

DAIMLERCHRYSLER

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COUNSEL

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

March 14, 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: Information Submitted in Response to Information Request in EA05-020

Dear Mr. Wood:

On February 22, 2006, DaimlerChrysler Corporation ("DaimlerChrysler") submitted its response to the above-referenced Information Request. In connection with that response, DaimlerChrysler submitted third-party information to your office from Robert Bosch Corporation.

Today, DaimlerChrysler is submitting a request for confidential treatment and a supporting certificate prepared by Bosch. This request covers all of the documents submitted by DCC on behalf of Bosch excluding a documented email labeled "Tool Usage History", for which Bosch has decided not to seek confidential treatment. Accordingly, DaimlerChrysler is submitting a copy of this document to the Office of Defects Investigation.

If you have any questions, please do not hesitate to contact me.

Sincerely,


Stephan J. Speth

Enclosure

**REQUEST FOR CONFIDENTIAL TREATMENT OF PROPRIETARY
ROBERT BOSCH CORPORATION INFORMATION SUBMITTED BY
DAIMLERCHRYSLER IN RESPONSE TO NHTSA EA05-020**

Robert Bosch Corporation ("Bosch") hereby seeks confidential treatment, pursuant to 49 C.F.R. Part 512 and Exemption 4 of the Freedom of Information Act ("FOIA Exemption 4"), 5 U.S.C. § 552(b)(4), for proprietary Bosch information being submitted by DaimlerChrysler Corporation in connection with NHTSA EA05-020. The documents for which Bosch seeks confidential treatment are described as follows: 2001 Annual Compliance (84 pages), 2002 Annual Compliance (95 pages), Bosch drawing for part number 52079528, Bosch drawing for part number 52079528AB, Bosch drawing for part number 52079528AD, Test Report for Survey Parts (2 pages), Survey Parts Test Report Supporting Documents (7 pages), WJ Fan Balance #1 (1 page), WJ Fan Balance #2 (1 page), PM Tool Summary (1 page) and PM Press Summary (1 page) (hereinafter identified as "Confidential Bosch Material"). Bosch is also aware that DCC submitted a Bosch email labeled "Tool Usage History" marked confidential. Bosch has decided not to seek confidential treatment for this document.

The information required by your regulations is set forth below. As also required by your regulations a certificate in the form set out in Appendix A to 49 C.F.R. Part 512 is attached.

§ 512.8(a) – Information for Which Confidential Treatment Is Requested

The Confidential Bosch Material consists of confidential and proprietary design, manufacturing and testing methods, and data utilized in the development and manufacture of engine cooling fans.

§ 512.8(b) – Applicable Confidentiality Standard

The applicable confidentiality standard is set forth at 49 C.F.R. § 512.15(b), which, under the FOIA Exemption 4 case law, applies to information that a submitter is required to provide to

a Federal agency. Under this standard, information is exempt from disclosure if its disclosure would cause substantial harm to the competitive position of the submitter.

§ 512.8(c)(2) – Description of Substantial Competitive Harm

The Confidential Bosch Material includes confidential and proprietary manufacturing data, test methods, and data utilized by Bosch in the development and manufacture of engine cooling fans. This is a highly competitive field, and the disclosure of this data would enable Bosch's competitors to obtain extremely valuable information and methodologies developed by Bosch over long periods and at great expense, and to do so without incurring the costs and undertaking the effort typically required for independent development of the information. For example, the 2001 and 2002 Annual Compliance reports and the other test reports detailed above provide extremely detailed information regarding Bosch's method of product verification, manufacturing processes and testing. The information contained in the reports details the results of decades of manufacturing and design efforts of countless engineers. If this information was made available to the public, Bosch's competitors would be able to assess Bosch's operational strengths and to develop and improve their own methodologies at Bosch's expense, thereby allowing them to bring competitive products to market in far less time and at far less expense than otherwise would be required. Such consequences have been recognized as competitively significant and have been deemed to constitute substantial competitive harm. *See, e.g., Public Citizen Health Research Grp. v. FDA*, 185 F.2d 898, 905 (D.C. Cir. 1999); *Worthington Compressors, Inc. v. Costle*, 662 F.2d 45, 51-52 (D.C. Cir. 1981).

Bosch's competitors would greatly benefit – at Bosch's expense – from the disclosure of this material. Although some of the design and material property information might be obtainable through reverse engineering, it is doubtful that such methods could reveal the level of

detail provided by the Confidential Bosch Material, and this information certainly could not be obtained through reverse engineering except through very substantial investments in time and effort. Thus, the disclosure of this information clearly would cause substantial harm to Bosch's competitive position. *See, e.g., Worthington Compressors*, 662 F.2d at 52.

In addition, the information could provide competitors of Bosch with valuable information to guide efforts to market their products in competition with Bosch. Accordingly, the disclosure of this information is likely to result in substantial harm to Bosch's competitive position.

§ 512.8(d) – Class Determinations

Three of the documents included in the Confidential Bosch Information are subject to a class determination. Specifically, the Bosch drawings for part numbers 52079528, 5207928AB and 5207928AD are subject to the class determination for blueprints and engineering drawings set forth in Appendix B of Part 512.

§ 512.8(e) – Time Period for Which Confidential Treatment is Sought

Bosch anticipates that this information will continue to have great competitive value for the foreseeable future. Accordingly, Bosch requests that the information be protected from disclosure permanently.

§ 512.8(f) – Name and Address of Contact

Please direct inquiries regarding this matter to Jerry L. Johnson, Assistant General Counsel (RBNA/LEG), Robert Bosch Corporation, 38000 Hill Tech Drive, Farmington Hills, MI 48331, at (248) 876-7381.

Certificate in Support of Request for Confidentiality

I, Dennis Bednar, pursuant to the provisions of 49 C.F.R. Part 512, state as follows:

- (1) I am the Vice President of Thermal Systems for Robert Bosch Corporation and I am authorized by Robert Bosch Corporation to execute this Certificate on its behalf.
- (2) I certify that the information contained in the documents described in the accompanying request for confidential treatment and defined as Confidential Bosch Material are confidential and proprietary data and are being submitted with the claim that it is entitled to confidential treatment under 5 U.S.C. § 552(b)(4).
- (3) I 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 Robert Bosch 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 Robert Bosch Corporation.
- (5) Based upon that information, to the best of my knowledge, information and belief, the documents for which Robert Bosch Corporation requests confidential treatment have never been released or become available outside Robert Bosch Corporation, except for disclosures to DaimlerChrysler Corporation with the understanding that such information must be maintained in strict confidence.

(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 Robert Bosch Corporation because of unauthorized or inadvertent disclosure (except as stated in paragraph 5).

(7) I certify under penalty of perjury that the foregoing is true and correct.

Executed on this 6th day of March, 2006

Dennis Bisher