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Attorneys for Plaintiff, PELCO, a California General Partnership

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

PELCO, a California General Partnership,	)	Case No.
	)	
Plaintiff,	)	
	)	COMPLAINT FOR DECLARATORY
v.	)	RELIEF
	)	
VIGILOS, INC., and DOES 1 - 20, inclusive,	)	
	)	
Defendants.	)	
	)	

Plaintiff, Pelco, a California general partnership, alleges against the defendants, as follows:

**THE PARTIES**

1. Pelco is a general partnership organized and existing under the laws of the State of California and having its principal place of business in Clovis, California. Pelco is authorized to do business in the State of California and does business throughout California, including the County of Fresno.

2. On information and belief, Plaintiff alleges that Vigilos, Inc. ("Vigilos") is a Washington corporation doing business in California and has alliances with California companies.

3. Plaintiffs are unaware of the true names and capacities, whether corporate, individual, associate, or otherwise, of the Defendants sued herein as DOES 1-20 and therefore sues those Defendants by such fictitious names. Plaintiffs will seek leave of this Court to amend this

1 Complaint to insert the true names of those Defendants when the same are ascertained. Plaintiffs  
2 are informed and believe and thereon allege that certain of DOES 1-20 were agents or employees  
3 of the other Defendants and of one another, and were at all times acting within the purpose and  
4 scope of such agency or employment.

5 4. On January 26, 2005 Vigilos sent a letter (hereinafter referred to as "demand  
6 letter") to Pelco in California, a copy of which is attached hereto as Exhibit "A" and incorporated  
7 by reference as through fully set forth, accusing Pelco of infringing US Patent No. 6,698,021 B1  
8 ("the '021 patent") and US Patent No. 5,491,511 ("the '511 patent").

9 5. Vigilos claims to be the assignee of and to own all right, title and interest in  
10 the '021 patent and the '511 patent.

11 **JURISDICTION AND VENUE**

12 6. This Court has jurisdiction over this action pursuant to the Federal  
13 Declaratory Judgments Act, 28 U.S.C. 2201-02, under the laws of the United States concerning  
14 actions relating to patents, 28 U.S.C. 1338(a), and 28 U.S.C. 1332.

15 7. This Court has personal jurisdiction over the defendants under the  
16 California Long Arm Statute and the Due Process Clause of the Fifth Amendment in that it has  
17 purposefully directed commercial efforts toward residents of the State of California such that it has  
18 sufficient contacts with the State of California that the United States Constitution permits this  
19 court to exercise personal jurisdiction over the defendants.

20 8. Venue is vested in this court pursuant to 28 U.S.C. §1391(c).

21 **Declaratory Relief Sought Regarding Actual Controversy**

22 9. The Demand Letter accuses products manufactured by Pelco in Clovis  
23 California of infringing the '021 and '511 patents. Pelco is engaged in the ongoing production of  
24 the accused products.

25 10. Pelco denies that the accused products infringe the '012 or '511 patents.

26 11. Upon information and belief Vigilos has filed multiple patent infringement  
27 cases regarding the '021 patent and appears engaged in an aggressive campaign of suing under the  
28 patents.

12. Pelco has a real and reasonable apprehension that it will be subject to a suit for alleged infringement of the '021 and '511 patents if it continues to manufacture the accused products. Thus, an actual controversy has arisen and now exists relating to the rights and duties of the parties herein in that defendants contend that the patents referred to in the demand letter created in defendants the right to patent protection, whereas plaintiff contends that Pelco products do not infringe the '021 or '511 patents.

13. Plaintiff desires a judicial determination of its rights and duties, and a declaration as to whether plaintiff infringed said patents.

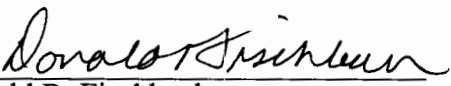
14. A judicial interpretation is necessary and appropriate at this time under the circumstances in order that plaintiff may ascertain its rights with respect to the use of such accused products.

WHEREFORE, plaintiff prays for:

- a. For a declaration that and an entry of a Declaratory Judgment that Pelco's accused products do not infringe the '021 or '511 patents;
- b. Costs of suit incurred herein; and,
- c. Such other and ancillary relief as is necessary to enforce any declaratory judgment entered and as the court may deem proper.

DATED: February 10, 2005.

BAKER, MANOCK & JENSEN

By   
Donald R. Fischbach  
Attorneys for Plaintiff, PELCO, a California  
General Partnership

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January 26, 2005

**VIA FEDERAL EXPRESS**

David L. McDonald  
Chief Executive Officer  
Pelco  
3500 Pelco Way  
Clovis, CA 93612

Re: U.S. Patent Nos. 6,698,021 B1 and 5,491,511  
Our Reference: VIGL-7-12187

Dear Mr. McDonald:

We represent Vigilos, Inc. in the licensing and enforcement of its United States Patent No. 6,698,021 B1 ("the '021 patent") and United States Patent No. 5,491,511 ("the '511 patent"), copies of which are enclosed for your convenience. The claims of the '021 patent cover a broad array of systems and methods directed to the remote control of surveillance devices. The claims of the '511 patent cover the integration of point-of-sale devices within a video surveillance system. The remainder of Vigilos's patent portfolio is directed to the same or similar technology.

It appears that Pelco's digital video recorders and software fall within the scope of the Vigilos '021 and '511 patents. Pelco's own description of its Central Management Software, for example, clearly shows infringement of independent Claim 1 of the '021 patent. Pelco's description of its DX2000 digital video recorder shows infringement of independent Claim 1 of the '511 patent. Several other claims of the '021 and '511 patents appear to cover these and other Pelco products as well.

Vigilos has not hesitated to protect its interests when its patents are infringed. Recently, for example, Vigilos reached an efficient and amicable settlement with D3Data, LLC, provider of video security systems, regarding the '021 patent. We are hopeful that we can similarly reach an amicable resolution with Pelco without the necessity of litigation. To that end, Vigilos would like to open a dialog to determine whether a business resolution is possible regarding Pelco's past and future use of Vigilos's patented technology. Specifically, Vigilos proposes that Pelco enter into a patent license agreement with royalties based on a percentage of gross sales of Pelco's infringing products.

We are confident that when you have reviewed the '021 and '511 patents you will agree that a license would be beneficial to Pelco and preferable to litigation, which can be costly and protracted. A license under the Vigilos patents will also provide Pelco with a competitive advantage in the industry.

David L. McDonald  
January 26, 2005  
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We would appreciate a response to this letter at your earliest convenience. In any event, please respond no later than February 11, 2005. In the meantime, please contact us if there is anything we may provide to assist you in the prompt evaluation of this matter.

Very truly yours,

CHRISTENSEN O'CONNOR  
JOHNSON KINDNESS<sup>PLLC</sup>



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WDS:jlb

Enclosures:  
U.S. Patent No. 6,698,021 B1  
U.S. Patent No. 5,491,511