Overview

With more OEMs implementing global manufacturing strategies and exploring non-traditional supplier relationship structures, the already wide range of supply chain-related issues is growing exponentially in complexity. By understanding the pressures exerted on every link in the supply chain—from increases in material and transportation costs to problems with single source inventory suppliers, accommodating volume swings and technological impacts on product architecture—our attorneys help develop timely and cost-effective solutions that provide our clients with a real “leg up” on the competition.

We are intimately familiar with the varied contractual issues presented in all levels of the supply chain—whether involving purchase orders, single source or just-in-time contracts, terms and conditions disputes, tooling and ER&D, or force majeure provisions. Our lawyers regularly review and modify standardized terms and conditions, helping to ensure our clients’ purchase and sale conditions comport with the latest legal developments. Moreover, we understand how critical timing is to OEMs and downstream suppliers and help our clients manage and plan—and ultimately avert—supply chain disruptions. We also empathize with the devastation of sudden and uncharacteristically drastic raw material price increases (e.g., steel in the mid 2000s), or unexpected supply shortages (e.g., the 2011 electronic chip shortage due to the earthquake in Japan). For these reasons, we keep up with industry news to help our clients with preventative maintenance, and if unavoidable, give them a head start in dealing with unpredictable contingencies.

We represent clients throughout the supply chain, including OEMs, Tier 1, Tier 2 and Tier 3 suppliers, lenders and raw material suppliers, in the full spectrum of supply chain management, supplier dispute, and troubled supplier issues.

Supply Chain Management

Our automotive attorneys provide our automotive industry clients with the real-world supply chain management advice they need to achieve their business objectives. We deliver targeted solutions for issues such as rising material and transportation costs, tooling disputes, pricing demands, volume fluctuations, force majeure interference and other supply chain problems. Importantly, our lawyers partner with clients to develop proactive plans that help avert disruptions where humanly possible, and to survive them where avoidance is impossible. As a result, clients avoid adverse effects to the bottom line caused by these and other supply disruptions.

Supplier Disputes

In representing major multinational clients, we utilize the arsenal of available actions and remedies to craft customized solutions for handling supplier conflicts and disputes. Our knowledge of industry trends, coupled with our ability to get ahead of disputes, gives our clients a real opportunity to avoid costly litigation. Accordingly, we regularly counsel clients on litigation prevention. We also prepare pre-litigation demands for resolution, craft contract terms for inclusion in supplier contracts.
(facilitating efficient dispute resolution), negotiate and draft settlement agreements and related documents, and renegotiate and revise contract terms where doing so results in resolving a conflict in our client's best interests.

Before push comes to shove, we thoughtfully and thoroughly advise our clients on the legal issues arising out of the replacement of suppliers who cannot or will not perform. When litigation is unavoidable and in the event of emergency litigation—including seeking temporary, preliminary and permanent injunctive relief—we draw on our strength and experience as litigators to cost effectively manage our clients’ crises and protect their financial stakes.

Troubled Suppliers

Dykema provides comprehensive representation and counseling on the issues pertaining to troubled Tier 1 and Tier 2 suppliers. We represent OEMs seeking to secure supplies from troubled suppliers, suppliers in bankruptcy and in other adverse situations. Our team also represents lenders to troubled suppliers aiming to minimize losses and maximize return. We counsel investment groups and Tier 1 buyers on troubled supplier acquisitions, and negotiate agreements to transfer a troubled supplier’s contract to another vendor. We have also advised Tier 1 suppliers on how to terminate supply agreements to reduce their litigation and bankruptcy risks.

With regard to the operational issues of doing business with troubled companies, we provide clients with a wide range of services. This includes examining client processes to develop strategies for addressing troubled supplier situations; educating clients on the early warning signs of a troubled situation; and advising clients how to appropriately manage a supplier relationship when an adverse event occurs.

Experience Matters

Our Automotive Industry Group lawyers have:

• Developed and implemented successful resourcing strategies and plans for multiple Tier 1 suppliers in out-of-court workouts with Tier 2 suppliers.
• Advised our supplier client working with a troubled foundry operation, whose sudden plant shut down would have seriously impacted the supplier and worldwide operations of numerous other companies, through this critical emergency situation. We identified and negotiated an agreement with the supplier’s financers to fund plant operation costs, enabling the foundry to immediately recommence operations, thus avoiding disruption in the supply chain.
• Represented pre-petition secured creditors of a large supplier in a matter that involved substantial courtroom work in a Chapter 11 bankruptcy proceeding and state court litigation. On behalf of the creditors, Dykema negotiated a deal that would liquidate the reorganized entity's (supplier) assets after its reorganization was confirmed.

Publications

“Successful Manufacturing Contracting—It’s More than Standard Terms and Conditions”
February 2018
Manufacturing Today

"Doing the Deal Right: Mitigating the Threat of Insolvency Before It’s Too Late"
September 23, 2016
Business Law Today

“Supply Agreements: A contractual approach to supplier risk management”
June 26, 2015
Supply & Demand Chain Executive

“State of the Automotive Industry”
October 17, 2012
Dykema Publication

"The Buzz On Electric Vehicle Safety"
February 14, 2012
Law360
Automotive Supplier & Supply Chain Issues (Cont.)

"The Legal Implications of the Disaster in Japan"
July 3, 2011
*Autobeat Insider Perspectives*

"Speed Bumps Ahead"
May 20, 2011
*The Deal Magazine*

"Regulation of the 'Connected Vehicle'—Issues and Models"
March 14, 2011
*Product Safety & Liability Reporter, BNA*

**Speaking Engagements**

*New PVC Regulations and the Implications on Customer/Supplier Pricing,* Motor Vehicle Metals and Resins Conference

May 23, 2013

Are Capacity Constraints Paralyzing Your Supply Chain?, *Automotive News Power Training, Panelist on Webinar*
April 16, 2013

Automotive Industry Outlook 2013
December 12, 2012

Autobeat Insider Conference: Getting it Right
September 20, 2012

Automotive Institute: Retail Auto Distribution Today
May 17, 2012

Automotive Institute: Legislative and Regulatory Issues Currently Impacting the Automotive Industry
April 18, 2012

*Blockbuster Developments in Class Action Litigation,* Co-Panelist, 22nd ABA Conference on Automotive Product Liability Litigation, Phoenix, Arizona
March 28-30, 2012

*Bridging the Divide: Plaintiff and Defense Counsel Mediation Summit,* Panel Co-Moderator and Co-Chair of Conference, 22nd ABA Conference on Automotive Product Liability Litigation, Phoenix, Arizona
March 28-30, 2012

March 28-30, 2012

Automotive Institute: Opportunity, Risk and Liability Social Channels
October 19, 2011

Autobeat Insider Conference
June 23, 2011