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Will the Real Team Lotus Please Stand Up

By Jonathan Michaels

Throughout time, man has been fascinated with festivals of speed. There is just something in our DNA that compels us to see who can run harder and faster than ever before; and who will suffer the agony of defeat. For all the changes humanity has experienced, the quest for competition has remained constant, as if it is the one thing that keeps us tethered to our sense of being.

Days of old saw chariot racing as the highest level of sport, with Greeks and Romans cheering as man and horse raced through mud-pounded streets. Modern-day technology has enabled us to push the limits of physics further than ever imagined, but the nature of the game has remained the same. We all want to know who will push through pain and exhaustion, and take themselves to the brink of impossible, all for the love of speed.

Today, Formula 1 racing is the sport of kings, where gladiators climb into carbon fiber supercars capable of reaching 230 miles per hour and cornering with a lateral g-force of 5Gs — or five times a person's body weight. Make no mistake about it, Formula 1 is the world's most popular sport, with an unprecedented following.

Just how big is Formula 1? The Superbowl, with its 100 million viewers, is lauded as being the largest single viewing event; and that it is. But a Formula 1 season, which makes its way through 20 different countries, commands an annual viewership of 527 million people — or nearly 10 percent of the world population. With races held in front of the King of Bahrain and the people of Brazil, and nearly everywhere in between, Formula 1 has established itself as big money business.

Perhaps not surprisingly, Formula 1 teams pay remarkable sums to dance on this world stage. As an example, Ferrari routinely budgets \$450 million for a single Formula 1 season — a price that entitles it to enter a mere two cars and two drivers in the 20-race season. Sponsorship and naming rights can be nearly as extraordinary, with companies vying for just a sliver of Formula 1's world-wide recognition. As Bloomberg recently noted, energy drink maker Red Bull spent an astonishing \$675 million in Formula 1 over the past five years.

Given this backdrop, it is no surprise that when things go wrong in Formula 1, they go really wrong, with the potential for financial devastation and global humiliation. Group Lotus, the maker of Lotus road cars, recently experienced the sting of the big stage when they began a tussle over rights associated with the Lotus name — a dispute that brought forth decades of history.

Founded in the 1950s by automotive legend Colin Chapman, Lotus had an illustrious career



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AP PHOTO

Lotus Renault Formula One driver Vitaly Petrov of Russia controls his car on turn six during the qualifying session for the Australian Formula One Grand Prix in Melbourne, Australia, March 26.

in Formula 1 that is nearly as old as the sport itself. Dating back to 1958, Lotus has amassed seven Formula 1 constructors' titles and six drivers' championships, making it one of the most successful marquees in the sport.

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In an effort to shield itself from liability that could flow from racing accidents, when Lotus first entered Formula 1, it did so through a separate entity called "Team Lotus," leaving its road-going cars under "Group Lotus." Through the years, and while the company was controlled by founder Colin Chapman, this all appeared to work well, with the two groups generally having common ownership and common goals.

Yet in 1994, following the death of Chapman and the onslaught of a global recession, Lotus abandoned its Formula 1 racing efforts, allowing Team Lotus to fall into bankruptcy. The British Administrator (the equivalent of a Bankruptcy Trustee) then sold off Team Lotus' assets in a liquidation sale, and the Lotus moniker vanished from Formula 1 forever; or so we thought.

Enter the new millennium, and business mogul Tony Fernandes, the Malaysian entrepreneur who founded AirAsia and Tune Hotels. In 2010, Fernandes licensed the right to use the "Lotus" name in Formula 1 from car manufacturer Group Lotus, organizing a team under the name Lotus Racing. The union was short lived, however, as Fernandes and Group Lotus soon began feuding, culminating in Group Lotus cancelling the license agreement and revoking Fernandes' right to use the Lotus name.

Yet, Fernandes discovered another way to achieve his end: buy the Lotus Formula 1 trademark rights from the person who purchased the Team Lotus assets from the 1994 bankruptcy

estate, and change the name of team from Lotus Racing to "Team Lotus." The plan worked, and Fernandes entered the 2011 season with Team Lotus.

However, as this was occurring, Group Lotus began to grow concerned that Fernandes was attempting to launch a hostile takeover of the car company. Hence, Group Lotus responded in 2011 by launching its own Lotus Formula 1 team, resulting in two teams laying claim to the same name. Such a move is akin to two teams calling themselves the Los Angeles Dodgers, with both using the same logos and trade dress.

With mass confusion created by the dueling Lotus teams, it was not long before litigation ensued where both parties claimed that the other was infringing on their valuable Lotus trademark. The dispute was ultimately heard last month before Justice Peter Smith of the High Court of Justice in England and Wales, who ruled on Group Lotus' summary judgment.

In a rather bewildering opinion, Smith concluded that both parties were entitled to use their "Lotus" Formula 1 team name. Fernandes, Smith held, had properly licensed the "Team Lotus" trademark following the 1994 bankruptcy, entitling him to field a "Team Lotus" Formula 1 team; and Group Lotus was the owner of the "Lotus" trademark worldwide, entitling it to use "Lotus" to its liking.

To make matters more confusing, Smith also held that Group Lotus had the right to use the black and gold color scheme that has been historically associated with Team Lotus. As a result, Fernandes is racing "Team Lotus" with the car manufacturer's current color scheme of green and yellow, and car manufacturer Group Lotus is fielding a "Lotus" team with Team Lotus' traditional black and gold livery.

As both teams ready themselves for an appeal, one cannot help but wonder what the future will hold for these feuding camps. Will one of the teams capitulate under the mounting public pressure, or will we all wait, amid the confusion, for team "Lotus" to win the next Formula 1 race? Whatever the result, it will likely be an exciting turn to the highly-charged, emotional battle.