Management View of Licensing

Licensing is only one alternative in International Manager's bag of strategies

BY RAYMOND A. YORK*

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The manager of an international business must utilize all of the standard resources, such as labor, material, investment, and technology, and he must in addition, consider the impact of national boundaries on the management of these resources. When he manufactures at home for sale overseas he is utilizing labor, material and investment at home; is exporting hardware and may be importing the full sale price in money. When he manufactures overseas he is utilizing labor, material and investment overseas; is exporting technology and importing profits. When he licenses technology and patents to a third party he is not manufacturing at all, but he is exporting technology and importing royalty. He has also loosened his control on a most precious asset — his technology.

Each of these arrangements have almost unlimited variations. Each has distinct advantages and disadvantages for a particular situation. All should be carefully considered before an overall strategy is formulated.

Licensing technology and patents can be merely a necessary tool to support a subsidiary or joint venture, or it may be a primary strategy in itself. A few of the advantages of licensing as an alternative are, minimum investment, minimum risk, elimination of transportation and trade barriers, creation of potential business partners and simplicity of administration. On the negative side one may create competitors, lose markets, overload his technical staff and live to regret long term commitments that he cannot easily modify when conditions change.

When to License

In general, one should license when direct sales are difficult, costs are inherently high, patent protection is strong, and technical leadership can be maintained. It may be unwise to license when one can sell products effectively, can maintain cost leadership, has a weak patent position, little technology.

An understanding of the separate roles of patents and of technology in the licensing process is a essential element in management of an licensing program. The pure patent license is inherently an adversary relationship. Your competitor will avoid a royalty obligation if at all possible. First you have to catch him. Then he will try to invalidate your patent or design around your invention. As a last resort he will pay a royalty if it is the only way, or the cheapest way, for him to pursue his business. In rare cases a patent license is sought as a membership ticket to a developing business.

By contrast the technology agreement is inherently a cooperative relationship. The licensee benefits from his relationship with the licensor and will almost by definition utilize his patents. The patent becomes the protector of the licensee, as well as the licensor, from actions by third parties.

Protection of technology is a delicate matter in countries with highly developed antitrust statutes. In general, the patent is the only legal guardian of one's technology once it has been divulged to others. It should be remembered that the absense of a patent, or the impending expiration of a patent in a critical country may destroy one's entire strategy worldwide. Learning where to patent is almost as important as learning what to patent.

Licensing strategy depends strongly upon the market being considered. It is convenient to classify licensing markets as follows:

1. Major Industrial Countries
2. Protectionest Nations
3. Eastern Bloc
4. Developing Countries

Reverse licensing (or technology purchase) is for the U.S.A. a small but rapidly growing activity. The merit of reverse licensing is best understood by a brief consideration of the all-time champions of that strategy — the Japanese. Purchase of technology was a keystone in Japan's industrial growth. It saved time, it increased probability of success, and it saved money. To buy technology one must be known as a good licensee. A good licensee, respects patents, honors his agreements, pays a fair royalty and behaves responsibly in the marketplace. This behavior, coupled with low internal prices and restrictive investment policy, made the Japanese the world's best and most successful licensees. Now Japan is becoming major licensor. There is much that we can all learn from this example. Reverse licensing should become a standard alternative to be considered by all who are charged with management of complex technology.

In summary, licensing is but one alternative to be considered by the International Manager. It may support or it may detract from other strategies. It can be more profitable than direct sales. Licensing can be the foundation for sourcing and selling activity or the formation of joint ventures. It is a very good way to get to know potential partners.

**General Manager, International Licensing Department, General Electric Company.*