

INTERNATIONAL COURT OF APPEAL (I.C.A.)
of the
FEDERATION INTERNATIONALE DE L'AUTOMOBILE

**CASE
APPEAL**
**by the Royal Automobile Club of Great Britain - RAC Motor Sports
Association**
on behalf of its licence-holder West McLaren Mercedes
against decision N° 10 of the Stewards of the Meeting
dated 12 July 1998
(Event: 1998 British Grand Prix,
Silverstone, run on 12 July 1998)

Hearing of Monday 27 July 1998 in Paris

The FIA INTERNATIONAL COURT OF APPEAL, composed of Mr Vassilis KOUSSIS (Greece), elected President, Mr Hervé de LIEDEKERKE (Belgium), Mr Edgar JULIEN (France) and Mr J.W.G. van ROSMALEN (Netherlands).

Meeting in Paris on Monday 27 July 1998 at the headquarters of the Fédération Internationale de l'Automobile, 8 place de la Concorde, 75008 Paris,

Ruling on the appeal brought by the Royal Automobile Club of Great Britain RAC Motor Sports Association, on behalf of its licence-holder West McLaren Mercedes, against decision n°10 of the Stewards of the Meeting made on 12 July 1998 (1998 British Grand Prix, Silverstone, run on 12.07.98),

Having heard for the appellant the representatives of McLaren, namely Mr Murnane, Mr Whitmarsh and Mr Hallam, assisted by Mr David Pannick Q.C., Barrister at the London Bar, for the respondent Mr Jean Todt, Team Manager of Ferrari, Mr Ross Brown, Technical Manager of Ferrari, assisted by Mr Henry Peter, Solicitor, and Mr de Coninck, Secretary General of the FIA (Sport),

Having heard, for information, Mr Charlie Whiting, Race Director,

Having acknowledged that the procedure was in order and the appeal admissible, 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 appellant, the respondent and the witnesses 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 was recognised as satisfactory by the parties,

WHEREAS, prior to any discussion, it is necessary to go over the facts of the case as established by the relevant documents and the explanations provided by the parties,

WHEREAS in the 3rd lap of the event, which comprised 60 laps, at 15:15 according to the later report of the observers confirming a note from a Marshal, which was unsigned and which did not specify the lap in which the incident occurred, the Ferrari n°3 driven by Michael Schumacher overtook the Benetton n°6 driven by Alexander Wurz immediately after the cars passed a stationary yellow flag, Alexander Wurz being one lap behind at that point,

WHEREAS the note was transmitted to Race Control at 15:17, the Race Director only learning of the incident at 15:25 or 15:30 according to his statement at the hearing, upon which he immediately telephoned the Stewards' room to inform them of the incident,

WHEREAS the Race Director, considering that there was insufficient evidence to justify taking immediate action, asked the Steward Roger Peart, who had come to collect the note, not to take any action before the end of the race in order to be able to examine the video evidence and a written report by the observers,

WHEREAS without taking this request into account, the Stewards gave their decision n°8 in the 54th lap of the race at 15:39, imposing a 10-second time penalty on the driver of car n°3, in a typed text with the hand-written addition of "cf. Article 57 (e)", without asking Race Control to inform the teams via the timing monitors,

WHEREAS it was not until 15:46:30, i.e. during the 58th lap (and not the 48th as erroneously indicated), that Ferrari was informed in writing, in accordance with Article 57 (a) of the Formula One Sporting Regulations, of the time penalty pronounced by the Stewards of the Meeting, a notification which ought also to have been transmitted via the monitors,

WHEREAS at that point, with only two laps to go before the end of the race, car n°3 stopped, having crossed the finish line at its pit, situated on the far side of the line, to undergo the 10-second penalty despite the fact that the note referring to "Article 57 (e)" did not imply a stop and go, but merely that the penalty should consist in adding 10 seconds to the time taken by the driver when the incident occurs within the final 12 laps of the race, which was not the case, since the incident occurred during the 43rd lap out of 60,

WHEREAS having crossed the finish line in the pit lane, which is not prohibited by Articles 163 and 14 of the Formula One Sporting Regulations, the latter specifying on the contrary that the finish line "is a single line which crosses both the track and the pit lane", the driver of the Ferrari finishing in first place had a lead of 22 seconds over the McLaren (Mika Hakkinen), but from which 10 seconds are deducted for the penalty,

WHEREAS the competitor McLaren contested the classification published at 17:25 and its protest was rejected at 18:55 by decision n°10 of the Stewards of the Meeting, cancelling their previous decision n°8, owing to the fact that the penalty was not applied within the period of 25 minutes following the incident, in accordance with Article 57 of the Sporting Regulations (it was not notified until 15:46, i.e. 31 minutes after the incident), the decision stating that: "under the circumstances the time penalty imposed cannot apply and is therefore rescinded ... no alternative penalty is imposed on the driver of car n°3",

WHEREAS McLaren brought an appeal against this decision before the International Court of Appeal, Ferrari having asked to be heard also, which is permitted by the final paragraph of Article 22 of the FIA Statutes when a competitor could be directly and significantly affected by the possible consequences of the decision to be taken,

WHEREAS in its submission McLaren requested that the classification of the British Grand Prix run on 12 July be amended to the effect that Mika Hakkinen driving the West McLaren Mercedes should be declared the winner and Michael Schumacher either excluded for having failed to carry out the penalty within 3 laps, in accordance with Article 57 (d), or relegated to second place,

WHEREAS Ferrari protested against this line of argument, pointing out that having been notified only at 15:46 of a penalty concerning which it did not know in which lap the incident had occurred, it had no other option but to stop the car for a stop and go in the final 3 laps, which it duly did, claiming moreover that it had merely complied, with commendable scrupulousness, with the provisions of the Sporting Regulations, of which Article 57 (e), which had admittedly been mentioned wrongly in the penalty, could authorise it to finish the race without a stop and go,

WHEREAS at the hearing, McLaren claimed that if the decision had been notified before 15:40, Michael Schumacher would not have won the race since, according to McLaren, the stop and go would have cost the Ferrari 29 seconds and so Michael Schumacher, who was only 22 seconds ahead of the McLaren, would have been beaten by Mika Hakkinen by 7 seconds, maintaining that a competitor should not be allowed to benefit from an error committed by the Stewards,

WHEREAS Ferrari retorted that even if the Stewards had notified their decision earlier and the stop and go had been carried out immediately after the decision, Mika Hakkinen could not have won since Michael Schumacher would then have used the track itself at the finish and would not have lost the ten seconds taken slowing down in the pit lane before the finish line,

WHEREAS in addition the McLaren had suffered damage, which explained why Mika Hakkinen had slowed, a fact confirmed by the lap times, the Ferrari being faster and crossing the line with a lead of 22 seconds,

WHEREAS contrary to McLaren's request, the International Court of Appeal could not rerun the race itself on the grounds of prognostications which must be rejected given the element of chance inherent to any sporting event,

WHEREAS the Court must examine the problem submitted to its jurisdiction,

WHEREAS first of all it must be borne in mind that the crux of the matter was the time at which the Stewards' decision was notified, and that at 15:46 more than 25 minutes had passed since the incident and, therefore, in accordance with Article 57 of the Sporting Regulations, the penalty was unenforceable,

WHEREAS the arguments that had been put forward were merely suppositions which were neither verified nor verifiable,

WHEREAS it was not justifiable that Michael Schumacher should have been excluded from the race for having failed to observe the stop and go within 3 laps, given that the decision which, contrary to Article 57 (b), had not been transmitted by the monitors was not communicated to him until 15:46 on the 58th lap and that, in any case, he stopped in the 60th lap without knowing - according to Ferrari - that this was the final lap,

WHEREAS, since decision n°8, a new fact had come into play at 15:46, i.e. after the expiry of the 25-minute deadline, and the Stewards of the Meeting could therefore revise their previous decision,

WHEREAS in these conditions decision n°10 of the Stewards of the Meeting should be confirmed, subject to the reservation stated below,

ON THESE GROUNDS,

CONCERNING THE FORM,

DECLARES the appeal brought by McLaren admissible, contrary to the argument put forward by Ferrari, and also declares Ferrari's intervention admissible,

CONCERNING THE SUBSTANCE,

CONFIRMS the contested decision n°10 of the Stewards of the Meeting in that it cancels the 10-second penalty imposed on Ferrari,

STATES that it is up to the competent sporting authority to draw the conclusions from the present decision with regard to the classification of the British Grand Prix which was run on 12 July 1998,

SENTENCES the appellant to pay all the costs including these of the first instance, contrary to decision n°10 with regard to the protest fees.

Made in Paris,
27 July 1998

The President