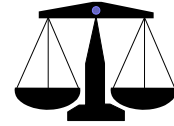




AMERICA'S CUP 32

AMERICA'S CUP JURY JURY NOTICE JN065



Protest by +39 Challenge
Protest and Request for Redress by United Internet
Team Germany
Protest by the Jury

Case ACJ025

11th April 2007

To: Challengers and Defender, ACM, Chief Measurer, Regatta Director ("**Parties**")

Protest and Request for Redress by +39 Challenge v United Internet Team Germany

Date of Incident: 4th April 2007, Act 13 Fleet Racing, Race 3

Date of Hearing: 4th April 2007 at 20h00, subsequently adjourned to 5th April 2007 at 18h30

Date of Meeting to Address Validity of Request for Re-opening: 7th April 2007 at 20h15

+39 Challenge Request for Re-opening

[1] +39 Challenge requested a re-opening of Case ACJ025 in respect to the Redress awarded.

[2] A meeting of the Jury and representatives of +39 Challenge was held on Saturday 7th April 2007 to give an opportunity to +39 Challenge to make verbal submissions in support of their proposal that their Request for Re-opening met the requirements of the Racing Rules of Sailing ("RRS") Rule 66. Other Teams' representatives were invited to attend.

[3] On the matter as to whether the Request was received within 24 hours, +39 Challenge submitted that they had made the request within 24 hours of the publication of the written decision, and within 24 hours of the decision of the Challenge Commission not to support a Protocol change.

[4] On the matter of whether the Jury had made a significant error, +39 Challenge submitted that the Jury did not consider that the Protocol might not be changed in accordance with its recommendation.

[5] On the matter of 'new evidence' +39 Challenge submitted that the decision of the Challenger Commission not to support a Protocol change was new evidence.

Submissions from other Teams

[6] One representative from another Team responded to the Jury's invitation to make a submission. Luna Rossa submitted that the 'new evidence' referred to in RRS Rule 66 relates only to evidence about the incident that gave rise to the protest.

Decision

[7] In respect to the claim that the Jury had made a significant error:

In determining what it judged to be the fairest arrangement as possible for all yachts, the Jury *had* considered the possibility that the Protocol would not be changed and decided that, in that event, the fairest arrangement for all yachts was to make no further provision.

Therefore the Jury had not made an error by omitting to provide for any alternative arrangement.


[8] In respect to the claim that there was significant new evidence:

All parties were aware of the possibility that the Protocol would not be changed, which was apparent from the verbal submissions made at the hearing held on 5th April and reflected in paragraph 62 of the Jury's decision.

From the verbal submissions made at the hearing it should have been apparent to all Parties, as it was to the Jury, that the Protocol might not be changed. Wording in paragraph 62 of the Jury's decision indicates that the Jury had considered that the Protocol might not be changed.

The fact that the Challenger Commission decided not to change the Protocol is not new evidence.

[9] The Jury is satisfied that the Request does not meet the requirements of RRS Rule 66, and therefore the hearing will not be re-opened.

A handwritten signature in black ink that reads "Bryan Willis". The signature is written in a cursive style and is positioned to the left of a vertical red line.

Bryan Willis

America's Cup Jury:
Graham McKenzie, Henry Menin, Henry Peter, David Tillett, Bryan Willis (Chairman)