

EXHIBIT 4

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS

3 Docket No. 05-40170 FDS

4 STEPHANIE HOFER and
5 DOUGLAS HOFER
6 Plaintiffs

7 vs.

COPY

8 THE GAP INC., EXPEDIA, INC.,
9 and TURTLE BEACH TOWERS,
10 Defendants

11 Fort Lauderdale, Florida
12 October 17, 2006
13 11:00 o'clock a.m.

14 APPEARANCES:

15 THE LAW OFFICES OF RUSSO & MINCHOFF, P.A.
16 BY: INDIA L. MINCHOFF, Esquire
17 BY: STEVEN KUZMAN, Esquire
18 Appearing on behalf of the Plaintiffs.

19 THE LAW OFFICES OF BURNS & LEVENISON, P.A.
20 BY: LAWRENCE GREEN, Esquire
21 Appearing on behalf of the Defendant, Expedia.

22 THE LAW OFFICES OF SULLIVAN, WARD et al, P.D.
23 BY: DAVID LAFARGA, Esquire
24 Appearing on behalf of the Defendant, The Gap

25 ALSO PRESENT:

LAURA VEGLIA, Company representative for Expedia.

DEPOSITION

OF

NASHARA FRAZIER

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DATE	PROCEEDINGS	PAGES
10/17/06	Deposition	1 - 47
Witness	Direct	
Nashara Frazier		3

REDACTED

1 The deposition of NASHARA FRAZIER was taken
 2 by me, Lisa Greenwell, a Notary Public for the
 3 State of Florida at Large, at the Pelican Grant
 4 Beach Resort, 2000 North Ocean Boulevard,
 5 Suite 706, in the City of Fort Lauderdale, County
 6 of Broward, in the State of Florida beginning at
 7 the hour of 11:00 a.m., the 17th day of October,
 8 2006, on behalf of the Plaintiffs in the
 9 above-entitled action pending in the above-named
 10 court.

11
 12 Thereupon,

13 NASHARA FRAZIER
 14 having been first duly sworn, was examined and
 15 testified upon her oath as follows:


16 DIRECT EXAMINATION

17 MR. KUZMAN: We have the same
 18 stipulations, correct, Mr. Green?

19 MR. GREEN: Yes.

20 BY MR. KUZMAN:

21 Q. And just for the record, state your
 22 name and date of birth please.

23 A. Nashara Frazier, 

24 Q. Mrs. Frazier, you're testifying on
 25 behalf of Expedia.

1 MR. KUZMAN: Mr. Green, if you would
2 please identify the particular paragraph
3 that she'll be testifying about in our
4 Schedule A attachment notice of taking
5 deposition.

6 MR. GREEN: Yes, certainly.
7 Mrs. Frazier is being produced in response
8 to area Number 5. Area Number 5 is asking
9 about all inspections performed by Expedia
10 of hotels or resorts listed.

11 We objected. We said that there was
12 one visit that took place to Turtle Beach
13 Towers by Expedia. Mrs. Frazier was the
14 one who did that visit.

15 And she's testifying about any other
16 questions that you have with respect to
17 Expedia as to procedures with response to
18 visits done under Mrs. Veglia's testimony.
19 Thank you.

20 MR. KUZMAN: Can you just help me out
21 with the spelling of Mrs. Veglia's last
22 name?

23 MR. GREEN: V-E-G-L-I-A, and the
24 first name is Laura.

25 MR. KUZMAN: G is silent.

1 capacity?

2 A. Ah, a year-and-a-half.

3 Q. When you say contacts with hotels,
4 would that also mean that you would visit hotels
5 that were listed on Hotels.com?

6 A. No.

7 Q. It was strictly over the phone?

8 A. And E-mail.

9 Q. And E-mail?

10 A. Right.

11 Q. As a market coordinator, did you ever
12 take complaints from any clients or customers of
13 Hotels.com?

14 A. No.

15 Q. What was your first position with
16 Expedia, Inc?

17 A. Um, I was promoted to market manager.

18 Q. How long were you employed in that
19 position?

20 A. Ah, October '03.

21 Q. Until October '03?

22 A. Since October '03.

23 Q. Are you still employed in that
24 position?

25 A. Yes.

1 Q. As a market manager for Expedia,
2 Inc., what do you do?

3 A. Um, I'm responsible for the revenue
4 production for my region.

5 Q. What's your region?

6 A. Several islands in the Caribbean.

7 Q. Which islands specifically?

8 A. Jamaica, U.S.V.I, B.C.B.V.I,
9 Saint Kitts and Nevis, Grenada and Dominica.

10 Q. Where were you born?

11 A. Jamaica.

12 Q. Prior to being employed at
13 Hotels.com, have you ever <SREUS> visited the
14 Turtle Beach Towers?

15 A. No.

16 Q. Do you know where it was located?

17 A. No.

18 Q. When was the first time you became
19 aware of a hotel by the name of Turtle Beach
20 Towers?

21 A. When I was promoted in October of
22 '03.

23 Q. How is it that you became familiar
24 with Turtle Beach Towers in October of '03?

25 A. It was a part of the Expedia program

1 A. No, it's not fair to say.

2 Q. Have you ever been deposed before?

3 A. No.

4 Q. When was the last time you visited
5 the database which had the financial information
6 on it regarding the number of bookings that Turtle
7 Beach Towers made through Expedia?

8 A. Um, I visited the database
9 approximately last week, but not to review Turtle
10 Beaches information.

11 Q. Why is it that you went to Turtle
12 Beach Towers specifically in May 2004?

13 MR. GREEN: Object to the question.
14 Her visit wasn't to Turtle Beach Tower
15 specifically. So I object to the form of
16 the question.

17 BY MR. KUZMAN:

18 Q. All right. In May 2004, is it fair
19 to say that you visited Turtle Beach Towers?

20 A. Yes.

21 Q. What was the purpose of that visit?

22 A. Um, just to make myself familiar with
23 the property.

24 Q. What do you mean by that?

25 A. Location. Um, for example, from the

1 hotel to the beach. Um, just to be aware of where
2 it is and, you know, what we're selling or what
3 we're booking on the web site.

4 Q. Is that something that's important to
5 you as someone in marketing to know and be
6 familiar with the properties that are on the
7 Expedia web sites?

8 A. It is a benefit, but --

9 Q. Why were you in Jamaica in May 2004?
10 Was it a business trip?

11 A. There was a conference, yes.

12 Q. Where was the conference?

13 A. In Montego Bay.

14 Q. Was it at a hotel?

15 A. Yes.

16 Q. Was it related to your business?

17 A. Yes.

18 Q. What was the purpose of the
19 conference?

20 A. The Tourist Board held a conference.

21 Q. Tourist Board of Jamaica?

22 A. Yes.

23 Q. You were invited to it?

24 A. Yes.

25 Q. Were you Expedia, Incs representative

1 at the conference?

2 A. Yes.

3 Q. Was anyone else from Expedia along
4 with you?

5 A. No.

6 Q. Where did you stay in Montego Bay?

7 A. Half moon.

8 Q. As far as you know, is there a
9 certain amount of business that Expedia has to
10 derive from any of the hotels that are listed on
11 it's web site in order for them to be listed the
12 following year?

13 A. No. _____

14 Q. How long were you in Jamaica in May
15 of 2004?

16 A. I don't recall exactly how long.

17 Q. Less than a year or more than a week?

18 A. I don't recall.

19 Q. Did you visit other properties at
20 that time that are listed on the Expedia web site?

21 A. Yes.

22 Q. What other properties did you visit?

23 A. I don't recall exactly which other
24 ones.

25 Q. You don't recall?

1 Q. Is it fair to say that you visited
2 more than two properties?

3 A. I did visit more than two properties.

4 Q. Why did you specifically choose
5 Turtle Beach Towers as a place to visit?

6 A. Because it was close to Sunset
7 Jamaica Grand.

8 Q. Did it have anything to do with this
9 accident?

10 A. No.

11 Q. How long was your visit to
12 Turtle Beach Towers in May of 2004?

13 A. I don't recall the exact length of
14 time, but it was --

15 Q. How about approximately?

16 A. A few minutes.

17 Q. Did you take any photographs?

18 A. No.

19 Q. Did you meet with anyone?

20 A. A representative of the hotel.

21 Q. Who was that?

22 A. I don't recall his name.

23 Q. What time of day was it?

24 A. I don't know the exact time.

25 Q. It was definitely a male as opposed

1 Q. What was the purpose of those trips?

2 A. The same purpose, to make myself
3 familiar with the products.

4 Q. Why was that important?

5 A. To make myself familiar with the
6 products.

7 Q. You wanted to see what the physical
8 plant looked like of the hotels, is that fair to
9 say, of the Expedia web sites?

10 A. No.

11 Q. What was the purpose, just to meet
12 people?

13 A. Portion of it is to meet and greet.

14 Q. Anything else other than meeting and
15 greeting?

16 A. Ah, to get the feel of the property.

17 Q. Did you want to look over the
18 condition of the property or did that -- is that
19 something that didn't concern you?

20 A. Ah, I did not want to look over the
21 condition.

22 Q. Was there anyone else at the -- at
23 Expedia, as far as you know, that would inspect
24 the physical plant of any of the hotels listed on
25 Expedia web site?

1 A. Inspect? No.

2 Q. You have a problem with the word
3 inspect?

4 A. Ah --

5 MR. GREEN: Object to the form.

6 THE WITNESS: If you can tell me what
7 it means. What you mean by inspect?

8 BY MR. KUZMAN:

9 Q. Well, actually, look at the physical
10 plant and make note of things that might need
11 repairing or correcting?

12 A. Okay. In that case then, no.

13 Q. In the time you do the meet and greet
14 but you don't inspect or look at the physical
15 plant, do you take any notes regarding your
16 meeting and greeting?

17 A. Occasionally.

18 Q. What do you do with those notes?

19 A. Ah, I review them when I get back and
20 if I need take action on something, I do. If I
21 don't, then I don't.

22 Q. Do you put the notes in the file on
23 each property?

24 A. No.

25 Q. What do you do with those notes?