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9 United States of America

10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
12 WESTERN DIVISION  
13

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 v.

17 UMG RECORDINGS, INC., a  
18 corporation,

19 Defendant.

Civil Action No.  
CV-04-1050 JFW (Ex)

CONSENT DECREE AND  
ORDER FOR CIVIL  
PENALTIES, INJUNCTIVE,  
AND OTHER RELIEF

20  
21 WHEREAS plaintiff, the United States of America, has commenced this  
22 action by filing the Complaint herein; defendant has waived service of the  
23 Summons and Complaint; the parties have been represented by the attorneys whose  
24 names appear hereafter; and the parties have agreed to settlement of this action  
25 upon the following terms and conditions, without adjudication of any issue of fact  
26 or law and without defendant admitting liability for any of the matters alleged in  
27 the Complaint or that the facts as alleged in the Complaint, other than the  
28 jurisdictional facts, are true;

1           THEREFORE, on the joint motion of plaintiff and defendant, it is hereby  
2 ORDERED, ADJUDGED, and DECREED as follows:

3           1.     This Court has jurisdiction of the subject matter and of the parties.

4           2.     The Complaint states a claim upon which relief may be granted  
5 against defendant under Sections 1303(c) and 1306(d) of the Children’s Online  
6 Privacy Protection Act of 1998 (“COPPA”), 15 U.S.C. §§ 6501-6506, 6502(c), and  
7 6505(d), and Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a) of the Federal Trade  
8 Commission Act (“FTC Act”), 15 U.S.C. §§ 41-58, 45(a)(1), 45(m)(1)(A), 53(b),  
9 and 56(a). Among other things, the Complaint alleges that defendant violated  
10 COPPA by failing to provide notice of its information practices and obtain  
11 verifiable parental consent prior to collecting and using personal information from  
12 children online.

13  
**DEFINITIONS**

14           3.     For the purposes of this Consent Decree, the term “Rule” means the  
15 Federal Trade Commission’s Children’s Online Privacy Protection Rule, 16 C.F.R.  
16 Part 312.

17           4.     For the purposes of this Consent Decree, the terms “child,” “collects,”  
18 “collection,” “Commission,” “delete,” “disclosure,” “Internet,” “online contact  
19 information,” “operator,” “parent,” “person,” “personal information,” “third party,”  
20 “verifiable consent,” and “website or online service directed to children,” are  
21 defined as those terms are defined in Section 312.2 of the Rule,  
22 16 C.F.R. § 312.2.

23  
**INJUNCTION**

24           5.     Defendant, its successors and assigns, and its officers, agents,  
25 representatives, and employees, and all persons in active concert or participation  
26 with any one or more of them who receive actual notice of this Consent Decree by  
27

1 personal service or otherwise, are hereby enjoined, directly or through any  
2 corporation, subsidiary, division, website, or other device, from violating any  
3 provision of the Rule in connection with any of defendant's websites or online  
4 services. A copy of the current Rule is attached hereto as "Appendix A" and  
5 incorporated herein as if fully set forth verbatim.

6 6. In the event the Rule is hereafter amended or modified, defendant's  
7 compliance with the Rule as amended or modified shall not be deemed a violation  
8 of this injunction.

### 9 CONSUMER EDUCATION REMEDY

10 7. For a period of five (5) years from the date of entry of this Consent  
11 Decree, defendant, and its successors and assigns, in connection with the operation  
12 of any website or other online service directed to children or through which it, with  
13 actual knowledge, collects, uses, and/or discloses personal information from  
14 children, shall place a clear and conspicuous notice (1) within the privacy policy  
15 required to be posted on its website(s) by Section 312.4(b) of the Rule, 16 C.F.R.  
16 § 312.4(b); (2) within the direct notice required to be sent to parents by Section  
17 312.4(c) of the Rule, 16 C.F.R. § 312.4(c); and (3) at each location on its  
18 website(s) where personal information is collected, which states as follows in bold  
19 typeface:

20 **NOTICE: Visit [www.ftc.gov/kidzprivacy](http://www.ftc.gov/kidzprivacy) for information from the**  
21 **Federal Trade Commission about protecting children's**  
22 **privacy online.**

23 Where the above notice is posted on a website or delivered via email or other  
24 electronic service, it shall be in the form of a hyperlink to the above-referenced  
25 URL. The Federal Trade Commission may change the hyperlink/URL upon thirty  
26 (30) days prior written notice to defendant, its successors or assigns.

1 **CIVIL PENALTY**

2 8. Defendant, and its successors and assigns, shall pay to plaintiff a civil  
3 penalty, pursuant to Section 5(m)(1)(A) of the Federal Trade Commission Act, 15  
4 U.S.C. § 45(m)(1)(A), in the amount of four hundred thousand dollars (\$400,000),  
5 due and payable within five (5) days following entry of this Consent Decree.  
6 Unless otherwise directed, payment shall be made by electronic fund transfer in  
7 accordance with procedures specified by the Office of Consumer Litigation, Civil  
8 Division, U.S. Department of Justice, Washington, D.C. 20530.

9 9. In the event of any default in payment, which default continues for ten  
10 (10) days beyond the due date of payment, the entire unpaid penalty, together with  
11 interest, as computed pursuant to 28 U.S.C. § 1961, from the date of default to the  
12 date of payment, shall immediately become due and payable.

13 **COMPLIANCE**

14 10. Defendant, and its successors and assigns, within ten (10) days from  
15 the date of entry of this Consent Decree, shall delete all personal information  
16 collected from every child through its websites at any time from April 21, 2000  
17 through the date of entry of this Consent Decree.

18 11. Defendant, and its successors and assigns, within thirty (30) days from  
19 the date of entry of this Consent Decree, shall provide a copy of this Consent  
20 Decree and the Federal Trade Commission compliance guide entitled *How to*  
21 *Comply with the Children’s Online Privacy Protection Rule* (Nov. 1999)  
22 (“compliance guide”) (attached hereto as “Appendix B”) to each of its current  
23 officers, directors, employees, agents, and representatives having responsibilities  
24 related to the operation of any website or online service subject to this Consent  
25 Decree, and secure a signed statement or return email from each such person  
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27

1 certifying his or her receipt of a copy of this Consent Decree and the compliance  
2 guide. Defendant shall, within fifteen (15) days of complying with this paragraph,  
3 submit to the Commission a signed statement setting forth the fact and manner of  
4 defendant's compliance, including the name and title of each person to whom a  
5 copy of the Consent Decree and compliance guide has been provided.

6 12. For a period of five (5) years from the date of entry of this Consent  
7 Decree, defendant, and its successors and assigns, shall provide a copy of this  
8 Consent Decree and the compliance guide to each of its future officers, directors,  
9 employees, agents, and representatives having responsibilities related to the  
10 operation of any website or online service subject to this Consent Decree, and  
11 secure a signed statement or return email from each such person certifying his or  
12 her receipt of a copy of this Consent Decree and the compliance guide, within  
13 thirty (30) days after the person assumes such position or responsibilities.

14 Defendant shall maintain copies of the signed statements, as well as other  
15 information regarding the fact and manner of its compliance, including the name  
16 and title of each person to whom a copy of the Consent Decree and compliance  
17 guide has been provided and, upon request, shall make the statements and other  
18 information available to the Federal Trade Commission.

19 13. Within sixty (60) days from the date of entry of this Consent Decree,  
20 and at such other times as the Federal Trade Commission may reasonably require,  
21 defendant, and its successors and assigns, shall file with the Commission a written  
22 report, setting forth in detail the manner and form in which it has complied and is  
23 complying with this Consent Decree. The report shall include but not be limited  
24 to:

- 25 a. a statement setting forth in detail the criteria and process  
26 through which any of its websites registers visitors online for  
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1 any activity requiring the submission of personal information,  
2 and a copy of each different screen or page providing  
3 registration information or collecting personal information;

4 b. a copy of the home page(s) for each of its websites and a copy  
5 of each different privacy notice posted on any of its websites;

6 c. a copy of each different privacy notice sent to parents of  
7 children from whom defendant seeks to collect personal  
8 information;

9 d. a statement setting forth in detail when and how each such  
10 notice to parents is provided;

11 e. a statement setting forth in detail the methods used to obtain  
12 verifiable parental consent prior to any collection, use, and/or  
13 disclosure of personal information from children;

14 f. a statement setting forth in detail the means provided for  
15 parents to review the personal information collected from their  
16 children and to refuse to permit its further use or maintenance;

17 g. a statement setting forth in detail why each type of information  
18 collected from children is reasonably necessary for the  
19 provision of the particular related activity; and

20 h. a statement setting forth in detail the procedures used to protect  
21 the confidentiality, security, and integrity of personal  
22 information collected from children.

1           14. For a period of five (5) years from the date of entry of this Consent  
2 Decree, defendant, and its successors and assigns, shall maintain, and make  
3 available to the Federal Trade Commission for inspection and copying within  
4 fourteen (14) days of the date of receipt of a written request, a print or electronic  
5 copy in HTML format of documents sufficient to demonstrate compliance with the  
6 terms and provisions of this Consent Decree, including for example, a sample copy  
7 of every different form, web page, or screen through which personal information is  
8 collected, and a sample copy of each different privacy policy containing any  
9 representation regarding defendant's collection, use, and disclosure practices  
10 pertaining to the personal information of a child. Each document shall be  
11 accompanied by the URL of the web page where the material was posted online.  
12 Electronic copies shall include all text and graphics files, audio scripts, and other  
13 computer files used in presenting information on the Internet. Provided, however,  
14 that defendant shall not be required to retain any document for longer than two (2)  
15 years after the document was created, or to retain a print or electronic copy of any  
16 amended web page or screen to the extent that the amendment does not affect  
17 defendant's compliance obligations under this Consent Decree.

18           15. For a period of five (5) years from the date of entry of this Consent  
19 Decree, defendant, and its successors and assigns, shall notify the Commission at  
20 least thirty (30) days prior to any change in its business that may affect compliance  
21 obligations arising under this Consent Decree, including, but not limited to, any  
22 merger, incorporation, dissolution, assignment, sale, or other action that would  
23 result in a successor corporation; the creation or dissolution of any parent,  
24 subsidiary, or affiliate that controls or is controlled by defendant; the filing of a  
25 bankruptcy petition; or a change in the corporate name or principal place of  
26 business. Provided, however, that, with respect to any proposed change in the  
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1 corporation about which defendant, or its successors and assigns, learn less than  
2 thirty (30) days prior to the date such action is to take place, it shall notify the  
3 Commission as soon as is practicable after obtaining such knowledge.

4 16. Defendant is hereby required, in accordance with 31 U.S.C. § 7701, to  
5 furnish to the Federal Trade Commission its taxpayer identifying number (social  
6 security number or employer identification number), which shall be used for  
7 purposes of collecting and reporting on any delinquent amount arising out of its  
8 relationship with the government.

9 17. All reports, submissions, and notices required by Paragraphs 11 - 16  
10 of this Consent Decree shall be sent by certified mail to:

11 For the Federal Trade Commission:

12 Associate Director, Division of Advertising Practices  
13 Federal Trade Commission  
14 600 Pennsylvania Ave., NW  
15 Washington, D.C. 20580  
16 Attention: *United States v. UMG Recordings, Inc.*

17 For UMG Recordings, Inc.:

18 UMG Recordings, Inc.  
19 2220 Colorado Boulevard  
20 Santa Monica, California 90404  
21 Attention: Executive Vice President, Business and Legal Affairs

22 **CONTINUING JURISDICTION**

23 18. This Court shall retain jurisdiction of this matter for the purposes of  
24 enabling any of the parties to this Consent Decree to apply to the Court at any time  
25 for such further orders or directives as may be necessary or appropriate for the  
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1 interpretation or modification of this Consent Decree, for the enforcement of  
2 compliance therewith, or for the punishment of violations thereof.

3  
4 JUDGMENT IS THEREFORE ENTERED pursuant to all the terms and  
5 conditions recited above.

6 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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10 UNITED STATES DISTRICT JUDGE  
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1 The parties, by their counsel, hereby consent to the terms and conditions of  
2 the Consent Decree as set forth above and consent to the entry thereof. Defendant  
3 waives any rights that may arise under the Equal Access to Justice Act, 28 U.S.C. §  
4 2412, concerning the investigation and prosecution of this action.

5  
6 FOR THE UNITED STATES OF AMERICA:

7 PETER D. KEISLER  
8 Assistant Attorney General  
9 Civil Division  
10 U.S. Department of Justice

11 DEBRA W. YANG  
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FOR THE FEDERAL TRADE COMMISSION:

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Federal Trade Commission  
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(202) 326-3259 (fax)

FOR THE DEFENDANT:  
UMG RECORDINGS, INC.

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