

Increase Your Sales Through Licensing

By Diane Bellavance

Globalization and the opening of international markets generate an increase in trade on a world-wide basis and greater competition between businesses. It has become increasingly difficult for companies to follow the traditional process of developing, manufacturing and distributing products.

Licensing is a variation of the traditional process of selling its products. Licensing is essentially a right granted to another party to manufacture, improve and sell a product or a technology within a given territory. Licensing is sometimes accompanied by a strategic alliance for the development and improvement of the product or the technology granted by license.

Licensing is a marketing strategy with numerous benefits to businesses such as reduction in distribution costs, faster merchandising of the product or technology in a larger market, continuous improvement of a product by the owner and its licensees, opening of additional markets which would otherwise be difficult to penetrate and the on-going knowledge of market developments and novelties through its licensees.

A licensing agreement should cover the following highlights:

- Definition of the product or technology which is the subject of the license as well as the patents, copyrights and trademarks associated with the product or technology.
- The notion of exclusivity.
- Sub-licenses.
- The territory.
- Remuneration through royalties.
- Sales quotas.
- Ownership of improvements and developments of products or technology.
- Representation and warranties of the licensee.
- Use of patents, copyrights or trademarks.
- Technical or product support.
- Provisions as to confidentiality, non-competition and non-solicitation.

- Protection and ownership of intellectual property rights as well as clauses pertaining to their infringement.
- Termination clauses of the licensing agreement.
- Applicable law.

The choice of licensees is the material factor in the success of a licensing program; finding the right partner is one of the main elements of success. The licensee must have the business skills and infrastructures necessary to use the technology or the product efficiently and to carry out successful merchandizing. The company must look for a partner with reliable and adequate manufacturing methods. The licensee must be well established within the given territory. The size of the company, the market covered, the facilities, the number of employees, the products distributed by the licensee, his profitability and his reputation are all deciding factors which should be examined during the selection process.

It is also possible to complete this process with a licensing-in program, namely obtaining from a third party a license for an add-on technology or product. In many cases, this will help



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improve the company product or technology, promote the growth of the company as well as decrease the research and development costs of the product or existing technology, thus promote the creation of new products or new technologies.

It is imperative that the company, as part of a licensing program, makes sure that all intellectual property rights which constitute the licensing agreement are well protected. Protection under the intellectual property laws gives the company the exclusive use of its technology, its trademarks and its innovations.

For further information, do not hesitate to contact M^{re} Diane Bellavance of Lavery, de Billy at (514) 877-2907 or dbellava@lavery.qc.ca.

We invite you to visit our web site www.laverydebilly.com.

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