Soaring Helmet Corporation v. Bill Me Inc et al

EXHIBIT 1

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Exhibit 1 Page 5
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8	UNITED STATES DIST WESTERN DISTRICT OF WASH	
9	SOARING HELMET CORPORATION, a	I
10	Washington corporation,	Cause No. C09-0789 JLR
11	Plaintiff,	PLAINTIFF'S FIRST AMENDED COMPLAINT FOR:
12	v.	(1) FEDERAL TRADEMARK
13	NANAL, INC., a Nevada corporation, d/b/a LEATHERUP.COM, and GOOGLE, INC., a	ÎNFRINGEMENT, 15 U.S.C. §1114;
14	Delaware corporation.	(2) FALSE DESIGNATION OF
15	Defendants.	ORIGIN, FALSE ADVERTISING, AND UNFAIR COMPETITION, 15 U.S.C. §1125(a);
16		
17		(3) UNFAIR COMPETITION, RCW 19.86.
18		
19		(5) TORTIOUS INTERFERENCE WITH PROSPECTIVE
· 20		ECONOMIC ADVANTAGE
21	Plaintiff Soaring Helmet Corporation	("Soaring Helmet" or "Plaintiff"),
22	complains and alleges as follows:	
23	complains and anoges as follows.	

AMENDED COMPLAINT - 1

INVICTA LAW GROUP, PLLC 1000 SECOND AVENUE, SUITE 3310 SEATTLE, WA 98104-1019 FAX (206) 903-6365 TEL (206) 903-6364

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1	I. <u>INTRODUCTION</u>	
2	1.1 This matter concerns the trademark infringement, unfair competition, and	
3	tortious interference with prospective economic advantage by Defendants, NANAL,	
4	INC., d/b/a LEATHERUP.COM and GOOGLE, INC., (collectively, "Defendants")	
5	against the owner of the following registered trademark: "VEGA" U.S. Trademark	
6	Registration No. 2087637 (the "Mark").	
7	1.2 Soaring Helmet brings this action to secure relief under Federal and	
8	Washington State law. Soaring Helmet seeks: (a) a temporary, preliminary and	
9	permanent injunction prohibiting Defendants from further infringement of Soaring	
10	Helmet's Mark; (b) money damages for Defendants' past and continuing infringement of	
11	the Mark, unfair competition, and tortious interference with prospective economic	
12	advantage.	
13	II. <u>THE PARTIES</u>	
14 15	2.1 <u>Plaintiff</u> . Plaintiff Soaring Helmet is a corporation duly organized and	
16	existing under the laws of the State of Washington with its principal place of business in	
17	Tukwila, Washington. Soaring Helmet is in good standing with the Washington	
18	Secretary of State's Office and has done all things necessary and proper to bring this	
19	lawsuit.	
20	2.2 <u>Defendants</u> . Based on information and belief, Defendant Nanal, Inc. is a	
21	Nevada corporation d/b/a Leatherup.com ("Leatherup.com"). On information and belief,	
22	Defendant Leatherup.com offers motorcycle accessories for sale on a nationwide basis,	
23	including Washington State, via its website and a toll-free telephone number.	
1 ig270702	AMENDED COMPLAINT – 2 INVICTA LAW GROUP, PLLC 1000 SECOND AVENUE, SUITE 3310 SEATTLE, WA 98104-1019 FAX (206) 903-6365 TEL (206) 903-6364	

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1	2.3 Defendant Google, Inc. ("Google") is a Delaware Corporation, with		
2	headquarters at 1600 Amphitheatre Parkway, Mountain View, California, 94043. Google		
3	offers its internet search engine services on a nationwide basis, including Washington		
4	State, via its website.		
5	III. JURISDICTION AND VENUE		
6	3.1 This Court has original jurisdiction over Count I and II under 15 U.S.C.		
7	§1121(a) (action arising under the Lanham Act) and 28 U.S.C. §§1331, 1338(a) (federal		
8	question) in that this case arises under the Trademark Laws of the United States, 15		
9	U.S.C. §§1051-1127.		
10	3.2 This Court has jurisdiction over Count III and Count IV under 28 U.S.C		
11	§1338(b) in accordance with the principles of pendant jurisdiction in that said claims are		
12	joined with substantial and related claims under the Trademark Laws of the United		
13 14	States, 15 U.S.C. §§1051-1127.		
15	3.3 Venue is proper in this district pursuant to 28 U.S.C. §1391(b).		
16	3.4 Personal jurisdiction in this district is proper because Defendants maintain		
17	continuous and systematic commercial contacts with Washington State. On information		
18	and belief, Defendants have purposefully availed themselves of the opportunity to		
19	conduct commercial activities in this forum, and this Complaint arises out of those		
20	activities.		
21	IV. FACTUAL BACKGROUND		
22	Soaring Helmet's Trademark Rights.		
23			

AMENDED COMPLAINT - 3

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1	4.1 Since March 18, 1994, and continuously to the present, Soaring Helmet has		
2	owned and used the trademark VEGA in interstate commerce in connection with the sale		
3	of motorcycle helmets.		
4	4.2 On August 23, 1996, Soaring Helmet filed an application to register the		
5	Mark with the United States Patent and Trademark Office (PTO). The Mark was		
6	registered on the Principal Register of the PTO on August 12, 1997 and was assigned		
7	Registration Number 2087637. A true and correct copy of the Certificate of Registration		
8	issued by the PTO is attached hereto as Exhibit A .		
9	4.3 Soaring Helmet has sold a wide and diverse variety of VEGA helmets to		
10	customers throughout the United States. Soaring Helmet has invested substantial sums of		
11	time, money and effort to develop, use, advertise and promote the Mark. As a result, the		
12	Mark has become an integral and indispensable part of Soaring Helmet's business. To		
13	this end, Soaring Helmet carefully guards its intellectual property rights.		
14	Defendants' Wrongful Acts.		
15 16	4.4 Defendant Google operates a widely used Internet search engine through		
17	which customers can search for, among other things, websites offering products and		
18	services. A user can search on general terms, such as "motorcycle helmets," or more		
19	specific keywords, such as "VEGA helmets." The Google search engine compares the		
20	search terms entered by a user with databases of websites and generates a listing of the		
21	sites matching those terms. The results of these searches are known as "organic listings."		
22	4.5 In addition to organic listings, Google sells the opportunity to have		
23	advertisements appear alongside the organic listings. These advertisements appear as		
11			
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1	"Sponsored Links" either above or to the right of the organic search results. Upon
2	information and belief, Google sold Plaintiff's Mark VEGA to Leatherup.com as a
3	keyword which enables Leatherup.com to place a Sponsored Link alongside organic
4	listings for the search query "VEGA helmets." Upon information and belief, Google
5	allows advertisers to purchase trademarked terms regardless of whether the advertiser in
6	fact sells any products under the purchased trademarked keyword.
7	4.6 In approximately April 2009, Plaintiffs learned that when the query
8	"VEGA helmets" is searched via the Google search engine, an advertisement appeared
9	under Google's sponsored listings that stated that Leatherup.com offered "50% off Vega
10	Helmets." A copy of the search results is attached hereto as Exhibit B .
11	4.7 The Leatherup.com advertisement was false and misleading because
12	Leatherup.com does not in fact sell any of Soaring Helmet's VEGA products.
13	4.8 Soaring Helmet has lost business due to actual confusion caused by the
14 15	false and misleading Leatherup.com advertisement when at least one retailer refused to
16	do business with Soaring Helmet due to the fact that the Leatherup.com advertisement
17	falsely stated that Leatherup.com sells Soaring Helmet's products at a deep discount.
18	4.9 On or about April 28, 2009, Soaring Helmet sent letters to Defendants
19	Leatherup.com and Google, demanding they cease and desist all use of the trademark
20	VEGA in connection with false and misleading advertisements. Copies of these letters
21	are attached hereto as Exhibits C and D.
22	4.10 Google agreed to remove reference to the trademark VEGA from the
23	Leatherup.com sponsored listing, which was confirmed via e-mail on or about May 20,
	AMENDED COMPLAINT - 5 INVICTA LAW GROUP, PLLC 1000 SECOND AVENUE, SUITE 3310 SEATTLE, WA 98104-1019
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2009. However, when the query "VEGA Helmets" is searched via the Google website, 1 2 the Leatherup.com advertisement still appears in Google's sponsored listings, despite the 3 fact that Leatherup.com does not in fact sell any of Soaring Helmet's VEGA products. A 4 copy of the current Google search results is attached as Exhibit E. 5 **V. FIRST CAUSE OF ACTION** FEDERAL TRADEMARK INFRINGEMENT 6 (15 U.S.C. §1114) 7 Soaring Helmet realleges and incorporates herein by reference the 5.1 8 allegations contained in all preceding paragraphs of this Complaint as part of this cause 9 of action. 10 Soaring Helmet holds a valid and existing federal registration for the Mark. 5.2 11 Soaring Helmet has continuously used the Mark since as early as 1994. 12 Defendant Leatherup.com, by using Soaring Helmet's Mark as a keyword 5.3 13 to place its advertisements next to organic listings for Soaring Helmet's Mark, is likely to 14 cause initial interest confusion of consumers that are in fact searching solely for Soaring 15 Helmet's Mark. 16 Defendant Google, through its keyword advertising program, contributes to 5.4 17 the aforementioned trademark infringement by knowingly encouraging advertisers to use 18 Soaring Helmet's Mark in false and misleading advertisements that have caused, and is 19 20 likely to cause confusion, mistake, or deception of consumers, to the detriment of Soaring 21 Helmet. 22 23

AMENDED COMPLAINT-6

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1	5.5 As a result of the confusion engendered by the false and misleading			
2	advertising, Soaring Helmet's valuable goodwill in respect to its VEGA Mark is at the			
3	mercy of Defendants.			
4	5.6 The goodwill of Soaring Helmet's business is of enormous value, and			
5	Soaring Helmet will suffer irreparable harm should infringement be allowed to continue			
6	to the detriment of its trade reputation and goodwill.			
7	5.7 Defendants' use of the Mark as alleged herein was done without the			
8	knowledge, consent or permission of Soaring Helmet and continues without the consent			
9	or permission of Soaring Helmet.			
10	5.8 Defendants have violated the trademark rights of Soaring Helmet under the			
11	Trademark Act, thereby giving rise to a cause of action under 15 U.S.C. § 1114.			
12	5.9 Soaring Helmet will be irreparably harmed unless Defendants are			
13	temporarily, immediately and permanently enjoined from any further use of the Mark and			
14	any further false and misleading advertising using the Mark.			
15	5.10 Soaring Helmet has no adequate remedy at law and serious damage to its			
16	trademark rights will result unless Defendants' wrongful use of the Mark is enjoined by			
17	the court.			
18	5.11 Defendants have continued to use the Mark notwithstanding that they have			
20				
21	actual knowledge of Soaring Helmet's superior trademark rights as alleged herein, as			
22	well as knowledge of the actual confusion suffered by Soaring Helmet's customers.			
23	Defendants' infringement of the Soaring Helmet VEGA Mark accordingly constitutes			
20 11	intentional, willful, knowing and deliberate trademark infringement throughout the United			
71 ig270702	AMENDED COMPLAINT - 7 INVICTA LAW GROUP, PLLC 1000 SECOND AVENUE, SUITE 3310 SEATTLE, WA 98104-1019 FAX (206) 903-6365 TEL (206) 903-6364			

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1	States, including Washington State. Plaintiff therefore seeks judgment in the amount of	
2	three (3) times its damages, together with reasonable attorney's fees pursuant to 15	
3	U.S.C. § 1117(a).	
4	5.12 Defendants' infringement of the VEGA Mark as alleged herein has caused,	
5	and will continue to cause, Soaring Helmet to suffer damages in an amount unknown at	
6	this time and has caused, and will continue to cause, Defendants to gain revenues and	
7	profit in an amount unknown at this time. Pursuant to 15 U.S.C. § 1117(a), Soaring	
8	Helmet is entitled to an award of monetary damages in an amount equal to the losses	
9	suffered by Soaring Helmet or the revenues and/or profits gained by Defendants, which	
10 11	damages should be augmented as provided by 15 U.S.C. §1117(a).	
12	5.13 Pursuant to 15 U.S.C. § 1117(a), any monetary damages awarded to Soaring	
13	Helmet should be trebled.	
14	5.14 Pursuant to 15 U.S.C. § 1117(a), Soaring Helmet is entitled to an award of	
15	attorneys fees and costs of suit.	
16	VI. <u>SECOND CAUSE OF ACTION</u> FALSE DESIGNATION OF ORIGIN, FALSE ADVERTISING AND UNFAIR	
17	<u>COMPETITION UNDER LANHAM ACT SECTION 43(a)</u> (15 U.S.C. §1125(a))	
18	6.1 Soaring Helmet realleges and incorporates herein by reference the	
19	allegations contained in all preceding paragraphs of this Complaint as part of this cause	
20	of action.	
21	6.2 The actions of Defendants as alleged herein constitute false designation of	
22 23	origin, false advertising and unfair competition pursuant to Section 43(a) of the Lanham	
]	Act, 15 U.S.C. § 1125(a). AMENDED COMPLAINT – 8 INVICTA LAW GROUI	

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1	6.3 The actions of Defendants have and are likely to continue to deceive	
2	customers and prospective customers into believing that Defendant Leatherup.com sells	
3	the products of Soaring Helmet, and, as a consequence, are likely to divert customers	
4	away from Soaring Helmet throughout the United States, including in Washington State.	
5	6.4 Soaring Helmet has and will continue to be irreparably harmed unless	
6	Defendants are temporarily, immediately and permanently enjoined from any further use	
7	of the Mark and any further false and misleading advertising of products using the Mark.	
8	6.5 Soaring Helmet has no adequate remedy at law and serious damage to its	
9	trademark rights will result unless Defendants' wrongful use of the Mark is enjoined by	
10	the court.	
11	6.6 The actions of Defendants as alleged herein constitute intentional, willful,	
12 13	knowing and deliberate unfair competition and false advertising pursuant to Lanham Act	
13	Section 43(a).	
15	6.7 Defendants' acts of unfair competition and false advertising in violation of	
16	the Lanham Act Section 43(a) as alleged herein have caused, and will continue to cause,	
17	Soaring Helmet to suffer damages in an amount unknown at this time and have caused,	
18	and will continue to cause Defendants to gain revenues and profit in an amount unknown	
19	at this time. Pursuant to 15 U.S.C. §1117(a), Soaring Helmet is entitled to an award of	
20	monetary damages in an amount equal to the losses suffered by Soaring Helmet and the	
21	revenues and/or profits gained by Defendants, which damages should be augmented as	
22	provided by 15 U.S.C. §1117(a).	
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AMENDED COMPLAINT - 9

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6.8 Pursuant to 15 U.S.C. §1117(a), any monetary damages awarded to Soaring		
Helmet should be trebled.		
6.9 Pursuant to 15 U.S.C. §1117(a), Soaring Helmet is entitled to an award of		
attorneys fees and costs of suit.		
VII. <u>THIRD CAUSE OF ACTION</u> WASHINGTON STATE UNFAIR COMPETITION AND		
<u>CONSUMER PROTECTION ACT</u> (RCW 19.86)		
7.1 Soaring Helmet re-alleges and incorporates herein by reference the		
allegations contained in all preceding paragraphs as part of this cause of action.		
7.2 Defendants have engaged in unfair and deceptive acts or practices by using		
Soaring Helmet's VEGA Mark in connection with false and misleading advertising in		
Washington thereby creating a likelihood of public confusion as to the source of the		
goods and services.		
7.3 Defendants' deceptive acts or practices injured Soaring Helmet.		
7.4 Defendants' actions offend the public, are unethical, oppressive and		
unscrupulous, affecting trade and commerce now and in the future both within		
Washington State and elsewhere.		
7.5 A causal link exists between the deceptive act and the resulting injury.		
7.6 Soaring Helmet has suffered damages relating to violation of the Consumer		
Protection Act RCW 19.86 by Defendants. The quantum of these damages will be		
proven at trial.		
7.7 Soaring Helmet seeks, and is entitled to recover, its actual damages,		
together with the costs of suit, including reasonable attorneys' fees. AMENDED COMPLAINT – 10 INVICTA LAW GROUP, PLLC 1000 SECOND AVENUE, SUITE 3310 SEATTLE, WA 98104-1019 FAX (206) 903-6365 TEL (206) 903-6364		

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1	7.8 Soaring Helmet seeks and is entitled to recover an award of damages of up	
2	to three times the amount of the actual damages sustained up to the amount permitted by	
3	law.	
4	VIII. FOURTH CAUSE OF ACTION	
5	<u>TORTIOUS INTERFERENCE WITH PROSPECTIVE</u> <u>ECONOMIC ADVANTAGE</u>	
6	8.1 Soaring Helmet re-alleges and incorporates herein by reference the	
7	allegations contained in all preceding paragraphs as part of this cause of action.	
8	8.2 Soaring Helmet's right to obtain prospective customers constitutes a valid	
9	business expectancy.	
10	8.3 Defendants had knowledge of Soaring Helmet's business expectancy.	
11	8.4 Defendants intentionally interfered with Soaring Helmet's business	
12 13	expectancy and destroyed Plaintiff's opportunity to obtain prospective business	
13	customers. Defendants knew that the interference was certain or substantially certain to	
15	occur as a result of their actions.	
16	8.5 Defendants' interference with Soaring Helmet's business expectancy was	
17	improper and the means used was innately wrongful and predatory in character.	
18	8.6 Soaring Helmet has suffered damages relating to violation of its business	
19	expectancy by Defendants. The quantum of these damages will be proven at trial.	
20	IX. <u>PRAYER FOR RELIEF</u>	
21	WHEREFORE, Soaring Helmet prays for relief against Defendants as follows:	
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AMENDED COMPLAINT - 11

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1	1. For a temporary, preliminary and permanent injunction restraining and			
2	enjoining Defendants, and their agents, servants, employees, and all others in active			
3	concert or participation with them, as follows:			
4	a. From further infringing Soaring Helmet's trademark rights;			
5	b. From the further purchase and/or sale of Soaring Helmet's VEGA			
6	Mark for use in false and misleading advertising;			
7	c. From further acts of false advertising and unfair competition as			
8	alleged herein.			
9	2. For an award of damages suffered by Soaring Helmet, plus any revenues or			
10	profits earned by Defendants as a result of Defendants' trademark infringement, unfair			
11	competition and false advertising in an amount to be proven at trial.			
12	3. For an award of augmented and treble damages as alleged herein pursuant			
13 14	to 15 U.S.C. §1117(a) and RCW 19.86.060.			
15	4. For an award of punitive and exemplary damages in an amount to be			
16	proven at trial, but sufficient to punish and deter Defendants.			
17	5. For an award of attorneys' fees and litigation expenses and costs to the			
18	maximum extent allowed by law.			
19	6. For such other and further relief as the court deems just and proper.			
20	///			
21	///			
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AMENDED COMPLAINT – 12

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1	DATED July 24, 2009.	
2		INVICTA LAW GROUP, PLLC
3		By: <u>s/Heather Morado/</u> Stacie Foster, WSBA No. 23397
4		Heather M. Morado, WSBA No. 35135 Steven W. Edmiston, WSBA No. 17136
5		Attorneys for Plaintiff
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	AMENDED COMPLAINT – 13	INVICTA LAW GROUP, PLLC 1000 SECOND AVENUE, SUITE 3310

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EXHIBIT A

Int. Cl.: 9

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

FOR: MOTORCYCLE HELMETS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38). FIRST USB 3-18-1994; IN COMMERCE 3-18-1994.

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

DAVID M. MERMELSTEIN, EXAMINING AT-TORNEY

EXHIBIT B

First Amended Complaint - 16

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\$124.99 - compace.com \$89.99 - Jafrum.com

First Amended Complaint - 17

Vega Summit XPV 2 Solid Helmets L Large White

Vega Altura Helmet DOT 520 Silver

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EXHIBIT C

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Invicia

Counsel for creative companies

tono Second Ave, Suite 3310 Sealule, WA 98104-1019 (206) 903-6364 (ax (206) 903-6365

www.invicialaw.com

April 28, 2009

Mark V. Jordan Email: mjordan@invictalaw.com

VIA CERTIFIED MAIL:70072680000056348336 AND FIRST CLASS MAIL

LEATHERUP.COM 2620 S. Maryland Suite 846 Las Vegas, NV 89109

Cease and Desist Trademark Infringement Re:

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 federal trademark registration is attached hereto as Exhibit A. Soaring Helmet Corporation views its Mark as a valuable asset that will be protected to the fullest extent allowable by law.

Soaring Helmet Corporation recently learned that when the query "Vega helmets" is searched via the Google website, an advertisement appears under Google's sponsored listings that misleadingly states that the website Leatherup.com offers "50% off Vega Helmets." A copy of the Google search results for "Vega helmets" is attached hereto as Exhibit B. However, Leatherup.com does not in fact sell any of our client's products.

Since Leatherup.com does not sell Vega helmets, we believe that Leatherup.com has wrongfully purchased the Mark from Google, Inc. as a false and misleading advertising keyword. Our client has lost business because the Leatherup.com sponsored link is falsely advertising that it sells our client's products at a deep discount, when in fact, Leatherup.com does not. As a result of the false advertisement, a retailer whodoes not wish to be associated with products sold at a deep discount has refused to do business with Soaring Helmet Corporation. Further, consumers searching for our client's products will continue to be misled to the Leatherup.com website, causing initial interest confusion. This unauthorized use of the Mark is a violation of federal and state trademark and unfair competition laws.

As I hope you can appreciate, Soaring Helmet Corporation cannot permit others to trade on the goodwill and damage the value and integrity of its Mark through false and misleading advertisements. Because the public closely associates the Mark with our client's

Leatherup.com April 28, 2009 Page 2

products, we are concerned that this unauthorized use of the Mark will cause consumers to mistakenly assume that Soaring Helmet Corporation sells its products to deep-discount online retailers or is otherwise affiliated with the Leatherup.com website.

Because Soaring Helmet Corporation has been and will continue to be substantially and irreparably damaged should this infringement continue, it must enforce its exclusive rights to the Mark. Soaring Helmet Corporation demands that Leatherup.com immediately remove any reference to the Mark from any false and misleading sponsored listing advertisements.

Unless these demands are complied with by May 8, 2009, Soaring Helmet Corporation will assume Leatherup.com intends to willfully disregard its rights, and Soaring Helmet Corporation will pursue whatever action or remedies it deems appropriate to protect its rights to the fullest extent of the law.

Very truly yours,

INVICTA LAW GROUP, PLLC Jordah

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

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EXHIBIT D

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Invid

Counsel for creative companies

1000 Second Ave, Suite 3310 Sealile, WA 98104-1019

> (206) 903-6364 (ax (208) 903-6365

www.invicialaw.com

April 28, 2009

Mark V. Jordan Email: mjordan@invictalaw.com

VIA CERTIFIED MAIL:70072680000056348329 AND FIRST CLASS MAIL

GOOGLE, INC. Attn: Legal Department 1600 Ampitheatre Parkway Mountain View, CA 94043

Cease and Desist Trademark Infringement Re:

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 federal trademark registration is attached hereto as Exhibit A. Soaring Helmet Corporation views its Mark as a valuable asset that will be protected to the fullest extent allowable by law.

Soaring Helmet Corporation recently learned that when the query "Vega helmets" is searched via the Google website, an advertisement appears under Google's sponsored listings that misleadingly states that the website Leatherup.com offers "50% off Vega Helmets." A copy of the Google search results for "Vega helmets" is attached hereto as Exhibit B. However, Leatherup.com does not in fact sell any of our client's products.

Since Leatherup.com does not sell Vega helmets, we believe that Google has wrongfully sold the Mark as a false and misleading advertising keyword to Leatherup.com. Our client has lost business because the Leatherup.com sponsored link is falsely advertising that it sells our client's products at a deep discount, when in fact, Leatherup.com does not. As a result of the false advertisement, a retailer who does not wish to be associated with products sold at a deep discount has refused to do business with Soaring Helmet Corporation. Further, consumers searching for our client's products will continue to be misled to the Leatherup.com website, causing initial interest confusion. This unauthorized use of the Mark is a violation of federal and state trademark and unfair competition laws.

As I hope you can appreciate, Soaring Helmet Corporation cannot permit others to trade on the goodwill and damage the value and integrity of its Mark through false and misleading advertisements. Because the public closely associates the Mark with our client's

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Google, Inc. April 28, 2009 Page 2

products, we are concerned that this unauthorized use of the Mark will cause consumers to mistakenly assume that Soaring Helmet Corporation sells its products to deep-discount online retailers or is otherwise affiliated with the Leatherup.com website.

Because Soaring Helmet Corporation has been and will continue to be substantially and irreparably damaged should this infringement continue, it must enforce its exclusive rights to the Mark. Soaring Helmet Corporation demands that Google immediately remove any reference to the Mark from any false and misleading sponsored listing advertisements, including but not limited to the Leatherup.com sponsored listing advertisement.

While we sincerely hope that we can resolve this matter through direct discussion, unless these demands are complied with by May 8, 2009, Soaring Helmet Corporation will assume Google intends to willfully disregard its rights, and Searing Helmet Corporation will pursue whatever action or remedies it deems appropriate to protect its rights to the fullest extent of the law.

Very truly yours,

INVICTA LAW GROUP, PLLC

MVJ:hmm Enclosure Soaring Helmet Corporation (w/o encl.) CC:

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EXHIBIT E

vega helr. Case 2:09-cv-00789-JLR Document 9 Filed 07/27/09 Page 25 of 25

Web Images Video Maps News Shopping Gmail more V

2000 C

vega helmets

Advanced Search Preferences Search

Sponsored Links

Motorcycle Helmets Direct

Factory Direct - Free Shipping Top Brands - Unbeatable Prices

www.TheHelmetZone.com

Online Motocross Store

www.motocrossgiant.com

Shopzilla.com

We carry all the major brands.

Great Deals at Motocrossgiant.

Speakers & Headphones Bargain Prices. Smart Deals.

Compare Prices Now Whatever you want - Compare prices & find expert reviews! www.Best-Price.com/Helmets

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Garage Equipment, Car Care & More

60% OFF Motorcycle Helmet

Fast & Free Shipping + Free Returns 125% Price Guarantee + MB Guarantee

MotoDirect.com/Motorcycle_Helmets1

Simplify your Shopping. Find Top Brands at Low Prices

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<u>Sign in</u>

Web Show options ...

Results 1 - 10 of about 141,000 for vega helmets. (0.32 seconds)

Sponsored Links 50% Of Motorcycle Helmets Half face, full face helmets from \$29.95, www.LeatherUp.com Top Brands HJC, Shoei, Bell

50% OFF Motorcycle Helmet

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Welcome to Vega Helmet Corporation

Half Helmets XT Half Helmet · XTS Half Helmet Vega Riding Apparel ... Vega Helmet Corporation. 18235 Olympic Avenue S., Tukwila, WA 98188 ... www.vegahelmet.com/ - Cached - Similar pages

Mach I Full Face Helmet	<u>Altura Full Face Helmet</u>
Off Road	Company
Find a Dealer	Snow
Summit II	NT 200 Open Face Helmet

More results from vegahelmet.com »

Vega Helmets - Company

If you are an individual interested in purchasing a Vega Heimet you must email your zip ... "VEGA" helmets are available to legitimate motorcycle dealers. ...

www.vegahelmet.com/company.html - Cached - Similar pages

Motorcycle Helmets and Motorcycle Helmet Accessories

from The Motorcycle heimets and Motorcycle heimet - Welcome to a great place to buy discount motorcycle helme. www.helmetshop.com/ - Cached - Similar pages

Shopping results for vega helmets

\$139.95 - Motorcycle Vega Summit II ColorMatch Motorcycle Helmet Vega Summit XPV 2 Solid Helmets L Large White Vega Altura Shuriken Motorcycle Helmet

Superstore \$124.99 - compace.com \$79.99 - Motorcycle

Superstore

Vega Motorcycle Apparel and Accessories Vega Motorcycle apparel and accessories at discount prices. We offer the largest selection of Vega gear in the Northwest. www.helmetoutletusa.com/Index.cgi?Function=Street&Manuf=Vega -Cached - Similar pages

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6/8/2009