## UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

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STEPHANIE HOFER and DOUGLAS HOFER,	j	
Th. 1.100	)	
Plaintiffs,	)	Civil Action
	)	Docket No. 05-40170 FDS
v.	)	DOCKOLINO, US 1017.012.5
THE GAP, INC., EXPEDIA, INC. and	j	
TURTLE BEACH TOWERS,	)	
	)	
Defendants.	··· )	
	J	

## **AFFIDAVIT OF SHERNA THOMAS**

- I, Sherna Thomas, do hereby depose and state as follows:
- 1. I am a resident of Jamaica.
- 2. I offer this affidavit based upon my personal knowledge.
- 3. In 2004 my husband, Daine Thomas, and I owned 11 units at the Turtle Beach Towers Resort in Ochos Rios, Jamaica. We are presently the record owners of 7 units located at the Turtle Beach Towers Resort in Ochos Rios, Jamaica.
- 4. From approximately 2000 until present date, Mr. Thomas and I have advertised our various units on three separate websites -- Expedia.com, Travelocity.com and Worldres.com.
- 5. Since 2000, I have entered into three separate contracts with Expedia, Inc., or its related entities, to advertise my units at the Turtle Beach Towers Resort. I did not authorize Expedia, Inc., or its related entities, including Expedia.com to act as my agent via those contracts.
- 6. The contract that was in effect as of March 14, 2004, was the document entitled the January 29, 2004 Expedia Travel "FIT TOUR OPERATOR AGREEMENT." I have reviewed the documents I provided to Expedia's attorneys and the contract I reference is marked with the stamp JAM 00013-00018.
- 7. I have never met any person employed by Expedia, Inc., or any of Expedia, Inc.'s related entities, including Expedia.com, in-person.

Filed 02/16/2007

- All of my communications with Expedia, Inc., or any of Expedia, Inc.'s related entities, 8. including Expedia.com, were conducted via email or facsimile.
- At no time has any person employed by Expedia, Inc., or any of its related entities, 9. including Expedia.com, requested my permission to conduct inspections of any kind of my units or the Turtle Beach Towers Resort's grounds.
- At no time has any person employed by Expedia, Inc., or any of its related entities, 10. including Expedia.com, requested that I arrange for an inspection of any kind of my units or the Turtle Beach Towers Resort's grounds.
- At no time did I arrange for Ms. Faylin Miller, Turtle Beach Towers Resort's General 11. Manager, to meet any person employed by Expedia, Inc., or its related entities, including, Expedia.com, for inspections of any kind of my units or the Turtle Beach Towers Resort's grounds or for any other reason.
- No person employed by Expedia, Inc. or any of its related entities, including 12. Expedia.com, has ever conducted an inspection of any kind of any of my units or Turtle Beach Towers Resort.
- Neither Expedia, Inc., nor any of its related entities, including Expedia.com, has ever sent 13. me any report detailing any inspection or visit to my units or the Turtle Beach Towers Resort.
- Neither Expedia Inc., nor any of its related entities, including Expedia.com, has ever sent 14. me any report detailing areas in my units or around the Turtle Beach Towers Resort's grounds that required repair, maintenance, cosmetic attention or anything else.
- To my knowledge, no person has had any accident whereby they were injured or their property was damaged in my units or the Turtle Beach Towers Resort's grounds, other than Ms. Hofer.
- No person has issued any complaint concerning the safety of my units or, to my 16. knowledge, the Turtle Beach Tower Resort's grounds.
- I have never provided any safety complaint reports to Expedia, Inc. or any of its related entities, including Expedia.com, as none have existed.

Pursuant to 28 U.S.C. §1746, I, Sherna Thomas, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on February <u>7</u>, 2007.

## **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
	Rodney E. Gould