

Next Generation Vehicles and Mobility

With deep roots in the automotive industry, Miller Canfield is the preeminent law firm and a recognized legal authority in the burgeoning field of next generation vehicles – including electric vehicles, automated and connected vehicles, fuel cell vehicles, robotic delivery systems, ride sharing, mobility-as-a-service and smart infrastructure. The firm counts among its clients not only globally recognized automotive suppliers and manufacturers, but also software providers, technology companies and investment funds from North America, Europe and Asia. Miller Canfield is ideally positioned to advise companies seeking to understand how to do business in the automotive industry, as well as traditional automotive industry players working with companies providing invaluable software technologies for these next generation vehicles and related technologies and infrastructure.

Our experience includes:

Safety Standards and Regulation (NHTSA)

Compliance with the Federal Motor Vehicle Safety Standards (FMVSS) and meeting the vast array of other U.S. National Highway Traffic Safety Administration (NHTSA) regulatory obligations are of paramount importance to all companies engaged in the next generation vehicle industry. Miller Canfield has one of the largest teams of automotive lawyers who specialize in representing automotive manufacturers and suppliers in matters related to automotive safety compliance, regulation, warranty and recall issues. Our lawyers are constantly tracking new regulatory developments (e.g., FMVSS 150) and staying abreast of industry best practices. We have intimate knowledge and extensive experience in automotive safety regulations and requirements, and we have working relationships with NHTSA's staff and other federal, state, local and foreign governmental agencies. We advise clients on conducting internal defect investigations, responding to NHTSA defect investigations, defending clients in enforcement actions, and TREAD Act reporting. We help clients leverage best practices in the autonomous vehicle market, including implementing functional safety standards (IEC 61508, ISO 26262) and developing meaningful record retention policies. We fully understand and help our clients navigate through the risks associated with certain regulatory obligations, the consequences these obligations may have on related product liability exposure and the contractual obligations affecting business relationships up and down the supply chain.

Data Privacy and Data Ownership

Vehicles with sophisticated technologies will be equipped with built-in computing power systems that will operate based on continuously running wireless connections, making such vehicles inherently trackable. In addition to detecting the precise location of vehicles, such data tracking will be a source of information as to how the vehicles operate and their trajectory. The data compiled may also reveal their owners' daily patterns and propensities, which could be used for marketing and intelligence gathering purposes. In addition, with the introduction of event data recorders (EDRs) into such vehicles, privacy concerns will become an important consideration. More fundamentally, the question of which party owns and has the right to use such collected data is an important legal issue, but also an issue to be discerned for commercial purposes. Finally, since such data could be transferred across national borders, data privacy laws will be implicated. Miller Canfield's experienced team of **data privacy lawyers** working in the context of the autonomous vehicle industry are able to counsel clients in navigating the legal issues involving the collection, storage, sale, use, and transfer of such data.

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OEM/Supplier/Software Provider Contracting

For software providers, programmers, and other technology companies entering the automotive industry, understanding how to navigate the industry's esoteric purchasing and contracting practices is key to succeeding. Miller Canfield's attorneys have long represented automotive suppliers, manufacturers, and software providers doing business in the automotive industry, and our firm understands the industry's purchasing and business practices, terms and conditions, licensing arrangements, and "battle of the forms" issues. At the same time, our lawyers are experienced in understanding how the software industry has changed the automotive industry, as we are involved in all aspects of software licensing, intellectual property ownership and warranties, risk allocation, and the business practices of software and technology providers, start-ups and venture capital-backed technology companies. Accordingly, Miller Canfield is able to provide practical legal and business advice to both new entrants and established suppliers in the automotive industry seeking to negotiate supply agreements, software licenses, joint development agreements, product and technology development agreements, and joint ventures. In addition, the firm advises financial investors such as private equity and venture capital funds engaged in investments in technology companies involved in the field.

Intellectual Property Rights and Software Licensing

The autonomous vehicle movement is a disruptive technology and is already causing changes to the way the automotive industry conducts business with software providers. It is vital for automotive suppliers as well as software providers to understand the auto industry's current practices, terms and conditions and licensing structures in order to navigate the process and address the gaps and changing environment involving the intellectual property rights associated software code and licensing, and the related liability risk allocation. Miller Canfield lawyers have a wealth of experience in administering, managing and prosecuting the patent portfolios for automotive suppliers and advising in-house counsel, company management and engineers. We also have been at the forefront in representing automotive suppliers in licensing their automotive embedded software, electronic control units (ECUs) system integration, counseling in the development and system modeling software, production control and automatic conveying systems and powertrain, emissions and vehicle subsystem test equipment.

Product Liability

Managing and efficiently allocating the liability risks posed by next generation vehicles is and will remain a key concern. Companies engaged in the supply chain will need to take into account traditional product liability principles such as negligence, strict liability, design and manufacturing defects, failure to warn and misrepresentation. As with vehicle software suppliers and manufacturers, some of the product liability risk will be allocated contractually, through warranty and indemnification provisions. But given the greater complexity inherent in multi-authored software-driven products, made even more complex with the involvement of multiple parties in powering autonomous vehicles, such as V2V and V2I connectivity, attributing liability will be a challenge. Regulatory and statutory reforms will also be important, as well as insurance coverage. On all these fronts, Miller Canfield's experience in defending complex, multi-district class actions, attorney general actions, multiple party actions, arbitrations, mediations, and administrative proceedings, as well as understanding the issues faced in the new autonomous vehicle paradigm, will be invaluable.

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Public Sector Infrastructure

In order to function most efficiently and safely, electric vehicles and autonomous vehicles (especially Level 4 AVs), will require significant infrastructure development, including vehicle-to-vehicle (V2V) and vehicle-to-infrastructure (V2I) connectivity, and electric charging stations. To achieve the required infrastructure, the public sector (at the federal as well as state and local levels) will need to be involved, due to the use of public roads, the public rights-of-way and utilities. In addition to promoting safety and regulating the public right-of-way, local units of government will also seek to monetize data or access rights in order to finance their investment through public-private partnerships, public finance and public franchising schemes. Miller Canfield has decades of experience in public and infrastructure finance and regularly advises clients on such matters.

State Regulation

Several states have already introduced and passed legislation regulating the operation of autonomous technologies and driverless vehicles on public roads. As the technology evolves so will the technical framework of regulations surrounding them, and more states are presently considering further legislation and implementing regulations. Miller Canfield is constantly monitoring legislative deliberations and actions related to autonomous vehicles and technologies, and counsels clients on these developments.

International

The automotive and mobility industry is global, so it is important that entities involved in this industry monitor developments not only in the United States, but also throughout the world. Germany, France, the United Kingdom and other European countries have announced public and private sector initiatives to stimulate and accommodate the development and implementation of electric and autonomous vehicles. Miller Canfield has long specialized in international transactions, regulations, arbitration and litigation. The firm represents clients in the various cross-border aspects of the industry, including contracting, licensing, tax structuring and liability issues.