

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

SOARING HELMET CORPORATION, a
Washington corporation,

Plaintiff,

v.

NANAL, INC., a Nevada corporation, d/b/a
LEATHERUP.COM

Defendant.

NO. C09-0789 JLR

DECLARATION OF HEATHER M.
MORADO IN SUPPORT OF MOTION
FOR LEAVE TO FILE ITS SECOND
AMENDED COMPLAINT

NOTE ON MOTION CALENDAR:
April 13, 2010

My name is Heather M. Morado. I am over the age of 21, have personal knowledge of the facts stated herein, and am otherwise competent to make this declaration. I declare as follows:

1. I am an attorney at Invicta Law Group, PLLC, counsel to Plaintiff in this matter.

2. On or about December 8, 2009, Soaring Helmet Corporation ("Soaring Helmet") informed me that on the Leatherup.com ("Leatherup") website, a product was offered for sale branded as the "XElement Extreme Vega" motorcycle jacket. A link to

1 I declare under penalty of perjury under the laws of the state of Washington that
2 the foregoing is true and correct to the best of my knowledge and belief.

3 DATED this 2nd day of April, 2009.

4 INVICTA LAW GROUP, PLLC

5 By *Heather Morado*

6 Heather M. Morado, WSBA No. 35135
7 Attorney for Plaintiff
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I electronically filed the foregoing with the Clerk of the Court
3 using the CM/ECF system which will send notification of such filing to the following
4 persons/attorneys of record:
5

6 Ms. Katherine Hendricks
7 Hendricks & Lewis, PLLC
8 901 Fifth Avenue, Suite 4100
9 Seattle, WA 98164
10 kh@hllaw.com

11 Dated this 2nd day of April 2010, at Seattle, Washington.

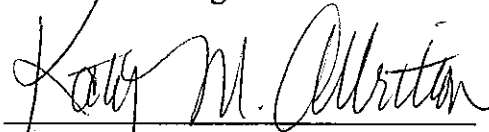
12 
13 _____
14 Katy M. Albritton
15 Legal Assistant
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Exhibit A

January 27, 2010

Heather M. Morado
Email: hmorado@inyictalaw.com**VIA E-MAIL: aaron@leatherup.com; kh@hllaw.com**
AND FIRST CLASS MAILXBLEMENT LEATHER BRAND
1200 Santee Street Suite 907
Los Angeles, CA 90015NANAL, INC., d/b/a LEATHERUP.COM
c/o Ms. Katherine Hendricks
HENDRICKS AND LEWIS, PLLC
901 5th Avenue
Suite 4100
Seattle, WA 98164**Re: Cease and Desist**

To Whom It May Concern:

We are counsel for Soaring Helmet Corporation, the exclusive owner of the trademark rights to VEGA (the "Mark"). A copy of Soaring Helmet Corporation's United States federal trademark registration is attached hereto as Exhibit A.

We recently learned that you are advertising and selling motorcycle jackets utilizing our client's Mark. Printouts of the XBLEMENT EXTREME VEGA motorcycle jacket advertised on the XBLEMENT website and offered for sale on the LEATHERUP.COM website are attached as Exhibits B and C. No license or other form of agreement or permission has been granted by Soaring Helmet to you for use of the Mark. Such unauthorized use of the Mark is a violation of federal and state law.

As I hope you can appreciate, our client cannot permit others to trade on the goodwill or to damage the value and integrity of its Mark. Because the public closely associates the Mark with our client's products, we are concerned that your unauthorized use of the Mark will cause consumers to mistakenly assume that you are endorsed by, affiliated with, or otherwise connected with Soaring Helmet Corporation. In fact, Soaring Helmet has already encountered actual confusion of its customers arising out of your use of the Mark.

Ms. Katherine Hendricks
January 27, 2010
Page 2

Because Soaring Helmet will be substantially and irreparably damaged should this infringement continue, it is prepared to enforce its exclusive rights to the Mark to the fullest extent of the law. If you wish to resolve this matter amicably, you must immediately cease and desist from any further use of the Mark. Soaring Helmet further requires that you immediately comply in writing with the following demands:


1. Immediately terminate all infringing or unauthorized use of the Mark together with all similar marks, including an acknowledgment that all items constituting infringement or use of the Mark have been removed from all products, catalogs, brochures, marketing materials (including all websites), advertising or similar notices and/or publications;
2. Immediately account for and forfeit all copies of any materials displaying the Mark in your possession to counsel for Soaring Helmet;
3. Provide a declaration or affidavit, signed under penalty of perjury stating that you will immediately, and for all time, cease using the Mark in any advertisement, promotion, sale or other commercial exploitation of your services.

Unless these demands are complied with immediately and unless we receive the written documentation demanded above by February 5, 2010, Soaring Helmet Corporation will assume you intend to willfully disregard its rights, and will pursue whatever action or remedies it deems appropriate to protect its rights to the fullest extent of the law.

I look forward to your anticipated cooperation in this matter.

Very truly yours,

INVICTA LAW GROUP, PLLC



Heather M. Morado

HMM:kma
Enclosures

cc: Soaring Helmet Corporation (w/o encl.)

Exhibit A

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

Reg. No. 2,087,637

United States Patent and Trademark Office

Registered Aug. 12, 1997

**TRADEMARK
PRINCIPAL REGISTER**

VEGA

SOARING HELMET CORPORATION (WASH-
INGTON CORPORATION)
770 INDUSTRY DRIVE, BUILDING 16
TUKWILA, WA 98118

FIRST USE 3-18-1994; IN COMMERCE
3-18-1994.

SER. NO. 75-155,017, FILED 8-23-1996.

FOR: MOTORCYCLE HELMETS, IN CLASS 9
(U.S. CLS. 21, 23, 26, 36 AND 38).

DAVID M. MERMELSTEIN, EXAMINING AT-
TORNEY

Exhibit B



- Jackets
- Pants
- Vests
- Chaps
- Boots
- Saddlebags
- Contact Us

Contact Us

For retail sales contact Leatherup.com

For wholesale sales contact Myleather.com



LeatherUp.com	MyLeather.com	NoxSolutions.com
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Powered By Nox Enterprise Commerce

Exhibit C

LeatherUp.com
THE MOST POPULAR ONLINE LEATHER STORE

Contact Us - Wholesale - About Us - Bargain Alerts - Returns - Help - RSS - Site Map
SALE! UP TO 60% OFF ORIGINAL PRICES! **Low Price Guarantee**

Search LeatherUp.com

My Account (Sign In)

- Motorcycle Jackets
- Mens Jackets
- Womens Jackets
- Motorcycle Boots
- Motorcycle Helmets
- Leather Chaps & Pants
- Leather Vests
- Motorcycle Center
- New Arrivals

Home > Store > Leather Jackets > Mens Motorcycle Jackets > Xelement Mens Motorcycle Jackets
Xelement Extreme Vega Black and Gray Tri-Tex™ Fabric Jacket with Breathable 3 Way Lining with Level-3 Advanced Armor by Xelement



Place mouse over the pictures below to change the view above.



Item Details

- Collarless design with Velcro button closure
- 3 Way Lining
- First: Zip out polyester quilted vest inner liner
- Second: Zip out full sleeve 100% waterproof liner (middle liner)
- Third: Breathable mesh lining (attached to the jacket)
- Zippered wrist cuffs with inner webbing and snap buttons
- Front zipper closure with air flap
- Adjustable Velcro side waist straps
- Leather trim on upper arms
- Two top front chest pockets
- Two front side zippered vents
- Zippered front hand pockets
- Two back zippered vents
- Elastic leather bands on shoulders and elbows for flexibility
- Extra built in pant on front and back of jacket
- Interior pockets on left and right hand side. (Perfect for a cell phone, keys and wallet)
- Has a Lower Back Kidney belt (to attach to motorcycle pants)
- CE Approved Armor passing the highest level EN1621-1 & EN1621-2 Impact tests Level-3 Advanced Technology Armor; Ergonomic Design, Higher Impact Absorption, Free Movement.
- Level-3 Armor is the Next Generation in Armor Technology
- Only available here at the webs # 1 online leather store!
- Made of 100% Tri-Tex™ Fabric with Leather Trim
- 100% Tri-Tex™ Fabric 600 Denier High Performance Breathable Waterproof Laminated Fabric
- Made of 100% Tri-Tex™ Fabric with Leather Trim
- Removable CE Approved Level-3 Armor on the back, shoulders and elbows

Customer Reviews:

16 out of 19 people found the following review helpful:

(Item #CP-8073-Cordura)

List Price: \$219.95

Our Price: \$89.95

Quantity: 1

Size: Select a size

Availability: Order usually processes in 1 business day.
Click See site chart

Write a Review (8 Customer Reviews)

Description	Size Chart	Rate & Review
<p>Stay protected and dry with the Xelement Extreme Vega Black and Gray Tri-Tex™ Fabric Jacket with Breathable 3 Way Lining with Level-3 Advanced Armor. This jacket is fully loaded with features, made of 100% Tri-Tex™ Fabric 600 Denier High Performance Breathable Waterproof Laminated Fabric, featuring removable CE Approved Level-3 Armor on the back, shoulders and elbows (New Level Of Protection by Level-3 Armor, Higher Weight, Less Bulky, Level-3 Armor provides Highest CE Approved Protection, Ergonomic Design, Higher Impact Absorption, Free Movement), collarless design with snap button closure, 3 Way Lining; the first one is a zip out vest inner liner, the second one is a full sleeve zip out 100% waterproof liner (middle liner) and the third one is a breathable mesh lining that is attached to the jacket. Buy yours today from the Web's #1 online leather store and save big! Satisfaction Guaranteed!</p>		

Lowest Price Guarantee Details

NO RISK Returns & Exchanges For 30 Days. No Restocking Fees! Details

PayPal NO PAYMENTS FOR 90 DAYS

Bill Me Later NO WAIT NO WORRIES

Shipping Rates & Info:

Select 2nd Day Air On Monday 21st. of Dec. To Guarantee For December 24th Delivery. [Click Here For Details](#)

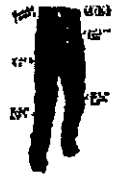
Shipping via FED-EX Ground is \$7.95 for unlimited items.

Most items usually ships in 1 business day.

Shipping Rate & Info

ADD TO CART

Suggestions



Xelement Men's Tri-Tex™ Fabric and Leather Motorcycle Riding Pants with Level-3 Advanced Armor
(#CF2131-Cordura-Le...)
\$69.95

View Item



Han's Protective Padded Leather Racing Gloves
(#XG-208)
\$29.95

View Item



Xelement Men's Black and Gray Level-3 Armored Jacket with Removable Arm Sleeves and Tri-Tex Fabric
(#CF5050-Black-Gray)
\$79.95

View Item