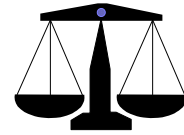




# AMERICA'S CUP 32

## AMERICA'S CUP JURY JURY NOTICE JN031 ACJ013



7<sup>th</sup> October 2005  
2 pages

### United Internet Team Germany Application – Question 2

**Applicant: United Internet Team Germany on behalf of Deutscher Challenger Yacht Club ('UITG')**

**IN THE MATTER** of the Protocol governing the 32<sup>nd</sup> America's Cup

**AND**

**IN THE MATTER** of an Application filed by UITG concerning Article 13 of the Protocol.

- [1] Jury Notice JN030 issued on 4<sup>th</sup> October granted the request from UITG to provide additional information or evidence in respect of Question 2 identified in Jury Notice JN028 issued on 18<sup>th</sup> September 2005. Jury Notice JN030 also provided a timetable in respect of the additional information or evidence, and for Parties to respond.
- [2] Prior to 17h00 on Wednesday 5<sup>th</sup> October, which was the time by which UITG was required to provide the additional information or evidence, UITG provided to the Jury only the name of the person they wished to employ and the names of the two syndicates that the person concerned had worked for.
- [3] UITG also provided to the Jury today, a response from one of the syndicates.
- [4] As identified in Jury Notice JN030, the Jury remains of the view that there is no known prejudice to any other Party in extending the timetable further to enable Question 2 of the Application to be properly addressed.
- [5] In circumstances where UITG have chosen to make an Application to the Jury prior to employing a particular person, it is ultimately primarily in UITG's interests to, as quickly as possible, provide all of the required information to the Jury and to all Parties, as directed. As a consequence of UITG not being able to achieve all of this in accordance with the timetable set by the Jury, a decision on Question 2 will be further delayed and additional costs will be incurred by UITG, as it will now not be possible for the Jury to complete the matter while it is on site at the Regatta in Trapani.
- [6] Through this Jury Notice the Jury will provide to all Parties the additional information or evidence that UITG has recently provided to the Jury:

#### **Additional Information and Evidence**

- [7] The name of the person UITG wishes to employ in terms of Question 2 is Luke McAllum.

- [8] UITG provided to the Jury an e-mail from Luke McAllum to UITG which identified the two syndicates he had worked for with reference to the more detailed description of work UITG provided to all Parties on 22<sup>nd</sup> September 2005. Luke McAllum's e-mail stated:

"... I worked on the mast construction team for the BMW Oracle syndicate, where my role was a composite fabricator. And I worked on the mast design team for the K Challenge syndicate, where my role was a draughtsman ..."

- [9] UITG also provided to the Jury a copy of a separate e-mail from Luke McAllum to UITG which stated:

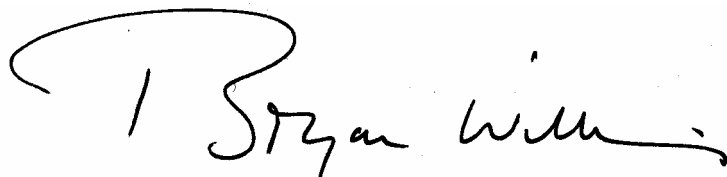
"... I did not deliver any substantial creativity judgement. For the BMW Oracle team I was a member of the construction team and had more input into the construction method and processes rather than the design. For the K Challenge team the rig was a rebuild of an existing design with some standard minor modifications which have become allowable with the new rule ..."

- [10] UITG further provided to the Jury a copy of an e-mail to UITG from K-Challenge of today's date, which e-mail stated:

"... I checked with our design team, and no one here seems to have heard of him. Perhaps he worked with some subcontractor, but surely not an important role and not directly for K-Challenge. In any event, there is no reason that K-Challenge would object to your employment of him in any capacity as a result of his prior association with K-Challenge, as none is known ..."

#### **Timetable and Directions**

- [11] UITG are seeking a response from BMW Oracle who is the other syndicate Luke McAllum identified. UITG are directed to provide to the Jury Secretary by e-mail, with a copy to all other Parties, a copy of any such response from BMW Oracle by Friday 21<sup>st</sup> October 2005. In the event BMW Oracle wish to provide such a response but require some reasonable additional time, such a request should be made to the Jury which the Jury anticipates in all the circumstances will be approved.
- [12] All Parties may respond to any such additional information or evidence by email to the Jury Secretary. Such response is to be received within five (5) days of receipt from UITG by the Parties of the information referred to in paragraph [11] of this Jury Notice or 21<sup>st</sup> October 2005, in the event no such response from BMW Oracle is provided.



Bryan Willis  
Chairman

America's Cup Jury:  
Gabrielle Kaufmann-Kohler, Graham McKenzie, Henry Menin, David Tillett, Bryan Willis.  
Jury Secretary: Sasha Lines