



CHRYSLER

NHTSA
WASHINGTON, DC 20590

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OFFICE OF CHIEF
COUNSEL

David D. Dillon
Sr. Manager
Product Investigations & Campaigns

June 18, 2010

Mr. O. Kevin Vincent
Chief Counsel
National Highway Traffic Safety Administration
1200 New Jersey Ave., SE, Room W41-227
Washington, DC 20590

Re: Request for Confidential Treatment of Business Information Submitted in PE10-012

Dear Mr. Vincent:

Chrysler Group LLC ("Chrysler Group") is submitting information to the NHTSA Office of Defects Investigation (ODI) in connection with the above referenced investigation. Based on a careful review of the submission, Chrysler Group has determined that some of the information is confidential and should be accorded confidential treatment under this agency's regulations at 49 C.F.R. Part 512 and Exemption 4 of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b)(4).¹ Therefore, Chrysler Group is submitting the enclosed CDs together with this request for confidential treatment to the Office of Chief Counsel.

Because information supplied by CTS Corporation ("CTS") is included in the information for which Chrysler Group is seeking confidential treatment, Chrysler Group is submitting certificates executed by responsible CTS and Chrysler Group personnel. The information required by Part 512 is set forth below.

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

The business information for which confidential treatment is being sought is located in Enclosure 6 – CONF BUS INFO and consists of six Chrysler Group documents that contain assessments, analysis, and problem solving capabilities related to the subject component. (Bates page #PE10-012-CHRYSLER-001 - 022) The 8 Step Corrective Action Plan in Enclosure 6 was also submitted by CTS on June 3, 2010 in this investigation with a request for confidential treatment. It is in CTS' Enclosure 1, Bates page CTS-BRG000010-15.

¹ Chrysler Group has taken steps to assure that the CDs are free of any errors or defects that would prevent NHTSA from opening the files on the discs. If, however, the agency is unable to open the files, Chrysler Group respectfully requests that the agency inform Chrysler Group of the issue, so that Chrysler Group may take steps to supply NHTSA's Office of Chief Counsel with a disc that is fully functional.

The table attached to this letter more fully describes the documents.

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 principle 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. *See 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 standards.²

If this information is disclosed, competitors could determine the type of testing and reporting that Chrysler Group and CTS do in evaluating products, as well as Chrysler Group's process of analysis, product testing methodology, and problem solving capabilities. These documents reveal valuable information about the processes for remedying problems and evaluating and improving products. The disclosure of such information would enable competitors to refine their own product evaluation, remediation, and improvement procedures without incurring the costs normally required for independent development of such procedures, and also would provide information about Chrysler Group's operational strengths.

² As noted above, Chrysler Group is providing a table that identifies the confidential information on the enclosed discs and specifies the location of the information (by enclosure number and Bates page numbers). The table also briefly states the basis for the confidentiality claims.

Some of these documents provide information about the performance and operational capacities of a supplier. 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 Chrysler Group'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").

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

The information for which confidential treatment is sought does not fit within a class determination.

E. Duration for Which Confidential Treatment is Sought (49 C.F.R. § 512.8(e))

Because Chrysler Group anticipates that the information will be competitively valuable indefinitely, Chrysler Group 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:

800 Chrysler Drive, CIMS 482-00-91
Auburn Hills, MI 48326
248-512-0087
dd28@chrysler.com

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

Sincerely,



David D. Dillon

cc: Scott Yon
John Abbott

Attachment and Enclosures

**ATTACHMENT TO REQUEST FOR CONFIDENTIAL
TREATMENT OF BUSINESS INFORMATION SUBMITTED IN
CONNECTION WITH PE10-012 WITHIN ENCLOSURE 6 -
CONFIDENTIAL BUSINESS INFORMATION**

QUESTION # SOURCE	ENCLOSURE	FILE/DOCUMENT NAME	DOCUMENT DESCRIPTION	BATES PAGE #	CONFIDENTIALITY JUSTIFICATION
8 Chrysler CTS	Enclosure 6 – CONF BUS INFO	8 Step Corrective Action.pdf	Analysis of problem solving capabilities of Chrysler and CTS	PE10- 012- Chrysler- 003 - 008	The 8 Step Corrective Action reveals problem solving capabilities which competitors could use to improve their capabilities to solve problems.
8 Chrysler CTS	Enclosure 6 – CONF BUS INFO	Supplier Notification for KD housing - July26.pdf	Supplier communication with problem solving capabilities and design specifications	PE10- 012- Chrysler- 021 - 022	The Supplier Notification reveals problem solving capabilities which competitors could use to improve their capabilities to solve problems. There are also design specifications in this document that competitors could use to improve their designs and products.
8 Chrysler CTS	Enclosure 6 – CONF BUS INFO	CTS Part Return Analysis Summary Report.pdf	Analysis of problem solving capabilities that Chrysler developed to use in communicating with suppliers	PE10- 012- Chrysler- 009 - 012	The Part Return Analysis Summary Report is a method of communicating with suppliers that Chrysler developed to streamline the communication process in addressing issues. Competitors could use this system without the time and expense of independent development.

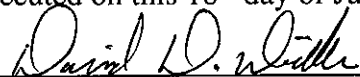
QUESTION # SOURCE	ENCLOSURE	FILE/DOCUMENT NAME	DOCUMENT DESCRIPTION	BATES PAGE #	CONFIDENTIALITY JUSTIFICATION
8 Chrysler CTS	Enclosure 6 – CONF BUS INFO	241327 Summary.pdf	Analysis of problem solving capabilities that Chrysler developed to use in communicating with suppliers	PE10- 012- Chrysler- 001 - 002	The e-CIMS Summary Report is a method of communicating with suppliers that Chrysler developed to streamline the communication process in addressing issues. Competitors could use this system without the time and expense of independent development.
8 Chrysler	Enclosure 6 – CONF BUS INFO	CTS Pedal Investigation.pdf	Assessment of the issues with the CTS pedal in the 2007 Caliber	PE10- 012- Chrysler- 013 - 019	The CTS Pedal Investigation reveals Chrysler's procedures for field data analysis and problem solving capabilities. Competitors could use this information to compete more effectively.
8 Chrysler	Enclosure 6 – CONF BUS INFO	Q8 Testing Summary PE10- 012.pdf	Summary of all the assessments and analyses done on the subject component	PE10- 012- Chrysler- 020	The Q8 Testing Summary reveals details on Chrysler's problem solving capabilities. Competitors could use this information to compete more effectively.

Certificate in Support of Request for Confidentiality

I, David D. Dillon, pursuant to the provisions of 49 C.F.R. Part 512, state as follows:

- (1) I am Chrysler Group LLC's Senior Manager, Product Investigations & Campaigns and I am authorized by Chrysler Group LLC to execute documents on its behalf;
- (2) I certify that the information contained in the attached 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 Chrysler Group LLC 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 Chrysler Group LLC;
- (5) Based upon that information, to the best of my knowledge, information and belief, the information for which Chrysler Group LLC has claimed confidential treatment has never been released or become available outside Chrysler Group LLC, except to certain contractors of Chrysler Group LLC 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 Chrysler Group LLC 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 18th day of June, 2010



David D. Dillon

CERTIFICATE IN SUPPORT OF REQUEST FOR CONFIDENTIALITY

I, Richard G. Cutter III, pursuant to the provisions of 49 C.F.R. Part 512, state as follows:

- (1) I am the Vice President, General Counsel and Secretary of CTS Corporation ("CTS") and I am authorized by CTS to execute documents on its behalf;
- (2) I certify that the information contained in the attached 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 CTS 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 of CTS;
- (5) Based upon that information, to the best of my knowledge, information and belief, the information for which CTS has claimed confidential treatment has never been released or become available outside of CTS except to certain customers and contractors 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 of CTS 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 9th day of June, 2010.



Richard G. Cutter III
Vice President, General Counsel and Secretary
CTS Corporation