



GOLDEN GATE YACHT CLUB
#1 Yacht Road, San Francisco, California USA 94123

San Diego, Thursday 20 November 2008

Dear Media Colleagues,

"GGYC Cup Newslines" is our new regular report to the media and others interested in BMW ORACLE Racing's activities on the water, in the courtroom, and elsewhere. We'll cover interesting developments in the sailing community, and among sailing fans and sponsors. We hope you find it informative and well-written. As always, you can see the latest photos from Gilles Martin-Raget on our team photo archive at www.bmor-photo.com.

It's been a busy couple of days so we have a lot to cover. Let's get to it:

An Interesting Perspective

"Mr. America's Cup" himself, Dennis Conner, recently gave an interview to AP in which he said, among other things:

- BOR 90 "makes my cat[amaran] look like a Volkswagen . This thing is like bigger, faster, better, and they've done a great job in bringing all the technology together in this boat."
- "The whole sailing world will benefit by having this out on the race course in a lot of different ways."
- "I applaud Larry Ellison for building this boat. I'd like to see it race and I'd like to see Larry win because Alinghi is trying to shanghai the event."

No Strings Attached?

On Tuesday of last week (Nov. 11), Alinghi hosted a meeting of the Challengers, and despite Brad Butterworth [telling the media](#) that we could attend "no strings . attached," in fact, he later again extended the invitation but with a string attached - we could attend if we drop our lawsuit which is designed to make sure Alinghi has fair and competitive rules for AC33.

But without a commitment from Alinghi to change the protocol in return for our commitment to drop the suit, this was a non-starter, as Alinghi (and any fair-minded observer) knew. As a result of being "locked out," we issued the following [statement](#). The key take away (as it has been for over a year) is this: "We repeatedly have offered to drop our lawsuit on one simple condition - that Alinghi adopt fair and competitive rules."

Mascalzone Latino went to Geneva for the Challengers' meeting but refused to sign a Non-Disclosure Agreement (NDA) that Alinghi insisted all participants sign. No NDA, no admission! In response to their being locked out, they issued their own [statement](#). Other serious Cup contenders who were conspicuously absent: K-Challenge and Luna Rossa. And Victory Challenge, which attended the meeting, did not sign the Oct. 31 Challenger's "letter" asking us to drop the suit.

The meeting resulted in some welcome changes to the Protocol, but more changes are required, as we expressed in a [statement](#) on Wednesday. "[A] major sticking point remains the arbitration panel. In addition, other fundamental fairness issues remain to be addressed, including the fact that the Defender can change any of the rules at any time and can impose any new rule or restriction on the competitors."

Court Watch

On Thursday, Société Nautique de Genève filed its [reply brief](#) in the New York State Court of Appeals, with a [companion brief](#) filed by CNEV and an [amicus brief](#) from the City of Valencia. We were not surprised at the misstatements of fact in the briefs. We were surprised at SNG's and CNEV's differing lists of possible participants in AC33 and astonished to learn from CNEV's brief that the Mercury Bay Yacht Club "won and defended the Cup."

Since others are not following the case as closely as we are, we issued a [statement](#) that states our purpose ("We are fighting an attempt by SNG to circumvent the rules of the America's Cup by installing a sham yacht club as Challenger of Record in order to create an unfair protocol that gives it unprecedented and lopsided control of the contest"), corrects the record and underscores "just how unfair and anti-competitive Alinghi's AC33 rules are."

What's at Stake

In an [interview](#) with Sail-World on Friday, Tom Ehman highlighted precisely what's at stake if the flawed proposed Protocol becomes the governing document of AC 33. Key quote: "Alinghi and their Challenger of Record can

still amend any of these Rules at any time and still impose new Rules. Any serious challenger would not - should not - be comfortable with that."

Tom noted that we had sent a letter to the Spanish team that outlined a [10-point plan](#) for fixing the Protocol. Full text of that plan:

10-POINT PLAN FOR A FAIR AND COMPETITIVE AMERICA'S CUP 33

The following is a 10-point plan that articulates simple changes to the proposed Protocol for America's Cup 33 that would address the concerns of many Challengers who want to ensure that the rules of AC33 are fair. With the exception of #10, the plan is based on the points we negotiated with the Challengers in December last year, and reflect further concessions since offered. Agreement to these 10 points by the Challenger community could return AC33 to the water as early as 2010.

1. Once the changes to the Applicable Rules are completed, any further changes to Applicable Rules governing AC33 shall be mutually agreed between Defender and the Challenger of Record (COR) (subject to point #2).
2. All Challenger of Record decisions, including agreeing to the ACC Rules, Event and Competition Regulations, shall be made by majority vote of the Challengers in a Challenger Commission, one vote per team, including the COR who also has one vote, except that material amendments to the Protocol, Event Regulations or Competition Regulations, once agreed and issued, can be made only by unanimous vote of Competitors.
3. The current Arbitration Panel shall be dissolved and a new Arbitration Panel shall be appointed comprised of five members; SNG and the Challenger Commission shall each appoint two members, and the other four shall select the fifth member.
4. The Defender can race in the Challenger Round Robins, Challenger Sail-Off and Challenger Secondary Series. The Defender cannot sail in the Challenger Semi Finals and Final. Larry Ellison's letter of 17 October 2008 to Ernesto Bertarelli offered several options in this regard, which BOR stands by.
5. The "Fair Competition" clause (2.3 of the Protocol) shall be expanded to include the Officials, Sailing Jury and Arbitration Panel.
6. The Defender and Challenger of Record shall jointly appoint a Regatta Director who shall be responsible for ensuring fair races are conducted in accordance with the terms of the Protocol. The Regatta Director shall have

the same powers as for the last America's Cup (he or she appoints/manages race committee, appoints measurement committee, umpires, and other officials as needed, prepares and publishes Notice of Race and Sailing Instructions).

7. Entries from AC32 challengers shall be accepted and not thereafter disqualified provided continued compliance with the rules, and then only by the Arbitration Panel.

8. AC33 shall be held in Valencia with AC32 teams retaining their bases if they desire. In addition, the format and Schedule to be published by ACM ahead of time and not to be altered without consent of affected Competitors.

9. Each Challenger and the Defender may be limited to building only one new boat. As a result of this change, and as consideration for allowing the Defender into the Challenger selection series, there can be no Defender selection series.

10. There shall be no restrictions on Competitors' sponsors or any control by the Defender or ACM over Competitors' sponsors beyond the traditional restrictions (e.g., no tobacco sponsors). Moreover, ACM shall not ambush existing team sponsors, and if ACM secures an Event sponsor that conflicts with a major sponsor of a Competitor, that Competitor shall be under no obligation to display ACM sponsor logos on its yacht, base or team gear or otherwise promote or associate with such Event sponsor.

That's it for our first "GGYC Cup Newsline." We hope get these out to you every couple weeks or so, or as developments otherwise warrant. As always, your comments and suggestions are welcome.

Thanks,

Jane

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