

Licensing Your Brand



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Licensing is a \$70 billion industry annually. Yet, few companies know how to get their fair share.

Licensing is where you allow other companies (called “licensees”), under your strict supervision, to introduce new products or services using previously untapped portions of your Intellectual Property (“IP”). Those can be residuals of a patent or registered trademark (also known as a “brand”). If done right, that licensing provides a revenue stream without extra capital investment: approximately 5%–8% of the sales of the new product. It typically also boosts the sales of the core product... sometimes dramatically.

For example, the MONOPOLY® brand was a staid brand by the 1990s. Sales were flat or declining. Kids wanted to play fast-paced videogames rather than sit at a board game. Yet, when MCDONALD’S® was licensed to distribute MONOPOLY® game cards at its restaurants, sales of the original board game shot up exponentially. The royalties MCDONALD’S® paid for using the MONOPOLY® brand didn’t hurt HASBRO® either.

Licensing can also be used to exploit “hot properties.” But what happens when a manufacturer is not poised to enter related markets within the 2-5 year window for exploitation of most new products? Savvy manufacturers utilize licensees to create and market new products under the same brand. If the new products are selected wisely, customers will perceive those new products as having similar qualities to the core product.

An example of that recently occurred with a patented product known as TAGGIES® (see photo). The registered brand TAGGIES® identifies a child's security blanket or pillow with an assortment of colorful ribbon loops (“tags”) around the periphery. Every tag looks or feels different. Each ribbon has a different print or texture. That makes the tags both tactile and visually stimulating. KIDS LOVE TO RUB 'EM!TM



Taggies, however, was not in the book business. So it licensed Scholastic, Inc. (the well-known U.S. publisher of Harry Potter books) to market a cloth children's book with

a cover that looked like a TAGGIES® blanket. See the photo of “My First Taggies® Book: Sweet Dreams.”



The result: Scholastic sold out its first printing of “Sweet Dreams” — 120,000 copies — within three months. There were also backorders of over 60,000 copies. A second printing sold out immediately. Sales of TAGGIES® blankets shot up by over 25 percent.

Unfortunately licenses don’t fall from the sky. They are mined carefully and methodically. How do companies achieve good licensing results? Some companies use licensing agents to hunt down potential licensees. Other companies try to seek out potential licensees themselves, for example, at trade shows. Most times, it’s a combination of both, in conjunction with their IP counsel.

Licensing Tips

- Apply to register your brand early as a trademark. The registration, once granted, will protect the brand on your core products and prohibits unauthorized usage of the brand on related products.
- Convene a committee to define your brand.
- Conduct customer surveys to determine the perceived features and attributes of your brand. Informal surveys can be sufficient. Formal marketing surveys are best, but expect to pay \$25,000 or more.
- Project areas of product expansion for the brand over the next 2–3 years. Make sure the projected products are not too far of a leap from the current line, or you'll lose the connection.
- Conduct trademark availability searches for projected areas of expansion to avoid infringement problems.
- Determine which goods or services you want to license and which to sell yourself.
- Try to locate potential licensees, ideally with the help of a licensing agent.
- Select which potential licensees to pursue.
- Have the licensing agent contact them.
- Negotiate contracts with the potential licensees through the licensing agent and your IP counsel. Your agent and IP counsel can negotiate the best royalty rates.

If you want to learn more about licensing your IP, DVDs of a recent seminar covering that topic, entitled “Expand Your Business on Someone Else's Nickel,” are available at www.hblaw.org. ■

Donald S. Holland, Esq. founded the IP law firm of Holland & Bonzagni, P.C., based in Longmeadow, MA. The firm protects its clients' interests in over 50 countries.