

VDO Automotive AG -- Postfach 10 09 43 -- 93009 Regensburg

National Highway Traffic Safety Administration.
Attn. Ms. Kathleen C. DeMeter, Director
Office of Defects Investigation
West Building W45-302
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590, USA

Passive Safety & ADAS
Dr. Andreas Brand
BU PSAD
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Date

Your message dated

Our Reference

Your reference

March 28, 2008

NVS-212-pco
EA08/001

OC3 BMW

Dear Ms. DeMeter:

This responds to your letter of February 29, 2008 seeking information regarding the occupant classification sensor mat known as the OC3.

Effective December 1, 2007, Continental AG purchased all of Siemens AG's automotive operations generally known as Siemens VDO Automotive. For the time periods referenced in your letter of February 29, Siemens VDO Automotive AG manufactured and sold the OCS seat mat sensor (OC3) to BMW. Siemens VDO Automotive AG is now owned by Continental AG and it has changed its name to VDO Automotive AG.

1. **State in a table format, by make, model and model year, all vehicles that use the subject component made by Continental for eventual sale or lease in the United States.**

Provide the above table also in Microsoft Excel format, entitled "QUESTION ONE DATA."

RESPONSE:

The requested information is enclosed at Attachment 1. Although VDO Automotive AG has provided different occupant classification sensor mats to other vehicle manufacturers, VDO Automotive AG has not supplied the subject component (the OC3 seat mat) to any vehicle manufacturer other than BMW.

2. **Describe all assessments, analyses, tests, test results, studies, surveys, simulations, investigations, inquiries and/or evaluations (collectively, "actions") that relate to, or may relate to, the alleged defect in the subject vehicles that have been conducted, are being conducted, are planned, or are being planned by, or for, BMW and other applicable subject vehicles. For each such action, provide the following information:**

a. Action title or identifier;

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Chairman of the Supervisory Board:
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Managing Board:
Dr. Alan Hippo, Helmut Matschi

A company of the
Continental Corporation

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- b. The actual or planned start date;
- c. The actual or expected end date
- d. Brief summary of the subject and objective of the action;
- e. Engineering group(s)/supplier(s) responsible for designing and for conducting the action; and
- f. A brief summary of the findings and/or conclusions resulting from the action.

For each action identified, provide copies of all documents related to the action, regardless of whether the documents are in interim, draft, or final form. Organize the documents chronologically by action.

RESPONSE: By agreement, this question will be answered by April 23, 2008.

3. Describe all modifications or changes made by, or on behalf of BMW or other applicable subject vehicles, in the design, material composition, manufacturing, quality control, supply, or installation of the subject component, from the start of production to date, which relate to, or may relate to, the alleged defect in the subject vehicles. For each such modification or change, provide the following information:
- a. The date or approximate date on which the modification or change was incorporated into mat sensor production;
 - b. A detailed description of the modification or change;
 - c. The reason(s) for the modification or change;
 - d. The part numbers (service and engineering) or the original component;
 - e. The part number (service and engineering) of the modified component; and
 - f. Whether the modified component can be interchanged with earlier production components.

Also, provide the above information for any modification or change that Continental is aware of which may be incorporated into vehicle production within the next 120 days.

RESPONSE: The requested information is enclosed as Confidential Attachment2.

4. Produce one each of the following:
- a. Exemplar sample of each seat mat prior to and after the 11/2005 BMW built date; and
 - b. Field return sample of the subject component exhibiting the subject failure mode.

RESPONSE:

(a) The requested samples are being provided today under separate cover. Please note that the earlier generation seat mat designs are no longer in production, and exemplars have proven to be difficult to locate. VDO Automotive AG was able to locate exemplars of all seat mat generations for two vehicle models. For the remaining vehicle models equipped with the subject component,

VDO Automotive AG is providing exemplars of the current generation OC3 mat. The detailed description is in the Excel spreadsheet in Attachment 3.

(b) A representative field return sample with micro cracks is provided for the E83 Basis seat design. The defect is marked by a red arrow on the photograph of the sample, which is enclosed as Attachment 4.

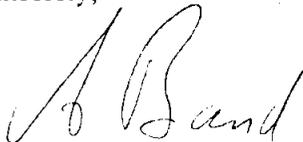
5. **Provide a summary description and function of the seat mat sensor in the role of occupant detection. Specifically, describe the role of the center grid section versus the "side bolster" grid sections and their roles in the detection of children (including child safety seats), adults and out-of-position children and adults. Describe the ramification of the post 11/2005 OC3 mat design (elimination of the side bolster grid sections) in its ability to detect all the different occupant types. The information shall include where applicable:**
- a. Functional block/flow diagram; and/or
 - b. Picture/illustration of the components and component location including the seat mat and seat assembly.

RESPONSE: By agreement, this question will be answered by April 23, 2008.

6. **Furnish Continental's assessment of the alleged defect in the subject vehicle (both in BMW and in other applicable subject vehicles), including:**
- a. The causal or contributor factor(s);
 - b. The failure mechanism(s);
 - c. The failure mode(s);
 - d. Is the failure intermittent or permanent
 - e. The risk to motor vehicle safety it poses;
 - f. What warnings, if any, the operator and the other persons both inside and outside the vehicle would have that the alleged defect was occurring or subject component was malfunctioning.

RESPONSE: By agreement, this question will be answered by April 23, 2008.

Sincerely,



Dr. Andreas Brand

Executive Vice President
Passive Safety & ADAS / Chassis & Safety

ATTACHMENT 1

Q1_MYmodel

OC3 Production of VDO Automotive AG

Valid: March 31st 2008

Make	Model Series	Model Name	Model Year**	Seat Types
BMW	5 and 7 series	E60/61/65/66	MY 2004 to present	Basis / Basis Clima and Sport
BMW	5 and 7 series	E60/61/65/66	MY 2004 to present	MFS and MFS Clima
BMW	6 series	E63	MY 2006 to present	Basis and Sport
BMW	6 series	E64	MY 2006 to present	Basis and Sport
BMW	X3	E83	MY 2004 to present	Basis and Sport
BMW	X5	E53	MY 2006 and MY 2007	Basis and Sport
BMW	Z4	E85	MY 2004 to present	Basis and Sport
Mini	Mini	R50	MY 2004 to MY 2007	Basis and Sport
Mini	Mini	R52	MY 2004 to present	Basis and Sport
BMW	3 Series	E90/E91	MY 2004 to present	Basis and Sport
BMW	3 Series	E92*	MY 2007 to present	Basis and Sport
BMW	3 Series	E93*	MY 2007 to present	Basis and Sport
Rolls Royce	Phantom	RR01*	MY 2006 to present	
Rolls Royce	Cabrio	RR02*	MY 2007 to present	

* Models unaffected by circuit cracks;

** MY information is based on VDO Automotive AG, best of knowledge;

Information above does not differentiate between different generations of OC3, which is available in question 3 response;

**CONFIDENTIAL ATTACHMENTS 2-A, 2-B, AND 2-C
SUBMITTED TO OFFICE OF CHIEF COUNSEL
WITH REQUEST FOR CONFIDENTIAL TREATMENT**

ATTACHMENT 3

Q4_samples

All samples VDO Automotive AG

Valid: March 31st 2008

Nb	Plattform	Mat-Nb until 11/05	Sample until 11/05	Sample after 11/05	Mat-Nb after removal of sidewing	Sample after removal of sidewing
1	E90/91 Basis	3281	not available anymore	Sample 1_2	3467	Sample 1_3
2	E90/91 Sport	3280	not available anymore	not available anymore	3464	Sample 2_3
3	E85 Basis Leder	2510	Sample 3_1	Sample 3_2	3476	Sample 3_3
4	E85 Sport Stoff-Leder	2564	not available anymore	Sample 4_2	3477	Sample 4_3
5	E60/61/65/66 Basis	2509	Sample 5_1	Sample 5_2	3478	Sample 5_3
6	E60/61/65/66 Basis Klima	2509	not available anymore	not available anymore	3478	Sample 6_3
7	E60/61/65/66 Sport	2666	Sample 7_1	not available anymore	3482	Sample 7_3
8	E60/61 MFS	2513	not available anymore	Sample 8_2	3500	Sample 8_3
9	E65/66 MFS	2543	not available anymore	not available anymore	3557	Sample 9_3
10	E60/61/65/66 MFS Klima	2543	not available anymore	not available anymore		
11	R50/R52 Basis	2849	not available anymore	Sample 11_2	--	not applicable
12	R50/R52 Sport	2850	not available anymore	Sample 12_2	--	not applicable
13	E53 Basis	3396	Sample 13_1	Sample 13_2	--	not applicable
14	E53 Sport	3370	not available anymore	Sample 14_2	--	not applicable
15	E83 Basis	2511/3396	not available anymore	not available anymore	3455	Sample 15_3
16	E83 Sport	2512	Sample 16_1	not available anymore	3487	Sample 16_3
17	E63 Basis	2955	Sample 17_1	not available anymore	3758	Sample 17_3
18	E63 Sport	2954	not available anymore	not available anymore	3558	Sample 18_3
19	E64 Basis	2563	Sample 19_1	not available anymore	3758	Sample 19_3
20	E64 Sport	2611	Sample 20_1	not available anymore	3759	Sample 20_3
21	E92 Basis	--	not existing	not existing	3456	Sample 21_3
22	E92 Sport	--	not existing	not existing	3457	Sample 22_3
23	E93 Basis	--	not existing	not existing	3332	Sample 23_3
24	E93 Sport	--	not existing	not existing	3333	Sample 24_3
25	RR01	--	not existing	not existing	3151	Sample 25_3
26	RR02	--	not existing	not existing	3560	Sample 26_3

March 31, 2008

Mr. Anthony M. Cooke
Chief Counsel
National Highway Traffic Safety Administration
1200 New Jersey Avenue, S.E.
West Building W41-227
Washington, DC 20590

Re: VDO Automotive AG [Continental]: Request for Confidential Treatment, EA08-001

Dear Mr. Cooke:

Today, VDO Automotive AG, which is owned by Continental AG, ("Continental") is submitting a response to an information request, dated February 29, 2008, in the above-referenced matter. Based on a careful review of that response, Continental has determined that some of the information should be withheld from public disclosure under Exemption 4 of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b)(4), and NHTSA's regulations at 49 C.F.R. Part 512. Therefore, we are requesting that the designated information, as described below, be accorded confidential treatment and, consistent with NHTSA's regulations, we are submitting the confidential documents to your office, together with this request for confidential treatment and the certificate required by your regulations.

Effective December 1, 2007, Continental AG purchased all of Siemens AG's automotive operations generally known as Siemens VDO Automotive. For the time periods referenced in your letter of February 29, Siemens VDO Automotive AG manufactured and sold the OCS seat mat sensor (OC3) to BMW. Siemens VDO Automotive AG is now owned by Continental AG and it has changed its name to VDO Automotive AG. For the purposes of responding to your letter, VDO Automotive AG will be referred to as "Continental."

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

The information for which confidential treatment is being requested is responsive to Item 3 of the Information Request, which requests a description of "all modifications or changes made by, or on behalf of, BMW or other applicable subject vehicles, in the design, material composition, manufacturing, quality control, supply, or installation of the subject component, from the start of production to date which relate to, or may relate to, the alleged defect of the subject vehicles." Information Request at 3-4. Item 3 goes on to seek specific information regarding each such modification, including the approximate date the modification was incorporated, a detailed

description of the modification, the reasons for the modification, part number information, and information about interchangeability with earlier production components.

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))

Part 512 and FOIA Exemption 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 principal 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 for which Continental is seeking confidential treatment is exempt from disclosure under these standards. Information about design changes and related matters that reveals and describes such changes and provides information about part numbers is carefully guarded by Continental and would be commercially valuable to Continental's competitors. Such information can be used to discern the length of Continental's design cycles and important aspects of Continental's design philosophy. It also would disclose valuable information about the performance of various designs. The insights that this information reveals could otherwise be obtained by a competitor only through the investment of considerable time and money. To produce this information independently, competitors would have to obtain samples of the various components and analyze them through a variety of means, including reverse engineering and performance testing. NHTSA's disclosure of the information would greatly reduce the costs, time, and efforts needed to obtain this vital information. Thus, the disclosure of this information would significantly assist competitors in competing against Continental and would "eliminate much of the time and effort that would otherwise be required to bring to market a product competitive with" Continental's tires, which is "clearly the type of competitive harm envisioned in Exemption 4." *Public Citizen Health Research Grp.*, 185 F.3d at 905. Accordingly, the information being submitted in response to Item 3 of the Information Request should be deemed exempt from disclosure under the FOIA and Part 512. *See id.*; *Worthington Compressors*, 662 F.2d at 52 (application of Exemption 4 depends, in part, on value of the information and cost of acquiring it through other means).

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

The information is not subject to a class determination.

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

Because the information for which confidential treatment is being sought will retain its competitive value indefinitely, Continental requests that the information be accorded confidential treatment indefinitely.

F. Contact Information (49 C.F.R. § 512.8(f))

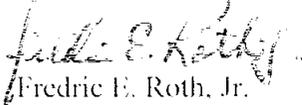
Please direct all inquiries and responses to the undersigned.

* * *

We are enclosing two confidential copies of the information and one public copy.

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

Sincerely,



Fredric E. Roth, Jr.
General Counsel, Litigation, Government Affairs and Compliance

Enclosures