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Worldwide Coverage. DLA Piper, together with DLA Piper Group, has well over 200 Product Liability lawyers in more than 30 countries, and more than 3,500 lawyers worldwide. We provide on-the-ground representation in every major jurisdiction in the United States, Europe, Asia, Australia, Africa and the Middle East. We advise on the law and regulation in relation to our clients’ products wherever they do business. We understand the difficulties you face in a global marketplace. We can simplify things for you by providing a single contact partner to coordinate strategy and action across a wide range of jurisdictions.

On-the-Ground Protection. Our Product Liability group includes some of the most highly regarded dispute resolution lawyers in the world, according to respected legal publishers including Chambers and Partners and Legal 500. But our experience goes beyond arbitrations and trials. We advise clients on risk, compliance and business management at every stage of the product life cycle. We handle crises that involve product recalls, governmental investigations, insurance coverage and environmental concerns. We collaborate with our colleagues around the world to ensure that each client is receiving sound advice based on a multi-disciplinary and multijurisdictional approach. We are mindful of the need to protect reputations.

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> Chemicals and Minerals  > General Manufacturing
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WORLDWIDE COVERAGE: AUSTRALIA

KEY CONTACTS

REGIONAL FACTORS

INDUSTRIES REPRESENTED
> Chemicals and Minerals
> Consumer Products and Electronics
> Food, Beverage and Tobacco
> General Manufacturing
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REGIONAL FACTORS

**LITIGATION:** Consumers are protected by the Competition and Consumer Act 2010 ("The Australia Consumer Law"), legislation that recently overhauled and unified many of the Federal and State consumer protection regimes. As with previous legislation, under the Australian Consumer Law liability attaches to the manufacturer of consumer goods with safety defects and the product does not measure up to standards that consumers are entitled to expect. This is often viewed as something of a strict liability provision, although there are defences available. There are also the usual causes of action in contract, such as fitness for purpose and merchantable quality. There is of course also a right to sue in negligence. Each State has enacted its own statutory regime to regulate the rights to bring civil liability claims. Accordingly, there are different thresholds in terms of the right to sue (the test is more difficult to meet in some States), and the assessment of damages can vary from State to State. Some States do not allow trial by jury, while other States give plaintiffs the right to elect the mode of trial. For a defendant in a jurisdiction that allows jury trials, it is not necessarily the case that one mode of trial is always preferable to the other. Costs in civil proceedings generally follow the event (costs are awarded to the successful litigant). Indemnity costs can be awarded in the event that a litigant failed to accept an Offer of Compromise ("a payment into court") that was served by the other litigant and that was greater than the damages that were ultimately recovered. Even though much product liability litigation will be brought at State level in a State’s Supreme Court or District/County Court, plaintiffs can also issue proceedings in the Federal Court of Australia.

**REGULATION:** Product manufacturers are also at risk of complaints to the Australian Competition and Consumer Commission (ACCC) and State consumer safety authorities. Manufacturers themselves also have notification obligations in the event they become aware of an injury, illness or death associated with one of their products. There are also separate reporting requirements for specific classes of goods as well as Occupational Health and Safety regimes in each State. In relation to product recalls, the Australian Consumer Law states that suppliers should recall consumer goods (being goods intended or likely to be used for personal, domestic or household use) as soon as they realise the goods may cause injury or do not comply with a safety standard. The Australian Consumer Law also gives powers to the Commonwealth Minister to order a public recall if the product is a safety risk and the supplier is not prepared to recall the goods voluntarily.
Belgium

WORLDWIDE COVERAGE: BELGIUM

KEY CONTACTS

REGIONAL FACTORS

INDUSTRIES REPRESENTED
> Chemicals and Minerals
> Consumer Products and Electronics
> Food, Beverage and Tobacco
> General Manufacturing
> Pharmaceuticals and Medical Devices
> Transportation

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Belgium

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REGIONAL FACTORS

**LITIGATION:** Belgium’s Law of 25 February 1991 concerning Liability for Defective Products protects the consumer against damage caused to health and property by defective products. Belgian case law has applied and interpreted this law in accordance with European directive 85/374/EEC of 25 July 1985 and European case law.

In addition, a consumer may invoke the Belgian Civil Code against the manufacturer or the distributor of a defective product. According to the Civil Code, the seller is liable to the consumer for a product's hidden defects but is not liable for apparent defects. A victim of a defective product can also bring an action based on tort: any act which causes damage to another obliges the blameworthy party to make reparation.

**REGULATION:** The Law of 9 February 1994 on Products and Services Safety aims to guarantee the general safety of products and services placed on the market. This law applies if a particular product or service is not covered by any specific legislation. When manufacturers or distributors discover that a product or a service is dangerous, they must notify the Guichet Central pour les produits. This notification does not automatically trigger prosecution of the manufacturer or the distributor simply because they placed the product or service on the market. However, once a manufacturer or distributor has discovered that a product or service is dangerous, failure to notify the Guichet Central of the danger is punishable by a fine of up to € 10,000.

Finally, there are criminal sanctions, pursuant to the Belgian Criminal Code, that punish (i) the seller for misleading a buyer about the identification, nature or origin of the goods sold; (ii) the seller who fraudulently misleads a buyer about the characteristics of the goods sold; and (iii) persons who have falsified or modified foods or who have sold or exported goods which they knew were adulterated. Moreover, general provisions can be invoked in cases of involuntary homicide or infliction of involuntary bodily injury.
WORLDWIDE COVERAGE: CENTRAL AND EASTERN EUROPE

KEY CONTACTS

REGIONAL FACTORS
> Austria
> Bosnia-Herzegovina
> Bulgaria
> Croatia
> Czech Republic
> Hungary
> Poland
> Slovak Republic

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> Consumer Products and Electronics
> Food, Beverage and Tobacco
> General Manufacturing
> Pharmaceuticals and Medical Devices
> Transportation

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LITIGATION: Austria has implemented the relevant European Community directives. The principles of product liability are set out in the Product Liability Act and the Product Safety Act 2004.

The Product Liability Act imposes strict liability on producers and importers whose products cause death or injury or damage to property. Only in very limited circumstances can liability be excluded. The burden of proving that the product was safe always rests with the producer/importer.

If the producer or importer cannot be identified, any company which imported and placed the product into circulation can be held liable, unless it provides the injured party with the name of the producer, importer or supplier within a reasonable time.


Responsibility for supervising the marketing of products rests with each provincial governor, who employs special supervisory authorities. Measures which the competent federal minister can take against marketers or, if it is necessary to avert danger to consumers, against any other person, include:

- Orders and prohibitions concerning promotional measures for products
- Prohibitions or limitations on marketing
- Withdrawal of products from the distribution chain and, if necessary, their destruction under appropriate conditions
- Recall of products and, if necessary, publication of such recall schemes in suitable media.

Violations of the Product Safety Act are punishable by fines of up to € 25,000 imposed by the district administrative authority or imprisonment of up to six weeks in lieu of payment of an uncollectible fine. Products can also be forfeited.
REGIONAL FACTORS

LITIGATION: Product liability is not a developed area of law in BiH, and, to our knowledge, no major case has been decided. How parties present their claims is completely up to them, and in each individual case the judge has considerable discretion in weighing evidence. Arguments and facts can be substantiated by submitting party expert reports or by requesting oral hearings, which will be conducted by the court. Expert evidence is not mandatory unless the court deems it so.

To protect consumers, BiH’s Consumer Ombudsman may bring a collective action before the appropriate court. However, as a result of BiH’s most important consumer-related reform in recent years, it is now possible to lodge criminal charges against not just physical persons but also against legal entities. Legal entities may be charged separately from or alongside individuals.

REGULATION: Criminal liability may apply to certain categories of products. For example, if food or beverage products are found to be hazardous to human health, then their manufacturers can be prosecuted, and the authorities will seize the subject products.

The following regulatory bodies and organizations play important roles in regulating the manufacture, distribution, advertising and recall of products: the Ministry of Foreign Trade and Economic Relations of BiH (the Ministry); the Ombudsman for consumer protection in BiH; the Consumer Protection Council of BiH; appropriate authorities in the two entities of the Federation of BiH and the Republic of Srpska and the self-governing Brcko District; the Competition and Consumer Protection Department in both entities; consumer associations; educational institutions and the media.

The Ministry creates BiH’s annual consumer protection policy, which is proposed by the Consumer Protection Council of BiH, but its authority in protecting the rights of consumers is otherwise not clearly stated. The other authorities mentioned above should be notified immediately when a product presents any risk which makes it unsafe and which falls within their authority. In principle, these authorities normally will look to the manufacturer to remedy the situation within the context of guidance given by them. However, they also have the power to ensure that the manufacturers are, if necessary, prosecuted.

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REGIONAL FACTORS

LITIGATION: Bulgaria has implemented the EC Product Liability Directive into the Bulgarian Consumer Protection Act and certain provisions were introduced with the adoption of the new Civil Procedure Code.

A claimant can choose whether it wants to file a complaint based on product liability or in accordance with general contractual or tortious liability. However, compensation for non-economic losses is always claimed under the general rules. Conversely, the provisions based on product liability provide advantages in comparison to the general rules, since a claimant is not required to prove the producer’s guilt. It is only necessary in these cases to adduce evidence showing the defect, the damage and the causal link between those two factors.

In most cases, a producer (the manufacturer of the product and the importer within EU territory) is liable. However, a complaint also may be lodged against a manufacturer of materials, raw materials or components unless damage was caused exclusively by the product’s construction or the producer’s guidelines. Moreover, any entity posing as a producer by way of placing its business name, trademark or other designation on the product also can be held liable. The same applies to importers when considering products of a foreign origin (outside the EU). When the producer of the product or the person who imported the product into the territory of the European Community cannot be identified, any distributor or seller of the product can incur liability. Consumers can be awarded damages for personal injury, as well as for damage to their property. In the latter case, a lower value threshold is set (€ 500), provided that the item of property is ordinarily intended for private use. This liability cannot be excluded or limited by any means. Any clause in an agreement that provides for exclusion or limitation of liability is considered null and void.

REGULATION: Administrative proceedings can be initiated before the Commission for Consumer Protection where dangerous products are marketed. In addition, several regulatory bodies are responsible for regulating the manufacture, distribution, advertising and recall of products: State Health Control authorities (for foods of non-animal origin), State Veterinarian Sanitary Control (for foods of animal origin), Regional Inspectorate on Protection and Control of Public Health and the National Center of Radiobiology and Radiation Protection (protecting the Bulgarian population from the dangers of radiation). These may act on information received from consumers, other national authorities or authorities in other EU states.
REGIONAL FACTORS

LITIGATION: Croatia has adopted the EC Product Liability Directive.

Croatia’s Obligations Act 2005 imposes strict liability on producers of defective products. The injured party bears the burden of proving damage, defect and causation. Producers cannot exclude liability. The provisions on product liability refer to “material damage” as death or personal injury and damage to other property.

Non-material damage in connection with a defective product has to be recovered under the general principles of damage recovery. Furthermore, in accordance with the EC Directive, a limit of financial liability for damages is set by the law. The law will not enforce contractual limitations on a producer’s strict liability.

Claims must be brought within three years from the date when the plaintiff becomes aware or should reasonably have become aware of the damage, the defect and the identity of the producer.

However, the producer’s liability is limited to ten years from the date on which the producer placed the product on the market (unless legal action is pending).

REGULATION: In preparation for EU membership, Croatia is in the process of updating its legislation to harmonize its laws and regulations with those of the EU. This is the case with product liability and the introduction of numerous new measures, regulations and laws.

The State Inspectorate, an administrative body, serves as the main investigatory body. Its authority derives directly from the law and includes powers to inspect and impose sanctions.
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REGIONAL FACTORS


The Product Liability Act governs producers’ and importers’ objective liability for damage caused by defective products. Such damage may consist of damage to a person’s health or damage to another object designed for private use and consumption and used for that purpose. Under the Product Liability Act, the producer is liable only for damages in excess of the equivalent of €500. The Product Liability Act provides that the claimant needs to prove the defect, the damage caused and causation; otherwise, the burden of proof is on the producer/importer. If the producer or importer is impossible to identify, the seller will be regarded as the producer until the identity of the producer or importer can be established.

The injured party may choose to claim damages on the basis of the Product Liability Act or on the basis of the general warranty rules and the rules on compensation for damages under the Hungarian Civil Code. Civil claims are usually based on the general warranty and compensation rules of the Hungarian Civil Code rather than the Product Liability Act.

REGULATION: Government Decree 79 of 1998 on Safety of Products and Services and Market Control Procedure (the Product Safety Decree) implemented the provisions of EC Directive 95/2001/EC on General Product Safety. The National Consumer Protection Authority and further product-specific consumer protection authorities ensure compliance with the product safety provisions under the Product Safety Decree. When product safety rules are breached, the consumer protection authorities are entitled to ban or restrict the release of a product, withdraw it from the market or recall it. These consumer protection authorities make available to the public information regarding products found to be dangerous to health or safety.
REGIONAL FACTORS

**LITIGATION:** Poland has implemented the EU Product Liability Directive. A claimant may choose between a complaint based on product liability, in which there is no need to prove fault on the part of the producer, or one based on general contractual or tortious rules.

A complaint may be lodged not only against a producer of the dangerous product but also against a manufacturer of raw materials or components, unless the damage complained of was caused exclusively by the product’s construction or the producer’s guidelines. Moreover, any entity posing as a producer by placing its business name, trademark or other designation on the product can be also held liable. The same applies to importers of products of foreign origin. If the producer cannot be identified, then complaints may be lodged against the seller.

Consumers can be awarded damages for personal injury and damage to property. Liability cannot be excluded or limited by any means.

**REGULATION:** Administrative proceedings can be initiated where dangerous products are marketed. Products which are not covered by specific regulations are covered under the Act on General Product Safety.

There are several regulatory bodies responsible for performing product control, including the Trade Inspectorate (which controls products’ compliance with safety requirements), the National Sanitary Inspectorate (which monitors foodstuffs), the Pharmaceutical Inspectorate (which monitors the pharmaceuticals and medicines market) and the Office of Competition and Consumer Protection. These regulatory bodies may initiate proceedings after receiving information from consumers, other Polish authorities or surveillance authorities in other EU member states. Moreover, manufacturers are obliged to immediately notify the proper regulatory body of any risk posed by their product which makes it unsafe.

If a product is found to be dangerous to users’ life or health, specific obligations and penalties may be imposed on the producer or distributor. In particular, the authorities may prohibit the launch of the product on the market or may decide to recall the product or recover it from consumers.

Information concerning dangerous products is entered in the Register of Dangerous Products and is made available for review. When a business launches a listed dangerous product on the market, it may be punished with a fine.
REGIONAL FACTORS

**LITIGATION:** The Slovak Republic implemented the EC Product Liability Directive through an act that imposes strict liability on producers for property damage (exceeding approximately € 645) and damage to a consumer’s health and life caused by a faulty product. It also fixes the maximum amount for which a party can be held liable for damages caused by a defective product at SKK 3 500 million (about € 116 million). A more detailed legal regulation concerning liability for product faults is contained in the general provisions on damage compensation in the Slovak Civil Code.

Criminal liability for product faults is regulated by the Slovak Criminal Code, which stipulates that, in cases when a producer introduces products, works or services to the market and withholds details of their substantial faults, that producer commits the criminal offence of damaging the consumer and may be imprisoned for up to 10 years. The damaged party may also demand compensation as part of the penal proceedings but only on condition that the damaged party exerts its claim properly in a timely way within the criminal proceedings.

**REGULATION:** Apart from the above mentioned, the introduction and sale of products to the consumer at market is governed by the Act dealing with Technical Requirements of Products and the Evaluation of Conformity. In addition, specific legislation has been enacted covering individual types of products and stipulating the technical standards and requirements that must be met before these products can be introduced to the Slovak market.

The regulatory body overseeing consumer protection is the Slovak Trade Inspectorate (STI). However, certain products, such as food, chemicals, drugs, precious metals, energy and telecommunication services, are regulated by particular departments within the state. During so-called administrative proceedings, a supervisory body may impose fines or other administrative measures for breach of obligations stipulated under Act no. 250/2007 Coll. on Consumer Protection, as amended (the ACP). The ACP stipulates the general obligation of the seller to introduce only safe products to the market.

When a product is ascertained to be faulty, its producer will be obliged to withdraw that product from the market. In deciding how to punish the producer, the supervisory body will consider the product price, as well as the seriousness, manner, duration and consequences of the illegal actions.
China

WORLDWIDE COVERAGE: CHINA

KEY CONTACTS

REGIONAL FACTORS
> Mainland
> Hong Kong

INDUSTRIES REPRESENTED
> Chemicals and Minerals
> Consumer Products and Electronics
> Food, Beverage and Tobacco
> General Manufacturing
> Pharmaceuticals and Medical Devices
> Transportation

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In China, product liability law is still in its early stages of development and the regulatory structure is somewhat fragmented rather than systematic. However, the rise of consumerism in China, accompanied by huge increases in domestic consumption and the institution of consumer credit, has spurred a stronger trend towards product liability actions in the courts. Responding to the government’s focus on protecting the rights of consumers, judges have steadily become more open to tort and contract-based suits, including class actions. Three main statutes govern product liability law: the general Principle of Civil Law, the Product Quality Law and the Consumer Protection Law.

**LITIGATION:** Civil liability may be established through strict liability (i.e. without consideration of fault), tort or contract. Claims must be brought personally, not by a representative body. Expert evidence and witness evidence is admissible. The courts have no discovery procedure requiring disclosure of documents. Trials are by a single judge or a three-judge panel. There is no jury system. There is no limit on damages. The losing party will be responsible for court fees. Costs and disbursements are at the discretion of the judge. Recovery of costs, if ordered, is in practice not common.

In a domestic case, the court should deliver its judgment within six months of the case commencing, although a six-month extension can be obtained. There is no time limit for the court to deliver a judgment in a foreign-related claim. Appeals are possible from lower courts to higher courts. China’s Supreme People’s Court is the highest court, and its decisions may not be appealed.

**REGULATION:** The State’s Administration for Supervision of Product Quality (ASPQ) and its local administrative agencies are responsible for the supervision and administration of product quality. An ASPQ has the power to seize illegal products and revoke the registered business license of the offender. It also can impose a fine up to three times the value of illegal products. Chinese law does not require mandatory recall of products, although there are some exceptions, such as automobiles. Voluntary recall can be made. Criminal sanctions include fines, confiscation of personal property, imprisonment and even the death penalty for a person who manufactures or knowingly sells a defective product which causes severe consequences.
REGIONAL FACTORS

Hong Kong’s product liability regime is quite well-established and systematic. Since its legal system is based upon English law, the product liability regulatory system is comprised of both statutes and common law. Product liability can therefore arise in contract, tort and/or breach of a statutory duty.

LITIGATION: A consumer is entitled to damages if the seller has breached an express or implied term of the contract. Strict liability is imposed on the seller if the consumer can prove that contract terms have been breached. A consumer can bring an action for negligence against the manufacturer or supplier of defective products when its conduct falls below the standard of care expected at law. Tort liability is fault based and the liability is extended not only to the buyer, but also to the other end-users who come into contact with the purchased goods.

Civil Court procedures are mainly based upon English law. There is no class action procedure and all product liability claims remain individual actions in their own right. Interested parties can, however, apply to have similar product liability actions consolidated or heard together in Court.

Although there are not many high profile product liability cases, the situation is likely to change in future. There has been an increasing awareness of consumer rights and a strong trend towards product liability. There has also been an increasing awareness of, and emphasis on, product safety and the remedies available to consumers through legal actions.

REGULATION: Various ordinances and regulations impose criminal liability for unsafe products on manufacturers, retailers or suppliers. The main governing statute is the Consumer Goods Safety Ordinance (the Ordinance) which requires manufacturers, importers and suppliers of consumer products to comply with a general safety requirement and any approved standard that applies to that product. The Ordinance also imposes criminal penalties for a breach of safety requirements.

Besides the imposition of criminal liability for unsafe products, statutes also deal with their recall. For example, under the Ordinance and the Toys and Children’s Products Safety Ordinance, the Commissioner of Customs and Excise has the power to serve a recall notice requiring the immediate withdrawal of any consumer goods, toys or children’s products which he believes to be unsafe and may cause serious injury.
WORLDWIDE COVERAGE: FRANCE

KEY CONTACTS

REGIONAL FACTORS

INDUSTRIES REPRESENTED

> Chemicals and Minerals
> Consumer Products and Electronics
> Food, Beverage and Tobacco
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> Pharmaceuticals and Medical Devices
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REGIONAL FACTORS

**LITIGATION:** In France, there is extensive delegation of the court's fact-finding function to court-appointed experts, as well as a considerable reliance by the courts on the conclusions of such experts. This provides the benefit of more comprehensive discovery than would normally be permitted under French discovery rules, and the disadvantage that an appointed expert may, for example, be hostile or lack the relevant technical competence.

In the area of class actions, there are limited circumstances under which claims may be grouped. Each case is tried on its own merits and treated as factually different.

**REGULATION:** Despite a certain level of harmonization in the area of product safety regulation (e.g. the EU Product Liability Directive, increasing use of standardization in the EU), there remain important differences in the attitudes of the various member states toward the regulation of product safety. There may be national laws or standards that, while not inconsistent with supranational laws or standards, add an additional layer of complexity to the compliance analysis. Such is the case in France with respect to products to be used with infants or young children.
Germany

WORLDWIDE COVERAGE: GERMANY

KEY CONTACTS

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LITIGATION: In Germany, product liability claims are handled by the civil courts. The district courts are normally the courts of first instance. The outcome of disputes largely depends on the findings of experts who are appointed by the court. Courts do not award punitive damages and do not allow enforcement of foreign judgements in respect of such damages. German courts are slowly becoming more receptive to the idea of class actions in such areas as capital markets disputes but they do not yet allow product liability class actions.

Most consumer cases are based on the Product Liability Act and on the Civil Code provisions on tort. Although under certain circumstances the damaged party does not bear the burden of proof for the entire chain of evidence, it is still challenging and therefore burdensome to the claimant to demonstrate a producer’s liability and quantify damages.

REGULATION: Germany’s legislative framework largely complies with the relevant European Council Directives, such as the Liability for Defective Products Directive 88/374/EEC and the General Product Safety Directive 2001/95/EC.

Germany’s Federal Environment Agency (UBA) was established in 1974. The UBA describes itself as an early warning system, but its administrative powers are limited. It plays an instrumental role in helping companies adopt REACH Regulation (EC) No 1907/2006. Administrative powers governing product recalls are vested in local authorities in accordance with specific legislation in each federal state. Although these authorities coordinate their activities, no central federal institutions are empowered to recall products and this clearly hampers the effectiveness of product liability regulation.
KEY CONTACTS

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REGIONAL FACTORS

LITIGATION: In civil law, producers are liable for damage caused by defective products. When the producer cannot be identified, the supplier of the product is treated as its producer unless the supplier informs the injured person, within three months of being asked, of the identity of the producer or the supplier of the product.

A product is defective when, taking all circumstances into account, it does not provide the safety reasonably expected and which would normally be offered by other examples of the same kind of product. A product cannot be considered defective only because a better product is later put into circulation.

A producer can exclude liability if:
> The producer did not put the product into circulation;
> The defect which caused the damage did not exist at the time when the product was put into circulation;
> The product was neither manufactured by the producer for sale nor manufactured or distributed by the producer in the course of business;
> The defect is a consequence of making the product compliant with mandatory regulations issued by public authorities, or the state of scientific and technical knowledge at the time the product was put into circulation did not permit the defect to be discovered.

A manufacturer or supplier of a component can exclude liability if the defect is attributable to the design of the product in which the component has been fitted or to the instructions given by the manufacturer of the product.

Liability is strict. The injured person needs only prove the damage and the defect and the causal relationship between the two.

Damages can be recovered for death or personal injury and damage to property, provided that it is property ordinarily intended for private use and was used by the injured person mainly for his or her own private use.

Any agreement which a priori excludes or exempts any injured party from liability is null and void.

The right to compensation expires three years from the day on which the injured person was or should have been aware of the damage, the defect and the name of the person liable. The right to compensation also expires ten years after the day on which the producer or importer introduced the product that caused the damage into the European Union.

Note past results are not guarantees of future results. Each matter is individual and will be decided on its own facts.
REGIONAL FACTORS

REGULATION: Companies may be criminally liable if they adulterate or counterfeit products for trade in a way that could be dangerous to public health, or if they sell products dangerous to public health.

Prosecutors can act on information from private individuals, the police or public authorities.

The sanctions that will be imposed depend on the seriousness of the consequences of the crime and on the kind of products that have been adulterated. For example, if the adulterated products are pharmaceuticals, the sanctions are more serious. Sanctions include fines and imprisonment (even life imprisonment, if the crime causes death). In some cases, additional sanctions can be ordered, such as publication of a judgment in the media or being banned from carrying out business activities or holding managerial positions within a company for a period of five to ten years.
WORLDWIDE COVERAGE: JAPAN

KEY CONTACTS

REGIONAL FACTORS

INDUSTRIES REPRESENTED
> Chemicals and Minerals
> Consumer Products and Electronics
> Food, Beverage and Tobacco
> General Manufacturing
> Pharmaceuticals and Medical Devices
> Transportation

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REGIONAL FACTORS

LITIGATION: Product liability claims are generally brought in the district courts in the first instance. Product liability claims are based on tort and the provisions of the Product Liability Law, which is a special law of general tort law. There is strict liability against manufacturers for personal injury and property damage suffered as the result of defective products. Manufacturers are liable under product liability law for damage caused by products they manufacture. Case law has established that manufacturers cannot exclude liability for personal injuries that result from defective products.

The amount of damages recoverable is decided on a case-by-case basis. While there is no specific statutory formula for determining damages, in practice reference is often made to the “red book” which quantifies damages recoverable for specific categories of injuries suffered in automobile accidents. Japanese law does not allow punitive damages.

Product liability claims must generally be brought within three years. If an injury is latent and discovered after the fact, the limitation period will begin when the injury is discovered.

Lawyers fees are generally not awarded, except in extraordinary cases.

Class actions are not permitted under Japanese law, but cases may be consolidated if there are several plaintiffs with similar claims.

REGULATION: Until recently, there was no legal obligation to undertake product recalls in Japan. However, some serious injuries caused by defective products have prompted recent changes in Japanese law. The Consumer Product Safety Law was amended with effect from May 14, 2007 and requires recalls, reports to the Ministry and other steps if a defective product creates the risk of a “product accident” or “serious product accident.”

Japanese consumers are very brand sensitive and the actions by a company’s management when dealing with problems that arise can have a significant impact on the perceived trustworthiness of the company and its products. Recently there have been several high-profile cases in which “defective” products were sold to the public in Japan that have created significant problems for the manufacturers of the products even though product recalls were not mandated by law.
WORLDWIDE COVERAGE: MIDDLE EAST

KEY CONTACTS

REGIONAL FACTORS

INDUSTRIES REPRESENTED
> Chemicals and Minerals
> Consumer Products and Electronics
> Food, Beverage and Tobacco
> General Manufacturing
> Pharmaceuticals and Medical Devices
> Transportation

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REGIONAL FACTORS

Although the United Arab Emirates, a civil law jurisdiction, has not yet enacted specific product liability legislation, product liability provisions are contained in other federal laws, in particular the Consumer Protection Law. The UAE has, in broad terms, adopted classifications of goods based on international standards.

The rights and procedures for filing claims are provided for in the Civil Code, Commercial Transactions Code and the Criminal Code. There is no provision for class actions within the jurisdiction, nor the award of punitive damages.

**LITIGATION:** Claims by consumers for faulty products, or a breach of warranty, may be brought based on contractual or tort based principles, in line with the recently enacted Consumer Protection Law (the Law). The assessment of damages is likely to vary depending on which route is pursued. Tortious damages will be assessed by the court based on the actual damage suffered together with any consequential losses which were a direct result of the tortious act or omission. The parties are at liberty to agree in their contract what the assessment method will be. There is no scope for punitive damages, and time limitations do apply in relation to bringing claims.

Suppliers and commercial agents are obligated to provide repairs and spare parts for goods they sell, and any contractual clause waiving that obligation will be void. When goods are manufactured locally, the burden of such liability is to be shared jointly by the manufacturer and seller. When suppliers discover defects in goods or services, the Law obliges them to notify the Consumer Protection Department, relevant authorities and consumers. The Law provides that consumers have the right to recover for personal injuries and damages arising from these defects. It is not possible under the laws of the UAE to limit or exclude liability for personal injury or damage to property; any exclusion to this effect within a commercial contract may well be void as a matter of UAE law.

Penalties for failing to comply with the Law include financial penalties and, in some instances, criminal liability.

**REGULATION:** The Law establishes a Higher Committee for Consumer Protection, chaired by the UAE Minister of Economy and including representatives from consumer protection associations. The Higher Committee for Consumer Protection is actively managed by the Ministry of Economy.
WORLDWIDE COVERAGE: NEW ZEALAND

KEY CONTACTS

REGIONAL FACTORS

INDUSTRIES REPRESENTED

> Chemicals and Minerals
> Consumer Products and Electronics
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> Pharmaceuticals and Medical Devices
> Transportation

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REGIONAL FACTORS

LITIGATION: A peculiarity of New Zealand law is the absence of exposure for personal injury liability. There is a near-complete prohibition on actions for personal injury - section 317 Injury Prevention Rehabilitation and Compensation Act 2001. Some unusual risks fall outside that prohibition, e.g. mental injury not accompanied by personal injury (seeing one’s spouse injured, for example), and exemplary damages.

REGULATION: New Zealand has a broad-ranging act governing liability for defective consumer goods. The Consumer Guarantees Act 1993 implies statutory guarantees into contracts for the supply of goods to consumers. The guarantees cover:

> Title
> Acceptable quality
> Fitness for purpose made known expressly or by implication to the supplier
> Compliance with description and sample
> Reasonable price
> Availability of repairs and spare parts for a reasonable period after supply.

The Fair Trading Act of 1986 prohibits, both in a civil and criminal context, misleading and deceptive “conduct that is liable to mislead the public as to the nature, manufacturing process, characteristics, suitability for a purpose, or quantity of goods.” The conduct must be “in trade” to distinguish it from private or domestic transactions.

The Fair Trading Act also empowers Parliament to impose product safety standards or lists of unsafe goods which it is an offence to contravene. Such standards have been imposed in relation to a small number of consumer items, primarily to protect children.
WORLDWIDE COVERAGE: THE NETHERLANDS

KEY CONTACTS

REGIONAL FACTORS

INDUSTRIES REPRESENTED
> Chemicals and Minerals
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> General Manufacturing
> Pharmaceuticals and Medical Devices
> Transportation

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LITIGATION: The Netherlands has implemented the EC Product Liability Directive into the Dutch Civil Code. Claims also can be based on contractual or tort-based liability. Criminal liability may apply to certain categories of products. For example, a manufacturer of medicinal products can be prosecuted for causing physical injury by manufacturing drugs wrongfully, e.g. knowing that they are harmful to health and not notifying the purchaser and taking appropriate action such as a full product recall.

The Dutch Civil Code does not provide for discovery or disclosure. How parties substantiate their claims is completely up to them, while the judge has large discretion in weighing the evidence. Arguments and facts can be substantiated by submitting party expert reports or by requesting oral hearings which will be conducted by the court. Expert evidence is not mandatory unless the court deems it so.

Class actions are not available. Multi-party actions may be brought if there is sufficient connection between the claims. Collective actions also may be brought by interest groups such as consumer associations in order to obtain declarations about liability. It is then up to individual claimants to use the declarations to negotiate compensation or start their own proceedings. Alternatively, the Act on Collective Settlement of Mass Damages allows for courts to declare binding collective settlement agreements regarding mass damage. The agreement is reached between the perpetrator of the damage and an association which serves the interests of the victims. The Act provides an opt-out for those victims who do not want to take part in the collective settlement.

REGULATION: The following regulatory bodies play important roles in regulating the manufacture, distribution, advertising and recalls of products: the Voedsel en Waren Autoriteit (food and consumer products), the College Beoordeling Geneesmiddelen (human/veterinary pharmaceuticals, medicines and preloaded medical devices) and the Arbeidsinspectie (health and safety during employment, including working conditions as well as tools).

All must be notified immediately of any risk in relation to a product which makes it unsafe and which falls within their remit. In principle these authorities will normally look to the manufacturer to remedy the situation within the context of guidance given by them. However, all have the power to ensure any type of recall which they can carry out themselves and charge the company the cost of so doing. The central government tends to limit its role to overseeing matters as mandated to the regulatory bodies.
WORLDWIDE COVERAGE: NORWAY

KEY CONTACTS

REGIONAL FACTORS

INDUSTRIES REPRESENTED

> Chemicals and Minerals
> Consumer Products and Electronics
> Food, Beverage and Tobacco
> General Manufacturing
> Pharmaceuticals and Medical Devices
> Transportation

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REGIONAL FACTORS

LITIGATION: In Norway, all claims are brought in the civil courts. Claims may be brought in contract, tort and under a statutory strict liability regime covering consumers for personal injury and damage to personal property. The legal framework is very consumer protective. Agreements which limit responsibility are unlawful.

The Act on Product Liability applies to personal injury and damage to objects. Statutory strict liability attaches to the producer of a product and/or a distributor of the product in certain circumstances; it attaches to the first importer of a product into the country and the distributor of an imported product in certain circumstances.

Compensation is determined, measured and reduced in accordance with general principles of the law of damages.

The normal limitation period for most legal proceedings is three years from the date the injured person had (or should have had) the necessary information to bring a claim. A statute of limitations bars claims starting ten years after the date on which the producer put the product on the market.

REGULATION: Governmental agencies are, within their fields of responsibility, responsible for the supervision and administration of product quality. They have the power to withdraw products from market if they find that a product does not measure up to legally required quality; they can also impose fines.

In certain circumstances, criminal proceedings can be initiated, primarily against the producer. If the producer cannot be identified, criminal proceedings can be brought against the seller or the importer. Possible penalties include fines and being deprived of the right to continue doing business.
WORLDWIDE COVERAGE: RUSSIA

KEY CONTACTS

REGIONAL FACTORS

INDUSTRIES REPRESENTED

- Chemicals and Minerals
- Consumer Products and Electronics
- Food, Beverage and Tobacco
- General Manufacturing
- Pharmaceuticals and Medical Devices
- Transportation

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Russian legislation in the field of product liability is customer focused and is strict with regard to manufacturers, sellers and retailers. The main pieces of legislation are the Civil Code of the Russian Federation, the federal Law on Customers’ Rights Protection and the federal Law on Technical Regulation. Additional laws also contain product liability provisions (for example, the federal Law on Shared Construction). Product liability may arise from contract, tort or breach of statutory duties.

LITIGATION: Personal injury and damage to property arising from product defects must be compensated in full. The injured person or legal entity is entitled to damages whether or not he has entered into a contract with the manufacturer/seller. This means that claims may be initiated not only by the buyers of a product, but also by third parties. Liability for damage cannot be limited by a contract. A contract between a manufacturer/seller and a buyer may provide for penalty fees if the contract is violated, but regardless of the payment of such penalty fees, a consumer must still be compensated for any damage suffered.

The claimant can choose to claim damages from either the manufacturer or the seller.

The claimant is entitled to claim damages for distress or mental anguish as well as damages for material loss.

The manufacturer/seller is not liable for damage suffered as a result of force majeure or if the customer failed to comply with the usage requirements for the products.

REGULATION: The main governmental bodies responsible for the control of product quality and safety are the Technical Regulation and Metrology Federal Service (Ростехрегулирование - Федеральное агенство по техническому регулированию и метрологии) and the Federal Consumer Protection and Human Welfare Agency (Роспотребнадзор - Федеральная служба по надзору в сфере защиты прав потребителей и благополучия человека). Control functions are also carried out by other federal authorities according to their areas of responsibility. Russia’s Federal Service on Surveillance in Health Care and Social Development (Росздравнадзор - Федеральная служба по надзору в сфере здравоохранения и социального развития) is one such authority. Any and all information and documents that these authorities may request of manufacturers, sellers and importers regarding a product’s quality and safety must be provided.

If a product violates mandatory standards and technical regulations, rendering it a potential risk to consumers, then the proper authorities must be notified. The manufacturer must then develop and implement a plan of action to prevent or limit potential damage. If mandatory standards and technical regulations are found to have been violated, the authorities may recall the product from the market, at the manufacturer’s expense.
KEY CONTACTS

REGIONAL FACTORS

INDUSTRIES REPRESENTED

> Chemicals and Minerals
> Consumer Products and Electronics
> Food, Beverage and Tobacco
> General Manufacturing
> Pharmaceuticals and Medical Devices
> Transportation

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Singapore’s legal system is based on English common law. It has a two-tier court system consisting of the Subordinate Court and the Supreme Court. The Supreme Court is made up of the High Court and the Court of Appeal. Civil cases with claim amounts up to SG $ 250,000 are commenced in the Subordinate Court, while those exceeding SG $ 250,000 are commenced in the High Court.

**LITIGATION:** A product liability claim may be pursued through an action in contract, tort and/or breach of statutory provisions, including the Sale of Goods Act. Plaintiffs can claim damages for breach of an express or implied term of a contract. Plaintiffs can bring an action in negligence against manufacturers, importers or suppliers who owe a duty of care to the plaintiff for losses or damage caused by defective products. The general rule is that damages may only be compensatory; punitive damages are not allowed. There is no exclusion of liability for personal injury or death. Claims must be brought within six years. There is some scope for class actions or representative actions (Order 15 Rule 12 of the Rules of Court).

**REGULATION:** Consumers are protected by such legislation as the Consumer Protection (Fair Trading) Act, the Consumer Protection (Trade Descriptions And Safety Requirements) Act, the Health Products Act 2007, the Sale of Goods Act, the Sale of Food Act and the Medicines Act. Offenders may be fined. In addition, they may be subject to imprisonment for a term up to three years under such legislation as the Consumer Protection (Trade Descriptions And Safety Requirements) Act, the Sale of Food Act and the Health Products Act 2007.

Product safety is monitored through national authorities and organizations such as the Agri-food and Veterinary Authority, the Health Sciences Authority and SPRING Singapore, the governmental agency dedicated to promoting Singapore's economic growth and productivity.
WORLDWIDE COVERAGE: SOUTH AFRICA

KEY CONTACTS

REGIONAL FACTORS

INDUSTRIES REPRESENTED
> Chemicals and Minerals
> Consumer Products and Electronics
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> General Manufacturing
> Pharmaceuticals and Medical Devices
> Transportation

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REGIONAL FACTORS

LITIGATION: South African law is based on Roman-Dutch law, but its procedures generally follow the English model, save that jury trials were abolished more than 50 years ago.

Product liability in South Africa is based on fault or contract with no strict liability, although a Consumer Protection Bill has been published for comment proposing a measure of strict liability on manufacturers. To succeed, a claimant must prove that the product is defective or faulty and that the defect is wrongful and caused the damage. When a claimant is not able to prove its case, the claim will be dismissed. Although South African courts are sympathetic to the evidentiary difficulties faced by a claimant in these circumstances and will employ the doctrine of res ipsa loquitur (the facts speak for themselves) when applicable, there is no additional benefit provided to a claimant.

Failure to warn about inherent or hidden dangers in a product does give rise to liability for the manufacturer. When the possibility of damage is foreseeable, then it is necessary to provide warnings on a product label or instructions in a brochure. The manufacturer should know its product and foresee the likelihood of damage, provided that the likelihood of damage is not too remote. The manufacturer is required to warn the ultimate consumer where the product reaches the consumer in its final form, and, in that event, it is not necessary for an intermediary to provide additional warnings. However, an intermediary cannot simply ignore information at its disposal when that information ought reasonably be made available to the next recipient in the chain of supply.

REGULATION: Prescribed safety requirements or minimum standards exist in regard to certain products through standards authorities such as the South African Bureau of Standards (SABS), the Medicines Control Council and other regulatory bodies. If prescribed safety standards exist, then noncompliance may give rise to criminal liability. A claim for failure to recall will, however, be based in delict, and liability follows to the extent that the omission was wrongful. This will be the case only if in the particular circumstances a legal duty rested on the manufacturer to act positively to prevent harm from occurring and there was a failure to comply fully with that duty. Causing damage in breach of a statutory duty is, however, prima facie wrongful.
WORLDWIDE COVERAGE: SPAIN

KEY CONTACTS

REGIONAL FACTORS

INDUSTRIES REPRESENTED

> Chemicals and Minerals
> Consumer Products and Electronics
> Food, Beverage and Tobacco
> General Manufacturing
> Pharmaceuticals and Medical Devices
> Transportation

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Product liability claims are brought before the Courts of First Instance.

Spain has also developed a consumer arbitral system (SAC) to deal with complaints from consumers and users. Submission to SAC is voluntary for both parties.

Specific features to note are:

> Natural gas is expressly included within the definition of product;
> The consumer bears the burden of proving the existence of a defect and causation;
> If the injured person is at fault, the producer’s liability may be reduced or even cancelled.
> A supplier may be held liable not only if the producer cannot be identified but also if the supplier knew that the product was defective.
> Claims must be brought within three years from the date on which the injured person suffered the damage.

> Claims by the producer against other jointly liable producers to recover compensation paid must be brought within one year of the compensation having been paid.
> The government may establish a compulsory insurance policy for product liability and a warranty fund for personal injuries, intoxication and death.
> Spain has set € 63,106,270.96 as the cap for a producer’s total liability for damages resulting from death or personal injury caused by identical items with the same defect.
> In accordance with EU legislation, Spain has introduced a rapid alert system (RAPEX) for products which pose a serious risk and a mechanism for products to be withdrawn from the market if they are likely to put the health and safety of consumers at risk (food, toys and pharmaceuticals, among others, are covered by specific intervention systems).
> At a national level, Spain’s Safety Regulation provides that manufacturers or distributors who become aware (or who ought to have become aware) of the fact that a product supplied to consumers in Spain poses a risk must immediately communicate this to the respective Autonomous Community (regional government) where the product was distributed. If more than one Autonomous Community is affected, the Autonomous Community of the registered address of the product manufacturer or distributor should be informed, so that, in turn, the National Institute of Consumption (INC) and other affected Autonomous Communities are informed.

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Regional Factors

Administrative penalties for noncompliance with consumer legislation range from fines of € 3,005.06 for minor infringements up to a five-year shutdown of the company's operations and a penalty of € 601,012.10 or five times the value of affected products or services for very serious infringements.

REGULATION: Consumer protection policy is a responsibility shared between the state (central government) and, within the respective territories, each of the seventeen Autonomous Communities (being regional governments). Thus, in parallel to national legislation and authorities, Autonomous Communities also have passed their respective general laws on protection of consumers and users and created regional administrative structures for consumer protection.

Each Autonomous Community is responsible for the enforcement of consumer legislation and market control in its respective territory. This is usually entrusted to a specific department within the regional administration. Coordination among such regional departments and central government is assured through a standing coordination committee. Within the central government, the Ministry of Health and Consumption (MSC) promotes and coordinates strategies and legislation on consumer protection. It also manages the relationship with EU authorities.

Within the MSC, INC is the central government's public agency for consumer matters. INC also assumes overall responsibility in Spain for coordinating and cooperating with EU consumer policy.
Sweden

WORLDWIDE COVERAGE: SWEDEN

KEY CONTACTS

REGIONAL FACTORS

INDUSTRIES REPRESENTED

> Chemicals and Minerals
> Consumer Products and Electronics
> Food, Beverage and Tobacco
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REGIONAL FACTORS

**LITIGATION:** Swedish product liability claims are usually satisfied by insurance. General insurance packages normally also cover product liability, for which the producer pays relatively low premiums.

For the insurance company to pay compensation on a claim, the damage caused must be directly attributable to the business insured by the producer. This is primarily decided by the insurance company itself. The insurance company will negotiate with the claimant and pay compensation in accordance with the applicable laws on damages. Swedish courts only become involved if the claimant rejects the offer of compensation, in which case the insurance company will pay the producer’s legal costs.

In line with the increasingly global nature of business, insurance packages generally cover damages that occur anywhere in the world except the US and Canada. Insurance can be obtained for the US and Canada, but premiums are much higher.

Product liability claims are founded on contract and tort. The most important piece of legislation is the Product Liability Act, which is based on EC Directive 85/374/EC. Injuries caused by the use of drugs or malpractice are regulated separately in the Patient Injury Act.

Sweden is regarded as producer and manufacturer friendly. Punitive damages are not available and courts tend to award comparatively small amounts.

**REGULATION:** There are no specific rules in relation to product liability under Swedish criminal law. However, criminal sanctions might arise under the Swedish Penal Code. The Swedish Product Safety Act also contains particular regulations concerning the safety of marketed products. Companies which do not follow the regulations may be subject to civil sanctions or decisions in line with the regulations.

In order to prevent goods from causing personal injury, Sweden has adopted the Product Safety Act, under which the Swedish Consumer Agency takes on the role of supervising authority. Other supervising authorities also exist, such as the Medical Products Agency, which supervises pharmaceutical products.

A manufacturer or a seller providing goods and services must always provide the customer with all necessary information regarding the safety of a product. If goods or services are found to be hazardous, manufacturers/sellers can face a selling prohibition and/or an export prohibition. Hazardous goods or services can also be recalled from the market. Companies may also be subject to a sanction fee, which can vary from SEK 5,000 to SEK 5 million, but will not exceed 10 percent of the company’s annual turnover.
WORLDWIDE COVERAGE: TANZANIA

KEY CONTACTS

REGIONAL FACTORS

INDUSTRIES REPRESENTED
> Chemicals and Minerals
> Consumer Products and Electronics
> Food, Beverage and Tobacco
> General Manufacturing
> Pharmaceuticals and Medical Devices
> Transportation

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REGIONAL FACTORS

LITIGATION: Product liability law in Tanzania is very much in its infancy, with claims predominantly founded on tort, most notably on causes of action based on negligence. The jurisdiction has yet to adopt the principle of strict liability for product liability claims. Tanzania is not a developed consumer manufacturing-oriented economy, and, as a result, product liability law has not evolved as much as in other countries. In comparison to other disputes of a similar commercial nature, the scale of compensation relating to product liability claims is very much at the lower end. Product liability law has yet to be identified as an independent area of dispute requiring specific attention through the enactment of specific legislation or policy.

REGULATION: Tanzania currently has no specific legislation dealing with product liability governing manufacturers’ duties to consumers. Courts in Tanzania mostly rely on precedent and principles of common law to guide them in making decisions. However, because the Court of Appeal of Tanzania has not yet had an opportunity to adjudicate on a product liability issue, there is no binding legal precedent concerning any product liability claim.
Thailand

WORLDWIDE COVERAGE: THAILAND

KEY CONTACTS

REGIONAL FACTORS

INDUSTRIES REPRESENTED

> Chemicals and Minerals
> Consumer Products and Electronics
> Food, Beverage and Tobacco
> General Manufacturing
> Pharmaceuticals and Medical Devices
> Transportation

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**LITIGATION:** Product liability in Thailand can be founded on contract, tort, the Unsafe Goods Liability Act and the Consumer Protection Act. The Unsafe Goods Liability Act imposes strict liability—that is, injured persons are required to prove only that they have suffered damage arising from normal usage of an unsafe product; they are not required to prove that any business is at fault. The Unsafe Goods Liability Act provides that business operators, such as manufacturers, importers, sellers, licensees and licensors, are jointly liable to the injured party for an injury arising from the use of unsafe goods. An agreement or a notification which limits or excludes liability for damage caused by unsafe products is not enforceable.

The Unsafe Goods Liability Act also allows Thai courts for the first time to award compensation to an injured person for mental injury, and to order the business operator to pay punitive damages of up to two times the amount of actual damages.

**REGULATION:** The Unsafe Goods Liability Act and the Consumer Protection Act acknowledge the Consumer Protection Board (CPB) as Thailand’s main regulatory body for consumer matters. The CPB plays an important role in regulating the manufacture, distribution, advertising and recall of unsafe products. When CPB learns that a product may pose a safety risk, it is required to notify consumers immediately. CPB also has the power to file a lawsuit on behalf of consumers for damage arising from unsafe goods.

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WORLDWIDE COVERAGE: UNITED KINGDOM

KEY CONTACTS

REGIONAL FACTORS

INDUSTRIES REPRESENTED

> Chemicals and Minerals
> Consumer Products and Electronics
> Food, Beverage and Tobacco
> General Manufacturing
> Pharmaceuticals and Medical Devices
> Transportation

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REGIONAL FACTORS

LITIGATION: In the United Kingdom, all claims are brought in the civil courts. Claims may be brought in contract, tort and under a statutory strict liability regime covering consumers for personal injury and damage to personal property. It is impossible to exclude liability for personal injury. Exclusion of liability in consumer contracts is subject to strict regulation. Exclusion of liability in commercial contracts is normally subject to a requirement of reasonableness. It is not possible to recover punitive or aggravated damages.

UK courts will not enforce foreign judgments in respect of such damages. Statutory strict liability attaches to the producer of a product and/or first importer of a product into the European community. A retailer may be a “producer” in certain circumstances. There is a limited state of the art defence. There is no statutory compensation scheme for personal injury.

The normal limitation for most legal proceedings is six years (from date of breach of contract/damage in tort), three for personal injury claims. Legal costs are recovered by winning parties (approximately 75 percent). Success fees are permissible with a possible uplift of 100 percent in some cases.

There is limited scope for class actions under the group litigation order procedure.

REGULATION: There are four main investigating bodies: the Health and Safety Executive (HSE) (workplace products); Trading Standards (consumer products); Environmental Health Department (food); and the MHRA (pharmaceuticals and medicines). All must be notified immediately of any risk in relation to a product which makes it “unsafe” and which falls within their remit. All have draconian powers to ensure a recall, including the ability to prosecute a corporate entity and/or its directors. They can carry out a recall themselves and charge the company the cost of so doing.

HSE will always prosecute where an injury arises out of a defective product being used in the workplace and will always prosecute manufacturers of unsafe products, even if the manufacturer initiates a recall. The other investigating authorities will normally look to the manufacturer to remedy the situation and to carry out the recall. If the manufacturer is outside the UK, the authorities will look primarily to the importer or retailer. Fines are unlimited.

Central government tends to limit its role to overseeing matters unless the issue is a national one in which case it can use draconian emergency powers to remedy the situation.
WORLDWIDE COVERAGE: UNITED STATES

KEY CONTACTS
> Northeast
> Southeast
> Central
> West

REGIONAL FACTORS

INDUSTRIES REPRESENTED
> Chemicals and Minerals
> Consumer Products and Electronics
> Food, Beverage and Tobacco
> General Manufacturing
> Pharmaceuticals and Medical Devices
> Transportation

We are proud to be a 2010 finalist in The American Lawyer's prestigious Litigation Department of the Year Competition—Product Liability category.

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REGIONAL FACTORS

LITIGATION: Disputes in the United States are resolved in federal and state court systems. In all federal courts, and many states, the right to a jury trial is guaranteed in most matters involving a claim for damages. The substantive laws of the fifty states can vary widely, but all recognize some form of claims for design defect, manufacturing defect, failure to warn and breach of warranty. Variations may include limitations on damages; rules of evidence and the admissibility of expert testimony; the applicability of particular warranties; and many other matters that can affect the outcome. Demographics of potential jurors can vary from state to state and city to city. Some jurisdictions are notoriously friendly to plaintiffs and liberal with damages awards.

Unlike many European judicial systems, the US system generally expects each side to pay its own counsel fees. Most plaintiffs’ lawyers agree not to accept an hourly fee from their clients, but keep a percentage of any damages award. Thus, plaintiffs’ lawyers prefer cases with the potential for large damages awards; in some cases, plaintiffs’ lawyers have recovered fees well beyond the value of their time, sometimes in the many millions of dollars.

The US also has two devices for addressing large numbers of claims at once. In a class action, large numbers of plaintiffs who have common questions of law and fact may join together as a class, appoint one or more representatives to stand for the class and have all plaintiffs’ claims resolved in one common action. When a class action is not available, a federal court may establish Multi-district litigation, consolidating many similar cases arising in different jurisdictions into one court for pre-trial matters, but allowing each case to be tried in the court in which it originated.

REGULATORY: Many federal agencies regulate products in the United States, and state and local governments may impose additional regulations on product manufacturers and retailers. Federal agencies that play a role in regulating the manufacture, distribution advertising, and recalls of products include the National Highway Transportation Safety Administration (www.nhtsa.gov), the Federal Aviation Administration (www.faa.gov), the Consumer Product Safety Commission (www.cpsc.gov), the Food and Drug Administration (www.fda.gov), the Occupational Safety and Health Administration (www.osha.gov); and the Federal Trade Commission (www.ftc.gov).

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CHEMICALS AND MINERALS

DLA Piper has significant litigation experience involving injury caused by chemical and environmental exposure. We have represented defendants in class actions and individual actions alleging personal injury, wrongful death and diminution in property values. Our experience includes lawsuits concerning TCE, TCP, DBCP and many other chemicals. We have extensive experience defending clients in toxic tort and chemical exposure litigation involving such solvents as benzene, formaldehyde, acetone, toluene, mineral spirits, VMP naptha and 1,1,1-trichloroethane and such pesticides as permethrin and organophosphates.

We have represented numerous clients in litigation involving diseases of the lung, such as mesothelioma, chronic obstructive pulmonary disease, silicosis, asbestosis and other forms of pneumoconiosis. In the area of asbestos liability, we represent petrochemical companies, tool manufacturers, manufacturers of products containing asbestos and manufacturers of motor vehicles and automotive service equipment in thousands of personal injury claims. We are also experienced in defending asbestos personal injury claims involving premises liability issues, as well as claims brought by persons present in buildings during asbestos abatement activities.

In the area of silica liability, we represent a number of sand and gravel companies, as well as manufacturers of sandblasting equipment. We actively engage in studies analyzing silica residue in automotive friction products and alleged related environmental exposures. Our lawyers represent manufacturers of friction products, automotive original equipment, motorcycle original equipment, automotive service equipment and aircraft, railroad and marine equipment. DLA Piper also advises petrochemical companies, as well as companies that manufacture products associated with mining operations worldwide. We also defend environmental tort personal injury claims involving premises

To discuss what we can do for your company, please contact any of our chemicals and minerals key contacts:

> Bill Kiniry
> Stefanie Fogel
> Kenneth Thompson
> Ludger Giesberts
> Roy Tozer

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liability issues and claims brought by persons present in buildings or
downwind during operations or abatement activities.

Specific examples of DLA Piper’s recent work for chemical and mineral clients
include:

> Representing the defendants in five putative class actions arising out of the
largest fire in the history of the State of Georgia.

> Advising a number of large multinational firms, including a Japanese
software and hardware manufacturer and a US-based specialty chemicals
manufacturer, on the requirements on the EU REACH Regulations and
providing detailed compliance strategies. This legislation, which provides
for the registration, evaluation, authorization and restriction of chemicals,
affects not only the chemicals sector but also most other significant
manufacturing operations.

> Representing a national propane supplier in litigation resulting from
an explosion and fire that resulted in the death of four people, serious
personal injuries to five others and extensive property damage. The claim
for damages has been estimated to exceed US $100 million. The matter is
being resolved for a fraction of the exposure.

> Advising a multinational chemical company regarding potential dangers
posed by a mixture of different component products and its responsibilities
under the Control of Substances Hazardous to Health Regulations 2002
and the Control of Major Accident Hazards Regulations 1999.

> Representing an oil corporation liquidating trust in a nationally significant
environmental cost recovery case. After an eight-week trial, the court found
the trust liable for only 1.72 percent of the US $33 million cleanup, millions
less than sought at trial.

> Providing a large multinational industrial undertaking with a strategy for
reducing the effluents from its operations and turning them into useful
byproducts rather than waste streams.

> Acting for one of the largest paint manufacturers in Australia in a claim
against the supplier of mineral sands used in texture coating products.
Use of the defective product resulted in rectification work to properties in
excess of $100 million. DLA Phillips Fox issued proceedings against the
supplier of the mineral sands and recovered a substantial portion of
the damages.

> Representing a New England utility company that was a Potentially
Responsible Person (PRP) at a former manufactured gas plant and coke
plant that had operated for more than 80 years in the Boston metropolitan
area. Representation included demonstrating the liability of two other PRPs
for the majority of site cleanup costs and negotiating a private settlement.

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> Advising a major German chemical company on a potential indemnity for environmental liability to be granted by a regional government. DLA Piper also advised on the impact of recent environmental legislation on the business process.

> Representing a chemical supplier’s liability insurer in a claim relating to a delivery of chemicals of inferior quality which caused a cooling system to corrode and burst, resulting in massive damage and standstill. DLA Nordic settled the dispute out of court.

> Representing a Massachusetts client in private cost recovery action against former tenants, following a release of TCE at the client’s property. A jury awarded our client approximately $800,000, plus prejudgment interest and a US $1.1 million lawyers’ fee award. The case established new law on a number of novel issues.

> Advising a leading independent refiner and wholesaler of petroleum products on the issue of disclosure to authorities and third parties with regard to incident information sharing between refineries in Germany, Belgium, Switzerland and France.

> Representing a chemical company in defending toxic tort suits arising from an explosion at one of its plants that resulted in more than US $600 million in property damage alone.

> Advising leading chemical industries on environmental law issues relating to the remediation of refineries and chemical plants all over Europe. We performed environmental audits which served as a means of determining claims between companies.

> Representing a major oil company in a multi-party lawsuit by the landlord of an industrial park claiming that our client’s refinery and third-party pipelines and other facilities contaminated the plaintiff’s facility in Los Angeles. The plaintiff claimed US $200 million in cleanup costs and other damages under California law and litigated the action for five years.

> Advising a German chemical company on 65 environmental liability cases relating to chemical plants producing basic chemical substances. The claims were based on contractual agreements between the client and an outsourcing company. Issues included soil and water contamination, handling of hazardous substances and permits under emissions laws as well as health and safety, emission trading and REACH issues.

> Advising several chemical companies on bringing a claim against the European Commission regarding its prohibition of phthalates in plastics.
CONSUMER PRODUCTS AND ELECTRONICS

DLA Piper’s Product Liability lawyers represent the world’s largest consumer product and electronics manufacturers in a variety of matters, including individual claims and consumer class actions, compliance with local and international standards and regulations, regulatory investigations and product recalls. We have defended tens of thousands of claims around the world, including trials of high-risk individual and consolidated actions. We also advise manufacturers of a broad range of household, outdoor, computer and personal use products on distribution, manufacturing and product safety issues.

Specific examples of DLA Piper’s recent work in the consumer products and electronics industries include:

> Representing a major consumer electronics manufacturer in a nationwide class action in which the plaintiffs alleged common law claims for fraudulent concealment and breach of express warranty, as well as violations of California’s unfair competition law. Before any discovery was conducted, the court granted DLA Piper’s motion to dismiss and motion to strike class allegations.

> Advising a manufacturer of electronic equipment on the application to one of its products of the “defence equipment” exemption in the EU legislation on Waste Electrical and Electronic Equipment and on the Restriction of Hazardous Substances in such equipment.

> Representing a computer hardware manufacturer in a class action complaint alleging deceptive advertising and breach of express warranty claims. We secured dismissal at the pleading stage of the complaint.

To discuss what we can do for your company, please contact any of our consumer products and electronics key contacts:

> William Boggs
> Luanne Sacks
> Mary Gately
> Jim Brogan
> Carol A. F. Umhoefer
> Paul Burnley
> Ashley Mott
> Frank Roth
> Lance Miller

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Defending claims against distributors and manufacturers of computer hardware and software products, electronic game consoles and home theater components in multiple nationwide and state class actions involving breach of warranty, Consumers Legal Remedies Act (CLRA) and Unfair Competition Law (UCL).

Advising a manufacturer of lighting equipment exported to more than 20 jurisdictions in Europe, Asia and beyond, of its product safety, regulatory notification and recall obligations. Our timely advice ensured that the manufacturer's all-important reputation remained intact.

Representing a manufacturer of lawn tractors against damage claims exceeding US$100 million and allegations that the manufacturer misrepresented engine horsepower in more than eight million lawn tractors and conspired with other manufacturers.

Acting for numerous retailers in the UK in widespread product recalls of a huge range of products including televisions, fridges, vacuum cleaners, bath screens, toys, baby products, Halloween masks, halogen heaters and sun cream.

Representing an outdoor product manufacturer in a two-week trial involving a fatality allegedly caused by our client's failure to equip its products with devices utilized by other manufacturers. The trial was closely watched by the outdoor products industry and members of the plaintiffs bar who are making similar claims against the company and other outdoor product manufacturers. The jury found our client's product was not defective and our client was exonerated.

Advising a leading producer of printers and inks on the requirements of the EC Dangerous Preparations Directive. The client faced a potential recall of about 50,000 units of ink cartridges marketed in France, Germany, Denmark, Spain and Italy.
FOOD, BEVERAGE AND TOBACCO

The Product Liability lawyers at DLA Piper represent a broad range of food, beverage and tobacco companies in dispute resolution and regulatory compliance. Our food, beverage and tobacco lawyers advise on the requirements of regulatory authorities, implementation of directives at local markets and compliance in the context of multi-market, multi-product operations. We formulate compliance programs that cover key requirements and risks, while promoting consistency across business activities and geographic regions.

Our advice extends throughout product development and into the postmarketing period, addressing strategy and compliance in areas including marketing applications; labeling, promotion and advertising; quality regulations; registration and listing; import/export requirements; product recalls, withdrawals and field corrections; facilities inspections; government and internal investigations; indemnity agreements with suppliers; and insurance issues.

In the US, we maintain an active federal regulatory practice counseling a broad range of companies that import, manufacture, process, distribute and/or market FDA-regulated products, including foods, food additives, dietary supplements, medical devices, pharmaceuticals, animal drugs, biologics and cosmetics. We represent clients on a wide variety of matters before FDA and USDA and in state and federal courts on FDA-related matters.

Recent examples of work done for food, beverage and tobacco clients include:

- Representing a global food company in federal and state class actions in several jurisdictions alleging consumer fraud, false advertising, fraud and warranty claims based on labeling and marketing of one of our client’s best-known brands.

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Defending a global tobacco company in numerous ongoing cases in state and federal court in Florida.

Representing one of the premier Cape wine estates in South Africa in connection with a substantial damages claim. Due to the inadvertent use of corks supplied by a major European manufacturer but tainted with a toxic chemical, an entire red-wine vintage became contaminated and could not be sold. The case necessitated a detailed analysis of the production and manufacturing process and instruction of experts.

Representing frozen food producers challenged by UK regulatory authorities regarding the water content of frozen scampi and prawns. The case necessitated a detailed analysis of the production and manufacturing process, the instruction of experts and, ultimately, the withdrawal of criminal proceedings.

Representing a manufacturer in coordinated, industry-wide class action litigation in numerous state and federal courts where the plaintiffs alleged consumer fraud, false advertising and warranty claims based on the alleged harmful interaction of product ingredients. After protracted negotiations, our client achieved positive settlement and dismissal from all cases.

Defending a substantial producer of food dips in Australia against allegations of a third party’s tainting of the product with a defective mixing agent. DLA Phillips Fox advised the manufacturer through a countrywide recall and extricated the client from all liability claims.

Representing a major supermarket chain in Hong Kong which was being prosecuted by the Food and Environmental Hygiene Department regarding allegations of food mislabeling.

Representing German national authorities in a governmental liability case concerning imported pork concerning a claim for damages of nearly € 145 million.

Representing a large spice company in a label review and compliance assessment concerning food products imported into the EU for direct sale in the jurisdiction of entry or imported for subsequent sale.

Representing a pet food manufacturer in litigation regarding food allegedly contaminated with melamine.

Representing manufacturers of food contact substances and indirect food additives on labeling and safety compliance issues.

Representing a producer of baked and packaged cookies regarding labeling requirements for a low-calorie diet regime.

Representing a franchise food operator regarding advertising and labeling claims for use of Black Angus beef.
FOOD, BEVERAGE AND TOBACCO

> Defending a Swiss manufacturer of high-quality natural food additives in a series of legal disputes with German producers concerning damage claims arising out of the alleged contamination of food in disputes involving questions of German, Swiss and EU food law.

> Representing the UK’s largest importer of fish and fish products from Asia in questions surrounding the labeling of a fish product and a related criminal investigation.

> Representing a leading European manufacturer of dessert foods in an investigation into the legality of their products, including advice on amended labeling. No formal action followed.

> Defending a business operating a chain of restaurants against an attempt by a local authority to impose a food hygiene requirement that would not significantly improve the client’s excellent hygiene systems, but would, if subsequently imposed as a requirement by other authorities throughout the country, have required a significant reconfiguration of many of the clients’ premises.

> Advising US tobacco companies in regulation and distribution of tobacco products in Germany, the UK and other European countries.
GENERAL MANUFACTURING

The Product Liability lawyers at DLA Piper represent national and international companies in litigation, regulatory compliance and risk management issues relating to the manufacturing of products and goods. We have significant experience in all phases of litigation brought against companies facing allegations that they have manufactured defective products. Our experience ranges from defending class actions and pursuing third-party indemnification and/or contribution to representing clients in personal injury, wrongful death and diminution in property value claims.

We also advise on how to anticipate and avoid the risk of product liability. This preventive practice includes advising on industry litigation trends, identifying hidden areas of risk, developing appropriate purchase order and sales contract terms and conditions, developing necessary sales literature and adequate product warnings and instructions, working closely with leading experts in the relevant fields and analyzing costs associated with product development and modification.

In addition, we work closely with our colleagues in Government Affairs to routinely advise on issues relating to regulatory compliance, including analysis of pending legislation and potential impact of industry initiatives. We have experience working with regulatory authorities and have advised clients through various recall and retrofit plans.

Specific examples of our recent product liability work in the area of general manufacturing include:

> Representing a steel manufacturer on a nationwide basis in construction claims and construction product defect cases. Recent matters involve construction claims for payment on major stadiums and arena projects, roof collapses due to snow and other overload conditions and construction injury cases including wrongful death and other serious personal injury claims.

To discuss what we can do for your company, please contact any of our general manufacturing key contacts:

> Tony Meagher
> Jeffrey Yeatman
> George Butts
> Jayne Risk
> Stefano Modenesi
> Satpal Gobindpuri
> Frank Roth
> Paul Burnley
> Ashley Mott
> Arthur Csatho

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Serving as national counsel for a major British manufacturer of heavy equipment and forklifts. We have defended the manufacturer against significant personal injury and wrongful death product liability claims in Texas, Nevada, California, New Jersey and Kansas. We also regularly advise the client on product warranty development and defend related claims.

Working with regulatory authorities and representing and advising a client in relation to the recall of domestic and trade central heating boilers throughout the UK, Italy and Greece. Faulty flues in the boilers could have given rise to carbon monoxide poisoning.

Acting as lead counsel for one of the world’s largest chemical companies in cases alleging failure of plastic pipes in several Texas cities and water districts, focusing on the cost of replacing many thousands of allegedly defective plastic pipes in municipal water distribution systems. Defending the suits required a detailed understanding of polymers and the chemical stabilizers used to protect them against degradation. All cases were ultimately settled to the client’s satisfaction.

Advising a manufacturer of ovens which had caused fires in a number of consumers’ homes. DLA Piper identified the need for remedial action to be taken to remove the identified risk caused by a faulty component supplied by another supplier. DLA Piper then instigated civil proceedings for recovery of the cost of the recall and damages for breach of contract.

Assisting a supplier of gas tubes and its liability insurer in an SEK 32 million claim arising out of a malfunctioning fire extinguisher system which caused massive damage to a steel mill.

In a recent matter closely monitored by the entire outdoor power equipment industry, DLA Piper represented the manufacturer of a lawn tractor against allegation the lawn tractor was defective because it did not include a device that would stop the cutting blades whenever the tractor reversed, an attribute incorporated by a competitor since 1982.

Advising a global Japanese automotive producer on the sufficiency of its management system to mitigate any liability with regard to hazardous substances arising from potential violation of German and European law on ELV, WEEE and RoHS compliance.

Dealing with a product recall across five European and two non-European jurisdictions. The product had been contaminated during manufacture, which could have caused serious personal injury to consumers.

Acting for an insulation company in a dispute involving a construction defect/property damage claim by the owner of a US$50 million house in Virginia who sought to recover for water damage caused by frozen, burst sprinkler heads. All claims against the client were voluntarily dismissed.

Representing the liability insurer of a manufacturer of welding materials for pipelines used by a Norwegian offshore company. The material was...
GENERAL MANUFACTURING

of inferior quality and the pipelines had to be replaced. DLA Nordic succeeded in obtaining an out of court settlement.

> Representing a German heavy plates manufacturer in a dispute with an English company over allegedly defective products and helping the client secure a satisfactory settlement.

> Representing a plaintiff claiming compensation for damage caused to an exhaust gas system of machines supplying emergency electricity to a hospital in Norway.

PHARMACEUTICALS AND MEDICAL DEVICES

Pharmaceutical and medical devices companies are faced with an increasingly watchful regulatory environment and an ever-widening litigation front. DLA Piper advises many of the world’s largest and most progressive manufacturers of pharmaceutical products and medical devices on regulatory and litigation matters. We understand that the development of medications and tools for the diagnosis, treatment and cure of diseases and medical conditions requires forward thinking, substantial investment and control of risks. We know that scientific knowledge evolves, as does public opinion. Using that knowledge, we work with our clients—some of the world’s best innovators and manufacturers of medical products—to anticipate how to limit risks as science and public thinking evolve and to position our clients to develop the medicines of the future. When recalls or litigation ensue, we stand ready to defend our clients vigorously.

DLA Piper has represented manufacturers of prosthetic devices, surgical instruments, intraocular lenses, dental implants, dental amalgams, dialysis solution, breast implants, hospital equipment, ethylene oxide sterilizers and cautery equipment, pain relievers, phenylpropanolomine, macrolide antibiotic drugs, reflux and gastrointestinal medications, opioid pain medications and numerous other pharmaceutical and medical devices.

Specific examples of recent work for pharmaceutical and medical device companies include:

> Acting as national counsel for the manufacturer of two anti-inflammatory drugs on the market that are involved in a recent wave of national mass-tort individual and class action cases. Our national role includes working among other select law firms, and encompasses involvement in consumer fraud actions, FDA and regulatory issues, sales and marketing questions and strategically defending these products in litigation.
Representing the maker of certain weight-loss medications. As National Resolution Counsel, we have coordinated, managed and implemented a national alternative resolution program addressing more than 50,000 cases. In addition, we have served as litigation counsel in more than 170 individual cases.

Advising a medical technology company on the laws governing the marketing of its products in a large number of jurisdictions in the EU. This involved advising on EU and member state laws on medical devices and providing advice in relation to the CE marking of the products.

Acting for a large multinational pharmaceutical company in litigation following the death of a consumer, advising the company on the procedures adopted in the UK for investigating unexpected deaths. Subsequently, our UK and US lawyers worked in conjunction providing representation at the inquest.

Representing the manufacturer of two of the leading hormone therapy drugs on the market. We are part of the national coordinating team identifying and working with expert witnesses, preparing and defending the company’s witnesses at deposition, taking plaintiffs’ depositions, managing all medical record retrieval and review and developing strategy for defending the litigation. In addition, we are litigation counsel for more than 50 individual cases.

Since 2002, representing the manufacturer of a cholesterol-lowering medication in litigation involving thousands. Selected as lead trial counsel in cases in California and Oregon, we have also had primary responsibility for the workup of hundreds of other cases.

Coordinating all necessary advice in relation to a potentially defective anesthetic product, including corresponding with the Medicines and Healthcare Products Regulatory Agency (MHRA) and advising on the client’s contractual rights and obligations in respect of affected third parties.

Defending a client in claims alleging that a series of television commercials for an aspirin product made false and misleading representations regarding the benefits of that medication when taken during a heart attack. The judge ruled against the plaintiff on claims for false advertising, unfair business practices and fraud.

Representing the inventor of the Dalkon Shield intrauterine device. This involved managing and defending more than 5,000 legal actions in all 50 US states and in the UK. All the matters were resolved without payment of any judgment or settlement by our client.

Note past results are not guarantees of future results. Each matter is individual and will be decided on its own facts.
DLA Piper’s Product Liability lawyers represents the world’s largest vehicle manufacturers and transportation companies in matters involving virtually every mode of transportation: automobiles, trucks, motorcycles, trains, watercraft, aircraft and off-road vehicles as well as component parts, systems and tires. We represent every link in the distribution chain, including original equipment manufacturers, retailers, dealers and parts suppliers. In addition to handling complex disputes, we monitor changes in the regulatory environment, help to manage and control product recalls, advise on distribution chain challenges and assess import and export requirements and risks. We address client needs in related areas by working closely with our colleagues who are knowledgeable in other areas of law, including Environmental, Government Affairs, International Arbitration and Insurance.

Examples of recent product liability work in the Transportation sector include:

> Defending an operating company of a major commuter train system in litigation arising out of a high-speed collision with a freight train, resulting in the deaths of 25 people and injuries to approximately 130 others. With the cause of the collision currently under investigation by the National Transportation Safety Board, DLA Piper lawyers are actively involved in conducting internal and external investigations and advising the client on numerous legal and strategic issues.

> Representing a client in a $100 million design defect case involving a power-steering system. DLA Piper persuaded the trial court to enter judgment for its client before trial because the plaintiff’s expert opinions were deficient. The appeals court agreed and affirmed the judgment.

> Acting for a truck manufacturer when, after a US government recall of certain pickup trucks, a plaintiff sought $100 million in damages for injuries stemming from an accident allegedly caused by the recall condition. We obtained judgment before trial for the truck manufacturer.

To discuss what we can do for your company, please contact any of our automotive key contacts:

> Joel Dewey
> Satpal Gobindpuri
> William Kiniry
> Carol A. F. Umhoefer
> Jeffrey Yeatman
> Jim Brogan
> Sam Oosthuizen
> Andrew Tulloch
> Arthur Csatho
> Chris Campbell

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TRANSPORTATION

> Acting for a manufacturer of a cream used to clean the visors of motorcycle helmets. A helmet manufacturer complained that the cream caused the visor to fracture unexpectedly. We provided advice and instructed an independent expert to investigate the allegations, which ultimately were proved to be unfounded.

> Acting for a manufacturing client in a class action filed on behalf of all US purchasers of certain vehicles sold between 1997-2002. The action sought damages exceeding $1 billion. We persuaded the court to deny plaintiffs’ motion for class certification, preventing the case from proceeding.

> Representing one of the leading insurance companies in Sweden before the Swedish Supreme Court in a case asking whether a road carrier is subject to product liability outside the scope of the Convention on Contract for the International Carriage of Goods by Road and the Swedish Act on Domestic Carriage by Road. DLA Nordic achieved a successful outcome for the client.

> Defending class actions concerning tires mounted on new vehicles between 2004 and 2007. The plaintiffs alleged that the tires contained design defects that led to premature tread wear and sought financial damages for diminished value of both the tires and vehicles. The DLA Piper team resolved the matter on extremely good terms.

> Representing a manufacturer when a Florida plaintiff brought a class action on behalf of 18,000 purchasers of certain 1999-2001 vehicles alleging defects in the vehicles’ brake system design and seeking compensatory damages for the diminished value of the vehicles. We challenged the trial court’s decision to certify the class. The appellate court agreed with our client and refused to allow the class action to go forward.

> Representing an international automobile manufacturer on the issue of whether federal motor vehicle regulations preempted state product liability claims. This case ultimately went to the United States Supreme Court.

Note past results are not guarantees of future results. Each matter is individual and will be decided on its own facts.