



August 22, 2006

Robert Bosch Corporation
38000 Hills Tech Dr.
Farmington Hills, MI 48331
www.Bosch.us

Otto G. Matheke, III
Senior Attorney
Office of Defects Investigation
National Highway Traffic Safety Administration
U.S. Department of Transportation
400 Seventh Street, SW
Washington, D.C. 20590

Re: Robert Bosch Corporation's Request for Confidential Treatment for Information
Provided in Response to EA06-003

Dear Mr. Matheke:

Enclosed is a Request for Confidential treatment from Daimler Chrysler Corporation related to information Robert Bosch Corporation provided to NHTSA regarding EA06-003. A copy of the documents is also enclosed for your reference.

Please contact me if you have any questions or concerns regarding the enclosed.

Very truly yours,

Jerry L. Johnson
Assistant General Counsel

Enclosures

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DAIMLERCHRYSLER

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

August 17, 2006

Mr. Anthony M. Cooke
Chief Counsel
National Highway Traffic Safety Administration
400 Seventh Street, S.W., Rm. 5219
Washington, D.C. 20590

Re: Request for Confidential Treatment for Information Provided by Robert Bosch Corporation in EA06-003

Dear Mr. Cooke:

Robert Bosch Corporation ("Bosch") is submitting information to the NHTSA Office of Defects Investigation in connection with the above-referenced proceeding. Bosch has informed DaimlerChrysler Corporation ("DCC") that Bosch's submission includes certain DCC documents and has supplied copies of those documents for DCC's review. Based on that review, DCC has determined that the documents are confidential and that their disclosure would be likely to cause substantial harm to DCC's competitive position. DCC therefore is submitting this request for confidential treatment of those documents, together with the certificate required by your regulations, through Bosch, for submission to the Office of Chief Counsel.

The information required by Part 512 is set forth below.

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

The information consists of two documents (titled "SAS Assignments 1" (1478-1479) and "SAS Assignments 2" (1480-1481)) that reveal failure analyses and product evaluation, product improvement, and product validation processes; e-mails setting forth a warranty analysis correlated to design changes ("Bosch Sensor Discussions – EWT Questions" (1209-1210) and "Bosch Sensor Discussions – EWT Questions" (1206)); an e-mail consisting of meeting minutes that reveal product evaluation, improvement, and validation processes ("Bosch Sensor Discussions – Follow-up Memo 6-3-05" (1207-1208)); e-mails and attachments setting forth failure analyses and product evaluation process information ("Canada 7 MIS Data" (1200-1205)), and two documents setting forth proprietary internal product evaluation procedures and test set-ups and procedures ("DCC Incline Water Test for Sealed Automotive Body" (1172-1177) and "DCC Static Water Testing Evaluation of Sealing Systems" (1165-1171)).¹

¹ The parenthetical numbers adjacent to the titles of the documents are Bates numbers assigned to the documents by Bosch.

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

This submission is subject to the substantial-competitive-harm standard set forth in 49 C.F.R. § 512.15(b) for information that a submitter is required to provide to the agency.

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

This agency's regulations and Exemption 4 of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b)(4), protect the confidentiality of information that would be likely to cause substantial competitive harm to the submitter if disclosed. *See, e.g.,* 49 C.F.R. § 512.15(b); *Nat'l Parks & Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974). FOIA 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." *Public Citizen Health Research Grp. v. FDA*, 185 F.3d 898, 905 (D.C. Cir. 1999). "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." *Worthington Compressors, Inc. v. Costle*, 662 F.2d 45, 51 (D.C. Cir. 1981). Substantial competitive harm also may result from disclosures that would reveal a firm's "operational strengths and weaknesses" to competitors. *Nat'l Parks & Conservation Ass'n v. Kleppe*, 547 F.2d 673, 684 (D.C. Cir. 1976). The information at issue here should be protected under these principles.

Most of the documents for which DCC is seeking confidential treatment set forth failure-mode analyses and information about product evaluation, product improvement, and/or validation processes. The disclosure of such information would enable competitors to develop and improve their own such analyses and processes without incurring the costs typically associated with independent development and improvement efforts. Because these analyses and processes are essential to the productive process, the disclosure of such information would improve the ability of DCC's rivals to compete against DCC, and enable them to bring products to market more quickly and at less cost than would otherwise be required. In addition, the disclosure of such information would provide insights into the operational capacities of DCC. The documents that include confidential failure analyses and/or product evaluation, improvement, and/or validation processes are those titled "SAS Assignments 1" (1478-1479), "SAS Assignments 2" (1480-1481), "Bosch Sensor Discussions – Follow-up Memo 6-3-05" (1207-1208), "Canada 7 MIS Data" (1200-1205), "DCC Incline Water Test for Sealed Automotive Body" (1172-1177), and "DCC Static Water Testing Evaluation of Sealing Systems" (1165-1171).²

² The document titled "Canada 7 MIS Data" also reveals cost information, the disclosure of which would provide competitors insights into DCC's cost of components. Such information is routinely protected from disclosure by NHTSA. In addition, the document titled "Bosch Sensor Discussions – Follow-up Memo 6-3-05" contains information from which competitively valuable lead-time requirements for product improvements may be discerned. Such lead-time information

Several of the documents also set forth information from which the capabilities of a supplier can be discerned. The disclosure of such information could relieve competitors of the costs and burdens of independently identifying and assessing suppliers, thereby enabling them to bring products competitive with DCC's products to market more quickly and at less cost. *See SMS Data Prods. Grp., Inc. v. United States Dept. of Air Force*, Civ. A. No. 88-0481-LFO, 1989 WL 201031, at *4 (D.D.C. May 11, 1989) (submitter of information had spent years developing a network of subcontractors, and release of the information would give competitors the information "without needing to expend the same time and resources"). Information revealing supplier operational capacities can be derived from the documents titled "SAS Assignments 1" (1478-1479), "SAS Assignments 2" (1480-1481), and "Bosch Sensor Discussions – Follow-up Memo 6-3-05" (1207-1208).

In addition, some of the documents reveal detailed information about DCC's proprietary test set-ups and test procedures. The disclosure of such information would enable competitors to replicate DCC's test procedures, or to improve their own test procedures, without incurring the considerable costs typically required to develop such test set-ups and procedures. Because testing is a vital part of product development and quality assurance, the disclosure of such information would have a substantial competitive impact. Such information appears in "DCC Incline Water Test for Sealed Automotive Body" (1172-1177) and "DCC Static Water Testing Evaluation of Sealing Systems" (1165-1171).

Finally, some of the documents correlate aspects of performance to design changes. Such information would be valuable to competitors in making their own design decisions. Such information appears in the documents titled "Bosch Sensor Discussions – EWT Questions" (1209-1210) and "Bosch Sensor Discussions – EWT Questions" (1206).

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

None of the information is subject to 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.

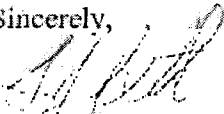
* * *

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

can provide a window into DCC operational capacities, and therefore should be withheld from disclosure.

notification of the request(s) and an opportunity to provide further justification for the confidential treatment of this information, if warranted.

Sincerely,



Stephan J. Speth

Attachment and Enclosures

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 document 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 document 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, except for disclosures to selected suppliers and contractors under agreements to preserve the confidentiality of the information.
- (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 17th day of August, 2006.



Mr. Stephan J. Speth