

EXHIBIT 5

{81600.DOC}

Stacia Lay

From: Stacia Lay
Sent: Friday, August 20, 2010 4:32 PM
To: 'Heather Morado'
Cc: Katherine Hendricks
Subject: Soaring Helmet Corp. v. Nanal, Inc., C09-0789-JLR, Nanal's Supplemental Interrogatory Responses

Attachments: Nanal's Supp. Responses to Interrog. Nos. 3, 8-11 (92396).PDF

Heather,

In follow-up to our discovery conference on Wednesday, attached please find a copy of Nanal's Supplemental Responses to Interrogatories Nos. 3, 8, 9, 10 and 11. The original will follow by mail.

Regarding the follow-up on Request for Production No. 3, specifically with respect to the image of the motorcycle jacket allegedly at issue, we have had difficulty confirming which jacket is at issue because the screenshot that is attached to Plaintiff's complaint is very difficult to read in some respects particularly with regard to the item number. Would you be able to get a better copy of that screenshot that would enable us to confirm the item number?

Alternatively, we may be able to resolve the issue without providing additional images of whichever motorcycle jacket is pictured in the screenshot. As part of Nanal's document production, it produced an example of a leatherup.com catalog Bates numbered D 000012. Pages 11-16 of the catalog includes full color images of leatherup.com's motorcycle jackets. If you can confirm the item number on the screenshot, I believe you will then find a good quality image of the motorcycle jacket in the catalog.

Best regards,

Stacia N. Lay
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1/5/2011

The Honorable James L. Robart

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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
SUPPLEMENTAL RESPONSES TO
PLAINTIFF SOARING HELMET
CORPORATION'S INTERROGATORIES
NOS. 3, 8, 9, 10 AND 11

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 supplemental responses to Plaintiff Soaring Helmet Corporation's ("Plaintiff") Interrogatories Nos. 3, 8, 9, 10 and 11.

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 keyword tool that suggests keywords based on user input. Nanal input the generic term "helmet"
2 into the Google AdWords keyword suggestion tool and it suggested "vega helmet." Albert
3 Bootesaz, President of Nanal, was primarily responsible for selecting the keyword terms through
4 use of Google's Adwords keyword suggestion tool. In further response, based on Nanal's
5 investigation to-date, Nanal did not use the word "vega" in connection with a motorcycle jacket
6 as alleged in Plaintiff's Second Amended Complaint and Exhibit E thereto.

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

10 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 8:**

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

15 Pursuant to Google's AdWords service, Nanal purchased the keyword terms "vega
16 helmets" on or about September 1, 2008, and discontinued use on or about April 3, 2010. Nanal
17 did not purchase the keyword term "vega" from any other Internet search engine.

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

21 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:**

22 In addition to the General Objections, Nanal objects to Interrogatory No. 9 on the ground
23 that it is overbroad to the extent the term "the Keywords" is intended to include the term
24 "helmets," a generic term to which Plaintiff has no exclusive rights. Subject to and without
25 waiving its objections, Nanal responds as follows:

26 Nanal selected the keyword terms "vega helmets" using the automated Google AdWords
27 keyword tool that suggests keywords based on user input. Nanal input the generic term "helmet"
28 into the Google AdWords keyword suggestion tool and it suggested "vega helmet." Albert

1 Bootesaz, President of Nanal, was primarily responsible for selecting the keyword terms through
2 use of Google's Adwords keyword suggestion tool. Nanal did not purchase the keyword term
3 "vega" from any other Internet search engine.

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

7 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 10:**

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

14 Nanal selected the keyword terms "vega helmets" using the automated Google AdWords
15 keyword tool that suggests keywords based on user input. Nanal input the generic term "helmet"
16 into the Google AdWords keyword suggestion tool and it suggested "vega helmet." Nanal first
17 purchased the keyword terms on or about September 1, 2008, and the use was discontinued on or
18 about April 3, 2010. Albert Bootesaz, President of Nanal, was primarily responsible for
19 selecting the keyword terms through use of Google's Adwords keyword suggestion tool. Nanal
20 did not purchase the keyword term "vega" from any other Internet search engine and therefore
21 does not have information responsive to this interrogatory pertaining to search engines other than
22 Google.

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

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SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 11:

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

Total number of times the leatherup.com advertisement was reviewed by users in connection with the Google AdWords service is 40209, which resulted in 2457 clicks. Nanal did not purchase the keyword term “vega” from any other Internet search engine and therefore does not have information responsive to this interrogatory pertaining to search engines other than Google.

DATED this 20th day of August, 2010.

HENDRICKS & LEWIS PLLC

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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.

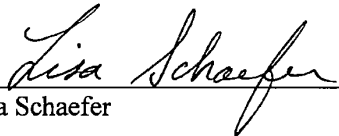
I hereby certify that on August 20, 2010, I served, via U.S. Mail and email, the foregoing, DEFENDANT NANAL, INC.'S SUPPLEMENTAL RESPONSES TO PLAINTIFF SOARING HELMET CORPORATION'S INTERROGATORIES NOS. 3, 8, 9, 10 AND 11, on the person(s) listed below:

Heather M. Morado, Esq.
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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 August 20, 2010, at Seattle, Washington.



Lisa Schaefer