

No. 22A-_____

**IN THE
SUPREME COURT OF THE UNITED STATES**

EXPEDIA GROUP, INC., HOTELS.COM L.P., HOTELS.COM GP, LLC, and
ORBITZ, LLC,

Applicants,

v.

MARIO DEL VALLE, ENRIQUE FALLA, and ANGELO POU,

Respondents.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Eleventh Circuit

**APPLICATION FOR EXTENSION OF TIME TO FILE
A PETITION FOR A WRIT OF CERTIORARI**

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To Associate Justice Clarence Thomas, Circuit Justice for the United States Court of Appeals for the Eleventh Circuit:

1. Under this Court's Rules 13.5 and 22, Applicants Expedia Group, Inc., Hotels.com, L.P., Hotels.com GP, LLC, and Orbitz, LLC¹ respectfully request an extension of sixty (60) days to file a petition for a writ of certiorari. The petition will challenge the decision of the Eleventh Circuit in *Del Valle v. Trivago GMBH*, 56 F.4th 1265, 1270 (CA11 2022), a copy of which is attached. The Court of Appeals issued its opinion and judgment was entered on November 22, 2022. Applicants filed a timely petition for rehearing en banc, which was denied on January 31, 2023. Without an extension, the petition for a writ of certiorari would be due on May 1, 2023. With the requested extension, the petition would be due on June 30, 2023. This Court's jurisdiction will be based on 28 U.S.C. § 1254(1).

2. This case is a serious candidate for this Court's review. It involves a crucial issue at the threshold of every federal case: standing. In particular, the court

¹ Pursuant to Rule 29.6 of the Rules of this Court, the parties to the proceedings include those on the cover. Applicant Expedia Group, Inc. is a publicly held Delaware corporation that has no parent corporation, and no publicly held corporation owns 10% or more of its stock. Applicant Hotels.com L.P., a Texas limited liability partnership, is owned by HRN 99 Holdings, LLC, a New York limited liability company, and Hotels.com GP, LLC, a Texas limited liability company. Each of HRN 99 Holdings, LLC and Hotels.com GP, LLC is wholly owned by Expedia, Inc., a Washington corporation that is wholly owned by Expedia Group, Inc. Applicant Hotels.com GP, LLC, a Texas limited liability company, is wholly owned by Expedia, Inc., a Washington corporation that is wholly owned by Expedia Group, Inc. Applicant Orbitz, LLC is a Delaware limited liability company, which is wholly owned by Orbitz, Inc., a Delaware corporation, which is wholly owned by Orbitz Worldwide, LLC, a Delaware limited liability company, which is wholly owned by Orbitz Worldwide, Inc. a Delaware corporation, which is wholly owned by Expedia, Inc., a Washington corporation. Expedia, Inc. is wholly owned by Expedia Group, Inc.

of appeals determined that Respondents have standing to pursue statutory claims under the Helms-Burton Act against Applicants, who allegedly listed on their websites rooms at hotels located in Cuba on land to which Respondents assert claims, for the full value of the disputed land. The court of appeals resolved the standing issue here in a manner inconsistent with this Court’s recent decision in *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190 (2021), and the court of appeals’ decision could undermine key holdings of *TransUnion* if not reversed.

3. In *TransUnion*, this Court held that whether a statutory violation qualifies as an injury-in-fact turns on whether “the alleged injury to the plaintiff has a ‘close relationship’ to a harm ‘traditionally’ recognized as providing a basis for lawsuit in American courts.” *Id.* at 2204. This Court also held “a plaintiff must demonstrate standing separately for each form of relief sought,” such that “a plaintiff’s standing to seek injunctive relief does not necessarily mean that the plaintiff has standing to seek retrospective damages.” *Id.* at 2210. The remedies for unjust enrichment (the asserted historical analog here)—restitution and disgorgement—are a form of equitable relief distinct from traditional compensatory damages. This Court recently reiterated the unique nature of unjust enrichment, characterizing it as a “profit-based measure” animated solely by the principle that “it would be inequitable that a wrongdoer should make a profit out of his own wrong.” *Liu v. Sec. & Exch. Comm’n*, 140 S. Ct. 1936, 1943 (2020) (brackets omitted). The Court further emphasized that unjust enrichment “has been a mainstay of equity courts” and is “a remedy tethered to a wrongdoer’s net unlawful profits.” *Ibid.*

4. The court of appeals' finding of standing here to pursue claims under the Helms-Burton Act—based on an analogy to the common-law concept of unjust enrichment (without analyzing that claim's elements)—disregards this Court's instruction to analyze standing for each form of relief sought. The relief sought here is not merely disgorgement of wrongfully obtained profits. Respondents sue for the entire value of the property—a remedy that bears no relationship to the traditional remedy for unjust enrichment.

5. Other conflicts with this Court's standing precedents are also present. For one, the court of appeals brushed aside the fact that the plaintiffs did not identify any injury they suffered that is traceable to Applicants' conduct.

6. In short, the opinion reverts to allowing a bare statutory violation to provide Article III standing, upending straightforward application of this Court's important standing precedents in the Eleventh Circuit. Thus, this Court's intervention is warranted.

7. Applicants have recently retained the undersigned counsel, who have no previous involvement in this case, to prepare a petition for a writ of certiorari. An extension of time to file a petition for a writ of certiorari in this case is necessary to permit newly retained counsel to confer with Applicants and fully familiarize themselves with the record and relevant law and prepare the petition. More time is needed, too, to allow potential *amici* to bring the important and far-ranging consequences of the Court of Appeals' standing decision to this Court's attention.

8. In light of the above and the press of other matters on undersigned counsel, including travel for oral advocacy in other cases, Applicants respectfully request that the due date for their petition for writ of certiorari be extended to June 30, 2023.

Dated: April 17, 2023

Respectfully submitted,

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