

# DAIMLERCHRYSLER

DaimlerChrysler Corporation  
Stephan J. Speth  
Director  
Vehicle Compliance & Safety Affairs

February 22, 2006

Mr. Stephen P. Wood  
Acting Chief Counsel  
National Highway Traffic Safety Administration  
400 Seventh Street, S.W., Rm. 5219  
Washington, D.C. 20590

Re: Request for Confidential Treatment for Document Provided in Response to EA05-020  
NVS-212jfa: EA 05-020

Dear Mr. Wood:

DaimlerChrysler Corporation ("DCC") is submitting information to the NHTSA Office of Defects Investigation in response to the above-referenced Information Request ("IR"). Based on a careful review of the submission, DCC has determined that the attached documents consist of confidential data that should be accorded confidential treatment pursuant to 49 C.F.R. Part 512 and Exemption 4 of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b)(4). Therefore, DCC is submitting these documents, together with this request for confidential treatment and the certificate required by your regulations, to the Office of Chief Counsel.

DCC's submission also includes competitively-valuable information obtained from Robert Bosch Corporation ("Bosch"). Bosch, however, has not had the opportunity to review all of the information or prepare a request for confidential treatment. DCC, therefore, requests that you withhold the Bosch documents from public disclosure for a reasonable period in order to afford Bosch the opportunity to submit a confidentiality request and certificate. We expect such a request and certificate will be forthcoming soon.

The information required by your regulations for DCC's request for confidential treatment of its own information is set forth below.

**A. Description of the Information (49 C.F.R. § 512.8(a))**

The information for which DCC is seeking confidential treatment consists of two documents. The DCC document titled "2002 Grand Cherokee 4.0L Engine Fan - Review of Bosch Automotive Motor Systems Process Determination" analyzes Bosch documents reviewed by (but not given to) DCC. The Bosch documents related to potential engine fan or engine fan blade separation issues, and the DCC analysis summarizes and analyzes the documents.

The DCC document titled "WJ Fan Material Analysis" discusses materials and production issues relating to the engine fans. This document was prepared by DCC's Organic Materials

Engineering department and describes tests and analyses performed by or at the request of DCC to address potential problems in the component. The document includes competitively-sensitive information about materials standards and properties, analytic methods and approaches, and production methods. These analyses were *not* prepared for compliance or certification purposes.

**B. Confidentiality Standard (49 C.F.R. § 512.8(b))**

The confidentiality standard applicable to this request is set forth in 49 C.F.R. § 512.15(b) for information that a submitter is required to provide to the agency. Under this standard, information qualifies for confidential treatment if its disclosure would be likely to result in substantial harm to the competitive position of the submitter.

**C. Justification for Confidential Treatment (49 C.F.R. § 512.8(c))**

The disclosure of the information would be likely to cause substantial harm to DCC's competitive position.

The document titled "2002 Grand Cherokee 4.0L Engine Fan – Review of Bosch Automotive Motor Systems Process Documentation" provides a detailed account of how DCC investigates potential component failures and works with suppliers to identify and monitor production and component issues. The disclosure of such information could provide competitors with information about DCC's operational strengths and could assist them – especially, new entrants to the market – in setting up their own product evaluation and analytic processes. In addition, the information would assist competitors in evaluating the strengths and weaknesses of potential suppliers without having to undertake the time-consuming trial-and-error typically associated with selecting and evaluating suppliers, which could enable them to bring products to market at lower costs and more quickly than they otherwise would. The prevention of such competitive impacts from information disclosure is among the primary purposes of FOIA Exemption 4. *See, e.g., Public Citizen Health Research Grp. v. FDA*, 185 F.3d 898, 905 (D.C. Cir. 1999) (Exemption 4 was enacted to prevent disclosures that would "eliminate much of the time and effort that would otherwise be required to bring to market a product competitive with the [submitter's] product"); *Worthington Compressors, Inc. v. Costle*, 662 F.2d 45, 51 (D.C. Cir. 1981) ("Because competition in business turns on the relative costs and opportunities faced by members of the same industry, there is a potential windfall for competitors to whom valuable information is released under FOIA. If those competitors are charged only minimal FOIA retrieval costs for the information, rather than the considerable costs of private reproduction, they may be getting quite a bargain. Such bargains could easily have competitive consequences not contemplated as part of FOIA's principal aim of promoting openness in government.").

The document titled "WJ Fan Material Analysis" should be protected for similar reasons. This document reveals competitively-valuable information about the materials standard for the component at issue – information that would otherwise be unavailable or obtainable only at significant reverse engineering costs. *See Worthington Compressors*, 662 F.2d at 51. The document also reveals detailed information about DCC's methods for evaluating and monitoring production and component quality issues, and reveals the testing that DCC undertakes to identify and analyze potential quality issues. With regard to the latter, the document not only reveals the types of tests that DCC conducts but also explains each test's purpose and what it measures.

Thus, this document reveals competitively-valuable information about DCC's testing methods, as well as DCC's analytic approaches and capabilities. In addition, the document reveals information about potential failure modes related to the production process, which could assist competitors in developing their own processes for producing the component at issue and processing the materials or similar materials. This is competitively valuable information that, if disclosed, would assist competitors in bringing competitive products to market and in developing and improving their own productive and analytic processes.

**D. Class Determination (49 C.F.R. § 512.8(d))**

The DCC information for which confidential treatment is being sought does not come within a class determination.

**E. Duration For Which Confidential Treatment Is Sought (49 C.F.R. § 512.8(e))**

Because DCC anticipates that the information will retain its competitive value indefinitely, DCC requests that the information be accorded confidential treatment permanently.

**F. Contact Information (49 C.F.R. § 512.8(f))**

Please direct all inquiries and responses to the undersigned at the address, telephone number, and email address shown on the first page of this letter.

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As required by your regulations two confidential copies of the DCC information are being provided to your office. Pursuant to your regulations, DCC is providing a single copy of Bosch engineering drawings that also are included in this submission.

Because DCC is requesting confidential treatment for its documents in their entirety, DCC is not supplying a redacted copy for public disclosure.

If you receive a request for disclosure of the information for which confidential treatment is being sought before you have completed your review of our request, DCC respectfully requests notification of the request(s) and an opportunity to provide further justification for the confidential treatment of this information, if warranted.

Sincerely,

  
Stephen J. Speth

cc: Kathleen DeMeter

Attachment and Enclosures

# DAIMLERCHRYSLER

DaimlerChrysler Corporation  
Stephan J. Speth  
Director  
Vehicle Compliance & Safety Affairs

## **Certificate in Support of Request for Confidentiality**

I, Stephan J. Speth, pursuant to the provisions of 49 C.F.R. Part 512, state as follows:

- (1) I am DaimlerChrysler Corporation's Director, Vehicle Certification, Compliance and Safety Affairs and I am authorized by DaimlerChrysler Corporation to execute documents on behalf of DaimlerChrysler Corporation;
- (2) I certify that the information contained in the indicated documents is confidential and proprietary data and is being submitted with the claim that it is entitled to confidential treatment under 5 U.S.C. 552(b)(4);
- (3) I hereby request that the information contained in the indicated documents be protected on a permanent basis;
- (4) This certification is based on the information provided by the responsible DaimlerChrysler Corporation personnel who have authority in the normal course of business to release the information for which a claim of confidentiality has been made to ascertain whether such information has ever been released outside DaimlerChrysler Corporation;
- (5) Based upon that information, to the best of my knowledge, information and belief the information for which DaimlerChrysler Corporation has claimed confidential treatment has never been released or become available outside DaimlerChrysler Corporation;
- (6) I make no representations beyond those contained in this certificate and in particular, I make no representations as to whether this information may become available outside DaimlerChrysler Corporation because of unauthorized or inadvertent disclosure (except as stated in paragraph 5); and
- (7) I certify under penalty of perjury that the foregoing is true and correct.

Executed on this twenty-second day of February, 2006.

  
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Mr. Stephan J. Speth