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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JOSEPH CHURCH, individually and on behalf  
of all others similarly situated,

Plaintiff,

v.

EXPEDIA, INC., EAN.COM, LP,  
TRAVELSCAPE, LLC and HOTELS.COM  
L.P.,

Defendants.

No. 18-cv-01812

CLASS ACTION COMPLAINT

**JURY TRIAL DEMANDED**

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1 Plaintiff Joseph Church brings this action on behalf of himself and all others similarly  
2 situated, and states as follows:

3 **I. INTRODUCTION**

4 1. At a time where almost everyone is connected to the internet, millions of  
5 consumers book hotel rooms online. They do so primarily for convenience and in order to shop  
6 for the best price.

7 2. One online booking company is Reservations.com. Reservations.com differs  
8 from more traditional online travel companies in that it does not have any direct contractual  
9 interaction with hotels; instead, Reservations.com obtains all of its hotel room inventory from  
10 Defendant Expedia, Inc., and its subsidiaries, including Defendants EAN.com, LP (“EAN”),  
11 Travelscape, LLC, and Hotels.com L.P., as well as other third-party suppliers.

12 3. Defendants obtain hotel room inventory through “merchant model” contracts with  
13 hotels which give Defendants the right to sell room reservations at retail rates generally set by  
14 Defendants. Defendants pay the hotels a wholesale (or “net”) rate, and then typically remit taxes  
15 on that net rate to the hotels after the hotel stay is complete. Defendants profit from the markup  
16 on the room, and a “service fee” that is part of the bundled “Taxes & Fees” Defendants charge  
17 when they sell reservations on their own websites.

18 4. When a consumer uses Reservations.com’s website or call center to purchase a  
19 room reservation that comes from Defendants’ inventory, the consumer pays a “Service Fee” of  
20 \$14.99 per room to Reservations.com, and a nightly “Tax Recovery Charges & Fees” amount to  
21 Defendants (at various times, this amount has been labeled “Taxes & Fees,” “Tax & Fees,” and  
22 “Tax”). The “Taxes & Fees” are represented to be monies “the hotels must pay to the  
23 government,” and even without this representation a reasonable consumer would understand  
24 “Taxes & Fees” to be monies owed to the government. When Reservations.com sells a room  
25 reservation that comes from Defendants’ inventory, the consumer’s credit card is charged \$14.99  
26 by Reservations.com, and the balance—the room charge plus the “Taxes & Fees” charge—by  
27 Defendants.  
28

1           5.       Plaintiff’s complaint focuses exclusively on the falsely-inflated “Taxes & Fees”  
2 or “Tax” charges collected by Defendants. The \$14.99 per room “Service Fee” charged by  
3 Reservations.com is not at issue in this litigation.

4           6.       Contrary to Reservations.com’s representations and/or the expectations of  
5 consumers, the “Taxes & Fees” charged by Defendants are not the actual taxes and fees remitted  
6 to governmental authorities but contain additional amounts surreptitiously added by Defendants  
7 (the “tax overcharge”). For example, Reservations.com showed a room rate of \$159 and “Tax  
8 Recovery Charges & Fees” of \$50.88 for a reservation at the W Hotel in Seattle for November  
9 22-24, 2018. The real total state and local Seattle tax for a Seattle hotel room is 15.6%, plus \$2  
10 per night, so the total “Taxes & Fees” on this room should have been \$27, and not \$50.88 as  
11 listed. On information and belief, the tax overcharge was even higher because Defendants  
12 generally remit taxes only on the discounted “net rate” that they pay for hotel rooms, and not on  
13 the full retail room rate consumers pay for the rooms.

14           7.       By way of further example, a room for November 23-24, 2018, at the Ritz Carlton  
15 San Francisco had a quoted room rate through Reservations.com of \$399 and “Tax Recovery  
16 Charges & Fees” of \$87.59. The effective hotel tax rate in San Francisco is 18.6%, so the tax  
17 charge on the full room rate should be \$74, not \$87.59, making the tax overcharge at least \$13.59  
18 per night. On information and belief, the actual tax overcharge is higher, since Defendants  
19 generally remit taxes only on the discounted “net rate” they pay the hotel for the room.

20           8.       This tax overcharge practice is not of recent origin. For example, a room booked  
21 through Reservations.com in 2017 at the Hyatt Regency Orlando cost \$518.30 for the room and  
22 \$108.63 for “Taxes & Fees.” The actual tax owed to Orlando was \$69.97 (at the governing  
23 13.5% rate) and hence, at a minimum, \$38.71 was apparently a secret tax overcharge.

24           9.       Reservations.com does not pay taxes to local governments on the hotel rooms  
25 booked through its website. Rather, the room rates and “Taxes & Fees” are fields populated on  
26 the Reservations.com website by Defendants. At the time of booking, Defendants collect the  
27 “Taxes & Fees” charge directly from Reservations.com’s customers, and Defendants later remit  
28

1 the applicable taxes and fees to either the hotels or—in some jurisdictions—directly to the  
2 government.

3 10. As part of the tax overcharge scheme, Defendants unlawfully collect and retain  
4 the “Taxes & Fees” overcharge.

5 11. This case thus seeks to collect and return the secret overpayment of “Taxes &  
6 Fees” to Defendants unwittingly made by Reservations.com’s customers.

7 12. Plaintiff brings this action on behalf of a nationwide class of all similarly situated  
8 individuals and entities who have booked and paid for hotel rooms obtained through Defendants  
9 using Reservations.com’s website and call centers. Reservations.com represents that 4 million  
10 rooms have been booked through its website. If one takes the overcharge of \$23.88 on the room  
11 at the W hotel and multiplies it by 4 million, Defendants have collected at a minimum over  
12 \$95 million dollars in unlawful “tax” charges. No one consumer would sue over \$23.88 making  
13 the use of the class action rule an appropriate vehicle to right this wrong.

## 14 II. JURISDICTION AND VENUE

15 13. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1331  
16 because Plaintiff’s claims arise under the RICO Act, 18 U.S.C. § 1962. The Court also has  
17 diversity jurisdiction because Plaintiff and Defendants reside in different states. The Court has  
18 supplemental jurisdiction over Plaintiff’s state law claims under 28 U.S.C. § 1367.

19 14. The Court also has subject matter jurisdiction over this action pursuant to the  
20 Class Action Fairness Act of 2005, *as enacted at* 28 U.S.C. § 1332(d), because at least one Class  
21 member is of diverse citizenship from the Defendants, there are more than 100 Class members,  
22 and the aggregate amount in controversy exceeds \$5,000,000.00, exclusive of interests and costs.

23 15. Venue is proper in this District under 28 U.S.C. § 1391 because: (1) Expedia and  
24 its subsidiaries conduct substantial business in this District and have intentionally availed  
25 themselves of the laws and markets of the United States and this District; and/or (2) many of the  
26 acts and transactions giving rise to this action occurred in this District, including, *inter alia*,  
27 Expedia’s collection of the tax overpayments in this District, and, on information and belief,  
28 Expedia’s direction of the fraudulent scheme was spearheaded in this District. Venue is also

1 proper under 18 U.S.C. § 1965(a) because Expedia and its subsidiaries reside in, are found in,  
2 have agents in, and/or transact their affairs in this District.

3 **III. PARTIES**

4 16. Plaintiff Joseph Church is a resident of Charleston County, South Carolina, and as  
5 described below purchased a hotel room online through the Reservations.com website.

6 17. Defendant Expedia, Inc. (“Expedia”) is a publicly-traded online travel company  
7 headquartered in Bellevue, Washington.

8 18. Defendant EAN.com, LP (“EAN”) is a Delaware limited partnership  
9 headquartered in Dallas, Texas, that operates as Expedia Affiliate Networks. A subsidiary of  
10 Expedia, EAN contracts with third-party travel companies, including Reservations.com, to  
11 provide the third parties with hotel room inventory obtained through separate agreements  
12 between Expedia and the hotels. The third-party company (here, Reservations.com) hosts the  
13 website, does its own marketing of its services, and earns a commission on the transaction (here,  
14 in the form of a \$14.99 charge per room per night).

15 19. Defendant Travelscape, LLC is an Expedia subsidiary headquartered in Las  
16 Vegas, Nevada, that does business as Expedia Travel. Travelscape contracts with hotel  
17 properties for room inventory at wholesale prices; on information and belief, that inventory is  
18 offered to consumers through multiple channels, including Expedia websites (such as  
19 expedia.com and hotels.com), as well as third-party websites such as reservations.com.  
20 Travelscape administers payments for reservations made through third-party hotel reservation  
21 suppliers that contract with EAN, including Reservations.com.

22 20. Defendant Hotels.com L.P. is an Expedia subsidiary headquartered in Dallas,  
23 Texas. In addition to offering hotel reservations and other travel products on its own website, on  
24 information and belief it also provides room inventory to Reservations.com and/or collects  
25 monies paid for room reservations sold by Reservations.com, as evidenced by the fact that a  
26 Hotels.com phone number was listed on the credit card bill for Plaintiff’s Reservations.com  
27 booking.

1 IV. STATEMENT OF FACTS

2 A. **Expedia, not Reservations.com, determines the amount of the “Taxes & Fees,” and**  
3 **collects that amount directly from Reservations.com’s customers.**

4 21. Reservations.com claims to offer bookings at 250,000 hotels around the world  
5 through its website and call centers. The Reservations.com website came online in April of  
6 2014, and the website now boasts that Reservations.com has booked “4 million room nights” for  
7 its customers.

8 22. All the hotel rooms listed on Reservations.com are provided by Expedia  
9 subsidiaries (including EAN, Travelscape, and Hotels.com) and other third-party suppliers.

10 23. Reservations.com does not contract with hotels directly. Instead, EAN and other  
11 third-party suppliers coordinate Reservations.com customers’ bookings with the hotels, collect  
12 the room rate and the “Taxes & Fees,” and remit some of these monies to the hotels and,  
13 sometimes, directly to governmental taxing authorities. Reservations.com is not involved in the  
14 “Taxes & Fees” collection and remission process.

15 24. Sunil Bhatt, one of the co-founders of Reservations.com, was the Vice-President  
16 and General Manager of EAN from 2009 until June of 2011. Mr. Bhatt served as CEO of  
17 Reservations.com from June 2014 until July of 2015.

18 25. Reservations.com indicates on its website that it has a “partnership” with Expedia.  
19 On information and belief, Expedia has provided Reservations.com with a significant portion of  
20 the 4 million room nights sold on the Reservations.com website.

21 26. So close is the relationship between Reservations.com and Expedia that Expedia  
22 operated a call center for Reservations.com from April 2014 until April of 2017.

23 27. Expedia sells hotel reservations through many different channels, including its  
24 own websites (most notably, expedia.com., hotels.com, orbitz.com, travelocity.com, and  
25 hotwire.com), and through EAN, which Expedia describes as its “purely partner-focused arm.”  
26 EAN provides room inventory to other online retailers, including Reservations.com.

27 28. Expedia obtains room inventory for Reservations.com and its own websites using  
28 the so-called “merchant model.” Under this model, Expedia (often through its subsidiary,

1 Travelscape) acquires contractual rights from hotels to sell room reservations through its  
2 websites and call centers. The hotels agree to provide the rooms to Expedia at wholesale (or  
3 “net”) rates. Expedia sells the rooms at marked-up retail rates. When it sells room reservations  
4 on its own websites, Expedia charges purchasers the retail rate, plus a bundled “Taxes & Fees”  
5 charge. Expedia collects full payment for the room and all associated charges at the time the  
6 purchasers make their reservations.

7 29. When prepaid hotels are booked through Reservations.com using Expedia’s  
8 inventory, Expedia is the “merchant of record” on the consumer’s credit card for the room and  
9 “Taxes & Fees” charges—not Reservations.com and not the hotels. At the time of booking, the  
10 consumer pays Expedia for the room and the “Taxes & Fees” charge, and pays Reservations.com  
11 its flat \$14.99 “service fee.”

12 30. When a customer uses the Reservations.com website to book a hotel room, full  
13 payment is charged to the customer’s credit card immediately upon booking the room, just as in  
14 all of Expedia’s merchant model transactions. On the Reservations.com website, the charges are  
15 broken into three categories: a “Room Subtotal,” the “Tax Recovery Charges & Fees,”  
16 (previously, “Taxes & Fees” or “Tax & Fees” or “Tax”) and the “Service Fee.”

17 31. The “Room Subtotal” is the base retail room charge excluding taxes and fees.

18 32. The “Service Fee” is a flat \$14.99 fee per room per night for each booking made  
19 on the Reservations.com website charged “in exchange for the services [Reservations.com]  
20 provide[s] in facilitating [the] transaction with the hotel supplier.” The “Service Fee” is  
21 processed as a separate charge on the customer’s credit card by Reservations.com.

22 33. At times, Reservations.com has represented that the “Taxes & Fees” are  
23 ostensibly charged for the taxes, fees, and other charges that must be paid to the government:

24 The taxes are tax recovery charges we pay to our vendors. We  
25 retain our service fees and compensation in servicing your travel  
26 reservation. *Amounts displayed in the Taxes and Fees line for*  
27 *prepaid hotel transactions include an estimated amount we expect*  
28 *the hotel to bill for applicable taxes, government fees, and other*  
*charges that the hotels must pay to the government. Please note*  
*that you may also incur other charges that we do not collect and*  
*are not included in the quotes price, such as hotel resort fees, hotel*  
*energy surcharges, parking fees, pet fees, and incidental charges.*



1 These amounts will be collected from you directly by the hotel  
2 unless otherwise indicated on the site.

3 (emphasis added).

4 34. Even if not expressly stated as above, a reasonable consumer would expect that  
5 amounts collected as “Taxes & Fees” would be the amounts imposed by taxing authorities.

6 Indeed, the common understanding of hotel tax is conveyed in the following definition:

7 **What is Occupancy Tax?**

8 Occupancy tax is a tax on the rental of rooms that your state or  
9 locality may require. In many places this is known as an occupancy  
10 tax, but may also be known as a lodging tax, a room tax, a sales  
11 tax, a tourist tax, or a hotel tax.

12 Occupancy tax rates and rules vary by city, county, state, and  
13 country. They’re generally owed on the accommodations price  
14 plus any fees for other items, like cleanings or extra guests. In  
15 some places, occupancy tax is required on a per person, per night  
16 basis. There are typically long-term stay exceptions that exempt  
17 reservations over a certain number of nights. Occupancy tax is  
18 generally paid by the guest, but the obligation to remit the taxes to  
19 the government usually falls on the host. We expect all hosts to  
20 familiarize themselves with and follow their local laws and  
21 regulations.<sup>1</sup>

22 35. The “Taxes & Fees” charge, bundled together with the room rate, appear on the  
23 customer’s credit card as a charge to Expedia.

24 36. Reservations.com does not remit hotel taxes and fees in any jurisdiction because  
25 the room rates and “Taxes & Fees” charged on the Reservations.com website are pass-through  
26 line items established and collected by Expedia. Expedia then remits the applicable taxes and  
27 fees to either the hotels or, in some jurisdictions, to the government.

28 37. Expedia appears to charge substantially less for “Taxes & Fees” for room  
reservations on its own website than it does for reservations it sells on the Reservations.com  
website. For example, the expedia.com website on November 29, 2018, listed “Taxes & Fees” of  
\$29.92 on a \$179 hotel room at the W Seattle hotel for the night of December 17, 2018. In stark

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<sup>1</sup> AirBnB, *What is occupancy tax? Do I need to collect or pay it?*, available at <https://www.airbnb.com/help/article/654/what-is-occupancy-tax--do-i-need-to-collect-or-pay-it> (last accessed Dec. 14, 2018).

1 contrast, the Reservations.com website on November 29, 2018, listed “Tax Recovery Charges &  
2 Fees” of a whopping **\$60.35** for a \$179 room on the same night at the same W Seattle hotel.

3 38. Expedia’s leading competitor, Booking.com, also charges substantially less in  
4 taxes than the “Tax Recovery Charges & Fees” quoted on Reservations.com. For example, the  
5 Booking.com website on December 4, 2018, listed charges totaling \$22.92 for “Tax” and “City  
6 tax” on a \$134 room at Mayflower Park Hotel in Seattle for the night of December 17, 2018. In  
7 contrast, the Reservations.com website listed “Tax Recovery Charges & Fees” of \$28.79 for a  
8 \$134.10 room on the same night at the same Mayflower Park Hotel.

9 39. Contrary to the representations now made to consumers, or made at any time  
10 during the Class Period, the amount charged by Expedia on Reservations.com bookings as “Tax  
11 Recovery Charges & Fees,” “Taxes & Fees,” or “Taxes,” is significantly more than the sum  
12 actually owed to the government for “applicable taxes, government fees, and other charges that  
13 the hotels must pay to the government.” On information and belief, Expedia pockets the tax  
14 overcharge as additional profit (above and beyond the “markup” it already makes on the room  
15 price).

16 40. Expedia and its subsidiaries have at all relevant times engaged and continue to  
17 engage in a scheme to unlawfully collect overcharges of taxes and fees through the use of online  
18 travel agents, including, but not limited to, Reservations.com. On information and belief,  
19 Reservations.com has, at all times relevant hereto and continuing through the present, been a  
20 knowing and willing participant in this scheme with Expedia and its subsidiaries.

21 41. Expedia well knows the correct amount of taxes and fees owed to the appropriate  
22 government(s) in each jurisdiction.

23 42. In a series of cases, state and local taxing authorities have challenged Expedia’s  
24 practice in remitting taxes *only* on the wholesale rate paid by Expedia for the rooms it books and  
25 *not* on the full retail room rate that consumers pay Expedia.

26 43. While Expedia has won in some jurisdictions (where the courts found that  
27 Expedia properly remitted taxes on the wholesale rate only) and lost in others (where the courts  
28 found that Expedia must remit taxes on the full retail room rate), it is abundantly clear from the

1 cases that Expedia has at all relevant times been keenly aware of the precise amount of taxes that  
2 it collects on the one hand and remits on the other.

3 44. Largely as the result of the hotel tax litigation, in a minority of U.S. jurisdictions  
4 Expedia now remits taxes on the full retail room rate.

5 45. Regardless of whether Expedia remits taxes on the full room rate or only on the  
6 wholesale rate it pays for the rooms used by Reservations.com's customers, the "Taxes & Fees"  
7 line item *always* includes a tax overcharge because the amount is *always* higher than the taxes  
8 remitted on the hotel rooms.

9 **B. Plaintiff's experience**

10 46. Plaintiff used the Reservations.com website on June 4, 2017, to book a room for a  
11 family vacation. Plaintiff booked a room with two queen beds at the Hyatt Regency Orlando for  
12 two nights with a check-in date of Monday, June 5, 2017, and a check-out date of Wednesday,  
13 June 7, 2017.

14 47. Plaintiff paid \$14.99 for the Service Fee, \$518.30 for "Room, 2 Queen Beds,  
15 Accessible, Bathtub," and \$108.68 for "Tax & Fees."

16 48. On information and belief, the total applicable taxes, government fees, and other  
17 charges that must be paid to the government for Plaintiff's reservation totaled \$69.97 (13.5%)  
18 and, therefore, Plaintiff was overcharged approximately \$38.71.

19 49. Reservations.com charged Plaintiff's credit card the \$14.99 Service Fee on June  
20 4, 2017. This charge was attributed to "WWW.RESERVATIONS.COM WWW.RESERVATI  
21 FL" on Plaintiff's credit card statement.

22 50. The same day, Expedia separately charged Plaintiff's credit card \$626.98 for the  
23 "Room" charge and the "Tax & Fees." Plaintiff's credit card statement attributed this charge to  
24 "HOTEL\*RESERVATIONS.COM 877-903-0071 WA."

25 51. According to Hotels.com's website, the phone number provided in the transaction  
26 line of the credit card statement is answered by Hotels.com's customer service representatives.  
27 On information and belief, the "WA" refers to Washington, where Expedia's headquarters is  
28 located.

1 52. To summarize, Plaintiff paid a total of \$641.97 for this reservation. On  
 2 information and belief, Plaintiff's payment was divided as follows:

- 3 • \$14.99 Service Fee paid to Reservations.com
- 4 • \$518.30 Room charge divided between Hyatt and Defendants
- 5 • Maximum of \$69.97 taxes paid by Expedia to appropriate government(s)
- 6 • Minimum of \$38.71 illegally retained by Expedia as extra revenue

7 53. On information and belief, a similar overcharge for taxes and fees is applied to  
 8 every reservation booked through Reservations.com that uses Expedia's room inventory, and  
 9 Expedia is illegally retaining millions of dollars in overcharges annually as a result.

10 **C. The Tax Overcharge practice occurs throughout the United States.**

11 54. Testing based on information on the Reservations.com website reveals that the tax  
 12 overcharge practice is widespread.

13 55. Here are screenshots of typical pages from the Reservations.com website:





56. The correct “Tax Recovery Charges & Fees” should have been:

	<b>Listed</b>	<b>Lawful</b>
Renaissance	\$63.80	\$29.84 + \$2.00
Kimpton	\$36.38	\$28.64 + \$2.00

57. For a reservation of a \$229.00 room at the Atlanta Ritz Carlton on December 7, 2018, the Reservations.com website listed “Tax Recovery Charges & Fees” of \$60.89. The actual amount should be no more than \$43.

58. For a reservation of a \$179.00 room at the Chicago Marriott Oak Brook on December 17, 2018, the Reservations.com website listed “Tax Recovery Charges & Fees” of \$47.45. The actual amount should be no more than \$31.12.

59. For a reservation of a \$451 room at the Westin New York at Times Square on December 17, 2018, the Reservations.com website listed “Tax Recovery Charges & Fees” of \$110.87. The actual tax rate is 14.75% plus \$3.50 per day, so the actual amount should be no more than \$70.50



1 personal and financial information into the Reservations.com website, and Expedia has billed  
2 each Class member's credit card.

3 66. Typicality. Plaintiff's claims are typical of the claims of the members of the  
4 Class. The claims of each Class member arise from the same course of conduct: Defendants'  
5 illegal scheme to over-charge for taxes and fees while retaining the overcharge. The claims of  
6 Plaintiff and Class members are based on the same legal theories and arise from the same  
7 unlawful conduct.

8 67. Existence and Predominance of Common Questions of Law and Fact. This action  
9 involves common questions of law and fact that predominate over any questions affecting  
10 individual Class members. These common questions include, but are not limited to, the  
11 following:

12 a. Whether Defendants charge and collect from Plaintiff and Class members  
13 "Taxes & Fees" in excess of the taxes and fees owed to the appropriate governments for  
14 reservation transactions;

15 b. Whether Defendants knew or should have known the correct amount of  
16 "Taxes & Fees" to be collected from Plaintiff and Class members for remittance to the  
17 appropriate governmental authorities in connection with room reservation transactions;

18 c. Whether Defendants owed duties to Plaintiff and the Class members, the  
19 scope of those duties, and whether Defendants breached those duties;

20 d. Whether Defendants' conduct violates RICO and the other laws alleged  
21 herein;

22 e. Whether there is an Enterprise;

23 f. Whether Defendants participated in the Enterprise;

24 g. Whether Plaintiff and the other Class members are entitled to damages and  
25 other monetary relief and, if so, in what amount.

26 68. Adequacy of Representation. Plaintiff is an adequate representative of the Class  
27 because his interests do not conflict with the interests of the Class members. Plaintiff will fairly,  
28 adequately, and vigorously represent and protect the interests of the other Class members, and

1 Plaintiff has no interest antagonistic to the interests of the other Class members. Plaintiff has  
2 retained counsel who are competent and experienced in class action litigation and who possess  
3 specific expertise in consumer class actions.

4 69. Superiority. The nature of this action and the nature of laws available to Plaintiff  
5 and the Class make the use of a class action a particularly efficient and appropriate procedure to  
6 afford relief for Plaintiff and the Class for the wrongs alleged. The damages or other financial  
7 detriment suffered individually by Plaintiff and each Class member is modest compared to the  
8 burden and expense that individual litigation of their claims against Defendants would entail. It  
9 would thus be virtually impossible for Plaintiff and Class members, on an individual basis, to  
10 obtain effective redress for the wrongs done to them. Absent class action litigation, Class  
11 members would not likely recover damages, or would not likely have the chance to recover  
12 damages, and Defendants would be permitted to retain the ill-gotten proceeds of their fraudulent  
13 and deceptive misdeeds.

14 70. General Applicability. Defendants' conduct in charging and collecting amounts  
15 as "Taxes & Fees" on hotel bookings in amounts exceeding the actual applicable taxes and fees  
16 is generally applicable to the Class as a whole, making certification appropriate.

17 **COUNT I**

18 **VIOLATION OF 18 U.S.C. § 1962(C)-(D):**  
19 **THE RACKETEER INFLUENCED AND CORRUPT**  
20 **ORGANIZATIONS ACT ("RICO")**

21 71. Plaintiff incorporates by reference each preceding paragraph as though fully set  
22 forth herein.

23 72. Plaintiff brings this Count on behalf of the Class against Defendants Expedia,  
24 EAN, Travelscape, and Hotels.com.

25 73. The Defendants are "persons" under 18 U.S.C. § 1961(3) because they are  
26 capable of holding, and do hold, a "legal or beneficial interest in property."

27 74. Expedia, EAN, Travelscape, and Hotels.com, along with other entities and  
28 individuals, including Reservations.com, were associated with, and conducted or participated in



1 the affairs of, a RICO enterprise (the “Tax Fraud Enterprise”), whose purpose was to deceive  
2 consumers into believing they were paying a legitimate “Taxes & Fees” charge.

3 **1. The Tax Fraud Enterprise**

4 75. At all relevant times, Expedia, EAN, Travelscape, and Hotels.com, along with  
5 Reservations.com (“RICO Members” or “Enterprise Members”) and other individuals and  
6 entities, including unknown third parties involved in the collection of tax and fee charges from  
7 consumers, operated an association-in-fact enterprise engaged in interstate and foreign  
8 commerce, which was formed for the purpose of obtaining money from consumers for inflated  
9 “Taxes & Fees” payments, through which they conducted a pattern of racketeering activity under  
10 18 U.S.C. § 1961(4).

11 76. Alternatively, non-Defendant Reservations.com constitutes a single legal entity  
12 “enterprise” within the meaning of 18 U.S.C. § 1961(4), through which the Defendants  
13 conducted their pattern of racketeering activity in the U.S.

14 77. Expedia is a leading online travel company that provides hotel, air, car, and cruise  
15 reservations worldwide through a variety of in-house brands and third-party channels. As  
16 relevant here, through its subsidiaries, Expedia enters into “merchant model” contracts with  
17 hotels enabling it to offer room reservations at hundreds of thousands of hotels world-wide.

18 78. Merchant-model contracts with hotels give Expedia the right to sell room  
19 reservations at a retail rate generally set by Expedia. Expedia pays the hotels a wholesale (or  
20 “net”) rate, and then typically remits taxes on that net rate to the hotels (or, in a few jurisdictions,  
21 directly to the government) after the hotel stay is complete. Expedia profits from the markup on  
22 the room, and a “service fee” that it charges consumers as part of the bundled “Taxes & Fees” it  
23 charges on its own websites (including, among others, expedia.com, hotels.com, orbitz.com, and  
24 travelocity.com).

25 79. EAN is a subsidiary of Expedia that operates as Expedia Affiliate Network, and is  
26 described in Expedia’s 2017 10-K as “a global business-to-business (“B2B”) brand that powers  
27 the hotel business of hundreds of leading airlines, travel agencies, loyalty and corporate travel  
28 companies plus several top consumer brands through its API and template solutions.” EAN

1 contracts with third-party travel companies, including Reservations.com, to provide the third  
2 parties with hotel room inventory obtained through separate agreements between Expedia and  
3 the hotels. The third-party company (here, Reservations.com) hosts the website, does its own  
4 marketing of its services, and earns a commission on the transaction (here, in the form of a  
5 \$14.99 “Service Charge” per room per night).

6 80. Travelscape is an Expedia subsidiary that does business as Expedia Travel.  
7 Travelscape contracts with hotel properties for room inventory at wholesale prices; on  
8 information and belief, that inventory is offered to consumers through multiple channels,  
9 including Expedia websites (such as expedia.com and hotels.com), as well as third-party  
10 websites such as Reservations.com. Travelscape administers payments for reservations made  
11 through third-party hotel reservation suppliers that contract with EAN, including  
12 Reservations.com.

13 81. Hotels.com is another Expedia subsidiary. In addition to offering hotel  
14 reservations and other travel products on its own website, on information and belief it also  
15 provides room inventory to Reservations.com and/or collects charges from consumers on  
16 Reservations.com bookings, as evidenced by the fact that a Hotels.com phone number was listed  
17 on Plaintiff’s credit card bill for a Reservations.com booking.

18 82. At all relevant times, the Tax Fraud Enterprise: (a) had an existence separate and  
19 distinct from each Defendant; (b) was separate and distinct from the pattern of racketeering in  
20 which the RICO Members engaged; and (c) was an ongoing organization consisting of legal  
21 entities, including Expedia, EAN, Travelscape, Hotels.com, and Reservations.com, and other  
22 entities and individuals associated for the common purpose of obtaining tax overpayment from  
23 consumers. Each member of the Tax Fraud Enterprise shared in the bounty generated by the  
24 enterprise—*i.e.*, they shared the benefits derived from increased sales revenue generated by the  
25 scheme to defraud consumers.

26 83. The Tax Fraud Enterprise functioned by selling hotel room reservations to the  
27 consuming public. The hotel room bookings are legitimate transactions. However, Expedia and  
28 its co-conspirators, through their illegal Tax Fraud Enterprise, engaged in a pattern of

1 racketeering activity, which involves a fraudulent scheme to increase revenue for Expedia and  
2 the other entities and individuals associated-in-fact with the Enterprise’s activities through the  
3 illegal scheme to collect tax overpayments.

4 84. The Tax Fraud Enterprise engaged in, and its activities affected, interstate and  
5 foreign commerce, because it involved commercial activities across state boundaries, including  
6 the marketing, promotion, advertisement, and sale of hotel room reservations throughout the  
7 country, and the receipt of monies from the hotel bookings.

8 85. Within the Tax Fraud Enterprise, there was a common communication network by  
9 which co-conspirators shared information on a regular basis. The Tax Fraud Enterprise used this  
10 common communication network for the purpose of marketing and selling hotel rooms to the  
11 public nationwide.

12 86. Each participant in the Tax Fraud Enterprise had a systematic linkage to each  
13 other through corporate ties, contractual relationships, financial ties, and continuing coordination  
14 of activities. Through the Tax Fraud Enterprise, Expedia, EAN, Travelscape, Hotels.com and  
15 Reservations.com functioned as a continuing unit with the purpose of furthering the illegal  
16 scheme and their common purposes of increasing their revenues and market share.

17 87. Expedia, EAN, Travelscape, Hotels.com, and Reservations.com participated in  
18 the operation and management of the Tax Fraud Enterprise by directing its affairs, as described  
19 herein. While Expedia, EAN, Travelscape, Hotels.com, and Reservations.com participated in,  
20 and are members of, the enterprise, they have a separate existence from the enterprise, including  
21 distinct legal statuses, different offices and roles, bank accounts, officers, directors, employees,  
22 individual personhood, reporting requirements, and financial statements.

23 88. As detailed above, each member of the Tax Fraud Enterprise promoted and  
24 helped create a market for Reservations.com’s room reservations. Given their experience in the  
25 hotel reservation business each member of the enterprise knew that the amount being collected  
26 for “taxes” or “taxes and fees” was not in fact the actual tax and fees owed. Reservations.com  
27 agreed or acquiesced in this scheme because it needed Expedia’s resources to sell hotel rooms.  
28 Expedia implemented and directed the scheme to rip off consumers and retain additional profits.

1           89.     The enterprise functioned by selling hotel room reservations to the public.  
2 Expedia, EAN, Travelscape, and Hotels.com engaged in a pattern of racketeering activity  
3 through their scheme to sell hotel room reservations in interstate and foreign commerce, and to  
4 increase revenue and profits. The enterprise involved commercial activities across state  
5 boundaries, such as the marketing, promotion, advertisement, and sale of hotel room reservations  
6 throughout the country, and the receipt of monies from those sales.

7           90.     Expedia, EAN, Travelscape, Hotels.com, and Reservations.com worked closely  
8 together to further the enterprise, by and among the following manner and means:

- 9           a.     Jointly planning to sell hotel rooms and collect tax overpayments while  
10 representing that the “Taxes & Fees” were going to governmental entities;
- 11           b.     Misrepresenting and omitting the real “Taxes & Fees” actually owed on  
12 the rooms (or causing such misrepresentations and omissions to be made);
- 13           c.     Selling hotel room reservations throughout the United States with  
14 fraudulently inflated “Taxes & Fees” charges added-on;
- 15           d.     Concealing the true amounts of taxes and fees collected by the  
16 government;
- 17           e.     Coordinating representations made on the Reservations.com website;
- 18           f.     Misleading the public about the amount of “Taxes & Fees” actually owed  
19 for a hotel room; and
- 20           g.     Otherwise misrepresenting or concealing the true nature of the taxes and  
21 fees owed to the government and collected from the public.

22           **2.     Mail and Wire Fraud**

23           91.     To carry out, and attempt to carry out, the scheme to defraud, Expedia, EAN,  
24 Travelscape, and Reservations.com, each of whom is a person associated in fact with the Tax  
25 Fraud Enterprise, did knowingly conduct and participate, directly and indirectly, in the conduct  
26 of the affairs of the enterprise through a pattern of racketeering activity within the meaning of 18  
27 U.S.C. §§ 1961(1), 1961(5) & 1962(c), and which employed the use of the mail and wire  
28 facilities, in violation of 18 U.S.C. §§ 1341 (mail fraud) & 1343 (wire fraud).

1           92.     Specifically, the RICO Members have committed, conspired to commit, and/or  
2 aided and abetted in the commission of, at least two predicate acts of racketeering activity (*i.e.*,  
3 violations of 18 U.S.C. §§ 1341 & 1343), within the past ten years. The multiple acts of  
4 racketeering activity which the RICO Members committed, or aided or abetted in the  
5 commission of, were related to each other, posed a threat of continued racketeering activity, and  
6 therefore constitute a “pattern of racketeering activity.” The racketeering activity was made  
7 possible by the RICO Members’ regular use of the facilities, services, distribution channels, and  
8 employees of the enterprise. The RICO Members participated in the scheme to defraud by using  
9 mail, telephone, and the Internet to transmit mailings and wires in interstate or foreign  
10 commerce.

11           93.     In devising and executing the illegal scheme, the RICO Members devised and  
12 knowingly carried out a material scheme and/or artifice to defraud Plaintiff and the Class or to  
13 obtain money from Plaintiff and the Class by means of materially false or fraudulent pretenses,  
14 representations, promises, or omissions of material facts. For the purpose of executing the illegal  
15 scheme, the RICO Members committed these racketeering acts intentionally and knowingly with  
16 the specific intent to advance the illegal scheme.

17           94.     The RICO Members’ predicate acts of racketeering, 18 U.S.C. § 1961(1), include  
18 but are not limited to:

19           a.     **Mail Fraud**: The RICO Members violated 18 U.S.C. § 1341 by sending  
20 and receiving, and by causing to be sent and/or received, materials via U.S. Mail or commercial  
21 interstate carriers for the purpose of executing the unlawful scheme to design, manufacture,  
22 market, and sell hotel room reservations by means of false pretenses, misrepresentations,  
23 promises, and omissions.

24           b.     **Wire Fraud**: The RICO Members violated 18 U.S.C. § 1343 by  
25 transmitting and/or receiving, and by causing to be transmitted and/or received, materials by wire  
26 for the purpose of executing the unlawful scheme to defraud and obtain money on false  
27 pretenses, misrepresentations, promises, and omissions.

28

1           95.     The RICO Members' use of the mails and wires includes, but is not limited to, the  
2 transmission, delivery, and shipment of the following by the RICO Members or third parties that  
3 were foreseeably caused to be sent as a result of the illegal tax overcharge scheme:

- 4           a.     False or misleading communications to the public;
- 5           b.     Sales and marketing materials which misrepresented, and concealed the  
6 true nature of the "Taxes & Fees" owed and collected;
- 7           c.     Documents intended to facilitate the sale of hotel reservations, including  
8 invoices, reports, and correspondence;
- 9           d.     Documents to process and receive payment for the hotel rooms by  
10 unsuspecting Class members, including invoices and receipts;
- 11          e.     Payments and/or collections of "Taxes & Fees" by Expedia;
- 12          f.     Deposits of proceeds.

13           96.     The RICO Members also used the Internet and other electronic facilities to carry  
14 out the scheme and conceal the ongoing fraudulent activities. Specifically, the RICO Members  
15 made misrepresentations about hotel reservation charges on websites and through ads online, all  
16 of which were intended to mislead the public about the taxes and fees owed and collected.

17           97.     The RICO Members also communicated by U.S. Mail, by interstate facsimile, and  
18 by interstate electronic mail with various other divisions of Expedia, Inc., and other third-party  
19 entities in furtherance of the scheme.

20           98.     The mail and wire transmissions described herein were made in furtherance of the  
21 RICO Members' scheme and common course of conduct to deceive consumers and lure  
22 consumers into purchasing hotel reservations which included charges for "Taxes & Fees" that  
23 greatly exceed the amounts actually owed to governmental entities as taxes and fees, a fact which  
24 RICO Members knew or recklessly disregarded.

25           99.     Many of the precise dates of the fraudulent uses of the U.S. Mail and interstate  
26 wire facilities are hidden to the Plaintiff, and cannot be alleged without access to Defendants'  
27 books and records. However, Plaintiff has described the types of predicate acts of mail and/or  
28 wire fraud that occurred.

1           100. The RICO Members have not undertaken the practices described herein in  
2 isolation, but as part of a common scheme and conspiracy. In violation of 18 U.S.C. § 1962(d),  
3 the RICO Members conspired to violate 18 U.S.C. § 1962(c), as described herein. Various other  
4 persons, firms, and corporations, including third-party entities and individuals not named as  
5 defendants in this complaint, have participated as co-conspirators with the RICO Members in  
6 these offenses and have performed acts in furtherance of the conspiracy to increase or maintain  
7 revenues, and increase market share for the Defendants through the illegal scheme and common  
8 course of conduct.

9           101. The RICO Members aided and abetted others in the violations of the above laws,  
10 thereby rendering them indictable as principals in the 18 U.S.C. §§ 1341 & 1343 offenses.

11           102. To achieve their common goals, the RICO Members hid from the public the true  
12 taxes and fees owed to the government and collected from the public.

13           103. As fully alleged herein, Plaintiff, along with hundreds of thousands of other  
14 consumers, relied upon representations and omissions that were made or caused by Expedia,  
15 EAN, Travelscape, and/or Hotels.com. Plaintiff's reliance on omitted facts is made obvious by  
16 the fact that he paid "Taxes & Fees" that were not actually owed to any governmental authority.

17           104. As described herein, the RICO Members engaged in a pattern of related and  
18 continuous predicate acts for years. The predicate acts constituted a variety of unlawful  
19 activities, each conducted with the common purpose of obtaining significant monies and  
20 revenues from Plaintiff and Class members based on misrepresentations and omissions, while  
21 providing hotel rooms with inflated tax charges. The predicate acts also had the same or similar  
22 results, participants, victims, and methods of commission. The predicate acts were related and  
23 not isolated events.

24           105. The predicate acts all had the purpose of generating significant revenue and  
25 profits for the RICO Members at the expense of Plaintiff and Class members. The predicate acts  
26 were committed or caused to be committed by the RICO Members through their participation in  
27 the enterprise and in furtherance of their fraudulent scheme, and were interrelated in that they  
28

1 involved obtaining Plaintiff's and Class members' funds and concealing the true taxes and fees  
2 owed and pocketing the difference.

3 106. By reason of and as a result of the conduct of the RICO Members, and in  
4 particular its pattern of racketeering activity, Plaintiff and the Class have been injured in multiple  
5 ways, including but not limited to:

6 a. Plaintiff and the Class have overpaid the true taxes and fees owed.

7 b. Plaintiff and the Class have been wrongfully deprived of their property in  
8 that the quoted hotel room prices were artificially inflated by deliberate acts of false statements,  
9 omissions, and concealment, and by the RICO Members' acts of racketeering.

10 107. The RICO Members' violations of 18 U.S.C. § 1962(c) & (d) have directly and  
11 proximately caused injuries and damages to Plaintiff and Class members, and Plaintiff and Class  
12 members are entitled to bring this action for three times their actual damages, as well as  
13 injunctive/equitable relief, costs, and reasonable attorneys' fees pursuant to 18 U.S.C. § 1964(c).

## 14 **COUNT II**

### 15 **(CONVERSION AND MISAPPROPRIATION)**

16 108. The allegations contained in the previous paragraphs are incorporated by  
17 reference.

18 109. Plaintiff brings this claim under the laws of all states.

19 110. Defendants have no authority to charge and collect "Taxes & Fees" amounts in  
20 excess of the taxes and fees owed to the appropriate governmental authorities for each  
21 reservation transaction; they are certainly not entitled to retain the overcharges as extra revenue.

22 111. Defendants' collection of overcharged "Taxes & Fees" constitutes a conversion  
23 and misappropriation of funds belonging to Plaintiff and the Class members.

24 112. On information and belief, the conversion and misappropriation of these funds is  
25 illegal, unjustified, intentional, and deliberate. Defendants' conduct is, at a minimum, indicative  
26 of wanton and reckless neglect.

27 113. Accordingly, Plaintiff and Class members are entitled to actual damages as  
28 determined by a jury at trial.



**COUNT III**

**(UNJUST ENRICHMENT)**

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3 114. The allegations contained in the previous paragraphs are incorporated by  
4 reference.

5 115. Plaintiff pleads this claim in the alternative, in the event the Court finds that he  
6 cannot obtain a remedy at law.

7 116. Plaintiff brings this claim under the laws of all states.

8 117. By overcharging Plaintiff and Class members for “Taxes & Fees” in the manner  
9 described above, Defendants received funds to which it they have no legal right.

10 118. To the extent Defendants retained, improperly distributed, or otherwise benefitted  
11 from collecting these funds, Defendants have been unjustly enriched at the expense of Plaintiff  
12 and Class members.

13 119. Because the overcharged amount rightfully belongs to Plaintiff and Class  
14 members, retention of these funds by Defendants is inequitable.

15 120. There is no adequate remedy at law.

16 121. Therefore, equity and fairness demand that Defendants return the unlawfully  
17 collected funds to Plaintiff and the Class members.

**COUNT IV**

**(CONSTRUCTIVE TRUST)**

18  
19  
20 122. The allegations contained in the previous paragraphs are incorporated by  
21 reference.

22 123. Plaintiff pleads this claim in the alternative, in the event the Court finds that he  
23 cannot obtain a remedy at law.

24 124. Plaintiff brings this claim under the laws of all states.

25 125. Due to accident, mistake of fact, or fraud, a material portion of the “Taxes &  
26 Fees” Defendant charged and collected from Plaintiff and Class members was in excess of any  
27 monies due to any government as a result of the reservation. Upon information and belief,  
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