

19th November 2012

PROTEST OF LUNA ROSSA CHALLENGE 2013

against

ORACLE RACING TEAM USA – GGYC – THE DEFENDER

1. Luna Rossa Challenge 2013, on behalf of the Circolo della Vela Sicilia, hereby protests against the Defender, Oracle Racing, GGYC, for the incident on November the 8th in the waters off Auckland, New Zealand described in the attached Memorandum. (**Schedule 1** – entitled: ***“Report about Matthew Manson who we consider a member of Oracle Racing team USA while taking images on the water of our AC72 Luna Rossa.”***)
2. **THE PROTOCOL.**

The Protocol of the 34th America's Cup reads:

37. RECONNAISSANCE

37.1. This Article applies throughout the world from the time this Protocol is published by posting on the official America's Cup website, www.americascup.com, until the completion of the last race of the Match.

37.2. The Competitors are prohibited from engaging in any of the following in an attempt to gain information about another Competitor:

(g) except when permitted to sail an AC45 yacht as part of an AC World Series regatta, without the prior consent of the affected Competitor, navigating a vessel within 200m of another Competitor's yacht for the purpose of observing it;”

3. ILLEGAL RECONNAISSANCE.

Luna Rossa Challenge submits that the actions by Oracle, as described in Schedule 1, infringe article 37.2(g) of the Protocol and thus incur in illegal reconnaissance of Luna Rossa AC72.

Luna Rossa further submits that none of the exceptions contemplated by the Protocol, (i.e. AC45 racing or prior consent) apply to this incident and that the actions by Oracle are premeditated and executed with full intent despite the request of Luna Rossa to immediately interrupt the illegal observation.

4. ENGAGEMENT AND RECEPTION OF THE OBSERVATIONS.

Luna Rossa has verified directly with Oracle Racing that:

- i) Matthew Manson is indeed engaged by the Defender;
- ii) Matthew Manson was indeed observing Luna Rossa AC72 for Oracle Racing on that date; and that
- iii) Oracle Racing has received the results of the observation.

as evidenced in **Schedule 2** entitled: ***“Correspondence with Oracle Racing”***.

5. DISCREPANCY WITH ORACLE RACING.

Luna Rossa has immediately condemned the incident and thereafter disclosed to Oracle the full report (Schedule 1).

Oracle has defended the legality of their actions (Schedule 2) while however concealing if the discrepancy with Luna Rossa concentrates on the facts, or is a matter of a different interpretation of the applicable rules, leaving Luna Rossa with no other option but to defend their rights and protest against this premeditated and apparent breach of the Protocol by the Defender.

6. CONCLUSIONS OF LUNA ROSSA.

Oracle Racing USA, GGYC, the Defender has breached Protocol article 37.2(g) during the incident of November 8th, 2012, in the waters of Auckland, New Zealand, while observing Luna Rossa Challenge AC72 closer than 200 metres.

7. REQUEST TO THE JURY BY LUNA ROSSA.

Luna Rossa respectfully requests to the Jury, after the due procedure, to rule that:

- a) Oracle Racing USA, GGYC, the Defender, has breached Protocol article 37.2(g),
- b) Oracle Racing USA, GGYC, the Defender, is imposed a penalty for the premeditated breach of Protocol Article 37.2(g).
- c) Oracle Racing USA, GGYC, the Defender, is further condemned to pay for the costs of these proceedings before the Jury.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Luis Sáenz Mariscal', written in a cursive style.

Luis Sáenz Mariscal

General Counsel
Luna Rossa Challenge 2013.

Schedule 1

**Report about Matthew Manson
who we consider a member of
Oracle Racing team USA
while taking images on the water
of our AC72 Luna Rossa.**

Report about Matthew Mason who we consider a member of the Oracle Racing team USA while taking images on the water of our AC72 Luna Rossa.

My name is Jean-Antoine Bonnaveau and I am part of the Luna Rossa Challenge 2013 in the performance analysis department.

I took the first image named “IMG_2510”, which shows Matthew Mason (whom I personally know, and believed works for Oracle Racing) taking images of Luna Rossa 72 AC Catamaran in the waters of Auckland, New Zealand on the 8th day of November 2012.



IMG_2510

I also took the second image named "IMG_2514" just a few seconds later in order to allow us to properly identify in the picture the photographer who we believe is Matthew Mason from Oracle Racing.



IMG_2514

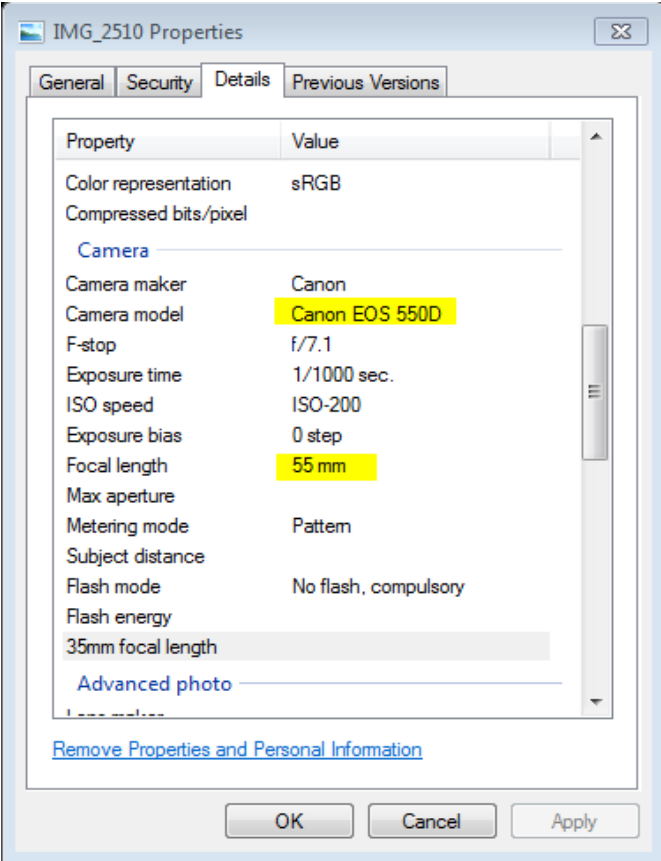
Both images were taken on request of the skipper of Luna Rossa, Max Sirena and do not show the moment that Matthew Mason was closer to our AC72 Luna Rossa. This is due to the delay of my reaction time. As matter of fact, the "situation" had begun when the Oracle Racing Protector boat was much closer to our AC72 than what appears on the image named "IMG_2510".

The Latitude and longitude were:

36°49'2" S - 174°49'43" E

Time : 8/11/2012 10:09 am (both camera & GPS time)

Image property embedded in the JPEG file meta data



Canon 550D sensor characteristics:

IMAGE SENSOR	
Type	22.3 x 14.9mm CMOS
Effective Pixels	Approx. 18.0 megapixels
Total Pixels	Approx. 18.7 megapixels
Aspect Ratio	3:2
Low-Pass Filter	Built-in/Fixed with Self Cleaning Sensor Unit
Sensor Cleaning	EOS integrated cleaning system
Colour Filter Type	Primary Colour

Process of measurement of the distance between the photographer and Luna Rossa AC72:



- Knowing the sensor vertical size which is 14.9 mm
- Knowing the vertical width of red Prada Stripe located on the aft part of the port hull the which is 500mm
- Knowing the focal length which is 55mm
- Using the proportion between the vertical edge of the image and the height of the red Prada Stripe located on the aft part of the port hull on the camera sensor this height is 0.26mm.

We can calculate the distance between my camera lens on the performance boat and the stern of Luna Rossa as follows:

("width of the red Prada" X "focal length") / "sensor width" = Distance between the camera and Luna Rossa.

$$(0.5m \times 0.055m) / 0.00026m = 105\text{metres}$$

Therefore, Matthew Mason while taking pictures of Luna Rossa AC72 on board the Protector was in between my camera and Luna Rossa as shown on the image, at less than 105m from Luna Rossa .

I estimate further to the above the distance between Matthew Mason and I around 15 to 20m so, Matthew Mason was at that instant as close as 90m from Luna Rossa.

I did talk to Matthew Mason telling him that it was against the rules to take such photographs as close as he was, he answered to me: "I have the right to do it, according to the protocol, read the protocol".

Note: the Protector was not in motion during the sequence of imaging, the engine appeared to be in the neutral position (propeller not turning), the boat was not on anchor and had been positionned intentionnally on the course of the Luna Rossa AC72 a short instant just before.

A handwritten signature in blue ink, appearing to be 'A. Bonnavreau', with a long horizontal stroke extending to the right.

Antoine Bonnavreau
Luna Rossa Challenge,
Auckland November 9, 2012

Schedule 2

Correspondence with Oracle Racing.

De: Luna Rossa <luis.saenz@lunarossachallenge.com>
Asunto: Re: Reconnaissance
Fecha: 16 de noviembre de 2012 11:06:45 GMT+01:00
Para: Richard Slater <rslater@oracleteamusa.com>

1 archivo adjunto, 6 KB

Thank you for your prompt reply Richard, but I am not sure I follow your line of thought,

Are you saying that:

- a) The facts of the report are wrong?, or
- b) Those facts, in your opinion, do not constitute illegal reconnaissance?

Regards

Luis

Luis Saenz Mariscal
General Counsel

LUNA ROSSA

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El 16/11/2012, a las 06:00, Richard Slater escribió:

Hi Luis,

I can confirm that Matthew Mason is engaged by ORACLE TEAM USA and he observed the performance of your yacht on the 8th November.

I have reviewed the incident with Matthew and again with him in light of your report and remain satisfied that ORACLE TEAM USA complied with Protocol 37.2(g).

Regards

Richard

Richard Slater | Rules Adviser
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On 16/11/2012, at 05:16, Luis Saenz <luis.saenz@lunarossachallenge.com> wrote:

Dear Richard,

Luna Rossa is considering filing a protest against Oracle for a breach of Protocol 37.2 (g) within the deadline of November 22nd.

We however are not certain that Matthew Manson is a member of Oracle or if he was directly or indirectly working for Oracle while observing our AC72 in Auckland.

Since you have not replied to my previous e-mail, I therefore enclose herewith the full report, begging you to confirm or deny i) if Matthew Manson is indeed engaged by Oracle and to confirm or deny ii) if Oracle Racing has received any information from him regarding to his observations during that day in Auckland.

Obviously, I do not desire to protest Oracle Racing without having confirmation of such engagement or reception of the information.

Awaiting for your news,

Best regards

Luis

Luis Saenz Mariscal

General Counsel

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Inicio del mensaje reenviado:

De: <luissaenz@lunarossachallenge.com>
Asunto: Illegal Reconnaissance
Fecha: 7 de noviembre de 2012 22:22:06 GMT+01:00
Para: Richard Slater <rslater@bmworacleracing.com>
Cc: Massimiliano Sirena <max.sirena@lunarossachallenge.com>

Dear Richard,

I just got a call from our AC72 in which the skipper informs me that an Oracle Chase boat was taking images at a distance of less than a length without our authorisation.

I am expecting a full report but put you on notice. If the above is confirmed I will certainly consider a protest.

Please advise if this chase boat does not belong to your team.

Best regards

Luis

Luis Saenz Mariscal

<20121109 Report Matthew Mason.pdf><PastedGraphic-1.tiff>

<pastedGraphic.pdf>