

INTERNATIONAL COURT OF APPEAL (I.C.A.)

of the

FEDERATION INTERNATIONALE DE L'AUTOMOBILE

CASE

**Appeal brought by the Automobile Club d'Italia/Commissione Sportiva
Automobilistica Italiana (ACI/CSAI)**

on behalf of its competitors/licence-holders

**Draco Multiracing USA, R.C. Motorsport and Prema Powerteam Srl
against the decision taken by the Belgian National Court of Appeal**

on 25 July 2006

**Event run at Zolder (Belgium) on 30 April 2006
counting towards the World Series by Renault 2006**

Hearing of Tuesday 28 November 2006 in Paris

The FIA INTERNATIONAL COURT OF APPEAL, composed of Mr Vassilis KOUSSIS (Greece), elected President, Mr Reginald REDMOND (Ireland), Mr Laurent ANSELMINI (Monaco), and Mr José MACEDO e CUNHA (Portugal);

Meeting in Paris on Tuesday 28 November 2006, at the headquarters of the Fédération Internationale de l'Automobile, 8, place de la Concorde, 75008 Paris;

Ruling on the appeal brought by the Automobile Club d'Italia/Commissione Sportiva Automobilistica Italiana (ACI/CSAI) on behalf of its competitors/licence-holders Draco Multiracing USA, R.C. Motorsport and Prema Powerteam Srl against the decision handed down by the Belgian National Court of Appeal on 25 July 2006 – Event run at Zolder (Belgium) on 30 April 2006 counting towards the World Series by Renault 2006;

Having heard:

For the appellants, Draco Multiracing USA, assisted by Mr Roberto CAUSO, and R.C. Motorsport and Prema Powerteam Srl, assisted by Mr Francesco FAZZALARI, both Members of the Bar of Rome;

For the RACB, Mr Gérard MARTIN, Court Reporter, who spoke at the hearing of the Belgian International Court of Appeal on 25 July 2006, and Mr Michel JODOGNE, Director General of the RACB;

For the FIA, Mr Sébastien Bernard, Head of the Legal Department;

Having acknowledged that the adversarial procedure was in order, the rights of each of the parties having been duly examined, both in the proceedings which preceded the hearing and during the hearing itself, the parties having been duly heard and having provided all the detailed explanations requested from them during the hearing and having received answer, with the help of a simultaneous translation system which did not provoke the slightest criticism on the part of anybody;

WHEREAS it falls to the Court to recapitulate the procedure that was followed before the matter was brought before the International Court of Appeal;

WHEREAS the competitor Draco Multiracing USA appealed against two decisions taken by the Stewards concerning the qualifying for race N° 2 on 30 April 2006 according to the terms of which the protests of the competitor Draco Multiracing USA concerning decisions N° 27 and 28 of the Panel of Stewards were rejected;

WHEREAS concerning race N° 1, Eurointernational had appealed against two decisions taken by the Panel of Stewards, N° 4 and 5, both dated 29 April 2006;

WHEREAS the Belgian National Court of Appeal, thus entrusted with ruling on the two appeals indicated above, saw fit to combine the procedures by including them in one and the same decision and by cancelling the results of race N° 1;

WHEREAS while Eurointernational did not appeal to the International Court of Appeal concerning the decision of 25 July 2006, Draco Multiracing USA on the other hand did appeal to the International Court of Appeal, which thus finds itself entrusted with ruling on the decision handed down by the National Court of Appeal on 25 July 2006;

WHEREAS two other competitors who took part in race N° 1, namely R.C. Motorsport and Prema Powerteam Srl, who obtained significant results since they finished in third and second places respectively, appealed against the same decision, to which they had not been party any more than they had been to the Stewards' different decisions;

WHEREAS these appeals must be interpreted as constituting a third party opposition to the Belgian National Court of Appeal's decision to cancel the results, in order that these competitors' rights to the race classification and to the resulting points may be restored;

WHEREAS in that respect they maintain that this was the only possibility left to them, the decision of the National Court of Appeal being subject to appeal before the International Court of Appeal, and that their only possibility of contesting that decision was to bring the matter before the International Court of Appeal;

WHEREAS it is therefore up to the International Court of Appeal, having declared the three appeals admissible, to rule on their respective merits;

WHEREAS concerning the decision of the National Court of Appeal, it appears surprising to say the least that the Court did not hesitate to combine the two cases, on the pretext of an alleged connection between them, whereas in fact these were different decisions and different appeals with totally separate causes and concerning different races; for that reason alone, a decision of that nature could not be taken and was therefore already null and void;

WHEREAS the contested decision in no respect answered the appeal formulated by Draco Multiracing USA, concerning whom the decision was not even reasoned;

WHEREAS the decision is therefore rendered void on account of the principle of “*ultra petita*”;

WHEREAS the representative of the Belgian ASN, in support of the decision handed down, does not hesitate to claim that he himself spoke at the hearing of 25 July 2006 to seek the cancellation of the event and that he was partially heard concerning race N° 1, without the Court’s looking into the qualifying for race N° 2, which matter, however, had been brought before it;

WHEREAS the petition of Draco Multiracing USA was not only perfectly admissible but also founded in procedure and there was indeed a violation of the principle mentioned above, therefore also rendering the decision null and void;

WHEREAS concerning R.C. Motorsport and Prema Powerteam Srl, the decision to cancel the results of race N° 1 must itself be cancelled given that, if such was the intention of the Court, it should have postponed the case to a later hearing so that all the competitors could ensure their defence in order that the adversarial principle should be respected;

WHEREAS the decision of the Belgian National Court of Appeal was all the more surprising since the ASN’s Court Reporter had intervened, not “to initiate proceedings or to bring an appeal against a decision” as authorised by Article 30.7 of the Belgian national Sporting Regulations but, three months after the event, to seek its cancellation, whereas neither the Clerk of the Course, nor the Stewards, nor the competitors themselves had ever requested that;

WHEREAS in this case, after the cancellation of the above-mentioned decision, it falls to the International Court of Appeal to rule on the substance to confirm or invalidate the Stewards' decisions;

WHEREAS concerning Draco Multiracing USA, the International Court of Appeal has to concern itself only with the appeal concerning the Stewards' decision N° 28, the competitor having abandoned all recourse concerning decision N° 27 which is mentioned nowhere in the text of its statement of appeal, decision N° 28 concerning exclusively the qualifying for race N° 2;

WHEREAS the competitor Draco Multiracing USA has failed to provide evidence of a fault committed by the competitor Salignon who allegedly cut out the chicanes during qualifying, as no report from the Clerk of the Course or the Stewards mentions this, while Draco Multiracing USA does not deny having itself cut out at least one chicane; in these conditions, the Stewards' decision N° 28 must be confirmed;

WHEREAS before the International Court of Appeal, the appeal brought by Draco Multiracing USA demanding a time penalty of at least 10 seconds concerning race N° 2 itself appears inadmissible, since the competitor did not appeal against the classification of the race;

WHEREAS concerning the third party opposition appeals by R.C. Motorsport and Prema Powerteam Srl against the contested decision of the Belgian National Court of Appeal, currently before the International Court of Appeal which is competent to hear them, it is sufficient to note that these competitors were neither summoned nor called upon to assert their right of defence and, in the presence of a decision of cancellation which is detrimental to their interests, these appeals cannot but be declared admissible and justified on account of the adversarial principle which ought to have been respected;

ON THESE GROUNDS,

DECLARES the appeal brought by Draco Multiracing USA, as well as the third party opposition appeals of R.C. Motorsport and Prema Powerteam Srl, admissible and justified;

CANCELS the decision handed down by the Belgian National Court of Appeal on 25 July 2006 for the reasons set out in the grounds for the present decision;

Concerning Draco Multiracing USA, **CONFIRMS** decision N° 28 handed down by the Panel of Stewards concerning the qualifying for race N° 2 in the event run at Zolder (B) on 30 April 2006 counting towards the World Series by Renault 2006;

Concerning the appeals brought by R.C. Motorsport and Prema Powerteam Srl, **CONFIRMS** the classification of race N° 1 which took place on 29 April 2006;

LEAVES it to the appellant Draco Multiracing USA to pay the costs of the International Court of Appeal in accordance with Article 190 of the International Sporting Code and Article 24 of the Rules of the International Court of Appeal;

ORDERS the return of the appeal deposit paid to the Belgian National Court of Appeal by Draco Multiracing USA;

ORDERS the return of the appeal deposit paid to the International Court of Appeal by R.C. Motorsport and Prema Powerteam Srl respectively.

Made in Paris, 28 November 2006

The PRESIDENT