

Force India Formula 1 Team Limited v. 1Malaysia Racing Team SDN BHD & Ors

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The High Court in London yesterday handed down its judgment in the disputes which have arisen between Formula 1 racing teams, Force India Formula One Team Limited ('Force India'), 1Malaysia Racing Team SDN BHD and its UK subsidiary 1Malaysia Racing Team (UK) Limited (now racing as Caterham F1 Team) its Chief Technical Officer, Michael Gascoyne and the independent aerodynamic engineering and wind tunnel facility providers, Aerolab Srl and its sister company Fondmetal Technologies Srl ('Aerolab/FondTech').

The dispute began when Aerolab launched a claim against Force India to recover unpaid fees for the provision of aerodynamic services. In return, Force India brought a claim against Aerolab and the other defendants for misuse of confidential information relating to the design of a wind tunnel model as well as claims for infringement of copyright, Community design right and UK design right.

Although it was accepted by Aerolab/FondTech that certain of Aerolab's employees had copied some computer files containing Force India's designs, Force India contended that there had been 'systematic copying' of the entire aerodynamic system for its 2009 car, the value of which was put at £15M (although this was reduced to £13M during the trial). Force India also maintained that Caterham F1 Team and Mr Gascoyne were jointly liable on the basis of a conspiracy to misuse Force India's proprietary rights which was entered into between Mr Gascoyne and the owner of Aerolab/Fondtech, M. Jean-Claude Migeot.

At trial, only the confidential information claim was pursued against all of the defendants but a limited claim for copyright infringement, introduced during the trial itself, was pursued against the UK entity of Caterham F1 Team.

In his judgment, the Honourable Mr Justice Arnold held that Aerolab's CAD designers had misused certain of Force India's confidential information as a means of taking a 'short cut' to produce a wind tunnel model which could begin to be used for testing as soon as possible. He further held that a small number of the relevant wind tunnel model components had found their way as full size components into the car which Caterham F1 Team (then racing under the name of Team Lotus) had raced at the beginning of the 2010 season. He also held that the Caterham F1 Team's UK subsidiary had infringed Force India's UK copyright when three of its employees brought their computers into the UK having uploaded certain CAD design drawings with which they had been provided by Aerolab in Italy. No damages were sought or awarded in this regard.

However, in arriving at his findings, Mr Justice Arnold expressed himself in the following terms:

"In my view Force India has come nowhere near establishing that [systematic copying of key parts of the Force India car, and in particular systematic copying of the aerodynamically significant parts] was the case."

The Judge held that neither Mr Gascoyne or Caterham F1 Team were liable for breach of confidence.

With regard to Aerolab/FondTech, the Judge ordered that they pay compensation to Force India in the sum of €25,000 whilst ordering Force India to pay Aerolab €846,230 in respect of the debt claim.

In a detailed judgment running to over 200 pages, the Judge took the opportunity to review and consider the relative positions of employees and independent contractors and in particular whether there should be difference in approach in considering what is permissible for each to use for the benefit of a third party which can be said to comprise general skill and experience as opposed to trade secrets.

The Judge also considered both from the authorities and as a matter of principle, the approach to awarding compensation for misuse of confidential information.

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