NHTSA
WASHINGTON, DC 20590

2010 JUN 23 A 11: 30

OFFICE OF CHIEF
COUNSEL

Arent Fox

June 22, 2010

VIA FEDEX

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Mr. O. Kevin Vincent
Chief Counsel
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Request for Confidential Treatment – Response of Cequent Performance Products, Inc. to Information Request – PE10-014

Dear Mr. Vincent:

This letter serves as the request for confidential treatment by Cequent Performance Products, Inc. ("Cequent") (formerly Cequent Towing Products Inc.) with respect to data and information submitted by Cequent to the Office of Defects Investigation in response to the agency's May 11, 2010 information request in the above-referenced preliminary evaluation.

In accordance with 49 C.F.R. Part 512.5, Cequent is submitting herewith two unredacted copies of the requested documents, a proposed public version of the documents, and a Certificate in Support of Confidentiality.

Cequent seeks confidential treatment for the following files (or designated portions thereof) contained on the CD-ROM, as follows:

- PE10-014, Request Number Seven and Nine – Product Number Identification and Shipping Volume Information ("Shipping Volume Information") - This file contains detailed sale volumes by part number and year for Cequent's Round Bar Weight Distribution System product lines. *Please note that the confidential business information contained in this file is highlighted in yellow.*

- PE-014 Exhibit 2 – Engineering Drawings 61241R ("Exhibit 2") - This file contains dimension information, detailed engineering drawings, and material specifications for Cequent Part No. 61241R.

Cequent requests confidential treatment for the foregoing data and information on the ground that they constitute trade secrets and/or confidential, proprietary information that would likely subject Cequent to competitive harm if disclosed. *See* 49 C.F.R. § 512.3(c)(1) and (2); *National*

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Parks & Conservation Ass'n v. Morton, 498 F.2d 765, 770 (D.C. Cir. 1974) ("commercial or financial matter is 'confidential' . . . if disclosure of the information is likely to . . . cause substantial harm to the competitive position of the person from whom the information was obtained."); *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1288 (D.C. Cir. 1983) (a trade secret is a "secret, commercially valuable plan, formula, process or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort"); *Center for Auto Safety v. Nat'l Hwy. Traffic Safety Admin.*, 93 F. Supp. 2d 1, 16 (D.D.C. 2000), *remanded for further proceedings*, 244 F.3d 144 (D.C. Cir. 2001) (air bag specifications representing "years of research and development and enormous financial investment" not subject to FOIA disclosure).

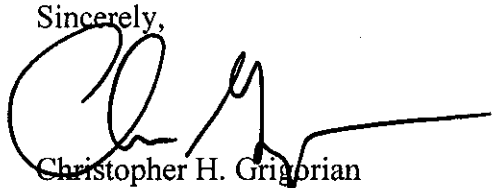
The "Shipping Volume Information" file contains detailed sales information for each part number in the referenced product lines. Disclosure of this data to competitors would reveal Cequent's production capacity and sales and market trends for each product. This data would be extremely valuable to Cequent's competitors. For example, competitors could use this information to focus their resources on only the most profitable, higher-volume products, without bearing the associated market costs and risks.

Exhibit 2 contains dimensional specifications and detailed engineering drawings of the subject products. This information is subject to the class determination in 49 CFR Part 512, Appendix B, §1. This information could only be reproduced through costly reverse engineering of the numerous product/application combinations listed in these files.

For the foregoing reasons, Cequent requests confidential treatment of this information for an indefinite period of time.

Please contact me if you have questions or if you would like additional information.

Sincerely,



Christopher H. Grigorian

Enclosures
cc: Jodi F. Robin, Esq. (Cequent)

LDR/294865.1

CERTIFICATE IN SUPPORT OF REQUEST FOR CONFIDENTIALITY

I, Joshua A. Sherbin, pursuant to the provisions of 49 CFR 512, state as follows:

(1) I am Joshua A. Sherbin, Vice President, Secretary, and General Counsel of Cequent Performance Products, Inc. ("Cequent") (formerly Cequent Towing Products, Inc.), and I am authorized to execute documents on behalf of Cequent;

(2) I certify that the information in the accompanying Request for Confidential Treatment is confidential 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 these documents be protected indefinitely;

(4) This certification is based on the information provided by the responsible Cequent 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 Cequent;

(5) Based upon that information, to the best of my knowledge, information and belief, the information for which Cequent is claiming confidential treatment under 5 U.S.C. § 552(b)(4) has never been released or become available outside Cequent, except within the scope of the confidential relationships between Cequent and its customers and/or suppliers or subject to a protective order.

(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 Cequent because of unauthorized or inadvertent disclosure, except as stated in Paragraph 5; and

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

Executed on this 22nd day of June, 2010.

Joshua A. Sherbin
Cequent Performance Products, Inc.

LDR/294870.1

CEQUENT PERFORMANCE PRODUCTS, INC.

RESPONSE TO MAY 11, 2010 INFORMATION REQUEST

PE10-014

June 22, 2010

Cequent Performance Products, Inc. (formerly Cequent Towing Products, Inc.) submits the following partial response to the agency's May 11, 2010 information request. As previously discussed with and agreed to by the agency, the balance of Cequent's response will be submitted by June 29, 2010.

Request No. 1. Identify the Cequent / Reese part number that designates the hitch assembly that was involved in the above-captioned crash and/or is the subject of [redacted] *et al.*; Circuit Court of the Second Judicial Circuit in and for Leon County, Florida; Case 2006 CA 002521.

Response: For purposes of responding to this information request, Cequent understands "hitch assembly" to refer to a 1,000 pound Round Bar Style Weight Distribution Kit, as manufactured in 2005, identified as Cequent model number 61009.[1]

Request No. 2. Provide an engineering drawing that depicts the hitch assembly identified in response to Request No. 1.

Response: An "exploded view" drawing of hitch assembly model number 61009 is submitted as PE10-014 Exhibit 1 - 61009 Hitch Assembly Diagram.

Request No. 3. Identify the Cequent / Reese part number that designates the finished (fully-machined) component that constitutes the main body of the hitch assembly identified in the response to Request No. 1.

Response: Cequent understands "main body of the hitch assembly" to refer to the component known as the "casting" (and sometimes also referred to as a "head" or "adjustable ball mount"). The part numbers that designate the finished casting utilized in the hitch assembly identified in Cequent's response to Request No. 1 are as follows:

61241 (without hardware)
58112 (with hardware)

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[1] There remains an issue as to whether all components of the hitch assembly in the [redacted] matter are Cequent products. The parties conducted an inspection of the subject hitch assembly in January 2008 and noted that a large section of the ball mount was missing, along with several additional components of the hitch system. Based upon the testimony of Mr. [redacted] it appears that these missing components were lost shortly after the accident. The missing section of the ball mount is significant because (1) it appears to be where the fracture occurred, and (2) it is the section of the ball mount that contains the product's casting number. Without a casting number, and due to the fact that a significant portion of the ball mount is missing, Cequent is unable to confirm that the ball mount involved in the incident was a Cequent product.

Request No. 4. Identify the Cequent / Reese part number(s) that designate the rough (unmachined) casting that is used to manufacture the fully machined main body of the hitch assembly identified in response to Request No. 3.

Response: The part number that designates the rough (unmachined) casting used to manufacture the finished products identified in response to Request No. 3 is "61241R."

Request No. 5. Provide an engineering drawing that depicts the rough casting identified in the response to Request No. 4.

Response: Please see the engineering drawings submitted as PE-014 Exhibit 2 – Engineering Drawings 61241R. (These drawings are marked "Confidential Business Information" and a request for confidential treatment is being submitted to the Office of Chief Counsel.)

Request No. 6. Identify by part number, all Rough castings that

(a) preceded the rough casting identified in response to Request No. 4;
(b) succeeded the rough casting identified in response to Request No. 4;
(c) the date that each casting part number was released for production use;
(d) the date that each casting part number was withdrawn from production;
(e) a short description of the reason(s) that each part number was released or withdrawn.

Response: No rough casting preceded or succeeded part number 61241R for use in fully-cast round bar hitch systems.

Request No. 7. List each of the "finished" part numbers that Cequent / Reese has manufactured from the base casting identified in response to Request No. 4.

Response: Please see attached file entitled "PE10-014, Request Number Seven and Nine – Product Number Identification and Shipping Volume Information." (This file contains confidential business information for which a request for confidential treatment is being submitted to the Office of Chief Counsel.)

Request No. 8. For each part number listed in response to Request No. 7, provide a short description that explains the major features, characteristics, and/or details that distinguishes that hitch component from the other hitch components listed (i.e. what characteristics / functions / features distinguish each final "finished" component from another final "finished" components manufactured from the same base casting.)

Response: Please see PE10-014 Exhibit 3 - Product Descriptions, which contains catalog descriptions (2010 catalog) of 11 of the parts identified in response to Request No. 7. Cequent will supplement this response with available catalog pages for the remaining parts.

Request No. 9. For each of the "finished" part numbers identified in response to Request No. 7, provide a table that identifies the quantity of hitches sold by calendar year.

Response: Please see attached file entitled "PE10-014, Request Number Seven and Nine – Product Number Identification and Shipping Volume Information," which contains net sales data for the period 2001 through 2010 (May). Please note that Cequent does not have sales data prior to 2001. (This file contains confidential business information for which a request for confidential treatment is being submitted to the Office of Chief Counsel.)

* * *

This response is based on searches of Cequent locations where documents determined to be responsive would ordinarily be found. As a result, the scope of the search did not include, nor could it reasonably include, "all of its divisions, subsidiaries (whether or not incorporated) and affiliated enterprises and all of their headquarters, regional, zone and other offices and their employees, and all agents, contractors, consultants, attorneys and law firms and other persons engaged directly or indirectly (e.g., employee of a consultant) by or under the control of Cequent (including all business units and persons previously referred to) . . ." In the ordinary course of business, information of the type requested is transmitted to the Cequent locations that have been searched. This response was compiled and prepared by Cequent based upon a review of relevant documents obtained from various Cequent locations, and does not include documents or information generated or received at those locations subsequent to their searches.

A request for confidential treatment is being submitted to the Office of Chief Counsel for the confidential portions of this response. Accordingly, please treat this information as confidential until the Office of Chief Counsel completes its confidentiality determination.