

Canadian banks battling U.S. company over cheque-clearing patent; Process Worth Billions

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HEADLINE: Canadian banks battling U.S. company over cheque-clearing patent; Process Worth Billions

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Canada's banks are battling a U.S. patent-holding company over the rights to an everyday back-office process worth billions of dollars a year.

The dispute is over a patent owned by Plano, Tex.-based DataTreasury Corp. related to a process for clearing cheques electronically.

Canadian banks process millions of cheques each day. By processing them electronically instead of manually as they have done in the past the cost to clear each cheque is cut from about \$2 to a few pennies.

The Canadian banks will likely have a fierce fight on their hands. DataTreasury has already come out on top in similar battles with some of the biggest players in the U.S. financial services industry, including JP Morgan Chase & Co. and Merrill Lynch.

In Canada, the dispute heated up in August when [Royal Bank of Canada](#), Toronto-Dominion Bank, and Bank of Montreal launched a pre-emptive legal strike against DataTreasury. The banks sued to have DataTreasury's patent ruled invalid in an effort to avoid being forced into a costly settlement with the U.S.-based patent holding company.

But the Texas-based patent holder hit back this week with its own filing in Canadian federal court, accusing the banks of "systematic, deliberate, and willful infringement" of its patent. DataTreasury is claiming damages and profits from cost savings related to

processing billions of cheques, the filing states.

The DataTreasury claim, filed Thursday, also drags Canadian Imperial Bank of Commerce, National Bank of Canada, and Bank of Nova Scotia into the melee.

"The filings speak for themselves," said Eric Wetzel, a spokesman for Data Treasury's attorneys Gilbert's Law LLP. "DataTreasury intends to enforce its patents worldwide. Out of respect for the Canadian legal system, we don't wish to offer any further comment at this time."

DataTreasury acquired the Canadian patent in January, 2006. The company has a similar patent in the U.S. and has sued more than 50 financial institutions there for patent infringement.

The banks' statement of claim alleges the patent, referred to as the '793 patent,' should be ruled invalid because is too vague and "is not the proper subject matter of an invention."

"The [Canadian] banks' action in the Federal Court seeks to have DataTreasury's Canadian patent impeached or declared invalid," said Ron Dimock of Dimock Stratton LLP, the lawyer handling the case for the three banks who launched the suit against DataTreasury.

The legal battle will remind Canadians of Waterloo, Ont.-based [Research in Motion Ltd.](#)'s \$612US.5-million settlement with NTP Inc. of the U.S. last year.

The case involving the banks is just part of a growing trend that could potentially see a number of patent suits aimed at deep-pocketed financial institutions, said Robin Coster, a patent partner with lawyer Tory's LLP.

The number of U.S. patent applications relating to financial institutions has risen from fewer than 50 each year in the mid 1990's to more than 600 a year since 2001.

Banks and insurance companies use thousands of processes which are potentially patentable, from technologies used to trade futures to telephone systems. The banks are well aware of the issues they could face, Mr.Coster said.

"U.S. banks have become quite sophisticated at setting up their own internal processes to deal with patents," said Mr. Coster. "In Canada, the banks are starting become more focused on it too."