

# EXHIBIT D

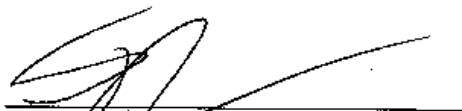
UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
Docket No.: 05-40170 FDS

Stephanie Hofer and Douglas Hofer, )  
Plaintiffs, )  
v. )  
The Gap Inc., Expedia, Inc., and )  
Turtle Beach Towers, )  
Defendants. )

I, Stephen J. Kuzma, hereby state and depose the following:

1. I am an attorney duly admitted to the practice of law in the Commonwealth of Massachusetts and the Federal District Court for the District of Massachusetts. I represent the Plaintiffs in the above captioned matter.
2. On or about July 20, 2006, eight days prior to the July 28, 2006 date set by the Court to comply with its July 13, 2006 Order, I had a lengthy telephone conversation with Expedia's attorney, Thomas Reith. During the conversation we spoke about the outstanding discovery issue as well as about settlement of the case between the Plaintiffs and Expedia.
3. Attorney Reith stated a settlement position that he believed his client might be amendable to in the interest of resolving the case. Attorney Reith did state that he would have to consult with his client. When I stated that the proposal was unacceptable to the Plaintiff, Attorney Reith stated that he would speak with his client and call me the following week with Expedia's settlement position
4. During the week leading up to July 28, 2006, I did not hear back from Attorney Reith.

Signed under the pains and penalty of perjury this 10<sup>th</sup> day of August, 2006.

  
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Stephen J. Kuzma