

# CLIENT ALERTS

---

## Automotive Industry Trends to Watch in 2021 (And Beyond)

12.30.2020

The first bit of news in 2021 is about what didn't happen at the end of 2020...the automotive manufacturing plants did not shut down for their normal two-week holiday pause and production continued at near full capacity. Despite the ongoing concerns by state and local officials, or perhaps because of the momentum of confidence related to the multiple Covid-19 vaccines, the automotive industry, in particular suppliers, pressed onward toward volume targets and metrics for 2021, and away from the flash of what at times seemed to be the never-ending year that was 2020.

In the short term, the issues that persist for automotive suppliers into 2021 will be nothing new – warranty, cost-recovery, and safety compliance; intellectual property control and disputes; and trade, tariffs, China, and the USMCA – all of which are already on our to-do list for 2021. For instance, regarding trade and tariffs, the Bureau of Industry and Security issued a new rule two weeks ago revising the process of requesting Section 232 steel and aluminum tariff exclusions, including new certification requirements and online portal changes. On the intellectual property front, just last week, Senator Tillis released a draft bill for discussion to “modernize” the Digital Millennium Copyright Act – you may remember the DMCA as a centerpiece to the recent GM v Dorman Products case regarding right to repair and remanufacturing electronic components. When dealing with design defects cases involving motor vehicles, the already complex electrical and driver-assist systems must be carefully reviewed for what may be construed as “unreasonably dangerous” as well as for constraints under traditional UCC implied warranty theories.

As if that isn't enough for the year ahead, a shift in the market continues. The conversation in 2021 is not focused on autonomous vehicles, at least not directly. Instead, the focus has shifted to electrification, generally. When I first began as an engineer in the industry, the focus in advanced R&D groups at the OEMs was on adapting existing powertrains with green-house-gas-credit earning technologies, such as transmission oil heaters, PWM-controlled three-way-valves, axle thermal management systems, and strategic vehicle control systems. Then, the focus shifted to downsizing and boosting. Lower-displacement turbocharged motors began showing up in small Fiat cars (as small as the 0.9L Fiat SGE, to the 1.4L Fiat Fire motor with MultiAir technology) as well as in big F150 trucks (with Ford's 3.5L EcoBoost). We then jumped right to PHEVs equipped with autonomous driving technology. Or did we?

To some, it may appear that we skipped over certain electrification technologies to begin the chase toward Level 5 autonomy. Recall, however, the 1997 EV1 and Toyota Prius. Recall also, attempts at compressed natural gas and hydrogen fuel cell-powered powertrains. These technologies weren't as much “skipped”, but instead they simply just never caught on – consumers didn't ask for them, the cost to make them was too high, the infrastructure didn't (doesn't) exist, and the list goes on). Today,

## CLIENT ALERTS

---

the consumer isn't pushing for electrification or electrified powertrain, but regulation may drive us there. As it does, the impacts on the industry will become ever-apparent – changes in emissions compliance will certainly be a driving force, effects to safety/NHTSA compliance will occur, the driver duty cycle will change, then too will durability and validation procedures, and even the way that non-consumers interface with the vehicle will change, from the way homes are built to include high-voltage car charge ports in the garage, to the way emergency service providers treat vehicles with high-voltage powerlines running through them when the “jaws-of-life” are needed to free a passenger in an accident.

Undeniably, there is an increased amount of traditional technology companies truly doing business in the industry. The likes of LG, Samsung, and Catl are no longer potential contenders, but they are recognized by the OEMs as true Tier-1 or Tier-2 suppliers with regard to their respective products. Internal Combustion Engines are not standing alone as the sole propulsion systems on all passenger car segments – trucks, SUVs, passenger vans, and cars alike are experiencing 'Electrification'. Not to mention, in mid-January a new administration will be in place that is likely to send shock waves of some kind throughout the industry. How the US handles international trade will most certainly change, affecting the automotive industry. Emissions regulations are certain to change as well, considering the soon-to-be Secretary of Transportation, Pete Buttigieg, has already expressed a particular interest in increasing electrification. With these changes come changes to our way of doing business outside of vehicle manufacturing. Non-traditional suppliers mean non-traditional deals and contracts for the supply and sale of goods. Commoditization of traditional components and shifts in assembly processes means changes in the buyer/supplier relationship. Durability changes mean impacts to warranty. Increased product cost means increased risk associated with warranty costs. A lack of definite understanding of market usage means an impact to fitness for purpose warranties. Evolving technologies means pricing for IP and/or fighting over stolen IP. And on, and on.

While much is certain to change, just as the way the industry approaches adapting to and implementing these changes will not be new science or engineering, how the legal issues are handled will also not be new. Butzel Long has a tried and true history of supporting clients as they navigate supply chain changes. Established in the mid-1800s, Butzel handled the first maritime law issues faced by those doing business shipping to the Midwest using the Great Lakes. Butzel also incorporated General Motors and represented the Dodge Brothers. Today, Butzel supports suppliers in all-things automotive and manufacturing. Tomorrow and into the future, Butzel will continue to do the same. As we transition to a new year, our Butzel Long attorneys stand ready to support the entirety of your automotive industry needs.

**Mitch Zajac**

313.225.7059

[zajac@butzel.com](mailto:zajac@butzel.com)