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11 UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

14 2020 O STREET CORPORATION, INC.
dba THE MANSION ON O STREET,
15 individually and on behalf of all others
similarly situated,

16 Plaintiff,

17 v.

18 EXPEDIA, INC., a Washington
19 corporation; HOTELS.COM, L.P., a Texas
limited partnership; HOTELS.COM GP,
20 LLC a Texas limited liability company;
and ORBITZ, LLC, a Delaware limited
21 liability company.

22 Defendants.

Case No.

CLASS ACTION

**COMPLAINT FOR DAMAGES,
PENALTIES, RESTITUTION,
INJUNCTIVE RELIEF, AND OTHER
EQUITABLE RELIEF**

1. Violation of the Lanham Act, 15 U.S.C. §1125 (False Association)
2. Violation of the Lanham Act, 15 U.S.C. §1125 (False Advertising)
3. Unfair Competition
4. Unjust Enrichment and Restitution

[DEMAND FOR JURY TRIAL]

26 1. Plaintiff 2020 O Street Corporation, Inc. d/b/a The Mansion on O Street (“The
27 Mansion” or “Plaintiff”) on behalf of itself and all others similarly situated, alleges as follows upon
28

1 personal knowledge as to itself and its own acts and experience and, as to all other matters, upon
2 information and belief based upon, among other things, investigation conducted by its attorneys.

3 **NATURE OF THE CASE**

4 2. The classic bait and switch. Defendants are a network of on-line travel services
5 and websites run under popular brands like Hotels.com, Expedia.com, and Orbitz (collectively,
6 “Expedia” or “Defendants”). Expedia baits consumers with on-line deals for vacation and hotel
7 stays at The Mansion and other Class Member hotels, even though these hotels are not affiliated
8 with Expedia. In fact, Expedia has no way to book these hotels.

9 3. After Expedia baits consumers with the false impression that they can book these
10 hotels through its website, the switch begins. Expedia’s website falsely shows that there is no
11 availability at the hotel, but then pushes the consumers to “deals” at Expedia’s nearby member
12 hotels, who pay Expedia a fee for every room booked through its website.

13 4. Expedia’s deceit is brazen. Expedia posts fake telephone numbers for The Mansion
14 and other Class Member hotels to divert callers to Expedia’s own operators, who then try to book
15 the consumers at Expedia member hotels. Expedia also features links redirecting consumers to
16 other hotels after the customer is advised that the Mansion and Class Member hotels have no
17 availability.

18 5. Worse, Expedia then targets social media advertisements – *for hotels it cannot book*
19 – to those consumers, using the brands of Class Member hotels to divert business from them
20 to Expedia members.

21 6. Believing Expedia’s representation that there is no availability at a Class Member
22 hotel, consumers take their business to Expedia member hotels. And the bait and switch is
23 complete. Expedia earns a commission by providing a paying customer to one of its member hotels
24 by depriving Class Member hotels of that same customer.

25 7. Expedia’s conduct violates the Lanham Act (15 U.S.C. § 1125), and constitutes
26 false advertising, trademark infringement, unfair competition, and unjust enrichment.

JURISDICTION AND VENUE

1
2 8. This Court has subject matter jurisdiction over Plaintiff’s Lanham Act claims
3 pursuant to 28 U.S.C. § 1331.

4 9. This Court has supplemental subject matter jurisdiction over Plaintiff’s state-law
5 claims pursuant to 28 U.S.C. § 1367.

6 10. This Court also has subject matter jurisdiction under the Class Action Fairness Act,
7 28 U.S.C. § 1332(d), because there are more than 100 putative class members, the amount in
8 controversy exceeds \$5 million, and there is minimal diversity. Plaintiff, a Washington, D.C.
9 citizen, is diverse from Defendant Expedia, Inc., a Washington citizen, Defendant Hotels.com,
10 L.P., a Texas citizen, Defendant Hotels.com GP, LLC, a Texas citizen, and Defendant Orbitz,
11 LLC, a Delaware citizen.

12 11. This Court is the proper venue for this action pursuant to 28 U.S.C. § 1391(b).
13 Defendants reside in this District under 28 U.S.C. § 1391(c); a substantial amount of the events
14 giving rise to the claims occurred in this District, including San Francisco, because the false
15 statements made about Class Members were made nationwide, including in this District; and there
16 are Class Members who operate hotels and suffered damages in this District, including in San
17 Francisco.

18 **PARTIES**

19 12. Plaintiff The Mansion is a corporation organized under the laws of Washington,
20 D.C. with its principal place of business located in Washington, D.C. The Mansion is a luxury hotel
21 located in Washington, D.C. that, since 2012, has lost customers due to Expedia’s misinformation.

22 13. Defendant Expedia, Inc. is a Washington corporation with its headquarters in
23 Bellevue, Washington. In 2015, Expedia, Inc. recorded gross bookings of \$60,830,000,000.00 and
24 has an estimated 75% market share among United States online travel agencies.

25 14. Defendant Hotels.com, L.P. is a Texas limited partnership with its headquarters in
26 Dallas, Texas. Hotels.com, L.P. also has offices in Bellevue, Washington, which it shares with
27 Expedia, Inc. and other defendants.

1 15. Defendant Hotels.com GP, LLC is a Texas limited liability company with its
2 headquarters in Bellevue, Washington, which it shares with Expedia, Inc. and other defendants.
3 Hotels.com GP, LLC is the general partner of Hotels.com, L.P.

4 16. Defendant Orbitz, LLC is a Delaware limited liability company with offices in
5 Chicago, Illinois. Orbitz, LLC also has offices in Bellevue, Washington, which it shares with
6 Expedia, Inc. and other defendants.

7 17. Plaintiff is informed and believes, and based thereon alleges, that each and all of
8 the acts and omissions alleged herein were performed by, or are attributable to, Defendants,
9 each acting as the agent for the other, with legal authority to act on the other's behalf. The
10 acts of any and all Defendants were in accordance with, and represent the official policies of
11 each of the named Defendants.

12 18. Plaintiff is informed and believes, and based thereon alleges that, at all times
13 herein mentioned, Defendants, and each of them, ratified each and every act or omission
14 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
15 abetted the acts and omissions of each and all the other Defendants in proximately causing the
16 damages herein alleged.

17 19. Plaintiff is informed and believes, and based thereon alleges, that each of said
18 Defendants is in some manner intentionally, negligently, or otherwise responsible for the
19 acts, omissions, occurrences, and transactions alleged herein.

20 **STANDING**

21 20. Plaintiff has standing to bring the claims alleged in this complaint because, as
22 further detailed below, Defendants' wrongful conduct proximately caused Plaintiff to suffer
23 injuries to its commercial interests in its reputation and sales.

24 **FACTUAL BACKGROUND**

25 **Defendants Lure Consumers With False Google Ads**

26 21. Defendants own and operate various websites that they identify as their brands,
27 including, but not limited to, Expedia.com, Hotels.com, and Orbitz.com, (collectively, the
28 "Websites").

1 22. Through these Websites, Defendants offer travel services to consumers in this
2 District, throughout the United States, and across the world.

3 23. For a fee, hotels and vacation lodges can sign up to be featured, advertised and
4 booked through Defendants' websites (hereafter referred to as "member(s)").

5 24. The Mansion and the Class Members are *not* members of Defendants' websites or
6 otherwise affiliated with Defendants. The Mansion and, on information and belief, the Class
7 Members, have not consented to the Defendants' use of their names, marks or any information
8 concerning their booking, accommodations or availability.

9 25. The Mansion and, on information and belief, the Class Members, own their
10 r e s p e c t i v e names and marks.

11 26. Defendants push "deals" for stays at their members' hotels and lie about the
12 availability of rooms at non-member hotels. Consumers visiting these Websites have no way of
13 knowing which hotels are members and which are not.

14 27. But the deception starts even before consumers visit the Websites. Defendants
15 purchase false and misleading advertisements on internet search engines like Google, to funnel
16 traffic to their Websites.

17 28. During the last three years and before, when a consumer used Google to search for
18 The Mansion on O Street, the engine's top result returns an advertisement purchased by
19 Defendants to book rooms at The Mansion but customers who clicked on the link would ultimately
20 be advised that The Mansion was sold out.

21 29. During the last three years and before, Defendant falsely stated on their Websites
22 that The Mansion was sold out or unavailable for specified dates notwithstanding that, in fact,
23 rooms were available during those time frames. The Websites contained links directing customers
24 to different (presumably, member) hotels that Defendants actually had agreements or affiliations
25 with.

26 30. As recently as September 2016, Defendants' Websites represented to online
27 consumers that The Mansion was unavailable for certain dates despite The Mansion having rooms
28 available, causing The Mansion to lose business.

1 31. Numerous consumers contacted The Mansion after making reservations at member
2 hotels based on Defendants' false representation that The Mansion has no rooms available. These
3 consumers indicated that they would have booked rooms at The Mansion but for Defendants'
4 misrepresentation.

5 32. In October 2016, the President of The Mansion notified Expedia of the issue and the
6 issue was rectified at some point thereafter.

7 33. Plaintiff alleges on information and belief that Defendants had a pattern and practice,
8 when available, to purchase similarly deceptive advertisements on Google and other search engines
9 regarding the Class Members (collectively, the "Google Advertisements").

10 34. The Google Advertisements were false, misleading and omitted material facts
11 necessary to make them not misleading because they stated or implied that Defendants had an
12 affiliation with the Class Members and that Defendants could book stays at the Class Members'
13 hotels on behalf of consumers.

14 35. In truth, at all relevant times, Defendants had no affiliation with The Mansion and
15 the Class Members, and Defendants had no way to actually book stays at The Mansion or at the
16 Class Members' hotels on behalf of consumers.

17 36. The Google Advertisements funneled consumers away from legitimate websites
18 that could book rooms at The Mansion and at the Class Members and lured consumers onto
19 Defendants' Websites, where Defendants' unlawful conduct continued.

20 **Defendant's Unfair and Fraudulent Practices on the Websites**

21 37. At all relevant times, when a consumer searches for Class Members on Defendants'
22 Websites, the Websites prompt consumers to enter prospective travel dates to check for
23 room availability.

24 38. Defendants' travel date searches are misleading in that they falsely lead
25 consumers to believe that Defendants have an affiliation with The Mansion and the Class
26 Members and that Defendants can book stays with The Mansion and the Class Members on behalf
27 of travelers.

1 39. Plaintiff alleges on information and belief that after baiting consumers to
2 enter their prospective travel dates, Defendants' Websites, as a standard practice, represent that
3 there are "no rooms available" at The Mansion or Class Member hotels, that The Mansion and
4 Class Members are "sold out," or that there are "no deals available at this time" at The Mansion and
5 Class Members, regardless of the fact that there was indeed availability at The Mansion and Class
6 Member hotels.

7 40. In returning these false and misleading "sold out" search results, Defendants
8 use the names and addresses of The Mansion and Class Members together with fake phone
9 numbers. These phone numbers do not connect would be travelers to The Mansion and Class
10 Members. Instead, these phone numbers are owned and operated by Defendants.

11 41. At the same time that the Websites return false and misleading "sold out" search
12 results with phony 800 numbers for The Mansion and Class Members, the Websites offer "deals" at
13 their own member hotels during the same travel dates.

14 42. Plaintiff alleges on information and belief that at all relevant times, when consumers
15 called the fake phone numbers, Defendants' operators confirm there is no availability at The
16 Mansion and Class Members' hotels (regardless of their actual vacancy rates) and offer to book
17 stays at nearby Defendants' member hotels. At times, Defendants did not utilize the fake numbers
18 when falsely representing that The Mansion and Class Member hotels had no availability and,
19 instead, featured links to other hotels that had availability and were, presumably, Member hotels.

20 **Defendants Continue Pursuing Consumers With False Social Media Ads**

21 43. If a consumer does not immediately book a room through the Websites,
22 Defendants continue pursuing their business with misleading social media advertisements.

23 44. For example, during the last three years and before, Defendants ran targeted
24 Facebook advertisements that would encourage consumers to book rooms at the Mansion after
25 the consumer has searched for The Mansion on Defendants' Websites.

26 45. During the last three years and before, Defendants also ran targeted Twitter
27 advertisements that would encourage consumers to book at The Mansion after searching
28 Defendants' Websites.

1 46. Plaintiff alleges on information and belief that Defendants had a policy and
2 practice of running targeted advertisements on Facebook, Twitter and other social media
3 platforms referring to The Mansion and the Class Members (collectively, the “Facebook
4 Advertisements”) in an effort to mislead consumers and get them to return to the Websites to book
5 with Defendants’ member hotels.

6 **CLASS ALLEGATIONS**

7 47. **Classes:** Plaintiff brings its claims on behalf of the following classes, as alleged
8 more specifically in each claim for relief set forth herein:

9 a. National Class: Pursuant to Fed.R.Civ.P.23. Plaintiff seeks to represent the
10 following Class:

11 All hotels, lodges, inns, motels and providers of overnight accommodations whose names
12 appeared on Hotels.com, Expedia.com, and Orbitz.com, with whom Defendants did not have a
13 booking agreement (the “National Class”).

14 b. Washington, D.C. Sub-Class: Pursuant to Fed.R.Civ.P.23. Plaintiff seeks to represent
15 the following Class:

16 All Washington, D.C.-based hotels, lodges, inns, motels and providers of overnight
17 accommodations whose names appeared on Hotels.com, Expedia.com, and Orbitz.com, with whom
18 Defendants did not have a booking agreement (the “Washington, D.C. Sub-Class”).

19 48. Excluded from the Classes are (a) any Judge or Magistrate presiding over this action
20 and members of their families; (b) the Defendants and their subsidiaries and affiliates; and (c) all
21 persons who properly execute and file a timely request for exclusion from the Class Plaintiff
22 reserves the right to re-define the Class (hereinafter referred to as the “Class,” unless otherwise
23 specified) prior to moving for class certification.

24 49. The exact number of Class members is unknown as such information is in the
25 exclusive control of Defendants. Plaintiff, however, believes that the Class encompasses more than
26 one hundred entities that are geographically dispersed throughout the nation. Therefore, the
27 number of persons who are members of the Class described above are so numerous that joinder of
28

1 all members in one action is impracticable. Members are readily ascertainable through appropriate
2 discovery from records maintained by Defendants and their agents.

3 50. Questions of law and fact that are common to the entire Class predominate over
4 individual questions because the actions of Defendants' complained of herein were generally
5 applicable to the entire Class. These legal and factual questions include, but are not limited to:

6 a. What algorithms Defendants used on their Websites to return search
7 results to consumers;

8 b. Whether Defendants' search engines accessed actual vacancy rates of their
9 non-member hotels;

10 c. How Defendants used smart technology to track consumer search history;

11 d. Whether Defendants online advertisements were part of a pattern and
12 practice to divert business unfairly toward their member hotels;

13 e. Whether Defendants' offers to book stays at hotels with whom they
14 had no affiliation violated section 43(a) of the Lanham Act;

15 f. Whether Defendants' use of Plaintiff and Class Members' names and
16 identifying information violated section 43(a) of the Lanham Act;

17 g. Whether Defendants' false representation that Plaintiff and Class Members'
18 hotels were sold out, had no rooms available or had no deals violated section 43(a) of the Lanham
19 Act;

20 h. Whether Defendants' systematic acts and practices constitute unfair
21 competition under Washington, D.C. law;

22 i. Whether Defendants were unjustly enriched under Washington, D.C. law;

23 j. Whether restitution, lost profits or another damages measure is most
24 appropriate to compensate Plaintiff and the Class Members; and

25 k. Whether Defendants' conduct should be enjoined.

26 51. Plaintiff's claims are typical of the members of the Class because Plaintiff and Class
27 members were injured by the same wrongful practices and were subjected to Defendants' common
28 advertising and websites policies and practices. Plaintiff's claims arise from the same practices and

1 course of conduct that gives rise to the claims of the Class members, and are based on the same
2 legal theories. Plaintiff has no interests that are contrary to or in conflict with those of the Class it
3 seeks to represent and Plaintiff has retained counsel who are competent and experienced in class
4 actions and unfair competition law.

5 52. Questions of law or fact common to Class members predominate. A class action is
6 superior to other available methods for the fair and efficient adjudication of this lawsuit, because
7 individual litigation of the claims of all Class members is economically unfeasible and procedurally
8 impracticable. This case involves a small number of tight knit Defendants operating Websites under
9 a common scheme, and a large number of individual small and medium size hotels and lodges with
10 many relatively small claims with common issues of law and fact. While the Class members'
11 aggregate damages are likely to be in the millions of dollars, the individual damages incurred by
12 each Class member are, as a general matter, too small to warrant the expense of individual suits.
13 The likelihood of individual Class members prosecuting separate individual claims is remote, and
14 even if every Class member could afford individual litigation, the court system would be unduly
15 burdened by the individual litigation of such cases. Individualized litigation would also present the
16 potential for varying, inconsistent, or contradictory judgments and would magnify the delay and
17 expense to all parties and to the court system resulting from multiple trials on the same factual
18 issues. Plaintiff knows of no difficulty to be encountered in the management of this action that
19 would preclude its maintenance as a class action. Certification of the Class under Rule 23(b)(3) is
20 proper.

21 53. Relief concerning Plaintiff's rights under the laws herein alleged and with respect to
22 the Class would be proper. Defendants have acted or refused to act on grounds generally applicable
23 to the Class, thereby making appropriate final injunctive relief or corresponding declaratory relief
24 with regard to Class members as a whole and certification of the Class under Rule 23(b)(2) proper.

25 **FIRST CLAIM FOR RELIEF**

26 **Violation of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A)**

27 **(False Association and Trademark Infringement)**

28 **(By Plaintiff and the National Class Members Against All Defendants)**

57. Plaintiff incorporates every preceding paragraph as if fully set forth herein.

1 58. In acting as alleged above, Defendants violated section 43(a) of the Lanham Act (15
2 U.S.C. § 1125(a)(1)(A)), in connection with on-line travel and booking services, by using in
3 commerce words, terms, names, or symbols, or a combination thereof, which were likely to cause
4 confusion, mistake or deception as to the affiliation, connection, or association of Defendants with
5 The Mansion and the National Class Members, or as to the origin, sponsorship, or approval of their
6 services or commercial activities.

7 59. In acting as alleged above, Defendants also violated section 43(a) of the Lanham Act
8 (15 U.S.C. § 1125(a)(1)(A)), in connection with on-line travel and booking services, by using in
9 commerce false designations of origin, false or misleading descriptions of fact, or false or
10 misleading representations of fact, which were likely to cause confusion, mistake, or deception as to
11 the affiliation, connection, or association of Defendants with The Mansion and the National Class
12 Members, or as to the origin, sponsorship, or approval of their services or commercial activities.

13 60. Defendants' misrepresentations and actions in violation of 15 U.S.C. §
14 1125(a)(1)(A) proximately caused an injury to a commercial interest in sales or business reputation
15 of The Mansion and the National Class Members.

16 61. Defendants' misrepresentations and actions in violation of 15 U.S.C. §
17 1125(a)(1)(A) have also deprived and will continue to deprive The Mansion and the National Class
18 Members of the ability to control the consumer perception of their products and services offered
19 under their names and marks, placing the valuable reputation and goodwill of The Mansion and the
20 National Class Members in the hands of Defendants.

21 62. Defendants had direct and full knowledge of The Mansion and the National Class
22 Members' prior use of and rights in their names and marks before the acts complained of herein.
23 The knowing, intentional and willful nature of the acts set forth herein renders this an exceptional
24 case under 15 U.S.C. § 1117(a).

25 63. As a result of Defendants' aforesaid conduct and in addition to other damages, The
26 Mansion and the National Class Members have suffered the continuing loss of the goodwill and
27 reputation established by their names and marks. This continuing loss of goodwill cannot be
28 properly calculated and thus constitutes irreparable harm and an injury for which The Mansion and

1 the National Class Members have no adequate remedy at law. The Mansion and the National Class
2 Members will continue to suffer irreparable harm unless this Court enjoins Defendants' conduct.

3 64. Accordingly, pursuant to 15 U.S.C. § 1117, The Mansion and the National Class
4 Members are entitled to recover: (1) Defendants' profits, or an amount that is adequate, which the
5 Court finds to be just according to the circumstances of the case, as compensation; (2) the damages
6 sustained by The Mansion and the National Class Members, in a sum above the amount found as
7 actual damages, not exceeding three times such amount; (3) injunctive relief; (4) the costs of the
8 action; (5) reasonable attorney fees, and (6) such other and further relief as the Court may deem
9 equitable and appropriate pursuant to 15 U.S.C. § 1117.

10 **SECOND CLAIM FOR RELIEF**

11 **Violation of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B)**

12 **(False Advertising and Trademark Infringement)**

13 **(By Plaintiff and the National Class Members Against All Defendants)**

14 65. Plaintiff incorporates every preceding paragraph as if fully set forth herein.

15 66. In acting as alleged above, Defendants violated section 43(a) of the Lanham Act (15
16 U.S.C. § 1125(a)(1)(B)), in connection with on-line travel and booking services, by using in
17 commerce words, terms, names, or symbols, or a combination thereof, which in commercial
18 advertising or promotion, misrepresented the nature, characteristics, or qualities of The Mansion
19 and the National Class Members' services or commercial activities.

20 67. In acting as alleged above, Defendants also violated section 43(a) of the Lanham Act
21 (15§ 1125(a)(1)(B)), in connection with on-line travel and booking services, by using in commerce
22 false designations of origin, false or misleading descriptions of fact, or false or misleading
23 representations of fact, which in commercial advertising or promotion, misrepresented the nature,
24 characteristics, or qualities of The Mansion and the National Class Members' services or
25 commercial activities.

26 68. Defendants' misrepresentations and actions in violation of 15 U.S.C. §
27 1125(a)(1)(B) proximately caused an injury to a commercial interest in sales or business reputation
28 of The Mansion and the National Class Members.

1 69. Defendants' misrepresentations and actions in violation of 15 U.S.C. §
2 1125(a)(1)(A) have also deprived and will continue to deprive The Mansion and the National Class
3 Members of the ability to control the consumer perception of their products and services offered
4 under their names and marks, placing the valuable reputation and goodwill of The Mansion and the
5 National Class Members in the hands of Defendants.

6 70. Defendants had direct and full knowledge of The Mansion and the National Class
7 Members' prior use of and rights in their names and marks before the acts complained of herein.
8 The knowing, intentional and willful nature of the acts set forth herein renders this an exceptional
9 case under 15 U.S.C. § 1117(a).

10 71. As a result of Defendants' aforesaid conduct and in addition to other damages, The
11 Mansion and the National Class Members have suffered the continuing loss of the goodwill and
12 reputation established by their names and marks. This continuing loss of goodwill cannot be
13 properly calculated and thus constitutes irreparable harm and an injury for which The Mansion and
14 the National Class Members have no adequate remedy at law. The Mansion and the National Class
15 Members will continue to suffer irreparable harm unless this Court enjoins Defendants' conduct.

16 72. Accordingly, pursuant to 15 U.S.C. § 1117, The Mansion and the National Class
17 Members are entitled to recover: (1) Defendants' profits, or an amount that is adequate, which the
18 Court finds to be just according to the circumstances of the case, as compensation; (2) the damages
19 sustained by The Mansion and the National Class Members, in a sum above the amount found as
20 actual damages, not exceeding three times such amount; (3) injunctive relief; (4) the costs of the
21 action; (5) reasonable attorney fees, and (5) such other and further relief as the Court may deem
22 equitable and appropriate pursuant to 15 U.S.C. § 1117.

23 **THIRD CLAIM FOR RELIEF**

24 **Unfair Competition**

25 **(By Plaintiff and the Washington, D.C. Class Members Against All Defendants)**

26 73. Plaintiff incorporates every preceding paragraph as if fully set forth herein.

27 74. Defendants' misconduct, described herein, took place across the United States,
28 including within the District of Columbia, and affected The Mansion and other Washington, D.C.

1 Sub-Class Members, as well as members of the consuming public within the District of Columbia
2 and nationwide.

3 75. Defendants impaired the ability of The Mansion and the Washington, D.C. Sub-
4 Class to compete for business opportunities by affirmatively and impliedly misrepresenting material
5 information regarding The Mansion and the Washington, D.C. Sub-Class as set forth herein.
6 Reasonable consumers would (and did in fact) deem Defendants' representations regarding The
7 Mansion and other Class Members to be misleading.

8 76. Defendants impaired the ability of The Mansion and the Washington, D.C. Sub-
9 Class to compete for business opportunities by omitting and failing to disclose material information
10 regarding The Mansion and the Class as set forth herein. Reasonable consumers would (and did in
11 fact) deem Defendants' representations regarding The Mansion and other Class Members to be
12 misleading.

13 77. Defendants' wrongdoing has resulted in interference with access to the business of
14 The Mansion and other Washington, D.C. Sub-Class Members, by systematically inducing
15 consumers searching for hotel rooms from purchasing those rooms from The Mansion and
16 Washington, D.C. Sub-Class Members.

17 78. The Mansion and the Washington, D.C. Sub-Class Members have suffered
18 competitive injury and have been personally aggrieved by Defendants' unfair competition and
19 unlawful business acts and practices as alleged herein, including but not necessarily limited to, by
20 the loss of money or property.

21 79. As a result of Defendants' aforesaid conduct and in addition to other damages, The
22 Mansion and the Washington, D.C. Sub-Class Members have suffered the continuing loss of the
23 goodwill and reputation established by their names and marks. This continuing loss of goodwill
24 cannot be properly calculated and thus constitutes irreparable harm and an injury for which The
25 Mansion and the Washington, D.C. Sub-Class Members have no adequate remedy at law. The
26 Mansion and the Washington, D.C. Sub-Class Members will continue to suffer irreparable harm
27 unless this Court enjoins Defendants' conduct.

1 80. As a result of the Defendants' acts of unfair competition as described herein,
2 Plaintiff and the Washington, D.C. Sub-Class Members have suffered actual harm and seek all
3 damages recoverable at law including monetary damages, an order enjoining Defendants' unlawful
4 conduct, and any other relief the court determines proper.

5 **FOURTH CLAIM FOR RELIEF**

6 **Unjust Enrichment / Restitution**
7 **(By Plaintiff and the Washington, D.C. Sub-Class Members**
8 **Against All Defendants)**

9 81. Plaintiff incorporates every preceding paragraph as if fully set forth herein.

10 82. In acting as alleged above, Defendants have been unjustly enriched in that
11 Defendants have knowingly benefitted at the expense of The Mansion and the Washington, D.C.
12 Sub-Class Members in a manner such that allowance of Defendants to retain the benefits that they
13 received would be unjust.

14 83. As a result of Defendants' aforesaid conduct and in addition to other damages, The
15 Mansion and the Washington, D.C. Sub-Class Members have suffered the continuing loss of the
16 goodwill and reputation established by their names and marks. This continuing loss of goodwill
17 cannot be properly calculated and thus constitutes irreparable harm and an injury for which The
18 Mansion and the Washington, D.C. Sub-Class Members have no adequate remedy at law. The
19 Mansion and the Washington, D.C. Sub-Class Members will continue to suffer irreparable harm
20 unless this Court enjoins Defendants' conduct.

21 84. The Mansion and the Washington, D.C. Sub-Class Members are entitled to
22 disgorgement and restitution of the income that Defendants earned as a result of their misconduct.

23 85. Defendants deliberately promoted, issued and sold gift certificates containing illegal
24 expiration dates.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff, on behalf of himself and members of the Class, respectfully
27 requests that this Court:

28 1. Determine that the claims alleged herein may be maintained as a class action under
Rule 23 of the Federal Rules of Civil Procedure, and issue an order certifying one or more Classes

1 as defined above;

2 2. Appoint Plaintiff as the representative of the Class and his counsel as Class counsel;

3 3. Award all actual, general, special, incidental, punitive, statutory, injunctive, and
4 consequential damages to which Plaintiff and Class members are entitled;

5 4. Award pre-judgment and post-judgment interest on such monetary relief;

6 5. Award reasonable attorneys' fees and costs; and

7 6. Grant such further relief that this Court deems appropriate.

8 **DEMAND FOR JURY TRIAL**

9 Plaintiff respectfully demands a trial by jury on all issues within the instant action so triable.

10 Dated: March 7, 2017

11 Respectfully submitted,

12 /s/ Pierce Gore

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16 San Jose, CA 95126
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18 Charles J. La Duca (*pro hac vice* pending)
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JS-CAND 44 (Rev. 07/16)

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

2020 O Street Corporation, Inc. dba THE MANSION ON O STREET, individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff Washington, D.C.
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Pierce Gore
Pratt & Associates
1871 The Alameda, Suite 425
San Jose, CA 95126
(408) 429-6506

DEFENDANTS

EXPEDIA, INC, a Washington corporation; HOTELS.COM, LP, a Texas limited partnership; HOTELS.COM GP, LLC a Texas limited liability company; and ORBITZ, LLC a Delaware limited liability company

County of Residence of First Listed Defendant Bellevue, WA
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|---------------------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input checked="" type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC § 881	<input type="checkbox"/> 422 Appeal 28 USC § 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC § 157	<input type="checkbox"/> 376 Qui Tam (31 USC § 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability			<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment Of Veteran's Benefits	<input type="checkbox"/> 340 Marine	PERSONAL PROPERTY	LABOR	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 720 Labor/Management Relations	SOCIAL SECURITY	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice		<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 496 Cable/Sat TV
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	IMMIGRATION	FEDERAL TAX SUITS	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 871 IRS-Third Party 26 USC § 7609	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence			<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 530 General			<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities-Employment	<input type="checkbox"/> 535 Death Penalty			<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities-Other	Other:			<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & other			
		<input type="checkbox"/> 550 Civil Rights			
		<input type="checkbox"/> 555 Prison Condition			
		<input type="checkbox"/> 560 Civil Detainee-Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation-Transfer
- 8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

284.S.C. 1331, 1367, 1332(d), 1391(b), 1391(c)

Brief description of cause:

Lanham Act class action

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION DEMAND \$ UNDER RULE 23, Fed. R. Civ. P.

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE Sallie Kim

DOCKET NUMBER 3:16-cv-04721-SK

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only)

- SAN FRANCISCO/OAKLAND
- SAN JOSE
- EUREKA-MCKINLEYVILLE

DATE: March 7, 2017

SIGNATURE OF ATTORNEY OF RECORD: /s/ Pierce Gore

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Expedia, Orbitz, Hotels.com 'Baited' Customers, Lawsuit Alleges](#)
