

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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GOLDEN GATE YACHT CLUB, :  
 :  
 : Plaintiff, :  
 : v. : Index No. 602446/07  
 : SOCIÉTÉ NAUTIQUE DE GENÈVE, : IAS Part 54  
 : Defendant, : Hon. Shirley Werner Kornreich  
 : v. :  
 : CLUB NÁUTICO ESPAÑOL DE VELA, : **AFFIDAVIT OF**  
 : : **ROLF VROLIJK**  
 : Intervenor-Defendant. :  
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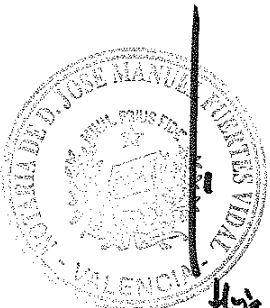
ROLF VROLIJK, being duly sworn, deposes and says:

1. I am a citizen of the Netherlands, a naval designer and member of Team Alinghi SA ("Alinghi"). I have been asked by Alinghi to describe the difference between a sloop rig and the wing rig on BMW Oracle Racing Inc.'s vessel USA.
2. Unless otherwise stated, I have personal knowledge of the facts stated herein.

**Deed Requirement**

3. The Deed of Gift requires challengers to advise in their notice of challenge the rig of their challenging yacht:

*"Accompanying the ten months' notice of challenge there must be sent the name of the owner and a certificate of the name, **rig** and following dimensions of the challenging vessel, namely, length on load water-line; beam at load water-line and extreme beam; and draught of water; which dimensions shall not be exceeded" (emphasis added).*



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4. The Golden Gate Yacht Club (GGYC) advised the defender Société Nautique de Genève ("SNG") in its notice of challenge dated 11th July 2007 that the rig of its "keel yacht" the USA would be "Single-masted, sloop-rigged".

5. The purpose and intent of the challenge notice is to give the defender notice of the vessel it will have to meet in the match.

**Wing**

6. GGYC's representative intends to use a wing on the USA in place of a conventional mast and sails. From press reports it has designed and built a wing. It has tested this wing in San Diego. From my own observations it has been sailing with this wing in Valencia, Spain in the past few days. GGYC's representative is preparing to use the wing in the match.

**"Sloop-Rigged"**

7. Sloop rig is a common term in yachting to define yacht rigged with a single mast, a main sail, and a single genoa or jib.

8. The Oxford Companion to Ships and the Sea<sup>1</sup>, Ed. Peter Kemp, Oxford University Press, Oxford England, 1988 defines a sloop as :

*"A sailing vessel with a single mast, fore and aft rigged, setting in Western Europe, a single headsail. Its development, in respect of dates, was parallel with that of a cutter. In the USA the term sloop also embraces vessels setting two headsails, which in other parts of the world would be termed cutters. The US cutter is the old fashioned vessel of that designation which set its jib, which was capable of being reefed, on a long bowsprit."*

9. The Annapolis Book of Seamanship, John Rousmaniere, Simon and Schuster, New York, 1989, defines a "sloop" as:



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*"A single masted boat that flies one jib at a time"*

10. American Dictionary of the English Language. Noel Webster, G. & C. Merriam & Co, Springfield, Mass, 1883, a dictionary in circulation at the time the Deed of Gift was written in 1887, defines a "sloop" as

*"A vessel with one mast, the mainsail of which is attached to a gaff above, to a boom below, and to the mast on its foremost edge. It also carries a jib."*

11. Merriam-Webster's Collegiate Dictionary (10th ed. 1998) defines "sloop" as:

*"a fore-and-aft rigged boat with one mast and a single jib."*

12. Oxford English Dictionary (2nd ed. 1989) defines "sloop" as:

*"[a] small, one-masted, fore-and-aft rigged vessel, differing from a cutter in having a jib-stay and standing bowsprit."*

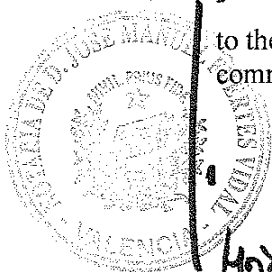
13. The International Sailing Federation (ISAF) in its published Equipment Rules of Sailing<sup>2</sup> defines a "sloop rig" as:

*a "single-masted rig with a mainsail and one staysail headsail."*

14. Thus, for a vessel to qualify as a sloop, it must have, among other items:

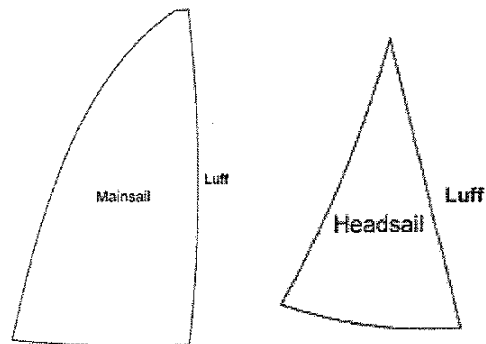
- a. at least one sail located in front of the mast – a headsail, foresail, or jib (collectively referred to as a "headsail" or "foresail");
- b. a mainsail located behind the mast.

<sup>2</sup> SNG in its Notice of Race has not adopted the ISAF Equipment Rules of Sailing to the Match, but the definition of sloop adopted by ISAF demonstrates what is commonly understood in the sport of sailing by the term "sloop rig"

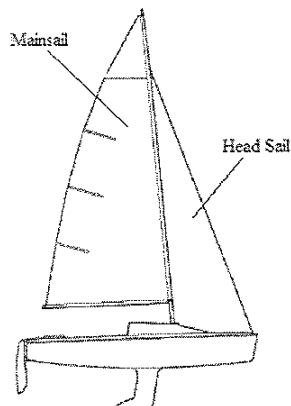


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15. The diagrams below, adapted from the International Sailing Federation's Equipment Rules of Sailing, depict individually the two sails borne by a sloop-rigged yacht:



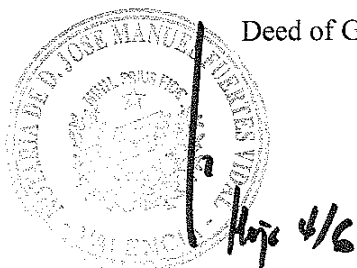
16. With its sails mounted on the yacht, the sloop-rig looks like this:



### Foresail

17. A vessel not carrying a foresail is not "sloop rigged".

18. I understand that USA may not sail with a foresail while sailing upwind. Should USA not sail with a foresail while racing at all times, whether sailing on the prescribed upwind legs in all three races, on the reaching legs in the second race, or when sailing on down wind legs in the first and third races of the course prescribed by the Deed of Gift, the USA would not be "sloop-rigged."



**Mainsail**

- 19. For the USA to qualify as a sloop it must have a mainsail.
- 20. The International Sailing Federation Equipment Rules of Sailing

defines a "mainsail" as:

*"a mainsail with the luff attached to a mainmast spar."*

- 21. The Webster's New World College Dictionary, 4th Ed. defines mainsail as:

*"in a fore-and-aft-rigged vessel, the large sail set from the after side of the mainmast"*

- 22. The Merriam-Webster Dictionary defines a mainsail as:

*"the principal sail on the mainmast"*

- 23. If the wing on the USA is not a "sail" as that term is commonly understood it cannot be a mainsail. Thus, this raises an issue of whether the wing on USA is a sail.

**Sail**

- 24. A sail is defined in the American Dictionary of the English Language, Noel Webster, G. & C. Merriam & Co, Springfield, Mass, 1883, in circulation at the time the Deed of Gift was signed in 1887 as:

*"A texture spread to the wind, to assist the progress of a vessel in the water; a sheet of canvas or some substitute as matting, extended by means of masts, yards, ropes, &etc., as a means of locomotion by the action of the wind upon it"*

- 25. The same work defines "texture" as :

*That which is woven; a fabric formed by weaving; a web*

- 26. The Merriam-Webster's Collegiate Dictionary (10th ed. 1998)

defines sail as :



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*“an extent of fabric (as canvas) by means of which wind is used to propel a ship through water.”*

27. Oxford English Dictionary (2d ed. 1989) defines “sail” as :

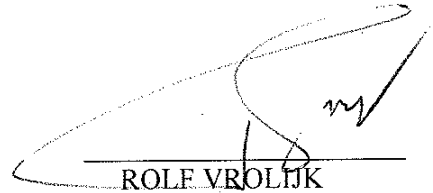
*“one of the shaped pieces of canvas or other strong textile material fastened to the masts, spars or stays of a vessel, so as to catch the wind and cause it to move through the water.”*

28. Thus, a “sail,” must be a texture, textile, or fabric of woven material to catch the wind to propel a vessel.

**Summary**

29. Should the wing GGYC’s representative has developed for the purposes of the match be deployed on the USA , the USA will not be “sloop-rigged” if it fails to sail with foresail at all times, and because it does not carry a mainsail, as the term “sail” is commonly defined. Should this occur GGYC will have provided SNG with a materially incorrect and inaccurate description of its challenging vessel.

Dated: January 21, 2010  
Valencia, Spain



ROLF VROLIJK

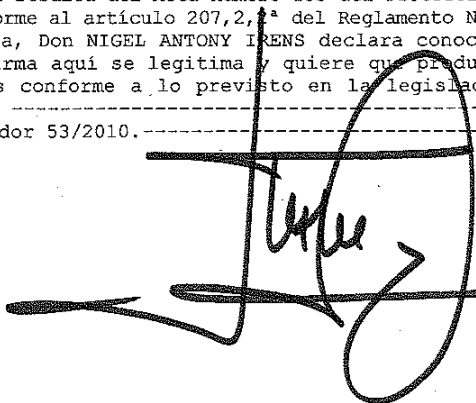
LEGITIMACIÓN: En Valencia, mi residencia a veintiuno de enero de dos mil diez. -----

Yo, JOSE-MANUEL FUERTES VIDAL, Notario del Ilustre Colegio de Valencia. -----

DOY FE de que la firma que precede, es la perteneciente a Don ROLF EDWARD VROLIJK, con Pasaporte holandés número NX9114LH1. Dicha firma ha sido puesta en mi presencia, y así resulta del Acta número 133 del Protocolo, autorizada por mí el día de hoy conforme al artículo 207,2,ª del Reglamento Notarial. -----

En dicha acta, Don NIGEL ANTONY IRENS declara conocer el contenido del documento, cuya firma aquí se legitima y quiere que produzca los efectos que le sean aplicables conforme a lo previsto en la legislación de los Estados Unidos de América. -----

Libro Indicador 53/2010. -----



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