

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

DATATREASURY CORPORATION

vs.

WELLS FARGO & COMPANY, ET AL.

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CASE NO. 2:06-CV-472-DF-CMC

ORDER

The court sustains the defendants' objection to the admissibility of seven license agreements. The court previously held that, under *ResQNet.com, Inc. v. Lansa, Inc.*, 594 F.3d 860 (Fed. Cir. 2010), certain license agreements entered to settle litigation would be admissible as probative of a reasonable royalty. The plaintiff's damages model in this case relies on a running royalty—that is, a royalty rate computed on a per-check basis. The seven agreements at issue, however, were negotiated as lump sums, without consideration of the check volumes processed by the licensees. As such, their probative value is low. When the court considers the fact that the agreements were entered to settle pending litigation, that value is substantially outweighed by the danger of unfair prejudice. *See* Fed. R. Evid. 403. As such, the defendants' objections to the Affiliated Computer Services and ACS Image Solutions, NetDeposit, Bank One, J.P. Morgan Chase, Ingenico, NCR, and MagTek license agreements are sustained.

SIGNED this 16th day of March, 2010.


CHARLES EVERINGHAM IV
UNITED STATES MAGISTRATE JUDGE