

UIM Appeal Board Decision

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C.D. Strang – U.S.A.

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LEGAL CONSULTANT

K. Papachristopoulos

Germany/Greece

Decision

Concerning the Appeal of Mr. Nigel Hook

Protestor -

against

the Race Jury Decision dated 01st July 2007 which was taken at Travemunde and which upheld the disqualification of boat no. 97 Lucas Oil - Outerlimits, Driver Mr. Nigel Hook

On the basis of the documents, the UIM Appeal Boards telephone conferences from which were attended by the body:

Kimon Papachristopoulos, Chairman

Erwin Lang, Member

Peter Fencel, Member

The Appellant

Nigel Hook

Witness

Jean-Marie van Lancker

The UIM Appeal Board decided:

The appeal is upheld.

The disqualification of boat no. 97, driver Nigel Hook is revoked.

The appeal and protest fee will be reimbursed to the Appellant

Grounds

I.

On the Sunday race of the U.I.M. P1 Grand Prix of the Sea in Travemunde which took place from 29th June to 01st July 2007 the officer of the day disqualified the Appellant from that race because his boat no 97 "Lucas Oil – Outer Limits had entered into a restricted swimming area.

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Number “12. o.” of the race instructions prescribes that

“A swimming area is in place along the beach front area, to both the east and west of the mouth of the Trave river, marked by white buoys positioned approximately 150m from the beach.

It is absolutely forbidden for any boat to pass between these buoys and will lead to instant disqualification.”

At the drivers briefing the OOD pointed out this paragraph of the race instructions but without further explanation and especially without further description of the buoys.

During the Sunday race the Appellants boat had to face technical problems (one dead engine) and went off plane while approaching the mouth of the Trave River. In order to keep clear from the race course the Appellant headed to the right. In doing so he passed one buoy of the swimming area nearby but from the wrong side. After the restart of the engine, he headed again towards the race course and then again accelerated to racing speed. The relevant buoy was of white colour but in addition it was yellow banded and it showed a white flag on top.

According to Appendix I, Nr. A.17 of the German “Seeschiffahrtsstraßen Ordnung” swimming areas which are restricted for motorised vessels are indicated by such white yellow banded buoys. In cases where a gateway for motorised vessels into the swimming area is foreseen this gateway is indicated by white flags on top of the white yellow banded buoy. The Seeschiffahrtsstraßen Ordnung constitutes national law and such buoys are not foreseen in the International Regulations for Preventing Collisions at Sea.

II.

The Appellant admits that he had entered the area in between the shore and the relevant buoy. He has the opinion that the disqualification was inappropriate due to the fact that he entered into the swimming area only for safety reasons in order to keep clear from the race course and at very slow speed. Furthermore he could not identify the buoy as mark of the swimming area as the race instructions described these buoys as single-coloured white buoys whereas the relevant buoy was yellow banded and in addition showed a white flag that was not mentioned in the race instructions.

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In addition the relevant buoy was in a distance of 225m or more from the shore and not 150m as indicated in the racing instructions says the Appellant.

The Appeal Board heard Mr Jean-Marie van Lancker, who was the Officer of the Day, as witness. Mr. van Lancker confirmed that though he pointed out the existence of the swimming area during the drivers meeting no further information but the information contained in the racing instructions about the colour and the position of the buoys was given to the drivers.

III.

The Appeal was to be upheld.

Although the Appellant positively had entered into the swimming area he could not be disqualified as the swimming area was not described sufficiently in the racing instructions.

According to these instructions it would lead to disqualification to enter into a swimming area which was marked by single colour white buoys. The white and yellow banded buoys with the whit flag on top were not mentioned. Therefore it could not be expected from the driver to understand that such a swimming area buoy would be subject to disqualification according to the provisions of the racing instructions.

(Signatures of the Appeal Board Members)

Mr. Erwin Lang

Mr. Peter FencI