

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CIVIL No. C76-49 A
)	
v.)	Filed: JUL 13 1977
)	
DIEBOLD, INCORPORATED,)	Entered: November 2, 1977
et al.,)	
)	
Defendants.)	

STIPULATION

It is stipulated by and between the undersigned parties,
by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U S C §16). and without further notice to any party or other proceedings provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant Chubb & Son Limited ("Chubb") and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this

stipulation, this stipulation shall be of no effect whatever,
and the making of this stipulation shall be without prejudice
to plaintiff and defendant Chubb in this or any other proceeding.

Dated: June 14, 1977

FOR THE PLAINTIFF:

John H. Shenefield
JOHN H. SHENEFIELD
Acting Assistant Attorney
General

Thomas E. Sheldon
THOMAS E. SHELDON

William E. Swope
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Carl A. Cira, Jr.
CARL A. CIRA, JR.

Charles F. B. McAleer
CHARLES F. B. MCALEER

/s/ Kenneth L. Jost
KENNETH L. JOST

FOR DEFENDANT CHUBB & SON LIMITED:

JONES, DAY, REAVIS & POGUE

BY: Richard W. Pogue
RICHARD W. POGUE

Hugh R. Whiting
HUGH R. WHITING

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FINAL JUDGMENT AS TO CHUBB & SON, LTD.

Plaintiff, United States of America, having filed its complaint herein on February 12, 1976, and defendant, Chubb & Son Limited, having filed its answer denying the substantive allegations of the complaint; and plaintiff and defendant, Chubb & Son Limited, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or admission by any party hereto with respect to any such issue; and this Court having determined pursuant to Rule 54(b) of the Federal Rules of Civil Procedure that there is no just reason for delay in entering a Final Judgment against the consenting defendant Chubb & Son Limited:

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or admission by any party hereto with respect to any such issue,

and upon consent of the parties hereto it is hereby

ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

I.

This Court has jurisdiction of the subject matter hereof and, by consent, of the defendant solely for the purposes of this Final Judgment. The complaint states a claim upon which relief may be granted against the defendant under Section 1 of the Sherman Act (15 U.S.C. §1).

II.

As used in this Final Judgment:

- (a) "Chubb" means the defendant Chubb & Son Limited, a corporation organized and existing under the laws of the United Kingdom;
- (b) "Diebold" means the defendant Diebold, Incorporated, a corporation organized and existing under the laws of the State of Ohio;
- (c) "Bank security equipment" means any product of a type manufactured by Chubb and primarily used by banks, savings and loan institutions, credit unions, brokerage houses, insurance companies and other financial institutions for the safekeeping and protection of premises, cash, securities, documents and other valuables against the hazards of theft, robbery, burglary, fire and flood. The term includes, but is not limited to, safes vaults, vault doors, tills, drive-in teller systems,

night deposit systems, safety deposit box systems, electronic and photographic surveillance systems, robbery, burglary and fire alarms and fire-resistant files;

(d) "Person" means any individual, partnership, firm, corporation, association or other business or legal entity unaffiliated with defendant;

(e) "Representative" means any person other than an employee who promotes, facilitates or otherwise accomplishes the sale of bank security equipment.

III.

The provisions of this Final Judgment shall apply to Chubb and to each of its directors, officers, agents, employees, subsidiaries, successors and assigns of each, and to all persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. For the purpose of this Final Judgment Chubb, together with its subsidiaries or affiliates as to which it owns a majority of the voting stock or exercises effective working control, along with any of their officers, directors, agents and employees, when acting in such capacity shall be deemed to be one person. This Final Judgment shall apply only to acts which have a substantial and foreseeable effect upon United States trade or commerce in bank security equipment.

IV.

A. Chubb is enjoined and restrained from directly or indirectly in any manner entering into, adhering to, enforcing,

claiming any rights under or in any way maintaining or attempting to secure, any contract, agreement or understanding having a substantial and foreseeable effect upon United States trade or commerce in bank security equipment with any manufacturer of bank security equipment which had sales of bank security equipment in the United States in excess of \$12,000,000 in any of the three calendar years preceding the entry of this Final Judgment with respect to the manufacture and sale of a product or products falling within the definition of bank security equipment set forth in Section II(c) hereof:

1. to refuse to appoint or to terminate relations with any third person as Representative;
2. to allocate, divide, or restrict customers, territories, or product markets;
3. to refuse to sell in any territory or market or to any third person; or
4. to limit or restrict imports into or exports from the United States;

B. Provided that this Section IV shall not prevent Chubb from entering into distribution or licensing arrangements with any manufacturer having sales of bank security equipment in the United States in excess of \$12,000,000 in any of the three calendar years preceding the entry of this Final Judgment as long as no equivalent of the Chubb bank security equipment item which is the subject of such arrangement is manufactured or sold in the United States by the other party to the arrangement; and

C. Provided further that this Section IV shall not limit the right of the United States to institute a legal action independent of an action to enforce this Final Judgment, or the right of Chubb to defend such action, regarding the

legality of any agreement between Chubb and any manufacturer of bank security equipment having sales of bank security equipment in the United States not in excess of \$12,000,000 in any of the three calendar years preceding the entry of this Final Judgment.

V.

A. For a period of five (5) years from the date of entry of this Final Judgment, Chubb is enjoined and restrained from, directly or indirectly, acting as Representative for Diebold in the United Kingdom, or having Diebold act as its Representative in the United States, in the sale of bank security equipment; provided, however, that nothing in this Section V shall prevent Chubb from purchasing, selling or otherwise acting with respect to (a) parts or components of bank security equipment obtained from Diebold for inclusion or use in Chubb products or (b) bank security equipment bearing Chubb's own name or trademark or any other name or trademark excepting those in actual use by Diebold.

VI.

A. For a period of five (5) years from the date of entry of this Final Judgment, Chubb shall retain all written inquiries and retain memoranda reflecting oral inquiries respecting the purchase or distribution of Chubb bank security equipment from the United Kingdom for export to the United States, together with copies of Chubb's response to such inquiries or a memorandum of Chubb's response where said response was oral.

B. In the event that Chubb or its subsidiaries have not commenced the regular sale of bank security equipment in the United States before the third anniversary of the entry of this Final Judgment, Chubb shall so advise plaintiff and shall

furnish plaintiff with a written report setting forth the reasons why such sales were not commenced and, upon written request of plaintiff, copies of the correspondence and memoranda retained pursuant to Section VI-A hereof. The same procedure shall again apply if Chubb or its subsidiaries have still not commenced such sales by the fifth anniversary of the entry of this Final Judgment.

VII.

For the purpose of securing or determining compliance with this Final Judgment with regard to Chubb and for no other purpose, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, or his agent, and on reasonable notice to Chubb at either its principal business office in London, England or any successor location, and subject to any legally recognized privilege, within 60 days of receipt of such request for books, ledgers, accounts, correspondence, memoranda, and other records in the possession or under the control of Chubb, Chubb shall provide duly authenticated copies of such documents at the Department of Justice in Washington, D.C.; provided, however, that Chubb shall not be required to bring to the United States any books or other records or copies thereof when such action is prohibited by the laws of the United Kingdom or of any country or treaty organization with jurisdiction over Chubb and Chubb has exercised good faith efforts to obtain permission of the appropriate authorities, but such permission has not been secured. A copy of any such request shall, insofar as it relates to documents within the United Kingdom or to information to be compiled therefrom, be sent to the Government of the United Kingdom at the same time as it is served on Chubb. Chubb shall promptly notify plaintiff of any change of address of its principal business office.

No information obtained by the means provided in this section shall be divulged by any representatives of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with any Final Judgment entered in this action or as otherwise required by law. If at the time information or documents are furnished by Chubb to plaintiff, Chubb identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Chubb marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then, in the event that plaintiff asserts the right to divulge such material pursuant to this Section VII, plaintiff shall give at least ten (10) days' written notice to Chubb prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which Chubb is not a party.

VIII.

Jurisdiction is retained by this Court for the purpose of enabling either of the parties consenting to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of any violations hereof.

IX.

This Judgment shall be of no force or effect beyond ten years from the date of its entry.

X.

Entry of this Judgment is in the public interest.

Leroy J. Contie, Jr.
United States District Judge

Dated: Akron, Ohio
November 2 , 1977