

Tightening Up Your Operations

BY MARTY MALYSZ, PRESIDENT, DEPENDABLE SOLUTIONS, INC.

Most of our generation has never seen the level of economic crisis and business doldrums we're experiencing today. And forecasters are telling us the recession will be with us for a while. On the bright side, however, these economic times are presenting some dynamic opportunities that would not have come about if our licensing operations were sailing along as usual.

In the past, big guarantees and advances may have hidden some flaws in your system, allowing you to get away with loosely monitoring your business. Going forward, I believe licensing will be based more upon straight-forward royalties. Therefore, those licensing companies who closely monitor every facet of their licensing programs will be well positioned for the future.

Maybe it's time to finally put in some automated processes to help you reconcile the royalties each period and gain greater insight into your licensing operations. Even in the short term, you'll be amazed to see the positive bottom-line effect a few simple steps can have.

Paying Attention to the Details

Do you measure each licensee sale against the original contract terms? Are your licensees abiding by the allowances, discounts, product penalties and returns caps dictated by the contract? You may be surprised to learn that monitoring these details can increase your revenues retroactively by five to fifteen percent. At the same time, measuring your business against contract parameters, as well as against past period sales and forecasts, can keep your operations running efficiently and help you follow the cycles of your business.

The more details you have, the better. Go ahead and ask for data from your licensees. In the past, many licensors did not reach out to their licensee and agency partners to ask for more detailed information on markets, price points and sell-through. Today, licensees recognize that retailers are demanding and getting product-specific sales information and are becoming more open to passing this information along to licensors (although they may ask for guarantee and common marketing fund reductions).

Manufacturers recognize that providing this information will help keep the relationship moving along and help measure the success of any licensing program.

In addition, asking for more details can immediately result in found revenue if you are prepared to work a little harder. Once you have contract and sales details at hand, you can begin to more stringently enforce those contracts—a necessity in tough economic times. For instance, while many licensors have interest penalty clauses on overdue payments, less than 50 percent of licensors enforce them – leaving thousands of dollars on the table. Similarly, licensors who take the time to load product sales information into the system and check whether the products have been approved may see immediate revenues by enforcing the unapproved-product clause. By doing this, they can recoup penalties as high as 200 percent of the amount owed.

Tying it All Together

What would it mean to your business if you had access to all the information about pending, new and existing deals, all in one place? For one thing, you could immediately determine which potential licensees offer similar products to those already on board, helping you negotiate a better deal or find a better manufacturer.

Utilizing an automated licensing system helps you aggregate all the diverse information you need and access it anytime, anywhere. "Utilizing technology to leverage the productivity of personnel and to analyze the success and compliance of licenses is here to stay," says Sal Di Santo of Licensing Compliance Associates LLC. "As companies continue to cut costs by reducing experienced, high-priced staff, software systems have become invaluable to ensure that company process controls and industry standards are adhered to consistently."

Maximizing Return on Limited Resources

All of us are trying to position ourselves for future profitability by cutting operational expenses and discretionary spending. As little as a year ago, eliminating some ineffi-

ciency may have been taboo. Having redundant resources across multiple departments was a staple of yesterday's chaos management. Today, you need to get more done with fewer people. Automation can help by coordinating all the functions for product approvals, contracts and finances, without anyone leaving the confines of their offices. Many businesses are running distributed operations to cut down on expenses, with employees working from home, and automation can help those operations thrive as well.

Third-Party Validation of Manufacturing

Another detail often overlooked is how to keep track of overseas manufacturing in order to remain as efficient as possible. How do you measure how many products are being produced overseas? One potential solution is to integrate a third-party label or component into your manufacturing process that can validate the quantities. A solid security label or component also can help you with enforcement of your trademark rights at the border or with local law enforcement. "Knowing how many sequentially numbered security labels a licensee has used improves verification of reporting many times over," says Vince McGuire, VP of Business Security at Labeltex Mills. "At one single belt manufacturer, our licensor client saw an 800 percent increase in royalty reporting after the initial implementation of its label compliance program."

The Right to Audit

You can have all the automation in the world, but it still only helps you manage your own internal operations. In licensing, you also need to check on your licensing partners. To do so properly, you need a consistent field audit team, consisting of outside auditors or internal audit resources. By supplying your auditor with empirical data related to reported sales activities, the auditor will have the tools to make sure licensees are complying with the contract.

"Some licensors are still hesitant to audit their licensees because they do not want to rock the boat," says Guido Marx, Senior

Continued on page 10

LIMA Members enjoying the LIMA Comic-Con Party at Stingaree in San Diego



Keith Hargrove, Pamela Harris,
Eric Thomsen



Victoria Cushey,
Maureen McHale



Stephen Stanley

Random Thoughts and Impressions... *Continued from page 3*

national agents.

One other note: As things stand now, the deal would make consumer products partners of Sony and Disney, through the joint ownership of Spider-Man Licensing LLP, which Sony and Marvel set up to handle the licensing of that franchise. Politics are not the only thing that makes strange bedfellows.

*Anheuser-Busch raised some hackles as the college football season started via a promotion that involves Bud Light being marketed in cans of 27 different color combinations that mirror the colors used by major colleges. Obviously, the specific color combos are being marketed in the same geographic area as the corresponding school. A-B says it only markets to those of a legal drinking age.

The Bud Light tactic seems to tiptoe to the edge of a licensing-driven U.S. Court of Appeals ruling late last year that a finding of trademark infringement can be based on the use of "color schemes along with other indicia" that make it obvious that the school is being referenced. The ruling came in a case brought by four schools – LSU, Ohio State, Oklahoma and Southern California – against a t-shirt manufacturer who, among other styles, marketed a shirt in the LSU purple and gold with the phrase "Sugar Is Sweet" and the score by which LSU had won the Sugar Bowl game.

The court ruled that using the colors

themselves wouldn't be grounds enough for an infringement finding without the context provided by the words on the shirt. The Bud Light marketers are using only color combinations, and offering no other context.

It should be noted that much of the information in the last two items was originally written as part of the ongoing LIMA blog at the time that those stories broke. Check the LIMA Blog on the www.licensing.org on a regular basis to get news and comment about industry developments.

Tightening Up Your Operations

Continued from page 4

Manager, Business Risk Management, at Moss Adams LLP. "But most audits in fact help to clarify the contract and give the licensee a better understanding of the contractual obligations, resulting in stronger relationships with licensors. Besides, audits by licensors are almost as common and routine as the gas company taking the meter reading at your residence."

All of these tactics can help your business in both the short and long term. Keeping a tight rein on your licensing operations during tough economic times will allow you to survive and thrive, and it can position you for success when the economy comes back to life in the years ahead.

News from LIMA UK

Continued from page 6

to grips with? Do EU rules or copyright laws burden your daily activities with their complexity? Just what are you allowed to promote to children these days, especially if your product is food or drink? How can you fight counterfeiters without spending fortunes on lawyers or hours in a court of law? How do you really decipher those TV audience numbers which seem to show that every pre-school TV show is the number one at some time of the day?

We won't be able to build this material into our inaugural *Winter Warmer*, and neither should we, as our mission to bring more people into licensing means that we simply must offer "Essentials courses" wherever possible. We will, however, look for a suitable date in 2010 to launch this new concept – so please do give me your feedback: kgardner@licensing.org.

People still ask me "What does LIMA do for me?" Well, here's a chance to steer LIMA to give you exactly the information and intelligence that you require – just tell us what you need! See you at Brand Licensing Europe!

News from LIMA China

Continued from page 6

LIMA China Education Seminar

The LIMA China Education Seminar and brand forum was successfully held on July 30 at the Shanghai International Expo Center. The seminar was combined with two influential industry trade shows in China, Home Expo and Baby Products Expo.

The seminar invited three experienced licensors and agents – SCLA, Tiancity, and Dream Entertainment – to introduce their successful experience in the China market and their licensing programs. Both licensees and manufacturers attended this seminar, including the exhibitors from Home Expo and Baby Products Show, as well as companies from other industries.

This seminar is part of series that the LIMA China office is organizing this year. The previous seminar, held on March 27, was organized around the largest apparel show (CHIC) in Beijing. The next seminar will be held during China Toy Expo and LIMA-sponsored Shanghai Licensing Pavilion in October.