

EXHIBIT 1

{81600.DOC}

July 30, 2010

Heather M. Morado, Esq.
Invicta Law Group, PLLC
1000 Second Avenue, Suite 3310
Seattle, Washington 98104-1019

**Re: *Soaring Helmet Corporation v. Nanal, Inc.*, C09-0789-JLR (W.D. Wash.)
Nanal's Responses to Plaintiff's First Sets of Discovery Requests**

Dear Heather:

Enclosed please find copies of:

1. Defendant Nanal, Inc.'s Objections and Responses to Plaintiff's First Set of Requests for Production Nos. 1-28;
2. Defendant Nanal, Inc.'s Objections and Responses to Plaintiff's First Set of Interrogatories Nos. 1-18; and
3. Documents Bates numbered D 000001 – D 000012

Please note that we are continuing to search for additional documents that may be responsive to Plaintiff's requests for production and will produce any such documents as soon as we obtain them.

Sincerely,

HENDRICKS & LEWIS PLLC


Stacia N. Lay

Enclosures

via hand delivery

{92161.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. C09-0789-JLR

DEFENDANT NANAL, INC.'S
OBJECTIONS AND RESPONSES TO
PLAINTIFF'S FIRST SET OF
INTERROGATORIES NOS. 1 – 18

Pursuant to Rules 26 and 33 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") hereby provides the following responses to Plaintiff Soaring Helmet Corporation's ("Plaintiff") First Set of Interrogatories Nos. 1-18.

GENERAL OBJECTIONS

1. Nanal objects to each interrogatory to the extent it requests information outside the scope of discovery authorized by the Federal Rules of Civil Procedure, i.e., information not reasonably calculated to lead to the discovery of admissible evidence.
2. Nanal objects to each interrogatory to the extent it requests information that is protected by the attorney-client privilege and/or the attorney work product doctrine. Nanal will not provide such information and will assume the interrogatories apply only to that information falling outside the scope of the attorney-client privilege and the attorney work product doctrine.

1 on the ground that it is overbroad to the extent that Plaintiff purports to have rights to “the Mark”
2 in connection with products other than motorcycle helmets. Subject to and without waiving its
3 objections, Nanal responds as follows:

4 Nanal did not “use” Plaintiff’s alleged trademark VEGA, Registration No. 2,087,637.
5 Pursuant to Google’s AdWords service, Nanal purchased the keyword terms “vega helmets” on
6 or about September 1, 2008, and discontinued use on or about April 3, 2010.

7 **INTERROGATORY NO. 3.** State why you selected the Mark for use in connection
8 with the marketing and sale of products, including but not limited to motorcycle jackets, and
9 identify the person who was primarily responsible for the selection of the Mark.

10 **RESPONSE TO INTERROGATORY NO. 3:**

11 In addition to the General Objections, Nanal objects to Interrogatory No. 3 to the extent it
12 seeks an admission that Nanal “used” “the Mark.” Nanal further objects to Interrogatory No. 3
13 on the ground that it is overbroad to the extent that Plaintiff purports to have rights to “the Mark”
14 in connection with products other than motorcycle helmets. Subject to and without waiving its
15 objections, Nanal responds as follows:

16 Nanal did not “use” Plaintiff’s alleged trademark VEGA, Registration No. 2,087,637.
17 Nanal selected the keyword terms “vega helmets” using the automated Google AdWords
18 keyword tool that suggests keywords based on user input. Nanal input the generic term “helmet”
19 into the Google AdWords keyword suggestion tool and it suggested “vega helmet.” Albert
20 Bootesaz, President of Nanal, was primarily responsible for selecting the keyword terms through
21 use of Google’s Adwords keyword suggestion tool.

22 **INTERROGATORY NO. 4.** Describe the steps you took (including when the steps
23 were taken and by whom), if any, to investigate whether it would be legally appropriate for you
24 to use the Mark, including whether any trademark searches were conducted.

25 **RESPONSE TO INTERROGATORY NO. 4:**

26 In addition to the General Objections, Nanal objects to Interrogatory No. 4 to the extent it
27 purports to seek information protected by the attorney-client privilege and/or attorney work
28 product doctrine and purports to seek a legal conclusion. Nanal further objects to Interrogatory

1 No. 4 to the extent it seeks an admission that Nanal “used” “the Mark.” Subject to and without
2 waiving its objections, Nanal responds as follows:

3 Nanal did not “use” Plaintiff’s alleged trademark VEGA, Registration No. 2,087,637.
4 Nanal selected the keyword terms “vega helmets” using the automated Google AdWords
5 keyword tool that suggests keywords based on user input. Nanal input the generic term “helmet”
6 into the Google AdWords keyword suggestion tool and it suggested “vega helmet.” Nanal first
7 purchased the keyword terms on or about September 1, 2008, and the use was discontinued on or
8 about April 3, 2010. Albert Bootesaz, President of Nanal, was primarily responsible for
9 selecting the keyword terms through use of Google’s Adwords keyword suggestion tool. No
10 trademark searches were necessary and none were conducted.

11 **INTERROGATORY NO. 5.** Identify your sales and profits, in dollar and unit terms,
12 by month, year, or any other applicable period of time for which data is available to you, for all
13 products marketed and sold by you, including but not limited to motorcycle jackets.

14 **RESPONSE TO INTERROGATORY NO. 5:**

15 In addition to the General Objections, Nanal objects to Interrogatory No. 5 on the
16 grounds that it is overbroad, unduly burdensome and is not reasonably calculated to lead to the
17 discovery of admissible evidence in that it is not limited as to time or to the specific goods
18 allegedly relevant to Plaintiff’s claims in this action. Nanal further objects to Interrogatory No. 5
19 on the ground that it seeks information of a confidential, trade secret or proprietary nature.
20 Subject to and without waiving its objections, Nanal will provide a response to Interrogatory No.
21 5 limited to motorcycle helmets and motorcycle jackets and limited to one year prior to any
22 purchase and/or use of the keyword term “vega” by Nanal upon entry of a confidentiality order
23 by the Court.

24 **INTERROGATORY NO. 6.** Identify the channels of trade in which you market and
25 sell products, including but not limited to motorcycle jackets.

26 **RESPONSE TO INTERROGATORY NO. 6:**

27 In addition to the General Objections, Nanal objects to Interrogatory No. 6 on the
28 grounds that it is overbroad and is not reasonably calculated to lead to the discovery of

1 admissible evidence in that it is not limited to the specific goods allegedly relevant to Plaintiff's
2 claims in this action. Subject to and without waiving its objections, Nanal responds as follows:

3 The Internet and specifically Nanal's website, www.leatherup.com.

4 **INTERROGATORY NO. 7.** Identify the purchasers by class (e.g., retailers, general
5 public) of each product sold by you, including but not limited to motorcycle jackets.

6 **RESPONSE TO INTERROGATORY NO. 7:**

7 In addition to the General Objections, Nanal objects to Interrogatory No. 7 on the
8 grounds that it is overbroad and is not reasonably calculated to lead to the discovery of
9 admissible evidence in that it is not limited to the specific goods allegedly relevant to Plaintiff's
10 claims in this action. Subject to and without waiving its objections, Nanal responds as follows:

11 Nanal sells to the general public through its website, www.leatherup.com.

12 **INTERROGATORY NO. 8.** State the date (month, day, and year) of your first
13 purchase of the Keywords, and identify each internet search engine from which the Keywords
14 were purchased.

15 **RESPONSE TO INTERROGATORY NO. 8:**

16 In addition to the General Objections, Nanal objects to Interrogatory No. 8 on the ground
17 that it is overbroad to the extent the term "the Keywords" is intended to include the term
18 "helmets," a generic term to which Plaintiff has no exclusive rights. Subject to and without
19 waiving its objections, Nanal responds as follows:

20 Pursuant to Google's AdWords service, Nanal purchased the keyword terms "vega
21 helmets" on or about September 1, 2008, and discontinued use on or about April 3, 2010.

22 **INTERROGATORY NO. 9.** State why you selected the Keywords for use in
23 connection with the marketing of your goods and services, and identify the person who was
24 primarily responsible for the selection of the Keywords.

25 **RESPONSE TO INTERROGATORY NO. 9:**

26 In addition to the General Objections, Nanal objects to Interrogatory No. 9 on the ground
27 that it is overbroad to the extent the term "the Keywords" is intended to include the term
28

1 “helmets,” a generic term to which Plaintiff has no exclusive rights. Subject to and without
2 waiving its objections, Nanal responds as follows:

3 Nanal selected the keyword terms “vega helmets” using the automated Google AdWords
4 keyword tool that suggests keywords based on user input. Nanal input the generic term “helmet”
5 into the Google AdWords keyword suggestion tool and it suggested “vega helmet.” Albert
6 Bootesaz, President of Nanal, was primarily responsible for selecting the keyword terms through
7 use of Google’s Adwords keyword suggestion tool.

8 **INTERROGATORY NO. 10.** Describe the steps you took (including when the steps
9 were taken and by whom), if any, to investigate whether it would be legally appropriate for you
10 to use the Keywords.

11 **RESPONSE TO INTERROGATORY NO. 10:**

12 In addition to the General Objections, Nanal objects to Interrogatory No. 10 to the extent
13 it purports to seek information protected by the attorney-client privilege and/or attorney work
14 product doctrine and purports to seek a legal conclusion. Nanal further objects to Interrogatory
15 No. 10 on the ground that is overbroad to the extent the term “the Keywords” is intended to
16 include the term “helmets,” a generic term to which Plaintiff has no exclusive rights. Subject to
17 and without waiving its objections, Nanal responds as follows:

18 Nanal selected the keyword terms “vega helmets” using the automated Google AdWords
19 keyword tool that suggests keywords based on user input. Nanal input the generic term “helmet”
20 into the Google AdWords keyword suggestion tool and it suggested “vega helmet.” Nanal first
21 purchased the keyword terms on or about September 1, 2008, and the use was discontinued on or
22 about April 3, 2010. Albert Bootesaz, President of Nanal, was primarily responsible for
23 selecting the keyword terms through use of Google’s Adwords keyword suggestion tool.

24 **INTERROGATORY NO. 11.** State the number of times an advertisement for the
25 Website was displayed in response to a consumer search utilizing the Keywords, and the amount
26 of “clicks” generated to the Website as a result of a search utilizing the Keywords, i.e., the
27 number of times a consumer clicked on the Website after viewing an advertisement generated by
28 the Keywords.

1 **RESPONSE TO INTERROGATORY NO.11:**

2 In addition to the General Objections, Nanal objects to Interrogatory No. 11 on the
3 ground that it is overbroad to the extent the term “the Keywords” is intended to include the term
4 “helmets,” a generic term to which Plaintiff has no exclusive rights. Subject to and without
5 waiving its objections, Nanal responds as follows:

6 Total number of times the leatherup.com advertisement was reviewed by users is 40209,
7 which resulted in 2457 clicks.

8 **INTERROGATORY NO. 12.** Identify your sales and profits, in dollar and unit terms,
9 by month, year, or any other applicable period of time for which data is available to you, for all
10 products sold by you through the Website.

11 **RESPONSE TO INTERROGATORY NO. 12:**

12 In addition to the General Objections, Nanal objects to Interrogatory No. 12 on the
13 grounds that it is overbroad, unduly burdensome and is not reasonably calculated to lead to the
14 discovery of admissible evidence in that it is not limited as to time or to the specific goods
15 allegedly relevant to Plaintiff’s claims in this action. Interrogatory No. 12 is also repetitive, in
16 whole or substantial part, of Interrogatory No. 5. Nanal further objects to Interrogatory No. 12
17 on the ground that it seeks information of a confidential, trade secret or proprietary nature.
18 Subject to and without waiving its objections, Nanal will provide a response to Interrogatory No.
19 12 limited to motorcycle helmets and motorcycle jackets and limited to one year prior to any
20 purchase and/or use of the keyword term “vega” by Nanal upon entry of a confidentiality order
21 by the Court.

22 **INTERROGATORY NO. 13.** Identify all media (e.g., internet, newspapers,
23 magazines, trade journals, radio and/or television stations, etc.) where you have advertised your
24 goods and/or services.

25 **RESPONSE TO INTERROGATORY NO. 13:**

26 In addition to the General Objections, Nanal objects to Interrogatory No. 13 on the
27 grounds that it is overbroad and is not reasonably calculated to lead to the discovery of
28 admissible evidence in that it is not limited as to time or the specific goods allegedly relevant to

1 Plaintiff's claims in this action. Subject to and without waiving its objections, Nanal responds as
2 follows:

3 The Internet and specifically Nanal's website, www.leatherup.com.

4 **INTERROGATORY NO. 14.** For each calendar year since commencement of use of
5 the Mark and/or the Keywords in connection with the marketing, distribution, and/or sale of your
6 products and/or services, state the amount you expended in advertising of each product or
7 service.

8 **RESPONSE TO INTERROGATORY NO. 14:**

9 In addition to the General Objections, Nanal objects to Interrogatory No. 14 to the extent
10 it seeks an admission that Nanal "used" "the Mark." Nanal further objects to Interrogatory No.
11 14 on the ground that it is overbroad to the extent that Plaintiff purports to have rights to "the
12 Mark" in connection with products other than motorcycle helmets. Nanal also objects to
13 Interrogatory No. 14 on the ground that it is overbroad to the extent the term "the Keywords" is
14 intended to include the term "helmets," a generic term to which Plaintiff has no exclusive rights.
15 Nanal objects to Interrogatory No. 14 on the grounds that it is overbroad and is not reasonably
16 calculated to lead to the discovery of admissible evidence in that it is not limited to the specific
17 goods allegedly relevant to Plaintiff's claims in this action. Nanal also objects to Interrogatory
18 No. 14 on the ground that it seeks information of a confidential, trade secret or proprietary
19 nature. Subject to and without waiving its objections, Nanal will provide a response to
20 Interrogatory No. 14 limited to motorcycle helmets and motorcycle jackets upon entry of a
21 confidentiality order by the Court.

22 **INTERROGATORY NO. 15.** Set forth fully the facts and circumstances regarding
23 how and when you first became aware or otherwise gained any knowledge of the existence of
24 Plaintiff, the products and/or services offered by Plaintiff, and/or Plaintiff's use of the Mark.

25 **RESPONSE TO INTERROGATORY NO. 15:**

26 Subject to and without waiving its General Objections, Nanal responds as follows:

27 To the best of the recollection of Albert Bootesaz, President of Nanal, he was not aware
28 of Plaintiff until he received notice of the present action.

1 **INTERROGATORY NO. 16.** Set forth fully the facts and circumstances regarding
2 whether you investigated Plaintiff after you became aware of Plaintiff's existence and its use of
3 the Mark.

4 **RESPONSE TO INTERROGATORY NO. 16:**

5 Subject to and without waiving its General Objections, Nanal responds as follows:

6 Nanal did not investigate Plaintiff.

7 **INTERROGATORY NO. 17.** Identify the geographical areas in which you have sold
8 products and/or services.

9 **RESPONSE TO INTERROGATORY NO. 17:**

10 In addition to the General Objections, Nanal objects to Interrogatory No. 17 on the
11 grounds that it is overbroad and is not reasonably calculated to lead to the discovery of
12 admissible evidence in that it is not limited to the specific goods allegedly relevant to Plaintiff's
13 claims in this action. Subject to and without waiving its objections, Nanal responds as follows:

14 Nanal cannot state with precision all of the geographical areas in which its products have
15 been sold without a detailed review of Nanal's records of sales. However, Nanal sells its
16 products through the Internet at its website www.leatherup.com, therefore, Nanal's products are
17 available for purchase nationally and internationally.

18 **INTERROGATORY NO. 18.** Set forth fully the facts and circumstances regarding
19 any incidents where a person or entity has been confused, mistaken or deceived as to the source
20 of goods or services sold by you and the goods or services sold by Plaintiff.

21 **RESPONSE TO INTERROGATORY NO. 18:**

22 Subject to and without waiving its General Objections, Nanal responds as follows:

23 Other than allegations of confusion by Plaintiff in its Second Amended Complaint and its
24 responses to discovery in this action, Nanal is not aware of any such alleged incidents.

25 //

26 //

27 //

28 //

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

DATED this 30th day of July, 2010.

HENDRICKS & LEWIS PLLC

By: 
Katherine Hendricks (WSBA No. 14040)
Stacia N. Lay (WSBA No. 30594)
901 Fifth Avenue, Suite 4100
Seattle, Washington 98164
Telephone: (206) 624-1933
Facsimile: (206) 583-2716
Email: kh@hllaw.com
Email: sl@hllaw.com

Attorneys for Defendant Nanal, Inc.

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

PROOF OF SERVICE

I am employed in the County of King, State of Washington. I am over the age of eighteen years and am not a party to the within action. My business address is 901 Fifth Avenue, Suite 4100, Seattle, Washington 98164.

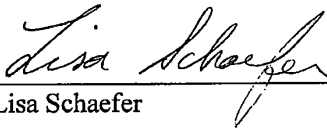
I hereby certify that on July 30, 2010, I served, via hand delivery by ABC Legal Messenger Service, the foregoing, DEFENDANT NANAL, INC.'S OBJECTIONS AND RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES NOS. 1 – 18, on the person(s) listed below:

Heather M. Morado, Esq.
Stacie Foster, Esq.
Steven W. Edmiston, Esq.
Invicta Law Group, PLLC
1000 Second Avenue, Suite 3310
Seattle, Washington 98104-1019
Telephone: 206.903.6364
Facsimile: 206.903.6365
Email: hmorado@invictalaw.com
Email: sfoster@invictalaw.com
Email: sedmiston@invictalaw.com

Attorneys for Plaintiff Soaring Helmet Corporation

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Executed July 30, 2010, at Seattle, Washington.



Lisa Schaefer