

EXHIBIT 4

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THE HONORABLE JAMES L. ROBERT

RECEIVED
HENDRICKS & LEWIS
8/2/10 *RL*

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. C09-0789-JLR

DEFENDANT NANAL, INC.'S FIRST
SET OF REQUESTS FOR PRODUCTION
NOS. 1 - 29 TO PLAINTIFF SOARING
HELMET CORPORATION AND
OBJECTIONS AND RESPONSES
THERE TO

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and the Local Civil Rules of the United States District Court for the Western District of Washington, Defendant Nanal, Inc. ("Defendant" or "Nanal"), propounds the following requests for production to Plaintiff Soaring Helmet Corporation ("Plaintiff" or "Soaring Helmet") to be responded to separately and fully under oath within thirty (30) days from the date of service. Defendant requests that the documents and things be produced at the offices of Hendricks & Lewis PLLC, 901 Fifth Avenue, Suite 4100, Seattle, Washington 98164, or as otherwise agreed.

INSTRUCTIONS

1. These discovery requests impose a continuing obligation upon Plaintiff to furnish all information requested herein until final disposition of this case. Corrections or additional information are sought as required by the Federal Rules of Civil Procedure and the Local Civil

DEFENDANT'S FIRST SET OF REQUESTS FOR
PRODUCTION NOS. 1 - 29 TO PLAINTIFF AND
OBJECTIONS AND RESPONSES THERETO- 1

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HENDRICKS & LEWIS PLLC
901 Fifth Avenue, Suite 4100
Seattle, Washington 98164
TEL: (206) 624-1933

1 **REQUESTS FOR PRODUCTION**

2 **REQUEST FOR PRODUCTION NO. 1.** Please produce copies of all documents or
3 things identified in response to Defendant Nanal, Inc.'s First Set of Interrogatories Nos. 1-22 to
4 Plaintiff Soaring Helmet Corporation.

5 **RESPONSE:** Any responsive, non-privileged documents in possession are produced herewith.
6 This response will be supplemented if and when additional documents are discovered.

7
8 **REQUEST FOR PRODUCTION NO. 2.** Please produce copies of all documents
9 supporting, proving or disproving the allegations in paragraph 4.2 of the Second Amended
10 Complaint that “[o]n August 23, 1996, Soaring Helmet filed an application to register the Mark
11 with the United States Patent and Trademark Office (PTO). The Mark was registered on the
12 Principal Register of the PTO on August 12, 1997 and was assigned Registration Number
13 2087637.”

14 **RESPONSE:** Any responsive, non-privileged documents in possession are produced herewith.
15 This response will be supplemented if and when additional documents are discovered.

16
17 **REQUEST FOR PRODUCTION NO. 3.** Please produce copies of all documents
18 supporting, proving or disproving the allegation in paragraph 4.4 of the Second Amended
19 Complaint that “[i]n approximately April 2009, Plaintiff learned that when the query ‘VEGA
20 helmets’ is searched via internet search engines, including but not limited to the Google, Yahoo,
21 and Bing search engines, an advertisement appeared under the search engines’ sponsored listings
22 that stated that Leatherup.com offered ‘50% off Vega Helmets.’”

23 **RESPONSE:** Any responsive, non-privileged documents in possession are produced herewith.
24 This response will be supplemented if and when additional documents are discovered.

1 **REQUEST FOR PRODUCTION NO. 4.** Please produce copies of all documents
2 supporting, proving or disproving the allegation in paragraph 4.8 of the Second Amended
3 Complaint that “Soaring Helmet has lost business due to actual confusion caused by Defendant’s
4 false and misleading advertisement when at least one retailer refused to do business with Soaring
5 Helmet due to the fact that the advertisement falsely stated that Defendant sells Soaring Helmet’s
6 products at a deep discount.”

7 **RESPONSE:** Any responsive, non-privileged documents in possession are produced herewith.
8 This response will be supplemented if and when additional documents are discovered.

9
10 **REQUEST FOR PRODUCTION NO. 5.** Please produce copies of all documents
11 supporting, proving or disproving the allegation in paragraph 4.10 of the Second Amended
12 Complaint that “[a]lthough Defendant has stopped using Plaintiff’s Mark to trigger sponsored
13 listings on Google, Defendant is still using the Mark to trigger sponsored listings on other search
14 engines, such as the Bing search engine.”

15 **OBJECTIONS:** Plaintiff objects to this request to the extent it requests documents outside the
16 control of Plaintiff, and documents within the custody and control of Defendant that Plaintiff has
17 not yet obtained through discovery.

18 **RESPONSE:** Subject to and without waiver of the foregoing objections, responsive, non-
19 privileged documents are produced herewith. This response will be supplemented if and when
20 additional documents are discovered.
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23 **REQUEST FOR PRODUCTION NO. 6.** Please produce copies of all documents
24 supporting, proving or disproving the allegations in paragraph 4.11 of the Second Amended
25 Complaint that “[o]n or about December 2009, Soaring Helmet discovered that Defendant was
26 selling motorcycle jackets under the designation, ‘XElement Extreme Vega.’ Soaring Helmet
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DEFENDANT’S FIRST SET OF REQUESTS FOR
PRODUCTION NOS. 1 – 29 TO PLAINTIFF AND
OBJECTIONS AND RESPONSES THERETO- 7

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1 discovered the infringement when one of Soaring Helmet's clients inquired as to whether
2 Soaring Helmet was the manufacturer of the 'XElement Extreme Vega' jacket."

3 **RESPONSE:** Any responsive, non-privileged documents in possession are produced herewith.
4 This response will be supplemented if and when additional documents are discovered.

5
6 **REQUEST FOR PRODUCTION NO. 7.** Please produce copies of all documents
7 supporting, proving or disproving the allegation in paragraph 4. of the Second Amended
8 Complaint that "Soaring Helmet has been damaged by Defendant's past infringing sales, and the
9 actual confusion that occurred with at least one of Soaring Helmet's clients."

10
11 **OBJECTIONS:** Plaintiff objects to this request to the extent it requests documents outside the
12 control of Plaintiff, and documents within the custody and control of Defendant that Plaintiff has
13 not yet obtained through discovery.

14
15 **RESPONSE:** Subject to and without waiver of the foregoing objections, responsive, non-
16 privileged documents are produced herewith. This response will be supplemented if and when
17 additional documents are discovered.

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19 **REQUEST FOR PRODUCTION NO. 8.** Please produce copies of all documents
20 supporting, proving or disproving the allegation in paragraph 5.3 of the Second Amended
21 Complaint that "Defendant's use of the Mark as a keyword to place its sponsored listing
22 advertisements for Leatherup.com, has and is likely to cause initial interest confusion of
23 consumers that are in fact searching solely for Soaring Helmet's Mark."

24 **OBJECTIONS:** Plaintiff objects to this request to the extent it requests documents outside the
25 control of Plaintiff, and documents within the custody and control of Defendant that Plaintiff has
26 not yet obtained through discovery. In addition, Plaintiff objects to those portions of this request
27 which call for a legal conclusion and thus are not properly the subject of fact discovery.

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DEFENDANT'S FIRST SET OF REQUESTS FOR
PRODUCTION NOS. 1 - 29 TO PLAINTIFF AND
OBJECTIONS AND RESPONSES THERETO- 8

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1 **REQUEST FOR PRODUCTION NO. 19.** Please produce copies of all documents
2 supporting, proving or disproving the allegation in paragraph 7.5 of the Second Amended
3 Complaint that “[a] causal link exists between the deceptive act and the resulting injury.”

4 **OBJECTIONS:** Plaintiff objects to those portions of this request which call for a legal
5 conclusion and thus are not properly the subject of fact discovery.

6 **RESPONSE:** Subject to and without waiver of the foregoing objections, responsive, non-
7 privileged documents are produced herewith. This response will be supplemented if and when
8 additional documents are discovered.
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11 **REQUEST FOR PRODUCTION NO. 20.** Please produce copies of all documents
12 supporting, proving or disproving the allegation in paragraph 7.6 of the Second Amended
13 Complaint that “Soaring Helmet has suffered damages relating to violation of the Consumer
14 Protection Act RCW 19.86 by Defendants [sic].”

15 **RESPONSE:** Any responsive, non-privileged documents in possession are produced herewith.
16 This response will be supplemented if and when additional documents are discovered.
17

18 **REQUEST FOR PRODUCTION NO. 21.** Please produce copies of all documents
19 supporting, proving or disproving the allegation in paragraph 8.3 of the Second Amended
20 Complaint that “Defendant had knowledge of Soaring Helmet’s business expectancy.”

21
22 **OBJECTIONS:** Plaintiff objects to this request to the extent it requests documents outside the
23 control of Plaintiff, and documents within the custody and control of Defendant that Plaintiff has
24 not yet obtained through discovery. In addition, Plaintiff objects to those portions of this request
25 which call for a legal conclusion and thus are not properly the subject of fact discovery.
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DEFENDANT’S FIRST SET OF REQUESTS FOR
PRODUCTION NOS. 1 – 29 TO PLAINTIFF AND
OBJECTIONS AND RESPONSES THERETO- 14

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1 **RESPONSE:** Subject to and without waiver of the foregoing objections, responsive, non-
2 privileged documents are produced herewith. This response will be supplemented if and when
3 additional documents are discovered.

4
5 **REQUEST FOR PRODUCTION NO. 24.** Please produce copies of all documents
6 supporting, proving or disproving the allegation in paragraph 8.6 of the Second Amended
7 Complaint that "Soaring Helmet has suffered damages relating to violation of its business
8 expectancy by Defendant."

9 **RESPONSE:** Any responsive, non-privileged documents in possession are produced herewith.
10 This response will be supplemented if and when additional documents are discovered.

11
12 **REQUEST FOR PRODUCTION NO. 25.** Please produce copies of all documents
13 relating to any market research, survey, or other investigation or report concerning (a)
14 Defendant; (b) Leatherup.com; or (c) confusion or the likelihood of confusion arising from the
15 activities complained of in the Second Amended Complaint in this Action.

16 **RESPONSE:** Any responsive, non-privileged documents in possession are produced herewith.
17 This response will be supplemented if and when additional documents are discovered.

18
19 **REQUEST FOR PRODUCTION NO. 26.** Please produce copies of all documents
20 relating to Defendant or its goods or services or activities complained of in the Second Amended
21 Complaint.

22 **RESPONSE:** Any responsive, non-privileged documents in possession are produced herewith.
23 This response will be supplemented if and when additional documents are discovered.

1 **REQUEST FOR PRODUCTION NO. 27.** Please produce copies of all documents
2 relating to, evidencing or supporting Plaintiff's claims for damages in this Action, including
3 Plaintiff's computation of the amount of damages.

4 **RESPONSE:** Any responsive, non-privileged documents in possession are produced herewith.
5 This response will be supplemented if and when additional documents are discovered.
6

7 **REQUEST FOR PRODUCTION NO. 28.** Please produce copies of all documents
8 supporting or controverting the allegations of the Second Amended Complaint in this Action.

9 **RESPONSE:** Any responsive, non-privileged documents in possession are produced herewith.
10 This response will be supplemented if and when additional documents are discovered.
11

12 **REQUEST FOR PRODUCTION NO. 29.** Please produce copies of all documents upon
13 which Plaintiff intends to rely at trial in this Action.

14 **RESPONSE:** Any responsive, non-privileged documents in possession are produced herewith.
15 This response will be supplemented if and when additional documents are discovered.
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ATTORNEY'S FED. R. CIV. P. CERTIFICATION

The undersigned attorney certifies pursuant to Fed. R. Civ. P. 26(g) that she has read each response and objection to these discovery requests, and that to the best of her knowledge, information, and belief formed after a reasonable inquiry, each is (1) consistent with the Civil Rules and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; (2) not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the costs of litigation; and (3) not unreasonable or unduly burdensome or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation.

DATED July 30, 2010.

INVICTA LAW GROUP, PLLC

By 

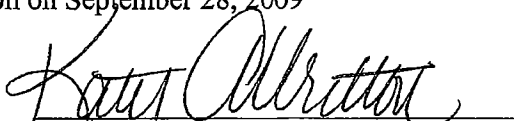
Stacie Foster, WSBA No. 23397
Attorney for Plaintiff

CERTIFICATE OF SERVICE

1
2 I certify that on July 30, 2010, I caused to be sent via E-mail and First Class Mail
3 Defendant's First Set of Requests for Production Nos. 1-29 to Plaintiff and Objections and
4 Responses Thereto to the following listed counsel of record:
5

6 Ms. Katherine Hendricks
7 Ms. Stacia N. Lay
8 HENDRICKS & LEWIS, PLLC
9 901 Fifth Avenue, Suite 4100
10 Seattle, WA 98164
11 Email: kh@hllaw.com; sl@hllaw.com
12 Attorneys for Defendant

13 EXECUTED at Seattle, Washington on September 28, 2009

14 
15 _____
16 Katy Albritton