

Increase Your Sales Through Licensing

By Diane Bellavance



What is Licensing?

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 simple and different way of selling one's products. Licensing is 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 technology under license.

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

Important points to remember

The following are examples of points to remember prior to concluding of a licensing agreement:

- 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;
- 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.

Choice of Licensee

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 merchandising. 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 and his profitability and reputation are all factors which should be examined during the selection process.

- 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;



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Protection of Intellectual Property

It is imperative that the company, as part of a licensing program, ensure that all intellectual property rights covered in 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.

International Acts and Foreign Laws

Be sure to verify the acts, foreign laws and formalities which can affect you, such as deductions on royalty payments.

Confidentiality Agreement

A simple, clear and precise confidentiality agreement is essential before beginning talks with a potential licensee. Do not be afraid to obtain the other party's signature. A letter of intent is an effective preliminary agreement that unites the parties and allows for a more complete license agreement.

For further information, please do not hesitate to contact Diane Bellavance of *Lavery, de Billy* at (514) 877-2907 or dbellavance@lavery.qc.ca.

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

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