

AUG 26 2003

David Richman, Esq.
Pepper Hamilton LLP
3000 Two Logan Square
Eighteenth and Arch Streets
Philadelphia, PA 19103-2799

RE: SKF USA Inc. Confidentiality Determination/PE02-088

Dear Mr. Richman:

This is in response to your letter dated June 5, 2003, in which you request confidential treatment for the materials submitted by SKF USA Inc. (SKF) and enclosed with your letter. The materials contain responses to a NHTSA Information Request pertaining to the above-captioned matter. You request confidential treatment for these materials for an indefinite period of time.

You assert that the information includes trade secrets, financial data, product specifications, design data, internal design standards, warranty data, product audits and information relating to development and product analysis testing which are considered confidential and proprietary. In your view, these data are data that is closely guarded from competitors because it can reveal information that that has been developed as a result of costly and labor intensive long-term investment. Other data for which you claim confidentiality relates to relationships with suppliers and customers and contains internal financial data that, if revealed, could result in economic hardship and competitive disadvantage to SKF.

I have decided to grant you confidential treatment for these materials.

The information submitted was requested pursuant to 49 USC § 30166, which authorizes the agency to conduct investigations and require manufacturers to submit reports. Therefore, because the information was not submitted voluntarily, I have reviewed your submission under the competitive harm standard set forth in *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974).

SKF has set forth in sufficient detail the competitive harm likely to arise should the design details, material specifications, production methods, product evaluation techniques, warranty information and internal audits, tests and investigations submitted to NHTSA in this instance be publicly disclosed. Product design details, production methods, product specifications, internal audits, test methods, test results, warranty data and field service reports are data that is closely guarded within the automotive industry and disclosure of this information could reveal otherwise unobtainable information about the products, business practices and supplier and customer relationships critical to SKF. If this information is disclosed, competitors will be able to analyze SKF's designs, production techniques, product evaluation techniques and business strategies to their own advantage. Accordingly, I have decided to grant confidential treatment to the materials set forth in your request.

As requested by SKF, this grant of confidential treatment is indefinite. However, it is also subject to the various provisions of Part 512 that specify the circumstances under which otherwise confidential information can be disclosed.

This grant of confidential treatment is subject to certain conditions. The information may be disclosed under 49 USC § 512.8, based upon newly discovered or changed facts, and you must inform the agency of any changed circumstances that may affect the protection of the information (49 USC § 512.4(i)). If necessary, you will be notified prior to the release of any information under the procedures established by our regulations (49 CFR § 512.8).

If you disagree with this determination, you may request reconsideration. To request reconsideration, you must submit additional written justification with the certification required by 49 CFR § 512.4(e) within 10 working days after the receipt of this letter. Such justification must show the particular competitive harm to your company from the disclosure of the information for which confidentiality has been denied and contain any legal arguments and citations upon which you rely (49 CFR § 512.4(b)(3)). Should we receive no justification within the required period of time, your submitted information will be placed in the public file.

Sincerely,

(S)

Otto Matheke, III
Staff Attorney

