

IN THE MATTER OF

MONTEDISON S.P.A, ET AL.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF
SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-3580. Consent Order, May 25, 1995--Modifying Order, Jan. 9, 1998

This order reopens the proceeding and modifies the 1995 consent order (119 FTC 676) by eliminating the prior approval provision and substituting a limited prior notice provision for certain acquisitions.

ORDER REOPENING AND MODIFYING ORDER

On August 11, 1997, Montedison S.p.A ("Montedison"), Montell N.V. ("Montell"), Shell Oil Company ("Shell"), Royal Dutch Petroleum Company, and The "Shell" Transport and Trading Company p.l.c. ("the petitioners"), filed a Petition To Reopen And Modify Order ("Petition") in Docket No. C-3580 ("order") pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), and Section 2.51 of the Commission's Rules of Practice and Procedure, 16 CFR 2.51, and consistent with the Statement of Federal Trade Commission Policy Concerning Prior Approval And Prior Notice Provisions ("Prior Approval Policy Statement").¹ The Petition requests that the Commission reopen and modify the order to eliminate the prior approval provision set forth in paragraph VII of the order. The Petition was placed on the public record for thirty days and one comment was received. The Commission has determined to reopen the order and to grant the Petition in part.

The complaint in this matter alleged that the petitioners' formation of Montell, a joint venture that merged the majority of Shell's and Montedison's worldwide polyolefins businesses, violated Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, by lessening competition and tending to create a monopoly in, among other markets, the licensing of polypropylene technology, polypropylene technology and the licensing of polypropylene catalysts and catalyst technology "throughout the world."²

¹ 60 Fed. Reg. 39,745-47 (Aug. 3, 1995); 4 Trade Reg. Rep., (CCH) ¶ 13,241.

² Complaint ¶¶ III and V.

The complaint alleged, among other things, that the formation of Montell would eliminate actual competition between Montedison and Shell in the relevant markets; substantially increase the level of concentration in the relevant markets; increase Montedison's and Shell's ability to unilaterally exercise market power in the relevant markets; and reduce Montedison's and Shell's incentives to license polypropylene technology or polypropylene catalysts to polypropylene resin manufacturers that compete with Montell.³

The order required Shell to divest the "Properties to Be Divested," as defined in paragraph I.Q of the order.⁴ On December 21, 1995, the Commission approved Shell's application to divest the "Properties to Be Divested" to Union Carbide Corporation. Under the order, the petitioners are prohibited from acquiring without the prior approval of the Commission any stock or related assets of any concern engaged in certain enumerated activities.⁵

The Commission, in its Prior Approval Policy Statement, "concluded that a general policy of requiring prior approval is no longer needed," citing the availability of the premerger notification and waiting period requirements of Section 7A of the Clayton Act, commonly referred to as the Hart-Scott-Rodino ("HSR") Act, 15 U.S.C. 18a, to protect the public interest in effective merger law enforcement.⁶ The Commission announced that it will "henceforth rely on the HSR process as its principal means of learning about and reviewing mergers by companies as to which the Commission had previously found a reason to believe that the companies had engaged or attempted to engage in an illegal merger." As a general matter, "Commission orders in such cases will not include prior approval or prior notification requirements."⁷

³ *Id.* at ¶ V.

⁴ Order ¶ VII.

⁵ The covered activities are:

1. The research and development... or sale or licensing to any person, of PP Technology or Catalyst Technology anywhere in the world;
2. The research and development, sale, or manufacture for sale of PP Catalyst, Catalyst Support, or Catalyst Systems anywhere in the world; or
3. The manufacture or sale of Propylene Polymers in the United States or Canada"

Order ¶ VII.

⁶ Prior Approval Policy Statement at 2.

⁷ *Id.*

Narrow prior approval or prior notification provisions may be necessary to protect the public interest in some circumstances. The Commission said in its Prior Approval Policy Statement that "a narrow prior approval provision may be used where there is a credible risk that a company that engaged or attempted to engage in an anticompetitive merger would, but for the provision, attempt the same or approximately the same merger." The Commission also said that "a narrow prior notification provision may be used where there is a credible risk that a company that engaged or attempted to engage in an anticompetitive merger would, but for an order, engage in an otherwise unreportable anticompetitive merger."⁸

The Commission in its Prior Approval Policy Statement announced its intention "to initiate a process for reviewing the retention or modification of these existing requirements" and invited respondents subject to such requirements "to submit a request to reopen the order."⁹ The Commission determined that, "when a petition is filed to reopen and modify an order pursuant to . . . [the Prior Approval Policy Statement], the Commission will apply a rebuttable presumption that the public interest requires reopening of the order and modification of the prior approval requirement consistent with the policy announced" in the Statement.¹⁰ Consistent with the Commission's Prior Approval Policy Statement, the presumption is that the prior approval requirement in this order should be terminated. Nothing to overcome the presumption having been presented, the Commission has determined to reopen the proceedings and modify the order in Docket No. C-3580 to set aside the prior approval requirement.

The Commission also stated that it would continue to fashion remedies as needed in the public interest, including ordering narrow prior notification requirements in certain limited circumstances. Accordingly, a prior notification provision may be used where there is a credible risk that a company would, but for an order, engage in an anticompetitive acquisition that would not be subject to the premerger notification and waiting period requirements of the HSR Act. As explained in the Prior Approval Policy Statement, the need for a prior notification requirement will depend on circumstances such as the

⁸ *Id.* at 3.

⁹ *Id.* at 4.

¹⁰ *Id.*

structural characteristics of the relevant markets, the size and other characteristics of the market participants, and other relevant factors.

Based on the record, the Commission has determined that the limited circumstances which the Prior Approval Policy Statement identifies as appropriate for retention of a narrow prior approval requirement, that is, a credible risk that, but for the prior approval provision, the petitioners would attempt the same or approximately the same merger, do not exist in this matter. Accordingly, pursuant to the Prior Approval Policy, the Commission has determined to delete the prior approval requirement of paragraph VII of the order.

The Commission has also determined that the record in this case shows a credible risk that the petitioners could engage in future anticompetitive acquisitions covered by the order that would not be reportable under the HSR Act. The order contains a broad prohibition on acquiring any stock or related assets of any concern engaged in propylene polymers research and development, or licensing of propylene polymers research and development technology or catalyst technology anywhere in the world.¹¹ The petitioners could acquire the exclusive polypropylene or catalyst technology of one of the few firms competing with the respondents around the world that licenses such technology on a world-wide basis. Such an acquisition could foreclose the entry of the licensor into the relevant markets as a competitor of the respondents, but would not be reportable under the HSR Act if the acquired entity has not made substantial sales of the technology being acquired in the United States market. Even where the acquired technology has been used to construct a polypropylene plant in the United States, the revenue realized by the foreign firm for licensing its technology would not ordinarily be reportable under the HSR Act.¹²

Given the non-reportable nature of these types of transactions, there exists a credible risk that the petitioners could engage in unreportable anticompetitive acquisitions supporting prior notice

¹¹ Order ¶ VII.

¹² The acquisition of assets located outside the United States, to which no sales in or into the United States are attributable, is not subject to the requirements of the HSR Act. In addition, the acquisition of assets located outside the United States, to which sales in or into the United States are attributable, is not subject to the requirements of the HSR Act unless, as a result of the acquisition, the acquiring person would hold assets of the acquired person to which such sales aggregating \$25 million or more during the acquired person's most recent fiscal year were attributable. See 16 CFR 802.50.

substitution for paragraphs VII.A.1 and 2 and VII.B.1 and 2, the technology and licensing activities covered by the order.

The record contains no evidence that there exists a credible risk that the petitioners could engage in future anticompetitive acquisitions of stock or assets of any concern engaged in the manufacture and sale (as opposed to research and development) of polypropylene in the United States or Canada that would not be reportable under the HSR Act.¹³ Even if such a transaction were to occur, the purchase price likely would be far in excess of \$15 million and, therefore, reportable under the HSR Act. There is no evidence in this record that any company engaged in the manufacture and sale of polypropylene in the United States or Canada could be acquired for less the \$15 million, or that any competitively significant assets of companies described in paragraphs VII.A.3 and VII.B.3 of the order have been offered for sale at a price below \$15 million. Therefore, the Commission has determined to delete paragraphs VII.A.3 and VII.B.3 from the order consistent with its determination to delete the prior approval requirement and substitute a prior notice provision for the acquisitions described in paragraphs VII.A.1 and 2 and VII.B.1 and 2 of the order.

Although the Petition does not explicitly seek such modification, the Commission may reopen the order and substitute a prior notice provision for the prior approval provision because the petitioners seek relief from the prior approval provision under the Prior Approval Policy Statement. In the Prior Approval Policy Statement, the Commission stated that although "a general policy of requiring prior approval is no longer needed, . . . the Commission reserves its equitable power to fashion remedies needed to protect the public interest," including ordering narrow prior notification requirements in certain limited circumstances.¹⁴ Because the petitioners seek reopening of the order pursuant to the Prior Approval Policy Statement, they have invoked the Commission's authority to modify the order consistent with the Statement. Setting aside the prior approval requirement and modifying the order by substituting the lesser obligation of filing prior notification for acquisitions not otherwise reportable under the HSR Act is consistent with the Prior Approval Policy Statement.

¹³ Order ¶¶ VII.A.3 and VII.B.3.

¹⁴ Prior Approval Policy Statement at 2.

Accordingly, pursuant to the Prior Approval Policy Statement, the Commission has determined to reopen the proceeding in Docket No. C-3580 and modify the order to delete the prior approval requirement of paragraph VII and to substitute a prior notification requirement for paragraphs VII.A.1 and 2 and VII.B.1 and 2. The Commission has also determined to delete paragraphs VII.A.3 and VII.B.3 of the order.

Accordingly, *It is ordered*, That this matter be, and it hereby is, reopened; and

It is further ordered, That paragraph VII of the order in Docket No. C-3580, issued on May 25, 1995, be, and it hereby is, modified, as of the effective date of this order, to read as follows:

It is further ordered, That for ten (10) years from the date this order becomes final, Shell, Montedison and Montell shall not, without providing advance written notification to the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise:

A. Acquire any stock, share capital, equity, or other interest in any concern, corporate or non-corporate, other than the acquisition by Shell or Montedison of additional shares of Montell, engaged in at the time of such acquisition, or within two (2) years preceding such acquisition engaged in,

1. The research and development (other than only implementation of technology licensed from others), or sale or licensing to any person, of PP Technology or Catalyst Technology anywhere in the world; or

2. The research and development, sale, or manufacture for sale of PP Catalyst, Catalyst Support, or Catalyst Systems anywhere in the world.

B. Acquire any assets used for or previously used for (and still suitable for use for),

1. The research and development (other than only implementation of technology licensed from others), or sale or licensing to any person, of PP Technology or Catalyst Technology anywhere in the world; or

2. The research and development, sale, or manufacture for sale of PP Catalyst, Catalyst Support, or Catalyst Systems anywhere in the world.

Provided, however, these prohibitions shall not relate to the construction of new facilities or the acquisition of new or used equipment in the ordinary course of business from a person other than the persons referred to in paragraph VII.A of this order. Provided, further, that this paragraph VII of this order shall not apply to the acquisition of Technipol by Montell following completion of the divestiture of the Properties to Be Divested and expiration of the attached Hold Separate Agreement.

Notification required under this provision shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended (hereinafter referred to as "the Notification"), and shall be prepared and transmitted in accordance with the requirements of that part, except that no filing fee will be required for any such notification, notification shall be filed with the Secretary of the Commission, notification need not be made to the United States Department of Justice, and notification is required only of respondents and not of any other party to the transaction. Respondents shall provide the Notification to the Commission at least thirty days prior to consummating the transaction (hereinafter referred to as the "first waiting period"). If, within the first waiting period, representatives of the Commission make a written request for additional information or documentary material (within the meaning of 16 CFR 803.20), respondents shall not consummate the transaction until twenty days after submitting such additional information or documentary material. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted by letter from the Bureau of Competition. Provided, however, that prior notification shall not be required by this paragraph for a transaction for which notification is required to be made, and has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. 18a.

Commissioner Thompson and Commissioner Swindle not participating.

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IN THE MATTER OF

BRAKE GUARD PRODUCTS, INC., ET AL.

FINAL ORDER, OPINION, ETC., IN REGARD TO ALLEGED VIOLATION
OF SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket 9277. Complaint, Sept. 27, 1995--Final Order, Jan. 15, 1998*

This final order prohibits, among other things, the Washington-based corporation and its president from misrepresenting the performance characteristics of the braking devices, the availability of insurance discounts resulting from installation of the devices and their compliance with certain government standards. In addition, the final order prohibits the respondents from continuing advertisements that claim their add-on braking system performed as effectively as factory installed antilock braking systems and prohibits the company from using the term ABS in marketing their braking devices. The final order requires the respondents to notify distributors and consumers of FTC findings.

Appearances

For the Commission: *Theodore Hoppock, Janet Evans, Mamie Kresses, Sydney Knight and C. Lee Peeler.*

For the respondents: *Pro se.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Brake Guard Products, Inc., a corporation, and Ed F. Jones, individually and as an officer and director of said corporation ("respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent Brake Guard Products, Inc., is a Washington corporation, with its offices and principal place of business located at 1047 W. Garland Avenue, Spokane, Washington.

Respondent Ed F. Jones is or was at relevant times herein an officer and director of Brake Guard Products, Inc. Individually or in concert with others, he formulates, directs, and controls the acts and practices of the corporate respondent, including the acts and practices

alleged in this complaint. His office and principal place of business is at 1047 W. Garland Avenue, Spokane, Washington.

PAR. 2. Respondents have manufactured, advertised, offered for sale, sold, and distributed certain after-market automotive products including Brake Guard Safety System, also known as the Advanced Braking System, or Brake Guard ABS (herein collectively referred to as "Brake Guard"), a device that is installed on a vehicle to improve its braking performance.

PAR. 3. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

PAR. 4. Respondents have disseminated or caused to be disseminated advertisements and promotional materials for Brake Guard, including but not necessarily limited to the advertisements and promotional materials attached hereto as Exhibits A through H. These advertisements and promotional materials contain the following statements and depictions:

(a) Could you stop?

[Photo of child about to enter path of vehicle on muddy road.]

FULL TIME FOUR WHEEL SAFETY SYSTEM (WITH ANTI-LOCK BENEFITS)

ADVANCED BRAKING SYSTEM ABS™ SAFETY SYSTEM

REDUCES WHEEL LOCK-UP FOR ALL VEHICLES WITH HYDRAULIC BRAKES

WHAT IS ADVANCED BRAKING SYSTEM?

- * It is a Safety System with "Anti-lock" benefits for all vehicles with hydraulic brakes, including motor homes and trucks, etc.
- * It works to inhibit wheel lock-up, skidding and loss of control when braking.
- * It stops vehicles straighter and shorter with better steering control and power.
- * It operates automatically, every time the brakes are applied.

HOW ADVANCE BRAKING SYSTEM WORKS:

* * * *

Like a computer, Advanced Braking System's patented systems (modified gas/hydraulic) compensate 4-wheel braking up to 120-140 times per second @ 60 mph, every time brakes are applied resulting in smoother, shortened and controlled stopping with nearly double the braking power, efficiency and control.

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SAFETY SCOREBOARD

LIFE SAVING FEATURES	Advanced Braking System Safety Systems		ALL OTHER ELECTRONIC A.B.S.		
	yes	no	yes	no	some-times
1. Stops Vehicle in A Shorter Distance	√				X
2. Operates Automatically Every Time The Brakes Are Applied	√			X	
3. Helps Steering Control During "Panic" Stops	√		X		
4. Reduces Brake Fade Hot Spots, And Break Wear	√			X	
5. Increases Braking Power ..	√			X	
6. Helps Compensate for Unequal Brake Adjustment Air and Wear Differences in Tire and Uneven Loading	√			X	
7. Reduces Wear to Front End Assembly, Tires and Master Cylinder	√			X	
8. Nearly Doubles Over-all Breaking Efficiency	√			X	
9. Available for All Vehicles With Hydraulic Brakes - including Motor Homes, etc. .	√			X	
10. Available As An "Aftermarket" (Retrofit) System	√				X
11. Transferable From One Vehicle To Another in Less Than One Hour	√			X	

* * * *

Advanced Braking System will reduce skidding under all conditions. However, it is still possible to lock wheels and skid especially at slower speeds and on slippery surfaces.

QUALIFICATION FOR A.B.S. INSURANCE RATE DISCOUNT

Advanced Braking System is a four wheel Safety System with Anti-Lock benefits and is in compliance with the National Highway Traffic Safety Administration (NHTSA) a division of the Department of Transportation (DOT) as defined by their standard No. 105; Hydraulic Brake System. The (S4) definition "Anti-Lock Systems" means a portion of the service system that automatically controls the degree of rotational wheel slop at one or more road wheels of the vehicle during braking. [EXHIBIT A]

(b) ANSWERS TO COMMON QUESTIONS ABOUT BRAKE-GUARD ABS (ABS - Advanced Braking system)

Q: Why should I consider BRAKE-GUARD ABS as an aftermarket item?

A: Anti-Lock brakes are one of the most advertised options of the decade. Virtually everything your new car buyer reads today has advertisements and positive press regarding Anti-Lock brakes.

* * * *

Q: How does BRAKE-GUARD ABS differ from electronic ABS systems?

A: Electronic ABS systems only work after the wheel(s) lock up. BRAKE-GUARD ABS works every time you use your brakes.

* * * *

Q: Will your customer qualify for an ABS insurance rate discount on their premiums?

A: With BRAKE-GUARD ABS installed on your new or used vehicle, you will qualify for an insurance rate discount if allowed by your carrier.

* * * *

Q: How can I be sure that BRAKE-GUARD ABS will perform as advertised?

A: We claim that the inclusion of BRAKE-GUARD on a vehicle will stop that vehicle straighter and in a significantly shorter distance, while reducing or eliminating premature wheel lock up, brake fade, brake pull while substantially increasing brake life. [EXHIBIT B]

(c) COULD YOU STOP?

[Depiction of child about to enter path of car on muddy road.]

FULL TIME FOUR WHEEL SAFETY SYSTEM (WITH ANTI-LOCK BENEFITS) Anti-Lock BRAKE-GUARD Safety System®

* * * *

The Brake * Guard Safety System meets or exceeds the Society of Automotive Engineers (SAE) wheel slip brake control system road test code SAE J46. The Brake * Guard Safety System is A*B*S "Anti-Lock Braking System" and is in compliance with the National Highway Traffic Safety Administration (NHTSA) a division of the Department of Transportation (DOT) as defined by their standard No. 105; Hydraulic Brake System. The (S4) definition "Anti-Lock Systems" means a portion of the service brake system that automatically controls the degree of rotational wheel slip at one or more road wheels of the vehicle during braking. [EXHIBIT C]

(d) STANDARD HYDRAULIC BRAKE SYSTEM FUNCTION AND BRAKE-GUARD ABS FUNCTION: (ABS- Advanced Braking System)

* * * *

Brake-Guard ABS is a full-time four wheel safety system with anti-lock benefits.

* * * *

This principle of operation substantially decreases brake wear and brake fade while inhibiting premature lock-up; The vehicle's brakes now have maximum braking efficiency with less pedal effort. It works with any configuration of braking system, front/rear split or diagonal split, and stops the vehicle an average of 20% to 30% shorter. . . . [EXHIBIT D]

(e) Videotape Transcript:

Host: Hi. Let's talk about safety for a moment. It's probably already happened to you. You are driving down the highway when suddenly you have to stop. And in those few short seconds your life and those of others will depend upon the reliability of your braking system. Will your wheels lock up causing your car to careen out of control or will your car come to a smooth straight stop well short of impact?

The difference could be a revolutionary product called Brake Guard. Brake Guard is a full time safety system with anti-lock benefits. Brake Guard Safety System eliminates some of the hazards of conventional braking systems, dramatically shortening your stopping distance, but more importantly giving you back control of your car in that emergency situation.

* * * *

This patented proven braking system dramatically increases your braking, power, efficiency and control resulting in straighter shorter stops in all kinds of conditions.

* * * *

Announcer: Q: Why do vehicles need the Brake Guard Safety System?

A: That's a good question. When a driver slams on the brakes in a panic stop, excess braking pressure is created, causing the brakes to lock up and skid. The Brake Guard Safety System equalizes braking pressure before it reaches the wheels, therefore reducing skids stopping the vehicle in a much shorter distance and more importantly giving the driver excellent control of their vehicle.

* * * *

Announcer: Q: How much shorter is the stopping distance with Brake Guard Safety System installed?

A: Results can vary depending on road conditions, the weight of the vehicle and a number of other conditions. With Brake Guard Safety System installed, it's been found to reduce stopping distance up to 30%.

* * * *

Announcer: Q: Does the Brake Guard Safety System user qualify for an ABS insurance rate discount on their premiums?

A: Yes, With Brake Guard safety system installed on your new or used vehicle, you will qualify for an insurance rate discount if your carrier offers ABS discounts. [EXHIBIT E]

(f) BRAKE-GUARD	Anti-Lock	WORLD CLASS	Anti-Lock
BRAKE*GUARD	BRAKING	BRAKE*GUARD	Safety System [®]
Safety System [®]	Add-on ABS Saves Lives		Reduces Accidents

"A Full-Time" Four Wheel Safety System (with anti-lock benefits) for All vehicles with Hydraulic Brakes.

WHAT IS BRAKE*GUARD?

* It is a Safety System with "Anti-Lock" benefits for vehicles with hydraulic brakes.

* It operates automatically, every time the brakes are applied.

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- * It works to inhibit wheel lock-up, skidding and loss of control when braking.
- * It stops vehicles straighter and shorter with better steering control. [EXHIBIT F]

* * * *

(g) BG's Hot Sheet

* * * *

BG TESTIMONIALS

HERE'S WHAT BRAKE GUARD CUSTOMERS ARE SAYING

This letter is to inform you of the results we have had with the Brake Guard products that we have installed on three vehicles.

The first was a 1956 Ford F100 pickup. The unit drastically improved the stopping of the pickup, especially on wet streets, NO rear wheel lockup!!

The second was on a 1980 Porsche 911SC. The results were excellent. After repeated stops from 60 MPH there was no brake fade, just controlled stops. Also, stops made at 70 MPH on a wet surface produced NO lockup, just smooth controlled stops.

The third vehicle was a 1989 Honda GL1500 Motorcycle. The installation was done on the rear unitized brake. Again the results were shorter, smoother stops. Further tests will be conducted after installing the unit on the front brake.

Allen Smith, Tulsa Enterprises, Huntington Beach, CA

* * * *

I am writing this letter to express my complete satisfaction with your product. I became interested after reading your brochure. My 1977 GMC Motor Home braking has improved both to feel and ability to stop from any speed far beyond my expectations.

Since the installation in mid 1991, I have convinced many of my fellow R.V.ers, mostly GMCs but some others 20' to 36', to install your units and all have found under actual tests that our panic stops require one third less distance (i.e. 200' instead of 300'). Also brake fade is no longer apparent on drawn out stops as in steep off ramps, etc. . . .

Bob Desaussure, San Rafael, CA

* * * *

[EXHIBIT G]

(h) STOP STOP STOP

[ABS logo] with A FULL TIME FOUR WHEEL SAFETY SYSTEM WITH LIMITED ANTI LOCK BENEFITS

[Photo of child about to enter path of vehicle on muddy road.]

ADVANCED BRAKING SYSTEM IS USED BY PEOPLE WHO CARE FOR SHORTER STRAIGHTER SAFER CONTROLLED STOPPING

WHAT IS ADVANCED BRAKING SYSTEM?

A four wheel Safety System for all vehicles with hydraulic brakes.

WHAT HAPPENS TO YOUR BRAKE SYSTEM?

Heat and other factors cause brake drums and rotors to become warped and out of round, when the brakes are applied the contact surface at each wheel is uneven resulting in unequal braking performance, premature wheel lockup, skidding, loss of control and unwanted accidents.

HOW ADVANCED BRAKING SYSTEM WORKS

Like a computer, Advanced Braking System's patented regulator system (modified gas/hydraulic) operates every time the brakes are applied, compensating for unequal braking, resulting in smoother, shortened straighter stopping with much greater control.

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Advanced Braking System can reduce skidding under all conditions. It is still possible to lock wheels and skid especially at slower speeds and on slippery surfaces.

* * * *

QUALIFICATION FOR INSURANCE RATE DISCOUNT

Advanced Braking System is a four wheel Safety System and is in compliance with the Department of Transportation as defined by their F.M.V.S.S. No. 105; Hydraulic Brake System. Properly equipped vehicles qualify for insurance rate discounts where applicable. [EXHIBIT H]

PAR. 5. Through the use of the trade names Brake Guard ABS and Advanced Braking System ABS; the logo containing the legend "Advanced Braking System" and the acronym "ABS"; and the statements and depictions contained in the advertisements and promotional materials referred to in paragraph four, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits A through H; respondents have represented, directly or by implication, that Brake Guard is an antilock braking system.

PAR. 6. In truth and in fact, Brake Guard is not an antilock braking system. Therefore, the representation set forth in paragraph five was, and is, false and misleading.

PAR. 7. Through the use of the statements and depictions contained in the advertisements and promotional materials referred to in paragraph four, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits A through H, respondents have represented, directly or by implication, that:

(a) Brake Guard prevents or substantially reduces wheel lock-up, skidding, and loss of steering control in emergency stopping situations;

(b) Installation of Brake Guard will qualify a vehicle for an automobile insurance discount in a significant proportion of cases;

(c) Brake Guard complies with a performance standard set forth in Wheel Slip Brake Control System Road Test Code SAE J46;

(d) Brake Guard complies with a standard pertaining to antilock braking systems set forth by the National Highway Traffic Safety Administration;

(e) Brake Guard reduces stopping distances by 20 to 30% or by up to 30%;

(f) Brake Guard provides antilock braking system benefits, including wheel lock-up control benefits, that are at least equivalent to those provided by original equipment manufacturer electronic antilock braking systems; and

(g) Testimonials from consumers appearing in the advertisements and promotional materials for Brake Guard reflect the typical or ordinary experience of members of the public who have used the product.

PAR. 8. In truth and in fact:

(a) Brake Guard does not prevent or substantially reduce wheel lock-up, skidding, and loss of steering control in emergency stopping situations;

(b) Installation of Brake Guard will not qualify a vehicle for an automobile insurance discount in a significant proportion of cases;

(c) Brake Guard does not comply with a performance standard set forth in Wheel Slip Brake Control System Road Test Code SAE J46 ("SAE J46"). SAE J46 sets forth a test procedure for evaluating the performance of antilock brake systems, but contains no performance standard. Moreover, Brake Guard has not been subjected to the testing set forth in SAE J46;

(d) Brake Guard does not comply with a standard pertaining to antilock braking systems set forth by the National Highway Traffic Safety Administration. The provision referred to establishes only a definition pertaining to antilock braking systems, and Brake Guard does not meet that definition;

(e) Brake Guard does not reduce stopping distances by 20 to 30% or by up to 30%;

(f) Brake Guard does not provide antilock braking system benefits, including wheel lock-up control benefits, that are at least equivalent to those provided by original equipment manufacturer electronic antilock braking systems; and

(g) Testimonials from consumers appearing in the advertisements and promotional materials for Brake Guard do not reflect the typical or ordinary experience of members of the public who have used the product.

Therefore, the representations set forth in paragraph seven were, and are, false and misleading.

PAR. 9. Through the use of the statements and depictions contained in the advertisements and promotional materials referred to in paragraph four, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits A through H, respondents have represented, directly or by implication, that:

(a) In emergency stopping situations, a vehicle equipped with Brake Guard will stop in a shorter distance than a vehicle that is not equipped with the device; and

(b) Installation of Brake Guard will make operation of a vehicle safer than a vehicle that is not equipped with the device.

PAR. 10. Through the use of the statements and depictions contained in the advertisements and promotional materials referred to in paragraph four, including but not necessarily limited to the advertisements and promotional materials attached as Exhibits A through H, respondents have represented, directly or by implication, that at the time they made the representations set forth in paragraph five, seven, and nine, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 11. In truth and in fact, at the time they made the representations set forth in paragraphs five, seven, and nine, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph ten was, and is, false and misleading.

PAR. 12. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

EXHIBIT A

**NEW VEHICLE INSTALLATION OF
Advanced Braking System ABS**
DOES NOT VOID OR ALTER NEW VEHICLE
WARRANTIES!
REFERENCE SOURCE: General Motors Corp -Ford
Motor Co -Chrysler-Nissan-Toyota-Subaru



**Qualification for
A.B.S. Insurance
Rate Discount**

Advanced Braking System is a four wheel Safety System with Anti-Lock benefits and is in compliance with the National Highway Traffic Safety Administration (NHTSA) a division of the Department of Transportation (DOT) as defined by their standard No. 105: Hydraulic Brake System. The (S4) definition "Anti-Lock Systems" means a portion of the service system that automatically controls the degree of rotational wheel slip at one or more road wheels of the vehicle during braking.

LIMITED WARRANTY:
100,000 miles or 10 years.
 Manufactured by:
Brake • Guard Products, Inc.
Spokane, Wa., U.S.A.



**Could
You
Stop?**



**FULL TIME
FOUR WHEEL
SAFETY SYSTEM**
(WITH ANTI LOCK BENEFIT)



**REDUCES WHEEL LOCK-UP
FOR ALL VEHICLES
WITH HYDRAULIC BRAKES**

EXHIBIT A

What Is Advanced Braking System?

- It is a Safety System with "Anti-lock" benefits for all vehicles with hydraulic brakes, including motor homes and trucks, etc.
- It works to inhibit wheel lock-up, skidding and loss of control when braking.
- It stops vehicles straighter and shorter with better steering control and power.
- It operates automatically, every time the brakes are applied.

How Advanced Braking System Works:

Heat and other dimension factors cause brake drums and rotors to become slightly warped and out-of-round. So, when the brakes are applied, the contact surfaces are correspondingly uneven causing an unequal transmission of braking effort from the wheels to the roadway resulting in premature wheel lock-up, early brake fade, uneven wear, skidding and loss of control. Like a computer, Advanced Braking System's patented systems (modified gas/hydraulic) compensate 4-wheel braking up to 120-140 times per second @ 60 mph, every time brakes are applied resulting in smoother, shortened and controlled stopping with nearly double the braking power, efficiency and control.



BRAKE • GUARD INTERNATIONAL HEADQUARTERS

Safety Scoreboard

LIFE SAVING FEATURES	Advanced Braking System		ALL OTHER BRAKES	
	YES	NO	YES	NO
1. Stops Vehicle in A Shorter Distance	✓			
2. Operates Automatically Every Time The Brakes Are Applied	✓			X
3. Helps Steering Control During "Tire" Slips	✓		X	
4. Reduces Brake Fade, Hot Spots, And Brake Wear	✓			X
5. Increases Braking Power	✓			X
6. Helps Compensate for Unequal Brake Adjustment, Air and Wear Differences in Tires and Uneven Loading	✓			X
7. Reduces Wear to Front End Assembly, Tires and Master Cylinder	✓			X
8. Nearly Doubles Over-all Braking Efficiency	✓			X
9. Available for All Vehicles With Hydraulic Brakes - Including Motor Homes, Etc.	✓			X
10. Available As An "Aftermarket" Retrofit System	✓			
11. Transferable From One Vehicle to Another in Less Than One Hour	✓			X

ROAD SURFACE	COHESION FACTOR
Dry Asphalt	80%o-90%o
Wet Surface	30%o-40%o
Snow	15%o-20%o
Ice	5%o-10%o

Advanced Braking System will reduce skid under all conditions. However, it is still possible to lock wheels and skid especially at slow speeds and on slippery surfaces.

ADVANCED BRAKING SYSTEM IS PATENTED INTERNATIONALLY AND UNDER U.S. PATENT NUMBERS 4,871,009 and 5,070,000 OTHER PATENTS ARE PENDING.

EXHIBIT B

ANSWERS TO COMMON QUESTIONS ABOUT
BRAKE-GUARD ABS

(ABS - Advanced Braking System)

Q: Why should I consider BRAKE-GUARD ABS as an aftermarket item?

A: Anti-Lock brakes are one of the most advertised options of the decade. Virtually everything your new car buyer reads today has advertisements and positive press regarding Anti-Lock brakes.

Q: What about profits?

A: BRAKE-GUARD ABS is an excellent profit item; higher than most aftermarket items.

Q: How does BRAKE-GUARD ABS differ from electronic ABS systems?

A: Electronic ABS systems only work after the wheel(s) lock up. *BRAKE-GUARD ABS works every time you use your brakes.*

Q: Will the inclusion of BRAKE-GUARD ABS change the way the brake pedal feels?

A: Yes, your customer will feel a softer pedal, but they will notice increased braking power with less effort. The pedal will not pulsate like the electronic ABS systems.

Q: Will BRAKE-GUARD ABS void your customer's factory warranty?

A: No, the inclusion of BRAKE-GUARD ABS on your vehicle does not void or alter new or used vehicle warranties.

Q: Will your customer qualify for an ABS insurance rate discount on their premiums?

A: With BRAKE-GUARD ABS installed on your new or used vehicle, you will qualify for an insurance rate discount if allowed by your carrier.

Q: How long and complicated is the BRAKE-GUARD ABS installation?

A: The BRAKE-GUARD ABS installation usually requires less than one hour, using special fittings, without modifying any manufacturer's part (15 minute removal). The installation guide takes you through step by step, covering all applications.

Q: What happens in the event of a malfunction?

A: Should the system malfunction, your vehicle will still maintain its normal brakes.

Q: How long has BRAKE-GUARD ABS been on the market?

A: BRAKE-GUARD ABS, produced by Brake-Guard Products, Inc., has been marketed since 1982 directly to police departments and ambulance companies. New car dealers now offer these systems as an option and undercar shops are also finding these systems very marketable. Overseas markets have shown great success with our system.

Q: What about liability?

A: BRAKE-GUARD ABS is insured with product liability insurance for \$1,000,000 with never a claim on it or any other similar system. This is in addition to the current liability you may already carry.

Q: How can I be sure that BRAKE-GUARD ABS will perform as advertised?

A: We claim that the inclusion of BRAKE-GUARD ABS on a vehicle will stop that vehicle straighter and in a significantly shorter distance, while reducing or eliminating premature wheel lock up, brake fade, brake pull while substantially increasing brake life.

Complaint

125 F.T.C.

EXHIBIT C

NEW VEHICLE INSTALLATION
Optional Brake Guard ABS
 DOES NOT AFFECT NEW VEHICLE
 WARRANTIES!
 REFERENCE SOURCE: General Motors Corp. - Ford
 Motor Co. - Chrysler - Nissan - Toyota - Subaru

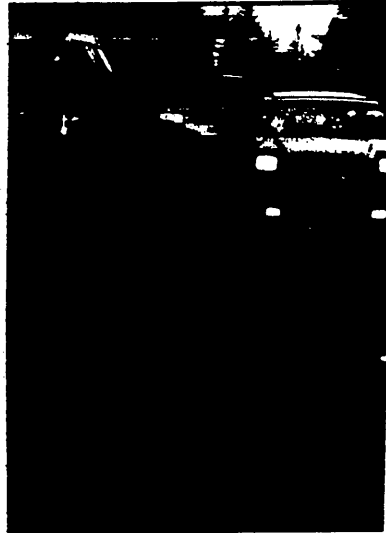


**Qualification for
 A.B.S. Insurance
 Rate Discount:**

The Brake Guard Safety System meets or exceeds the Society of Automotive Engineers (SAE) wheel slip brake control system road test code SAE J46. The Brake Guard Safety System is A*B*S "Anti-Lock Braking System" and is in compliance with the National Highway Traffic Safety Administration (NHTSA) a division of the Department of Transportation (DOT) as defined by their standard No. 105; Hydraulic Brake System. The (S4) definition "Anti-Lock Systems" means a portion of the service brake system that automatically controls the degree of rotational wheel slip at one or more road wheels of the vehicle during braking.

LIMITED WARRANTY:
 100,000 miles or 10 years.
 Brake Guard Products, Inc.
 Spokane, Wa., U.S.A.

**Could
 You
 Stop?**



**REDUCES WHEEL LOCK
 FOR ALL VEHICLES
 WITH HYDRAULIC BRA**

EXHIBIT C

What Is Brake-Guard?

- It is a Safety System with "Anti-lock" benefits for all vehicles with hydraulic brakes, including motor homes and trucks, etc.
- It works to inhibit wheel lock-up, skidding and loss of control when braking.
- It stops vehicles straighter and shorter with better steering control and power.
- It operates automatically, every time the brakes are applied.

How Brake-Guard Works:

Heat and other dimension factors cause brake drums and rotors to become slightly warped and out-of-round. So, when the brakes are applied, the contact surfaces are correspondingly uneven causing an unequal transmission of braking effort from the wheels to the roadway resulting in premature wheel lock-up, early brake fade, uneven wear, skidding and loss of control like a computer. BRAKE-GUARD's patented systems (modified gas/hydraulic) compensate 4-wheel braking at 120-140 times per second @ 60 mph, every time brakes are applied resulting in smoother shortened and controlled stopping with nearly double the braking power efficiency and control.



BRAKE-GUARD INTERNATIONAL HEADQUARTERS

Safety Scoreboard

LIFE SAVING FEATURES	BRAKE GUARD		ALL OTHER	
	YES	NO	YES	NO
1. Stops Vehicle in a Shorter Distance	✓			
2. Operates Automatically Every Time The Brakes Are Applied	✓			X
3. Helps Steering Control During "Rave" Stops	✓		X	
4. Reduces Brake Fade and Squeal and Brake Wear	✓			X
5. Increases Braking Power	✓			X
6. Compensates for Unevenness, Air and Wear Differences in Tires and Uneven Surfaces	✓			X
7. Reduces Wear to Front End Suspension, Tires and Master Cylinder	✓			X
8. Nearly Doubles Over-all Braking Efficiency	✓			X
9. Available for All Vehicles With Hydraulic Brakes - Including Motor Homes, Etc.	✓			X
10. Available as An "Automatic" Retard System	✓			
11. Transferable From One Vehicle to Another in Less Than One Hour	✓			X

ROAD SURFACE	COHESION FACTOR
Dry Asphalt	80%
Wet Surface	30%
Snow	15%
Ice	5%

Brake-Guard will reduce skidding under conditions. However, it is still possible to wheels and skid especially at slower so and on slippery surfaces.

BRAKE-GUARD IS PATENTED INTERNATIONALLY AND UN PATENT NUMBERS 4,871,008 and 5,074,885. OTHER PATENT PENDING.

Complaint

125 F.T.C.

EXHIBIT D

STANDARD HYDRAULIC BRAKE SYSTEM FUNCTION AND
BRAKE-GUARD ABS FUNCTION:

(ABS - Advanced Braking System)

Brakes are a friction device and are about 50% efficient from a mechanical and operational standpoint. Heat and other dimensional factors cause drums/rotors to become slightly warped and out-of-round, creating high and low spots in the metal of the drums/rotors. Therefore when the brakes are applied and the shoes/pads make contact with the high spots on the drums/rotors there is a rapid rise in brake fluid pressure in the brake lines. When they make contact in the low spots, there is a rapid fall in fluid pressure.

When brakes are applied with hard braking effort the shoes/pads correspondingly strike against the high spot contact - creating a rise in fluid pressure causing excessive friction, heat, wear and tear on the shoes/drums and rotors/pads. Brake fluid is non-compressible and will not reciprocate through the brake lines; consequently, the shoes/pads are not allowed to back off from these high spots. The brake fluid pressures in the brake lines are increased and decreased in conjunction with the high and low spot contact. Wheel lock-up occurs at these high spot contacts between the shoes/drums and rotors/pads, due to the higher pressure and excessive friction involved. This leads to loss of vehicle control.

Brake-Guard ABS is a full-time four wheel safety system with anti-lock benefits. It incorporates a pressure sensitive metering system in each unit (two units to a set per vehicle). Though small in size the Brake-Guard ABS is powerful in operation. This is possible through unique engineering incorporating a principle called hydro-equalization meaning the hydraulic pressures in the brake lines are equalized at all four wheels instantly and automatically at all different speeds. Brake-Guard ABS is a hydromechanical device with no electronics. The engineering technical terminology is Hydro Static Equalization.

The inclusion of Brake-Guard ABS on a vehicle boosts braking efficiency to approximately 90%. This is accomplished by modifying the braking system to a simple hydraulic system to an air-over hydraulic system. Air is pre-charged around the periphery of the metering system. The pre-charged air allows the metering system to function within the parameters needed to operate in correspondence with the pressures already existing in the brake lines during light, medium, or hard braking. This delivers optimum response and performance every time the brakes are applied.

The metering system expands and contracts (pulsates) approximately 60 to 80 times per second @30 Mph and approximately 120 to 140 times per second @60 Mph. Pulsations will vary in number depending on wheel size and mph. The brake fluid is now allowed to reciprocate through the brake lines, resulting in the constant equalization of brake-line pressure. The shoes/pads now back-off from the high pressure, out-of-round spots; conversely, the metering system contracts in response to low spot contact. Along with this equalization comes more efficient contact, with more braking surface between the shoes/drums and rotors/pads.

This principle of operation substantially decreases brake wear and brake fade while inhibiting premature wheel lock-up; at the same time it substantially increases brake life and utilizes more braking surfaces. The vehicle's brakes now have maximum braking efficiency with less pedal effort. It works with any configuration of braking system, front/rear split or diagonal split and stops the vehicle an average of 20% to 30% shorter. The inclusion of Brake-Guard ABS on a vehicle with hydraulic brakes will improve the overall braking by a varying degree between 50% to 90%+.

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Complaint

EXHIBIT E

[On Screen: Product Logo]

Exhibit E

Anti-Lock
Brake Guard
Safety System

Host:

Hi. Let's talk about safety for a moment, it's probably already happened to you. You are driving down the highway when suddenly you have to stop. And in those few short seconds your life and those of others will depend upon the reliability of your braking system. Will your wheels lock up causing you to careen out of control, or will your car come to a smooth straight stop well short of impact?

The difference could be a revolutionary product called Brake Guard. Brake Guard is a full time safety system with anti-lock benefits. Brake Guard Safety System eliminates some of the hazards of conventional braking systems, dramatically shortening your stopping distance, but more importantly giving you back control of your car in that emergency situation.

Please watch closely at the following demonstration. This Lincoln TownCar is traveling at approximately 65 mph, on dry pavement. As it makes a sudden hard stop the wheels lock unevenly causing the car to spin out of control. Now watch the same car, with Brake Guard Safety System installed. Again the pavement is dry, the speed about 65. The stop is smooth and even 53 feet shorter than before, but most importantly it was a controlled stop.

And so we have seen just how powerful the Brake Guard Safety System is in operation. This patented proven braking system dramatically increases your braking, power, efficiency and control resulting in straighter shorter stops in all kinds of conditions. It's a fact that regular hydraulic brakes only perform at about 60% efficiency, while the Brake Guard Safety System installed on your vehicle will give you peak efficiency around 90% or better. Remember, most safety devices work only when there is an accident, but the Brake Guard Safety System works every time you use your brakes. Helping prevent accidents before they happen. Now let's answer some of the most asked questions we receive about this remarkable product.

[Questions in superscript as well as audio]

Announcer Q: Why do vehicles need the Brake Guard safety system?

Complaint

125 F.T.C.

EXHIBIT E

A: That's a good question. When a driver slams on the brakes in a panic stop situation, excess braking pressure is created, causing the brakes to lock up and skid. The Brake Guard Safety System equalizes braking pressure before it reaches the wheels, therefore reducing skids stopping the vehicle in a much shorter distance and more importantly giving the driver excellent control of their vehicle.

Q: How does Brake Guard safety system differ from electronic anti-lock braking systems?

A: Electronic systems only work after the wheels lock up. Electronic ABS systems usually contain two or four wheel sensors, a computer and a fluid pump. They must first detect wheel lock-up before moving into action. On the other hand, Brake Guard Safety System works automatically every time you use your brakes, to retard wheel lock-up before it occurs by equalizing the pressure and allowing the shoes or pads to back off from the high spots on the drums or rotors. Brake Guard Safety System works with much greater simplicity than electronic ABS systems. There are no computers that can fail, wiring or fluid pumps. The Brake Guard Safety System is an all-mechanical continuously operating safety system with anti-lock benefits.

Q: How much shorter is the stopping distance with Brake Guard safety system installed?

A: Results can vary depending on road conditions, the weight of the vehicle and a number of other conditions. With Brake Guard Safety System installed, it's been found to reduce stopping distance up to 30%.

Q: Will the Brake Guard Safety System improve the performance of vehicles with worn brakes?

A: Yes; however, no add-on safety system or electronic ABS system can improve the safety if the brakes are inherently bad or need to be replaced.

Q: How long does it takes to install the Brake Guard Safety System?

A: Installation usually requires less than a half an hour.

Q: Is there any breaking-in time required when the Brake Guard safety system is first installed?

A: The Brake Guard Safety System requires no break-in, but the hydraulic brakes do. Immediately after installation, make several hard, fast stops just below

EXHIBIT E

the skid point if conditions permit. This will train the brake pistons at each wheel to operate with the Brake Guard Safety System. However, the break-in process takes a little time. The braking will continue to improve during this period. After the break-in run, always re-check all fittings again, looking for any possible leaks.

Q: Will the addition of the Brake Guard Safety System change the way your brake pedal feels?

A: Yes. Most drivers say they feel a softer, more manageable pedal, and notice increased braking power with less effort.

Q: Does the Brake Guard Safety System user qualify for an ABS insurance rate discount on their premiums?

A: Yes. With Brake Guard Safety System installed on your new or used vehicle, you will qualify for an insurance rate discount if your carrier offers ABS discounts.

Q: Will Brake Guard void your factory warranty?

A: No. The installation of Brake Guard Safety System on your vehicle does not void or alter new or used vehicle warranties.

Q: On what type of vehicle can Brake Guard Safety System be used?

A: Brake Guard Safety System is used on vehicles with all types of hydraulic brakes: cars, motor homes, vans, small trucks and emergency vehicles such as ambulances and police cars.

Q: What's the most important benefit of the Brake Guard Safety System?

A: Well, as I said before, the Brake Guard Safety System works every time you use your brakes, helping prevent accidents before they happen. And with Brake Guard Safety System you get a controlled shorter stop that could very well make the difference in saving a life or the lives of those you love.

Complaint

125 F.T.C.

EXHIBIT F

**Add-On ABS Saves Lives****Reduces Accidents**

"A Full-Time" Four Wheel Safety System (with anti-lock benefits) for All Vehicles with Hydraulic Brakes.

WHAT IS BRAKE-GUARD?

- It is a Safety System with "Anti-Lock" benefits for vehicles with hydraulic brakes.
- It operates automatically, every time the brakes are applied.
- It works to inhibit wheel lock-up, skidding and loss of control when braking.
- It stops vehicles straighter and shorter with better steering control.

OTHER BENEFITS OF BRAKE-GUARD:

- Positive reduction in brakefade and hot spots (dangerous conditions caused by hard brake use).
- Increases brake life substantially.
- Reduces wear to critical front-end assembly, tires, and master cylinder.
- Helps compensate for unequal brake adjustment, air and wear difference, in tires and uneven loading.
- Makes driving easier, safer and more fun while reducing the chance of accident, injury or lawsuit.

DISTRIBUTED BY: **LIST PRICE**
\$595⁰⁰

EXHIBIT G



ing this letter
to my customer
on with your
two important
my business.
Master Home
improved both
ability to stop
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a installation
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to GMC, but
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on drive
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How great-
the way will
Thank you
and honest
to Charleston,
in Dayton, GA
and business
to your satisfac-
tion.

ing approximately 55 MPH
and either up or a set doing
approximately 10 MPH with
no 4 way flashers. We had to
make a much slow down,
and I believe the Brake
Guard system made a pos-
sitive difference in the perfor-
mance of the brakes. We
now tow a car behind on a
daily and are very pleased
the way the brakes are per-
forming. I highly recom-
mend Brake Guard to any-
one who wants their brake
system improved.

Bill Perry
Rusherry, NY

NECKY ISSUE:
• BG develops special ap-
plications for Honda
GoldWing motorcycles
• Branches from South
West Research Insti-
tute in San Antonio
Texas on the effects of
Brake Guard systems
• The physics behind
proportioning valves
and Brake Guard ap-
plications

After 1800 ac-
World in
Tennessee,
and installed
founder (33
155 sq. ft.
very clean,
disc brakes,
ing the brake
installed, we
come to New
in the state
were improv-



International Sales Post High Growth Rates
Brake Guard is currently marketing both the Brake Guard name and the Advanced Linking System (ABS) in over 25 countries. Sales of the Brake Guard and ABS systems have taken off overseas. It seems American cars aren't the only ones concerned about safety and saving lives.

New BG Posters Hot Off the Press
Brake Guard has just received new posters to assist you in your marketing efforts. If you're ready to bring up your new marketing ideas, please feel free to contact us.

Brake Guard Publishes Quarterly Newsletter
This is the first issue of BG's Hot Sheet, a quarterly news publication from Brake Guard Products, Inc. Posters will include installation tips, marketing techniques, testimonials, and more.

The Dual Diagonal Dilemma

Dual-diagonal brake design appear to present a problem when installing Brake Guards, but that is not the case. With four brake lines coming from the master cylin-



BRAKE GUARD PRODUCTS... in Spokane, Washington.

Jaguars are Unique Animals

When you think of luxury cars, one would assume that with the increase in price comes an increase in all-around safety. Yet even in the finest automobiles in the world, hydraulic brake systems can be drastically improved with Brake Guard.
Many would consider the Jaguar automobile one of the finest in the world. Very few cars can claim to have been in production for so many years with very few changes in body style. But not only is a Jaguar distinctive on the outside, there are many unique characteristics to these automobiles on the inside. One characteristic relevant to the Brake Guard installation is the master cylinder. While most production cars use either a combination of 6 standard lines and 5 metric lines, the Jaguar requires its own special fit. Our engineers at Brake Guard have modified the standard 7921 and 7973 lines provided with other brake guard sets and we now have these in stock.
If you have an opportunity to install a Brake Guard system on a Jaguar, please request two of these modified lines for the installation.

der, deciding which line to attach the Brake Guards requires simple understand-
ing of the mechanics behind a dual-diagonal arrangement.
The dual-diagonal system are the right front and the left rear brake on the same chamber of the master cylinder. The left front and right rear brakes are attached to the other chamber. This system was originally proposed in the event that one of the two chambers (or lines attached to the chambers) became unproportioned, one front brake and one rear brake on the opposite side of the car would remain functional.

When repairing the master cylinder, it's easy to see that two brake lines are emerging from the front of the cylinder and two from the rear of the master cylinder. Because brake fluid flows freely within each chamber, installing one Brake Guard in either of the front two lines emerging from the cylinder, and one Brake Guard in either of the rear cylindrical brake lines provides maximum pressure regulation in all brake lines. Because brake fluid is incompressible, installing a Brake Guard at any point along the circuit regulates the pressure within that chamber of the cylinder.

If you have come across installation questions or have developed solutions of your own, we would like to hear from you. Contact information for Brake Guard Products is located at the end of this newsletter. Next month we will feature an article on the function of proportioning valves.

000013:

Complaint

125 F.T.C.

EXHIBIT G



BG TESTIMONIALS



HERE'S WHAT BRAKE GUARD CUSTOMERS ARE SAYING

This letter is to inform you of the results we have had with the Brake Guard products that we have installed on three vehicles.

The first was a 1966 Ford F100 pickup. The unit drastically improved the stopping on wet streets, especially on wet streets. NO rear wheel lockup!!

The second was on a 1980 Porsche 911SC. The results were excellent. After repeated stops from 60 MPH there was no brake fade, just controlled stops. Also, stops made at 70 MPH on a wet surface produced NO lockup, just smooth controlled stops.

The third vehicle was a 1989 Honda GL1500 Motorcycle. The installation was done on the rear unitized brake. Again the results were shorter, smoother stops. Further tests will be conducted after installing the unit on the front brake.

Allen Smith
Tulsa Enterprises
Huntington Beach, CA
You are currently being contacted on Honda Motorcycle applications. Look for test results in next issue.

In January 1991 a new company (vehicle) was purchased. The need was given to the Chevrolet 3/4 Ton Long Bed. The truck was equipped with G.M.'s Anti-Lock Brakes.

Within 4-5 months, the rear wheels would lock at very slow speed on wet surfaces such as the L.A. free-

way traffic at 3-5 MPH. The "dies" light on the dash began to stay on. The dealer made the necessary repairs, but within 3-4 months the same thing once more. The needed part was not in stock and the mechanic who was assigned to my truck told me, and I quote, "This is the only real way to fix the problem," as he un-plugged the unit.

One week ago the Brake Guard (system) was installed, and what a difference! Perhaps you should present your product to Chevy dealers who must be embarrassed by the repair procedure.

Kelly Tidwell
S.T.D. Enterprises
Huntington Beach, CA

In June 1991, I had an anti-lock braking system (Brake Guard) installed on my 1990 V-4 4X4 pickup. I have now had an opportunity to test this system on pavement, gravel roads, and ice.

I am very satisfied with this installation. In all situations it has provided shorter stops without loss of maneuverability. On gravel roads, I particularly like the increased control when going down steep, rough roads. On ice, I like the increased control that comes from being able to stop in the shortest distance without skidding—thus being able to continue to steer the vehicle.

Anneth Stroud
Ridgeway, N.C.

I am writing this letter to express my complete satisfaction with your product. I became interested after reading your brochure. My 1977 GMC Motor Home braking has improved both as to feel and ability to stop from any speed far beyond my expectations.

Since the installation in mid 1991, I have convinced many of my fellow R.V.'ers, mostly GMC's but some others 26' to 36', to install your units and all have found under actual tests that our panic stops require one third less distance (i.e. 200' instead of 300'). Also, brake fade is no longer apparent on drawn out stops as in steep off ramps, etc.

I am sure my enthusiasm will continue for at least the 100,000 mile guarantee and hopefully fellow travelers I meet along the way will heed my advice. Thank you for an amazing and honest product.

Bob Zimmerman
San Rafael, CA
We're sending you some brochures to pass out to your fellow travelers.

In September 1990 at Camping World in Nashville Tennessee, I had brake guard installed on my 1986 Beauder (33 feet). It has a 460 cu. in. engine, John Deere chassis, and four wheel disc brakes.

After having the brake guard system installed, we were traveling home to New York on Route 81 in the state of Virginia. We were travel-

ing approximately 65 MPH and came up on a car doing approximately 10 MPH with no 4 way flashers. We had to make a quick slow down, and I believe the Brake Guard system made a positive difference in the performance of the brakes. We now tow a car behind on a dolly and are very pleased the way the brakes are performing. I highly recommend Brake Guard to anyone who wants their brake system improved.

Bill Peary
Ridgeway, NY

NEXT ISSUE:

- BG develops special application for Honda GoldWing motorcycles
- Results from South West Research Institute in San Antonio Texas on the effects of Brake Guard systems.
- The physics behind proportioning valves and Brake Guard applications

If you would like to send us your testimonial, or have other questions or comments about Brake Guard Products, please contact us at:

Brake Guard Products
P.O. Box 9689
Spokane, WA 99209
Tel: 1-800-ABS-STOP
Fax: (509) 328-7261

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EXHIBIT H



ADVANCED BRAKING SYSTEM
DOES NOT VOID ORIGINAL
NEW VEHICLE WARRANTY

REFERENCE SOURCE: GENERAL MOTORS CORP., FORD MOTOR CORP.,
CHRYSLER, NISSAN, TOYOTA, MITSUBISHI, SUBARU, HONDA, MAZDA, HYUNDAI

LIMITED WARRANTY
100,000 MILES OR TEN YEARS

BRAKE-GUARD Products, Inc
Spokane, WA U.S.A.



BRAKE-GUARD INTERNATIONAL BUILDING

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STOP

with
A FULL TIME
FOUR WHEEL
SAFETY SYSTEM
WITH LIMITED-ANTI LOCK BENEFIT

ADVANCED BRAKING SYSTEM
IS USED BY
PEOPLE WHO CARE

SHORTER
STRAIGHTER
SAFER
CONTROLLED STOPPING

EXHIBIT H

WHAT IS ADVANCED BRAKING SYSTEM?

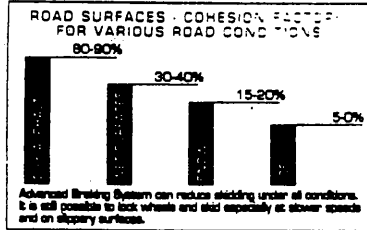
A four wheel Safety System for all vehicles with hydraulic brakes.

WHAT HAPPENS TO YOUR BRAKE SYSTEM?

Heat and other factors cause brake drums and rotors to become warped and out of round; when the brakes are applied the contact surface at each wheel is uneven resulting in unequal braking performance, premature wheel lockup, skidding, loss of control and unwanted accidents.

HOW ADVANCED BRAKING SYSTEM WORKS

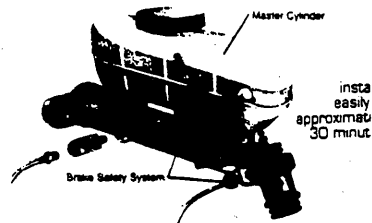
Like a computer, Advanced Braking System's patented regulator system (modified gas/hydraulic) operates everytime the brakes are applied, compensating for unequal braking, resulting in smoother, shortened, straighter stopping with much greater control.



ADVANCED BRAKING SYSTEM IS PATENTED INTERNATIONALLY AND UNDER U.S. PATENT NUMBERS 4,571,008 and 5,074,825. OTHER PATENTS ARE PENDING.

MAILED
OCT 4 1995
DOCUMENT PROCESSING

EASE OF INSTALLATION



ADVANCED BRAKING SYSTEM IS USED BY

- Emergency Vehicles • R.V.'s • Motorhome
 - Fleets • Performance Automotive • New C and
- and
PEOPLE WHO CARE

7 REASONS WHY YOU SHOULD HAVE ADVANCED BRAKING SYSTEM INSTALLED...	
LIFE SAVING FEATURES	BRAG-GUARD Safety System
1. Saves Vehicle in A Shorter Distance.....	✓
2. Overruns Automatically Every Time The Brakes Are Applied.....	✓
3. Reduces Brake Pad, Hub, Spins and Brake Wear.....	✓
4. Holds Compensates for Unequal Brake Adjustment, Air and Wear Differences in Tires and Uneven Loading.....	✓
5. Increases Overall Braking Efficiency.....	✓
6. Available for All Vehicles With Hydraulic Brakes - Including Motor Homes, Etc.....	✓
7. Available As An "Aftermarket" (Retrofit) System.....	✓

QUALIFICATION FOR INSURANCE RATE DISCOUNT

Advanced Braking System is a four wheel Safety System and is in compliance with Department of Transportation as define their F.M.V.S.S. No. 105: Hydraulic E System. Properly equipped vehicles qualify insurance rate discounts where applic

INITIAL DECISION

BY LEWIS F. PARKER, ADMINISTRATIVE LAW JUDGE
MAY 2, 1997

I. INTRODUCTION

The Commission issued the complaint in this case and two companion cases on September 27, 1995. I issued a default decision in one case (D. 9276) on October 16, 1996 and an initial decision in another (D. 9275) on March 3, 1997.

The complaint in this case charges that Brake Guard Products, Inc. ("BGPI"), and Ed F. Jones, individually and as an officer and director of Brake Guard, have violated the Federal Trade Commission Act by representing, through advertisements and promotional materials for aftermarket automotive products including the Brake Guard Safety System, also known as the Advanced Braking System or Brake Guard ABS ("Brake Guard"), that Brake Guard is an antilock braking system when, in truth and in fact, it is not an antilock braking system.

The complaint also alleges that the following representations were made in respondents' ads and promotional materials and that they were false and unsubstantiated:

(a) Brake Guard prevents or substantially reduces wheel lock-up, skidding, and loss of steering control in emergency stopping situations;

(b) Installation of Brake Guard will qualify a vehicle for an automobile insurance discount in a significant proportion of cases;

(c) Brake Guard complies with a performance standard set forth in Wheel Slip Brake Control System Road Test Code SAE J46;

(d) Brake Guard complies with a standard pertaining to antilock braking systems set forth by the National Highway Traffic Safety Administration;

(e) Brake Guard reduces stopping distances by 20 to 30% or by up to 30%;

(f) Brake Guard provides antilock braking system benefits, including wheel lock-up control benefits, that are at least equivalent to those provided by original equipment manufacturer electronic antilock braking systems; and

(g) Testimonials from consumers appearing in the advertisements and promotional materials for Brake Guard reflect the typical or

ordinary experience of members of the public who have used the product.

The complaint also alleges that respondents have falsely represented, without substantiation, that:

- (a) In emergency stopping situations, a vehicle equipped with Brake Guard will stop in a shorter distance than a vehicle that is not equipped with the device; and
- (b) Installation of Brake Guard will make operation of a vehicle safer than a vehicle that is not equipped with the device.

On May 22, 1996, I entered a partial summary decision, later clarified on May 28, 1996, which found that respondents' trade names and logos, and the advertising and promotional materials attached to the complaint, made the alleged claims ("Partial Summary Decision (Ad Meaning)").

In a second partial summary decision on October 16, 1996, I held that respondents' representations that installation of their braking devices will qualify a vehicle for an automobile insurance discount in a significant proportion of cases is false and unsubstantiated ("Partial Summary Decision (Insurance Discounts)").

Trial in this proceeding was held between October 21, 1996 and February 13, 1997. The record was closed on February 14, 1997 and the parties filed their proposed findings on March 12, 1997. Replies were filed on March 27, 1997. With few exceptions, respondents have not supported their factual claims by detailed references to the record.

This decision is based on the transcript of testimony, the exhibits which I received in evidence, and the proposed findings of fact and conclusions of law filed by the parties. I have adopted several proposed findings verbatim. Others have been adopted in substance. All other findings are rejected either because they are not substantiated by the record or because they are irrelevant.

II. FINDINGS OF FACT

*A. The Corporate Respondents' Business And
Mr. Jones' Connection Therewith*

1. Brake Guard Products, Inc. is a Washington corporation, with its offices and principal place of business located at 1047 W. Garland Avenue, Spokane, Washington (Ans. ¶ 1).¹

2. Ed F. Jones is President of the corporate respondent. Individually or in concert with others, he formulates, directs, and controls the acts and practices of the corporate respondent, including the acts and practices alleged in the complaint. His office and principal place of business is at 1047 W. Garland Avenue, Spokane, Washington (Ans. ¶ 1; Tr. 2955-57).

3. The acts and practices of respondents alleged in the complaint have been in or affecting commerce (Ans. ¶ 1).

B. The Product And Its Promotion

4. Since approximately 1980, respondents have manufactured, advertised, offered for sale, sold and distributed an after-market automotive product under the trade names Brake Guard Safety System, the Advanced Braking System, or Brake Guard ABS (hereinafter collectively referred to as "Brake Guard"), a device that is installed on a vehicle ostensibly to improve its braking performance (Ans. ¶ 1; Tr. 2963). Brake Guard consists of a metal housing containing a resilient membrane. The devices are sold in sets of two, so that one may be attached to each of the two hydraulic brake lines of a motor vehicle. The device is a simple hydraulic accumulator, meaning that during heavy brake pedal application, the resilient membrane can expand to accept some brake fluid. When the pedal is released, the brake fluid is returned to the brake lines (Tr. 874; CX 32-M, -Z-24; see RX 91-M (depiction)).

5. BGPI sold the Brake Guard systems through a network of dealers and distributors, including new car dealers, vehicle service

¹ Abbreviations used in this decision are:
Ans. Respondents' answer to the complaint.
CPF: Complaint counsel's proposed finding.
Cplt Complaint.
CX: Commission exhibit.
F.: Finding number in this decision.
Tr.: Transcript of the hearing.
RX: Respondents' exhibit.

centers, and vehicle part catalog companies. (*See, e.g.*, RX 229-L; CX 234-B; CX 321-A, B; CX 233-A; CX 234-E, F.) BGPI's 1992 promotional material indicated that it had over 1200 U.S. dealers and marketed Brake Guard in 34 countries abroad. (Compare CX 234-Z-208 with CX 234-A (BGPI marketing material referring to 1992 events, submitted in deposition held November, 1992).) The wholesale cost to dealers and distributors of Brake Guard ranged from \$98 to \$240 per system (CX 231-G, H, W; *see also* CX 234-Z-53, -60). The price to consumers ranged from \$283 to \$349, installed (CX 231-Z-10, Z-14; CX 234-J, -Z-143). BGPI estimates that it has sold between 400,000 and 500,000 Brake Guard systems (Tr. 2615-16). BGPI's gross receipts for sales of Brake Guard from 1990 to 1994 amounted to \$10,412,792 (\$279,450 in 1990; \$1,426,404 in 1991; \$3,383,401 in 1992; \$3,003,667 in 1993; and \$2,319,870 in 1994) (CX 246-A, -D, -G, -K, -N).

6. BGPI promoted Brake Guard through ads in automotive magazines, and a variety of widely disseminated videos, brochures, posters, and other promotional materials.

7. Print ads for the Brake Guard device appeared in magazines such as "Brake and Front End" (Tr. 2722), "Northwest Motor" (CX 169), "Specialty Automotive Magazine" (CX 172), "Import Automotive Parts & Accessories" (CX 173), "Automotive Executive" (CX 174), "The New American" (CX 179), and "Undercar Digest" (CX 180), as well as "RV West," "Automotive News and Trailer Life" (Tr. 2722).

8. BGPI also used several different videos to promote its product. (*E.g.*, CX-25 (Cplt Ex. 3, *see* Ans. ¶ 1); CX 107, CX 109, CX 110, CX 111, CX 146, CX 149, CX 158, CX 159, CX 234-Z-199-202.) Many of the magazine ads instructed the reader to call for a "free video." (*E.g.*, CX 179, 180.) BGPI distributed videotapes extensively to dealers, to assist them in marketing the product to consumers. (*E.g.*, CX 114-A, CX 163-F, CX 226-H, CX 233-A (reflecting BGPI's shipment of videos to dealers); CX 140-A, B, D, F, G, I (reflecting dealer shipment of video to installers); Tr. 2969-70.) One reseller used the videotape to make presentations to car dealerships (CX 234-Z-7 (regarding CX-234-Z-199-202)); another stated that "selling the Brake Guard is easy after the customers are sat down to watch a demo tape of the performance of the Brake Guard" (CX 53-Z-47).

9. BGPI also promoted its product through numerous brochures (CX-21, CX 23, CX 28, CX 112, CX 113, CX 136, CX 160, CX 188,