

ORIGINAL

UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION



**In the Matter of**  
**POLYGRAM HOLDING, INC.,**  
a corporation  
**DECCA MUSIC GROUP LIMITED,**  
a Corporation,  
**UMG RECORDINGS, INC.,**  
a corporation,  
  
and  
**UNIVERSAL MUSIC & VIDEO**  
**DISTRIBUTION CORP.,**  
a corporation.

DOCKET NO. 9298

RESPONDENTS' STATUS REPORT

Respondents respectfully submit this status report in connection with the status conference scheduled for Thursday, November 29, at 2:00 p.m.

I. Status of Discovery and Settlement Negotiations

The parties are proceeding with fact discovery. Although document production and travel arrangements for depositions have been complicated by recent events, the parties are endeavoring to complete discovery within the discovery period set by the Court. Respondents have made a good faith effort to comply with Complaint Counsel's discovery requests, have gathered and produced documents from numerous locations throughout the world, and believe that their document production is substantially complete. Depositions of seven witnesses

1. Whether Respondents entered into or implemented any agreement with the Warner Music Group not to discount and not to advertise the 1990 and 1994 Three Tenors albums.

2. Whether, if such an agreement was entered into and implemented, it constituted a violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, under the standards set forth in, *inter alia*, *California Dental Assn. v. Federal Trade Comm'n*, 526 U.S. 756 (1999).

3. Whether, if such an agreement was entered into and implemented, it was reasonably related to and/or reasonably necessary to either the formation or the efficient operation of the joint venture between Warner Music Group and Polygram Music Group.

4. Whether, if such an agreement was entered into and implemented, it constituted a legitimate and procompetitive effort to prevent free riding and opportunistic behavior and to protect the parties' respective investments in their joint venture.

5. Whether Respondents are engaged in any ongoing conduct that is challenged in the complaint and whether such conduct is reasonably likely to recur, and therefore whether the jurisdictional requirements of 15 U.S.C. § 45 are satisfied.

6. Whether Polygram Records and Polygram Distribution participated in any way in or directed or controlled the conduct alleged to constitute a violation of Section 5, and therefore whether they are subject to the jurisdiction of the Commission.

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7. Whether Decca Records engages in or engaged in "commerce" as defined in Section 4 of the Federal Trade Commission Act, 14 U.S.C. § 44.

Dated: November 27, 2001

Respectfully submitted,

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GLENN D. POMERANTZ  
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By:   
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Attorneys for Respondents

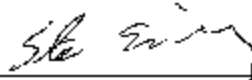
**CERTIFICATE OF SERVICE**

I, Stephen E. Morrissey, hereby certify that on November \_\_, 2001, I caused a copy of the attached RESPONDENTS' STATUS REPORT to be served upon the following persons by Federal Express:

Geoffrey M. Green  
John Roberti  
Cary Zuk  
Federal Trade Commission  
6th & Pennsylvania Ave., N.W.  
Washington, D.C. 20580

Donald S. Clark, Secretary  
Federal Trade Commission  
600 Pennsylvania Ave., N.W.  
Washington, D.C. 20580

Hon. James P. Timony  
Chief Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Ave., N.W.  
Washington, D.C. 20580



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STEPHEN E. MORRISSEY