

Exploiting IP Rights: Licensing, Franchising and Merchandising

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By

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Introduction

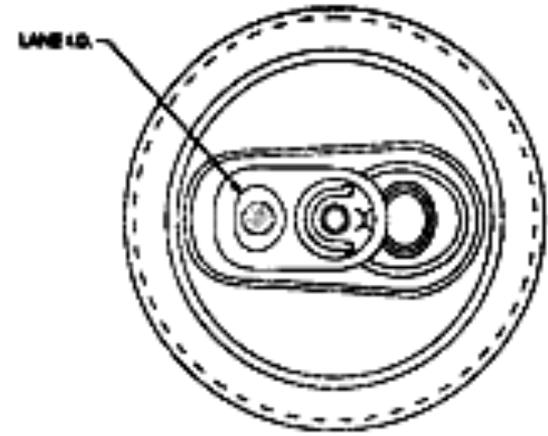
- Protection of IP assets
 - ✓ Confers **exclusive rights**
 - ✓ Prevent unauthorized and illicit use
 - ✓ is **not an end** in its own need for exploitation
- Main **forms of exploitation** of protected IP assets
 - ✓ Owner
 - ✓ Authorized persons- licensing, Franchising and Merchandising
- **Explain** concepts, benefits and risks, issues that may need to be addressed or looked at

What is a license?

- Is permission for **use** of IPR
- Presupposes existence of **validly protected** right
- **Agreement** between licensor & licensee for payment of agreed sum of money & in line with defined terms and conditions
- Owner **retains** right

Example of licensing

- Can opener
- licensed by inventor to Coca-Cola at **1/10th of a penny** per can.
- During the period of validity of the patent the inventor obtained **£148,000** a day on royalties



What is Franchising?

- A **specialized license** agreement where the franchisor authorizes the franchise to use a particular **business model**, a bundle of **IPRs**, notably, trademarks and **supported** by training, technical support and mentoring
- Is a successful and growing business model that **enables replication** of the business at different locations

Example of Successful Franchises

- HYATT REGENCY



What is merchandising?

- **licensing** of trademarks, designs, artworks as well as fictional characters (protected by these rights) and real personalities for selling **goods or services** in other fields
- Appeal to consumers and increase marketability
- Facilitate differentiation with similar products and tap from **recognition, reputation and good will** of the licensor

Examples of Merchandising



Key issues in licensing

- Understand each other's business objectives, and appreciate that there is a mutual need to ensure that the licensing agreement is successful
- Existence of a **validly protected** IPR
- Meeting the **legal requirements** for a binding and enforceable contract is essential
- Knowledge of factors that may influence the amount of license **fees**

Key issues in licensing

- Clarity on the **subject matter** of the license
- Scope **of right**
- Definition of **technical assistance**, if any
- **Termination** and post termination issues (ex-obligation of confidentiality)
- License **fees**- lump sum, royalty or both
- **Dispute Settlement** Forum and Governing law

**Thank you very much
for your attention!!
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