

EXHIBIT 2

{81600.DOC}

THE HONORABLE JAMES L. ROBERT

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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.

Cause No. C09-0789 JLR

PLAINTIFF'S SECOND
AMENDED COMPLAINT FOR:

(1) FEDERAL TRADEMARK
INFRINGEMENT, 15 U.S.C.
§1114;

(2) FALSE DESIGNATION OF
ORIGIN, FALSE ADVERTISING,
AND UNFAIR COMPETITION, 15
U.S.C. §1125(a);

(3) UNFAIR COMPETITION,
RCW 19.86.

(5) TORTIOUS INTERFERENCE
WITH PROSPECTIVE
ECONOMIC ADVANTAGE

SECOND AMENDED COMPLAINT - 1

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

1 Plaintiff Soaring Helmet Corporation (“Soaring Helmet” or “Plaintiff”),
2 complains and alleges as follows:

3 **I. INTRODUCTION**

4 1.1 This matter concerns the trademark infringement, unfair competition, and
5 tortious interference with prospective economic advantage by Defendant, NANAL, INC.,
6 d/b/a LEATHERUP.COM (“Defendant”) against the owner of the following registered
7 trademark: “VEGA” U.S. Trademark Registration No. 2087637 (the “Mark”).

8 1.2 Soaring Helmet brings this action to secure relief under Federal and
9 Washington State law. Soaring Helmet seeks: (a) a temporary, preliminary and
10 permanent injunction prohibiting Defendant from further infringement of Soaring
11 Helmet’s Mark; (b) money damages for Defendant’s past infringement of the Mark,
12 unfair competition, and tortious interference with prospective economic advantage.

13 **II. THE PARTIES**

14 2.1 Plaintiff. Plaintiff Soaring Helmet is a corporation duly organized and
15 existing under the laws of the State of Washington with its principal place of business in
16 Tukwila, Washington. Soaring Helmet is in good standing with the Washington
17 Secretary of State’s Office and has done all things necessary and proper to bring this
18 lawsuit.

19 2.2 Defendant. Based on information and belief, Defendant Nanal, Inc. is a
20 Nevada corporation d/b/a Leatherup.com. On information and belief, Defendant offers
21 motorcycle accessories for sale on a nationwide basis, including Washington State, via its
22 website and a toll-free telephone number.
23

1 **III. JURISDICTION AND VENUE**

2 3.1 This Court has original jurisdiction over Count I and II under 15 U.S.C.
3 §1121(a) (action arising under the Lanham Act) and 28 U.S.C. §§1331, 1338(a) (federal
4 question) in that this case arises under the Trademark Laws of the United States, 15
5 U.S.C. §§1051-1127.

6 3.2 This Court has jurisdiction over Count III and Count IV under 28 U.S.C
7 §1338(b) in accordance with the principles of pendant jurisdiction in that said claims are
8 joined with substantial and related claims under the Trademark Laws of the United
9 States, 15 U.S.C. §§1051-1127.

10 3.3 Venue is proper in this district pursuant to 28 U.S.C. §1391(b).

11 3.4 Personal jurisdiction in this district is proper because Defendants maintain
12 continuous and systematic commercial contacts with Washington State. On information
13 and belief, Defendants have purposefully availed themselves of the opportunity to
14 conduct commercial activities in this forum, and this Complaint arises out of those
15 activities.
16

17 **IV. FACTUAL BACKGROUND**

18 **Soaring Helmet's Trademark Rights.**

19 4.1 Since March 18, 1994, and continuously to the present, Soaring Helmet has
20 owned and used the trademark VEGA in interstate commerce in connection with the sale
21 of motorcycle helmets.

22 4.2 On August 23, 1996, Soaring Helmet filed an application to register the
23 Mark with the United States Patent and Trademark Office (PTO). The Mark was

1 registered on the Principal Register of the PTO on August 12, 1997 and was assigned
2 Registration Number 2087637. A true and correct copy of the Certificate of Registration
3 issued by the PTO is attached hereto as Exhibit A.

4 4.3 Soaring Helmet has sold a wide variety of VEGA helmets to customers
5 throughout the United States. Soaring Helmet has invested substantial sums of time,
6 money and effort to develop, use, advertise and promote the Mark. As a result, the Mark
7 has become an integral and indispensable part of Soaring Helmet's business. To this end,
8 Soaring Helmet carefully guards its intellectual property rights.

9 **Defendants' Wrongful Acts.**

10 4.4 In approximately April 2009, Plaintiff learned that when the query "VEGA
11 helmets" is searched via internet search engines, including but not limited to the Google,
12 Yahoo, and Bing search engines, an advertisement appeared under the search engines'
13 sponsored listings that stated that Leatherup.com offered "50% off Vega Helmets." A
14 copy of the search results is attached hereto as Exhibit B.

15 4.7 Defendant's advertisement was false and misleading because Defendant
16 does not in fact sell any of Soaring Helmet's VEGA products.

17 4.8 Soaring Helmet has lost business due to actual confusion caused by
18 Defendant's false and misleading advertisement when at least one retailer refused to do
19 business with Soaring Helmet due to the fact that the advertisement falsely stated that
20 Defendant sells Soaring Helmet's products at a deep discount.
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1 4.9 On or about April 28, 2009, Soaring Helmet sent a letter to Defendant,
2 demanding it cease and desist all use of the Mark in connection with false and misleading
3 advertisements. A copy of this letter is attached hereto as Exhibit C.

4 4.10 Although Defendant has stopped using Plaintiff's Mark to trigger
5 sponsored listings on Google, Defendant is still using the Mark to trigger sponsored
6 listings on other search engines, such as the Bing search engine. A copy of the Bing
7 search results is attached hereto as Exhibit D.

8 4.11 On or about December 2009, Soaring Helmet discovered that Defendant
9 was selling motorcycle jackets under the designation, "XELEMENT Extreme Vega."
10 Soaring Helmet discovered the infringement when one of Soaring Helmet's clients
11 inquired as to whether Soaring Helmet was the manufacturer of the "XELEMENT Extreme
12 Vega" jacket.

13 4.12 Soaring Helmet was not able to immediately confirm that Defendant was
14 the manufacturer of the "XELEMENT Extreme Vega" jacket. However, Soaring Helmet
15 suspected that the XELEMENT Leather Brand and Defendant were likely affiliated if not
16 one and the same. On or about January 27, 2010, Soaring Helmet sent a cease and desist
17 letter to both the address for XELEMENT Leather Brand and to counsel for Defendant. A
18 copy of this letter is attached hereto as Exhibit E.

19 4. On or about March 2010, counsel for Defendant confirmed that Defendant
20 was the manufacturer of the "XELEMENT Extreme Vega" motorcycle jacket. Counsel for
21 Defendant also stated that Defendant had removed the "Vega" designation from its
22 motorcycle jackets. However, Soaring Helmet has been damaged by Defendant's past
23 motorcycle jackets.

SECOND AMENDED COMPLAINT - 5

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1 infringing sales, and the actual confusion that occurred with at least one of Soaring
2 Helmet's clients.

3 **V. FIRST CAUSE OF ACTION**
4 **FEDERAL TRADEMARK INFRINGEMENT**
(15 U.S.C. §1114)

5 5.1 Soaring Helmet realleges and incorporates herein by reference the
6 allegations contained in all preceding paragraphs of this Complaint as part of this cause
7 of action.

8 5.2 Soaring Helmet holds a valid and existing federal registration for the Mark.
9 Soaring Helmet has continuously used the Mark since as early as 1994.

10 5.3 Defendant's use of the Mark as a keyword to place its sponsored listing
11 advertisements for Leatherup.com, has and is likely to cause initial interest confusion of
12 consumers that are in fact searching solely for Soaring Helmet's Mark.

13 5.4 Defendant's use of the Mark in connection with the marketing, advertising,
14 and sale of motorcycle jackets has and is likely to deceive customers and prospective
15 customers into believing that Defendant's products are that of Soaring Helmet, and, as a
16 consequence, are likely to divert customers away from Soaring Helmet.

17 5.4 The aforementioned trademark infringement has caused, and is likely to
18 cause confusion, mistake, or deception of consumers, to the detriment of Soaring Helmet.

19 5.5 As a result of the confusion engendered by foregoing infringement,
20 Soaring Helmet's valuable goodwill in respect to its VEGA Mark is at the mercy of
21 Defendant.
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1 5.6 The goodwill of Soaring Helmet's business is of enormous value, and
2 Soaring Helmet will suffer irreparable harm should infringement be allowed to continue
3 to the detriment of its trade reputation and goodwill.

4 5.7 Defendant's use of the Mark as alleged herein was done without the
5 knowledge, consent or permission of Soaring Helmet.

6 5.8 Defendant has violated the trademark rights of Soaring Helmet under the
7 Trademark Act, thereby giving rise to a cause of action under 15 U.S.C. § 1114.

8 5.9 Soaring Helmet will be irreparably harmed unless Defendant is
9 temporarily, immediately and permanently enjoined from any further use of the Mark and
10 any further false and misleading advertising using the Mark.

11 5.10 Soaring Helmet has no adequate remedy at law and serious damage to its
12 trademark rights will result unless Defendant's wrongful use of the Mark is enjoined by
13 the court.

14 5.11 Defendant has continued to use the Mark notwithstanding that they have
15 actual knowledge of Soaring Helmet's superior trademark rights as alleged herein, as
16 well as knowledge of the actual confusion suffered by Soaring Helmet's customers.
17 Defendant's infringement of the Soaring Helmet VEGA Mark accordingly constitutes
18 intentional, willful, knowing and deliberate trademark infringement throughout the United
19 States, including Washington State. Plaintiff therefore seeks judgment in the amount of
20 three (3) times its damages, together with reasonable attorney's fees pursuant to 15
21 U.S.C. § 1117(a).
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SECOND AMENDED COMPLAINT - 7

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1 5.12 Defendant's infringement of the Mark as alleged herein has caused, and
2 will continue to cause, Soaring Helmet to suffer damages in an amount unknown at this
3 time and has caused, and will continue to cause, Defendant to gain revenues and profit in
4 an amount unknown at this time. Pursuant to 15 U.S.C. § 1117(a), Soaring Helmet is
5 entitled to an award of monetary damages in an amount equal to the losses suffered by
6 Soaring Helmet or the revenues and/or profits gained by Defendant, which damages
7 should be augmented as provided by 15 U.S.C. § 1117(a).

8 5.13 Pursuant to 15 U.S.C. § 1117(a), any monetary damages awarded to Soaring
9 Helmet should be trebled.

10 5.14 Pursuant to 15 U.S.C. § 1117(a), Soaring Helmet is entitled to an award of
11 attorneys fees and costs of suit.

12
13 **VI. SECOND CAUSE OF ACTION**
FALSE DESIGNATION OF ORIGIN, FALSE ADVERTISING AND UNFAIR
14 **COMPETITION UNDER LANHAM ACT SECTION 43(a)**
(15 U.S.C. § 1125(a))

15 6.1 Soaring Helmet realleges and incorporates herein by reference the
16 allegations contained in all preceding paragraphs of this Complaint as part of this cause
17 of action.

18 6.2 The actions of Defendant as alleged herein constitute false designation of
19 origin, false advertising and unfair competition pursuant to Section 43(a) of the Lanham
20 Act, 15 U.S.C. § 1125(a).

21 6.3 The actions of Defendant have and are likely to continue to deceive
22 customers and prospective customers into believing that Defendant sells the products of
23

1 Soaring Helmet, and, as a consequence, are likely to divert customers away from Soaring
2 Helmet throughout the United States, including in Washington State.

3 6.4 Soaring Helmet has and will continue to be irreparably harmed unless
4 Defendant is temporarily, immediately and permanently enjoined from any further use of
5 the Mark and any further false and misleading advertising of products using the Mark.

6 6.5 Soaring Helmet has no adequate remedy at law and serious damage to its
7 trademark rights will result unless Defendant's wrongful use of the Mark is enjoined by
8 the court.

9 6.6 The actions of Defendant as alleged herein constitute intentional, willful,
10 knowing and deliberate unfair competition and false advertising pursuant to Lanham Act
11 Section 43(a).

12 6.7 Defendant's acts of unfair competition and false advertising in violation of
13 the Lanham Act Section 43(a) as alleged herein have caused, and will continue to cause,
14 Soaring Helmet to suffer damages in an amount unknown at this time and have caused,
15 and will continue to cause Defendant to gain revenues and profit in an amount unknown
16 at this time. Pursuant to 15 U.S.C. §1117(a), Soaring Helmet is entitled to an award of
17 monetary damages in an amount equal to the losses suffered by Soaring Helmet and the
18 revenues and/or profits gained by Defendant, which damages should be augmented as
19 provided by 15 U.S.C. §1117(a).

20 6.8 Pursuant to 15 U.S.C. §1117(a), any monetary damages awarded to Soaring
21 Helmet should be trebled.
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23

1 6.9 Pursuant to 15 U.S.C. §1117(a), Soaring Helmet is entitled to an award of
2 attorneys fees and costs of suit.

3 **VII. THIRD CAUSE OF ACTION**
4 **WASHINGTON STATE UNFAIR COMPETITION AND**
5 **CONSUMER PROTECTION ACT**
6 **(RCW 19.86)**

7 7.1 Soaring Helmet re-alleges and incorporates herein by reference the
8 allegations contained in all preceding paragraphs as part of this cause of action.

9 7.2 Defendant has engaged in unfair and deceptive acts or practices by using
10 the Mark in connection with both the sale of products and in false and misleading
11 advertising in Washington thereby creating a likelihood of public confusion as to the
12 source of the goods and services.

13 7.3 Defendant's deceptive acts or practices injured Soaring Helmet.

14 7.4 Defendant's actions offend the public, are unethical, oppressive and
15 unscrupulous, affecting trade and commerce now and in the future both within
16 Washington State and elsewhere.

17 7.5 A causal link exists between the deceptive act and the resulting injury.

18 7.6 Soaring Helmet has suffered damages relating to violation of the Consumer
19 Protection Act RCW 19.86 by Defendants. The quantum of these damages will be
20 proven at trial.

21 7.7 Soaring Helmet seeks, and is entitled to recover, its actual damages,
22 together with the costs of suit, including reasonable attorneys' fees.
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7.8 Soaring Helmet seeks and is entitled to recover an award of damages of up to three times the amount of the actual damages sustained up to the amount permitted by law.

VIII. FOURTH CAUSE OF ACTION
TORTIOUS INTERFERENCE WITH PROSPECTIVE
ECONOMIC ADVANTAGE

8.1 Soaring Helmet re-alleges and incorporates herein by reference the allegations contained in all preceding paragraphs as part of this cause of action.

8.2 Soaring Helmet’s right to obtain prospective customers constitutes a valid business expectancy.

8.3 Defendant had knowledge of Soaring Helmet’s business expectancy.

8.4 Defendant intentionally interfered with Soaring Helmet’s business expectancy and destroyed Soaring Helmet’s opportunity to obtain prospective business customers. Defendant knew that the interference was certain or substantially certain to occur as a result of their actions.

8.5 Defendant’s interference with Soaring Helmet’s business expectancy was improper and the means used was innately wrongful and predatory in character.

8.6 Soaring Helmet has suffered damages relating to violation of its business expectancy by Defendant. The quantum of these damages will be proven at trial.

IX. PRAYER FOR RELIEF

WHEREFORE, Soaring Helmet prays for relief against Defendant as follows:

1. For a temporary, preliminary and permanent injunction restraining and enjoining Defendant, and their agents, servants, employees, and all others in active concert or participation with them, as follows:

- a. From further infringing Soaring Helmet's trademark rights;
- b. From the further purchase and/or sale of Soaring Helmet's VEGA Mark for use in false and misleading advertising;
- c. From further using the Mark in connection with the advertising, marketing, and sale of products or services, in any manner whatsoever;
- d. From further acts of false advertising and unfair competition as alleged herein.

2. For an award of damages suffered by Soaring Helmet, plus any revenues or profits earned by Defendant as a result of Defendant's trademark infringement, unfair competition and false advertising in an amount to be proven at trial.

3. For an order requiring the impoundment of all products and materials bearing the infringing mark pending the trial of this matter, and the destruction of all products and materials bearing the infringing mark following trial.

3. For an award of augmented and treble damages as alleged herein pursuant to 15 U.S.C. §1117(a) and RCW 19.86.060.

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4. For an award of punitive and exemplary damages in an amount to be proven at trial, but sufficient to punish and deter Defendant.

5. For an award of attorneys' fees and litigation expenses and costs to the maximum extent allowed by law.

6. For such other and further relief as the court deems just and proper.

DATED April 2, 2010.

INVICTA LAW GROUP, PLLC

By: s/Heather Morado/

Stacie Foster, WSBA No. 23397

Heather M. Morado, WSBA No. 35135

Steven W. Edmiston, WSBA No. 17136

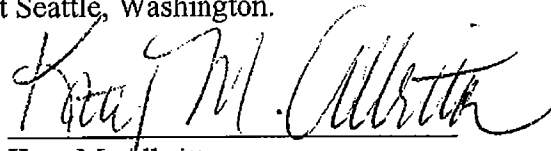
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

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

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

Dated this 13th day of May, 2010, at Seattle, Washington.



Katy M. Albritton
Legal Assistant

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

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Vega Motorcycle Helmets from The Helmet Shop ... Categories: Vega Full Face Helmets - Vega Open Face Helmets - Vega Half Helmets ... helmetshop.com/Category/ProductList.jsp?shop+By+Brand:Vega+Helmets - 21k - Cached - Similar pages

Shopping results for vega helmets

- Vega Supercolor Match Motorcycle \$139.95 - Motorcycle Superstore
- Vega XPV2 Solid Helmets \$124.99 - vegaacc.com
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Exhibit C



Counsel for creative companies

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April 28, 2009

Mark V. Jordan
Email: mjordan@invictalaw.com

VIA CERTIFIED MAIL: 7007268000056348336
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

First Amended Complaint - 19

SECOND AMENDED COMPLAINT

C - 19

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.)

1140 071 12280401

Exhibit D

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KBC Helmets

Welcome to Vega Helmet Corporation
 18235 Olympic Avenue S., Tukwila, WA 98188 Phone: (425) 656-0883 Fax: (425) 656-0879
www.vegahelmet.com - [Cached page](#)

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 vega helmets; lion helmets; soumy helmets; shark helmets acc helmets; novelty helmets;
 motorcycle communications, bluetooth headset; nolan n-com systems
www.helmetshop.com - [Cached page](#)

Vega Summit II - webBikeWorld
 Review of the Vega Summit II modular flip-up motorcycle helmet.
www.webbikeworld.com/r/2/motorcycle-helmet/vega-summit-ii - [Cached page](#)

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www.jatrum.com/Shop-By-Brand/Vega-Motorcycle-Helmets - [Cached page](#)

Vega XTS Solid Helmet - Cruiser Motorcycle - Motorcycle ...
 Find the Vega XTS Solid Helmet at Motorcycle Superstore. Shop our complete selection of motorcycle gear and apparel including the Vega XTS Solid Helmet right here in Motorcycle ...
www.motorcycle-superstore.com/311/888208nTEMVega-XTS-Solid-Helmet.aspx - [Cached page](#)

Vega motorcycle helmets, street bike helmet, sport bike ...
 JS Powersports offers Vega motorcycle helmets, street bike helmets, sport bike helmets, cruiser helmets, Vega Mach 1, Vega Shuriken, Vega Drakker, Vega Havoc and more
www.jspowersports.com/vega_motorcycle_helmets.htm - [Cached page](#)

Vega Helmets for Sale - Vega Helmet Closeouts
 Best Online.com Store with Discount Motorcycle Gear, Apparel & Biker Leather Clothing.
 Motorcycle Dealer with Wholesale Leather Goods and Riding Products.
www.jatrum.com/Shop-By-Brand/Vega-Closeouts - [Cached page](#)

Related Searches
 Vega Motorcycle Helmets Vega Summit Helmet Outlaw Helmets
 KBC Helmets Vega Akura Helmet Shark Helmets
 Vega Flip-up Helmets Vega Helmet Shield

Sponsored sites

Vega Helmets - www.Motorcycle-Superstore.com

Exhibit E

Inyicta
LAW GROUP PLLC

Counsel for creative companies

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fax (206) 903-6385

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January 27, 2010

Heather M. Morado
Email: hmorado@inyictalaw.com

VIA E-MAIL: aaron@leatherup.com; kh@hllaw.com
AND FIRST CLASS MAIL

XBLEMENT LEATHER BRAND
1200 Santee Street Suite 907
Los Angeles, CA 90015

NANAL, INC., d/b/a LEATHERUP.COM
c/o Ms. Katherine Hendricks
HBNDRICKS 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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Exhibit C

LeatherUp.com Contact Us - Wholesale - About Us - Bargain Alerts - Returns - Help - RSS - Site Map
SALE! UP TO 80% OFF ORIGINAL PRICES! **Low Price Guarantee**

Search LeatherUp.com **My Account (login)** New Arrivals

Motorcycle Jackets Mens Jackets Womens Jackets Motorcycle Boots Motorcycle Helmets Leather Chaps & Pants Leather Vests Motorcycle Gear

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.



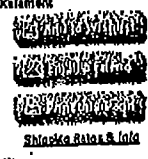
Item Details

- Collarless design with Velcro button closure
- 3 Way Lining
- First Zip out polyester quilted vest inner liner
- Second Zip out full length 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 elasticated cuffs
- Leather trim on upper arms
- Two top front chest pockets
- Two front side zippered pockets
- Zippered front hand pockets
- Two back zippered pockets
- 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 Accessory slot (to attach to motorcycle pants)
- CE Approved Armor providing the highest level EN12131 & EN12128 protection: Level-3 Advanced Technology: Higher Impact Absorption, Higher Impact Absorption, Higher Impact Absorption
- Level-3 Armor is the highest CE-Approved Armor Technology
- Only Available here at the world's #1 online leather store!
- Made of 100% Tri-Tex™ Fabric with Leather Trim
- 100% Tri-Tex™ Fabric with Leather Trim
- Performance Resistant to Abrasion, Stained 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-E078-Cordura)
 List Price: ~~\$119.95~~
 Our Price: \$19.95



ADD TO CART

Quantity: 1
 Size: Select a size

Availability: Order usually processes in 1 business day.
 (CP-E078-Cordura-...)
 \$19.95

ADD TO CART

Availability: Order usually processes in 1 business day.
 (CP-E078-Cordura-...)
 \$19.95

★ ★ ★ ★ ★ (8 Customer Reviews)

Description	Size Chart	Rate & Review
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 Tri-Tex™ Fabric 600 Denier High Performance Breathable Laminated Fabric, featuring removable CE Approved Level-3 Armor on the back, shoulders and elbows (New Level Of Protection). Level-3 Armor is lighter 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 rip 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!		

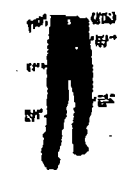
Lowest Price Guarantee Details

NO RISK Returns & Exchange 30 Days. No Restocking Fees.

PayPal NO PAYMENTS FOR 30 DAYS

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.

Suggestions



Xelement Men's Tri-Tex™ Fabric and Leather Motorcycle Riding Pants with Level-3 Advanced Armor
 (CP-E131-Cordura-...)
 \$69.95

View Item



Men's Breathable Padded Leather Riding Gloves
 (XG-204)
 \$29.95

View Item



Xelement Men's Black and Gray Level-3 Armor Jacket with Removable Arm Sleeves and Tri-Tex Fabric
 (X-CR300-Black-Gray)
 \$79.95

View Item