

LAW OFFICES OF TIMOTHY WALTON
801 Woodside Road, Suite 11
Redwood City, CA 94061-3772

VIA CERTIFIED MAIL

October 9, 2009

Edmond Wollman
PO Box 221000
San Diego, CA 92192-1000

Re: Email Communication of October 6, 2009

Dear Mr. Wollman,

I have been retained by Steve Burnett, the registrant of smbtech.com, as his legal representative in any matters pertaining to the email you sent on or about October 6, 2009. Please do not contact him again in the future. You may address your correspondence to me.

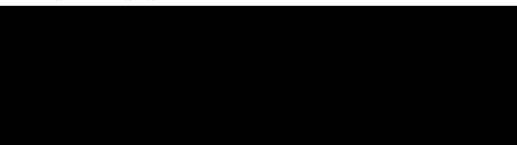
Your claim of copyright infringements of elements of <http://www.smbtech.com/ed> fails to provide specific references to the material alleged to be infringed. (*See* 17 USC § 512 (c)(3)(A).) You also did not specify whether you would submit your claim for federal jurisdiction.

Any implicit claim that you are making regarding the entirety of the web site materials at <http://www.smbtech.com> is hereby denied. Mr. Burnett is a rightful user of all the materials at that web site, and he specifically denies that you have rights to material you did not create.

Moreover, your notice to my client does not appear to consider any fair use aspects of the alleged copying. The United States District Court for the Northern District of California has decided that "in order for a copyright owner to proceed under the DMCA with a 'good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law,' the owner must evaluate whether the material makes fair use of the copyright." (*Lenz v. Universal Music Corp. et al.*, Case No. C 07-3783 JF.) Your failure to consider fair use aspects is fatal to your claim.

Your issuance of a takedown notice in bad faith could subject you to liability. Please consider carefully whether you wish to proceed with your current course of action.

Very truly yours,



Timothy J. Walton