

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

MCOM IP, LLC,)	
Plaintiff,)	
)	Civil Action No. 6:21-CV-00698
v.)	
)	
DIEBOLD NIXDORF, INC.)	
Defendant.)	JURY TRIAL DEMANDED

PLAINTIFF’S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

mCom IP, LLC (“mCom”) files this Original Complaint and demand for jury trial seeking relief from patent infringement of the claims of U.S. Patent No. 8,862,508 (“the ‘508 patent”) (referred to as the “Patent-in-Suit”) by Diebold Nixdorf, Inc. (“Diebold”).

I. THE PARTIES

1. Plaintiff mCom is a Texas Limited Liability Company with its principal place of business located in Harris County, Texas.

2. On information and belief, DIEBOLD is a corporation existing under the laws of the State of Delaware, with a principal place of business located at 84 NE Loop 410, San Antonio, TX 78216. On information and belief, DIEBOLD sells and offers to sell products and services throughout Texas, including in this judicial district, and introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in Texas and this judicial district. Defendant may be served through its registered agent Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company 211 E. 7th Street, Suite 620, Austin, TX 78701 or wherever they may be found.

II. JURISDICTION AND VENUE

3. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff's claim arises under an Act of Congress relating to patents, namely, 35 U.S.C. § 271.

4. This Court has personal jurisdiction over Defendant because: (i) Defendant is present within or has minimum contacts within the State of Texas and this judicial district; (ii) Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in this judicial district; and (iii) Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Texas and in this judicial district.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b). Defendant has committed acts of infringement and has a regular and established place of business in this District. Further, venue is proper because Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Texas and this District.

III. INFRINGEMENT

A. Infringement of the '508 Patent

6. On October 14, 2014, U.S. Patent No. 8,862,508 ("the '508 patent", attached as Exhibit A) entitled "System and method for unifying e-banking touch points and providing personalized financial services" was duly and legally issued by the U.S. Patent and Trademark Office. MCom owns the '508 patent by assignment.

7. The '508 patent relates to novel and improved systems and methods for constructing a unified banking system.

8. DIEBOLD maintains, operates, and administers methods and systems of unified banking systems that infringe one or more claims of the ‘508 patent, including one or more of claims 1-20, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the ‘508 Patent into service (i.e., used them); but for Defendant’s actions, the claimed-inventions embodiments involving Defendant’s products and services would never have been put into service. Defendant’s acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant’s procurement of monetary and commercial benefit from it.

9. Support for the allegations of infringement may be found in the following preliminary table:

Claim	Diebold
<p>1. A method for constructing a unified electronic banking environment, said method comprising the steps of:</p>	<div data-bbox="397 997 657 1176"> </div> <p data-bbox="397 1285 1198 1318">Attachment_1 (DN_Product-Card_Vynamic-Mobile-Banking) At 1.</p> <p data-bbox="397 1354 1175 1388">Source: https://universal.com.sa/medium/document-file-47.vsf</p>
<p>providing at least one common multi-channel server coupled to more than one e-banking touch points and also coupled to at least one computer system configured with at least one control console, said more than one e-</p>	

Claim	Diebold
<p>banking touch points and said at least one computer system being provided in locations remote from the other, and further wherein said more than one plurality of e-banking touch points are comprised of at least two different types of e-banking touch point devices, each of which comprise one or more of an automatic teller/transaction machine (ATM), a self service coin counter (SSCC), a kiosk, a digital signage display, an online accessible banking website, a personal digital assistant (PDA), a personal computer (PC), a laptop, a wireless device, or a combination of two or more thereof, and wherein at least one of said e-banking touch points is in communication with one or more financial institutions through said multi-channel server;</p>	<p><small>Copyright © 2011 Diebold NCR Corporation. All rights reserved. This document contains confidential information and is intended for use only by the individual named. If you are not the named individual you should not disseminate, distribute or copy this document. For more information on this notice, please contact the individual named on the notice. If you are not the named individual you should not disseminate, distribute or copy this document.</small></p> <p>Attachment_1 (DN_Product-Card_Vynamic-Mobile-Banking) At 1.</p> <p>Source: https://universal.com.sa/medium/document-file-47.vsf</p>
<p>receiving an actionable input from at least one e-banking touch point;</p>	

Claim	Diebold
	<p style="text-align: center;">CARDLESS/PRE-STAGED TRANSACTIONS</p> <p style="text-align: center;">Consumers want easy, secure access to cash without barriers or extra steps to complete a transaction. One way to get there is by removing the card out of the transaction completely and empowering people's mobile devices to "pre-stage" cash withdrawals.</p> <ul style="list-style-type: none"> • Consumers log into their mobile banking app, enter a withdrawal amount and receive a one-time PIN (OTPI) to use at the terminal. No card necessary. • Leverages integrations with the FI's core system, offering game-changing benefits by eliminating or decreasing traditional ATM certification requirements and authentication complexities. • With the use of an OTP [configurable in length], no additional hardware is required. <p style="text-align: center;">Attachment_1 (DN_Product-Card_Vynamic-Mobile-Banking) At 2.</p> <p style="text-align: center;">Source: https://universal.com.sa/medium/document-file-47.vsf</p>
<p>retrieving previously stored data associated with said actionable input, wherein said previously stored data is accessible to any one of said e-banking touch points, and said previously stored data comprises data from one or more financial institutions and one or more user-defined preferences;</p>	<p>OVERDRAFT ALERTS</p> <p>Keeping track of an account balance when recurring or monthly bills are automatically scheduled is tough. Payday money goes in, bills scheduled to be paid go out. So, when your customers visit an ATM, do they know how much cash is really available? With Vynamic Mobile, the consumer has the information at their fingertips.</p> <ul style="list-style-type: none"> • Provide the information required to keep consumers informed and alerted about pending transactional activity in order to successfully conduct current transactions. • Integrates with banking core services to give consumers a more complete picture of their finances including scheduled payments, transfers or withdrawals, minimizing the risk of an overdraft situation. <p style="text-align: center;">Attachment_1 (DN_Product-Card_Vynamic-Mobile-Banking) At 2.</p> <p style="text-align: center;">Source: https://universal.com.sa/medium/document-file-47.vsf</p> <p>END-USER PREFERENCES</p> <ul style="list-style-type: none"> • Turn off TouchID, PIN-based login • Turn off Quick Balance • Set preferred account for transactions • Online help • Provide app feedback • Document management • Define accounts for Quick Balance <p style="text-align: center;">Attachment_1 (DN_Product-Card_Vynamic-Mobile-Banking) At 3.</p> <p style="text-align: center;">Source: https://universal.com.sa/medium/document-file-47.vsf</p>

Claim	Diebold
<p>delivering said retrieved data to said at least one e-banking touch point transmitting said actionable input;</p>	<p>OVERDRAFT ALERTS <small>Keeping track of an account balance when recurring or monthly bills are automatically scheduled is tough. Payday money goes in, bills scheduled to be paid go out. So, when your customers visit an ATM, do they know how much cash is really available? With Vynamic Mobile, the consumer has the information at their fingertips.</small></p> <p>Attachment_ 1 (DN_Product-Card_Vynamic-Mobile-Banking) At 3.</p> <p>Source: https://universal.com.sa/medium/document-file-47.vsf</p>
<p>storing transactional usage data associated with said at least one e-banking touch point transmitting said actionable input, wherein said stored transactional usage data is accessible by any one of said more than one e-banking touch points and said at least one computer system;</p>	<p>OVERDRAFT ALERTS <small>Keeping track of an account balance when recurring or monthly bills are automatically scheduled is tough. Payday money goes in, bills scheduled to be paid go out. So, when your customers visit an ATM, do they know how much cash is really available? With Vynamic Mobile, the consumer has the information at their fingertips.</small></p> <ul style="list-style-type: none"> • Provide the information required to keep consumers informed and alerted about pending transactional activity in order to successfully conduct current transactions. • <u>Integrate with banking core services to give consumers a more complete picture of their finances including scheduled payments, transfers or withdrawals, minimizing the risk of an overdraft situation.</u> <p>Attachment_ 1 (DN_Product-Card_Vynamic-Mobile-Banking) At 2.</p> <p>Source: https://universal.com.sa/medium/document-file-47.vsf</p>
<p>monitoring via said server an active session in real-time for selection of targeted marketing content correlated to said user-defined preferences;</p>	 <p>The screenshot shows a mobile banking application interface with two panels. The left panel is titled 'SELECT PREFERENCE' and the right panel is titled 'TARGET MARKETING'. Both panels show a list of items with checkboxes and descriptive text.</p>

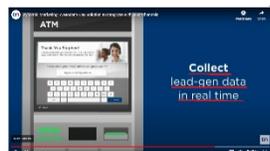
Attachment_ 2 (Vynamic™ Engagement) At 2.

<https://www.dieboldnixdorf.com/en-us/banking/portfolio/software/engagement>



Attachment 3: (Connect with Consumers at the ATM and Across Channels)

Source: <https://www.youtube.com/watch?v=r1UnRHaVd9w&feature=youtu.be>



Attachment 4: (Vynamic Marketing: A Modern-Day Solution to Integrate with your Channels)

Source: <https://www.youtube.com/watch?v=0UFS9e85bhg&feature=youtu.be>

› **Capturing customer data.** Built-in interactive functionality allows marketers and ATM channel managers to use the *Marketing at the ATM* software to capture data from customers. Customers who are interested in learning more about an offer can input a phone number or email address for follow-up, not only creating a lead for the bank but also compiling additional channels for future campaigns.

Attachment 5: (TEI MCCS_DieboldNixdorf) at 10.

Claim	Diebold
	<p>Source: https://www.dieboldnixdorf.com/-/media/diebold/files/banking/insights/whitepaper/teimccs_dieboldnixdorf_072617_final.pdf</p>
<p>subsequent to said monitoring, selecting in real-time said targeted marketing content correlated to said user-defined preferences; and</p>	<div data-bbox="399 478 667 632" data-label="Image"> </div> <div data-bbox="399 674 1365 779" data-label="Section-Header"> <p>Attachment 3: (Connect with Consumers at the ATM and Across Channels)</p> </div> <div data-bbox="399 789 1341 821" data-label="Text"> <p>Source: https://www.youtube.com/watch?v=r1UnRHavD9w&feature=youtu.be</p> </div> <div data-bbox="399 1058 667 1211" data-label="Image"> </div> <div data-bbox="399 1325 1365 1430" data-label="Section-Header"> <p>Attachment 4: (Vynamic Marketing: A Modern-Day Solution to Integrate with your Channels)</p> </div> <div data-bbox="399 1440 1333 1472" data-label="Text"> <p>Source: https://www.youtube.com/watch?v=0UFS9e85bhg&feature=youtu.be</p> </div>
<p>transmitting in real-time said targeted marketing content during said active session to at least one of said e-banking touch points</p>	<p><small>• Delivering third-party ads. Banks that partner with local businesses can offer them advertising space on their ATMs, creating more appealing partnership agreements and supporting commerce in the local community. The SVP of product and channel at a national bank described this benefit: "It's a differentiator for us with our partners. The fact that we can do marketing for them and manage it on a short timeline makes us a very appealing partner."</small></p>

Claim	Diebold
<p>each of which comprise one or more of an automatic teller/transaction machine (ATM), a self-service coin counter (SSCC), a kiosk, a digital signage display, an online accessible banking website, a personal digital assistant (PDA), a personal computer (PC), a laptop, a wireless device, or a combination of two or more thereof, and wherein at least one of said e-banking touch points is in communication with one or more financial institutions through said multi-channel server;</p>	
<p>receiving an actionable input from at least one e-banking touch point;</p>	<p>CARDLESS/PRE-STAGED TRANSACTIONS Consumers want easy, secure access to cash without barriers or extra steps to complete a transaction. One way to get there is by removing the card out of the transaction completely and empowering people's mobile devices to "pre-stage" cash withdrawals.</p> <ul style="list-style-type: none"> • Consumers log into their mobile banking app, enter a withdrawal amount and receive a one-time PIN (OTIP) to use at the terminal. No card necessary. • Leverages integrations with the FI's core system, offering game-changing benefits by eliminating or decreasing traditional ATM certification requirements and authentication complexities. • With the use of an DTP (configurable in length), no additional hardware is required.

Claim	Diebold
	<p>Attachment_1 (DN_Product-Card_Vynamic-Mobile-Banking) At 2.</p> <p>Source: https://universal.com.sa/medium/document-file-47.vsf</p>
<p>retrieving previously stored data associated with said actionable input, wherein said previously stored data is accessible to any one of said e-banking touch points, and said previously stored data comprises data from one or more financial institutions and one or more user-defined preferences;</p>	<p>OVERDRAFT ALERTS <small>Keeping track of an account balance when recurring or monthly bills are automatically scheduled is tough. Payday money goes in, bills scheduled to be paid go out. So, when your customers visit an ATM, do they know how much cash is really available? With Vynamic Mobile, the consumer has the information at their fingertips.</small></p> <ul style="list-style-type: none"> • Provide the information required to keep consumers informed and alerted about pending transactional activity in order to successfully conduct current transactions. • Integrates with banking core services to give consumers a more complete picture of their finances including scheduled payments, transfers or withdrawals, minimizing the risk of an overdraft situation. <p>Attachment_1 (DN_Product-Card_Vynamic-Mobile-Banking) At 2.</p> <p>Source: https://universal.com.sa/medium/document-file-47.vsf</p> <p>END-USER PREFERENCES</p> <ul style="list-style-type: none"> • Turn off TouchID, PIN-based login • Turn off Quick Balance • Set preferred account for transactions • Online help • Provide app feedback • Document management • Define accounts for Quick Balance <p>Attachment_1 (DN_Product-Card_Vynamic-Mobile-Banking) At 3.</p> <p>Source: https://universal.com.sa/medium/document-file-47.vsf</p>
<p>delivering said retrieved data to said at least one e-banking touch point transmitting said actionable input;</p>	<p>OVERDRAFT ALERTS <small>Keeping track of an account balance when recurring or monthly bills are automatically scheduled is tough. Payday money goes in, bills scheduled to be paid go out. So, when your customers visit an ATM, do they know how much cash is really available? With Vynamic Mobile, the consumer has the information at their fingertips.</small></p> <p>Attachment_1 (DN_Product-Card_Vynamic-Mobile-Banking) At 3.</p> <p>Source: https://universal.com.sa/medium/document-file-47.vsf</p>

Claim	Diebold
<p>storing transactional usage data associated with said at least one e-banking touch point transmitting said actionable input, wherein said stored transactional usage data is accessible by any one of said e-banking touch points and said one or more computer systems;</p>	<p>OVERDRAFT ALERTS Keeping track of an account balance when recurring or monthly bills are automatically scheduled is tough. Payday money goes in, bills scheduled to be paid go out. So, when your customer visits an ATM, do they know how much cash is really available? With Vynamic Mobile, the consumer has the information at their fingertips.</p> <ul style="list-style-type: none"> • Provide the information required to keep consumers informed and alerted about pending transactional activity in order to successfully conduct current transactions. • Integrates with banking core services to give consumers a more complete picture of their finances including scheduled payments, transfers or withdrawals, minimizing the risk of an overdraft situation. <p>Attachment_1 (DN_Product-Card_Vynamic-Mobile-Banking) At 2. Source: https://universal.com.sa/medium/document-file-47.vsf</p>
<p>monitoring via said server said active session in real-time for selection of targeted marketing content correlated to said user-defined preferences;</p>	<div data-bbox="402 1020 667 1138" data-label="Image"> </div> <p>Attachment_2 (Vynamic™ Engagement) At 2. https://www.dieboldnixdorf.com/en-us/banking/portfolio/software/engagement</p> <div data-bbox="394 1524 667 1677" data-label="Image"> </div>

Claim	Diebold
	<p data-bbox="396 275 1365 373">Attachment 3: (Connect with Consumers at the ATM and Across Channels)</p> <p data-bbox="396 390 1341 422">Source: https://www.youtube.com/watch?v=r1UnRHaVd9w&feature=youtu.be</p>  <p data-bbox="396 852 1268 951">Attachment 4: (Vynamic Marketing: A Modern-Day Solution to Integrate with your Channels)</p> <p data-bbox="396 968 1333 999">Source: https://www.youtube.com/watch?v=0UFS9e85bhg&feature=youtu.be</p> <p data-bbox="396 1098 659 1161"> <small> › Capturing customer data. Built-in interactive functionality allows marketers and ATM channel managers to use the Marketing at the ATM software to capture data from customers. Customers who are interested in learning more about an offer can input a phone number or email address for follow-up, not only creating a lead for the bank but also compiling additional channels for future campaigns. </small> </p> <p data-bbox="396 1262 992 1293">Attachment 5: (TEI M CCS_DieboldNixdorf) at 10.</p> <p data-bbox="396 1331 1373 1440"> Source: https://www.dieboldnixdorf.com/-/media/diebold/files/banking/insights/whitepaper/tei-mccs_dieboldnixdorf_072617_final.pdf </p>
<p data-bbox="99 1482 367 1713">subsequent to said monitoring, selecting in real-time said targeted marketing content correlated to said user-defined preferences; and</p>	

Claim	Diebold
	<p data-bbox="394 275 1369 373">Attachment 3: (Connect with Consumers at the ATM and Across Channels)</p> <p data-bbox="394 390 1341 422">Source: https://www.youtube.com/watch?v=r1UnRHaVd9w&feature=youtu.be</p>  <p data-bbox="394 926 1268 1024">Attachment 4: (Vynamic Marketing: A Modern-Day Solution to Integrate with your Channels)</p> <p data-bbox="394 1041 1333 1073">Source: https://www.youtube.com/watch?v=0UFS9e85bhg&feature=youtu.be</p>
<p data-bbox="99 1247 367 1864">transmitting in real-time said targeted marketing content during said active session to at least one of said e-banking touch points for acceptance, rejection, or no response by a user, wherein said response by said user is used during said active session to determine whether transmission of additional</p>	<p data-bbox="402 1373 667 1446"><small>• Delivering third-party ads. Banks that partner with local businesses can offer them advertising space on their ATMs, creating more appealing partnership agreements and supporting commerce in the local community. The SVP of product and channel at a national bank described this benefit: "It's a differentiator for us with our partners. The fact that we can do marketing for them and manage it on a short timeline makes us a very appealing partner."</small></p> <p data-bbox="394 1619 992 1650">Attachment 5: (TEI MCCS_DieboldNixdorf) at 10.</p> <p data-bbox="394 1688 1373 1801">Source: https://www.dieboldnixdorf.com/-/media/diebold/files/banking/insights/whitepaper/tei-mccs_dieboldnixdorf_072617_final.pdf</p>

Claim	Diebold
information related to said marketing content occurs during said active session.	

These allegations of infringement are preliminary and are therefore subject to change.

10. DIEBOLD has and continues to induce infringement. DIEBOLD has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to construct a unified banking system such as to cause infringement of one or more of claims 1–20 of the '508 patent, literally or under the doctrine of equivalents. Moreover, DIEBOLD has known of the '508 patent and the technology underlying it from at least the date of issuance of the patent.

11. DIEBOLD has and continues to contributorily infringe. DIEBOLD has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., construction of unified banking system) and related services that provide unified banking systems such as to cause infringement of one or more of claims 1–20 of the '508 patent, literally or under the doctrine of equivalents. Moreover, DIEBOLD has known of the '508 patent and the technology underlying it from at least the date of issuance of the patent.

12. DIEBOLD has caused and will continue to cause MCom damage by direct and indirect infringement of (including inducing infringement of) the claims of the '508 patent.

IV. JURY DEMAND

MCom hereby requests a trial by jury on issues so triable by right.

V. PRAYER FOR RELIEF

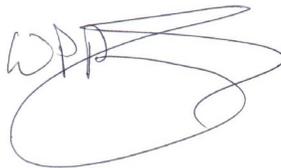
WHEREFORE, MCom prays for relief as follows:

- a. enter judgment that Defendant has infringed the claims of the '508 patent;
- b. award MCom damages in an amount sufficient to compensate it for Defendant's infringement of the '508 patent in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;
- c. award MCom an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
- d. declare this case to be "exceptional" under 35 U.S.C. § 285 and award MCom its attorneys' fees, expenses, and costs incurred in this action;
- e. declare Defendant's infringement to be willful and treble the damages, including attorneys' fees, expenses, and costs incurred in this action and an increase in the damage award pursuant to 35 U.S.C. § 284;
- f. a decree addressing future infringement that either (i) awards a permanent injunction enjoining Defendant and its agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association with Defendant from infringing the claims of the Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an amount consistent with the fact that for future infringement the Defendant will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law; and

g. award MCom such other and further relief as this Court deems just and proper.

Respectfully submitted,

Ramey & Schwaller, LLP

A handwritten signature in blue ink, appearing to read 'WPR', with a large, stylized flourish underneath.

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