

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTSSTEPHANIE HOFER and  
DOUGLAS HOFER,

Plaintiffs,

vs.

Case No. 05-40170 FDS

THE GAP, INC., EXPEDIA, INC.  
and TURTLE BEACH TOWERS,Defendants.  

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**DEFENDANTS FIRST REQUEST FOR PRODUCTION OF  
DOCUMENTS AND THINGS PURSUANT TO FED. R. CIV. P. 34**

**NOW COMES** Defendant, The Gap, Inc., by and through its attorneys, Sullivan, Ward, Asher & Patton, P.C., and requests that the Plaintiffs produce the following documents, things pursuant to Fed. R. Civ. P. 34, within thirty (30) days after service of this Request:

1. Any and all evidence logs documenting the evidence maintained by any consultants retained by plaintiffs in this matter.
2. Any and all photographs of the Old Navy sandals which are the subject matter of this litigation or any exemplar Old Navy sandal which is allegedly the subject matter of this litigation, including any and all photographs of any and all testing performed on said sandals or portions of said sandals.
3. Any and all videotapes, DVD's or other electronic recording of images for any testing performed on said sandals or portions of said sandals.
4. Identify and produce each and every note, test protocols, test report, examination report and any other document produced either in electronic or hard copy form which evidences any portion of an examination of an exemplar Old Navy sandal or any representative exemplar including pieces of said sandal at any time or by any individual or any assistant, consultant or other individuals who participated in such examination and/or testing at any consultant's request.
5. Identify the names and addresses of any individuals who conducted any such examination or

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testing on the Old Navy sandal and the specific address where such testing took place.

6. Produce copies of any and all protocols utilized by any consultant in their testing of the Old Navy sandal, including an identification of each and every step undertaken by said consultant in his or her conducting of any such testing.

7. Identify and produce any and all records, data, documents and things maintained by any consultant in reference to the Hofer litigation. If any portion of such files are claimed by Plaintiffs' counsel to contain some privilege or work-product claim, please specifically identify those documents, records and things so that those documents, records and things can be reviewed by the court at an in camera hearing to determine the applicability of any such privilege or work product claim.

8. Produce any and all photographs taken of Stephanie Hofer during the Jamaica vacation of March of 2004, including but not limited to: any digital photographs, hardcopy prints, prints on CD, prints maintained in some electronic format, videotape or digital recording of Stephanie Hofer.

9. Produce any and all tags that may have been present on the Old Navy sandals worn by the Plaintiff and/or the exemplar sandal that may have been present at the time of the purchase but were removed at any time after the purchase by the Plaintiff or any other individual, including but not limited to: sales documents, sales receipts, hang tags, care instructions or other labels or materials received by the Plaintiff at the time of purchase of said sandals.

10. Any and all medical records of Stephanie Hofer, including photographs taken by medical personnel from March 18, 2004 to the present.

11. Any and all ambulance records, air ambulance records, fixed wing aircraft ambulance records, hospital records, physician records or any other documents in any way which evidence any medical care and treatment received by Plaintiff for any such injuries.

12. Please provide full and complete copies of any and all employment records, including personnel and payment files from plaintiff's employer for the three years preceding the incident up to the present.

13. Please produce tax returns for Stephanie Hofer and/or Douglas Hofer (state, federal and local, including all attachments thereto) from the year 2000 to the present.

14. Please produce the items identified in plaintiff's Rule 26 disclosures (B)(6) which are identified as three pairs of identical Old Navy sandals, including the production of any and all sales receipts, credit card receipts or other documents evidencing such sales.

Respectfully submitted,


**SULLIVAN, WARD,  
ASHER & PATTON, P.C.**

By:



SCOTT D. FERINGA (P28977)  
Attorney for Defendant Gap, Inc.  
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(248) 746-0700

Dated: 3-8-06

PROOF OF SERVICE
<p>Stacy A. Vergara certifies that the within pleading was served upon all attorneys to the above cause at the respective addresses disclosed on the pleadings by depositing a copy thereof in the U.S. Mail with appropriate postage on:</p> <p><del>3-8-06</del> <u>3-8-06</u></p> <p> Stacy A. Vergara</p>

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FOR THE DISTRICT OF MASSACHUSETTS

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FEDERAL COURT

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THE GAP, INC., EXPEDIA, INC.  
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**NOTICE OF COMPLIANCE AND PROOF OF SERVICE**

On Wednesday, March 8, 2006, Scott D. Feringa, counsel for Gap, Inc., provided Gap, Inc.'s First Request for Production of Documents and Things Pursuant to Fed. R. Civ. P. 34 to India L. Minchoff of Russo & Minchoff; Thomas T. Reith of Burns & Levinson, Sean J. Milano of Morrison Mahoney, LLP and Stephen J. Kuzma, Esq.

I, Scott D. Feringa, hereby certify that on March 8, 2006, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, and I further certify that I mailed the foregoing document via First Class Mail to the following CM/ECF participants: India L. Minchoff, Russo & Minchoff, 123 Boston Street, Boston, MA 02125; Thomas T. Reith, Burns & Levinson, LLP, One Beacon Street, 30<sup>th</sup> Floor, Boston, MA 02108; Sean J. Milano, Morrison, Mahoney, LLP, 250 Summer Street, Boston, MA 02210-1181; and Stephen J. Kuzma, 75 Federal Street, 17<sup>th</sup> Floor, Boston, MA 02110.

**s/Scott D. Feringa**

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