

NUS-214
Bowker

FEB -7 2005

Kristi L. Anderson, Esq.
Semmes, Bowen and Semmes
250 West Pratt St.
Baltimore, MD 21201

Re: Request for Confidential Treatment of Information for Materials
Submitted by Kia Motors America in Response to PE04-030.

Dear Ms. Anderson:

This is in response to your letter of June 15, 2004 to Ms. Jacqueline Glassman in which Kia Motors Corp. and Kia Motors America (Kia) requests confidential treatment for certain information contained in its response to the above matter. Your letter requests confidential treatment for internal Kia test reports and analyses, tests and analyses performed on Kia's behalf by Exponent Failure Analysis Associates and personal identifiers for Kia customers and test subjects. As you did not specify a period of time for which Kia seeks confidential treatment, I have construed your request as seeking confidential treatment for an indefinite period of time.

I have decided to grant your request.

Because the information described above was required to be submitted to the agency, I have reviewed Kia's claim for confidential treatment under the test announced in *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) and its progeny. Under that test, information is confidential under Exemption 4 of the Freedom of Information Act (FOIA) if its disclosure is likely to cause substantial competitive harm to the submitter, or to impair the government's ability to collect the information in the future.

Kia asserts that release of its internal test data, analyses and reports would provide competitors with valuable insight in the company's internal investigative processes, methodologies and techniques. Similarly, your letter contends that release of the information generated by Exponent Failure Analysis Associates as a result of a testing program performed at Kia's direction would also benefit competitors at Kia's expense.

I have examined the materials for which you seek confidential treatment. These consist of personally identifying consumer information in Tabs 1 and 2, test reports contained in Tabs 5 and 6 of your submission, three videotapes generated during testing, and portions of the data on 5 CD's relating to warranty data, claims data and photographs generated during investigation and testing.

Personally identifying information in Tabs 1, 2, and within the CDs, including the last six digits of Vehicle Identification Numbers (VINs) will be afforded confidential treatment under exemption 6 of the Freedom of Information Act (5 U.S.C. § 552(b)(6)) on the grounds that disclosure of this information would constitute an unwarranted invasion of privacy.

The remainder of the information at issue relates to testing, analyses and records generated during testing. I have determined that the materials provided by Kia would, if released, be likely to cause Kia to suffer substantial competitive harm.

This grant of confidential treatment will remain in effect indefinitely. However, it is subject to the various provisions of Part 512 that specify the circumstances under which otherwise confidential information can be disclosed. The information may be disclosed under 49 CFR § 512.22 based upon newly discovered or changed facts, and you must inform the agency of any changed circumstances that may affect the protection of the information (49 CFR § 512.10). If necessary, you will be notified prior to the release of any information under the procedures established by our regulations (49 CFR § 512.22(b)).

Sincerely,



Otto G. Matheke, III
Senior Attorney

NHTSA:NCC-110: Matheke:p11:02/03/05:NCC04-004254
NCC-113 :Subj/Chron
CC: NVS-214 : Bowker w/enclos.
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