



ATTORNEYS AT LAW

WASHINGTON HARBOUR
3000 K STREET, N.W.
SUITE 600
WASHINGTON, D.C. 20007-5109
202.672.5300 TEL
202.672.5399 FAX
foley.com

WRITER'S DIRECT LINE
202.672.5542
cgrigorian@foley.com

June 14, 2024

VIA U.S. DOT's SLFTS

Adam Raviv
Chief Counsel
National Highway Traffic Safety Administration
W41-227
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Request for Confidential Treatment – Robert Bosch LLC Initial Response
to March 28, 2024 Information Request – EA23-001

Dear Mr. Raviv:

This letter serves as the request for confidential treatment by Robert Bosch LLC (Bosch LLC) with respect to the enclosed documents, which are being submitted in response to the Agency's March 28, 2024 information request in the above-referenced investigation.

In accordance with 49 CFR 512.5, Bosch is submitting the enclosed information with the filenames and, where possible, contents of confidential files marked "CONFIDENTIAL BUSINESS INFORMATION." The files contain detailed production and sales information, details regarding root cause investigations, analyses of components, information related to recall remedies, and detailed technical specifications related to the CP4 family of fuel pumps manufactured by Bosch. Also enclosed is a Certificate in Support of Confidentiality from Bosch, as well as certificates from FCA US, LLC and BMW of North America, LLC (BMW). Accompanying BMW's certificate is a letter from BMW requesting confidential treatment for the information originating from BMW.

To facilitate social distancing due to COVID-19, NHTSA is treating electronic submissions via secure File Transfer Protocol (FTP) as an acceptable method for submitting confidential business information. See [REDACTED]

[REDACTED] Because Bosch is submitting this information via the U.S. Department of Transportation's secure FPT – "Secure Large File Transfer Solution" (SLFTS) – the request includes a single copy of the confidential file.

AUSTIN
BOSTON
CHICAGO
DALLAS
DENVER

DETROIT
HOUSTON
JACKSONVILLE
LOS ANGELES
MADISON

MEXICO CITY
MIAMI
MILWAUKEE
NEW YORK
ORLANDO

SACRAMENTO
SALT LAKE CITY
SAN DIEGO
SAN FRANCISCO
SILICON VALLEY
TALLAHASSEE

TAMPA
WASHINGTON, D.C.
BRUSSELS
TOKYO

Adam Raviv
Chief Counsel
National Highway Traffic Safety Administration
June 14, 2024
Page 2

As set forth below, Bosch requests confidential treatment for the enclosed materials on the grounds that they contain trade secrets and/or confidential, proprietary information that is closely held by Bosch and would likely subject Bosch (and its customers FCA and BMW) to substantial competitive harm if disclosed. *See* 49 CFR 512.3(c)(1) and (2); *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2364 (2019) (FOIA Exemption 4 protects information that "is customarily kept private, or at least closely held, by the person imparting it"); *National 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); *see also Renewable Fuels Ass'n v. U.S. Env'tl. Prot. Agency*, 519 F. Supp. 3d 1 (D.D.C. 2021) and *Naumes v. Dep't of the Army*, No. 21-1670, 2022 WL 17752206 (D.D.C. Dec. 19, 2022).

Specifically, Bosch is seeking confidential treatment for the contents of the ZIP file named "CONF BUS INFO – EA23001 IR Bosch (14 Jun 2024 Initial Response).ZIP." The file contains the confidential attachments referenced in Bosch's written response, with individual attachments separated into folders identifying the request number to which the individual attachments respond. Because all of the files and information contained in "CONF BUS INFO – EA23001 Bosch (14 Jun 2024 Initial Response).ZIP" is confidential business information, Bosch is not providing "public" versions of these attachments. For reference, Bosch is enclosing the *public* portions of its response in the ZIP file named "PUBLIC – EA23001 Bosch (14 Jun 2024 Initial Response).ZIP."

The confidential attachments in "CONF BUS INFO – EA23001 Bosch (14 Jun 2024 Initial Response).ZIP" contain the following categories of information:

- Detailed descriptions of CP4 fuel pump variants supplied to Bosch's customers, including part numbers, subcomponent information, and geometric characteristics.
- Technical specifications for particular CP4 variants detailing operating conditions, validation requirements, and component design details. These technical specifications include blueprints and engineering prints that are covered by the "General Class Determinations" of 49 CFR Part 512 Appendix B.
- Detailed production data including volumes that are broken down by part numbers, customers, and time periods.

Adam Raviv
Chief Counsel
National Highway Traffic Safety Administration
June 14, 2024
Page 3

- Detailed data and analyses of components from the field returned to Bosch by its OEM customers.
- A confidential settlement agreement.
- Investigations and analyses of field performance of components presented to OEM customers, including data originating from the respective customer.
- Technical explanation of Bosch's position with respect to EA23001 including detailed analysis of components supplied to specific customers, supporting data, technical specifications, and product investigations.

Bosch and its customers closely guard against public disclosure of such information, and it is "customarily kept private" and "closely held" by Bosch, FCA, and BMW. *See Food Marketing Institute v. Argus Leader Media, supra*. Disclosure of this information would provide a treasure trove of closely held information regarding product design, production capacities, product investigation and analyses, customer information, and market share, which would permit its competitors to develop their own competing products and programs without incurring the substantial investment that would otherwise be required. Thus, substantial competitive harm to Bosch, FCA, and BMW is a reasonably foreseeable consequence of public disclosure. Accordingly, Bosch requests that this information be granted confidential treatment indefinitely.

Additionally, Bosch has redacted personal identifying information (such as names, titles, etc.) contained within the attached documents to conform with the European Union's General Data Protection Regulation (GDPR) restriction on disclosing or transferring such data.

Please contact me if you have any questions.

Sincerely,

A large black rectangular redaction box covering the signature of Christopher H. Grigorian.

Christopher H. Grigorian

Enclosures

cc: Bruce York (NHTSA ODI)
Daniel Pinero-Espinoza (NHTSA ODI)
Daniel Rabinovitz (NHTSA NCC)
Nick Englund (Foley & Lardner)