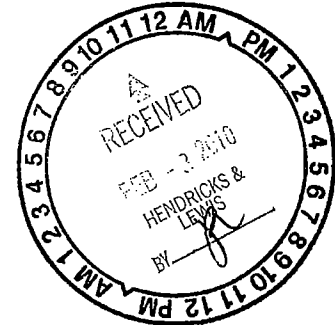


EXHIBIT 5

1 Stacie Foster, WSBA #23397
2 Heather M. Morado WSBA #35135
3 INVICTA LAW GROUP, PLLC
4 1000 Second Avenue, Suite 3310
5 Seattle, WA 98104-1019
6 Telephone: (206) 903-6364
7 Facsimile: (206) 903-6365

THE HONORABLE JAMES L. ROBERT



8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT
10 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

11 SOARING HELMET CORPORATION, a
12 Washington corporation,

NO. C09-0789 JLR

13 Plaintiff,

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

17 v.

18 NANAL, INC., a Nevada corporation, d/b/a
19 LEATHERUP.COM, and GOOGLE, INC., a
20 Delaware corporation.

21 Defendants.

22 Soaring Helmet Corporation, ("Soaring Helmet") hereby provides Nanal, Inc. d/b/a
23 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
1000 SECOND AVENUE, SUITE 3310
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

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

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1000 SECOND AVENUE, SUITE 3310
SEATTLE, WA 98104-1019
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TEL (206) 903-6364

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

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


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

12
13 **D. Insurance Agreement.**

14 No relevant insurance agreement is known to exist.

15 DATED February 1, 2010.

16 INVICTA LAW GROUP, PLLC

17 By 

18 Heather M. Morado, WSBA No. 35135
19 Stacie Foster, WSBA No. 23397
20 Attorneys for Plaintiff
21
22
23

PLAINTIFF'S AMENDED INITIAL DISCLOSURES
PURSUANT TO FED. R. CIV. PRO. 26(a)(1)- 4

INVICTA LAW GROUP, PLLC
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FAX (206) 903-6365
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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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 - 21k - [Cached](#) - [Similar pages](#)

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- [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](#) \$69.99 - Jafrum.com

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60% OFF Motorcycle Helmet

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April 28, 2009

Mark V. Jordan
Email: mjordan@inyictalaw.com**VIA CERTIFIED MAIL:70072680000056348336**
AND FIRST CLASS MAILLEATHERUP.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

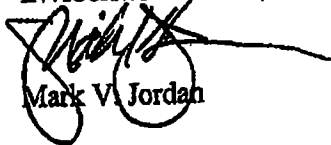
products, we are concerned that this unauthorized use of the Mark will cause consumers to mistakenly assume that Soaring Helmet Corporation sells its products to deep-discount online retailers or is otherwise affiliated with the Leatherup.com website.

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

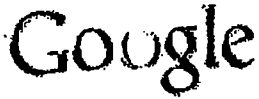
Enclosure

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

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