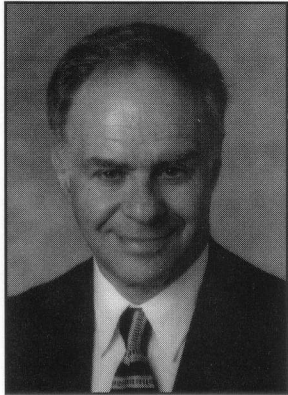


A Crash Course in Licensing Your Products



By George Gottlieb, Esq.¹

You've designed a unique new barbecue apron. You think there is a *craving* in the marketplace for it. But startup production operations cost tens of thousands of dollars, and marketing your product will only demand more cash. What if someone else were to take on these burdens, and you were to keep the design rights and get a monetary reward? Welcome to the world of Licensing...

Protect Your Product First

Intellectual property laws, which include copyright, patents, trademarks and trade dress issues, are backed by the full force of the United States through its court system, and are very powerful weapons against copycat reproduction. Copyright is the least expensive and most easily enforced method, and carries exceptional longevity. Registering a trademark is a reasonably priced option which can offer perpetual ownership as long as the trademark is in use. Design patents are more expensive but worthwhile, especially if other avenues of protection are not feasible. A utility patent is the most expensive and time consuming method, but should be considered an option if other options are ruled out. Before you permit anyone to manufacture your design, make

sure you protect it. Do not attempt to license your product without protecting it first.

Find a Reliable Manufacturer

Look for a reliable manufacturing source, one who has manufactured and marketed products similar to your apron. If a company has primarily manufactured lamps, for example, look elsewhere. Check for sources of manufacturing in the *Thomas Register of American Manufacturers* at your local library.

Present Your Business Plan to the Manufacturer

You have now selected a company to manufacture and market your product. Remember, a profitable business is looking for *profitability*. Analyze your potential market and determine a retail price for your apron. How many aprons can the market bear? What are the estimated costs of materials and assembly? What profit margin is anticipated? Present a clear picture of these figures to the manufacturer. He won't talk to you without them.

Negotiations

A manufacturing company has expressed interest in producing and marketing your apron, and you are now ready to discuss terms. You will want to consider guaranteed minimum royalties and royalty percentages. Royalties from licensed items usually range from 2% to 10%, with the higher royalties paid to more famous and recognizable names or strongly protected proprietary items. Guarantees of production schedules and quantities are important. Your apron is a seasonal item, and such topics are very pertinent. The license should have a first term of renewal years and should be

renewable; you may be able to negotiate better terms after a successful first run.

Marketing Follow-Up

You should personally visit retailers who carry your finished product. How is it displayed? Does the retailer do any promotional advertising? Are you satisfied that you are reaching the right market?

If you do your research and planning well, and make sure that you're designs are protected, the world of licensing may open new opportunities for you.

Gottlieb, Rackman & Reisman invites you to request a free copy of their booklet, "What's a Patent/Trademark/Copyright?" and/or a reprint of our article, "Copyright Protection: Tips on Getting Started" (which includes Copyright Form VA). Call (212) 684-3900 and ask for "The Primer" or "Copyright Form VA".

¹George Gottlieb is a founding partner of the New York City law firm of Gottlieb, Rackman & Reisman, P.C., which specializes in patent, trademark, trade dress and copyright law, and is a key lecturer at trade show seminars on intellectual property. He is also the author of numerous articles on such issues, including the firm's publication, "What's a Copyright/ Trademark/ Patent? A Primer".

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