

Automotive

Global Automotive Lawyers

Headquartered in Detroit since 1852, Miller Canfield intimately knows the automotive industry—not just the law but the industry's practices and people. We regularly represent OEMs, Tier 1 and 2, and next-generation vehicle suppliers and innovators worldwide. Our dominant legal expertise in the mobility area gives our clients an advantage in navigating the protocols, language and issues unique to these industries, such as supply contracts and purchasing, parts testing and certification, tooling use and ownership, software licensing, environmental law, safety regulations, and trademarks. This is especially important for companies involved in autonomous vehicles, semi-autonomous vehicles, V2X technologies, software licensing and other "next generation vehicle" industries.

Our global presence and the firm's multilingual lawyers enable Miller Canfield to help clients navigate international markets in their transactions and business operations, including inbound and outbound foreign direct investment, joint ventures, mergers and acquisitions, and commercial transactions. We regularly advise clients on compliance and regulatory matters involving U.S. export controls, customs issues, and the Foreign Corrupt Practices Act. We leverage this experience to provide the most efficient and effective service available.

Product Safety, Regulatory Compliance, Recall and Warranty Risk Mitigation

Miller Canfield's automotive lawyers specialize in representing automotive manufacturers and suppliers, both North American and foreign, in matters related to automotive safety compliance, regulation, warranty and recall issues. Our esteemed team has intimate knowledge and experience in automotive safety regulations and requirements, including the U.S. National Highway Traffic Safety Administration (NHTSA) and other federal, state, local and foreign governmental agencies. We advise clients on NHTSA reporting and compliance requirements, as well as compliance with the TREAD Act, U.S. Consumer Product Safety Improvement Act (CPSIA), E.U.'s Registration, Evaluation, Authorization and Restriction of Chemical Substances (REACH) regulations. Other relevant expertise and significant experience the team has involve the following areas:

- Implementation of contractual supply chain protections
- Drafting product literature and warnings
- Investigation of product defect issues
- Limiting warranty charge-back obligations
- Recall responsibility and limitations
- Design warranty obligations
- Recall implementation
- Product certification and homologation
- Consumer Products Safety Commission (CPSC) reporting and regulations
- Assist companies in implementing functional safety standards (IEC 61508, ISO 26262)
- Track new regulatory developments (e.g., FMVSS 150)

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- Developing meaningful record retention policies
- Trial lawyers litigating a wide array of product liability cases, including personal injury, wrongful death, property damage and commercial disputes
- Litigation support, including electronic discovery and records management, and national discovery coordination for complex, multijurisdictional litigation.
- Compliance with state, federal and international laws, including the U.S. Consumer Product Safety Improvement Act (CPSIA) and the E.U.'s Registration, Evaluation, Authorization and Restriction of Chemical Substances (REACH) regulations

Commercial, Contracting, Licensing, M&A

Understanding how to navigate the esoteric purchasing and contracting practices of the automotive industry is a key to a company's success, and Miller Canfield has a wealth of experience in providing clients with effective and practical advice. Key to this practice is an understanding of how the commercial relationships in the automotive industry work, including the goals, requirements, motives and regulatory and legal boundaries for each party to a transaction. The firm's **Corporate Group**, **Bankruptcy Group** and other transactional lawyers have a vast range of experience and depth in representing automotive suppliers and their customers in such traditional and new matters, in the U.S., Canada and globally, including:

- Purchase order and supply contract negotiations
- Terms and conditions, sale acknowledgements
- UCC "battle of the forms" counseling
- Procurement process issues (Request For Quote; Statement Of Work; requirements, blanket and spot Purchase Orders; production and material releases, etc.)
- Other supply agreement drafting and negotiations (Long Term Agreements, Multi-Year Agreements, Multi-Party Agreements, etc.)
- Software licensing and other licensing agreements and arrangements
- Strategic Alliances and Joint Ventures
- Joint Development Agreements, Product and Technology Development Agreements
- Mergers and acquisitions
- Economic incentives (R&D)
- Tax advising and structuring
- Export controls and ITAR
- Financially troubled supplier assistance and workouts
- Navigating bankruptcy, insolvency and restructuring, including cross-border insolvencies

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Intellectual Property Protection

The firm's **Intellectual Property Group** has a wealth of experience in administering, managing and prosecuting the patent portfolios for several Fortune 500 automotive suppliers; and advising in-house counsel, company management and engineers. We regularly prepare and analyze patentability, validity and infringement searches and opinions, negotiate license agreements and technology assignments, and counsel and represent companies involved in IP disputes and litigation. We also assist clients in all aspects of global trademark and brand protection, working closely to help them select trademarks and develop brand protection strategies designed to fit their business needs and objectives. We currently manage more than 4,100 pending and registered marks in over 150 countries.

Miller Canfield lawyers have been at the forefront in representing foreign and domestic automotive suppliers with respect to 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. The firm has been an early leader in developing software licensing arrangements for automotive suppliers, having to convince automotive manufacturers and Tier 1s to look beyond the static purchase order procurement process.

Employment and Labor

We have significant experience with many of the toughest and most sophisticated **employment and labor** issues facing the automotive and manufacturing industries. Our experience includes:

- Handling dozens of unfair labor practice claims in the context of a single-union organizing campaign
- Providing advice and counsel on how to best implement a nationwide two-week furlough during economic crises
- Providing advice and counsel on how to best implement a reduction in force, including programs that trigger the WARN Act
- Defending wage and hour claims under the FLSA
- Defending workplace discrimination, harassment, and retaliation claims filed with the EEOC, state fair employment agencies across the country, in federal and state courts, and in arbitration
- Investigating internal complaints of workplace harassment
- Conducting nationwide Respect in the Workplace training

Litigation/International Dispute Resolution

Miller Canfield's **Automotive Litigation Team** has presented or defended a wide range of cases in state and federal courts across the United States, including the U.S. Court of International Trade, as well as many domestic and international arbitration tribunals. We have been privileged to work closely with hundreds of automotive companies that are active in all tiers of the automotive supply chain throughout North America, Latin America, Europe and Asia. We are actively involved with many trade organizations and continually strive to learn new technologies to aid in our representation. We pride ourselves on understanding the technology, the business issues, and the industry as whole.

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Our deep roster has the talent and experience to lead or support the most complex litigation, including our nationally respected **International Dispute Resolution Section**. We've represented auto companies in disputes worth up to several hundred million U.S. dollars in multiple international arbitration centers, from Europe to Asia to North America. We aim to fully understand the intricate technology underlying the design and development of the product at issue, enabling us to explain the complex science in a way that a judge, jury, arbitrator, mediator, or any other layperson understands what is at issue and what is not.

Next Generation, Autonomous Vehicles, Software and Start-up Technologies

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)
- Data Privacy and Data Ownership
- OEM/Supplier/Software Provider Contracting
- Intellectual Property Rights and Software Licensing
- Product Liability
- Public Sector Infrastructure
- State Regulation
- International Law

See more about our Next Generation Vehicles and Mobility Team>>

Representative Matters

Product Safety, Regulatory Compliance, Recall and Warranty Risk Mitigation

- Represented major vehicle manufacturer and multiple major automotive and recreational vehicle suppliers in connections with regulatory investigations and compliance procedures.
- Represented an automotive parts manufacturer in obtaining a written determination from the state environmental agency that its test facility for recalled air bag inflators did not require a hazardous waste treatment license.

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- Obtained denial of plaintiff's request for temporary restraining order in stop-shipment lawsuit seeking injunction for continued shipment of goods.
- Advised Chinese automotive OEMs on FMVSS, DOT certificate, EPCA, CAFE, NHTSA, product recall and product liability litigation, state franchise laws, automotive dealer matters, and vehicle financing.
- Led a distributor of new vehicles and members of its dealership and service network in Poland through General Data Protection Regulation implementation, including local Polish provision specifics.

Commercial, Contracting, Licensing, M&A

- Act as chief outside counsel for several Tier 1 and Tier 2 automotive and aerospace manufacturing companies and regularly provide advice and counsel concerning a wide variety of matters, including compliance, commercial agreements and disputes, intellectual property, environmental, and employment.
- Assisted with the financing of \$28 million secondary public offering of a local Tier One supplier to the automotive industry.
- Represented North American unit of an international automotive supplier with respect to all facets of its office, warehouse, and manufacturing facility leasing needs in the United States
- Extensively involved in virtually every auto industry-related bankruptcy case in the United States and Canada in the past two decades, representing the interests of one of the Detroit Three automakers and several Tier 1 automotive parts suppliers.
- Assisted in the preparation of a \$6 million R&D tax credit claim for large OEM supplier and successfully defended substantially all of such claim on audit.
- Developed and coordinated tax planning for a \$560 million stock and asset acquisition of companies in the U.S. and 12 foreign countries by a European automotive supplier.
- Assisted top Chinese automotive OEMs and suppliers to set up research and development centers and engineering facilities in Michigan and California.
- Represented Norway-based Kongsberg Automotive ASA on its acquisition of Global Motion Systems from Teleflex Inc. for \$560 million.
- Represented Mexican auto supplier Metalsa SA de CV on its \$200 million senior unsecured credit facility and its credit facilities with Export Development Canada, as well as its \$150 million acquisition of the structural products business from US-based Dana Holding Corp.
- Represented Zhongshan Broad Ocean Motor Co., Ltd., on its \$130 million acquisition of Prestolite Electric (Beijing), Ltd., a Beijing-based Sino-foreign joint venture.

Intellectual Property Protection

- Draft, prosecute and manage hundreds of patents for global protection of a Tier 1 multi-billion-dollar supplier of automotive seat assemblies and components.

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- Draft, prosecute and manage the patents and trademarks for the global protection of a global Tier 1 automotive powertrain components supplier.
- Draft, prosecute and manage hundreds of patents for a global manufacturer of wiper blades.
- Represented automotive OEM in trademark enforcement matters across all of its brands, including trademark oppositions and cancellations.
- Represented an automobile supplier in connection with a patent infringement claim, successfully securing an eight-figure damages settlement.
- Successfully represented Tier 1 automotive supplier in multi-million-dollar trade secret litigation arising out of an asset sale to a competitive supply company. Obtained summary judgment prior to the close of discovery.
- Defended independent automotive industry manufacturer against misappropriation of trade secrets and tortious interference claims brought by former employer.
- Represented Tier 1 automotive industry supplier in supplier's action for misappropriation of trade secrets against multiple former employees.
- Defended an automotive industry supplier against claims of misappropriation of trade secrets and tortious interference brought by a competitor.
- Represented automotive company in investigations and criminal prosecutions of international intellectual property saboteurs. Worked with U.S. and international legal authorities, agencies and institutions to investigate and prosecute offenders, and file parallel civil litigation.

Employment and Labor

- Successfully obtained dismissal of age discrimination case on behalf of Fortune 500 auto manufacturer.
- Renegotiated an automotive manufacturer's collective bargaining agreement with its union workforce in order to withdraw from an endangered multi-employer pension plan.
- Advised and assisted automotive supplier during corporate restructuring to prepare and implement strategy to maintain work authorization and I-9 compliance for thousands of employees.
- Advised visa strategies for an Asian Tier 1 automotive parts company to establish U.S. manufacturing facilities and successfully obtain work authorization and visas for its executive, management and specialized support team to join U.S. operations.
- Performed management assessment and implementation of large-scale global mobility program on behalf of Tier 1 automotive supplier by managing relocation, tax and immigration and other legal considerations.

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Litigation/International Dispute Resolution

- Represented numerous OEM and tier automotive suppliers in pricing, supply chain, personal injury, contract, commercial, force majeure and stop-shipment lawsuits
- Represented multiple United States-based and multinational manufacturing companies with international supply chains in tariff and duty challenges imposed under Section 301 of the Trade Act of 1974, one of the principal statutes by which the United States enforces trade agreements and addresses unjustifiable burdens on U.S. commerce
- Served as chief outside counsel for international automotive supply companies, assisting them in a wide variety of legal and business matters
- Represented OEM in multiple dealer arbitrations
- Lead trial counsel for OEM in dealer dispute concerning termination of brand
- Multiple representations for OEM and tier automotive suppliers for trademark and trade secrets
- Successfully represented Tier 1 automotive supplier in multi-million-dollar trade secret litigation arising out of an asset sale to a competitive supply company. Obtained summary judgment prior to the close of discovery.
- Secured multiple preliminary injunctions and/or favorable settlements for a large automotive manufacturer against suppliers arising out of disputes on pricing, purchase order terms and conditions, disruption costs and sub-supplier delays
- Counsel for an international auto supplier in multi-district class actions alleging price-fixing and market allocation
- Obtained denial of plaintiff's request for temporary restraining order in a stop-shipment lawsuit seeking injunction for continued shipment of goods
- Successfully represented a multinational automotive supplier in a \$50 million warranty dispute alleging defective manufacture and design of turbochargers. Obtained summary dismissal of claims, affirmed on appeal.
- Represented major wheel manufacturer in Department of Commerce and International Trade Commission investigations regarding potential anti-dumping (ADD) and countervailing duties CVD) on steel wheels supplied from the People's Republic of China
- On multiple occasions, represented major OEMs and multiple major automotive and recreational vehicle suppliers in connection with regulatory investigations and compliance procedures
- Successfully defended automotive clients in product liability matters involving allegations of defective air bags, brakes, engines, fires, rollover and roof crush, seats, and tire and wheel over-inflation, under-inflation, tread defects and structural challenges
- Serve as national discovery counsel for product liability, class action and warranty litigation