IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

ROBERT M. GLEN,	§	
	§	
Plaintiff,	§	
	§	C.A. No. 1:19-CV-01809-LPS
v.	§	
	§	**JURY TRIAL DEMANDED**
TRIPADVISOR LLC, TRIPADVISOR, INC., ORBITZ, LLC, TRIP NETWORK, INC. D/B/A CHEAPTICKETS, KAYAK SOFTWARE CORPORATION, BOOKING HOLDINGS, INC., EXPEDIA, INC., EXPEDIA GROUP, INC., HOTELS.COM, L.P., HOTELS.COM GP, LLC, and TRAVELSCAPE LLC D/B/A TRAVELOCITY	§	
	§	
Defendants.	§	

SECOND AMENDED COMPLAINT

Pursuant to Federal Rule of Civil Procedure 15(a)(2), Plaintiff Robert M. Glen ("**Glen**") hereby files this Second Amended Complaint against Defendants TripAdvisor LLC ("**TripAdvisor**"), TripAdvisor, Inc. ("**TripAdvisor Inc.**"), Expedia, Inc. ("**Expedia**"), Expedia Group, Inc. ("**Expedia Group**"), Hotels.com, L.P. ("**Hotels.com**"), Hotels.com GP, LLC ("**Hotels.com GP**"), Orbitz, LLC ("**Orbitz**"), Trip Network, Inc. d/b/a CheapTickets ("**CheapTickets**"), Travelscape LLC d/b/a Travelocity ("**Travelocity**"), Kayak Software Corporation ("**Kayak**"), and Booking Holdings, Inc. ("**Booking Holdings**"), and respectfully states as follows:

I. INTRODUCTION

1. This action arises under the Cuban Liberty and Democratic Solidarity Act, 22 U.S.C. § 6021 *et seq.* (the "**Act**"), also known as the LIBERTAD Act or the Helms-Burton Act.

2. Title III of the Act provides U.S. nationals whose property in Cuba was confiscated by the communist Cuban government with a private right of action against those who traffic in, or participate in the trafficking of, that property.

3. Glen holds a claim to two beachfront properties located in Varadero, Cuba, on the Hicacos Peninsula. Varadero is one of Cuba's most popular beach resort towns, featuring one of the Caribbean's best beaches and dozens of hotels and resorts that attract tourists and vacationers from around the world. Varadero is also the site of one of Cuba's busiest international airports.

4. Following the communist Cuban revolution, the properties were confiscated from Glen's family by the Cuban government. After the revolution, Glen's family fled Cuba, and Glen later became a naturalized U.S. citizen.

5. Today, the two properties are the site of four separate beachfront resorts, which together feature over 1,400 guestrooms, in addition to dozens of swimming pools, restaurants, and bars.

6. Under the Act, a person is liable for trafficking in confiscated property if that person, among other things, knowingly "engages in a commercial activity using or otherwise benefiting from confiscated property," or knowingly "participates in, or profits from, trafficking . . . by another person."

7. Defendants operate online booking websites, and provide or facilitate online booking services for hotels in Cuba, including the four beachfront resorts on the properties confiscated from Glen's family: the Iberostar Tainos, the Meliá Las Antillas, the Blau Varadero, and the Starfish Varadero.

8. By facilitating bookings at these hotels, Defendants are engaging in commercial activity that uses or otherwise benefits from Glen's confiscated property. Defendants are also participating in, and profiting from, trafficking committed by the hotels themselves.

9. Because Defendants have trafficked in confiscated property in violation of the Act, they are subject to Glen's private action for civil damages under Title III, measured as the greater of the current fair market value of the property, or the value of the property at the time of confiscation plus interest.

10. Glen accordingly brings this statutory action to vindicate his claim to confiscated property and to obtain the compensation that he is rightfully entitled to under the Act.

II. PARTIES

11. Plaintiff Robert M. Glen is an individual residing in Plano, Texas. Glen is a naturalized United States citizen and a "United States national" pursuant to 22 U.S.C. § 6023(15). Glen became a United States national prior to March 12, 1996.

12. Defendant TripAdvisor LLC is a Delaware limited liability company. TripAdvisor LLC may be served through its registered agent at the following address: The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801.

13. Defendant TripAdvisor, Inc. is a corporation chartered in Delaware, with a principal office in Massachusetts. TripAdvisor Inc. may be served through its registered agent at the following address: The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801.

14. Together, TripAdvisor and TripAdvisor, Inc. operate the TripAdvisor website. TripAdvisor Inc. is TripAdvisor's corporate parent and ultimately owns and controls TripAdvisor.

15. Defendant Expedia, Inc. is a corporation organized in Washington, with a principal office address of 333 108th Ave. NE, Bellevue, Washington 98004. Expedia may be served through its registered agent at the following address: National Registered Agents, Inc., 711 Capital Way South, Suite 204, Olympia, Washington 98501. Expedia has consented to jurisdiction in this Court in connection with this action. Expedia operates the Expedia website.

16. Defendant Expedia Group, Inc. is a corporation organized in Delaware, with a principal office address of 333 108th Ave. NE, Bellevue, Washington 98004. Expedia Group may be served through its registered agent at the following address: National Registered Agents, Inc., 160 Greentree Drive, Suite 101, Dover, Delaware 19904. Expedia Group has consented to jurisdiction in this Court in connection with this action.

17. Expedia Group was previously named Expedia, Inc. (and not the same Expedia, Inc., organized in Washington, and also named as a Defendant herein). On March 26, 2018, Expedia Group became the name of the company through a filing made with the Secretary of State of the State of Delaware.

18. Defendant Hotels.com, L.P. is a limited partnership organized in Texas, with a principal office mailing address of 333 108th Ave. NE, Bellevue, Washington 98004. Hotels.com may be served through its registered agent at the following address: National Registered Agents, Inc., 711 Capital Way South, Suite 204, Olympia, Washington 98501. Hotels.com has consented to jurisdiction in this Court in connection with this action.

19. Defendant Hotels.com GP, LLC is a Texas limited liability company, with a principal office address of 333 108th Ave. NE, Bellevue, Washington 98004. Hotels.com GP is the general partner of Hotels.com. Hotels.com GP may be served through its registered agent at the following address: National Registered Agents, Inc., 1999 Bryan Street, Suite 900, Dallas,

Texas 75201. Hotels.com GP has consented to jurisdiction in this Court in connection with this action. Together with Hotels.com, Hotels.com GP operates the Hotels.com website.

20. Defendant Travelscape LLC d/b/a Travelocity is a Nevada limited liability company, with a principal office address in Dallas Texas. Travelocity may be served may be served through its registered agent at the following address: National Registered Agents, Inc., 1999 Bryan Street, Suite 900, Dallas, Texas 75201. Travelocity has consented to jurisdiction in this Court in connection with this action. Travelocity operates the Travelocity website.

21. Defendant Orbitz, LLC is a Delaware limited liability company, with a principal office in Chicago, Illinois. Orbitz may be served through its registered agent at the following address: National Registered Agents, Inc., 160 Greentree Drive, Suite 101, Dover, Delaware 19904. Orbitz has consented to jurisdiction in this Court in connection with this action. Orbitz operates the Orbitz website.

22. Defendant Trip Network, Inc. d/b/a CheapTickets is a corporation chartered in Delaware, with a principal office in Chicago, Illinois. CheapTickets may be served through its registered agent at the following address: National Registered Agents, Inc., 160 Greentree Drive, Suite 101, Dover, Delaware 19904. CheapTickets has consented to jurisdiction in this Court in connection with this action. CheapTickets operates the CheapTickets website.

23. Expedia, Hotels.com, Travelocity, Orbitz, and CheapTickets are each ultimately owned and controlled by Expedia Group.

24. Defendant Kayak Software Corporation is a corporation chartered in Delaware, with a principal office in Connecticut. Kayak may be served through its registered agent at the following address: Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808. Kayak operates the Kayak website.

25. Defendant Booking Holdings, Inc. is a corporation chartered in Delaware, with a principal office in Connecticut. Booking Holdings may be served through its registered agent at the following address: Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808.

26. Booking Holdings ultimately owns and controls Kayak.

III. JURISDICTION AND VENUE

27. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Glen's claim arises under 22 U.S.C. § 6082 and the amount-in-controversy exceeds the sum or value of $50,000, exclusive of interest, costs, and attorneys' fees.

28. This Court may exercise personal jurisdiction over each Defendant by virtue of their incorporation or organization in Delaware, or their consent to jurisdiction in this Court in connection with this action.

29. Venue in this District is proper under 28 U.S.C. § 1391(b)(3).

IV. STATEMENT OF FACTS

A. Passage and Implementation of the Act

30. The Act became effective March 12, 1996.

31. Among the Act's legislative purposes is to "protect United States nationals against confiscatory takings and the wrongful trafficking in property confiscated by the Castro Regime."

32. Title III of the Act ("**Title III**") establishes a private right of action for money damages against any person who "traffics" in confiscated property.

33. Glen did not previously have an opportunity to bring a private right of action because, until recently, private rights of action under Title III were suspended pursuant to the authority given to the President of the United States by Congress under the Act.

34. President Clinton originally suspended private rights of action under Title III. However, in signing the Helms-Burton Act into law, President Clinton also specifically provided notice to those trafficking in confiscated property, including Defendants, that they can incur liability for their trafficking. Indeed, in his July 16, 1996 Statement of Action, President Clinton stated:

> I will allow Title III to come into force. ***As a result, all companies doing business in Cuba are hereby on notice that by trafficking in expropriated American property, they face the prospect of lawsuits and significant liability in the United States***. This will serve as a deterrent to such trafficking, one of the central goals of the LIBERTAD Act.

35. The President has delegated the Title III suspension authority to the United States Secretary of State. On March 4, 2019, the State Department announced a partial lifting of the suspension to permit private actions to proceed, beginning March 19, 2019, against Cuban entities or sub-entities identified on the State Department's restricted entities list. On or about April 2, 2019, the partial lifting of the suspension was extended again through May 1, 2019. Most recently, on April 17, 2019, the State Department announced a full lifting of the suspension, beginning May 2, 2019.

36. In his remarks regarding the decision, Secretary of State Pompeo made clear that "[e]ffective May 2nd . . . the right to bring an action under Title III of the Libertad Act will be implemented in full."

B. Glen's Claim to Property in Cuba

37. Glen is the owner of property located in Varadero, Cuba that was originally owned by Glen's great-grandfather, Sergio de la Vega, who lived in Cárdenas, across the bay from the

Hicacos Peninsula. Glen's great-grandfather traveled by boat to the peninsula and built improvements upon it.

38. Ownership of the property later passed to Glen's grandfather, Manuel de la Vega. When Manuel died in 1928, the properties passed to his wife, Ana Maria Martinez Andreu ("**Martinez Andreu**"), Glen's grandmother.

39. Manuel and Martinez Andreu divided their property into two, contiguous plots. The first was known as "**Blancarena**," and included 280 meters of ocean frontage.

40. The second was known as "**Cotepen**" (short for "Co-Territorial Peninsula") and included 715 meters of ocean frontage. (Together, Blancarena and Cotepen are the "**Glen Properties**").

41. As a child, Glen visited the Glen Properties. The photograph reproduced below is of Glen as a young boy at the Glen Properties.

42. Cotepen is contiguous to Blancarena and sits directly to the east of Blancarena. Cotepen and Blancarena are of equal depth, each extending southward toward the present-day Autopista Sur, the main road that traverses the peninsula.

43. When Martinez Andreu died, Blancarena passed to Elvira de la Vega Martinez ("**Elvira**"), one of Martinez Andreu's two daughters, and Cotepen passed to Ana Maria de la Vega

Martinez ("**Ana Maria**"), Martinez Andreu's other daughter. Elvira is Glen's mother. Ana Maria is Glen's aunt.

44. Elvira and Ana Maria exercised ownership over the Blancarena and Cotepen tracts.

45. The Glen family built a rustic, one-room limestone cottage on Blancarena. The cottage was situated on the northwest corner of Blancarena, and only occupied a small fraction of Blancarena's total acreage. Other than the small cottage, Blancarena and Cotepen remained undeveloped.

46. During the 1950s, Elvira owned her primary home, a three-bedroom apartment in a high-rise building in Havana. Elvira also spent time at the Blancarena cottage, as she enjoyed going to the the beach.

47. In the late 1950s, Elvira considered selling an undeveloped portion of Blancarena and subdividing it, but her plans were interrupted by the revolution.

48. Maps and surveys drawn in 1958, just prior to the Cuban revolution, reflect the location of the Glen Properties on the peninsula, including in connection with the construction of a canal (still in existence today) directly to the south of the properties.

49. After January 1, 1959, and in connection with Cuban revolution, the communist Cuban government confiscated the Glen Properties.

50. Following the revolution, Ana Maria and Elvira fled Cuba.

51. When Ana Maria and Elvira died in 1999 and 2011, respectively, ownership of Blancarena and Cotepen passed solely to Glen by inheritance.

52. Like Ana Mara and Elvira, Glen has continued to maintain a claim to the Glen Properties.

53. Upon the Act's enactment in 1996, the Glen Properties were being used for beachfront hotels.

54. On information and belief, the Cuban government maintains possession of the Glen Properties.

55. The Cuban government has not paid any compensation to Glen or his family for its seizure of the Glen Properties. Instead, as detailed below, the Cuban government has worked with hotel chains to build, develop, and operate four beachfront resorts on the Glen Properties.

C. The Beachfront Hotels Occupying the Glen Properties

56. Varadero sits on the Hicacos Peninsula. The narrow peninsula, which is approximately eleven miles long but only a mile or so wide, extends in a northeasterly direction from the northern side of the Cuban mainland. The northern side of the peninsula faces the open ocean and features miles of contiguous, white-sand beach. The southern side of the peninsula faces the Bay of Cárdenas.

57. Today, Varadero is one of Cuba's most popular beach resort towns, featuring one of the Caribbean's best beaches, dozens of hotels and resorts, a nature reserve, and other amenities.

58. According to TripAdvisor's 2019 Travelers' Choice awards, Varadero is the second-best beach in the world. And according to Lonely Planet, Varadero boasts a beach that is "undoubtedly one of the Caribbean's best."

59. Because of its world-renowned beach and accessibility, Varadero is a popular destination for tourists from around the world, particularly Europe and Canada. The resort town is easily accessible from Juan Gualberto Gómez Airport, one of Cuba's busiest international airports.

60. The Glen Properties are the site of four separate beachfront hotels, which run contiguously from west to east along the northern, beachfront side of the peninsula.

61. Blancarena is the site of Iberostar Tainos, operated by Spanish hotel chain Iberostar (the "**Iberostar Tainos**"). The Iberostar Tainos is a four-star, all-inclusive reports featuring 272 guestrooms.

62. Cotepen is the site of three resorts. The first is currently known as Meliá Las Antillas (the "**Las Antillas**"), operated by Spanish hotel chain Meliá Hotels International, on the site of a former Beaches-brand resort. Las Antillas is a four-star, adults-only, all-inclusive resort featuring 350 guestrooms. The second is known as the Blau Varadero (the "**Blau**"). The Blau is an adults-only, all-inclusive resort featuring 395 guestrooms. The third is known as the Starfish Varadero (the "**Starfish**"). The Starfish is a family friendly, all-inclusive resort featuring 411 rooms. (Together, the Iberostar Tainos, Las Antillas, Blau, and Starfish are the "**Subject Hotels**").

63. In addition to their over 1,400 guestrooms, the Subject Hotels also feature restaurants, bars, swimming pools, and other amenities.

64. The Subject Hotels have never paid any compensation to Glen or his family to operate on the Glen Properties. Nor do the Subject Hotels have Glen's authorization to do so.

D. Expedia Group's Business

65. Expedia Group markets itself as "the world's travel platform" and "the world's largest online travel company."

66. Expedia Group controls over 200 travel booking websites in over 70 countries, targeting a broad range of travelers, travel suppliers and advertisers.

67. Among the brands and companies controlled by Expedia Group's are Expedia.com (operated by Expedia), Hotels.com (operated by Hotels.com and Hotels.com GP), Travelocity.com (operated by Travelocity), Orbitz.com (operated by Orbitz), CheapTickets.com (operated by CheapTickets), Hotwire, trivago, HomeAway, and Vrbo.

68. Expedia Group is well-aware of regulations concerning the provision of Cuban-related services. For example, in May of 2019—after the lifting of the suspension of Title III—Expedia Group reached a settlement agreement with the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) concerning non-compliance Cuba-related travel transactions that occurred between 2011 and 2014. According to Expedia Group, in connection with the settlements, the company "made significant enhancements to [its] economic sanctions compliance program and associated controls." However, notwithstanding these "significant enhancements" and the lifting of the suspension of Title III, Expedia Group and its subsidiaries continued to traffic in confiscated property, in violation of Title III.

69. Expedia is Expedia Group's original brand, having launched in 1996. Expedia operates a full-service online travel company with localized websites in 33 countries, including www.expedia.com in the United States.

70. Expedia Group acquired Hotels.com and Hotels.com GP in 2001.

71. Through 90 localized websites worldwide, the Hotels.com brand focuses on marketing and distributing lodging accommodations. According to Expedia Group, because Hotels.com offers only a single product (lodging), it is often Expedia Group's first entry point into a region.

72. Travelocity was founded in 1996 and is currently owned by Expedia Group, which acquired Travelocity in 2015.

73. Travelocity is an online travel agency that allows users to book flights, hotel accommodations, and more. Known for its "Roaming Gnome" mascot, Travelocity helps its customers to "Wander Widely," including to Cuba.

74. Orbitz launched in 2001 and was acquired by Expedia Group in 2015.

75. CheapTickets was founded in 1986 and was also acquired by Expedia Group in 2015.

76. The bulk of Expedia Group's operations is comprised of what it refers to as the "Core OTA," short for "Core Online Travel Agencies." The Core OTA provide travel and advertising services to Expedia Group's worldwide customers. Expedia, Hotels.com, Travelocity, Orbitz, and CheapTickets are all within the Core OTA.

77. Expedia Group brands within the Core OTA facilitate hotel guestroom bookings primarily through two business models: the merchant model and the agency model.

78. Under the merchant model, Expedia Group brands facilitate the booking of hotel guestrooms from travel suppliers, and Expedia Group brands are the merchant of record for such bookings. In the merchant model, users pay Expedia Group brands directly upon booking a reservation. Expedia Group brands earn a profit in these transactions by contracting in advance with lodging providers to obtain access to guestrooms at negotiated (and discounted) rates.

79. Under the agency model, Expedia Group brands facilitate travel bookings and act as the agent in the transaction, passing reservations booked by the traveler to the relevant provider and receiving a commission or fee in the process.

80. Under either model, Expedia Group brands profit when website users book guestrooms at hotels listed on Expedia Group websites.

81. Expedia Group brands work directly with their travel suppliers to generate consumer demand for their products and to increase their revenues. For example, according to Expedia Group's annual statement, Expedia Group's "strategic account managers and local hotel market managers work directly with travel suppliers to optimize the exposure of their travel

products and brands through our points of sale, including participation in need-based, seasonal and event-driven promotions and experimentation within the new channels we are building."

82. Travel suppliers can also access Expedia Group's proprietary technology to manage, price, and supply their rooms, including by directly uploading information about products and rates from their central reservation systems and to automatically confirm reservations made by Expedia Group users.

83. Expedia Group operates its brands as a consolidated operation. Expedia Group is increasingly marketing this consolidated operation as a value driver for the company.

84. For example, Expedia Group refers to itself as "the world's largest online travel company."

85. Expedia Group also boasts that it, as a company, employs over 22,000 employees worldwide across its global network of brands.

86. Expedia Group coordinates its offerings to consumers across its platforms and brands. For example, Expedia Group uses its superior Expedia.com technology platform to support other brands' websites, including Hotels.com, Hotwire, Travelocity, Orbitz, and CheapTickets.

87. Similarly, Expedia Group cross-sells across brands, including by encouraging customers to bundle bookings across platforms.

88. Indeed, according to a recent earnings call hosted by Expedia Group's CEO, one of the company's recent "strategic themes" has been to "fully leverag[e] the power of our global platform," including by "collaborating across the company and operating more and more as [one] group than ever before."

89. Again according to the CEO, the company is "increasingly unlocking opportunities to cross-sell between brands." This includes Expedia Group's teams "leveraging best-in-class

systems and technologies across divisions." By way of example, Hotels.com recently migrated to Expedia's system for collecting post-stay reviews, and according to the Expedia Group CEO, Hotels.com "is already benefiting from additional features and an improvement in content."

90. According to Expedia Group, these examples "are just the tip of the iceberg. We have many other opportunities to drive customer and partner-facing innovation and increase operating efficiency by better leveraging the scale of our platform across Expedia Group."

91. So far, the company has been "encouraged" by its focus on collaboration across brands. In other words, whereas Expedia Group brands historically were managed as separate "brand silos," they are now "sharing the technologies across [] businesses," and instead of "just competing with one another," Expedia Group brands now "treat each other like essentially partners."

92. Similarly, Expedia Group's CFO recently stated at a global technology conference that whereas Expedia Group brands were historically "autonomous" and engaged in "friendly competition," Expedia Group is now focused on "bring[ing] the full Expedia Group platform" to each brand and to eliminating duplication of efforts across brands. For example, rather than have two separate teams working on the customer review platforms for Expedia and Hotels.com, "as it turns out, you can just have them working one [platform]."

93. Even a cursory review of the websites operated by Expedia Group's brands confirms the extent of coordination. Listings for specific hotels are remarkably similar across brand websites, including identical copy, identical photographs, identical imagery, identical user reviews, and in many cases, identical prices.

94. Indeed, one July 2019 user review for the Iberostar Tainos "verified" by both Hotels.com and Expedia is identical across the two websites, including commentary by the verified reviewer that he reserved his room through Hotels.com.

95. Similarly, Terms of Services appended to each brand's website are substantially similar.

96. Expedia Group has been highly successful, in large part due to the consolidation of its core brands, which together report consolidated financial information through Expedia Group. The Core OTA account for the vast majority of Expedia Group's total gross bookings and total revenue.

E. Trafficking in the Glen Properties by Expedia Group and Expedia Group Members

97. Expedia, Hotels.com, Travelocity, Orbitz, and CheapTickets (the "**Expedia Group Members**") are each online travel agencies that facilitate hotel guestroom bookings primarily through both the merchant model and the agency model.

98. Under the merchant model, Expedia Group Members facilitate the booking of hotel guestrooms from travel suppliers, and are the merchant of record for such bookings. In the merchant model, users pay Expedia Group Members directly upon booking a reservation. Expedia Group Members earn a profit in these transactions by contracting in advance with lodging providers to obtain access to guestrooms at negotiated (and discounted) rates.

99. Under the agency model, Expedia Group Members facilitate travel bookings and act as the agent in the transaction, passing reservations booked by the traveler to the relevant provider and receiving a commission or fee in the process.

100. Under either model, Expedia Group Members profit when website users book guestrooms at hotels listed on their websites.

101. Within the two years prior to the filing of this action, Expedia provided online booking services for the Subject Hotels in Cuba. Users could book hotel rooms at the Subject Hotels by using the Expedia website or by calling Expedia's toll-free telephone number.

102. Users could also access information about each Subject Hotel using the Expedia website, including each Subject Hotel's amenities and policies, as well as user reviews. Users could also access general information on Expedia's "Cuba Hotel Travel Guide," which advertised that users could "book your flight to Cuba right here on Expedia while you're browsing our top Cuba hotels" and that even for U.S. citizens, "[t]he process of booking travel to Cuba is pretty easy. . . ."

103. Within the two years prior to the filing of this action, Hotels.com provided online booking services for the Subject Hotels in Cuba. Users could book hotel rooms at the Subject Hotels by using the Hotels.com website.

104. Users could also access information about each Subject Hotel using the Hotels.com website, including each Subject Hotel's amenities and policies, as well as user reviews.

105. Within the two years prior to the filing of this action, Travelocity provided online booking services for the Subject Hotels in Cuba. Users could book hotel rooms at the Subject Hotels by using the Travelocity website.

106. Users could also access information about each Subject Hotel using the Travelocity website, including each Subject Hotel's amenities and policies, as well as user reviews.

107. Within the two years prior to the filing of this action, Orbitz provided online booking services for the Subject Hotels in Cuba. Users could book hotel rooms at the Subject Hotels by using the Orbitz website.

108. Users could also access information about each Subject Hotel using the Orbitz website, including each Subject Hotel's amenities and policies, as well as user reviews.

109. Within the two years prior to the filing of this action, CheapTickets provided online booking services for the Subject Hotels in Cuba. Users could book hotel rooms at the Subject Hotels by using the CheapTickets website.

110. Users could also access information about each Subject Hotel using the cheaptickets.com website, including each Subject Hotel's amenities and policies, as well as user reviews.

F. TripAdvisor's Business and Trafficking in the Glen Properties

111. Founded in 2000, TripAdvisor markets itself as "the world's largest travel platform" and "the ultimate travel companion." TripAdvisor's current motto is "Know Better. Book Better. Go Better."

112. What began as an online community in which web users could post their own reviews of hotels is today a publicly traded technology and media giant with over 3,000 employees and featuring over 500 million reviews.

113. But TripAdvisor is not just an online review platform. Through its "Instant Booking" feature, first launched in 2015, TripAdvisor allows users to book rooms at hotels directly through the TripAdvisor website, without ever having to leave the TripAdvisor website.

114. Instant Booking has been part of a larger effort by TripAdvisor to help travelers understand that TripAdvisor is not just a review site, but rather, a site where they can both find the best deal available, and also complete the reservation process.

115. When a user utilizes the Instant Booking feature, TripAdvisor earns a substantial commission from the merchant of record for the reservation, whether an online travel agency or a hotel.

116. TripAdvisor also derives substantial review through click-based advertising, and in particular, when TripAdvisor users follow links to travel partner sites, including online travel agencies such as Expedia, Orbitz, and Travelocity, that list the Subject Hotels.

117. TripAdvisor also publishes reviews and materials concerning travel. For example, TripAdvisor curates the "Travelers' Choice Awards" each year. In 2019, TripAdvisor rated Varadero Beach the second-best beach in the world.

118. TripAdvisor also provides "Certificates of Excellence" to hotels that consistently earn favorable reviews. TripAdvisor's listings for the Iberostar Tainos and the Blau each currently feature a prominent listing of Certificates of Excellence awarded by TripAdvisor to these two hotels.

G. Trafficking in the Glen Properties by TripAdvisor

119. Within the two years prior to the filing of this action, users could access information about each Subject Hotel using the TripAdvisor website, including each Subject Hotel's amenities and policies, as well as user reviews.

120. In addition, within the two years prior to the filing of this action, users could book hotel rooms at the Subject Hotels by using the Instant Booking feature on the TripAdvisor website.

H. Kayak and Booking Holdings' Business

121. Founded in 2004, Kayak markets itself as a metasearch engine and fare aggregator. Kayak enables users to compare hotel prices across websites, including other online travel sites such as Expedia, Hotels.com, Travelocity, Orbitz, and CheapTickets, and Kayak's affiliate, non-party Booking.com.

122. Kayak is owned by Booking Holdings. Booking Holdings refers to itself as the "world leader in online travel & related services." Booking Holdings maintains and directs the activities of its core brands, including Kayak.

123. From the Kayak website, users choose their preferred deal, and then click-through to the website listing that deal.

124. When a user clicks-through to the website listing the deal, Kayak earns a commission based on either the user's click-through to the website, or the user's completion of a reservation on the website. In other words, third-party sites, such as online travel agencies, pay Kayak for redirecting users to their webpages.

125. Kayak uses an algorithm to list "Recommended" hotels to its users.

126. But the algorithm is not only based on factors such as user reviews, price, or popularity. Rather, Kayak factors in the average revenue potential for Kayak from each hotel result. In other words, Kayak tries to steer its users to websites and hotel reservations that will generate the greatest commissions for Kayak.

127. In addition, where multiple providers list the same price for a given hotel, Kayak highlights (without disclosing to users) providers that have agreed to pay more to Kayak per click or per reservation. Again, Kayak steers its users to websites and reservations that will generate the greatest commissions for Kayak.

128. When Kayak users are redirected to Subject Hotel listings on third-party websites, such websites include headers reminding users that "You picked this property on Kayak."

129. Kayak has marketed the addition of Cuba offerings on its website. For example, in a June 2017 blog post, Kayak announced that the website had seen "huge spikes" in searches to Havana, and that Havana appeared on Kayak's spring break and summer travel recommendations.

I. Trafficking in the Glen Properties by Kayak and Booking Holdings

130. Within the two years prior to the filing of this action, Kayak listed the Subject Hotels on its website and facilitated the booking of the Subject Hotels in Cuba.

131. Within the two years prior to the filing of this action, users could also access information about each Subject Hotel using the Kayak website, including each Subject Hotel's amenities and policies, as well as user reviews.

132. Users could then click-through to websites through which they could book the Subject Hotels. When users clicked-through from the Kayak website to these other websites and/or then booked hotels on these other websites, Kayak earned a commission. Kayak sought to maximize its commissions by encouraging users to select hotels and click-through websites that resulted in the greatest commissions to Kayak.

V. JURY TRIAL DEMAND

133. Glen hereby demands a trial by jury on all issues so triable.

VI. CAUSE OF ACTION

Trafficking in Confiscated Property
22 U.S.C. § 6082(a)

134. Glen incorporates by reference all of the allegations set forth in all the preceding paragraphs of the Complaint as if fully set forth herein.

135. Glen has been a U.S. national since prior to March 12, 1996, and holds a claim to property that was confiscated by the Cuban government after January 1, 1959, namely, the Glen Properties.

136. Defendants are each a "person" as defined by 22 U.S.C. § 6023(11).

137. Defendants have knowingly trafficked in the Glen Properties by engaging in commercial activity using or otherwise benefiting from confiscated property, including by facilitating the booking of guestrooms at the Subject Hotels.

138. Defendants have also knowingly trafficked in the Glen Properties by participating in, or profiting from, trafficking committed by the Subject Hotels, including the Subject Hotels' operation of beachfront resorts on the Glen Properties.

139. Kayak has also knowingly trafficked in the Glen Properties by participating in, or profiting from, trafficking committed by online travel agencies, including Orbitz, CheapTickets, Expedia, Hotels.com, and Travelocity.

140. TripAdvisor Inc. has also knowingly trafficked in the Glen Properties by participating in, or profiting from, trafficking committed by TripAdvisor.

141. Booking Holdings has also knowingly trafficked in the Glen Properties by participating in, or profiting from, trafficking committed by Kayak.

142. At all relevant times, Defendants have conducted such trafficking without Glen's authorization.

143. Glen's injury—the wrongful trafficking in his property—is fairly traceable to Defendants' conduct, and a favorable decision awarding damages to Glen will redress Defendants' failure to compensate Glen for the unlawful trafficking.

144. Defendants' conduct of facilitating hotel room bookings was neither incident to lawful travel to Cuba, nor, in any event, necessary to the conduct of such lawful travel.

145. In this action, Glen only brings claims under the Helms-Burton Act, and prior to the lifting of the suspension of Title III, he never previously asserted any claims, whether under the Helms-Burton Act or otherwise, in connection with his ownership of the Glen Properties at-

issue in this action. Glen's prior litigation against Club Med, in which he could not and did not assert any claims under the Helms-Burton Act due to the prior suspension of Title III, involved different property.

146. The fair market value of the Glen Properties far exceeds $50,000, exclusive of interest, costs, and attorneys' fees.

147. Glen was not eligible to file a claim with the Foreign Claims Settlement Commission.

148. In compliance with 22 U.S.C. § 6082(a)(3)(B), Glen provided notice of his claims at least 30 days before filing any Helms-Burton Act claims against any Defendant. After the end of the 30-day period, Defendants continued to traffic in the Glen Properties.

VII. DEMAND FOR RELIEF

WHEREFORE, Glen respectfully asks the Court to enter judgment in his favor against Defendants:

a. Awarding actual damages in an amount to be determined under 22 U.S.C. § 6082(a)(1)(A)(i);

b. Awarding treble damages pursuant to 22 U.S.C. § 6082(a)(3)(B);

c. Ordering Defendants to pay Glen's reasonable attorneys' fees and costs incurred in this action pursuant to 22 U.S.C. § 6082(a)(1)(A)(ii);

d. Awarding pre-judgment and post-judgment interest at the highest rates allowed by law; and

e. Granting such other and further relief that the Court deems just and proper.

ANDREWS & SPRINGER LLC

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March 16, 2020

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

ROBERT M. GLEN,	§	
	§	
Plaintiff,	§	
	§	C.A. NO.: 1:19-CV-01809-~~MN~~LPS
v.	§	
	§	**JURY TRIAL DEMANDED**
TRIPADVISOR LLC, TRIPADVISOR, INC., ORBITZ, LLC, TRIP NETWORK, INC. D/B/A CHEAPTICKETS, KAYAK SOFTWARE CORPORATION, BOOKING HOLDINGS, INC., EXPEDIA, INC., EXPEDIA GROUP, INC., HOTELS.COM, L.P., HOTELS.COM GP, LLC, and TRAVELSCAPE LLC D/B/A TRAVELOCITY	§	
	§	
Defendants.	§	

SECOND AMENDED COMPLAINT

Pursuant to Federal Rule of Civil Procedure 15(a)(~~1)(A~~2), Plaintiff Robert M. Glen ("**Glen**") hereby files this Second Amended Complaint against Defendants TripAdvisor LLC ("**TripAdvisor**"), TripAdvisor, Inc. ("**TripAdvisor Inc.**"), Expedia, Inc. ("**Expedia**"), Expedia Group, Inc. ("**Expedia Group**"), Hotels.com, L.P. ("**Hotels.com**"), Hotels.com GP, LLC ("**Hotels.com GP**"), Orbitz, LLC ("**Orbitz**"), Trip Network, Inc. d/b/a CheapTickets ("**CheapTickets**"), Travelscape LLC d/b/a Travelocity ("**Travelocity**"), Kayak Software Corporation ("**Kayak**"), and Booking Holdings, Inc. ("**Booking Holdings**"), and respectfully states as follows:

I. INTRODUCTION

1. This action arises under the Cuban Liberty and Democratic Solidarity Act, 22 U.S.C. § 6021 *et seq.* (the "**Act**"), also known as the LIBERTAD Act or the Helms-Burton Act.

2. Title III of the Act provides U.S. nationals whose property in Cuba was confiscated by the communist Cuban government with a private right of action against those who traffic in, or participate in the trafficking of, that property.

3. Glen holds a claim to two beachfront properties located in Varadero, Cuba, on the Hicacos Peninsula. Varadero is one of Cuba's most popular beach resort towns, featuring one of the Caribbean's best beaches and dozens of hotels and resorts that attract tourists and vacationers from around the world. Varadero is also the site of one of Cuba's busiest international airports.

4. Following the communist Cuban revolution, the properties were confiscated from Glen's family by the Cuban government. After the revolution, Glen's family fled Cuba, and Glen later became a naturalized U.S. citizen.

5. Today, the two properties are the site of four separate beachfront resorts, which together feature over 1,400 guestrooms, in addition to dozens of swimming pools, restaurants, and bars.

6. Under the Act, a person is liable for trafficking in confiscated property if that person, among other things, knowingly "engages in a commercial activity using or otherwise benefiting from confiscated property," or knowingly "participates in, or profits from, trafficking . . . by another person."

7. Defendants operate online booking websites, and provide or facilitate online booking services for hotels in Cuba, including the four beachfront resorts on the properties confiscated from Glen's family: the Iberostar Tainos, the Meliá Las Antillas, the Blau Varadero, and the Starfish Varadero.

8. By facilitating bookings at these hotels, Defendants are engaging in commercial activity that uses or otherwise benefits from Glen's confiscated property. Defendants are also participating in, and profiting from, trafficking committed by the hotels themselves.

9. Because Defendants have trafficked in confiscated property in violation of the Act, they are subject to Glen's private action for civil damages under Title III, measured as the greater of the current fair market value of the property, or the value of the property at the time of confiscation plus interest.

10. Glen accordingly brings this statutory action to vindicate his claim to confiscated property and to obtain the compensation that he is rightfully entitled to under the Act.

II. PARTIES

11. Plaintiff Robert M. Glen is an individual residing in Plano, Texas. Glen is a naturalized United States citizen and a "United States national" pursuant to 22 U.S.C. § 6023(15). Glen became a United States national prior to March 12, 1996.

12. Defendant TripAdvisor LLC is a Delaware limited liability company. TripAdvisor LLC may be served through its registered agent at the following address: The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801.

13. Defendant TripAdvisor, Inc. is a corporation chartered in Delaware, with a principal office in Massachusetts. TripAdvisor Inc. may be served through its registered agent at the following address: The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801.

14. Together, TripAdvisor and TripAdvisor, Inc. operate the TripAdvisor website. TripAdvisor Inc. is TripAdvisor's corporate parent and ultimately owns and controls TripAdvisor.

15. Defendant Expedia, Inc. is a corporation organized in Washington, with a principal office address of 333 108th Ave. NE, Bellevue, Washington 98004. Expedia may be served through its registered agent at the following address: National Registered Agents, Inc., 711 Capital Way South, Suite 204, Olympia, Washington 98501. Expedia has consented to jurisdiction in this Court in connection with this action. Expedia operates the Expedia website.

16. Defendant Expedia Group, Inc. is a corporation organized in Delaware, with a principal office address of 333 108th Ave. NE, Bellevue, Washington 98004. Expedia Group may be served through its registered agent at the following address: National Registered Agents, Inc., 160 Greentree Drive, Suite 101, Dover, Delaware 19904. Expedia Group has consented to jurisdiction in this Court in connection with this action.

17. Expedia Group was previously named Expedia, Inc. (and not the same Expedia, Inc., organized in Washington, and also named as a Defendant herein). On March 26, 2018, Expedia Group became the name of the company through a filing made with the Secretary of State of the State of Delaware.

18. Defendant Hotels.com, L.P. is a limited partnership organized in Texas, with a principal office mailing address of 333 108th Ave. NE, Bellevue, Washington 98004. Hotels.com may be served through its registered agent at the following address: National Registered Agents, Inc., 711 Capital Way South, Suite 204, Olympia, Washington 98501. Hotels.com has consented to jurisdiction in this Court in connection with this action.

19. Defendant Hotels.com GP, LLC is a Texas limited liability company, with a principal office address of 333 108th Ave. NE, Bellevue, Washington 98004. Hotels.com GP is the general partner of Hotels.com. Hotels.com GP may be served through its registered agent at the following address: National Registered Agents, Inc., 1999 Bryan Street, Suite 900, Dallas,

Texas 75201. Hotels.com GP has consented to jurisdiction in this Court in connection with this action. Together with Hotels.com, Hotels.com GP operates the Hotels.com website.

20. Defendant Travelscape LLC d/b/a Travelocity is a Nevada limited liability company, with a principal office address in Dallas Texas. Travelocity may be served may be served through its registered agent at the following address: National Registered Agents, Inc., 1999 Bryan Street, Suite 900, Dallas, Texas 75201. Travelocity has consented to jurisdiction in this Court in connection with this action. Travelocity operates the Travelocity website.

21. Defendant Orbitz, LLC is a Delaware limited liability company, with a principal office in Chicago, Illinois. Orbitz may be served through its registered agent at the following address: National Registered Agents, Inc., 160 Greentree Drive, Suite 101, Dover, Delaware 19904. Orbitz has consented to jurisdiction in this Court in connection with this action. Orbitz operates the Orbitz website.

22. Defendant Trip Network, Inc. d/b/a CheapTickets is a corporation chartered in Delaware, with a principal office in Chicago, Illinois. CheapTickets may be served through its registered agent at the following address: National Registered Agents, Inc., 160 Greentree Drive, Suite 101, Dover, Delaware 19904. CheapTickets has consented to jurisdiction in this Court in connection with this action. CheapTickets operates the CheapTickets website.

23. Expedia, Hotels.com, Travelocity, Orbitz, and CheapTickets are each ultimately owned and controlled by Expedia Group.

24. Defendant Kayak Software Corporation is a corporation chartered in Delaware, with a principal office in Connecticut. Kayak may be served through its registered agent at the following address: Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808. Kayak operates the Kayak website.

25. Defendant Booking Holdings, Inc. is a corporation chartered in Delaware, with a principal office in Connecticut. Booking Holdings may be served through its registered agent at the following address: Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808.

26. Booking Holdings ultimately owns and controls Kayak.

III. JURISDICTION AND VENUE

27. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Glen's claim arises under 22 U.S.C. § 6082 and the amount-in-controversy exceeds the sum or value of $50,000, exclusive of interest, costs, and attorneys' fees.

28. This Court may exercise personal jurisdiction over each Defendant by virtue of their incorporation or organization in Delaware, or their consent to jurisdiction in this Court in connection with this action.

29. Venue in this District is proper under 28 U.S.C. § 1391(b)(3).

IV. STATEMENT OF FACTS

A. Passage and Implementation of the Act

30. The Act became effective March 12, 1996.

31. Among the Act's legislative purposes is to "protect United States nationals against confiscatory takings and the wrongful trafficking in property confiscated by the Castro Regime."

32. Title III of the Act ("**Title III**") establishes a private right of action for money damages against any person who "traffics" in confiscated property.

33. Glen did not previously have an opportunity to bring a private right of action because, until recently, private rights of action under Title III were suspended pursuant to the authority given to the President of the United States by Congress under the Act.

34. President Clinton originally suspended private rights of action under Title III. However, in signing the Helms-Burton Act into law, President Clinton also specifically provided notice to those trafficking in confiscated property, including Defendants, that they can incur liability for their trafficking. Indeed, in his July 16, 1996 Statement of Action, President Clinton stated:

> I will allow Title III to come into force. ***As a result, all companies doing business in Cuba are hereby on notice that by trafficking in expropriated American property, they face the prospect of lawsuits and significant liability in the United States***. This will serve as a deterrent to such trafficking, one of the central goals of the LIBERTAD Act.

~~34.~~35. The President has delegated ~~this~~the Title III suspension authority to the United States Secretary of State. On March 4, 2019, the State Department announced a partial lifting of the suspension to permit private actions to proceed, beginning March 19, 2019, against Cuban entities or sub-entities identified on the State Department's restricted entities list. On or about April 2, 2019, the partial lifting of the suspension was extended again through May 1, 2019. Most recently, on April 17, 2019, the State Department announced a full lifting of the suspension, beginning May 2, 2019.

~~35.~~36. In his remarks regarding the decision, Secretary of State Pompeo made clear that "[e]ffective May 2nd . . . the right to bring an action under Title III of the Libertad Act will be implemented in full."

B. Glen's Claim to Property in Cuba

~~36.~~37. Glen is the owner of property located in Varadero, Cuba that was originally owned by Glen's great-grandfather, Sergio de la Vega, who lived in Cárdenas, across the bay from the Hicacos Peninsula. Glen's great-grandfather traveled by boat to the peninsula and built improvements upon it.

~~37.~~38. Ownership of the property later passed to Glen's grandfather, Manuel de la Vega. When Manuel died in 1928, the properties passed to his wife, Ana Maria Martinez Andreu ("**Martinez Andreu**"), Glen's grandmother.

~~38.~~39. Manuel and Martinez Andreu divided their property into two, contiguous plots. The first was known as "**Blancarena**," and included 280 meters of ocean frontage.

~~39.~~40. The second was known as "**Cotepen**" (short for "Co-Territorial Peninsula") and included 715 meters of ocean frontage. (Together, Blancarena and Cotepen are the "**Glen Properties**"). ~~Glen's family built a small home on the Glen Properties.~~

~~40.~~41. As a child, Glen visited the Glen Properties. The photograph reproduced below is of Glen as a young boy at the Glen Properties.

~~41.~~42. Cotepen is contiguous to Blancarena and sits directly to the east of Blancarena. Cotepen and Blancarena are of equal depth, each extending southward toward the present-day Autopista Sur, the main road that traverses the peninsula.

~~42.~~43. When Martinez Andreu died, Blancarena passed to Elvira de la Vega Martinez ("**Elvira**"), one of Martinez Andreu's two daughters, and Cotepen passed to Ana Maria de la Vega Martinez ("**Ana Maria**"), Martinez Andreu's other daughter. Elvira is Glen's mother. Ana Maria is Glen's aunt.

44. Elvira and Ana Maria exercised ownership over the Blancarena and Cotepen tracts.

45. The Glen family built a rustic, one-room limestone cottage on Blancarena. The cottage was situated on the northwest corner of Blancarena, and ~~worked~~only occupied a small fraction of Blancarena's total acreage. Other than the small cottage, Blancarena and Cotepen remained undeveloped.

46. During the 1950s, Elvira owned her primary home, a three-bedroom apartment in a high-rise building in Havana. Elvira also spent time at the Blancarena cottage, as she enjoyed going to ~~develop~~ the ~~land.~~ the beach.

~~43.~~47. In the late 1950s, Elvira considered selling ~~a~~an undeveloped portion of Blancarena and subdividing it, but her plans were interrupted by the revolution.

~~44.~~48. Maps and surveys drawn in 1958, just prior to the Cuban revolution, reflect the location of the Glen Properties on the peninsula, including in connection with the construction of a canal (still in existence today) directly to the south of the properties.

~~45.~~49. After January 1, 1959, and in connection with Cuban revolution, the communist Cuban government confiscated the Glen Properties.

~~46.~~50. Following the revolution, Ana Maria and Elvira fled Cuba.

~~47.~~51. When Ana Maria and Elvira died in 1999 and 2011, respectively, ownership of Blancarena and Cotepen passed solely to Glen by inheritance.

~~48.~~52. Like Ana Mara and Elvira, Glen has continued to maintain a claim to the Glen Properties.

53. Upon the Act's enactment in 1996, the Glen Properties were being used for beachfront hotels.

~~49.~~54. On information and belief, the Cuban government maintains possession of the Glen Properties.

~~50.~~55. The Cuban government has not paid any compensation to Glen or his family for its seizure of the Glen Properties. Instead, as detailed below, the Cuban government has worked with hotel chains to build, develop, and operate four beachfront resorts on the Glen Properties.

C. The Beachfront Hotels Occupying the Glen Properties

~~51.~~56. Varadero sits on the Hicacos Peninsula. The narrow peninsula, which is approximately eleven miles long but only a mile or so wide, extends in a northeasterly direction from the northern side of the Cuban mainland. The northern side of the peninsula faces the open ocean and features miles of contiguous, white-sand beach. The southern side of the peninsula faces the Bay of Cárdenas.

~~52.~~57. Today, Varadero is one of Cuba's most popular beach resort towns, featuring one of the Caribbean's best beaches, dozens of hotels and resorts, a nature reserve, and other amenities.

~~53.~~58. According to TripAdvisor's 2019 Travelers' Choice awards, Varadero is the second-best beach in the world. And according to Lonely Planet, Varadero boasts a beach that is "undoubtedly one of the Caribbean's best."

~~54.~~59. Because of its world-renowned beach and accessibility, Varadero is a popular destination for tourists from around the world, particularly Europe and Canada. The resort town is easily accessible from Juan Gualberto Gómez Airport, one of Cuba's busiest international airports.

~~55.~~60. The Glen Properties are the site of four separate beachfront hotels, which run contiguously from west to east along the northern, beachfront side of the peninsula.

~~56.~~61. Blancarena is the site of Iberostar Tainos, operated by Spanish hotel chain Iberostar (the "**Iberostar Tainos**"). The Iberostar Tainos is a four-star, all-inclusive reports featuring 272 guestrooms.

~~57.~~62. Cotepen is the site of three resorts. The first is currently known as Meliá Las Antillas (the "**Las Antillas**"), operated by Spanish hotel chain Meliá Hotels International, on the site of a former Beaches-brand resort. Las Antillas is a four-star, adults-only, all-inclusive resort featuring 350 guestrooms. The second is known as the Blau Varadero (the "**Blau**"). The Blau is an adults-only, all-inclusive resort featuring 395 guestrooms. The third is known as the Starfish Varadero (the "**Starfish**"). The Starfish is a family friendly, all-inclusive resort featuring 411 rooms. (Together, the Iberostar Tainos, Las Antillas, Blau, and Starfish are the "**Subject Hotels**").

~~58.~~63. In addition to their over 1,400 guestrooms, the Subject Hotels also feature restaurants, bars, swimming pools, and other amenities.

~~59.~~64. The Subject Hotels have never paid any compensation to Glen or his family to operate on the Glen Properties. Nor do the Subject Hotels have Glen's authorization to do so.

D. Expedia Group's Business

~~60.~~65. Expedia Group markets itself as "the world's travel platform" and "the world's largest online travel company."

~~61.~~66. Expedia Group controls over 200 travel booking websites in over 70 countries, targeting a broad range of travelers, travel suppliers and advertisers.

~~62.~~67. Among the brands and companies controlled by Expedia Group's are Expedia.com (operated by Expedia), Hotels.com (operated by Hotels.com and Hotels.com GP), Travelocity.com (operated by Travelocity), Orbitz.com (operated by Orbitz), CheapTickets.com (operated by CheapTickets), Hotwire, trivago, HomeAway, and Vrbo.

68. Expedia Group is well-aware of regulations concerning the provision of Cuban-related services. For example, in May of 2019—after the lifting of the suspension of Title III—Expedia Group reached a settlement agreement with the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) concerning non-compliance Cuba-related travel transactions that occurred between 2011 and 2014. According to Expedia Group, in connection with the settlements, the company "made significant enhancements to [its] economic sanctions compliance program and associated controls." However, notwithstanding these "significant enhancements" and the lifting of the suspension of Title III, Expedia Group and its subsidiaries continued to traffic in confiscated property, in violation of Title III.

~~63.~~69. Expedia is Expedia Group's original brand, having launched in 1996. Expedia operates a full-service online travel company with localized websites in 33 countries, including www.expedia.com in the United States.

~~64.~~70. Expedia Group acquired Hotels.com and Hotels.com GP in 2001.

~~65.~~71. Through 90 localized websites worldwide, the Hotels.com brand focuses on marketing and distributing lodging accommodations. According to Expedia Group, because Hotels.com offers only a single product (lodging), it is often Expedia Group's first entry point into a region.

~~66.~~72. Travelocity was founded in 1996 and is currently owned by Expedia Group, which acquired Travelocity in 2015.

~~67.~~73. Travelocity is an online travel agency that allows users to book flights, hotel accommodations, and more. Known for its "Roaming Gnome" mascot, Travelocity helps its customers to "Wander Widely," including to Cuba.

~~68.~~74. Orbitz launched in 2001 and was acquired by Expedia Group in 2015.

~~69.~~75. CheapTickets was founded in 1986 and was also acquired by Expedia Group in 2015.

~~70.~~76. The bulk of Expedia Group's operations is comprised of what it refers to as the "Core OTA," short for "Core Online Travel Agencies." The Core OTA provide travel and advertising services to Expedia Group's worldwide customers. Expedia, Hotels.com, Travelocity, Orbitz, and CheapTickets are all within the Core OTA.

~~71.~~77. Expedia Group brands within the Core OTA facilitate hotel guestroom bookings primarily through two business models: the merchant model and the agency model.

~~72.~~78. Under the merchant model, Expedia Group brands facilitate the booking of hotel guestrooms from travel suppliers, and Expedia Group brands are the merchant of record for such bookings. In the merchant model, users pay Expedia Group brands directly upon booking a

reservation. Expedia Group brands earn a profit in these transactions by contracting in advance with lodging providers to obtain access to guestrooms at negotiated (and discounted) rates.

~~73.~~79. Under the agency model, Expedia Group brands facilitate travel bookings and act as the agent in the transaction, passing reservations booked by the traveler to the relevant provider and receiving a commission or fee in the process.

~~74.~~80. Under either model, Expedia Group brands profit when website users book guestrooms at hotels listed on Expedia Group websites.

~~75.~~81. Expedia Group brands work directly with their travel suppliers to generate consumer demand for their products and to increase their revenues. For example, according to Expedia Group's annual statement, Expedia Group's "strategic account managers and local hotel market managers work directly with travel suppliers to optimize the exposure of their travel products and brands through our points of sale, including participation in need-based, seasonal and event-driven promotions and experimentation within the new channels we are building."

~~76.~~82. Travel suppliers can also access Expedia Group's proprietary technology to manage, price, and supply their rooms, including by directly uploading information about products and rates from their central reservation systems and to automatically confirm reservations made by Expedia Group users.

~~77.~~83. Expedia Group operates its brands as a consolidated operation. Expedia Group is increasingly marketing this consolidated operation as a value driver for the company.

~~78.~~84. For example, Expedia Group refers to itself as "the world's largest online travel company."

~~79.~~85. Expedia Group also boasts that it, as a company, employs over 22,000 employees worldwide across its global network of brands.

~~80.~~86. Expedia Group coordinates its offerings to consumers across its platforms and brands. For example, Expedia Group uses its superior Expedia.com technology platform to support other brands' websites, including Hotels.com, Hotwire, Travelocity, Orbitz, and CheapTickets.

~~81.~~87. Similarly, Expedia Group cross-sells across brands, including by encouraging customers to bundle bookings across platforms.

~~82.~~88. Indeed, according to a recent earnings call hosted by Expedia Group's CEO, one of the company's recent "strategic themes" has been to "fully leverag[e] the power of our global platform," including by "collaborating across the company and operating more and more as [one] group than ever before."

~~83.~~89. Again according to the CEO, the company is "increasingly unlocking opportunities to cross-sell between brands." This includes Expedia Group's teams "leveraging best-in-class systems and technologies across divisions." By way of example, Hotels.com recently migrated to Expedia's system for collecting post-stay reviews, and according to the Expedia Group CEO, Hotels.com "is already benefiting from additional features and an improvement in content."

~~84.~~90. According to Expedia Group, these examples "are just the tip of the iceberg. We have many other opportunities to drive customer and partner-facing innovation and increase operating efficiency by better leveraging the scale of our platform across Expedia Group."

~~85.~~91. So far, the company has been "encouraged" by its focus on collaboration across brands. In other words, whereas Expedia Group brands historically were managed as separate "brand silos," they are now "sharing the technologies across [] businesses," and instead of "just

competing with one another," Expedia Group brands now "treat each other like essentially partners."

~~86.~~92. Similarly, Expedia Group's CFO recently stated at a global technology conference that whereas Expedia Group brands were historically "autonomous" and engaged in "friendly competition," Expedia Group is now focused on "bring[ing] the full Expedia Group platform" to each brand and to eliminating duplication of efforts across brands. For example, rather than have two separate teams working on the customer review platforms for Expedia and Hotels.com, "as it turns out, you can just have them working one [platform]."

~~87.~~93. Even a cursory review of the websites operated by Expedia Group's brands confirms the extent of coordination. Listings for specific hotels are remarkably similar across brand websites, including identical copy, identical photographs, identical imagery, identical user reviews, and in many cases, identical prices.

~~88.~~94. Indeed, one July 2019 user review for the Iberostar Tainos "verified" by both Hotels.com and Expedia is identical across the two websites, including commentary by the verified reviewer that he reserved his room through Hotels.com.

~~89.~~95. Similarly, Terms of Services appended to each brand's website are substantially similar.

~~90.~~96. Expedia Group has been highly successful, in large part due to the consolidation of its core brands, which together report consolidated financial information through Expedia Group. The Core OTA account for the vast majority of Expedia Group's total gross bookings and total revenue.

E. Trafficking in the Glen Properties by Expedia Group and Expedia Group Members

~~91.~~97. Expedia, Hotels.com, Travelocity, Orbitz, and CheapTickets (the "**Expedia Group Members**") are each online travel agencies that facilitate hotel guestroom bookings primarily through both the merchant model and the agency model.

~~92.~~98. Under the merchant model, Expedia Group Members facilitate the booking of hotel guestrooms from travel suppliers, and are the merchant of record for such bookings. In the merchant model, users pay Expedia Group Members directly upon booking a reservation. Expedia Group Members earn a profit in these transactions by contracting in advance with lodging providers to obtain access to guestrooms at negotiated (and discounted) rates.

~~93.~~99. Under the agency model, Expedia Group Members facilitate travel bookings and act as the agent in the transaction, passing reservations booked by the traveler to the relevant provider and receiving a commission or fee in the process.

~~94.~~100. Under either model, Expedia Group Members profit when website users book guestrooms at hotels listed on their websites.

~~95.~~101. Within the two years prior to the filing of this action, Expedia provided online booking services for the Subject Hotels in Cuba. Users could book hotel rooms at the Subject Hotels by using the Expedia website or by calling Expedia's toll-free telephone number.

~~96.~~102. Users could also access information about each Subject Hotel using the Expedia website, including each Subject Hotel's amenities and policies, as well as user reviews. Users could also access general information on Expedia's "Cuba Hotel Travel Guide," which advertised that users could "book your flight to Cuba right here on Expedia while you're browsing our top Cuba hotels" and that even for U.S. citizens, "[t]he process of booking travel to Cuba is pretty easy. . . ."

~~97.~~103. Within the two years prior to the filing of this action, Hotels.com provided online booking services for the Subject Hotels in Cuba. Users could book hotel rooms at the Subject Hotels by using the Hotels.com website.

~~98.~~104. Users could also access information about each Subject Hotel using the Hotels.com website, including each Subject Hotel's amenities and policies, as well as user reviews.

~~99.~~105. Within the two years prior to the filing of this action, Travelocity provided online booking services for the Subject Hotels in Cuba. Users could book hotel rooms at the Subject Hotels by using the Travelocity website.

~~100.~~106. Users could also access information about each Subject Hotel using the Travelocity website, including each Subject Hotel's amenities and policies, as well as user reviews.

~~101.~~107. Within the two years prior to the filing of this action, Orbitz provided online booking services for the Subject Hotels in Cuba. Users could book hotel rooms at the Subject Hotels by using the Orbitz website.

~~102.~~108. Users could also access information about each Subject Hotel using the Orbitz website, including each Subject Hotel's amenities and policies, as well as user reviews.

~~103.~~109. Within the two years prior to the filing of this action, CheapTickets provided online booking services for the Subject Hotels in Cuba. Users could book hotel rooms at the Subject Hotels by using the CheapTickets website.

~~104.~~110. Users could also access information about each Subject Hotel using the cheaptickets.com website, including each Subject Hotel's amenities and policies, as well as user reviews.

F. TripAdvisor's Business and Trafficking in the Glen Properties

~~105.~~111. Founded in 2000, TripAdvisor markets itself as "the world's largest travel platform" and "the ultimate travel companion." TripAdvisor's current motto is "Know Better. Book Better. Go Better."

~~106.~~112. What began as an online community in which web users could post their own reviews of hotels is today a publicly traded technology and media giant with over 3,000 employees and featuring over 500 million reviews.

~~107.~~113. But TripAdvisor is not just an online review platform. Through its "Instant Booking" feature, first launched in 2015, TripAdvisor allows users to book rooms at hotels directly through the TripAdvisor website, without ever having to leave the TripAdvisor website.

~~108.~~114. Instant Booking has been part of a larger effort by TripAdvisor to help travelers understand that TripAdvisor is not just a review site, but rather, a site where they can both find the best deal available, and also complete the reservation process.

~~109.~~115. When a user utilizes the Instant Booking feature, TripAdvisor earns a substantial commission from the merchant of record for the reservation, whether an online travel agency or a hotel.

~~110.~~116. TripAdvisor also derives substantial review through click-based advertising, and in particular, when TripAdvisor users follow links to travel partner sites, including online travel agencies such as Expedia, Orbitz, and Travelocity, that list the Subject Hotels.

~~111.~~117. TripAdvisor also publishes reviews and materials concerning travel. For example, TripAdvisor curates the "Travelers' Choice Awards" each year. In 2019, TripAdvisor rated Varadero Beach the second-best beach in the world.

~~112.~~118. TripAdvisor also provides "Certificates of Excellence" to hotels that consistently earn favorable reviews. TripAdvisor's listings for the Iberostar Tainos and the Blau each currently feature a prominent listing of Certificates of Excellence awarded by TripAdvisor to these two hotels.

G. Trafficking in the Glen Properties by TripAdvisor

~~113.~~119. Within the two years prior to the filing of this action, users could access information about each Subject Hotel using the TripAdvisor website, including each Subject Hotel's amenities and policies, as well as user reviews.

~~114.~~120. In addition, within the two years prior to the filing of this action, users could book hotel rooms at the Subject Hotels by using the Instant Booking feature on the TripAdvisor website.

H. Kayak and Booking Holdings' Business

~~115.~~121. Founded in 2004, Kayak markets itself as a metasearch engine and fare aggregator. Kayak enables users to compare hotel prices across websites, including other online travel sites such as Expedia, Hotels.com, Travelocity, Orbitz, and CheapTickets, and Kayak's affiliate, non-party Booking.com.

~~116.~~122. Kayak is owned by Booking Holdings. Booking Holdings refers to itself as the "world leader in online travel & related services." Booking Holdings maintains and directs the activities of its core brands, including Kayak.

~~117.~~123. From the Kayak website, users choose their preferred deal, and then click-through to the website listing that deal.

~~118.~~124. When a user clicks-through to the website listing the deal, Kayak earns a commission based on either the user's click-through to the website, or the user's completion of a

reservation on the website. In other words, third-party sites, such as online travel agencies, pay Kayak for redirecting users to their webpages.

~~119.~~125. Kayak uses an algorithm to list "Recommended" hotels to its users.

~~120.~~126. But the algorithm is not only based on factors such as user reviews, price, or popularity. Rather, Kayak factors in the average revenue potential for Kayak from each hotel result. In other words, Kayak tries to steer its users to websites and hotel reservations that will generate the greatest commissions for Kayak.

~~121.~~127. In addition, where multiple providers list the same price for a given hotel, Kayak highlights (without disclosing to users) providers that have agreed to pay more to Kayak per click or per reservation. Again, Kayak steers its users to websites and reservations that will generate the greatest commissions for Kayak.

~~122.~~128. When Kayak users are redirected to Subject Hotel listings on third-party websites, such websites include headers reminding users that "You picked this property on Kayak."

~~123.~~129. Kayak has marketed the addition of Cuba offerings on its website. For example, in a June 2017 blog post, Kayak announced that the website had seen "huge spikes" in searches to Havana, and that Havana appeared on Kayak's spring break and summer travel recommendations.

I. Trafficking in the Glen Properties by Kayak and Booking Holdings

~~124.~~130. Within the two years prior to the filing of this action, Kayak listed the Subject Hotels on its website and facilitated the booking of the Subject Hotels in Cuba.

~~125.~~131. Within the two years prior to the filing of this action, users could also access information about each Subject Hotel using the Kayak website, including each Subject Hotel's amenities and policies, as well as user reviews.

~~126.~~132. Users could then click-through to websites through which they could book the Subject Hotels. When users clicked-through from the Kayak website to these other websites and/or then booked hotels on these other websites, Kayak earned a commission. Kayak sought to maximize its commissions by encouraging users to select hotels and click-through websites that resulted in the greatest commissions to Kayak.

V. JURY TRIAL DEMAND

~~127.~~133. Glen hereby demands a trial by jury on all issues so triable.

VI. CAUSE OF ACTION

Trafficking in Confiscated Property
22 U.S.C. § 6082(a)

~~128.~~134. Glen incorporates by reference all of the allegations set forth in all the preceding paragraphs of the Complaint as if fully set forth herein.

~~129.~~135. Glen ~~is~~has been a U.S. national since prior to March 12, 1996, and holds a claim to property that was confiscated by the Cuban government after January 1, 1959, namely, the Glen Properties.

~~130.~~136. Defendants are each a "person" as defined by 22 U.S.C. § 6023(11).

~~131.~~137. Defendants have knowingly trafficked in the Glen Properties by engaging in commercial activity using or otherwise benefiting from confiscated property, including by facilitating the booking of guestrooms at the Subject Hotels.

~~132.~~138. Defendants have also knowingly trafficked in the Glen Properties by participating in, or profiting from, trafficking committed by the Subject Hotels, including the Subject Hotels' operation of beachfront resorts on the Glen Properties.

~~133.~~139. Kayak has also knowingly trafficked in the Glen Properties by participating in, or profiting from, trafficking committed by online travel agencies, including Orbitz, CheapTickets, Expedia, Hotels.com, and Travelocity.

~~134.~~140. TripAdvisor Inc. has also knowingly trafficked in the Glen Properties by participating in, or profiting from, trafficking committed by TripAdvisor.

~~135.~~141. Booking Holdings has also knowingly trafficked in the Glen Properties by participating in, or profiting from, trafficking committed by Kayak.

~~136.~~142. At all relevant times, Defendants have conducted such trafficking without Glen's authorization.

143. Glen's injury—the wrongful trafficking in his property—is fairly traceable to Defendants' conduct, and a favorable decision awarding damages to Glen will redress Defendants' failure to compensate Glen for the unlawful trafficking.

144. Defendants' conduct of facilitating hotel room bookings was neither incident to lawful travel to Cuba, nor, in any event, necessary to the conduct of such lawful travel.

145. In this action, Glen only brings claims under the Helms-Burton Act, and prior to the lifting of the suspension of Title III, he never previously asserted any claims, whether under the Helms-Burton Act or otherwise, in connection with his ownership of the Glen Properties at-issue in this action. Glen's prior litigation against Club Med, in which he could not and did not assert any claims under the Helms-Burton Act due to the prior suspension of Title III, involved different property.

~~137.~~146. The fair market value of the Glen Properties far exceeds $50,000, exclusive of interest, costs, and attorneys' fees.

~~138.~~147. Glen was not eligible to file a claim with the Foreign Claims Settlement Commission.

~~139.~~148. In compliance with 22 U.S.C. § 6082(a)(3)(B), Glen provided notice of his claims at least 30 days before filing any Helms-Burton Act claims against any Defendant. After the end of the 30-day period, Defendants continued to traffic in the Glen Properties.

VII. DEMAND FOR RELIEF

WHEREFORE, Glen respectfully asks the Court to enter judgment in his favor against Defendants:

a. Awarding actual damages in an amount to be determined under 22 U.S.C. § 6082(a)(1)(A)(i);

b. Awarding treble damages pursuant to 22 U.S.C. § 6082(a)(3)(B);

c. Ordering Defendants to pay Glen's reasonable attorneys' fees and costs incurred in this action pursuant to 22 U.S.C. § 6082(a)(1)(A)(ii);

d. Awarding pre-judgment and post-judgment interest at the highest rates allowed by law; and

e. Granting such other and further relief that the Court deems just and proper.

~~ROSENTHAL, MONHAIT & GODDESS, P.A.~~
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