

EXHIBIT 19

{81600.DOC}

The Honorable James L. Robart

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SOARING HELMET CORPORATION, a
Washington corporation,

Plaintiff,

v.

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

Defendant.

No. C09-789-JLR

DEFENDANT NANAL, INC.'S REPLY
IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT

NOTE ON MOTION CALENDAR:
November 26, 2010

1 Plaintiff's demonstrated inability to establish its entitlement to damages in the first instance.

2 In the end, the lack of evidence supporting Plaintiff's claim to a monetary award is
3 demonstrated by asking a simple question, what are Plaintiff's damages? Despite complete
4 discovery and in the face of a summary judgment motion seeking dismissal of all of Plaintiff's
5 claims, we still do not know the answer. The inability to answer that question demonstrates that
6 Nanal is entitled to summary judgment on Plaintiff's claims for damages.¹⁵

7 **F. Plaintiff's Washington CPA Claim Dies With its Lanham Act Counterparts.**

8 Plaintiff concedes that its Washington's Consumer Protection Act ("CPA") claim is
9 linked to the fate of its Lanham Act claims. (Opp. at p. 21.) Therefore, like those claims,
10 summary judgment should be entered on Plaintiff's CPA claim.

11 **G. Plaintiff Effectively Concedes its Tortious Interference Claim Lacks Merit.**

12 In response to Nanal's demonstration of its entitlement to summary judgment on
13 Plaintiff's tortious interference with prospective economic advantage claim, Plaintiff fails to
14 respond to any of Nanal's arguments and cites no evidence to justify its conclusory statement
15 that "questions of fact exist." (Opp. at p. 22.) In lieu of setting forth specific facts establishing a
16 genuine issue of material fact, Plaintiff merely parrots its generalized conclusory interrogatory
17 response, which does not even mention the Xelement jacket. (Opp. at p. 22; Motion at p. 23.)
18 Plaintiff's lack of any meaningful response demonstrates that its tortious interference claim has
19 no merit and should be summarily dismissed.

20 DATED this 26th day of November, 2010.

21 Respectfully submitted,

22 HENDRICKS & LEWIS PLLC

23 By: s/ Katherine Hendricks

24 Katherine Hendricks (WSBA No. 14040)

25 Stacia N. Lay (WSBA No. 30594)

26 Email: kh@hllaw.com

27 Email: sl@hllaw.com

28 ¹⁵ Plaintiff does not dispute that injunctive relief is inappropriate in light of the undisputed fact that Nanal voluntarily ceased use of the word "Vega" and there is no evidence that Nanal will re-commence use. (Motion at pp. 16-17, 20-21.) Thus, summary judgment is also appropriate on Plaintiff's claim for injunctive relief.