

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

of the

FEDERATION INTERNATIONALE DE L'AUTOMOBILE

CASE

**Appeal brought by the Motor Sports Association (MSA)
on behalf of its competitor Vodafone McLaren Mercedes,
against the decision (document 41) taken by the Panel of the Stewards of the
Meeting
dated 21 October 2007
on the occasion of the 2007 Grand Prix of Brazil,
run on 21 October 2007
and counting towards the 2007 FIA Formula One World Championship**

Hearing of Thursday 15 November 2007

The FIA INTERNATIONAL COURT OF APPEAL, composed of Mr Jan STOVICEK (Czech Republic), elected President, Mr John CASSIDY (United States), Mr Vassilis KOUSSIS (Greece) and Mr José MACEDO e CUNHA (Portugal),

Meeting exceptionally in London on Thursday 15 November 2007, on account of the strikes in the French capital, and at the request of several parties,

Ruling on the appeal brought by the Motor Sports Association (MSA) on behalf of its licence-holder Vodafone McLaren Mercedes, against the decision (document 41) taken by the Panel of Stewards of the Meeting on 21 October 2007 on the occasion of the 2007 Grand Prix of Brazil, run on 21 October 2007 and counting towards the 2007 FIA Formula One World Championship,

Having heard,

For the Motor Sports Association (MSA), Mr Robert Jones, Secretary General on behalf of Vodafone McLaren Mercedes and for Vodafone McLaren Mercedes, Messrs David Ryan, Martin Whitmarsh, Paddy Lowe and Tim Murnane, assisted by Mr Ian Mill QC, Mr Andrew Hunter QC, Mr Tom Cassels, Solicitor, Ms Sarah Inman, Solicitor, and Mr Jean-Pierre Harb,

For AT&T Williams, Mr Sam Michael, Technical Director, Mr Tim Newton, Race Team Manager, Mr John Healey, Head of Legal Affairs, and Ms Michelle Dymott, Assistant to Mr Healey,

For BMW Sauber F1 Team, Mr Beat Zehnder, Team Manager, and Mr Wilhelm Rampf, Technical Director, and Ms Monisha Kaltenborn-Narang, General Manager Legal Services, assisted by Mr Ian Meakin,

For Scuderia Ferrari, Mr Stefano Domenicali, Team Manager, Mr Luca Baldisserri, Head of Track Activities, Mr Luca Colajanni, Head of Motor Sport Press Office, and Mr Sathia Jagesteen, assisted by Mr Massimiliano Maestretti, Mr Nigel Tozzi QC, Mr Henry Peter, lawyer at Lugano, and Mr Stefano Perucchi,

For the FIA, Mr Pierre de Coninck, Secretary General (Sport), Mr Sébastien Bernard, Head of Legal Affairs, Mr Charlie Whiting, F1 Race Director, and Mr Jo Bauer, F1 Technical Delegate,

After having given consideration to the carefully prepared briefs submitted by the competitors listed above and the FIA,

Having acknowledged that the 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 was recognised as satisfactory by the parties,

WHEREAS on the occasion of the 2007 Grand Prix of Brazil, run on 21 October 2007 and counting towards the 2007 FIA Formula One World Championship, the Stewards of the Meeting met to consider a report from the FIA's Technical Delegate that the fuel on board the cars run by BMW Sauber F1 and AT&T Williams F1 was below the temperature permitted by Article 6.5.4 of the FIA 2007 Formula One Technical Regulations. Having investigated the matter and having heard those teams, the Panel of Stewards of the meeting took a decision (document 41), concerning BMW Sauber F1 and AT&T Williams, dated 21 October 2007, a decision based on the facts at their disposal and according to which there was "*sufficient doubt as to both the temperature of the fuel actually on board the car and the true ambient temperature as to render it inappropriate to impose a penalty*",

WHEREAS on 23 October 2007, McLaren lodged an appeal with the International Court of Appeal requesting that the International Court of Appeal nullify the Stewards' decision concerning the cars of BMW Sauber F1 Team and AT&T Williams,

WHEREAS according to Vodafone McLaren Mercedes, there ought to have been a sanction against the two teams concerned, which would have allowed it to obtain the possible relegation of their three drivers, finishing the event in 4th, 5th and 6th places respectively, so that Lewis Hamilton, driving for Vodafone McLaren Mercedes, would take the 4th place and thus be ahead of his rival in the World Championship, Kimi Raikkonen,

WHEREAS, in effect, the request by Vodafone McLaren Mercedes is that the Court annul a decision concerning parties other than itself and impose a new decision, including sanctions, on those parties,

WHEREAS Article 1 of the Rules of Procedure of the International Court of Appeal indicates that the International Court of Appeal may hear “*Appeals from decisions of the stewards of the meeting, lodged by at least one of the parties concerned*”,

WHEREAS the International Court of Appeal finds that the term “parties concerned” in the Rules of Procedure of the International Court of Appeal does not cover all parties whose interests may be affected by the Decision in question. Most Stewards’ decisions have some effect on competitors other than those to whom they are addressed and a right of direct appeal is not foreseen for all such competitors. In this case too the Stewards’ decision had some indirect effect on Vodafone McLaren Mercedes, but it was not affected directly by the decision addressed to BMW Sauber F1 and AT&T Williams,

WHEREAS the International Sporting Code has foreseen in a formal fashion that in cases such as these the only recourse would be that set out in Article 174 d of the International Sporting Code which foresees that “*Protests ... referring to the non-compliance of vehicles with the regulations and concerning the classification established at the end of the event shall ... be made within thirty minutes of the official publication of the results.*”,

WHEREAS it was therefore possible for Vodafone McLaren Mercedes to lodge a protest which would have required the Stewards to take a Decision addressed to them concerning the race classification. However, no such protest was lodged,

WHEREAS Vodafone McLaren Mercedes have pointed out that the Stewards noted McLaren’s intention to appeal and stated that their decision and the classification of the race was subject to an appeal by Vodafone McLaren Mercedes. This fact does not on its own confer upon Vodafone McLaren Mercedes a right of appeal, nor does it indicate that any such appeal, if lodged, would be admissible. While one may accept that Vodafone McLaren Mercedes thought that it was applying the correct procedure and that this appeared to be endorsed by the Stewards, this cannot alter the application of the Code or the Rules of Procedure,

WHEREAS Vodafone McLaren Mercedes have submitted that a clarification of the regulations in relation to fuel temperature is necessary and that they are not merely pursuing a personal interest but also they are interested in the application of provisions in a way which does not give rise to doubts such as those in this case,

WHEREAS the International Court of Appeal must reply upon the strict application of the rules in their current form and must apply the rules that are in force,

AS TO THE SUBSTANCE,

DECLARES the appeal lodged by Vodafone McLaren Mercedes to be inadmissible on account of the lack of direct interest in the decision under appeal,

DECLARES that the only course that could have led to a modification of the race classification would have been to lodge a protest against the classification at the latest thirty minutes after the posting of that classification,

LEAVES it to the appellant to pay the costs, in accordance with Article 190 of the International Sporting Code and Article 24 of the Rules of the International Court of Appeal.

Paris, 16 November 2007

PRESIDENT