

## **EXHIBIT 6**

{81600.DOC}

**Stacia Lay**

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**From:** Katy Albritton [kalbritton@invictalaw.com]  
**Sent:** Friday, August 20, 2010 3:49 PM  
**To:** Katherine Hendricks; Stacia Lay  
**Cc:** Heather Morado  
**Subject:** Soaring Helmet Corporation v Nanal, Inc.  
**Attachments:** 8-20-10 Ltr to S Lay re Follow-up to Discovery Conference.pdf; Plaintiff's 1st Set of Requests for Admission to Defendant.pdf

Ms. Hendricks and Ms. Lay:

Please see attached documents. If you have any trouble opening the attached documents, please contact me. Thank you.

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1/5/2011

August 20, 2010

Heather M. Morado  
Email: hmorado@inyictalaw.com

**VIA EMAIL [sl@hllaw.com](mailto:sl@hllaw.com)**  
**and FIRST CLASS MAIL**

Ms. Stacia N. Lay  
HENDRICKS & LEWIS, PLLC  
901 Fifth Avenue, Suite 4100  
Seattle, WA 98164

**Re: Soaring Helmet Corporation v. Nanal, Inc.**  
**Cause No. C09-0749 JLR**

Dear Stacia:

I am writing to follow-up on our discovery conference and particularly, outstanding discovery requests related to Soaring Helmet's calculation of damages. In its complaint, Soaring Helmet requested an award of monetary damages in the form of Soaring Helmet's lost profits and/or an award of Nanal's profits gained from the infringement. So there is no confusion, be advised that Soaring Helmet intends to engage and complete discovery related to an award of Nanal's profits as a possible measure of Soaring Helmet's damages in this case.

The Lanham Act provides for the recovery of the defendant's profits. See *15 U.S.C. §1117(a)*. Critically, a plaintiff does not need to show actual damage to obtain an award reflecting the infringer's profits. *Lindy Pen Co. v. Bic Pen Corp.*, 982 F.2d 1400, 1410-11 (9<sup>th</sup> Cir. 1993) (internal quotation and citation omitted). See also *Southland Sod Farms v. Stover Seed Co.*, 108 F.3d 1134, 1146 (9<sup>th</sup> Cir. 1997) (the district court has discretion to fashion relief, including monetary relief, based on the totality of the circumstances). Because proof of actual damage is often difficult, a court may award damages based solely on defendant's profits on a theory of unjust enrichment. *Lindy Pen*, 982 F.2d at 1407 (citing 2 J. Thomas McCarthy, *Trademarks and Unfair Competition* § 30:27, at 511 (2d ed. 1984).

At this time, Soaring Helmet will not file a motion to compel Nanal's answers to Soaring Helmet's Requests for Production numbers 16 and 17 (requesting copies of Nanal's tax returns and corporate financial statements). However, Soaring Helmet reserves the right to ask the Court for relief if Nanal does not provide sufficient responses to interrogatory

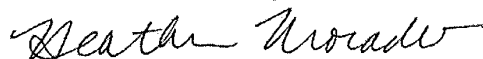
Ms. Stacia Lay  
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numbers 5, 12, and request for production number 15 (requesting sales information related to motorcycle jackets and helmets), as agreed in our discovery conference. Soaring Helmet will also amend its interrogatory responses related to its calculation of damages accordingly.

Please contact me if you have any questions.

Very truly yours,

INVICTA LAW GROUP, PLLC



Heather M. Morado

HMM:kma

cc: Jeanne DeMund