

**EXHIBIT 4**

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Stacie Foster, WSBA #23397  
Heather M. Morado WSBA #35135  
INVICTA LAW GROUP, PLLC  
1000 Second Avenue, Suite 3310  
Seattle, WA 98104-1019  
Telephone: (206) 903-6364  
Facsimile: (206) 903-6365

THE HONORABLE JAMES L. ROBERT



Attorneys for Plaintiff

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, and GOOGLE, INC., a  
Delaware corporation.  
  
Defendants.

NO. C09-0789 JLR  
  
PLAINTIFF'S AMENDED INITIAL  
DISCLOSURES PURSUANT TO FED.  
R. CIV. PRO. 26(a)(1)

Soaring Helmet Corporation, ("Soaring Helmet") hereby provides Nanal, Inc. d/b/a  
Leatherup.com ("Defendant") with its Amended Initial Disclosures pursuant to Federal  
Rule of Civil Procedure ("FRCP") 26(a)(1). Soaring Helmet reserves the right to amend  
and supplement these initial disclosures as further information becomes available.

PLAINTIFF'S AMENDED INITIAL DISCLOSURES  
PURSUANT TO FED. R. CIV. PRO. 26(a)(1)- 1

INVICTA LAW GROUP, PLLC  
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SEATTLE, WA 98104-1019  
FAX (206) 903-6365  
TEL (206) 903-6364

1 **A. Individuals Likely to Have Discoverable Information.**

2 The following individuals are likely to have discoverable information that Soaring  
3 Helmet may use to support its claims or defenses. Unless otherwise indicated, the  
4 following individuals work at 18235 Olympic Avenue S., Tukwila, WA 98188, and may  
5 be contacted via the undersigned trial counsel:

- 6 1. Ms. Jeanne DeMund  
7 2. Mr. Lou Xu  
8 3. Mr. Wayne Leyman  
9 4. Ms. Claudia Mallard  
10 5. Mr. Albert Bootesaz, President  
11 Nanal, Inc.  
12 2200 S Fort Apache, #2036  
Las Vegas, NV 89117

13 Unless otherwise specified, these individuals may be called to testify concerning  
14 their knowledge of all matters relevant to these proceedings, including the trademarks at  
15 issue; financial information; customer base; marketing and advertising; and defendant's  
16 infringement. Soaring Helmet's investigation and discovery concerning this case is  
17 continuing and, if additional information is obtained after the date of these disclosures,  
18 Soaring Helmet will supplement these disclosures according to Rule 26(e) of the FRCP.

19 **B. Supporting Documents.**

20 The following documents are attached:

- 21 1. The U.S. trademark registration of the VEGA mark set forth in the  
22 Complaint;  
23

PLAINTIFF'S AMENDED INITIAL DISCLOSURES  
PURSUANT TO FED. R. CIV. PRO. 26(a)(1)- 2

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1           2.     A copy of the false and misleading Leatherup.com advertisement generated  
2 by the Google search engine, as set forth in the Complaint;

3           3.     A copy of the cease and desist letter sent to Leatherup.com as set forth in  
4 the Complaint; and

5           4.     A copy of the false and misleading Leatherup.com advertisement generated  
6 by the Google search engine, as set forth in the Complaint.

7           To the extent they exist, responsive, non-privileged documents in the following  
8 categories will be provided for inspection and copying at a mutually agreed time and place  
9 in accordance with FRCP 26(a)(1)(B), subject to an appropriate Protective Order for  
10 confidential business information per FRCP 26(c):

11           1.     Documents pertaining to the use of the marks set forth in the Complaint;

12           2.     Documents pertaining to the marketing and advertising of Soaring Helmet's  
13 products bearing the VEGA mark.  
14

15           Soaring Helmet's investigation and discovery concerning this case is continuing  
16 and, if additional information is obtained after the date of these disclosures, Soaring  
17 Helmet will supplement these disclosures according to Rule 26(e) of the FRCP.

18     **C.     Computation of Damages.**

19           This suit is intended to recover damages suffered by Soaring Helmet for the  
20 conduct set forth in the Complaint. As specified in its Complaint, if the judgment is that a  
21 likelihood of confusion, mistake or deception exists, Soaring Helmet seeks relief in the  
22 form of profits, enhancement of either of the foregoing, costs and expenses, attorney's  
23 fees, a permanent injunction and the other relief set forth in the Complaint.

PLAINTIFF'S AMENDED INITIAL DISCLOSURES  
PURSUANT TO FED. R. CIV. PRO. 26(a)(1)- 3

INVICTA LAW GROUP, PLLC  
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The amount of Defendant's profits is information within the possession and control of Defendant and has not yet been discovered, therefore, a computation of this remedy is premature. Additionally, the extent of Soaring Helmet's damages is currently unknown.


Documents and other evidentiary material bearing on the nature and extent of injury to Soaring Helmet by reason of actions alleged in the Complaint, will either be produced or made available for inspection and copying after those materials are discovered.

These initial computations are subject to continuing analysis and will be revised or supplemented if and as necessary according to Rule 26(e) of the FRCP, except for normal increases in past damages and claims of interest, all of which should be assumed by the parties and which do not call for any specific supplementation.

**D. Insurance Agreement.**

No relevant insurance agreement is known to exist.

DATED February 1, 2010.

INVICTA LAW GROUP, PLLC  
By   
Heather M. Morado, WSBA No. 35135  
Stacie Foster, WSBA No. 23397  
Attorneys for Plaintiff

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**CERTIFICATE OF SERVICE**

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

On this day, February 1, 2010, I caused to be sent via email and U.S. Mail the following filed documents:

1. Plaintiff's Amended Initial Disclosures.

To the following:

Ms. Katherine Hendricks  
HENDRICKS & LEWIS, PLLC  
901 Fifth Avenue, Suite 4100  
Seattle, WA 98164

Email: kh@hllaw.com

EXECUTED at Seattle, Washington February 1, 2009.

  
Katy M. Albritton

PLAINTIFF'S AMENDED INITIAL DISCLOSURES  
PURSUANT TO FED. R. CIV. PRO. 26(a)(1)- 5

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TEL (206) 903-6364

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

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Web Shopping

Results 1 - 10 of about 102,000 for vega helmets. (0.11 seconds)

**Vega Motorcycle Helmets**

Sponsored Links

[www.TheHelmetZone.com](http://www.TheHelmetZone.com) Snow, Motorcycle, Half & Flip-Up Buy Direct & Save - Free Shipping

**50% Off Vega Helmets**

[www.LeanerUp.com](http://www.LeanerUp.com) Half face, full face helmets from \$29.95, Top Brands HJC, Shoei, Bell

**Vega Motorcycle Helmets**

[www.Jafum.com/VEGA\\_Helmets](http://www.Jafum.com/VEGA_Helmets) Amazing Prices, 115% Price Match, Free Size Exchanges, Free Shipping!

**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/](http://www.vegahelmet.com/) - 17k - [Cached](#) - [Similar pages](#)

[Street](#) [Snowmobile](#)  
[Off Road](#) [NT 200](#)  
[Find a Dealer](#) [Company](#)  
[Summit II](#) [Altura](#)

[More results from vegahelmet.com »](#)

**Vega Helmets - Company**

If you are an individual interested in purchasing a Vega Helmet you must email your zip ... "VEGA" helmets are available to legitimate motorcycle dealers. ...  
[www.vegahelmet.com/company.html](http://www.vegahelmet.com/company.html) - [Similar pages](#)

**Motorcycle Helmets and Motorcycle Helmet Accessories from The ...**

Motorcycle helmets and Motorcycle helmet - Welcome to a great place to buy discount motorcycle helme.  
[www.helmetshop.com/](http://www.helmetshop.com/) - 39k - [Cached](#) - [Similar pages](#)

**Vega Motorcycle Helmets**

Vega Motorcycle Helmets from The Helmet Shop. ... Subcategories: Vega Full Face Helmets · Vega Open Face Helmets · Vega Half Helmets ...  
[www.helmetshop.com/CategoryProductList.jsp?cat=Shop+By+Brand+Vega+Helmets](http://www.helmetshop.com/CategoryProductList.jsp?cat=Shop+By+Brand+Vega+Helmets) - 21k - [Cached](#) - [Similar pages](#)

**Shopping results for vega helmets**

**Vega Summit II ColorMatch Motorcycle Helmet** \$139.95 - Motorcycle Superstore  
**Vega Summit XPV 2 Solid Helmets L Large White** \$124.99 - compacc.com  
**Vega Altura Helmet DOT 520 Silver** \$89.99 - Jafum.com

Sponsored Links

**Vega Helmets**

Motorcycle gear, apparel & parts. Low Price Guarantee. Free Shipping!  
[www.Motorcycle-Superstore.com](http://www.Motorcycle-Superstore.com)

**Online Motocross Store**

We carry all the major brands. Great Deals at Motocrossgiant.  
[www.motocrossgiant.com](http://www.motocrossgiant.com)

**Vega Helmets**

Bargain Prices. Smart Deals. Save on Vega Helmets!  
[Shopzilla.com](http://Shopzilla.com)

**60% OFF Motorcycle Helmet**

Fast & Free Shipping + Free Returns 125% Price Guarantee + MB Guarantee  
[MotoDirect.com/Motorcycle\\_Helmets/](http://MotoDirect.com/Motorcycle_Helmets/)

**Vega Helmets**

Vehicle Parts & Accessories! Bid on Vega Helmets.  
[www.eBay.com](http://www.eBay.com)

**Vega Helmets**

Vega Helmets - Compare prices & find expert reviews!  
[www.Best-Price.com/Helmets](http://www.Best-Price.com/Helmets)

**Vega Helmets**

Find Car Parts, Accessories, Tools Garage Equipment, Car Care & More  
[Amazon.com/motorcycle](http://Amazon.com/motorcycle)

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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**Re: Cease and Desist Trademark Infringement****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 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

Plaintiff's Initial Disclosures - 08

Leatherup.com  
April 28, 2009  
Page 2

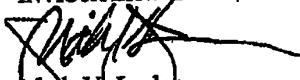
products, we are concerned that this unauthorized use of the Mark will cause consumers to mistakenly assume that Soaring Helmet Corporation sells its products to deep-discount online retailers or is otherwise affiliated with the Leatherup.com website.

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



Mark V. Jordan

MVJ:hmm

Enclosure

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

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Plaintiff's Initial Disclosures - 09

Exhibit 4 Page 47

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vega helmets

Search [Advanced Search](#)  
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Web [Show options...](#) Results 1 - 10 of about 141,000 for **vega helmets**. (0.32 seconds)

**50% Of Motorcycle Helmets**

[www.LeatherUp.com](#) Half face, full face helmets from \$29.95, Top Brands HJC, Shoei, Bell

**50% OFF Motorcycle Helmet**

[www.Jafrum.com](#) Shop Now For Scorpion, Aral, kbc, Shoei & HJC Helmets. Free S/H!

**Motorcycle Superstore**

[www.Motorcycle-Superstore.com](#) Free Shipping on Motorcycle Gear, Apparel, Parts, Accessories & more!

**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](#)
- [Off Road](#)
- [Find a Dealer](#)
- [Summit II](#)
- [Altura Full Face Helmet Company](#)
- [Snow](#)
- [NT 200 Open Face Helmet](#)

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**Motorcycle Helmets and Motorcycle Helmet Accessories from The ...**

Motorcycle helmets and Motorcycle helmet - Welcome to a great place to buy discount motorcycle helme. [www.helmetshop.com/](#) - [Cached](#) - [Similar pages](#)

**Shopping results for vega helmets**

- [Vega Summit II ColorMatch Motorcycle Helmet](#) \$139.95 - Motorcycle Superstore
- [Vega Summit XPV 2 Solid Helmets L Large White](#) \$124.99 - compacc.com
- [Vega Altura Shuriken Motorcycle Helmet](#) \$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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**Motorcycle Helmets Direct**

Factory Direct - Free Shipping Top Brands - Unbeatable Prices [www.TheHelmetZone.com](#)

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**Shop Simply**

Simplify your Shopping. Find Top Brands at Low Prices [shop.simpli.com](#)

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