

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION



COMMISSIONERS: Edith Ramirez, Chairwoman  
Julie Brill  
Maureen K. Ohlhausen  
Joshua D. Wright

\_\_\_\_\_)  
In the matter of: )  
)  
Jerk, LLC, a limited liability company, ) DOCKET NO. 9361  
)  
Also d/b/a JERK.COM, and )  
) PUBLIC  
John Fanning, )  
Individually and as a member of )  
Jerk, LLC, )  
)  
Respondents. )  
\_\_\_\_\_)

**ANSWER OF RESPONDENT JERK, LLC**

For its Answer to the Complaint, Jerk, LLC responds as follows:

1. Respondent Jerk, LLC admits that Respondent Jerk, LLC, is a Delaware limited liability company but denies the remaining allegations of Paragraph 1 of the Complaint.
2. Respondent Jerk, LLC admits that Respondent John Fanning has done business at 165 Nantasket Avenue, Hull, MA 02045 but denies the remaining allegations of Paragraph 2 of the Complaint.
3. Respondent Jerk, LLC admits the allegation contained in Paragraph 3 of the Complaint.
4. Respondent Jerk, LLC admits that on Jerk.com, users could create profiles of other people using the "Post a Jerk" feature. Respondent Jerk, LLC denies the remaining allegations in Paragraph 4 of the Complaint.

5. Respondent Jerk, LLC admits that Respondent Jerk, LLC earned revenue by selling memberships for \$30, by charging consumers a \$25 customer service fee to contact jerk.com, and by placing third-party advertisements on jerk.com. Respondent Jerk, LLC denies the remaining allegations of Paragraph 5 of the Complaint.

6. Respondent Jerk, LLC denies that many profile subjects were identified as a "Jerk" or "not a Jerk" but admits the remaining allegations of Paragraph 6 of the Complaint.

7. Respondent Jerk, LLC, lacks sufficient knowledge to admit or deny the allegations set forth in Paragraph 7 of the Complaint and accordingly denies the same.

8. Respondent Jerk, LLC denies the allegations contained in Paragraph 8 of the Complaint.

9. Respondent Jerk, LLC denies that it represented that profiles reflected the views of other Jerk users. Respondent Jerk, LLC, lacks sufficient knowledge to admit or deny the remaining allegations set forth in Paragraph 9 of the Complaint and accordingly denies the same.

10. Respondent Jerk, LLC denies that Respondents created the vast majority of profiles using improperly obtained Facebook information. Respondent Jerk, LLC, lacks sufficient knowledge to admit or deny that Facebook is a social network that currently has over 1.2 billion members and accordingly denies the same. Respondent Jerk, LLC admits that Facebook permits third-party developers to integrate websites and applications with Facebook. Respondent Jerk, LLC admits that Developers can access data for all Facebook users through Facebook's application programming interfaces ("APIs"), which provide sets of tools developers can use to interact with Facebook. Respondent Jerk, LLC denies that developers that use the Facebook platform must agree to Facebook's policies, which include (1) obtaining users' explicit consent to share certain Facebook data; (2) deleting information obtained through Facebook once Facebook disables the developers' Facebook access; (3) providing an easily accessible mechanism for

consumers to request the deletion of their Facebook data; and (4) deleting information obtained from Facebook upon a consumer's request.

11. Respondent Jerk, LLC denies the allegations contained in Paragraph 11 of the Complaint.

12. Respondent Jerk, LLC denies that Respondents represented that, by purchasing a subscription to Jerk, users obtained "additional paid premium features," including the ability to dispute information posted on Jerk and receive fast notifications and special updates. Respondent Jerk, LLC admits that consumers subscribed by paying \$30 for a standard membership. Respondent Jerk, LLC, lacks sufficient knowledge to admit or deny that numerous consumers believed that purchasing a Jerk membership would permit them to alter or delete their Jerk profile and dispute false information on their profile and accordingly denies the same. Respondent, Jerk, LLC denies that in numerous instances, consumers who paid for a standard membership received nothing from respondents in exchange for their payment of the membership fee.

13. Respondent Jerk, LLC admits that some consumers contacted Jerk's registered agent or web host and requested that respondents delete their photo, or a photo of their child, which was originally posted on Facebook, but lacks sufficient knowledge or information to know whether they were savvy. Respondent Jerk, LLC denies that Respondents made it difficult for consumers to contact Jerk. Respondent Jerk, LLC denies that Respondents charged consumers a \$25 fee to email Jerk's customer service department. Respondent Jerk, LLC lacks sufficient knowledge or information to know whether numerous consumers were hesitant to provide their credit card information to Jerk. Respondent Jerk, LLC, lacks sufficient knowledge to admit or deny that in numerous instances, Jerk did not respond to consumers' requests and did not remove their photos from Jerk's website and accordingly denies the same.

14. Respondent Jerk, LLC denies that Respondents were unresponsive to law enforcement requests to remove harmful profiles. Respondent Jerk, LLC lacks sufficient

knowledge to admit or deny that in at least one instance, Respondents ignored a request from a sheriff's deputy to remove a Jerk profile that was endangering a 13-year old girl.

15. Respondent Jerk, LLC denies the allegations contained in Paragraph 15 of the Complaint.

16. Respondent Jerk, LLC denies the allegations contained in Paragraph 16 of the Complaint.

17. Respondent Jerk, LLC denies the allegations contained in Paragraph 17 of the Complaint.

18. Respondent Jerk, LLC denies the allegations contained in Paragraph 18 of the Complaint.

19. Respondent Jerk, LLC denies the allegations contained in Paragraph 19 of the Complaint.

### **Affirmative Defenses**

#### First Affirmative Defense

The Complaint fails to state a claim upon which relief may be granted.

#### Second Affirmative Defense

The Commission has exceeded and/or abused its statutory and regulatory authority in bringing the Complaint against Respondent.

#### Third Affirmative Defense

Any injury or harm to any individual consumer or to the public in general alleged by the Commission in the Complaint was caused by the acts or omissions of a third-party over which Respondent had no authority or control.

Fourth Affirmative Defense

The regulations upon which the Federal Trade Commission relies cannot be applied in a manner as to restrict or prohibit free speech under the First Amendment.

Fifth Affirmative Defense

The requested relief is not in the public interest.

Sixth Affirmative Defense

No representation alleged to be deceptive is a material representation, omission or practice likely to affect a consumer's conduct.

Respectfully submitted,

**JERK, LLC**

By its attorneys,

/s/ Maria Crimi Speth

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Dated: May 19, 2014

**CERTIFICATE OF SERVICE**

I hereby certify that on May 19, 2014, I caused a true and accurate copy of the foregoing to be served electronically through the FTC's e-filing system and on May 19, 2014, I caused a true and accurate copy of the foregoing to be served as follows:

One electronic courtesy copy to the Office of the Secretary:

Donald S. Clark, Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W., Room H-159  
Washington, DC 20580  
Email: [secretary@ftc.gov](mailto:secretary@ftc.gov)

One paper copy and one electronic copy to the Office of the Administrative Law Judge:

The Honorable D. Michael Chappell  
Chief Administrative Law Judge  
600 Pennsylvania Avenue, N.E. Room H-110  
Washington, DC 20580  
Email: [oalj@ftc.gov](mailto:oalj@ftc.gov)

One paper copy and one electronic copy to the Office of the Counsel for the Federal Trade Commission:

Sarah Schroeder  
Yan Fang  
Kerry O'Brien  
Federal Trade Commission  
901 Market Street, Suite 670  
San Francisco, CA 94103  
Email: [sschroeder@ftc.gov](mailto:sschroeder@ftc.gov)  
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One paper copy and one electronic copy to:

Peter F. Carr, II  
Eckert, Seamans, Cherin & Mellott, LLC  
Two International Place, 16th Floor  
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/s/ Maria Crimi Speth

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Dated: May 19, 2014