

REPRESENTATIVE RECALL MATTERS

CONSUMER PRODUCTS

➤ CHILDREN'S PRODUCTS

Advised a children's product manufacturer, on several recalls and before the Consumer Product Safety Commission including:

- Worldwide recall of a shape sorting product for young children. A bar attaching small counting beads on the product had the potential to come loose and create a choking hazard.
- U.S. recall of 26,000 soft gym products. A cap on the wire supporting the inside of the soft gym's upright arms was reported to detach, allowing the wire to poke through the fabric. This posed a laceration and puncture hazard to babies. The recall was conducted in coordination with Wal-Mart Stores.
- U.S. recall of 100,000 baby sling products. The plastic slide on the strap of the carrier posed a potential fall hazard to infants in the carrier.

Advised children's stroller manufacturer on the U.S. aspects of its worldwide recall of one of its strollers. Ensured that recall efforts in the United States, which had already been initiated in several foreign countries, complied with all Consumer Product Safety Commission rules and regulations.

Advised an international toy manufacturer on numerous worldwide recalls involving millions of children's products sourced from China. These recalls involved approximately seventy countries in North and South America, Europe, Asia Pacific, the Middle East and Africa. The product safety issues involved included, among other things, excess lead paint and loose magnets. In each instance, the recall generated significant publicity around the world, which required us to take into account sensitive reputational issues for the company when advising it on its recall strategy.

➤ COMPUTER/ELECTRONICS PRODUCTS

Assisted power supply manufacturer in coordinating and implementing a worldwide recall of two models of its uninterruptible power supply lines due to potential safety issues that resulted in overheating and represented a potential fire hazard. The total number of affected devices recalled worldwide was approximately 2.1 million with approximately 900,000 devices recalled in the United States.

Advised a microprocessor manufacturer in coordinating a U.S. recall under the name of the end-product seller. The recall involved one of the company's microprocessor chips

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used in home alarm systems manufactured by the end-product seller, which had a programming error that could have caused the alarm systems to not work.

➤ CELL PHONES/SPEAKER PHONES

Advised a telecom manufacturer on the coordination and implementation of two worldwide recalls of its wireless conference phones due to the potential overheating of lithium-ion batteries. One of the recalls involved counterfeit batteries sourced from a Chinese supplier.

Represented a cell-phone manufacturer on two major recalls in the United States and Canada of cellular phones containing lithium-ion batteries, which under certain circumstances could outgas and cause possible personal injuries and property damage. The batteries were obtained from a Chinese supplier and manufactured in Mexico. Represented the company in a related lawsuit filed in Texas State Court against it by the assembler, and were successful in obtaining dismissal of that lawsuit.

➤ FIRE EXTINGUISHERS/SMOKE ALARMS/FIRE FIGHTING EQUIPMENT

Represented a fire extinguisher manufacturer on a U.S. recall of approximately 470,000 Industrial Fire Extinguishers. The nylon valve on the extinguishers were reported to separate from the steel cylinder during the six-year recharge service or shortly thereafter creating a safety hazard to fire extinguisher service personnel and consumers. This project involved an extensive amount of interaction with (and a personal appearance before) the Consumer Product Safety Commission because we contended that the product posed no danger to consumers and the situation had been addressed in a prior Fire Extinguisher Replacement Program instituted by the company for the same product. Although the CPSC required that we identify the program as a recall in the press releases, we successfully convinced the CPSC that the company could continue with its Replacement Program, and the program was not included on the CPSC's regular recall notices.

Advised a smoke alarm manufacturer on the coordination and implementation of a U.S. and Canadian recall of carbon monoxide alarms installed by contractors in consumer households as part of a fire/carbon monoxide detection system. Due to a "firmware" issue, the presence of a small amount of carbon monoxide could have triggered the alarm to "chirp" sending an indication that there was a problem with the alarm and resulting in a consumer potentially taking the alarm out of service when in fact there might be a carbon monoxide problem. As a result, the consumer would not have had an alarm in place to detect the presence of dangerous levels of carbon monoxide. This project involved extensive negotiations with the Health Canada and the Consumer Product Safety Commission to ensure the recalls in each country were conducted simultaneously



due to the delay in securing replacement product from the manufacturer's factory in China.

➤ **HOUSEHOLD/PERSONAL USE ITEMS**

Advised a chain restaurant regarding the U.S. aspects of a recall involving coffee carafes containing fault retaining rings, which were sold at its establishments.

FOOD PRODUCTS

Worked on a team that advised a poultry producer on the coordination and implementation of a U.S. recall of approximately 27.4 million pounds of ready-to-eat turkey products, one of the largest in United States Department of Agriculture history, alleged to have been contaminated with *Listeria*. Our involvement in managing and implementing the recall included substantial interaction with the USDA and Centers for Disease Control, retaining preeminent experts to assist with responding to the USDA, drafting responses to the USDA's Notice of Intended Enforcement, responding to numerous media inquiries, including the New York Times and 60 Minutes II, and interviewing employees. In addition to handling the recall, we defended the company in one putative class action and 13 individual lawsuits stemming from the recall.

Advised a steak producer on the coordination and implementation of its recall of steak alleged to have been contaminated with E-coli, the first time in USDA history that steak had to be recalled for E-coli. Our involvement in managing and implementing the recall included substantial interaction with the United States Department of Agriculture and Centers for Disease Control, retaining pre-eminent experts to assist with responding to the USDA, drafting responses to the USDA's Notice of Intended Enforcement, and responding to numerous media inquiries.

AUTOMOBILE EQUIPMENT

Advised a manufacturer of gas springs on recall-related issues involving one of its gas springs. This included advice on reporting requirements to and interaction with the National Highway and Traffic Safety Administration as well as dealings with the vehicle manufacturer.