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9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
11

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 UMG RECORDINGS, INC., a  
16 corporation,

17 Defendant.  
18

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

COMPLAINT FOR CIVIL  
PENALTIES, INJUNCTIVE,  
AND OTHER RELIEF

19 Plaintiff, the United States of America, acting upon notification and  
20 authorization to the Attorney General by the Federal Trade Commission (“FTC” or  
21 “Commission”), for its Complaint alleges that:

22 1. Plaintiff brings this action under §§1303(c) and 1306(d) of the  
23 Children’s Online Privacy Protection Act of 1998 (“COPPA”), 15 U.S.C. §§ 6501-  
24 6506, 6502(c), and 6505(d), and §§ 5(a)(1), 5(m)(1)(A), 13(b), and 16(a) of the  
25 Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 41-58, 45(a)(1),  
26 45(m)(1)(A), 53(b), and 56(a), to obtain monetary civil penalties, a permanent  
27 injunction, and other equitable relief for defendant’s violations of the  
28 Commission’s Children’s Online Privacy Protection Rule (the “Rule”), 16 C.F.R.  
Part 312.

1 **JURISDICTION AND VENUE**

2 2. This Court has jurisdiction over this matter under 28 U.S.C. §§ 1331,  
3 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), and 56(a).  
4 This action arises under 15 U.S.C. §§ 45(a)(1) and 6502(c).

5 3. Venue in this District is proper under 15 U.S.C. § 53(b) and 28 U.S.C.  
6 §§ 1391(b)-(c) and 1395(a).

7 **DEFINITIONS**

8 4. For purposes of this Complaint, the terms “child,” “collects,”  
9 “collection,” “Commission,” “delete,” “disclosure,” “Internet,” “online contact  
10 information,” “operator,” “parent,” “person,” “personal information,” “third party,”  
11 “verifiable consent,” and “website or online service directed to children,” are  
12 defined as those terms are defined in Section 312.2 of the Rule, 16 C.F.R. § 312.2.

13 **THE CHILDREN’S ONLINE PRIVACY PROTECTION RULE**

14 5. Congress enacted the Children’s Online Privacy Protection Act, 15  
15 U.S.C. §§ 6501-6506, in 1998 to protect the safety and privacy of children online  
16 by prohibiting the unauthorized or unnecessary collection of children’s personal  
17 information online by operators of Internet websites or online services. The Act  
18 directed the Federal Trade Commission to promulgate a rule implementing  
19 COPPA. The Commission promulgated the Children’s Online Privacy Protection  
20 Rule, 16 C.F.R. Part 312, on November 3, 1999 under Section 1303(b) of COPPA,  
21 15 U.S.C. § 6502(b), and Section 553 of the Administrative Procedures Act, 5  
22 U.S.C. § 553. The Rule went into effect on April 21, 2000.

23 6. The Rule applies to any operator of a commercial website or online  
24 service, or portion thereof, directed to children that collects, uses, and/or discloses  
25 personal information from children, and to any operator of a commercial website  
26 or online service that has actual knowledge that it collects, uses, and/or discloses  
27 personal information from children.

28 7. The Rule requires a subject website operator to meet specific

1 requirements prior to collecting online, using, or disclosing personal information  
2 from children, including but not limited to:

- 3 a. Posting a privacy policy on its website providing clear,  
4 understandable, and complete notice of its information  
5 practices, including what information the website operator  
6 collects from children online, how it uses such information, its  
7 disclosure practices for such information, and other specific  
8 disclosures set forth in the Rule;
- 9 b. Providing clear, understandable, and complete notice of its  
10 information practices, including specific disclosures, directly to  
11 parents when required by the Rule;
- 12 c. Obtaining verifiable parental consent prior to collecting, using,  
13 and/or disclosing personal information from children;
- 14 d. Giving parents the option to consent to the collection and  
15 internal use of their children's personal information without  
16 consenting to the disclosure of that information to third parties;
- 17 e. Providing a reasonable means for parents to review the personal  
18 information collected from their children and to refuse to permit  
19 its further use or maintenance;
- 20 f. Not conditioning children's participation in an activity upon  
21 children disclosing more personal information than is  
22 reasonably necessary to participate in that activity; and
- 23 g. Establishing and maintaining reasonable procedures to protect  
24 the confidentiality, security, and integrity of personal  
25 information collected from children.

26 8. Pursuant to Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a  
27 violation of the Rule constitutes an unfair or deceptive act or practice in violation  
28 of Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1). *See also* COPPA, 15

1 U.S.C. § 6502(c).

2 **DEFENDANT**

3 9. Defendant UMG Recordings, Inc. is a Delaware corporation with its  
4 principal office or place of business located at 2220 Colorado Boulevard, Santa  
5 Monica, California 90404. Defendant markets its musical artists and recordings  
6 throughout the United States, including through the Internet.

7 10. The acts and practices of defendant alleged in this complaint have  
8 been in or affecting commerce, as “commerce” is defined in Section 4 of the FTC  
9 Act, 15 U.S.C. § 44.

10 **DEFENDANT’S COURSE OF CONDUCT**

11 11. Since at least April 21, 2000, defendant has been the operator of  
12 hundreds of Internet websites advertising and promoting its musical recording  
13 artists and labels. Since at least February 5, 2002, defendant also has been the  
14 operator of the [www.lilromeo.com](http://www.lilromeo.com) website. Many of defendant’s websites offer  
15 activities through which children can interact with the website and with the public,  
16 including but not limited to fan club memberships, mailing lists, and bulletin  
17 boards. (*See, e.g.*, Exhibits (“Exs.”) A, B, C.)

18 12. Defendant collects or has collected personal information from  
19 children through the operation of its websites. Many of these websites are general  
20 audiences sites where defendant has had actual knowledge when visitors  
21 submitting their personal information were under the age of 13. (*See, e.g.*, Ex. D,  
22 page (“p.”) 1, Ex. E, p. 1, Ex. F, pp.1, 2.) In addition, the [www.lilromeo.com](http://www.lilromeo.com)  
23 website is directed to children under the age of 13. (Ex. C.) The website’s subject  
24 matter is Lil’ Romeo, a twelve-year-old recording artist who “enjoys ‘just being a  
25 regular kid.’” The website features content directed to children such as an  
26 animated game in which the player helps Lil’ Romeo save an elementary school  
27 from aliens by answering simple math and history questions. The website also  
28 features music and lyrics from Lil’ Romeo’s album “Game Time,” which is “about

1 having fun, and also about, you know, kids['] things.” Defendant is, therefore, an  
2 “operator” as defined in the Rule.

### 3 **Defendant’s Information Collection and Use Practices**

4 13. Visitors who have sought to register for various activities at  
5 defendant’s websites, such as newsletters and bulletin boards, have been presented  
6 with a form to fill out and submit online. In most instances, the first page of  
7 defendant’s registration form has collected personal information including the  
8 visitor’s date of birth, first and last name, home address, telephone number, email  
9 address, and gender. (*See, e.g.*, Ex. D, p. 1; Ex. E; Ex. F, p. 2.) Tens of thousands  
10 of visitors entered birth dates indicating they were children under the age of  
11 thirteen. After collecting and maintaining this information with the actual  
12 knowledge that the child was under thirteen years old, defendant has collected a  
13 parent’s email address. (*See, e.g.*, Ex. D, p. 2.) Immediately thereafter, defendant  
14 has collected from the child pages of additional information about his or her  
15 interests, preferences, and activities, such as his or her recent music purchases and  
16 favorite sports, magazines, TV music shows, and clothing brands. (*See, e.g.*, Ex.  
17 D, pp. 3-5.) Defendant has collected and maintained all this personal information,  
18 even after identifying the registrant as a child under thirteen.

19 14. In many instances, after collecting the child’s personal information  
20 listed above, defendant has sent the parent an email requesting that the parent  
21 consent to the child’s participation in a named activity by clicking on a hyperlink  
22 in the email. (*See, e.g.*, Ex. D, p. 6; Ex. F, p. 3.) Defendant has not disclosed its  
23 information practices in these emails, including what information it has already  
24 collected from the child, what information it wishes to collect from the child, or the  
25 intended uses of such information. For example, the email from  
26 www.lilromeo.com indicates that the operator has collected the child’s name and  
27 email address, but not that it also has collected the child’s home address, telephone  
28 number, gender, and information about interests, preferences, and activities. (Ex.

1 D, p. 6.)

2 15. When a parent has clicked the indicated link to approve of his or her  
3 child's participation in the named activity, defendant has connected the parent to  
4 an Internet web page which either automatically has registered the parent's consent  
5 or has asked the parent to consent by clicking a "Submit" button. (*See, e.g., Ex. D,*  
6 *p. 7.*) Defendant has taken no further steps to verify that the person providing  
7 consent was the child's parent. Defendant has used this method of obtaining  
8 parental consent for all its activities, including those such as bulletin boards that  
9 require the most reliable methods of parental consent.

10 16. In this manner, defendant has collected and maintained personal  
11 information from tens of thousands of children without first sending their parents a  
12 direct notice of its information practices and without obtaining parental consent to  
13 collect the information. Defendant maintained this personal information regardless  
14 of whether parental consent ever was obtained. At times, defendant has used this  
15 information to send children marketing or promotional emails about its recording  
16 artists. (*See, e.g., Ex. G.*)

17 17. Defendant provided no mechanism for parents to review or delete the  
18 information collected from their children, as required by the Rule.

### 19 **Defendant's Privacy Policies**

20 18. Defendant has posted privacy policies on its websites, but in many  
21 cases the privacy policies have not clearly, understandably, or completely disclosed  
22 all of its information collection, use, and disclosure practices or made other  
23 disclosures required by the Rule. (*See Ex. H.*)

## 24 **DEFENDANT'S VIOLATIONS OF THE CHILDREN'S ONLINE PRIVACY** 25 **PROTECTION RULE**

26 19. Since at least April 21, 2000, defendant has been an operator of  
27 several hundred websites through which it has, with actual knowledge, collected  
28 personal information from children. Since at least February 5, 2002, defendant

1 also has been an operator of at least one website directed to children. In numerous  
2 instances, including the acts and practices described above, defendant has collected  
3 personal information from children in violation of the Rule, including:

- 4 a. Failing to provide sufficient notice on the website of what  
5 information it collects online from children, how it uses such  
6 information, its disclosure practices, and all other required  
7 content, in violation of Section 312.4(b) of the Rule, 16 C.F.R.  
8 § 312.4(b);
- 9 b. Failing to provide direct notice to parents of what information it  
10 collects online from children, how it uses such information, its  
11 disclosure practices, and all other required content, in violation  
12 of Section 312.4(c) of the Rule, 16 C.F.R. § 312.4(c);
- 13 c. Failing to obtain verifiable parental consent before any  
14 collection, use, and/or disclosure of personal information from  
15 children, in violation of Section 312.5 of the Rule, 16 C.F.R.  
16 § 312.5; and
- 17 d. Failing to provide a reasonable means for parents to review the  
18 personal information collected from their children and to refuse  
19 to permit its further use or maintenance, in violation of Section  
20 312.6 of the Rule, 16 C.F.R. § 312.6.

21  
22 **DEFENDANT’S UNFAIR OR DECEPTIVE ACTS OR PRACTICES**  
23 **IN VIOLATION OF THE FTC ACT**

24 20. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), provides that “unfair  
25 or deceptive acts or practices in or affecting commerce are hereby declared  
26 unlawful.”

27 21. Pursuant to Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a  
28 violation of the Rule constitutes an unfair or deceptive act or practice in violation

1 of Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1). *See* COPPA, 15 U.S.C. §  
2 6502(c).

3 22. By and through the acts and practices described in Paragraphs 13  
4 through 18, above, defendant has violated Section 5(a)(1) of the FTC Act, 15  
5 U.S.C. § 45(a)(1).

6  
7 **CIVIL PENALTIES, INJUNCTION AND OTHER RELIEF**

8 23. Defendant has violated the Rule as described above with knowledge  
9 as set forth in Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

10 24. Each collection, use, or disclosure of a child's personal information  
11 from April 21, 2000 through the filing of this Complaint, in which defendant has  
12 violated the Rule in one or more of the ways described above, constitutes a  
13 separate violation for which plaintiff seeks monetary civil penalties.

14 25. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as  
15 modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of  
16 1990, 28 U.S.C. § 2461, and Section 1.98(d) of the FTC's Rules of Practice, 16  
17 C.F.R. § 1.98(d), authorizes this Court to award monetary civil penalties of not  
18 more than \$11,000 for each such violation of the Rule.

19 26. Under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), this Court is  
20 authorized to issue a permanent injunction against defendant's violation of the FTC  
21 Act, as well as such ancillary relief as may be just and proper.

22  
23 **PRAYER**

24 WHEREFORE, plaintiff requests this Court, pursuant to 15 U.S.C. §§ 45(a)(1),  
25 45(m)(1)(A), 53(b) and 57b, and the Court's own equitable powers to:

- 26 (1) Enter judgment against defendant and in favor of plaintiff for each  
27 violation alleged in this Complaint;  
28 (2) Award plaintiff monetary civil penalties from defendant for each



1 violation of the Rule;

2 (3) Permanently enjoin defendant from violating the Rule; and

3 (4) Award plaintiff such additional relief as the Court may deem just,  
4 proper, or necessary to redress injury to consumers resulting from  
5 defendant's violations of the Rule.

6 DATED:

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