Arent Fox

NHTSA
WASHINGTON, DC 20590

2010 SEP -3 P 12: 38

OFFICE OF CHIEF
COUNSEL

September 2, 2010

Christopher H. Grigorian
Attorney
202.775.5779 DIRECT
202.857.6395 FAX
grigorian.christopher@arentfox.com

VIA FEDEX

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

Re: Request for Confidential Treatment – Cequent Performance Products, Inc - PE10-014 – Supplemental Submission to ODI

Dear Mr. Vincent:

This letter serves as the request for confidential treatment by Cequent Performance Products, Inc. (formerly Cequent Towing Products, Inc.) ("Cequent") with respect to supplemental information provided to the Office of Defects Investigation in the above-referenced preliminary evaluation. Cequent seeks confidential treatment for the bracketed portions of the attached correspondence, which identify material grades/specifications used in the subject products and provides additional details regarding the timing of product modifications. In accordance with 49 C.F.R. Part 512, we are enclosing two confidential (unredacted) copies and one public (redacted) copy of Cequent's submission. We have also included a Certificate in Support of Confidentiality.

This submission provides supplemental information in response to Request No. 5 and Request No. 10 of the Agency's May 11, 2010 information request. Cequent seeks confidential treatment for the reasons set forth in its July 13, 2010 confidential treatment request (which is incorporated herein by reference). As discussed therein, information concerning the design and material specifications and changes thereto is entitled to confidential treatment as trade secrets and/or confidential business information. *See 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); *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974) ("[C]ommercial 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.").

Arent Fox

For the foregoing reasons, Cequent requests confidential treatment for 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)

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 2nd day of September, 2010.

Joshua A. Sherbin
Cequent Performance Products, Inc.