CORPORATION**