

AUTOMOTIVE & MOBILITY

Welcome to the 23rd edition of our newsletter on developments in the automotive industry published by Morgan Lewis's automotive & mobility team with contributions from lawyers in our offices around the globe. We counsel our automotive clients on a broad range of industry-specific issues, including matters relating to mergers and acquisitions, antitrust, litigation, regulatory concerns intellectual property, and labor and employment.

This issue of *Morgan Lewis AUTOMOTIVE & MOBILITY*, which covers the first quarter of 2020, touches on significant acquisitions and investments, antitrust approvals, as well as other developments in the automotive markets including the regulatory and social impact of the coronavirus (COVID-19) pandemic. All issues of *Morgan Lewis AUTOMOTIVE & MOBILITY* are available at www.morganlewis.com.

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Antitrust: Asian OEM Fined \$12.5 Million in China for Resale Price Maintenance; ZF's Acquisition of WABCO Cleared by EU Commission and DOJ; Joint Venture Between PSA Group and Saft Cleared by SAMR and EU Commission; SAMR Approved US Joint Venture Between LG Chem and GM; SAMR Approved US Joint Venture Between Aptiv and Hyundai

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MERGERS & ACQUISITIONS

Mercedes-Benz and Geely to Establish Joint Venture for smart Automobile Brand

Carmakers Mercedes-Benz AG, Germany, and Zhejiang Geely Holding Group, China, have established a 50-50 joint venture (JV) to which each party equally contributed RMB 2.7 million (USD 387 million). The JV is named smart Automobile Co., Ltd, and will be active in the development and sale of electric vehicles under the smart brand. Its headquarters will be located in Ningbo, China, with operational sales functions based in China and Germany.

Volkswagen to Acquire Remaining Shares in Diconium

In order to build up its own software competence, German carmaker Volkswagen AG has acquired the remaining 51% of the shares in German IT service provider Diconium, on undisclosed terms. In 2018, Volkswagen had acquired 49% of the Diconium shares.

Chinese Conglomerate Weichai Power to Acquire Aradex and VDS Holding

Chinese vehicle and equipment manufacturing conglomerate Weichai Power has acquired an 80% stake in Germany-based Aradex AG, as well as a 51% stake in Austria-based VDS Holding GmbH. Aradex is a technology company engaged in research and development of electric motors, energy storage systems and control systems for the industrial and transportation industry. VDS Holding is a developer of vehicle powertrain systems.

National Engineering Industries to Acquire Kinex Bearings

Bearing manufacturer National Engineering Industries Ltd., part of Indian conglomerate CK Birla Group, has acquired a Slovakian supplier of rolling bearings, Kinex Bearings, through its wholly owned subsidiary NBC Global AG. Financial terms were not disclosed.

Meritor to Acquire Transportation Power

Meritor, Inc., a US-based manufacturer of automobile components such as axles, brakes, gear boxes and suspensions, has acquired Transportation Power, Inc., USA (TransPower). TransPower focuses exclusively on the development of electrical drive solutions and supplies integrated drive systems, full electric truck solutions, and energy-storage subsystems to major manufacturers of trucks and other commercial vehicles. Financial terms were not disclosed.

Danfoss to Acquire Hydraulics Business of Eaton

Ireland-based power management company Eaton Corporation has agreed to sell its hydraulics business to Danfoss A/S, headquartered in Denmark, for USD 3.3 billion. Eaton's hydraulics business will be transferred into Danfoss's business unit, Danfoss Power Solutions, which, inter alia, provides mobile hydraulic solutions for off-road vehicles.

Tata and Prestolite Electric to Form Joint Venture

Tata AutoComp Systems Ltd., a manufacturer of automotive components and affiliate of the India-based Tata Group, has formed a 50-50 joint venture with China's Prestolite Electric Inc., a global manufacturer and supplier of alternators, starters, electrical equipment and services to the transportation, industrial and military sectors. The joint venture will develop powertrain solutions for India's electric-vehicle market.

BorgWarner to Acquire Delphi Technologies

BorgWarner Inc., an automotive industry components and parts supplier headquartered in the US, agreed to acquire UK-based engine and transmission parts supplier Delphi Technologies PLC in an all-stock transaction valued at approximately USD 3.3 billion.

Knorr-Bremse Group to Acquire R.H. Sheppard

Bendix Commercial Vehicle Systems LLC, a subsidiary of German brakes manufacturer Knorr-Bremse AG, has agreed to acquire R.H. Sheppard Co. from US-based automotive supplier WABCO Holdings Inc. for approximately USD 149.5 million. Sheppard is engaged in the manufacture of steering technologies for commercial vehicles. The transaction is related to the proposed merger between WABCO and German automotive supplier ZF Friedrichshafen AG and part of a remedy package which ZF Friedrichshafen offered in order to obtain merger clearance in the United States.

Triton to Acquire Renk from Volkswagen

Triton V, a fund advised by German and Swedish private equity investor Triton Partners, has agreed to acquire a 76% stake in Renk AG from German car manufacturer Volkswagen AG. Renk is a Germany-based manufacturer

of vehicle transmissions, gear units and slide bearings. The purchase price amounts to EUR 97.8 per share.

Nordstjernan to Sell Rosti Automotive to Xandor Automotive

Swedish investment firm Nordstjernan sold Rosti Automotive Ltd., an injection-moulded plastic components maker from the UK, to Xandor Automotive GmbH. Xandor is a supplier for plastic injection moulded automotive components and fluid conveyance products that is owned by a fund managed by German private equity firm Quantum Capital Partners.

Panasonic and Toyota Motor to Form Joint Venture

Japanese Toyota Motor Corporation and Panasonic Corporation announced the establishment of a joint venture (JV) specializing in the development and manufacture of prismatic batteries used in the automotive sector. The JV, named Prime Planet Energy & Solutions, Inc., will supply batteries to Toyota, as well as to third-party customers, as of April 2020.

Fox Factory to Acquire SCA Performance from Kinderhook

Fox Factory Holding Corp., a manufacturer of suspension products located in the US, agreed to acquire SCA Performance Holdings, Inc., USA, from US private investment firm Kinderhook Industries, LLC, for USD 328 million. SCA manufactures specialty vehicles under the brands SCA Performance, Rocky Ridge Trucks, and Rocky Mountain Truckworks.

Punch Group to Acquire General Motors Propulsion Engineering Center

Punch Group, a manufacturer of automotive driveline solutions headquartered in Belgium, has acquired Italy-based General Motors Propulsion Engineering Center from US carmaker General Motors Company (GM) on undisclosed terms. The transaction includes an engineering services agreement through the end of 2021, based on which the engineering center continues to provide engineering services to GM.

Michelin to Acquire ConVeyBelts

French tire manufacturer Michelin has acquired 100% of the shares in CVB Produtos Industriais (ConVeyBelts) from venture capital firm Teak Capital Corporation, on undisclosed terms. ConVeyBelts is a Brazilian manufacturer of conveyor belts used in mining, steel production, and transportation.

Great Wall Motors to Acquire Manufacturing Facilities from General Motors

Chinese carmaker Great Wall Motors Company Limited has agreed to acquire a car production plant located in Talegaon, India, from US carmaker General Motors Company (GM).

Reportedly, the production plant would have an annual production capacity of approximately 160,000 cars and the purchase price to be paid by Great Wall would amount to approximately USD 250 million to USD 300 million. In a further agreement, Great Wall Motors has also agreed to acquire GM's car assembly factory and GM's powertrain engine plant in Rayong, Thailand. Financial terms were not disclosed. Both transactions are expected to close in the second half of 2020.

Hyundai Motors Obtained Full Ownership of Sichuan Hyundai Motor

Korean carmaker Hyundai Motor Company acquired the remaining 50% of its equity interests in Sichuan Hyundai Motor Co., Ltd. (Sichuan Hyundai), making Sichuan Hyundai the first wholly foreign-owned commercial vehicle manufacturer in China. The company's name will change to Hyundai Commercial Automobile (China) Co., Ltd. In 2012, Sichuan Hyundai was set up as a 50-50 joint venture of Hyundai and Sichuan Nanjun Automobile Group Co., Ltd., a Chinese manufacturer of commercial vehicles.

ANTITRUST

Asian OEM Fined \$12.5 Million in China for Resale Price Maintenance

China's State Administration for Market Regulation (SAMR) has fined an Asian carmaker 87.6 million yuan (USD 12.5 million) for an alleged resale price maintenance. According to the SAMR, the OEM would have set minimum sales and resale prices for one of its brands in the Jiangsu province between 2015 and 2018.

ZF's Acquisition of WABCO Cleared by EU Commission and DOJ

The EU Commission unconditionally approved the proposed acquisition of braking-systems manufacturer WABCO Holdings Inc. by German automotive supplier ZF Friedrichshafen AG. According to the Commission, the deal would not raise competition concerns in the European Economic Area, where it particularly examined the deal's impact on certain parts for medium and heavy commercial vehicles, including transmission systems, clutches for air compressors, control leveling valves for cabin air suspension systems, and automated driver assistance systems. The US Department of Justice (DOJ) also cleared the deal after reaching a settlement with both companies which agreed on divesting certain assets and manufacturing facilities. Such divestments were necessary, as the DOJ took the view that the deal would likely lessen competition in the design, manufacture, and sale of LCV steering gears in the United States. In India, merger clearance was obtained subject to modifications proposed by ZF, whereas clearances in Brazil and Japan were issued unconditionally.

Joint Venture Between PSA Group and Saft Cleared by SAMR and EU Commission

The Chinese State Administration for Market Regulation (SAMR), as well as the EU Commission, unconditionally approved a proposed 50-50 joint venture between French car manufacturer PSA Group and Saft, a French battery manufacturer owned by the French energy company Total SA. The joint venture (JV), named Automotive Cell Company, will focus on the development and production of lithium-ion EV batteries for electric vehicles and include two newly built EV battery cell plants in France and Germany. Reportedly, PSA and Saft will invest approximately EUR 5 billion in the JV, which will also be supported by a public funding of approximately EUR 1.3 billion. The public funding is part of a EUR 3.2 billion state-aid scheme of seven European countries for research and development projects in the battery sector, approved by the European Commission at the end of 2019.

SAMR Approved US Joint Venture Between LG Chem and GM

The Chinese State Administration for Market Regulation (SAMR) unconditionally approved a proposed 50-50 joint venture between Korean chemical company LG Chem, Ltd. (LG Chem), and US carmaker General Motors Holdings LLC (GM). The joint venture will be engaged in the production of battery cells for electric vehicles in the US and, *inter alia*, will include a battery production plant in Ohio, USA. Reportedly, GM and LG Chem will invest up to USD 2.3 billion.

SAMR Approved US Joint Venture Between Aptiv and Hyundai

The Chinese State Administration for Market Regulation (SAMR) unconditionally approved a proposed 50-50 joint venture (JV) between Hyundai Motor, Kia Motors, and Hyundai Mobis, all part of Korean industrial conglomerate Hyundai, and automotive supplier Aptiv PLC. The JV will be headquartered in Boston and focus on the design, development and commercialization of autonomous driving technologies.

REGULATORY

China to Relax Access Restrictions for NEV

The Chinese Ministry of Industry and Information Technology (MIIT) issued a draft amendment (Draft Amendment) to the *Administrative Regulations on Market Access for New-Energy Vehicle Manufacturers and Products* for public consultation. The period for public comment ended on 10 March 2020.

The *Administrative Regulations on Market Access for New-Energy Vehicle Manufacturers and Products* came into effect on 1 July 2017. It imposes four major requirements with respect to market access of NEV manufacturers, including

design and development capacity, production capacity, conformity assurance capacity and after-sales, and safety assurance capacity. The Draft Amendment aims to replace the “design and development capacity” requirement with a “technology support capacity” requirement that would introduce a higher technology standard for quality control. In general, such “technology support capacity” would require NEV manufacturers to provide suitable technology capacity to ensure product safety and after-sales services, such as the ability to conduct tests of vehicles and spare parts.

EU Commission State Aid Measures To Address COVID-19

Against the backdrop of the COVID-19 crisis, the European Commission has adopted a Temporary Framework enabling EU Member States to support companies without the risk of breaching European state aid rules. In particular, the Temporary Framework allows EU Member States to provide the following types of aid:

- i. Direct grants, selective tax advantages, and advance payments (up to €800,000) to address a company’s urgent liquidity needs.
- ii. State guarantees for loans taken by companies from banks.
- iii. Public loans to companies with favorable (subsidized) interest rates.
- iv. Safeguards for banks that channel State aid to the real economy.
- v. Short-term export credit insurance.

The original Temporary Framework has been further amended. The EU Commission has since consistently approved the state aid schemes notified by the EU Member States, including Germany, France, Italy, Spain and Portugal.

INTELLECTUAL PROPERTY

2019 Saw the Granting of the Most US Patents in a Single Year

The US Patent and Trademark Office granted 333,530 patents in 2019, the largest number to date and a 15% increase over 2018. The top two grantees were IBM and Samsung, which have perennially topped the list. The fastest growing patent filer was an automotive company, Kia Motors, which moved up 58 positions to number 41. Ford is number 8 and Toyota number 16.

Social Distancing Inspired Logos

Automotive brands, including Audi and Volkswagen, have developed new social distancing trademarks. In the case of Audi, the normally interlocking circles of the logo are separated. Similarly, for Volkswagen, the “V” in the logo is further separated from the “W.” These automotive

companies have joined other multinational companies with famous brands in this endeavor in view of the worldwide outbreak of COVID-19.

USMCA Contains Stronger IP Provisions

The USMCA, ratified by Canada in March, includes enhanced IP protection relevant to the automotive industry. It requires strong standards against the circumvention of technological protection measures, such as those in automotive software applications. It also includes broad protection against trade secret misappropriation. These protections include civil remedies, criminal procedures and penalties, prohibitions against impeding licensing of trade secrets, procedures to prevent disclosure of trade secrets during the litigation process, and penalties for the unauthorized disclosure of trade secrets by government officials. Enhanced protection for trademarks, including well-known marks, will also go into effect and may benefit those holding famous marks.

COVID-19 RESOURCES

As the coronavirus (COVID-19) crisis rapidly evolves, global companies are looking for resources to protect their people and their businesses. Morgan Lewis lawyers have formed a multidisciplinary **Coronavirus COVID-19 Task Force** to help guide you through the broad scope of legal issues brought on by this public health challenge, including business supply-chain disruption, data privacy concerns, employer questions, energy and environmental industry ramifications, financial services guidelines, immigration status requirements, tax implications, and ongoing government guidance from around the world.

We also have launched a [resource page](#) to help keep you on top of developments as they unfold. If you would like to receive a daily digest of all new updates to the page, please [subscribe](#) now to receive our COVID-19 alerts.

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OUR AUTOMOTIVE & MOBILITY TEAM

Morgan Lewis's automotive & mobility team partners with global automotive industry companies in complex transactions and matters, building and protecting their IP portfolios, as well as crafting and implementing customized business, finance, and tax strategies that are effective for many years.

Taking a holistic view of the auto industry—the advent of unprecedented government involvement, a shifting competitive landscape, the race for new technology and talent, and greater consumer and regulatory demands involving safety and the environment—we assist in developing precise legal strategies aimed at advancing our clients' specific business objectives.

CONTACTS AND CONTRIBUTING AUTHORS

Robert C. Bertin

1111 Pennsylvania Ave., NW
Washington, DC 20004-2541
USA
+1.202.373.6672
robert.bertin@morganlewis.com

Florian Hinderer

OpernTurm
60306 Frankfurt
Germany
+49.69.7140.0764
florian.hinderer@morganlewis.com

Philip W. Russell

77 West Wacker Dr.
Chicago, IL 60601-5094
USA
+1.312.324.1743
philip.russell@morganlewis.com

Daniel L. Goldberg

One Federal Street
Boston, MA 02110-1726
USA
+1.617.951.8327
daniel.goldberg@morganlewis.com

Margaret Luo

989 Changle Road
Shanghai 200031
China
+86.21.8022.8521
margaret.luo@morganlewis.com

Daniel S. Savrin

One Federal Street
Boston, MA 02110-1726
USA
+1.617.951.8674
daniel.savrin@morganlewis.com

Brent A. Hawkins

One Market, Spear Street Tower
San Francisco, CA 94105-1596
USA
+1.415.442.1449
brent.hawkins@morganlewis.com

Michael Masling

OpernTurm
60306 Frankfurt
Germany
+49.69.714.00.753
michael.masling@morganlewis.com

David L. Schrader

300 South Grand Avenue, 22nd Floor
Los Angeles, CA 90071-3132
USA
+1.213.612.7370
david.schrader@morganlewis.com

Elizabeth B. Herrington

77 West Wacker Dr.
Chicago, IL 60601-5094
USA
+1.312.324.1445
beth.herrington@morganlewis.com