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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Petitioner,

M.D.C.
~~Civil~~ Action No. 74-338 HHG

v.

Time Warner, Inc.
75 Rockefeller Plaza
New York, New York 10019,

Sony Corporation of America
1 Sony Drive
Park Ridge, New Jersey 07656,

PolyGram Holding, Inc.
Worldwide Plaza
825 Eighth Avenue
New York, New York 10019,

EMI Music
Carnegie Hall Tower
152 West 57th Street
New York, New York, 10019,

Bertelsmann, Inc.
1133 Avenue of the Americas
New York, New York 10036,

MCA, Inc.
100 Universal City Plaza
Universal City, California
91608,

Respondents.

ORAL HEARING REQUESTED

Petition to Enforce Civil Investigative Demands

The United States of America, by the undersigned attorneys,
avers to this Court as follows:

1. This is a proceeding brought pursuant to the Antitrust Civil Process Act, Section 1314(a) of Title 15, United States Code, to judicially enforce Civil Investigative Demands

("CIDs") served upon the Respondents.

2. The Assistant Attorney General of the Antitrust Division of the U.S. Department of Justice is authorized to issue CIDs on behalf of the Department of Justice pursuant to the authority contained in Section 1312 of Title 15, United States Code.

3. The Respondent Time Warner, Inc. ("Warner"), located at 75 Rockefeller Plaza, New York, New York 10019, is found or transacts business in Washington, D.C.

4. The Respondent Sony Corporation of America ("Sony"), located at 1 Sony Drive, Park Ridge, New Jersey 07656, is found or transacts business in Washington, D.C.

5. The Respondent PolyGram Holding, Inc. ("PolyGram"), located at 825 Eighth Avenue, New York, New York 10019, is found or transacts business in Washington, D.C.

6. The Respondent EMI Music ("EMI"), located at 152 West 57th Street, New York, New York 10019, is found or transacts business in Washington, D.C.

7. The Respondent Bertelsmann, Inc. ("BMG"), located at 1133 Avenue of the Americas, New York, New York 10036, is found or transacts business in Washington, D.C.

8. The Respondent MCA, Inc. ("MCA"), located at 100 Universal City Plaza, Universal City, California 91608, is found or transacts business in Washington, D.C.

9. The United States Department of Justice is currently conducting an investigation into possible violations of the Sherman Antitrust Act, 15 U.S.C. §§ 1 and 2, namely the possible restraint or monopolization of domestic and international markets for cable, wire, and satellite-delivered music programming.

10. On July 7, 1994, CIDs were issued by the Department of Justice directing Respondents Warner, Sony, PolyGram, EMI and BMG to produce documentary material and to answer interrogatories by August 15, 1994. A copy of the CIDs and attached schedule is attached hereto as Exhibit 1 and incorporated herein as part of this petition.

11. On July 18, 1994, a CID was issued to MCA by the Department of Justice directing the Respondent to produce documentary material and to answer interrogatories by August 22, 1994. A copy of the CID and attached schedule is attached hereto as Exhibit 2 and incorporated herein as part of this petition.

12. On July 15, 1994, Warner received CID number 11113 by certified mail. Warner is in possession and control of documents and information located in the United States and responsive to CID number 11113. Warner has refused to produce some responsive U.S.-located documentary material, and to answer certain interrogatories contained in the CID and attached schedule.

13. Warner has objected to CID number 11113 to the extent that the CID seeks information or documents concerning activities or transactions occurring outside the United States, on the grounds that such matters: (1) are beyond the Department's jurisdiction as defined under the Foreign Trade Antitrust Improvements Act, Sherman Act § 7, 15 U.S.C. §6a and (2) conflict with principles of international comity.

14. On July 15, 1994, Sony received CID number 11116 by certified mail. Sony is in possession and control of documents and information located in the United States and responsive to CID number 11116. Sony has refused to produce some responsive U.S.-located documentary material, and to answer certain interrogatories contained in the CID and attached schedule.

15. Sony has objected to CID number 11116 to the extent that the CID seeks information or documents concerning activities or transactions occurring outside the United States, on the grounds that such matters: (1) are beyond the Department's jurisdiction as defined under the Foreign Trade Antitrust Improvements Act, Sherman Act § 7, 15 U.S.C. §6a and (2) conflict with principles of international comity.

16. On July 15, 1994, PolyGram received CID number 11114 by certified mail. PolyGram is in possession and control of documents and information located in the United States and

responsive to CID number 11114. PolyGram has refused to produce some responsive U.S.-located documentary material, and to answer certain interrogatories contained in the CID and attached schedule.

17. PolyGram has objected to CID number 11114 to the extent that the CID seeks information or documents concerning activities or transactions occurring outside the United States, on the grounds that such matters: (1) are beyond the Department's jurisdiction as defined under the Foreign Trade Antitrust Improvements Act, Sherman Act § 7, 15 U.S.C. §6a and (2) conflict with principles of international comity.

18. On July 15, 1994, EMI received CID number 11115 by certified mail. EMI is in possession and control of documents and information located in the United States and responsive to CID number 11115. EMI has refused to produce some responsive U.S.-located documentary material, and to answer certain interrogatories contained in the CID and attached schedule.

19. EMI has objected to CID number 11115 to the extent that the CID seeks information or documents concerning activities or transactions occurring outside the United States, on the grounds that such matters: (1) are beyond the Department's jurisdiction as defined under the Foreign Trade Antitrust Improvements Act, Sherman Act § 7, 15 U.S.C. §6a and (2) conflict with principles of international comity.

20. EMI, while maintaining its jurisdictional objection, has produced some information and documents relating to two foreign joint ventures. EMI's parent company, Thorn EMI Plc of England, voluntarily produced some information and documents relating to one foreign joint venture and some European litigation.

21. On July 15, 1994, BMG received CID number 11112 by certified mail. BMG is in possession and control of documents and information located in the United States and responsive to CID number 11112. BMG has refused to produce some responsive U.S.-located documentary material, and to answer certain interrogatories contained in the CID and attached schedule.

22. BMG has objected to CID number 11112 to the extent that the CID seeks information or documents concerning activities or transactions occurring outside the United States, on the grounds that such matters: (1) are beyond the Department's jurisdiction as defined under the Foreign Trade Antitrust Improvements Act, Sherman Act § 7, 15 U.S.C. §6a and (2) conflict with principles of international comity.

23. On July 22, 1994, MCA received CID number 11181 by certified mail. MCA is in possession and control of documents and information located in the United States and responsive to CID number 11181. MCA has refused to produce some responsive U.S.-located documentary material, and to answer certain

interrogatories contained in the CID and attached schedule.

24. MCA has objected to CID number 11181 to the extent that the CID seeks information or documents concerning activities or transactions occurring outside the United States, on the grounds that such matters: (1) are beyond the Department's jurisdiction as defined under the Foreign Trade Antitrust Improvements Act, Sherman Act § 7, 15 U.S.C. §6a and (2) conflict with principles of international comity.

25. The U.S.-located documents and other information sought by this petition include U.S.-located documents in the possession, custody and control of Warner, Sony, PolyGram, EMI, BMG and MCA at the time of issuance of the CIDs, and U.S.-located documents created after issuance of the CIDs, subject to any agreed modifications and production dates.

26. The U.S.-located documents and other information sought by the CIDs are not already in petitioner's possession, and are necessary to properly investigate possible violations of the Sherman Act, 15 U.S.C. §§ 1 and 2.

27. Each of the Respondents has produced some documents and information relating to its domestic activities. In some cases, however, portions of documents which contain information relating to both domestic and international activities have been redacted by the Respondents based upon the objections set forth above. Other responsive U.S.-located

documents and information have not been produced even in part.

28. For the reasons set forth in the Memorandum of Points and Authorities in support of this Petition, the U.S.-located documents and information sought by the petitioner's CIDs are relevant to a valid antitrust investigation and are producible pursuant to the Antitrust Civil Process Act.

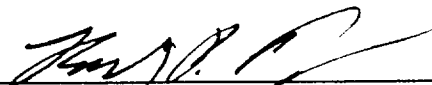
29. This matter should be resolved expeditiously so that the U.S.-located documents and information subject to the CIDs are promptly produced and the Department's investigation can proceed without delay.


WHEREFORE, the petitioner respectfully prays that:

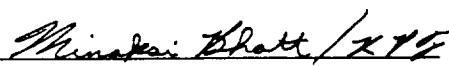
1. This Court enter an order directing Warner, Sony, PolyGram, EMI, BMG and MCA to comply with the aforementioned CIDs and each and every requirement thereof and promptly produce the complete and unredacted U.S.-located documentary material and interrogatory answers required and called for by the terms of the CIDs and attached schedules, regardless of whether the documents and information concern activities in the United States or abroad.
2. The Court grant an oral hearing on this matter.
3. The United States recover its costs in maintaining this action.
4. The Court retain jurisdiction over this matter.

5. The Court grant such other and further relief as is just and proper.

Respectfully submitted,


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Date: November 3, 1994

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