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Aligning the brand license

Integrating marketing objectives into the license agreement

By Kirk Martensen **November 2004**

Most trademark licensing relationships are defined and evaluated based upon the terms in a license agreement contract. In the case of a brand extension license, there can be a lot at stake, including the health and well being of the licensor's brand. Surprisingly, many license agreements do not include specific terms or requirements that reflect key marketing objectives. This lack of 'license alignment' can be a serious deficiency in the license agreement that impairs the licensor - licensee relationship and limits the licensed business.

While careful planning can go a long way in creating successful new licensed businesses, this paper focuses on problem situations with existing brand license relationships and agreements.

Seeking Alignment

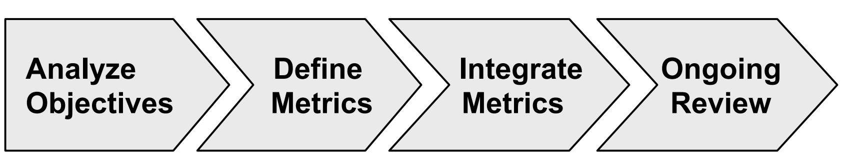
Trademark licensing arrangements attempt to leverage the 'goodwill' and/or positive associations and relationships that are related to specific intellectual property (e.g. artwork, brands, characters). In the case of a consumer product or service, the 'brand' is licensed and extended into a new or related category to generate incremental sales and profits for the licensee, while generating royalty revenue and marketing benefits for the licensor.

The license agreement attempts to define a complex relationship between licensor and licensee that impacts multiple stakeholder groups such as suppliers, employees, resellers, and consumers. Problems can occur when license agreements fail to reflect key marketing objectives of the parties.

It is critical that the brand license agreement reflects marketing objectives of both licensor and licensee. Performance should be evaluated based upon clear metrics in the agreement and occasionally adjusted to reflect significant changes in business conditions. Of course, this is easier said than done. Divergent business objectives make it difficult to create fair, balanced agreements. In addition, negotiating leverage and prowess are not always equal between the parties.

Alignment of the licensor's marketing objectives with the licensee's business objectives is essential to optimizing the licensing benefits for both parties. The end-goal is to develop terms that reflect these objectives and integrate related metrics into the license. Regular performance reviews and adjustments to license terms should also be considered as part of the license alignment process.

License Alignment Process



Key Alignment Factors

Brand licensing and brand extension is a long-term proposition. It is not unusual for these product lines to include multiple SKUs and continue for five to ten years, or longer. Indeed, it is the exception when one of these long-term relationships remains unchanged over time.

The reason why is relatively simple: business conditions change, and success in most businesses requires that companies adjust their products and services to reflect changing market conditions and customer needs. Successful license relationships are no different, and they too may require adjustments to the license agreement to reflect changes in the market place.

Whether you are planning a new license or evaluating an existing license, there are four critical elements of the marketing mix that should be defined, measured and adjusted within the license agreement to reflect the key marketing objectives of the parties: brand positioning, consumer/end-user, distribution, and advertising and promotion. The following guidelines relate to products.

1. **Brand Positioning**

   Brand positioning provides the crucial construct of a brand licensing program and products. Each licensed product should have specific attributes that are consistent with and reinforce the licensed brand image. Importantly, the consumer or end-user of the licensed product perceive the 'brand equity' attributes of the product to be consistent with the licensed brand.

2. **Consumer/End-user**

   The target primary consumer/end-user is another critical consideration in the planning and evaluation of licensed products. Not only should the licensed product appeal to the end-user, the end-user should also appeal to the licensor. That is, there should be compelling benefits and value for both parties in reaching a certain end-user group. Of course, there should also be a process in place to analyze data on the consumer/end-user group.

3. **Distribution**

   Distribution is a key element of the marketing plan that the licensor and licensee should carefully address. The licensor must be aware of the effects of selling licensed products through new retailers and distributors or 'resellers'. The critical consideration is whether the use of a reseller is enhancing or diminishing licensor or licensee relationships with other stakeholders (i.e. suppliers, employees, resellers, and consumers or end-users).

4. **Advertising and Promotion**

   The owners of most strong brands have spent relatively significant sums of money on advertising and promotion over the years. In fact, 'brand awareness' is a pre-requisite for developing a successful licensing program and a primary reason why most companies are interested in becoming a licensee. Unfortunately, high brand awareness can cause licensees to short-change advertising and promotion support for the licensed products, and lack of licensee support will severely limit the potential of the licensed business.

Now that the key elements of the license alignment have been identified, the next step is to define the metrics that should be integrated in the license agreement.

Aligning the License Agreement

As discussed, many license agreements do not reflect key marketing objectives and/or include terms that properly leverage the brand. Typically, the focus of these agreements is on financial terms such as royalty rates and minimum royalty guarantees, and as a result, the licensee's performance is based on metrics that do not emphasize or measure the marketing benefits that are desired by both parties. Although sales and royalties are important, there are other metrics that can be incorporated into the license agreement that better reflect the interests of licensor and licensee.

The following examples illustrate the type of metrics that can be used in the license agreement to create alignment and measure performance. These metrics can become requirements that are incorporated directly into the license agreement (versus targets in a 'marketing plan'). Whatever metrics are used, the licensor and licensee need to gain agreement on these requirements to ensure that they are appropriately reflect their objectives and maximize the business potential.

1. **Brand Positioning criteria** include product related elements such as features and benefits, usage, differentiation, price premium, and warranty.

2. **Consumer/End-user criteria** include various demographic and lifestyle elements as well as customer support, satisfaction, and loyalty.

3. **Distribution criteria** include distributor and/or retailer metrics such as product mix, geography/location, convenience, customer service, promotional activity, and image.

4. **Advertising and Promotion criteria** include media spending, type, frequency, and promotional activity such as tie-ins, cross promotions, and price discounting.

Many industries and markets are rapidly changing. License relationships are not immune to these market forces. The license relationship and agreement may be out of alignment if the license terms do not reflect key changes in the market. Although revising the terms in a license can be challenging, a third party experienced in brand licensing can assist to mediate licensing issues and develop solutions that can be incorporated into the agreement.

The rewards from a license alignment are often worthwhile. The development of metrics that reflect key marketing objectives can strengthen the license relationship and help to improve the management of the licensed business.

Author Bio

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