

Digital Music Group, Inc.
Form S-1MEF
February 01, 2006

As filed with the Securities and Exchange Commission on February 1, 2006

Registration No. 333-

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-1

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

Digital Music Group, Inc.

(Exact name of Registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

7900
(Primary Standard Industrial
Classification Code Number)

20-3365526
(I.R.S. Employer
Identification Number)

1545 River Park Drive, Suite 210

Sacramento, CA 95815

(916) 239-6010

(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

Mitchell Koulouris

Chief Executive Officer

1545 River Park Drive, Suite 210

Sacramento, CA 95815

Telephone: (916) 239-6010

Facsimile: (916) 239-6018

(Name, address, including zip code, and telephone number, including area code, of agent for service)

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Copies to:

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Professional Corporation
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Approximate date of commencement of proposed sale to the public: As soon as practicable after this Registration Statement becomes effective.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933 check the following box. "

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. x 333-128687

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

Calculation of Registration Fee

| Title of Each Class of Securities to be Registered | Amount to be Registered(1)(2) | Proposed | | Amount of Registration Fee(3) |
|--|-------------------------------|----------------------------------|---|-------------------------------|
| | | Maximum Offering Price Per Share | Proposed Maximum Aggregate Offering Price | |
| Common Stock \$0.01 par value | 230,000 | \$9.75 | \$2,242,500 | \$240 |

- (1) Includes 30,000 shares that may be purchased by the underwriters to cover over-allotments, if any.
- (2) The 230,000 shares of common stock being registered in this Registration Statement are in addition to the 4,255,000 shares of common stock registered pursuant to the Registrant's Registration Statement on Form S-1 (File No. 333-128687).
- (3) Calculated in accordance with Rule 457(a) of the Securities Act of 1933, as amended.

This Registration Statement shall become effective upon filing with the Commission in accordance with Rule 462(b) under the Securities Act of 1933, as amended.

EXPLANATORY NOTE

This Registration Statement on Form S-1 is being filed with respect to the registration of additional shares of common stock, par value \$.01 per share, of Digital Music Group, Inc., a Delaware corporation, pursuant to Rule 462(b) under the Securities Act of 1933, as amended. This Registration Statement relates to the Registrant's Registration Statement on Form S-1, as amended (Registration No. 333-128687), initially filed by the Registrant on September 29, 2005 and declared effective by the Securities and Exchange Commission on February 1, 2006. The Registrant is filing this Registration Statement for the sole purpose of increasing the aggregate number of shares of common stock by 230,000 shares, including 30,000 shares of common stock that may be purchased by the underwriters to cover over-allotments, if any. Pursuant to Rule 462(b), the contents of the Registration Statement on Form S-1, as amended (File No. 333-128687), including the exhibits and the power of attorney thereto, are incorporated by reference into this Registration Statement.

SIGNATURES

Pursuant to the requirements of the Securities Act, Registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of San Francisco, State of California, on the 1st day of February 2006.

DIGITAL MUSIC GROUP, INC.

By: /s/ MITCHELL KOULOURIS

 Mitchell Koulouris
 President and Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated below.

| <u>Signature</u> | <u>Title</u> | <u>Date</u> |
|---|--|------------------|
| /s/ MITCHELL KOULOURIS _____ Mitchell Koulouris | President and Chief Executive Officer (principal executive officer) | February 1, 2006 |
| CLIFF HAIGLER* _____ Cliff Haigler | Chief Financial Officer (principal financial and accounting officer) | February 1, 2006 |
| RICHARD REES* _____ Richard Rees | Vice President of Business Development, Secretary and Director | February 1, 2006 |
| CLAYTON TRIER* _____ Clayton Trier | Chairman of the Board and Director | February 1, 2006 |
| STEVE COLMAR* _____ Steve Colmar | Director | February 1, 2006 |

*By: /s/ MITCHELL KOULOURIS

 Mitchell Koulouris
 Attorney-in-Fact

EXHIBIT INDEX

| Exhibit Number | Description |
|-----------------------|---|
| 5.1 | Opinion of Hayden Bergman, Professional Corporation. |
| 23.1 | Consent of Perry-Smith, LLP with respect to Digital Music Group, Inc. |
| 23.2 | Consent of Perry-Smith, LLP with respect to Digital Musicworks International, Inc. |
| 23.3 | Consent of Perry-Smith, LLP with respect to Rio Bravo Entertainment LLC. |
| 23.4 | Consent of Hayden Bergman, Professional Corporation (contained in Exhibit 5.1). |
| 24.1 | Power of Attorney (incorporated by reference to the Registration Statement on Form S-1 of the Registrant, File No. 333-128687). |