No. 11-965

IN THE

Supreme Court of the United States

DAIMLERCHRYSLER AG,

Petitioner,

v.

BARBARA BAUMAN, ET AL.,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

BRIEF OF THE PRODUCT LIABILITY ADVISORY COUNCIL, INC. AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

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BRIEF OF THE PRODUCT LIABILITY ADVISORY COUNCIL, INC. AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

I. IDENTITY AND INTEREST OF AMICUS CURIAE

The Product Liability Advisory Council, Inc. ("PLAC") is a non-profit association with 104 corporate members representing a broad cross-section of American and international product manufacturers. These companies seek to contribute to the improvement and reform of law in the United States and elsewhere, with emphasis on the law governing the liability of manufacturers of products. PLAC's perspective is derived from the experiences of a corporate membership that spans a diverse group of industries in various facets of the manufacturing sector. In addition, several hundred of the leading product liability defense attorneys in the country are sustaining (non-voting) members of PLAC. Since 1983 PLAC has filed over 1,000 briefs as amicus curiae in both state and federal courts, including one hundred in this Court, presenting the broad perspective of product manufacturers seeking fairness and balance in the application and development of the law as it affects product liability. A list of PLAC's corporate members is attached as an Appendix.[1]

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[1] Pursuant to Sup. Ct. R. 37.6, amicus curiae PLAC affirms that no counsel for a party authored this brief in whole or in part and that no person other than amicus and its counsel made a monetary contribution to its preparation or submission. The parties' letters

II. INTRODUCTION AND SUMMARY OF ARGUMENT

The Due Process Clause provides threshold protections to those who have been sued in United States courts. Among these are (1) permitting "potential defendants to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit." *World-Wide Volkswagen Corp. v. Woodson,* 444 U.S. 286, 297 (1980); and (2) addressing separately each defendant's contacts with the forum. *See Rush v. Savchuk*, 444 U.S. 320, 332 (1980); *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 781 n.13 (1984). The Ninth Circuit's opinion[2] in this case runs afoul of both.

The Ninth Circuit relied upon its version of "agency" as the sole justification to impute general jurisdiction over MBUSA to Daimler AG. It thereby required a German manufacturer to litigate a dispute with Argentinean plaintiffs in the forum state of a domestic U.S. distributor who had nothing whatever to do with Plaintiffs' claim. The court of appeals identified no connection between the forum, the parties or the dispute.

The imputed jurisdiction approved by the Ninth Circuit has ominous implications for PLAC's members, already the frequent targets of forum shopping by plaintiffs searching for deep pockets, because so many

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consenting to the filing of this brief have been filed with the Clerk's Office.

[2] Unless otherwise stated herein, the "Ninth Circuit's opinion" refers to its second opinion, reconsidering and vacating its original decision. 644 F.3d 909 (9th Cir. 2011). Pet. App. 1a.

manufacturers use domestic distributors when marketing their products elsewhere. These manufacturers frequently use agreements similar to that used by Daimler AG and MBUSA in the present case. The type of relationship between this foreign manufacturer, Daimler AG, and this domestic distributor, Mercedes-Benz USA ("MBUSA"), is therefore not uncommon. There is no dispute that they are separate corporate entities. Nor is there any suggestion of harm arising from any illegal or fraudulent misuse of their corporate structure. Yet the Ninth Circuit's decision holds that a German corporation may be sued in California for harm allegedly sustained by Argentineans in South America.

The Ninth Circuit's theory of imputed personal jurisdiction conflicts with the Due Process Clause. Indeed, the court below assumed, without analysis, that a finding of an agency relationship would automatically satisfy the Due Process Clause. It then took an odd definition of agency to justify imputed jurisdiction. Barely over a month after the Ninth Circuit's decision, however, this Court strongly indicated that merging a parent and subsidiary for jurisdictional purposes requires an inquiry that is "comparable to the corporate law question of piercing the corporate veil." *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 131 S. Ct. 2846, 2857 (2011).

The criteria the Ninth Circuit applied to determine the existence of this purported "agency" are so vague, and so overbroad, that they could potentially ensnare any multinational manufacturer in virtually any forum a plaintiff might choose. Its approach circumvented this Court's requirement that each defendant's contacts with the forum be assessed separately. *Rush, supra,*

Keeton, supra. If upheld, the Ninth Circuit's decision would make it virtually impossible for "potential defendants to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit." *World-Wide Volkswagen, supra.* Virtually any local distributor could be treated as the agent of any foreign manufacturer. Likewise, virtually any American manufacturer who sought to engage in business in a foreign country via a local distributor could suffer a similar fate in distant foreign courts. Such a rule could cripple international commerce.

Such a result cannot stand; it does not afford due process to manufacturers such as this defendant.

III. ARGUMENT

A. A Distribution Agreement Such as That Between Daimler AG and MBUSA is Common.

The linchpin of the Ninth Circuit's opinion is the distribution agreement between Daimler AG and MBUSA. The court concluded that this agreement made MBUSA an agent of Daimler AG. Consequently, the court imputed MBUSA's jurisdictional status to Daimler AG. This distribution agreement is hardly unusual; however, manufacturers such as Daimler AG typically lack expertise in the fields in which a local distributor works. A German manufacturer would struggle to determine whom to appoint as dealers in Mississippi or New Mexico; how to comply with OSHA or ADA; what wage and hour requirements apply; the idiosyncrasies of American consumers; the kinds of advertisements most likely to resonate with the local

customer base; what federal, state, and local laws require, and countless other responsibilities.

Few manufacturers would or could dare to undertake those tasks themselves in a foreign land in the absence of a domestic distributor. Indeed, manufacturers of many kinds of products choose to establish subsidiary distributorships in foreign markets in which they seek to sell their products. Some contract with independent distributors rather than step into the American distribution business themselves. In either case, they understandably need to find a way to allocate responsibilities between their distributors and themselves.

These relationships serve important and mutually-beneficial purposes. Daimler AG is a designer and manufacturer of motor vehicles. The core work force of such a manufacturer typically consists of engineers and machinists and others who work in product development, design and assembly. Such a company is unlikely to have much knowledge of the laws, customs, culture, buying habits and preferences of domiciliaries of another country.[3]

By contrast, MBUSA is an American distributor of vehicles manufactured by Daimler and sold within the United States. Its distinct functions require the hiring of personnel with different job requirements, skills, and talents. For example, a U.S. distributor has a far better

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[3] *See, e.g.*, Robert L. Shook, *Honda: An American Success Story*, 26-38 (1988), discussing Honda's early challenges in understanding the differences between Japanese and American culture, differences in the uses of motorcycles, and the reasons the Japanese company formed its own US-based distributorship, and ultimately achieved success in the United States.

perspective when tackling daunting legal issues including:

- Licensing requirements in each of the 50 states;
- US federal and varying state and local tax reporting and payment requirements;
- Potential taxability of foreign revenues by U.S. federal, state and local governments;
- Compliance with varying state laws protecting independent auto dealers.
- U.S. Customs and Border Protection requirements for importation of vehicles and equipment; and,
- U.S. Department of Transportation and Environmental Protection Agency declarations certifying compliance with federal safety, bumper, theft and clean air regulations.

As noted in Petitioner's Brief, pp. 4-5, 29-31, the distribution agreement between Daimler AG and MBUSA sensibly allotted all rights and responsibilities between the two entities. The court of appeals emphasized the aspects of the agreement that appeared to favor Daimler AG. 644 F.3d at 914-917. However, even as to these issues, responsible manufacturers understandably seek to ensure that whatever a distributor does on its behalf does not compromise the manufacturer's hard-earned reputation; that the distributor complies with all laws in the country where it operates; handles its finances properly; and protects the manufacturer's intellectual property.

The same terms also work to the benefit of the distributor. It, too, reaps benefits from the integrity of the brand; from cooperation with regulators; from

remaining solvent so it can discharge its core functions; and from the manufacturer's intellectual property. Without these, the distributor is hard pressed to sell its product. The agreement puts the distributor in the best position to serve the market in which it operates and to compete effectively with rival brands.

The terms of the distribution agreement do little more than this. Indeed, a manufacturer would be derelict in its own duties to its shareholders, regulators, and customers if it did less. The agreement used by Daimler AG and MBUSA is consistent with those used by many manufacturers and distributors.

It is a vast oversimplification to suggest that the mere existence of detailed contractual requirements somehow makes the distributor an agent of the manufacturer. In an analogous circumstance, see *United States v. Orleans*, 425 U.S. 807, 816 (1976) (government contracts, despite containing "specific and precise conditions" and regulations "aimed at assuring compliance with goals," did not convert private contractors into government agents for purposes of tort liability); *Logue v. United States*, 412 U.S. 521, 527 (1973) (Modern common law distinguishes between the servant or agent relationship and that of independent contractor based on the absence of authority in the principal "to control the *physical conduct of the contractor in performance of the contract.*") (Emphasis supplied).

Cultural understanding is crucial to the success of a manufacturer's development of a market for its product in foreign country. A manufacturer has good reason to leave the day-to-day decision making concerning the details of distribution, marketing and sales of the product in the hands of a domestic company

that is more likely to understand what will resonate with its customers.[4]

B. The "Agency" Test For Personal Jurisdiction Does Not Satisfy the Demands of Due Process.

The Due Process Clause "gives a degree of predictability to the legal system that allows potential defendants to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit." *Burger King*, 471 U.S. at 472.

Yet agency theory rarely provides any predictability when applied to jurisdictional disputes. Even in the limited form in which it was conceived, applying agency theory to adjudicate jurisdictional disputes is rightly criticized as "vague and ill-defined principally because it is based on a distorted application of the traditional law of agency." Michael G. Albano, *Agency as a Means of Obtaining Jurisdiction in New York over Foreign Corporations: A Failed Theory*, 20 Brook. J. Int'l L. 169, 197 (1993).[5]

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[4] Conversely, a company acts at its peril if it mistakenly overlooks the nuances of local language or culture. One well-known example, perhaps urban myth, illustrates foreign companies' struggles when trying to adapt their American-made slogans for use in China. Pepsi's slogan, "Come alive with Pepsi!" reportedly became "Pepsi brings your ancestors back from the dead." A similarly unfortunate outcome is popularly reported for GE's "We bring good things to life." http://www.all-lies.com/legends/business/products/pepsiinchina.shtml. Whether such stories are factual or apocryphal, the potential adverse consequences of cultural ignorance are real.

[5] "Courts cannot apply vague and ill-defined legal theories with any degree of consistency and predictability because the

Plaintiffs throughout the country advocate a wide variety of creative legal theories and legal lingo to advocate imputing jurisdiction to non-resident deep-pocket defendants. However, common-law theories, customarily used to impute liability of a subsidiary to a parent corporation, such as veil-piercing and agency, "tell us nothing about the various interests that must be balanced in the constitutional evaluation of judicial jurisdiction." *Rasmussen v. Gen. Motors Corp.*, 335 Wis.2d 1, 37, 803 N.W.2d 623, 641 (2011) (Abrahamson, C.J., concurring) (footnotes omitted).

In *Goodyear*, the Court stated that imputing one entity's contacts with the forum to another for purposes of establishing personal jurisdiction "requires an inquiry that is '"comparable to the corporate law question of piercing the corporate veil."' *Goodyear, supra,* at 2857. This appears to rule out agency theories; moreover, PLAC has found no case in which the Court has upheld any form of imputed jurisdiction against a due process challenge, even based on veil-piercing. Although the lower courts have done so in a variety of ways, *Cannon Manufacturing Co. v. Cudahy Packing Co.*, 267 U.S. 333 (1925), strongly indicates that corporate formalities should be respected when determining jurisdiction.

Despite the age of the *Cudahy* decision, the Court's more recent holdings also require courts to address separately each defendant's own contacts with the

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application of that theory will vary with each interpretation." Michael G. Albano, *Agency as a Means of Obtaining Jurisdiction in New York Over Foreign Corporations: A Failed Theory*," *supra,* at 199.

forum. *See Rush v. Savchuk*, *supra*; *Keeton v. Hustler Magazine, Inc.*, *supra*.

In addition, however, practical reasons also counsel great caution before permitting any variety of imputed jurisdiction to occur, particularly in respect of general jurisdiction. As one commentator notes, "The general jurisdiction veil-piercing cases reflect the worst abuses of modern jurisdictional doctrine." Lonny Sheinkopf Hoffman, *The Case Against Vicarious Jurisdiction*, 152 U. Pa. L. Rev. 1023, 1090 (2004) (emphasis supplied). Professor Hoffman adds:

> [E]xercising jurisdiction merely because a foreign corporate defendant has an ownership relationship with a forum affiliate--even where the cause of action does not arise from any actions taken by the defendant or its affiliate in the forum--stretches the boundaries of jurisdictional theory beyond any discernible limit.

Id., at 1092-93.

One of the purposes of the law of jurisdiction is to give potential defendants an opportunity to predict and control the states in which they will be subject to suit; it should therefore be desirable to enable defendants to determine the legal consequences of their actions for jurisdictional purposes. Lea Brilmayer & Kathleen Paisley, *Personal Jurisdiction and Substantive Legal Relations: Corporations, Conspiracies, and Agency*, 74 Cal. L. Rev. 1, 37 (1986). Moreover, the constitutional demands in challenges to personal jurisdiction for "minimum contacts" and purposeful availment" each "rest upon a particular notion of defendant-focused fairness." *J. McIntyre Mach., Ltd. v. Nicastro*, 131 S.

Ct. 2780, 2793 (2011)(Breyer, J. concurring). At a minimum, therefore, due process protections should give product manufacturers fair notice of the conduct that will subject them to jurisdiction, as well as the ability to discern how to abstain from inadvertently subjecting themselves to it.

But the Ninth Circuit's method of determining jurisdiction provides no notice, no opportunity for manufacturers such as PLAC's members to predict or control the states in which they will be subject to suit, nor how to structure their affairs to avoid contact with the most problematic states.

The Court should not permit a common-law doctrine to extend jurisdiction beyond the limits of what due process permits. Regrettably, in basing its jurisdictional finding on its idiosyncratic notion of agency, the Ninth Circuit circumvented the due process inquiry altogether.

C. The Importance of Importance.

The Ninth Circuit's "agency" test for personal jurisdiction differs from the better-understood common-law rules of agency. For example, by definition, an independent contractor is ordinarily someone who is *not* an agent of the principal. *See e.g., Logue, supra.* However, under the Ninth Circuit's jurisdictional agency theory, "[W]hether the alleged general agent was a subsidiary of the principal or independently owned is irrelevant." *Bauman*, 644 F.3d at 922. Thus, "even if DCAG were to replace MBUSA with an independent entity, that entity would still be considered a representative for purposes of that test." *Id.*

Whereas *respondeat superior* typically depends upon the power to control the physical details of the agent's performance, the Ninth Circuit's agency jurisdictional test "is predicated upon a showing of the *special importance* of the services performed by the subsidiary." *Bauman*, 644 F.3d at 920 (emphasis in original). It is satisfied if the "'subsidiary functions as the parent corporation's representative in that it performs services that are sufficiently important to the foreign corporation that if it did not have *a representative* to perform them, the corporation's own officials would undertake to perform substantially similar services.'" *Id.*, at 920, quoting from *Doe v. Unocal Corp.*, 248 F.3d 915, 922, 928 (9th Cir.2001) (per curiam) (emphasis in original).

This court-created metamorphosis of traditional agency law makes little practical sense, however. In the real world, principals order agents to do unimportant things they would otherwise do for themselves (the codger law partner telling the young associate to fetch a cup of coffee); they frequently contract out critical, highly complex tasks *because* the principal lacks the specialized expertise that is readily available elsewhere. A helicopter manufacturer may contract out the manufacture of custom bushings for the tail rotor system (cf. *Russell v. SNFA*, 2013 IL 113909, 987 N.E.2d 778, 782 (2013)); an auto manufacturer may contract out motor vehicle restraint systems (cf. *Kilgore v. Fuji Heavy Indus. Ltd.*, 146 N.M. 698, 701, 213 P.3d 1127, 1130 (2009)). Such tasks frequently require distinct kinds of sophistication and expertise that a helicopter or automobile manufacturer may not have.

The Ninth Circuit's decision elevates "importance" to the decisive determinant of general jurisdiction. But no correlation exists between the importance of the task and the legal relationship between the business entities. Nor does the existence of such a relationship have any logical connection with personal jurisdiction. For purposes of imputed jurisdiction, "importance" should be unimportant, not decisive.

D. Agency Law is Not a Substitute for Due Process.

Equally startling is the Ninth Circuit's failure to consider whether its imprecise, "importance-based" analytical framework for imputed jurisdiction comports with this Court's established framework for analyzing due process constraints on personal jurisdiction. Whatever criteria a court applies to determine agency, the Due Process Clause constrains the power of a foreign court from exercising jurisdiction unless there has been "some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws." *Burger King*, 471 U.S. at 475, *citing Hanson v. Denckla*, 357 U.S. 235, 253 (1958).

By contracting with a separate corporate entity to perform the tasks of a domestic distributor in this case, Daimler AG did not invoke the benefits and protections of the forum's laws; it did precisely the opposite. It has evinced the clear intention *not* to avail itself of those protections and benefits. By stretching agency law to reach the opposite result, and treating two legal entities as one, the Ninth Circuit opinion tramples upon another due process protection: to assess each defendant's contacts with the forum separately. *See Rush*, *supra*. As stated in *Keeton*, *supra*:

> [J]urisdiction over an employee does not automatically follow from jurisdiction over the corporation which employs him; nor does jurisdiction over a parent corporation automatically establish jurisdiction over a wholly owned subsidiary.

465 U.S. 770, 781 n.13 (citations omitted). To satisfy this requirement of purposeful availment, a defendant must have "deliberately exploited the [state's] market" -- a standard akin to specific intent. *Keeton v. Hustler Magazine, Inc., supra*, 465 U.S. 770, 781 (1980). Jurisdiction is proper only where the contacts proximately result from actions by the defendant himself that create a "substantial connection" with the forum State. *Burger King Corp. v. Rudzewicz*, 471 U.S. at 475, quoting *McGee v. International Life Insurance Co.*, 355 U.S. 220, 223 (1957).

It follows that the Ninth Circuit's agency theory of imputed jurisdiction violates due process because it ignores these fundamental protections. To hold that a foreign business submits to personal jurisdiction based on one court's vague conception of a common-law agency doctrine constitutes an inadequate proxy for rigorous federal due process analysis.

Imputed jurisdiction based on the "special importance" of, and a right of control over, the tasks performed by the distributor, creates an unwinnable dilemma for non-resident manufacturers. If the manufacturer seeks to ensure that those with whom it contracts for these services comply with federal, state, and local regulations, demonstrate fiscal responsibility, and uphold the manufacturer's reputation for quality and integrity, the contractor is deemed to be the

manufacturer's agent—at least in the Ninth Circuit. But if a manufacturer permits the contractor to *dis*regard these obligations and thereby leaves the contractor an insignificant, impotent, financial shell, it may nevertheless be subjected to jurisdiction "for loosing on the world an undercapitalized corporation which is incorporated and doing business in [the jurisdiction] but unable to meet its obligations incurred there." *Wells Fargo & Co. v. Wells Fargo Exp. Co.*, 556 F.2d 406, 421 (9th Cir. 1977).

Either way, the vague, open-ended, overreaching jurisdictional rules utilized by the Ninth Circuit runs afoul of due process. This Court has long extolled the laudable objective that due process should allow "potential defendants to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit." *World-Wide Volkswagen*, 444 U.S. at 297. Non-resident defendants are entitled to "fair warning that a particular activity may subject [them] to the jurisdiction of a foreign sovereign." *Burger King Corp.*, 471 U.S. at 472 (quoting *Shaffer v. Heitner*, 433 U.S. at 218 (Stevens, J., concurring in judgment)). Fair warning "gives a degree of predictability to the legal system," *Burger King*, 471 U.S. at 472 (quoting *World-Wide Volkswagen*, 444 U.S. at 297). This predictability then allows entities doing business within and without our country's borders, be they foreign or domestic, to have true--as opposed to imputed or constructive--awareness of the possible risks their primary conduct will entail, and to manage those risks accordingly. Under the Ninth Circuit's decisions, even the most sophisticated manufacturer would be unable to determine how to structure its business to avoid being

sued in California, whether it consulted its counsel or the Oracle at Delphi.

Surprisingly, none of the Ninth Circuit's decisions squarely addresses the question whether the elements of its agency theory satisfy due process requirements. The Ninth Circuit's first recognition of vicarious jurisdiction, in *Wells Fargo & Co. v. Wells Fargo Express Co.*, 556 F.2d 406, 423 (9th Cir. 1977), relied on *Gelfand v. Tanner Motor Tours, Ltd.*, 385 F.2d 116 (2d Cir. 1967):

> A foreign corporation is doing business in New York "in the traditional sense" when its New York representative provides services beyond "mere solicitation' and these services are sufficiently important to the foreign corporation that if it did not have a representative to perform them, the corporation's own officials would undertake to perform substantially similar services.

Gelfand, 385 F.2d at 121. Notably *Gelfand* predates modern Supreme Court jurisprudence clarifying the due process limitations on personal jurisdiction. Indeed, the *Gelfand* court's cursory due process analysis relied primarily on New York state law predating much of this Court's personal jurisdiction.

Subsequently, in *World-Wide Volkswagen Corp. v. Woodson* [444 U.S. 286 (1980)] and *Rush v. Savchuk* [444 U.S. 320 (1980)], the Court addressed state courts' expansive exercise of jurisdiction over non-resident defendants and emphasized the importance of state sovereignty as a constitutional limitation on long-arm jurisdiction. *State Long-Arm and Quasi in Rem*

Jurisdiction: Volkswagen Corp. v. Woodson and Rush v. Savchuk, 94 Harv. L. Rev. 107 (1980). However, the Ninth Circuit's jurisdictional decisions since *Wells Fargo* have continued to expand the reach of agency theory while ignoring the question whether its agency theory has stretched itself beyond the outer limits of due process.

IV. CONCLUSION

For the foregoing reasons, PLAC respectfully asserts that the Court should reverse the decision of the Ninth Circuit.

Respectfully submitted,

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APPENDIX

APPENDIX
Corporate Members of the Product Liability Advisory Council

As of July 2, 2013

Total: 104

3M
Altec, Inc.
Altria Client Services Inc.
Anadarko Petroleum Corporation
AngioDynamics
Ansell Healthcare Products LLC
Astec Industries
Bayer Corporation
BIC Corporation
Biro Manufacturing Company, Inc.
BMW of North America, LLC
Boehringer Ingelheim Corporation
The Boeing Company
Bombardier Recreational Products, Inc.
Bridgestone Americas, Inc.
Brown-Forman Corporation
Caterpillar Inc.
CC Industries, Inc.
Celgene Corporation
Chrysler Group LLC
Cirrus Design Corporation
Continental Tire the Americas LLC
Cooper Tire & Rubber Company
Crane Co.
Crown Cork & Seal Company, Inc.
Crown Equipment Corporation

Daimler Trucks North America LLC
Deere & Company
Delphi Automotive Systems
Discount Tire
The Dow Chemical Company
E.I. duPont de Nemours and Company
Eli Lilly and Company
Emerson Electric Co.
Engineered Controls International, LLC
Exxon Mobil Corporation
Ford Motor Company
General Electric Company
General Motors LLC
Georgia-Pacific Corporation
GlaxoSmithKline
The Goodyear Tire & Rubber Company
Great Dane Limited Partnership
Harley-Davidson Motor Company
Honda North America, Inc.
Hyundai Motor America
Illinois Tool Works Inc.
Isuzu North America Corporation
Jaguar Land Rover North America, LLC
Jarden Corporation
Johnson & Johnson
Kawasaki Motors Corp., U.S.A.
Kia Motors America, Inc.
Kolcraft Enterprises, Inc.
Lincoln Electric Company
Lorillard Tobacco Co.
Magna International Inc.
Marucci Sports, L.L.C.
Mazak Corporation
Mazda Motor of America, Inc.
Medtronic, Inc.

Merck & Co., Inc.
Meritor WABCO
Michelin North America, Inc.
Microsoft Corporation
Mine Safety Appliances Company
Mitsubishi Motors North America, Inc.
Mueller Water Products
Mutual Pharmaceutical Company, Inc.
Navistar, Inc.
Nissan North America, Inc.
Novartis Pharmaceuticals Corporation
PACCAR Inc.
Panasonic Corporation of North America
Peabody Energy
Pella Corporation
Pfizer Inc.
Pirelli Tire, LLC
Polaris Industries, Inc.
Porsche Cars North America, Inc.
Purdue Pharma L.P.
RJ Reynolds Tobacco Company
SABMiller Plc
Schindler Elevator Corporation
SCM Group USA Inc.
Shell Oil Company
The Sherwin-Williams Company
Smith & Nephew, Inc.
St. Jude Medical, Inc.
Stanley Black & Decker, Inc.
Subaru of America, Inc.
Techtronic Industries North America, Inc.
Teva Pharmaceuticals USA, Inc.
TK Holdings Inc.
Toyota Motor Sales, USA, Inc.
Vermeer Manufacturing Company

The Viking Corporation
Volkswagen Group of America, Inc.
Volvo Cars of North America, Inc.
Wal-Mart Stores, Inc.
Whirlpool Corporation
Yamaha Motor Corporation, U.S.A.
Yokohama Tire Corporation
Zimmer, Inc.