

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

DATATREASURY CORPORATION,

Plaintiff,

v.

U.S. BANK, N.A., et al.,

Defendants.

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

VERDICT FORM

You, the jury, are to answer the following interrogatories based on the evidence admitted at trial and according to the instructions the Court has given you. Start with Interrogatory No. 1 and proceed through the interrogatories. As you proceed through this verdict form, follow the directions provided.

Interrogatory No. 1

Has DataTreasury proven by a preponderance of the evidence that U.S. Bank has exercised control or direction over Viewpointe such that U.S. Bank and Viewpointe have jointly infringed any of the following claims of the asserted patents? Answer “yes” or “no” as to each claim in the spaces provided:

'988 Patent, Claim 1 Yes

'137 Patent, Claim 42 Yes

'988 Patent, Claim 26 Yes

'137 Patent, Claim 43 Yes

'988 Patent, Claim 46 Yes

Interrogatory No. 2

ANSWER THIS INTERROGATORY ONLY IF YOU ANSWERED “YES” FOR AT LEAST ONE CLAIM IN INTERROGATORY NO. 1.

If you have not answered “yes” as to at least one claim in Interrogatory No. 1, skip this interrogatory and proceed to Interrogatory No. 3.

Has DataTreasury proven by clear and convincing evidence that the joint infringement by U.S. Bank and Viewpointe of any of the claims at issue was willful?

Answer “yes” or “no”: Yes

Interrogatory No. 3

Has DataTreasury proven by a preponderance of the evidence that U.S. Bank has exercised control or direction over The Clearing House such that U.S. Bank and The Clearing House have jointly infringed any of the following claims of the asserted patents? Answer “yes” or “no” as to each claim in the spaces provided:

'988 Patent, Claim 1 Yes

'137 Patent, Claim 42 Yes

'988 Patent, Claim 46 Yes

Interrogatory No. 4

ANSWER THIS INTERROGATORY ONLY IF YOU ANSWERED “YES” FOR AT LEAST ONE CLAIM IN INTERROGATORY NO. 3.

If you have not answered “yes” as to at least one claim in Interrogatory No. 3, skip this interrogatory and proceed to Interrogatory No. 5.

Has DataTreasury proven by clear and convincing evidence that the joint infringement by U.S. Bank and The Clearing House of any of the claims at issue was willful?

Answer “yes” or “no”: NO

Interrogatory No. 5

Have Defendants proven by clear and convincing evidence that any of the following claims of the '988 Patent or the '137 Patent are invalid by anticipation? Answer "yes" or "no" as to each claim in the spaces provided below. Answer for all claims regardless of whether you have found those claims were infringed.

'988 Patent, Claim 1 NO

'137 Patent, Claim 42 NO

'988 Patent, Claim 26 NO

'137 Patent, Claim 43 NO

'988 Patent, Claim 46 NO

Interrogatory No. 6

Have Defendants proven by clear and convincing evidence that any of the following claims of the '988 Patent or the '137 Patent are invalid due to obviousness? Answer "yes" or "no" as to each claim in the spaces provided below. Answer for all claims regardless of whether you have found those claims were infringed.

'988 Patent, Claim 1 NO

'137 Patent, Claim 42 NO

'988 Patent, Claim 26 NO

'137 Patent, Claim 43 NO

'988 Patent, Claim 46 NO

Interrogatory No. 7

Have Defendants proven by clear and convincing evidence that any of the following claims of the '988 Patent or the '137 Patent are invalid due to failure to provide an adequate written description? Answer "yes" or "no" as to each claim in the spaces provided below.

Answer for all claims regardless of whether you have found those claims were infringed.

'988 Patent, Claim 1 NO

'137 Patent, Claim 42 NO

'988 Patent, Claim 26 NO

'137 Patent, Claim 43 NO

'988 Patent, Claim 46 NO

Interrogatory No. 8

ANSWER THIS INTERROGATORY ONLY IF YOU ANSWERED “YES” FOR AT LEAST ONE CLAIM IN INTERROGATORY NO. 1.

If you have not answered “yes” as to at least one claim in Interrogatory No. 1, skip this interrogatory and proceed to Interrogatory No. 9.

If you have found that any of the asserted claims of the '988 Patent or the '137 Patent have been jointly infringed by U.S. Bank and Viewpointe, then even if you have answered “yes” to any portion of Interrogatory Nos. 5 through 7, please determine the amount of reasonable royalty damages that would fairly and adequately compensate DataTreasury for joint infringement by U.S. Bank and Viewpointe:

Answer in dollars and cents: \$ 26,606,000.00

You have heard testimony regarding a “running royalty,” which is a royalty determined by the amount of use of the purported invention over time. You have also heard testimony regarding a “lump sum paid up royalty,” which is a fixed amount paid to the patent holder regardless of the amount of use of the purported invention over time. If you have awarded reasonable royalty damages above, is that award based on a “running royalty” or a “lump sum paid up royalty”?

Answer “running royalty” or “lump sum paid up royalty”:

lump sum

Interrogatory No. 9

ANSWER THIS INTERROGATORY ONLY IF YOU ANSWERED “YES” FOR AT LEAST ONE CLAIM IN INTERROGATORY NO. 3.

If you have not answered “yes” as to at least one claim in Interrogatory No. 3, skip this interrogatory and proceed to sign and date this Verdict Form.

If you have found that any of the asserted claims of the '988 Patent or the '137 Patent have been jointly infringed by U.S. Bank and The Clearing House, then even if you have answered “yes” to any portion of Interrogatory Nos. 5 through 7, please determine the amount of reasonable royalty damages that would fairly and adequately compensate DataTreasury for joint infringement by U.S. Bank and The Clearing House:

Answer in dollars and cents: \$ 394,000.00

You have heard testimony regarding a “running royalty,” which is a royalty determined by the amount of use of the purported invention over time. You have also heard testimony regarding a “lump sum paid up royalty,” which is a fixed amount paid to the patent holder regardless of the amount of use of the purported invention over time. If you have awarded reasonable royalty damages above, is that award based on a “running royalty” or a “lump sum paid up royalty”?

Answer “running royalty” or “lump sum paid up royalty”:

lump sum

The foreperson must sign and date this verdict form: