

EXHIBIT A3

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11:43:46 25 MS. MINCHOFF: Objection.

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11:43:48 1 A. I'm not sure if I booked -- if I made the

11:43:52 2 account for that cruise trip or not. I'm

11:43:54 3 not sure.

11:43:54 4 Q. Okay. At some point did you make a user

11:43:57 5 account with Expedia.com?

11:43:58 6 A. At some point I think I did, yes.

11:44:00 7 Q. Okay. Are you -- can you tell me when that

11:44:03 8 happened?

11:44:03 9 A. I have no idea.

11:44:11 10 Q. So do you know if you were -- had a user

11:44:14 11 account with Expedia.com on the day that you

11:44:16 12 booked the trip to Jamaica?

11:44:18 13 A. I am not sure.

11:44:20 14 Q. So do you know if you had a PIN number for

11:44:24 15 Expedia.com or a PIN identifier for

11:44:27 16 Expedia.com when you booked the trip to

11:44:29 17 Jamaica?

11:44:29 18 A. I am not sure.

11:44:30 19 Q. As you sit here today, do you recall the

11:44:41 20 various screens that you had to go through

11:44:43 21 to book the trip on Expedia.com?

11:44:45 22 A. No.

11:44:45 23 Q. Tell me what you do remember about the

11:44:51 24 booking process via Expedia.com.

11:44:52 25 A. I really don't remember much. I know that I

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11:44:57 1 booked it through Expedia. I couldn't tell

11:44:59 2 you the process that I took at that point.

11:45:01 3 It was over two and a half years ago.

11:45:03 4 Q. Okay. Well, do you recall going on

11:45:05 5 Expedia.com and typing in a possible

11:45:08 6 destination for Jamaica?

11:45:10 7 A. I don't remember at this point.

11:45:53 8 (Exhibit No. 5, Expedia.com sample

11:45:55 9 trip pages, marked for identification.)

11:45:55 10 Q. Okay. What's been marked as Exhibit 5 for

11:45:56 11 identification today is an example book of a

11:45:59 12 trip via Expedia.com, okay? I just am going

11:46:05 13 to walk through with you on this to see if

11:46:08 14 you recognize any of the types of pages that

11:46:09 15 are used in Expedia.com booking process,

11:46:12 16 okay?

11:46:13 17 A. Yes.

11:46:14 18 Q. All right?

11:46:14 19 MS. MINCHOFF: Just so I'm clear --

11:46:16 20 I'm sorry, Tom -- this is what you went

11:46:18 21 through and printed out the pages? Is that

11:46:20 22 what this is?

11:46:20 23 MR. REITH: Yeah, this is, in

11:46:21 24 essence, an example of a booking process

11:46:24 25 that is uniform for the booking of a

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11:46:28 1 vacation on Expedia.com.
11:46:29 2 MS. MINCHOFF: Objection.
11:46:34 3 MR. REITH: And for clarification
11:46:36 4 purposes, this is not the specific booking
11:46:37 5 of the Jamaica trip, and I understand your
11:46:40 6 objection.
11:46:42 7 BY MR. REITH:
11:46:43 8 Q. Turning your attention to the first page, do
11:46:46 9 you recognize this page or having signed
11:46:49 10 onto a similar type of page when you booked
11:46:52 11 the trip for Jamaica?
11:46:52 12 A. I am not sure.
11:46:54 13 Q. So do you remember anything about the first
11:47:01 14 page of Expedia.com when you signed on for
11:47:05 15 the Jamaica trip?
11:47:06 16 A. Not two and a half years ago, no, I don't
11:47:11 17 remember.
11:47:11 18 Q. Do you recall typing in Jamaica as a
11:47:14 19 possible destination vacation -- possible
11:47:16 20 vacation destination and then having to wait
11:47:20 21 while Expedia retrieved potential hotels to
11:47:24 22 stay at?
11:47:25 23 MS. MINCHOFF: Objection.
11:47:25 24 A. I don't remember.
11:47:26 25 Q. So turning your attention, then, to the
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11:47:32 1 document that is three in that's labeled
11:47:35 2 No. -- Page 2 above. Do you see that?
11:47:39 3 A. This one?
11:47:40 4 Q. That's it. Do you recall seeing a page like
11:47:42 5 that during your booking process?
11:47:43 6 A. I don't remember.
11:47:44 7 Q. Do you recall being directed back to a page
11:47:51 8 on Expedia.com where there were travel
11:47:53 9 vacation package options?
11:47:55 10 A. I'm not sure.
11:47:57 11 Q. Do you recall choosing one of the vacation
11:48:05 12 packages or a vacation package from a number
11:48:09 13 of possible vacation packages on
11:48:14 14 Expedia.com?
11:48:14 15 A. Can you clarify?
11:48:16 16 Q. Do you recall if during the -- strike that.
11:48:21 17 During the booking process, did
11:48:24 18 Expedia.com offer to you one booking
11:48:27 19 possibility or multiple booking
11:48:29 20 possibilities for Jamaica?
11:48:31 21 A. I am not sure.
11:48:31 22 Q. Did Expedia.com when you were booking the
11:48:36 23 travel package in general offer you a number
11:48:39 24 of possible travel destinations that you
11:48:43 25 could choose from?

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11:48:44 1 MS. MINCHOFF: Objection.

11:48:44 2 A. I don't remember.

11:48:46 3 Q. Well, do you recall Expedia.com offering you

11:48:49 4 only one possible vacation destination, that

11:48:51 5 being Turtle Beach Towers, in Jamaica?

11:48:53 6 A. I don't remember.

11:48:54 7 Q. All right. Just turning your attention,

11:49:00 8 then, to the document that's marked No. 5 in

11:49:02 9 the top corner, just a few more pages in

11:49:06 10 there. Do you remember at the time that you

11:49:10 11 were booking the trip for Jamaica that you

11:49:13 12 were offered a page like this with package

11:49:15 13 details for various vacation destinations?

11:49:18 14 A. I don't remember.

11:49:18 15 Q. Turning your attention to Page 6, which is a

11:49:29 16 few more in, do you recall getting a page

11:49:36 17 from Expedia.com when you were booking the

11:49:38 18 Jamaica vacation that would allow you to

11:49:40 19 customize your vacation?

11:49:42 20 A. I don't remember.

11:49:43 21 Q. Turning your attention, then, to what's been

11:49:51 22 circled as Page No. 7. Forgive me that

11:49:59 23 these are not labeled any better. Do you

11:50:02 24 see where I am? It says "Expedia.com," up

11:50:06 25 top left, "sign in"?

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11:50:06 1 A. Uh-huh.
11:50:08 2 Q. Are you with me?
11:50:08 3 A. Yeah.
11:50:09 4 Q. All right. Do you see "Already a registered
11:50:10 5 user"?
11:50:10 6 A. Yes.
11:50:11 7 Q. Okay. Do you recall seeing this page when
11:50:13 8 you booked the trip to Jamaica?
11:50:14 9 A. I don't remember.
11:50:20 10 Q. So as you sit here today, you can't tell me
11:50:22 11 if you signed in with a user name and
11:50:24 12 password for booking the trip to Jamaica?
11:50:26 13 A. I don't remember.
11:50:27 14 Q. You do recall, though, somehow signing onto
11:50:32 15 Expedia.com to actually book the trip,
11:50:34 16 correct?
11:50:35 17 MS. MINCHOFF: Objection.
11:50:35 18 A. I don't know if I signed on or if I just
11:50:38 19 logged onto their website. There's a
11:50:41 20 difference between signing in to something
11:50:42 21 and then just going to the website on the
11:50:44 22 Internet. I don't remember how I got onto
11:50:48 23 the website to book the trip.
11:50:50 24 Q. Do you see on the next page circled Page 8,
11:50:58 25 it says, top left, "Create a new account"?
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11:51:02 1 Do you see that page?
11:51:03 2 A. Yes.
11:51:03 3 Q. Do you see where it says "Create a new
11:51:05 4 account"?
11:51:05 5 A. Uh-huh.
11:51:05 6 Q. And then it lists a number of different
11:51:08 7 subcategories thereunder. Do you recall
11:51:11 8 seeing a page like this when you booked the
11:51:12 9 trip via Expedia.com to Jamaica?
11:51:15 10 A. I don't remember.
11:51:15 11 Q. Okay. Do you recall any of the times that
11:51:19 12 you used Expedia.com viewing a page like
11:51:23 13 this that says "Create a new account"?
11:51:26 14 A. I am not sure. I'm assuming that if I made
11:51:30 15 an account at some point, if this is a
11:51:33 16 standard page, then it -- I'm assuming it
11:51:36 17 would have shown up. I don't recall seeing
11:51:37 18 this page off the top of my head.
11:51:38 19 Q. Okay. Okay. Just turning your attention to
11:51:44 20 a little bit further down the page, do you
11:51:46 21 see where it says "Review membership
11:51:48 22 agreement"?
11:51:48 23 A. Uh-huh.
11:51:48 24 Q. Do you see the sentence where it says, "By
11:51:50 25 continuing on you agree to the following
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11:51:52 1 terms and conditions"?

11:51:53 2 A. Uh-huh.

11:51:53 3 Q. Do you recall seeing a page like that when

11:51:55 4 you created a new account with Expedia.com?

11:51:57 5 MS. MINCHOFF: Objection.

11:51:58 6 A. I don't remember.

11:51:58 7 Q. You do have an account with Expedia.com,

11:52:03 8 correct?

11:52:04 9 A. I believe I do.

11:52:05 10 Q. Okay. And to have an account, you assume

11:52:09 11 you had to create an account with

11:52:11 12 Expedia.com, correct?

11:52:11 13 A. I would assume so, yes.

11:52:13 14 Q. And if this page is a uniform page for the

11:52:16 15 creation of a new account, would you have

11:52:19 16 read this page when you did, in fact, create

11:52:21 17 the new account?

11:52:22 18 MS. MINCHOFF: Objection.

11:52:25 19 A. If it was part of making an account at

11:52:27 20 whatever time I made the account, then I

11:52:30 21 would assume it was there and I would have

11:52:32 22 read it --

11:52:33 23 Q. Okay.

11:52:34 24 A. -- or skimmed it. I don't remember off the

11:52:37 25 top of my head if I've seen this or -- in

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11:52:39 1 making my account or not. I don't remember

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11:52:41 2 when I made my account.

11:52:42 3 Q. Sure. But if this -- if this page was part

11:52:46 4 of a customer account creation process, you

11:52:49 5 would have read it or at least skimmed this

11:52:53 6 page, correct?

11:52:53 7 A. I'm assuming I would have either read it or

11:52:56 8 skimmed it.

11:52:57 9 Q. Okay. Turning your attention to the part

11:53:03 10 where it says, "Agreement between customer

11:53:04 11 and Expedia, Inc."

11:53:05 12 Do you see that?

11:53:07 13 A. Uh-huh.

11:53:08 14 Q. Do you see it on the internal box there?

11:53:10 15 A. Yeah.

11:53:10 16 Q. Do you remember having read something that

11:53:13 17 said "Agreement between customer and

11:53:16 18 Expedia, Inc." before today?

11:53:20 19 A. I don't remember, no.

11:53:22 20 Q. Okay. If this agreement between customer

11:53:27 21 and Expedia, Inc. were part of a standard

11:53:29 22 customer account creation process and you

11:53:33 23 created a customer account with Expedia,

11:53:35 24 would you have read this customer agreement?

11:53:38 25 MS. MINCHOFF: Objection.
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11:53:39 1 A. I'm assuming I would have read it or skimmed

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11:53:42 2 it. I don't remember.

11:53:42 3 Q. Okay. Just like you read or skimmed the

11:53:46 4 bank website terms and conditions we talked

11:53:49 5 about earlier, correct?

11:53:50 6 MS. MINCHOFF: Objection.

11:53:50 7 A. Yes.

11:53:51 8 Q. Do you see where it says "Sign up and

11:53:55 9 continue using Expedia.com"?

11:53:57 10 A. Yes.

11:53:57 11 Q. Do you remember clicking through on "Sign up

11:54:01 12 and continue using Expedia.com" when you

11:54:02 13 booked the Jamaica vacation?

11:54:05 14 A. I don't remember.

11:54:05 15 Q. All right. Do you remember ever clicking on

11:54:07 16 the icon that says "Sign up and continue

11:54:10 17 using Expedia.com"?

11:54:12 18 A. I don't remember.

11:54:12 19 Q. Do you recall if when you signed up for the

11:54:37 20 Jamaica vacation, that the website -- strike

11:54:42 21 that. That was going to be a bad question.

11:54:45 22 Let's back up.

11:54:46 23 Turning your attention to the document

11:54:47 24 that's -- or page that's marked circled 10,

11:54:50 25 it's a few more pages into it. Are you

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11:54:54 1 there?

11:54:54 2 A. Yeah.