

AUTOMOTIVE & MOBILITY

Welcome to the 22nd edition of our newsletter on developments in the automotive industry published by Morgan Lewis’s automotive & mobility team with contributions from lawyers in our offices around the globe. We counsel our automotive clients on a broad range of industry-specific issues, including matters relating to mergers and acquisitions, antitrust, litigation, regulatory concerns, intellectual property, and labor and employment.

This issue of *Morgan Lewis AUTOMOTIVE & MOBILITY*, which covers the fourth quarter of 2019, touches on significant acquisitions and investments, antitrust investigations and related regulatory measures, as well as other developments in the automotive markets. All issues of *Morgan Lewis AUTOMOTIVE & MOBILITY* are available at www.morganlewis.com.

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German Carmakers Fined for Long-Steel Purchasing Cartel; Renault Trucks to Disclose Documents Related to EC Truck Antitrust Investigation

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MERGERS & ACQUISITIONS

Hitachi and Honda Motor to Merge Auto Parts Subsidiaries

Japanese conglomerate company Hitachi, Ltd. and Japanese automaker Honda Motor Co., Ltd. concluded an agreement to merge the auto parts subsidiary Hitachi Automotive Systems with Honda affiliates Keihin Corporation, Showa Corporation, and Nissin Kogyo. Following a tender offer by Honda to make Keihin, Showa and Nissin Kogyo wholly owned subsidiaries, Hitachi will hold two-thirds of the new entity, with Honda owning the remaining stake.

ATC Drivetrain to Establish Joint Venture in China

ATC Drivetrain, a remanufacturer of powertrain, electronic, and mechatronic products based in Oklahoma, formed a joint venture (JV) with China-based Luwote (Zhangjiagang) Power Remanufacturing Technology Co. The JV, in which ATC will hold a 72.5% majority stake, will be active in the remanufacturing of automotive engines and transmissions in the China market.

Fiat Chrysler and PSA to Merge

Italian-American carmaker Fiat Chrysler Automobiles and French carmaker Groupe PSA have signed a binding agreement providing for the full combination of their respective businesses in the form of a 50-50 merger. The transaction, which is expected to close within 12 to 15 months, will establish the fourth largest car manufacturer by revenue in the world.

WE Solutions to Acquire Ideenion Automobil

Electric vehicle manufacturer WE Solutions, headquartered in Hong Kong, has acquired German Ideenion Automobil AG for approximately EUR 36 million. Ideenion is active in the design, development, and prototyping of vehicle components and accessories.

Grammer and FAWSN Group to Form Automotive Components JV

Grammer AG, a Germany-based manufacturer of components for automotive interiors, formed a JV with Changchun Fawsn Group Co., Ltd., a subsidiary of Chinese car and truck manufacturer FAW Group Ltd. The 50-50 joint venture, Grammer Fawsn Vehicle Parts Co. Ltd., will be active in the manufacture of automotive interior components.

Prettl to Acquire Eckerle

Germany-based Prettl Group, active in the manufacture of metal, electronic, and lighting automotive components, has acquired Eckerle Group, a German producer of electromechanical components such as subassemblies for electric motors used with window regulators, seat actuators, or wipers. The financial terms have not been disclosed.

Ford and Mahindra to Establish India-Based JV

US carmaker Ford Motor Company and Mahindra & Mahindra Ltd., a carmaker headquartered in Mumbai, India, have entered into an agreement to form a JV that will develop, market, and distribute Ford and Mahindra brand vehicles in India and further emerging markets. Mahindra will hold a 51% stake and manage the JV's operational activities, which, reportedly, shall also focus on the development of electric vehicles. Ford will hold the remaining 49% and contribute its current India operations, including its assembly plants located in Chennai and Sanand.

Volvo and Geely to Merge Combustion Engine Operations

Swedish car and truck manufacturer Volvo Group and Chinese motorcycle and car manufacturer Zhejiang Geely Holding Group Co. Ltd intend to merge their combustion engine operations into a stand-alone business. The combined business includes research, development, procurement, and manufacturing functions, and shall focus on the development of next-generation combustion engines and hybrid powertrains.

Faurecia to Acquire Remaining 50% in JV with Continental

French automotive components manufacturer Faurecia S.A. signed a Memorandum of Understanding to acquire the remaining 50% of SAS Automotive Systems, a JV with German automotive components manufacturer Continental AG. SAS is active in the field of interior module and cockpit systems assembly. According to the Memorandum of Understanding, Faurecia proposes to pay EUR 225 million for the 50% stake in SAS.

Deere & Company to Acquire Unimil

Deere & Company, an Illinois-based manufacturer of agricultural, construction, and forestry machinery, diesel engines, and drivetrains (axles, transmissions,

gearboxes), announced its intention to acquire Unimil, a privately held Brazilian company active in the aftermarket service parts business for sugarcane harvesters.

Piston Automotive to Acquire Marion Industries

Piston Automotive, LLC, a subsidiary of automotive parts manufacturer Piston Group, headquartered in Southfield, Michigan, acquired Marion Industries Inc. from EG Industries. Ohio-based Marion Industries is active in the manufacture of brake modules for the automobile industry. The financial terms have not been disclosed.

AUNDE to Acquire Reinert Kunststofftechnik

AUNDE Achter & Ebels GmbH, a German manufacturer of upholstery and technical textiles for the automobile industry, acquired a controlling stake in Reinert Kunststofftechnik GmbH & Co. KG, an automotive plastic parts manufacturer with production plants in Germany and Romania. The financial terms have not been disclosed.

Mahindra to Fully Acquire Peugeot Motorcycles

Mahindra Two Wheelers Europe Ltd. (MTWE), an affiliate of the Mahindra Group headquartered in Mumbai, India, announced the acquisition of the remaining 49% stake in French scooter and motorcycle manufacturer Peugeot Motorcycles from Groupe PSA on undisclosed terms. Previously, in 2015 MTWE had already acquired a 51% majority stake in Peugeot Motorcycles.

Traton and Hino Motors to Establish Procurement JV

Commercial vehicle manufacturers Traton SE, part of the Volkswagen Group, and Toyota Group affiliate Hino Motors Ltd. have established a procurement JV. The JV, in which Traton holds a 51% stake and Hino the remaining 40%, has offices in Munich, Germany and Tokyo, Japan and operates as HINO & TRATON Global Procurement GmbH.

China Yongda Automobiles Services to Buy Inchcape Asia Pacific

Luxury passenger vehicle retailer China Yongda Automobiles Services Holdings Limited announced that it has conditionally agreed to acquire the entire issued shares of Chinese car dealer Inchcape Asia Pacific Limited from Inchcape Overseas Limited for RMB 830 million (approximately USD 117.51 million). Inchcape AP is mainly active in the Chinese Jiangxi Province and Zhejiang Province.

Guangdong Wencan to Acquire the Entire Shares of Le Bélier Group

Guangdong Wencan Die Casting Co., Ltd. (Wencan), a listed Chinese auto components manufacturer, has signed a binding offer letter in order to acquire the entire

shares of Le Bélier Group, a listed French auto components manufacturer, for EUR 251 million (USD 278 million) via a two-step transaction. Pursuant to the offer letter, Wencan intends to acquire 61.96% of Le Bélier from Philippe Galland and Philippe Dizier, as well as the Galland family's Copernic S.A.S. at EUR 38.18 (USD 42.21) per share. Upon completion of this first step, Wencan intends to buy the remaining free float stock of Le Bélier by issuing a mandatory tender offer at the same price.

Sberbank to Invest in Artificial Intelligence Transport Startup

Russian Sberbank announced it will take over a 30% stake in Cognitive Pilot, a JV between Cognitive Technologies, South Korean carmaker Hyundai, Russia's railway monopoly, and the Russian agribusiness Rusagro. The JV is active in the development of technology for self-driving cars, trains, and industrial equipment. The financial terms of Sberbank's investment have not been disclosed.

Volkswagen to Invest in Aeva

German car manufacturer Volkswagen AG announced an investment in Aeva Inc., an American startup that is active in the development of vision sensors for self-driving cars. Aeva, based in Silicon Valley, California, was founded in 2017. The investment is made via Volkswagen's major shareholder Porsche SE. The financial terms of the investment have not been disclosed.

Airbus to Establish JV with Local Motors Industries

French aerospace group Airbus and American LM Industries, a motor vehicle manufacturer focusing on low-volume manufacturing of open-source motor vehicle designs, established the 50-50 JV Neorizon. The JV will be located at Airbus's facilities in Munich, Germany and will focus on the 3D-printing-based development of mobility and autonomy solutions.

ANTITRUST

Pierburg and Shanghai Xingfu Motorcycle Fined for Missed Notification

China's State Administration for Market Regulation (SAMR) has fined Rheinmetall Automotive AG subsidiary Pierburg Pump Technology GmbH, a German manufacturer of pumps used for automotive applications, and Shanghai Xingfu Motorcycle Co. Ltd. 350,000 yuan (USD 49,794) each for failing to notify a JV between them that has met the applicable notification thresholds. The 50-50 JV, Pierburg Huayu Pump Technology Co. Ltd., was formed in 2013 and is active in the manufacture of pumps for the Chinese auto market.

Proposed Settlement of Sanden and Tiffin Motor Approved by US Court

US-based coach manufacturer Tiffin Motor Homes, Inc. and Japan-based automotive air conditioning manufacturer Sanden Corp. have agreed on a preliminary settlement with respect to antitrust damages due to price-fixing regarding car air conditioning systems. The preliminary settlement amounts to USD 3.65 million in total and has been approved by the competent US District Judge at the US District Court for the Eastern District of Michigan, Southern Division.

German Carmakers Fined for Long-Steel Purchasing Cartel

The German Federal Cartel Office (FCO) has imposed fines totaling approximately EUR 100 million on three German carmakers for anticompetitive practices in the procurement of long-steel products. Allegedly, the companies exchanged views on uniform surcharges for the procurement of long-steel products. The carmakers cooperated with the FCO and agreed to a settlement, which the FCO took into account in calculating the fines.

Renault Trucks to Disclose Documents Related to EC Truck Antitrust Investigation

The Paris Court of Appeal ordered Renault Trucks SAS, a French manufacturer of trucks that is part of the Volvo Group, to disclose confidential documents to French claimants who are suing the company for damages allegedly suffered in connection with its involvement in a truck cartel penalized by the European Commission (EC) in 2016. The documents to be disclosed include the EC's Statement of Objections sent to the company in the course of its investigation, as well as some specific documents referred to in the EC's nonconfidential decision. The disclosure of further documents requested by the claimants, i.e., all the documents provided by Renault Trucks to the EC as part of its leniency application, has been rejected by the Paris court as exceeding the disputes' scope.

REGULATORY

Whistleblowing-Reward Scheme Introduced in China

The Chinese SAMR published a set of draft interim measures providing for a system to reward whistleblowers who report violations of competition law, intellectual property rights, and quality and safety provisions on food, drugs, specialty equipment, and industrial products. The SAMR published the draft interim measures in order to receive comments from the public.

EC Announced Long-Term Climate Neutrality Strategy

The EC presented its long-term climate neutrality strategy, "The Green Deal," providing a roadmap to cut pollution and address the Paris Agreement's objective to keep temperature increase below 2°C.

The Green Deal features two central goals, the first of which is to bring climate gas emissions 50% to 55% below the 1990 level. Second, the European Union (EU) shall be climate neutral by 2050, meaning that all greenhouse gases shall be avoided or stored.

In order to achieve the climate neutrality goal, the EC's strategy comprises actions in seven strategic areas, including clean, safe, and connected mobility. Against this background, the EC also plans to present a "European Climate Law" that is expected to include *inter alia* procedural and structural amendments to state aid regulation. The publication of a respective draft bill is expected by March 2020.

China to Restrict Automobile Dealers' Consumption Credit Guarantee Business

China's Banking and Insurance Regulatory Commission and eight other government authorities jointly issued the *Supplementary Provisions on Supervision and Administration of Financial Guarantee Companies* in order to regulate automobile financing activities by car dealers. According to the provisions, automobile distributor and automobile sales service providers are restricted from providing consumption credit guarantee services without the required license for financial guarantee business. Companies who are providing such guarantee services without the required license shall either dispose of the ongoing business or establish a financial guarantee company with proper license to continue the relevant business in accordance with the *Regulations on the Supervision and Administration of Financial Guarantee Companies*. The supplementary provisions became effective on October 9, 2019.

EC Approved State Aid to Fund European Battery Business

The EC approved a state aid scheme in the course of which seven EU Member States—Belgium, Finland, France, Germany, Italy, Poland, and Sweden—will provide a funding of up to EUR 3.2 billion in order to promote the development and production of batteries in the EU by European companies. Reportedly, the funding will result in an EU-wide project that *inter alia* includes the creation of large battery production plants in locations such as France and Germany. Beneficiaries of this state aid scheme include companies along the entire value chain of the battery production and use, including in the chemical and automotive industries.

INTELLECTUAL PROPERTY

Connected Car Teaming

Microsoft and Ericsson are combining cloud offerings for the connected car. Pursuant to the partnership, the companies reportedly will use Ericsson's Connected Vehicle Cloud and Microsoft Connected Vehicle Platform to deploy and scale vehicle services globally. This continues a trend of teaming in the connected car space, which also includes announced relationships between BMW and Daimler related to the development of "mobility services" and Ford and Volkswagen related to electric and autonomous vehicles.

Standard Essential Patent Controversy

Over 25 companies across industries, including BMW, Cisco, Daimler, Lenovo and Apple have signed a letter to the EC about patent trolls. The letter does not accuse particular patent trolls, but complains about a lack of licensing on fair, reasonable and non-discriminatory (FRAND) terms "harming technological innovation in Europe." It also complains about negative impacts of unfair patent licensing practices on planning R&D investments and higher prices for consumers in the internet of things and related technological markets. Wireless SEP holder Nokia has had widely publicized patent licensing disputes with Daimler playing out in the EC and may be an example the EC is already looking into on behalf of some of the signatories.

Ford and Volkswagen Lead List of Innovators in Recent Study

Ford leads the global automotive industry in patent innovation, while Volkswagen doubles down on patents over the last two years. Ford leads the world in patent innovation due to their rapid advances in autonomous vehicle development. Volkswagen's rapid ascent in the automotive industry rankings has made them the most innovative company in Germany based on patent analytics this year. Volkswagen is investing in autonomous vehicles, and the networking of mobility participants, setting a solid foundation for future vehicle models today.

A recent study by PatentSight – A Lexis Nexis company–specializes in cleaning and refining patent data and providing advanced patent analytics. Publicly available patent data simply cannot be used without qualitative preparation and correction. Due to the sheer mass (about 3.3 million new registrations in 2018 alone), all available patents cannot be viewed manually. Publications in many different languages and often very abstract contents make a manual review and evaluation difficult not only for laymen but also for experts. A further challenge is to level out the widely differing citation practices of national patent offices or to document the legal status of patents. PatentSight, through manually supervised and scientifically developed algorithms, has best-in-class information on ownership data, going far beyond the testing standards recommended by the World Intellectual Property Organization (WIPO). Moreover, PatentSight's proprietary patent valuation metrics reveals which patents are key, and which are superfluous. Based on citations, global protection, and a number of correction factors, EconSight leveraged these metrics to determine the most innovative companies.

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OUR AUTOMOTIVE & MOBILITY TEAM

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

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

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