IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CENTRAL SANTA LUCIA, L.C.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 22-367-CFC
	)	
EXPEDIA GROUP, INC.,	)	
	)	
Defendant.	)	

ORDER

Defendant Expedia Group Inc. has moved to dismiss the Amended Complaint filed by Central Santa Lucia, L.C. (CSL). D.I. 23. Expedia contends that I should dismiss the case for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1) because CSL has not suffered any actual, concrete injury and therefore lacks standing under Article III of the Constitution. D.I. 24 at 1. Alternatively, Expedia argues that the Amended Complaint should be dismissed under Rule 12(b)(6) for failure to state a claim. D.I. 24 at 1.

The legal standards for Rule 12(b) motions are well known and not disputed by the parties, so I will not repeat them here. *See generally Fed. Trade Comm'n v. AbbVie Inc.*, 976 F.3d 327, 351 (3d Cir. 2020); *Davis v. Wells Fargo*, 824 F.3d 333, 346 (3d Cir. 2016); *Umland v. Planco Fin. Servs.*, 542 F.3d 59, 64 (3d Cir. 2008).

I reject Expedia's lack-of-standing argument for the reasons stated in *Glen v. American Airlines, Inc.* (*Glen I*), 7 F.4th 331, 334 (5th Cir. 2021), *cert. denied*, 142 S. Ct. 863 (2022). *See also Glen v. Trip Advisor, LLC* (*Glenn II*), 2022 WL 3538221, at *2 (3d Cir. Aug. 18, 2022) ("agree[ing] with the Fifth Circuit [in *Glen I*] that the harm Glen alleges—namely, [Defendants'] wrongfully profiting from his usurped properties—'bears a close relationship to unjust enrichment, which has indisputable common-law roots'"), *cert. denied*, 143 S. Ct. 737 (2023).

I also reject the three arguments Expedia makes to justify its request for dismissal of the Amended Complaint pursuant to Rule 12(b)(6).

Expedia argues first that dismissal is warranted under Rule 12(b)(6) because the Amended Complaint does not allege that CSL has a direct ownership interest in the real estate properties it accuses Expedia of trafficking in but instead merely alleges that CSL has ownership interests in two corporate entities that in turn had ownership interests in those real estate properties. *See* D.I. 24 at 14 (arguing that "at no point does CSL allege that the Cuban Entities' interests in the Real Property [which Expedia defines as "the sugar mill and surrounding land" the Cuban Entities owned, *see* D.I. 24 at 4] were assigned or transferred to CSL"); D.I. 29 at 3 (arguing that "CSL admits [in its answering brief] that its predecessors never owned the real property that Expedia Group allegedly trafficked in but instead owned interests in two entities that owned that real property"); D.I. 29 at 4 ("CSL's

alleged ownership of claims to individuals' ownership interests in two entities does not equate to ownership of claims to the property owned by and confiscated from those entities."). But the Helms-Burton Act creates a cause of action for "money damages" for "any United States national who owns *the claim* to [confiscated] property," 22 U.S.C. § 6082(a)(1)(A) (emphasis added), and nothing in the text of the statute requires that a plaintiff in a § 6082(a)(1) action have a direct ownership interest in the confiscated property. Accordingly, "a 'claim' under Helms-Burton need not be based on direct property ownership . . . , but instead embraces indirect ownership as well." *Garcia-Bengochea v. Carnival Corp.*, 407 F. Supp. 3d 1281, 1290 (S.D. Fla. 2019). Here, the Amended Complaint alleges that CSL owns 67% of two confiscated Cuban entities that owned confiscated real property Expedia trafficked in. D.I. 21 ¶¶ 9–11. Those allegations are sufficient to state a claim that CSL owns a claim to the alleged confiscated property. *Accord id.*

Expedia next argues that dismissal is required "because the [A]mended [C]omplaint makes clear that the owners of the Cuban entities were not U.S. Citizens at the time of the alleged confiscation." D.I. 24 at 14. Nothing in the Helms-Burton Act, however, requires a plaintiff to have been a United States national at the time Cuba confiscated the property in question. As noted above, the Act creates a cause of action for "*any* United States national who *owns*" (i.e., present tense) a claim to confiscated property. This unambiguous language ends

the inquiry. *See Babb v. Wilkie*, 140 S. Ct. 1168, 1177 (2020) ("Where, as here, the words of a statute are unambiguous, the judicial inquiry is complete." (alterations and citations omitted)). Under § 6082(a)(1)(A), a plaintiff must be a United States national who owns the claim to the confiscated property at the time of suit.

Expedia next argues that the Amended Complaint does not adequately allege that Expedia knew the property it allegedly trafficked in was confiscated. D.I. 24 at 15. I am somewhat sympathetic to Expedia with respect to this argument, as the Amended Complaint's allegations about Expedia's knowledge are fairly conclusory. The Amended Complaint, however, expressly alleges that Expedia received a "notice letter" on November 29, 2021, D.I. 21 ¶ 94; and it is undisputed that that letter (1) informed Expedia of 11 hotels "among others" that are located on the Confiscated Property and (2) provided Expedia with a map that shows an area identified as Guardalavaca within the boundaries of the Confiscated Property, D.I. 24-1 at 2.[1] In its Amended Complaint, CSL alleges that "Expedia Group

[1] Under Third Circuit law, a document that is referred to in the complaint and is integral to the plaintiff's argument is incorporated by reference and may be considered as part of the pleadings when ruling on a motion to dismiss. *See, e.g.*, *Santomenno v. John Hancock Life Ins. Co. (U.S.A.)*, 768 F.3d 284, 290–91 (3d Cir. 2014). The notice letter here is attached to Expedia's motion to dismiss as Exhibit A (D.I. 24-1), and CSL relied on the letter in the Amended Complaint. *See* D.I. 21 ¶ 94. The letter is central to CSL's claim because it is the primary basis for CSL's argument that Expedia's actions were knowing and voluntary and notice is

continued to traffic in the real properties after receiving the notice letter" in November 2021 by "facilitating the booking of hotels directly on the Confiscated Property including, in particular, the area of Cuba known as Guardalavaca as recently as May 2022." D.I. 21 ¶¶ 94–95. Given the contents of the notice letter, these allegations are sufficient to plead knowing trafficking of confiscated property by Expedia.

Finally, Expedia argues that dismissal under Rule 12(b)(6) is required because § 6023(13)(B)(iii) expressly excludes from the definition of trafficking "transactions and uses of property incident to lawful travel to Cuba." According to Expedia, because "CSL alleges that Expedia Group provided online booking services for hotels on the Real Property" and because "providing online booking services for hotels in Cuba is, on its face, 'incident to' and 'necessary to the conduct of' lawful travel to Cuba," CSL has failed to adequately plead "trafficking." D.I. 24 at 17. The Amended Complaint, however, alleges that "Expedia Group's knowing and intentional conduct regarding the Confiscated Property constitutes trafficking without authorization as defined in 22 U.S.C. § 6023(13)," D.I. 21 ¶ 96; and it further alleges that Expedia's "websites facilitate

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necessary for the Amended Complaint's prayer for treble damages under 22 U.S.C. § 6082(3). D.I. 21 at 32–33. I therefore find that the notice letter (D.I. 24-1) is incorporated by reference into the Amended Complaint (D.I. 21).

the receipt of hard currency for *tourists* booking hotel rooms in Cuba," D.I. 21 ¶ 70 (emphasis added). Travel to Cuba solely for tourist purposes is not lawful. *See* 22 U.S.C. § 7209(b)(1) ("Notwithstanding any other provision of law or regulation, the Secretary of the Treasury, or any other Federal official, may not authorize the travel-related transactions listed in subsection (c) of section 515.560 of title 31, Code of Federal Regulations . . . for travel to, from, or within Cuba for *tourist* activities." (emphasis added)); 31 C.F.R. § 515.560(a) (2017) (authorizing travel to Cuba for family visits; official government business; journalistic activity; professional research or meetings; educational activities; religious activities; public performances and events; support for the Cuban people; humanitarian projects; activities of private foundations or research or educational institutions; transmission of informational materials; and certain export transactions); § 515.560(f) ("Nothing in [§ 515.560] authorizes transactions in connection with *tourist* travel to Cuba." (emphasis added)). Thus, the Amended Complaint alleges facts from which it can be plausibly inferred that Expedia's alleged transactions and uses of confiscated property were incident to unlawful travel to Cuba. (I therefore need not and do not decide whether the lawful travel exception to the definition of "traffics" in § 6023(13)(B)(iii) is an affirmative defense.)

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NOW THEREFORE, at Wilmington on this Twenty-Second day of June in 2023, it is **HEREBY ORDERED** that Expedia Group, Inc.'s Motion To Dismiss (D.I. 23) is **DENIED**.

CHIEF JUDGE