

# COMPONENT PARTS VS. FINISHED PRODUCTS: CPSC and Product Liability Concerns

## **Moderator:**

┆ Eric Rubel, *Arnold & Porter LLP*

## **Panelists:**

┆ Doug Dieterly, *Barnes & Thornburg*

┆ Laura Neuwirth, *Latham & Watkins LLP*

┆ Scott Pinzone, *Hamilton Beach/Proctor-Silex, Inc.*

┆ Marc Schoem, *U.S. Consumer Product Safety Commission*

# THE FACTS

- q PlasmaCo imports and distributes plasma TVs in the U.S., with power supply switches from SwitchCo
- q PlasmaCo receives reports of melting, smoke and flames near the power button; one report of extensive property damage and serious burn injuries
- q PlasmaCo: the problem is with SwitchCo's power switch
- q SwitchCo: the only problem is with PlasmaCo's installation
- q PlasmaCo tells SwitchCo:
  - I PlasmaCo will notify CPSC;
  - I PlasmaCo will conduct a Fast Track recall to replace the switches, and
  - I PlasmaCo expects SwitchCo to indemnify PlasmaCo for the recall and product liability
- q SwitchCo asks to participate in discussions with CPSC

# THE LAW

- q **Manufacturers, distributors and retailers of "consumer products," including component parts, must notify CPSC immediately upon receiving information that reasonably supports the conclusion that a product contains a defect that could present a substantial product hazard.**
  - I **Therefore, both PlasmaCo and SwitchCo may have a duty to notify CPSC.**
  
- q **The duty to notify CPSC is satisfied if a company has actual knowledge that CPSC has been notified.**
  - I **Therefore, SwitchCo need not notify CPSC if it has actual knowledge that PlasmaCo has done so.**

# THE ISSUES

- q **CPSC**
- q **Product Liability**
- q **Commercial Liability**

