

AN
EXECUTIVE'S
COMPLETE
GUIDE TO
LICENSING

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AN EXECUTIVE'S COMPLETE GUIDE TO LICENSING

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**AN EXECUTIVE'S
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For Miriam and Priscilla

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Roger A. McCaffrey
Thomas A. Meyer

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INTRODUCTION

Before this book was written, other titles on licensing were researched and not a single one was found to provide an all-encompassing look at the guiding theories of the practice. Perhaps \$75 billion (no one really knows exactly) is generated annually by licensing. Yet, aside from technical legal treatments and a get-rich-quick paperback on the subject, no other books have been written about it.

It speaks volumes that so little is known of a field that is growing by leaps and bounds. It says that there are too few people with a complete grasp of what could someday be a nearly trillion dollar “industry.” Actually, licensing isn’t really an industry, any more than “food” is. Licensing is a skill; part art and part science. It can be applied to diverse businesses—almost any kind, any size. It is this book’s job to show you how licensing works, providing the theory and concrete examples. It will be your job to apply the principles to your particular industry and company, or to your property or product idea. We trust that once you have read this book, you will find you can handle that challenge.

Our experience in licensing dates back several years, when one of us was given the opportunity to help Anheuser-Busch build its licensing program, a program that became the envy of many in corporate America, and in a sense helped show the way for big licensors like The Coca-Cola Company. There were numerous contacts with people thinking about starting licensing programs, and many of them got into licensing (as licensors) in the wrong way: Licensees or someone in the licensor’s own company would approach them with a good product idea; the licensor would deliberate and then go ahead with the licensed product—and it might have succeeded. But that isn’t the way to build a licensing program. In fact, one of the central themes of this book is that a single product success does not a licensing program make.

Presented here are the correct theory and rationale for a licensor’s

becoming involved in licensing. And you will find a plan for a full licensing program, both for the individual with a bright idea and for the corporate executive. In the process this book will also instruct licensees in the licensing skill as well; but note that as a rule, it is addressed to licensors, since they generally steer licensing programs. Usually the licensor draws up the contract or has the final say, even when the licensee provides the product concept.

In addressing the licensor unless otherwise explicitly stated, we don't slight the licensee. While it suffices for the licensor to know a defined set of things (detailed herein) about the licensee, the licensee must know as much as possible about the overall licensing plan of his licensor partner. Any licensee reading this book, we predict, will not miss a page. The more a licensee knows about the components of a good licensing program, the more successful his or her licensing agreements can be.

Many people categorize licensing into groups such as sports licensing, or lifestyle licensing, or character, entertainment, design or fashion, or corporate licensing. All such terms, useful as far as they go, tend to obfuscate the real nature of licensing, and can almost by themselves dissuade someone from getting into licensing. If the property doesn't fit into any of the above categories, many might doubt that they have a license-able property. Wrong. Almost anything can be licensed—not just trademarks or brands, company names and technology, but also graphic designs, products privately developed, or new properties with absolutely no track record. This book groups licensing into three broad categories (see the Glossary and Chapter 1) which encompass all the properties just listed.

So not all licensing fits the commonly used categories, and, of course, not all licensing is "brand extension." It certainly is *property* extension, however. Even though not all licensing is brand extension, for the purposes of this book we address the typical licensor—a company with a brand/trademark it wants to extend into other product categories via licensing. This way, all bases are covered. Brand extension licensing for a consumer products company demands the most complete description of the practice. Those involved in different licensing can easily factor out anything said that doesn't apply to them.

For instance, if you're a graphic artist who has developed a great cartoon character, you don't want brand extension—but you do want "brand expansion." Most of the points made about brand extension also apply to brand expansion.

Before diving into the depths, let us take you through the same

exercise that we take a typical potential licensor through when invited to discuss brand extension/licensing possibilities. The most frequently asked questions about licensing are listed—with short answers. By the time you've read the book, every point will be elaborated upon, but what follows will give you an overview of the chapters:

Question 1: What are the major risks in licensing?

First, understand that there are *perceived* risks by apprehensive potential licensors, and there are real risks. The perceived risk: many fear they will lose control of the property, particularly a trademark. Others fear the whole licensing operation will go out of control. Neither has to happen. The real risk: undertaking a licensing effort without a comprehensive plan or a proper understanding of how licensing works and what benefits it brings. It's *not* just a promotional vehicle or an income producer, for example.

Question 2: Won't there be an added administrative burden? Can that be reduced?

Yes, extra time will be spent by some executives if the program is well run. But you can save time by researching the industries you are thinking about entering, narrowing down your contacts to the best possible licensees, meeting them in a methodical way, using a standardized contract that can be adapted to each licensee, and carefully selecting the product categories you wish to enter.

Question 3: What are the principal responsibilities of the licensor? Do we have to guarantee the licensee's inventory?

No, you don't. As for the responsibilities, you should support and use the licensee whenever possible. Keep the licensee updated on new marketing developments in your industry and in your company. Do such things as bringing the licensee into any promotional programs you can.

Question 4: Can we control the licensee's distribution avenues?

Yes, the contract can specify the kind of distribution you want the licensee to sell in.

Question 5: Do we have to give the licensee an exclusive?

It's not a must, but it's a good practice, and good licensees expect it (in most product categories). It's also an incentive to the licensee to be more productive.

Question 6: Do we have to have one royalty rate for all our licensees, no matter what the product?

No, it depends on the product category, because the profit margins and volume will vary with the product.

Question 7: What are the most important ingredients in a licensor–licensee relationship?

Be forthright, and make sure before you start that each fulfills a need for the other.

Question 8: What are the characteristics of a good licensee?

A solid management team, including deep enough talent in that area; resourcefulness; and sound financing.

Question 9: How long does it take to develop a relationship with a licensee?

Between three months and a year. A year if the project is complex, as is the case in “business-to-business” licensing. If you take more than a year, something is probably wrong with your effort, or with the licensee’s.

Question 10: What’s our financial commitment likely to be?

Minimal. Your major start-up costs will be: (1) hiring talent or developing it internally, (2) some travel for trade shows and licensee contacts, (3) legal costs associated with development of a standard contract and any contract negotiating, and (4) cost of announcing the program in licensing and industry trade publications. Generally, within two years, your licensing program should be self-funding, and then some.

Question 11: In the beginning, how do we know if we have a property we can license?

Here are two good indicators of your potential: (1) You have a loyal consumer base, and (2) you’ve carved out a unique position in your market.

Question 12: What’s the timetable for profitability?

At the two-year mark, you should be profitable, and the program should stay that way. You *could* be in the black as early as the 12- to 18-month mark, depending on how much strategic planning you’ve done before searching for licensees, and on how fast you recruit the licensees you want.

Question 13: Should the licensor look into more than one industry category at a time?

Yes, look into as many as possible without overburdening your licensing people.

Question 14: Does licensing increase—or decrease—the strength of our trademark?

In a good program, increase. In a poorly run program (where haphazard practices and carelessness reign), decrease.

Question 15: What's a popular reason other companies get into licensing?

Two good reasons, in this order: income potential and exposure.

Question 16: What are the most important factors for a solid licensing program?

The concepts should be original. Coke apparel bested Pepsi because Coke got there first, and Pepsi copied the leader. Secondary (but important) factors in a solid licensing program: sound management and good business judgment.

Question 17: Should we test licensing the way we would a new product?

No, because licensing isn't like a new product. It's a new business tool with broader implications than a new product. If *one* licensed product fails a marketing test, it doesn't follow that you should call off the entire licensing program, but if a new product entry flunks *its* test, obviously you pull it back.

Question 18: Hasn't licensing peaked?

No, although there seems to be a glut of mediocre products. There is never a glut of good ones, however. There was a shakeout in the "industry" recently, and some people lost money, tempted by exaggerated claims about huge profit potential.

CHAPTER 1

WHAT IS LICENSING?

If your company were to receive a gift of 10,000 acres of Alaskan oil fields, you'd view it in much the same way we urge you to see a licensing program: uncharted, but with tremendous potential. Nothing may come of your decision to explore licensing, and you may have good reasons not to follow through with a program. But to view licensing as anything less than a major new source of income, or at least advertising and promotion, would be a mistake. The first task in Chapter 1 is to show how the licensor, as distinct from the licensee, should approach a licensing effort. There are three major kinds of licensing, and they are defined in this chapter. Then you will look at licensing from a licensee's perspective and see what the licensee should expect in a licensing arrangement.

In the second half of this chapter, you will be looking at your company and its future in a fresh way and see why, to succeed in licensing over the long term, you must expand your company's horizons. This isn't to suggest that you radically restructure your company. At the end of the chapter we'll explain the proper corporate view of the licensing program you undertake and list who in the company should understand licensing (and why). Finally, we'll debunk a few myths about licensing that are even now, despite all the licensing success stories in circulation, believed by many.

THE LICENSOR AND THE LICENSOR'S PERSPECTIVE

Promotional Licensing

Licensing can be used simply as a vehicle by which to extend your company's merchandising efforts. In the area of sales promotion, a fictional example would be *Star Wars* trading cards offered in a box of



• People call it “lifestyle” licensing, but that’s really another variation of “promotional licensing.” (Courtesy the Nancy Bailey Company, Edelson & Sons the licensee.)

General Mills breakfast cereal. In the broader field of sales *and* advertising, a company such as Anheuser-Busch gives its brand name to other companies (i.e., to licensees, who will use the name on items as diverse as T-shirts and collector tins or ceramic plates).

New Product Development Licensing

This is a more sophisticated form in which a licensee will use someone else’s name, company logo or image, brand, character, or whatever part of a property deemed suitable, for a major new product entry. The licensor benefits because a new business opportunity is provided, possibly giving him entry into an industry otherwise beyond reach. The Sporting News® Baseball™ computer game, a licensing deal with EPYX, a computer game software company, fits this description. The licensee, a medium-sized company, obviously benefits by expanding its market manyfold. Moreover, the licensee is worth every penny it makes from the arrangement because it provides the licensor expertise to succeed in a new business.



• Promotional licensing differs markedly from new product development licensing or business-to-business licensing. Products licensed by Burger King, 7UP, and Coke for promotional purposes appear here. (Courtesy Nancy Bailey & Associates, Inc., and The Coca-Cola Company, respectively.)

Business-to-Business (or Service-to-Service) Licensing

This involves the naming of a company or division with the brand name or corporate name of some other property. For example, Wilson Sporting Goods joined with Sports Apparel Corporation, which formed the Wilson Apparel Division, a multimillion dollar clothing company, for the sole purpose of manufacturing and marketing apparel under the Wilson brand name. Popeye's Restaurants is another example, fitting perfectly into the service-to-service category. The J. G. Hook/Disney partnership is a third example. Their "Mickey and Company" was a retail store chain. Admittedly, the risks and stakes begin to rise when business-to-business licensing is introduced, because you've erected a whole new company. But with proper management at the top of the licensing program, business-to-business licensing can work well.

A good licensing program should afford your company the opportunity to work within all three main licensing categories. One way to ensure that that *won't* happen, one way to ensure that your licensing program operates poorly, is to put a licensing program under a second-