



A Cross-Border Defense of Quality: Dana UK Axle

Dana UK Axle is a key subsidiary of U.S.-based Dana Incorporated, a leader in the design and manufacture of highly efficient propulsion and energy-management solutions that power vehicles and machines in all mobility markets across the globe. Beginning in 2013, pinion seals manufactured by Germany's Freudenberg Sealing Technologies — which Dana incorporated into rear axles it manufactured for Jaguar Land Rover (JLR) vehicles — began to fail at extremely high rates. Despite evidence that defective pinion seals were the cause of the failures, Freudenberg refused to accept responsibility, even as Dana reimbursed JLR for the cost of 30,000 prematurely failing components.

With its reputation for quality products at stake, Dana needed to ask itself an important question: Was the company willing to go to the mat, in court, to prove that Freudenberg was responsible for the failures and Dana's financial losses?

The answer was a resounding "Yes." And through the close collaboration of Dana's in-house legal team, internal and external product experts, and Crowell lawyers on both sides of the Atlantic, the result was an unqualified success.

Cooperation and confidence based on strong, enduring relationships

The story begins in 2013, but the relationship between Dana and Crowell goes back much further. For years, Crowell has provided litigation and regulatory counseling to Dana in the United States and in Belgium.

When the case came to Crowell in 2018, our U.S.-based litigators reached out to their colleagues in our London office. From that point forward, the client-counsel team became an unstoppable force — even when the COVID-19 pandemic threatened to put the brakes on the case and the majority of the work needed to be handled remotely. Crowell's litigators offer high praise to Dana's legal team and in-house product and warranty experts, noting the client's commitment of time and resources to the case and to executing the litigation strategy despite the potential risks at trial.

In-depth product knowledge and excellent lawyering

The case at trial turned on a key question: whether or not Freudenberg's pinion seals were defective. During the discovery process, the Crowell team found an internal Freudenberg email that clearly directed its product team to exclude key "outlier" data from quality reports on its manufacturing processes. The Crowell team also found that Freudenberg made a significant

change to its manufacturing processes just before the pinion seals began to fail, and remedied that change just as the warranty rates dropped off — data that ultimately aligned with Dana’s own analyses. Freudenberg tried to hide that process change from Dana.

Despite the substantial evidence implicating its pinion seals, Freudenberg argued that its seals were not defective, and provided three technical experts who claimed to offer the independent opinions required by UK courts. Unfortunately for Freudenberg, it became clear during trial that Freudenberg’s experts were not following proper expert procedures and did not develop independent opinions. Crowell’s litigation team immediately asked the High Court to exclude all three of Freudenberg’s technical experts. In a groundbreaking decision, the court agreed to the request.

Even so, Freudenberg refused to yield. Following a three-week trial that commenced on May 4, 2021, the court issued a resounding 65-page judgment in Dana’s favor. Dana was awarded the entirety of the £11,243,026 claimed, an indemnity for future losses, interest on the judgment, substantial legal fees and expenses, and a £75,000 penalty for failing to accept an earlier formal resolution offer. Freudenberg has since paid the judgment in full.

The significance of the win was made clear when a Crowell partner paid a visit to Dana’s offices in Michigan to discuss a separate matter the firm was handling. At the end of the meeting, the CEO of the company walked into the room to thank the Crowell team personally for their excellent work.