

NUS-2/2
Mike Lee

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

Re: DaimlerChrysler Request for Confidential Treatment for Information
(EA06-003 - Testing Data)

Dear Mr. Speth:

This is in response to your May 15, 2006, letter requesting confidential treatment for information provided to the agency by DaimlerChrysler Corporation's (DCC) in response to an information request from the agency's Office of Defects Investigation. DCC requests that the information be protected from disclosure permanently. I am construing your request as seeking confidentiality for this information on an indefinite basis.

You contend that this information, which consists of testing data found in two directories (identified as "Enclosure 2 - 208" and "Enclosure 3 Non 208") contained on a single CD-ROM labeled "EA06-003 RS Front Crash Sensors Confidential Enclosures 2,3 May 9, 2006," is competitively valuable and describe them as being engineering developmental tests. You note that certification tests conducted by DCC were provided separately and that DCC does not seek confidentiality for those materials. You assert that the disclosure of the materials on the CD-ROM would cause DCC to suffer substantial competitive harm because the information reveals the extent and nature of the company's developmental testing program and its testing protocols. Consequently, you assert that this information is entitled to protection under Exemption 4 of the Freedom of Information Act.

I have decided to grant your request for confidential treatment for this information.

The agency reviewed DCC'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, 5 U.S.C. § 552(b)(4), 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.

As described above, DCC's submission consists of developmental testing data. This information is not readily available to the public and is likely to require the expenditure of significant resources for competitors to otherwise acquire. Further, the disclosure of this information would be likely to cause DCC to suffer substantial competitive harm. Accordingly, I am granting confidential treatment to the contents of the two directories ("Enclosure 2 - 208" and "Enclosure 3 Non 208") contained on the submitted CD-ROM.

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)).

If you disagree with this partial denial of your request for confidentiality, you may request reconsideration. If you seek reconsideration, your request must be addressed to NHTSA's Chief Counsel and filed within 20 working days after the receipt of this letter (49 CFR 512.19(a)). Any such request should contain additional justification supporting your claims for confidential treatment consistent with 49 CFR Part 512 and applicable case law.

Sincerely,



Otto G. Matheke, III
Senior Attorney

NHTSA:NCC-111 Kido: 05/19/06:65263:pll
NCC-Subj/Chron, mk, om NCC06-003006
CC: NVS:Mike Lee w/enclose.
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