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July 17, 2009

**VIA E-MAIL - SUPPORT@TUMBLR.COM
AND OVERNIGHT MAIL**

Lance James

c/o: <http://lancejssc.tumblr.com/post/142916460/how-to-use-comerica-com-to-phish-their-customers>

Tumblr, Inc.

Attn: Copyright Agent

419 Park Avenue South, Suite 807

New York, NY 1016

Re: Demand by Comerica Bank ("Comerica") to Cease and Desist re: Lance James
<http://lancejssc.tumblr.com/post/142916460/how-to-use-comerica-com-to-phish-their-customers> (The "Subject Site")

To Whom It May Concern:

Comerica hereby demands that the above-referenced Subject Site be shut down immediately and that the identity of the account holder be provided to the undersigned. Comerica's demand is based upon the fact that the Subject Site is designed to enable that subscriber and anyone else viewing the site to take actions to attempt to impersonate Comerica to its customers and third parties. As such, the Subject Site: (i) infringes upon and violates Comerica's copyright and trademarks; (ii) is designed to reveal, without authorization, Comerica's trade secrets and confidential information; (iii) infringes upon Comerica's intellectual property rights and Comerica's and its customers' rights of privacy; (iv) infringes on Comerica's publicity rights; (v) is libelous, defamatory, abusive, harassing and otherwise violates both state and federal law and the rights of Comerica as a third party; and (vi) constitutes or contains a computer programming routine intended to damage, detrimentally interfere with, surreptitiously intercept and/or expropriate Comerica's systems, data and information. Each of these acts violates Tumblr's published Terms of Service, Paragraph 3 (a) through (f), which provides for the immediate removal and termination of the Subject Site and all rights of use by the Lance James subscriber.

In addition to the forgoing, the acts of the Lance James subscriber constitute violations of numerous civil and criminal statutes and common law rights including, but not limited to: (i) unlawful misappropriation of confidential and trade secret information; (ii) tortious interference with contract and prospective economic advantage; (iii) statutory and common law unfair, deceptive and unlawful business practices under both state and federal law; (vi) California Penal Code Section 499(c) (criminal misappropriation of trade secrets), and (v) 18 USC Sections 1831

BN 3992705v1

Los Angeles • Orange County • San Francisco • Scottsdale

Exhibit

Defendant's 33
1-13-11

ESQUIRE

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et seq. (Economic Espionage Act of 1996), to name but a few.

Comerica therefore demands that each of you immediately: (i) terminate the Subject Site; (ii) delete all such content from the public domain; (iii) provide the identity of all persons, including any Tumblr subscribers, who have accessed the above-referenced site; (iv) provide the identity of the subscriber for the Lance James/Subject Site; and (v) cease and desist from using and/or disclosing any of Comerica's confidential, proprietary and/or trade secret information, including any information regarding any Comerica systems, customers and/or operations.

Comerica requires immediate confirmation that the Subject Site has been shut down and that no further public access will be allowed by Tumblr. Comerica further requests your immediate cooperation and assistance in its investigation of this clearly improper activity.

The foregoing demands are made without prejudice to Comerica's right to assert any and all rights and remedies available to it at law, equity or otherwise. Please be advised that Comerica intends to take any and all measures it deems necessary in order to protect and defend its rights. Nothing herein shall be deemed or construed to constitute an agreement by Comerica to refrain from reporting to the appropriate legal authorities evidence of wrongdoing by any person or any entity, or from taking or refraining from taking any other action in relation thereto.

Very truly yours,

BUCHALTER NEMER
A Professional Corporation

By


Peter G. Bertrand

PGB:cp