

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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STEPHANIE HOFER and	)	
DOUGLAS HOFER,	)	Civil Action Docket No. 05-40170 FDS
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
THE GAP, INC., EXPEDIA, INC.	)	
And TURTLE BEACH TOWERS,	)	
	)	
Defendants.	)	
	)	
_____	)	

**AFFIDAVIT OF NASHARA FRAZIER  
IN SUPPORT OF EXPEDIA, INC.’S MOTION FOR SUMMARY JUDGMENT**

I, NASHARA FRAZIER, on oath hereby depose and state as follows:

1. I hold the position of Market Manager, Caribbean, Partner Services Group for the defendant Expedia, Inc. (“Expedia”). I have held the position of Market Manager since October 2003. For the two years prior to my becoming Market Manager, I was employed by Hotels.com, before its merger into Expedia, Inc., as a Market Coordinator.

2. I submit this Affidavit in support of Expedia’s motion for summary judgment.

3. I am familiar with the claims made by the plaintiffs against Expedia. I am authorized to make this Affidavit on behalf of Expedia and I make these statements based on my personal knowledge or upon a review of the records kept in the normal course of business at Expedia’s offices.

4. Neither Expedia nor any of its affiliated companies (collectively “Expedia”), has ever owned, operated, managed or controlled the Turtle Beach Towers. Nor has Expedia ever owned stock in any corporation owning the Turtle Beach Towers. Expedia has never been owned or operated by Turtle Beach Towers. Turtle Beach Towers is a completely independent entity from Expedia.

5. Expedia has never owned, operated, managed or controlled any units located at the Turtle Beach Towers, including any units presently or previously owned by Sherna and Daine Thomas. Sherna and Daine Thomas have never been employed by Expedia. Similarly, Expedia has never owned, operated, managed or controlled any property management company for Turtle Beach Towers or its common areas.

6. Expedia has been advertising Turtle Beach Towers on its website since at least 2003. In 2006, approximately 86 customers made bookings through Expedia for this property. In 2005, approximately 69 customers made bookings through Expedia for this property. Due to the structure of the older database, precise information concerning customer bookings prior to these dates is not readily available.

7. At no time during my employment with Expedia, including my past three years as Market Manager, have I become aware of any complaints concerning the Turtle Beach Towers, including any complaints concerning the safety, maintenance or physical condition of the Turtle Beach property or any of the units therein, with the exception of Stephanie Hofer’s complaint. Specifically, I am not aware of any customers of Expedia reporting any injuries or near injuries resulting from falls down stairs on the premises of the Turtle Beach Towers, falls into turtle ponds on the premises of the Turtle Beach Towers, or any potentially dangerous conditions existing on the property due to the lack of handrails or guardrails or due to insufficient lighting.

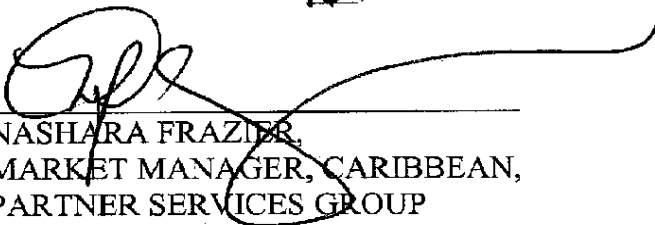
I have caused a diligent search to be performed both prior to my deposition in this case and prior to execution of this affidavit, and have not discovered any evidence of such complaints concerning the Turtle Beach Towers.

8. At no time prior to or after Ms. Hofer's accident did Expedia receive any information from travel industry trade publications, mainstream media, or any other source that any steps or stairs at the Turtle Beach Towers were dangerous, defective, or hazardous in any way, or that the turtle pond itself was dangerous, defective, or hazardous in any way.

9. Expedia has never sent an employee or other representative to the Turtle Beach Towers to perform a safety or other type of inspection of the premises of Turtle Beach Towers or any of the units therein. Indeed, as of the date of Ms. Hofer's accident, Expedia had never sent any employee to the property for any purpose.

10. No employee of Expedia was present on the premises of the Turtle Beach Towers at the time of Ms. Hofer's accident.

PURSUANT TO 28 U.S.C. § 1746, I, NASHARA FRAZIER, DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED ON FEBRUARY 16, 2007.

  
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NASHARA FRAZIER,  
MARKET MANAGER, CARIBBEAN,  
PARTNER SERVICES GROUP  
EXPEDIA, INC.

**CERTIFICATE OF SERVICE**

I, Rodney E. Gould, hereby certify that this document, filed through the ECF system, will be served electronically upon the registered participants identified on the Notice of Electronic Filing (NEF) and will be served upon any non-registered participants, as indicated on the NEF, by paper copy sent via first-class mail, postage prepaid.

DATED: February 16, 2007

**/s/ Rodney E. Gould**

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Rodney E. Gould