



NOV - 3 2005

Stephan J. Speth, Director  
Vehicle Compliance & Safety Affairs  
DaimlerChrysler Corporation  
800 Chrysler Drive  
CIMS 482-00-91  
Auburn Hills, MI 48326-2757

Re: Request for Confidential Treatment for Certain Documents Submitted by  
DaimlerChrysler in Connection with EA 05-009

Dear Mr. Speth:

This responds to your June 9, 2005 letter requesting confidential treatment for documents DaimlerChrysler Corporation (DCC) provided in response to the above agency inquiry. DCC seeks confidential treatment for the documents included in Enclosures 8 and 9 of its response, which are contained on a single CD-ROM. You request confidential treatment for an indefinite time period.

DCC asserts that the documents referenced in Enclosures 8 and 9 contain confidential information and the disclosure such information would likely cause substantial competitive harm to DCC. It contends Enclosures 8 and 9 contain three document types.

First, DCC contends that the documents contain highly sensitive information relating its attempts to identify, evaluate, and remedy potential problems relating to headlamp operation. DCC maintains that disclosure of these documents would permit its competitors to duplicate its design, research, and remediation protocols without incurring the substantial expense associated with the development of their own protocols.

Second, DCC claims the documents contain highly sensitive information about its test results, analyses and test protocols used in the development of a vehicle headlamp system. According to DCC, the release of such documents would give a competitor the fruits of its tests, test protocols, and test developmental strategies without having to incur the substantial costs associated with the development of their own analyses, test results and protocols, thereby enabling them to bring to competitive products to market sooner and to improve their own development procedures at DCC's expense.

Last, DCC asserts that the documents reveal competitively valuable design and performance factor information related to vehicle headlamp systems that if disclosed would reveal significant factors in developing and marketing products, and investigating and remedying potential problems. It contends that disclosure would be a windfall to DCC's competitors because they could incorporate its performance standards without the time and expense expended by DCC. DCC also contends that these documents are exempt because they are "trade secrets" within the meaning of FOIA.

I have decided to grant your request.

Because the documents contained within Enclosures 8 and 9 were submitted to the agency in response to the above information request, we reviewed your claim for confidential treatment under the test announced in *National Parks & Conservation Ass'n v. Morton* (*National Parks*), 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.

DCC's documents include: results of a test series that was conducted on returned headlamp switches, which were conducted by DCC to determine the root cause of the alleged defect (Enclosure 8); a test sequence for determining the cause of the alleged defect (Enclosure 9); and a test plan for non-destructive and destructive testing (Enclosure 9). This information is not readily available to the public. Further, the agency believes that the disclosure of this detailed information would be likely to cause DCC to suffer substantial competitive harm. Accordingly, I am granting confidential treatment to the documents contained in Enclosures 8 and 9.

Subject to the conditions below, this grant of confidential treatment will remain in effect indefinitely.

This grant of confidential treatment is subject to certain conditions. 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,

/s/

Otto G. Matheke, III  
Senior Attorney

