

## LICENSING AGREEMENTS

**The Importance of Intellectual Property** – Before getting to licensing agreement, you need to understand intellectual property (IP). While there are other types of licensing agreements, by in large today's growth of tech, social media, and aggressive branding strategies is all driven by ownership of IP.

**Trademark** – is a distinctive sign or indicator used by an individual, business organization, or other legal entity to identify that the products or services to consumers with which the trademark appears originate from a unique source, and to distinguish its products or services from those of other entities.

**Copyright** – is a legal concept giving the creator of an original work exclusive rights to it, usually for a limited time. Generally, it is "the right to copy", but also gives the copyright holder the right to be credited for the work, to determine who may adapt the work to other forms, who may perform the work, who may financially benefit from it, and other, related rights.

**Patent** – refers to an exclusive right granted to anyone who invents any new, useful, and non-obvious process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof, and claims that right in a formal patent application.

**Trade Secret** – is a formula, practice, process, design, instrument, pattern, or compilation of information, which is not generally known or reasonably ascertainable, by which a business can obtain an economic advantage over competitors or customers.

*What is a License?*

**Licensing** – is the act of contracting your rights out to another to use. It is a tool to help you manage and protect your IPs; each IP comes certain rights ("bundle of sticks"), which means they can be separated out. The holder of the IP rights (the licensor) may make money by charging user (the licensee) for use of those rights. For example, a novel gives the novelist a copyright; the licensor has right to control copies, which includes derivative works. Therefore, the novelist can license movie rights to a studio, while licensing comic book rights to another company.

*What Goes Into An Agreement?*

**Scope, Term, Money, and Other Factors** – What does the licensee get in exchange for money (or some other form of compensation) and for how long? Some other factors: right to modify or use with other products; prohibited or limited uses; transfer and sublicensing; warranties; limitation of licensor's liability; support services; access to distribution and supplies; nondisclosure; indemnity for infringing use; enforcement of remedies; contract termination; and many others depending on the trade or industry.

Managing licenses requires a lot of administrative oversight, but licensees can provide revenue streams the licensor. It is easier to finance growth and distribution through a chain of licensees rather than direct ownership of new stores, offices, or the like. However, monitoring for use and quality control are always uses. Some licensees may violate confidentiality and could create future competition. The agreement is only the beginning, and the implementation and enforcement of the licensing agreement should always be concerns of the licensor.

**Contact to me today and we can discuss legal strategies to make sure of your IPs!**

---

**P:** 808.944.8400 | **M:** 808.220.7867 | **F:** 808.930.5098

**E:** [RyanKHew@HawaiiEsquire.com](mailto:RyanKHew@HawaiiEsquire.com)

**Follow my Blawg:** [www.hawaiiEsquire.com](http://www.hawaiiEsquire.com)

**Twitter** @RkHewesq | **Facebook:** facebook.com/RKHewesq | **LinkedIn:** linkedin.com/in/hawaiiEsquire