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WASHINGTON, DC 20590
2009 APR 27 P 12:32
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April 23, 2009

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Via Federal Express

Mr. Stephen P. Wood
Acting Chief Counsel
National Highway Traffic Safety Administration
(NCC-111), Room W41-227
1200 New Jersey Avenue, S.E.
West Building
Washington, D.C. 20590

RE: Request for Confidentiality Concerning Mercedes-Benz's Submission Pursuant to EA08-009

Dear Mr. Wood:

This letter requests continued confidential treatment under 49 C.F.R. Part 512 for specification drawings submitted on behalf of Daimler AG and Mercedes-Benz USA, LLC ("Mercedes-Benz") to the National Highway Traffic Safety Administration's Office of Defects Investigation (ODI) in connection with EA08-009. The drawings depict the specifications for the brake line in certain Mercedes-Benz vehicles. These same drawings were originally submitted in April 2008 under a request for confidential treatment, which was granted in August 2008. In response to a recent request from ODI, Mercedes-Benz is submitting a higher-resolution version of the drawings at this time. Pursuant to 49 C.F.R. Part 512, this request attaches two complete versions of the submission, and a single public version of the submission with the confidential information redacted, along with a signed certificate in support of the request for confidentiality. The confidential materials are marked "CONFIDENTIAL BUSINESS INFORMATION" in accordance with 49 C.F.R. § 512.6(c).

Blueprints and engineering drawings containing process and production data are presumed by NHTSA to be confidential under Appendix B to Part 512 because of the high likelihood that disclosure to the public would result in substantial competitive harm. The materials contained in Mercedes-Benz's specification drawings are thus subject to a class determination under Appendix B and are entitled to confidential treatment under 49 C.F.R. § 512.16.

Moreover, the drawings are entitled to confidential treatment under National Parks and Conservation Association v. Morton, 498 F.2d 765 (D.C. Cir. 1974) because they are confidential commercial information, the release of which is likely to cause competitive harm. The National Parks basis for confidential treatment has been incorporated into the Agency's regulations at 49 C.F.R. § 512.3(c)(2)(i) (confidential commercial information). The drawings depict design and engineering specifications that are unique to Mercedes-Benz vehicles' brake system. As such, the drawings represent proprietary and confidential business information. This information represents a significant investment in research and development, which would cause substantial competitive harm to Mercedes-Benz and its individual suppliers if disclosed to competitors. Because of the substantial competitive harm that would be caused, the Agency should protect the confidentiality of this information. Accordingly this information should be granted confidential treatment under the criteria at 49 C.F.R. § 512.15(b).


The information contained in the drawings has not been publicly disclosed. Mercedes-Benz has taken measures to ensure that the information has not been disclosed or otherwise made available to any persons outside of Mercedes-Benz, its parents, suppliers, and affiliates. Insofar as is known by Mercedes-Benz, this information is not known outside Mercedes-Benz, except by these related parties. The information has also been disclosed as necessary for the purpose of obtaining advice and assistance from counsel and other confidential advisers. Such disclosures do not compromise the confidential nature of the information because of the close business relationship between Mercedes-Benz and its parents and affiliates, nor does selective disclosure to advisers bound by obligations of confidentiality compromise such confidentiality.

We request that confidentiality continue to be granted indefinitely for the drawings submitted in connection with PE08-009, or until such time as the information is no longer held confidential by the company. We would appreciate your notifying us of your decision regarding this confidentiality request.

For your reference, we have attached copies of Mercedes-Benz's original request for confidentiality and NHTSA's approval decision.

Thank you for your consideration of this request. Please forward your response to this request to my attention.

Sincerely,



R. Latane Montague

cc: Chris Lash

Attachments:
Mercedes-Benz April 16, 2008 Request for Confidentiality
NHTSA August 26, 2008 Grant of Confidentiality
Two complete versions of submission
One redacted version of submission
Certificate in Support of Request for Confidentiality



Mercedes-Benz

Mercedes-Benz USA, LLC
A Daimler Company

**CERTIFICATE IN SUPPORT OF REQUEST
FOR CONFIDENTIALITY**

I, R. Thomas Brunner, pursuant to the provisions of 49 CFR 512, state as follows:

(1) I am the Department Manager of Product Compliance, Analysis, Safety and Emissions for Mercedes-Benz USA, LLC (MBUSA), and I am authorized to execute documents on behalf of MBUSA.

(2) I certify that the specification drawings submitted to NHTSA on behalf of MBUSA and Daimler AG concerning EA08-009 are confidential and proprietary data, and are being submitted with the claim that they are entitled to confidential treatment under 5 U.S.C. § 552 (b)(4);


(3) I hereby request that the specification drawings be protected indefinitely;

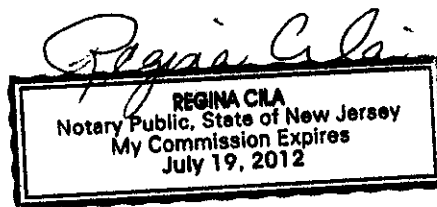
(4) This certification is based on the information provided by the responsible MBUSA personnel who have authority in the normal course of business to release the information for which a claim of confidentiality has been made to ascertain whether such information has ever previously been released outside MBUSA;

(5) Based upon that information, to the best of my knowledge, information and belief, the information for which MBUSA has claimed confidential treatment has never been released or become available outside MBUSA, except as hereinafter specified: portions of the information have been made available to our parent company, Daimler AG (previously DaimlerChrysler AG), and for the purpose of obtaining advice and assistance from counsel and other confidential advisers;

(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 of MBUSA 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 the 22nd day of April, 2009.


R. Thomas Brunner



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