

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

FILED-CLERK  
U.S. DISTRICT COURT  
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TX EASTERN-MARSHALL

**TROVER GROUP, INC. and  
SECURITY CENTER, INC.**  
PLAINTIFFS

vs.

**DIEBOLD, INCORPORATED**  
DEFENDANT

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NO. 2 - 0 6 C V - 4 4 5

BY \_\_\_\_\_

**PLAINTIFFS' ORIGINAL COMPLAINT**

Plaintiffs Trover Group, Inc., and Security Center, Inc., file this, their Original Complaint for patent infringement and declaratory judgment. Plaintiff Trover Group, Inc., asserts a claim for infringement of U.S. Patent Nos. 5,751,345, 5,751,346, Des. 365,834 and D524,834 S, copies of which are attached hereto as Exhibits "A," "B," "C," and "D", against Defendant Diebold, Incorporated under 35 U.S.C. § 271. Plaintiffs Trover Group, Inc. and Security Center, Inc. further seek a declaratory judgment of non-infringement and invalidity with respect to U.S. Patents 6,583,813 and 5,539,454 which are attached hereto as Exhibits "F" and "G", that Defendant Diebold Incorporated has threatened to assert against Plaintiffs. In support thereof, Plaintiffs Trover Group, Inc. and Security Center, Inc. would respectfully show the Court the following:

**PARTIES**

1 Plaintiff Trover Group, Inc. ("Trover") is a Texas corporation with its principal office located at 10750 Forest Lane, Dallas, Texas. Trover was formerly known as Dozier Financial Corporation.

2. Plaintiff Security Center, Inc. ("Security Center") is a Texas corporation with its principal office located at 10750 Forest Lane, Dallas, Texas. Plaintiff Security Center and Plaintiff Trover are sister corporations.

3. Defendant Diebold, Incorporated ("Diebold") is an Ohio corporation with its principal office located at 5995 Mayfair Road, P.O. Box 3077, North Canton, Ohio. Diebold is authorized to do business in Texas and may be served with process through its registered agent for service of process, CT Corp. Systems, 350 N. St. Paul St., Dallas, Texas 75201.

### **JURISDICTION AND VENUE**

4. This is an action for patent infringement and for declaratory judgment of noninfringement and invalidity arising under the patent laws of the United States, Title 35, United States Code. This Court has exclusive subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1338(a) and 2201.

5. This Court has personal jurisdiction over Defendant Diebold. Defendant Diebold conducts business within the State of Texas. Diebold, directly or through intermediaries (including distributors, retailers, and others) ships, distributes, offers for sale, sells, and advertises its products in the United States, the State of Texas, and the Eastern District of Texas. Diebold has purposefully and voluntarily placed infringing products in the stream of commerce with the expectation that its products will be purchased by end users in the Eastern District of Texas. Diebold has committed the tort of patent infringement within the State of Texas and this District. Diebold maintains a registered agent in the State of Texas.

6. Venue is proper in the Eastern District of Texas under 28 U.S.C. §§ 1391(b) and 1400.

### **PATENT INFRINGEMENT**

7. United States Patent No. 5,751,345 (“the ‘345 Patent”), entitled “IMAGE RETENTION AND INFORMATION SECURITY SYSTEM,” was duly and legally issued by the United States Patent and Trademark Office on May 12, 1998, after full and fair examination (Exhibit A). The ‘345 Patent relates generally to video monitoring systems, and in particular to such systems which store and retrieve images by use of computer equipment and digital storage. Plaintiff Trover is the assignee of all rights, title and interest in and to the ‘345 Patent and possesses all rights of recovery under the ‘345 Patent.

8. United States Patent No. 5,751,346 (“the ‘346 Patent”), entitled “IMAGE RETENTION AND INFORMATION SECURITY SYSTEM” was duly and legally issued by the United States Patent and Trademark Office on May 12, 1998, after full and fair examination (Exhibit B). The ‘346 Patent relates generally to video monitoring systems, and in particular to such systems which store and retrieve images by use of computer equipment and digital storage. Plaintiff Trover is the assignee of all rights, title and interest in and to the ‘346 Patent and possesses all rights of recovery under the ‘346 Patent.

9. United States Patent No. Des. 365,834 (“the ‘834 Patent”), entitled “HOUSING FOR A SURVEILLANCE CAMERA,” was duly and legally issued by the United States Patent and Trademark Office on January 2, 1996, after full and fair examination (Exhibit C). The ‘834 Patent is a design patent that relates to a design a camera housing.

Plaintiff Trover is the assignee of all rights, title and interest in and to the '834 Patent and possesses all rights of recovery under the '834 Patent

10. United States Patent No D524,834 S ("the '834 S Patent"), entitled "EXTERNAL SURFACE CONFIGURATION OF A CAMERA HOUSING," was duly and legally issued by the United States Patent and Trademark Office on July 11, 2006, after full and fair examination (Exhibit D). The '834 S Patent is a design patent that relates to a design for a camera housing. Plaintiff Trover is the assignee of all rights, title and interest in and to the '834 S Patent and possesses all rights of recovery under the '834 S Patent.

11. Defendant Diebold is infringing the '345 and '346 Patents by making, using, selling, or offering for sale in the United States, including in the Eastern District of Texas, products, and by undertaking processes, embodying the patented inventions without authority. Defendant Diebold is infringing the '834 and '834 S Patents by making, using, selling or offering for sale in the United States, including in the Eastern District of Texas, products embodying the patented designs without authority. *See* Exhibit "E," a copy of Diebold's product catalogue featuring infringing products. Defendant Diebold is actively, intentionally, and/or knowingly inducing or contributing to infringement of the '345, '346, '834 and '834 S Patents by others.

12. Defendant Diebold's infringement of the '345, '346, '834 and '834 S Patents is willful and deliberate.

13. Prior to the filing of this action, Plaintiff Trover has complied with 35 U S C. § 287(a) by marking or having had marked all products which Plaintiff Trover has authorized to be made under the '345, '346, '834 and '834 S Patents, and/or providing

notice to Defendant Diebold of its infringement of the '345, '346, '834 and '834 S Patents.

### **DECLARATORY JUDGMENT**

14. In July of 2003, after Plaintiffs had offered a license of the '345 and '346 Patents to Diebold, Diebold put Plaintiffs "on notice" that it owned U.S. Patent 6,583,813 ("the '813 Patent"), and that it was the exclusive licensee under U.S. Patent 5,539,454 ("the '454 Patent"), under which Diebold had "the right to bring claims for violations thereof." Diebold claimed that these patents cover certain aspects of products manufactured or sold by Plaintiffs. Diebold's warning placed Plaintiffs in reasonable apprehension of being sued for patent infringement under the '813 Patent and/or the '454 Patent, particularly if Plaintiffs undertook to enforce the '345 and/or '346 Patents against Diebold.

15. After a careful evaluation of the '813 and '454 Patents, Plaintiffs have concluded that they do not infringe either patent. Moreover, Plaintiffs believe that the '813 Patent is invalid. Accordingly, and pursuant to 28 U.S.C. § 2201, Plaintiffs seek a declaratory judgment that it does not infringe the '813 and '454 Patents, and that the '813 Patent is invalid.

### **RELIEF**

Plaintiffs Trover Group, Inc. and Security Center, Inc. respectfully request the following relief:

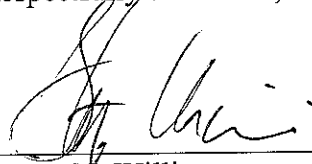
- A. that the Court issue a permanent injunction against Defendant Diebold enjoining Diebold from making, using, selling, or offering for sale in the United States any products, and from undertaking any processes,

embodying the patented inventions or designs claimed in the '345, '346, '834 and '834 S Patents;

- B. that the Court award damages to Plaintiff Trover to which it is entitled;
- C. that the Court treble the damages for willful infringement;
- D. that the Court award interest on such damages;
- E. that the Court declare that Plaintiffs Trover and Security Center have not infringed the '813 or '454 Patents;
- F. that the Court declare that the '813 Patent is invalid;
- G. that the Court award Plaintiffs Trover and Security Center their costs and attorneys' fees incurred in this action; and
- H. that the Court award such other and further relief, at law or in equity, as the Court deems just and proper.

A JURY TRIAL IS DEMANDED BY PLAINTIFFS TROVER GROUP, INC  
AND SECURITY CENTER, INC.

Respectfully submitted,



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**ATTORNEYS FOR PLAINTIFFS**