

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
) Civil Action No. C-76-49-A
 v.)
) Filed: February 12, 1976
 DIEBOLD, INCORPORATED; and)
 CHUBB & SON, LTD.,)
)
 Defendants.)

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COMPLAINT

The United States of America, plaintiff, acting under the direction of the Attorney General of the United States, brings this civil action to obtain equitable relief against the above-named defendants, and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted under Section 4 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. § 4), commonly known as the Sherman Act, in order to prevent and restrain the violation by the defendants, as hereinafter alleged, of Section 1 of the Act, as amended (15 U.S.C. § 1).

2. Diebold, Incorporated maintains an office, transacts business, and is found within the Northern District of Ohio.

II

DEFENDANTS

3. Diebold, Incorporated (hereinafter referred to as "Diebold") is named a defendant herein. Diebold is a

corporation organized and existing under the laws of the State of Ohio with its principal place of business in Canton, Ohio.

4. Chubb & Son, Ltd. (hereinafter referred to as "Chubb") is named a defendant herein. Chubb is a corporation organized and existing under the laws of the United Kingdom with its principal place of business in London, England.

III

CO-CONSPIRATORS

5. Various other persons, not made defendants herein, participated in the violation alleged herein and have performed acts and made statements in furtherance thereof.

IV

DEFINITION

6. As used herein, "bank security equipment" means products 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 hazards such as 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, files and filing systems, data storage vaults, and cash dispensers.

V

TRADE AND COMMERCE

7. The defendant corporations are among the world's largest manufacturers of bank security equipment. In

1974, Diebold had net sales exceeding \$213 million, of which approximately \$125 million was from the sale of bank security equipment. Diebold controls approximately 40 percent of the bank security equipment market in the United States, and manufactures such equipment in Canton, Newark, Hamilton, and Wooster, Ohio. Diebold markets bank security equipment worldwide, though most of its sales are made in the United States.

8. Chubb is the largest manufacturer of bank security equipment in the world. In 1974, Chubb had net worldwide sales of approximately \$200 million, of which a significant portion was from the sale of bank security equipment. Chubb sells limited quantities of bank security equipment in the United States, most of which are floor safes designed specifically for the jewelry trade. It manufactures bank security equipment in Great Britain, Canada, South Africa, Australia, the European Common Market, and other countries.

9. Substantial quantities of bank security equipment are sold by defendant Diebold and shipped in a continuous and uninterrupted flow of interstate and foreign commerce to purchasers throughout the United States and many foreign countries.

10. Certain bank security equipment and parts thereof produced in the United Kingdom by Chubb have been and are being sold or distributed in the United States by Chubb in a continuous and uninterrupted flow of interstate and foreign commerce to customers located in the United States.

VI

VIOLATION ALLEGED

11. Beginning at least as early as February, 1974 and continuing at least until October, 1974, the defendants

and co-conspirators entered into a combination and conspiracy in unreasonable restraint of the aforesaid interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1). The violation may continue or reoccur unless the relief hereinafter prayed for is granted.

12. The aforesaid combination and conspiracy consisted of a continuing understanding and concert of action among the defendants and co-conspirators, under which it was mutually agreed that:

- (a) Chubb would refrain from selling or distributing bank security equipment in the United States through Charles A. Rogler, of Canton, Ohio; and
- (b) Diebold would refrain from selling or distributing bank security equipment in the United Kingdom through ADM Business Systems, Ltd., of London, England.

13. In furtherance of the aforesaid combination and conspiracy, the defendants and co-conspirators have done those things which, as hereinbefore alleged, they combined and conspired to do.

VII

EFFECTS

14. The aforesaid combination and conspiracy has had the following effects, among others:

- (a) potential competition in the sale of bank security equipment in the United States has been suppressed and eliminated;

(b) the exportation of bank security equipment from the United States and the importation of bank security equipment into the United States have been unreasonably restrained; and

(c) purchasers of bank security equipment have been deprived of free and open competition in the sale of bank security equipment.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that the defendants and co-conspirators have engaged in an unlawful combination and conspiracy in restraint of the aforesaid trade and commerce in violation of Section 1 of the Sherman Act.

2. That the defendants, their officers, directors, agents, subsidiaries, successors, and assigns, and all other persons acting or claiming to act on their behalf, be enjoined and restrained from, in any manner, directly or indirectly, continuing, maintaining, or renewing the combination and conspiracy hereinbefore alleged, or from engaging in any other combination or conspiracy having a similar purpose or effect, and from adopting or following any practice, plan, program, or device having a similar purpose or effect.

3. That, pursuant to Section 5 of the Sherman Act (15 U.S.C. § 5), this Court order summons to be issued to Chubb & Son, Ltd., commanding said defendant to appear herein and defend each allegation contained in this complaint and to abide by and perform such acts, orders, and decrees as the Court may make in the premises.

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4. That the plaintiff have such other and further relief as the nature of the case may require and the Court may deem just and proper.

5. That the plaintiff recover the costs of this suit.

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