

**tumblr.**

**Copyright and Trademark  
Transparency Report**

January – June 2015

## Introduction

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Welcome to our inaugural copyright and trademark transparency report, which covers the number and nature of takedown requests (based on copyright and trademark infringement) we received from January through June of 2015.

Ever since we published our first government transparency report back in February of 2014, we wanted to include copyright and trademark takedown requests in our reporting. However, we weren't able to aggregate all the data as precisely as we wanted to...until now.

As with most legal matters, intellectual property disputes can be thorny, and their handling is almost always dictated by existing laws. Accordingly, we'd also like to take this opportunity to go step-by-step through our process, so that you know more about why and how content gets removed from Tumblr in response to such claims.

Enjoy.

# How we handle copyright infringement notifications under the Digital Millennium Copyright Act (DMCA)



A copyright holder, or their authorized representative, finds content on Tumblr that they believe violates their copyright.



The copyright holder or authorized representative sends Tumblr a DMCA notice.

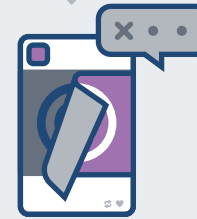


Tumblr reviews the DMCA notice to determine if it is valid.

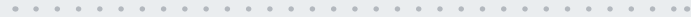
INVALID

Tumblr determines the request is invalid and notifies the complainant.

VALID



Tumblr processes the notice, removes the specified content, and notifies the user who posted the content. The user may receive a strike against their account. After three valid strikes, their account is terminated.



IF...

the user thinks that the content was removed in error, or can present a legal argument for why the content should remain up, they may file a counter-notice. Instructions for filing a counter-notice are sent to the user in the content removal email.



COUNTER NOTICE FILED



Tumblr determines if the counter-notice is valid.

VALID



Tumblr sends the information from the counter-notice to the original complainant.



After 10 days, the removed content is restored, and the strike is removed from the user's account.

— BUT —

The user is now liable for the content they've posted. If the original complainant wishes to pursue recourse, they may sue the user for copyright infringement.

INVALID

Tumblr notifies the user that their counter-notice is invalid. The deleted content is not restored, and the strike remains on the user's account.

## Overview of all DMCA notices received, January to June 2015

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From January to June 2015, we received 13,448 DMCA notices and determined that 84% (11,343) were valid.<sup>1</sup> In response to valid notices, Tumblr:

- Removed 126,198 pieces of content;
- Removed 77,357 posts (0.00007% of posts on Tumblr);
- Terminated 3,174 accounts in accordance with our policy against repeat copyright infringement (~0% of accounts on Tumblr).

Looking at copyright notices by content type (tracking with Tumblr's post types):

**Images:** 108,494 items (86%)

**Audio:** 13,868 items (11%)

**Video:** 1,279 items (1%)

**Text:** 1,084 items (1%)

**Links:** 306 items (1%)

**Quotes:** 102 items (<1%)

**Asks:** 51 items (<1%)

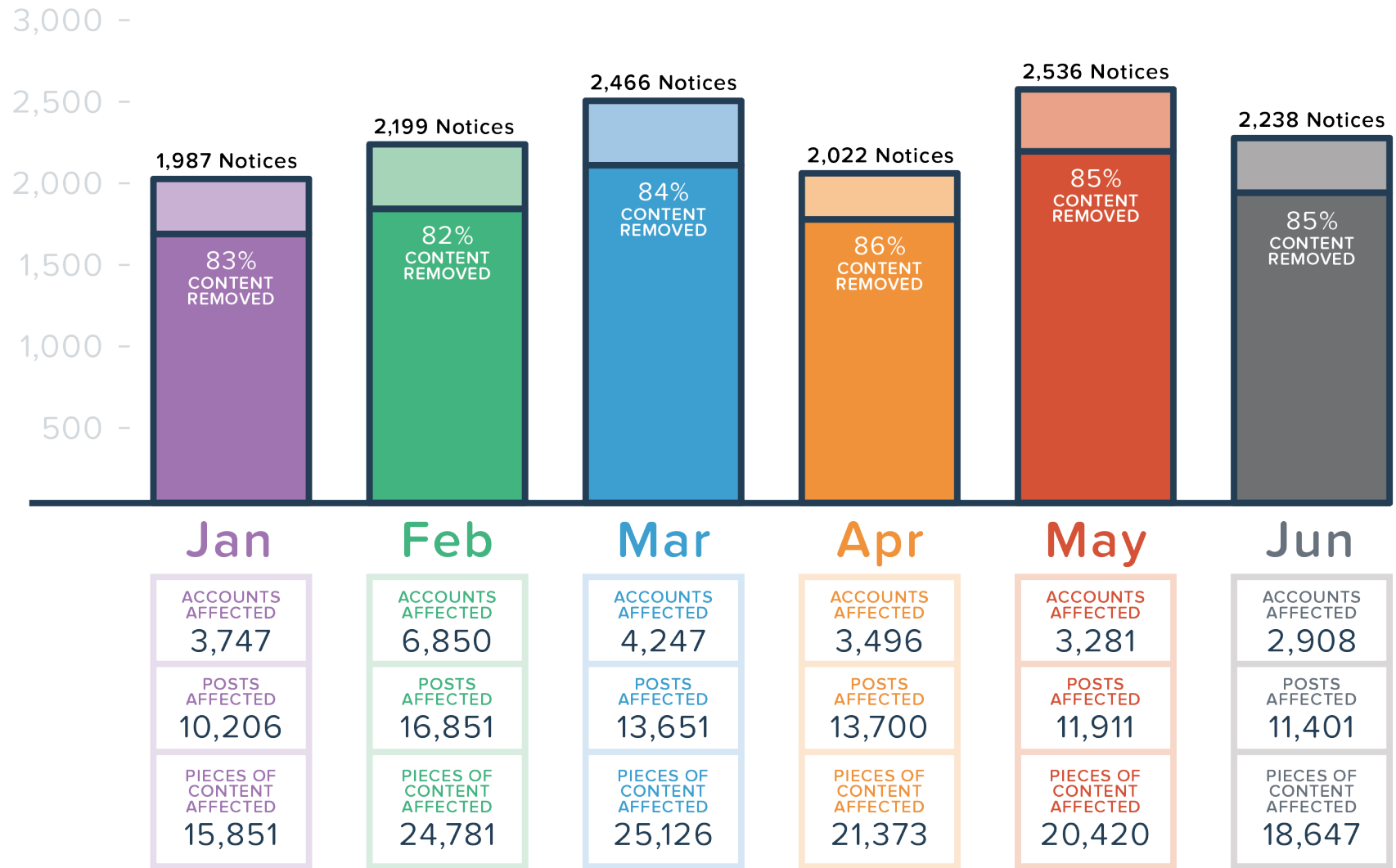
**Chats:** 5 (<1%)

As a U.S. company, Tumblr requires that all copyright notices be submitted in accordance with the DMCA. When we receive non-compliant requests (including foreign requests), we ask the complainant to resubmit their request in accordance with the statute.

*1. Tumblr processes notices pursuant to the DMCA. Under the DMCA there are a number of conditions a complaining party must satisfy:*

- *Identification of the work or material being infringed.*
- *Identification of the material that is claimed to be infringing, including its location, with sufficient detail so that we are capable of finding it and verifying its existence.*
- *Contact information for the notifying party, including name, address, telephone number, and email address.*
- *A statement made under penalty of perjury that the information provided in the notice is accurate and that the complainant is authorized to make the complaint on behalf of the copyright owner.*
- *A statement that the complainant has a good faith belief that the material is not authorized by the copyright owner, its agent, or law.*
- *The complainant's physical or electronic signature.*

## Overview of all DMCA notices received, January to June 2015



## Overview of all DMCA counter-notices received, January to June 2015

From January to June 2015, we received a total of 55 counter-notices from users requesting the restoration of content that had been removed pursuant to a DMCA takedown notice. Of those, 14 were deemed valid (25%).<sup>2</sup> This affected a total of 14 accounts, and resulted in the restoration of 63 posts containing 78 pieces of media. Of the 77,357 posts that were removed pursuant to a takedown notice, 0.08% were restored using the counter-notice process.

2. In accordance with the statute, a valid counter-notice must contain:

- The user's physical or electronic signature
- The user's name, address, and phone number
- Identification of the material and its location before it was removed
- A statement under penalty of perjury that the material was removed by mistake or misidentification
- The user's consent to the jurisdiction of a federal court in the district where the user lives (or the federal district court located in New York County, New York, if the user lives outside of the U.S.)
- The user's consent to accept service of process from the party who submitted the takedown notice

In addition to the statutory requirements, we sometimes ask for the legal or factual basis for filing the counter-notification

	# of Counter Notices	% Valid	# Accounts Affected with Restored Content	# of Posts Restored	# of Pieces of Content Restored
Jan	6	33%	2	2	3
Feb	14	29%	4	11	14
Mar	7	29%	2	2	11
Apr	3	33%	1	1	1
May	13	15%	2	41	41
Jun	12	25%	3	6	8
<b>TOTAL</b>	<b>55</b>	<b>25%</b>	<b>14</b>	<b>63</b>	<b>78</b>

## Overview of all trademark complaints received, January to June 2015

Handling trademark issues (either potential infringement or instances of confusion) is complex, especially for neutral platforms like Tumblr, and consequently requires additional analysis as compared to copyright infringement. We first require documentation of a live federal or international trademark registration—often the name of a business or its logo.<sup>3</sup> We then look at a variety of factors to determine if reported content or a URL is misleading to users or causes confusion, and what action to take in these cases. Among them:

- How the reported term is being used
- Content found on the blog
- The registered goods and services
- Landscape of similar marks related to the reported term
- When the reported term was first used

3. In rare cases we make exceptions to this requirement, such as when a name or phrase is exceptionally distinctive or famous.

	# of Requests	# of URLs Affected	% Blog Content Removed	% URLs Changed
Jan	33	50	0%	82%
Feb	27	32	0%	81%
Mar	61	62	5%	77%
Apr	59	70	3%	56%
May	52	58	6%	69%
Jun	57	67	2%	74%
TOTAL	289	339	3%	72%

## Overview of all trademark complaints received, January to June 2015

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Based on our findings, we may prescribe one or more of the following actions:

- If a user is using a misleading URL, we may require them to change it. We notify the current user and give them an opportunity to change the URL on their own before we change the URL to something generic on their behalf.
- Alternatively, we may determine that a disclaimer would alleviate any confusion, and so request that the user include a disclaimer on their blog.
- Sometimes, we remove specific posts that are using a term to create confusion. Like all content takedowns on the site, we always notify the user when we remove any of their content, and include as much information as possible regarding the claim made against their post.

From January to June 2015, we received a total of 289 trademark complaints relating to 339 blogs on Tumblr. Among those 289 complaints, only 3% of them led to the removal of content, while 72% of them led to the modification of blog URLs.

As you can see, the majority of trademark complaints that we receive are related to a blog URL that a complainant believes is causing confusion.

And this marks the end of Tumblr's first-ever copyright and trademark transparency report. We hope you've enjoyed it, and that it helped clarify the sometimes-murky waters of intellectual property disputes. Check back in six months for the next edition, where we'll be updating you on requests made throughout the rest of 2015.