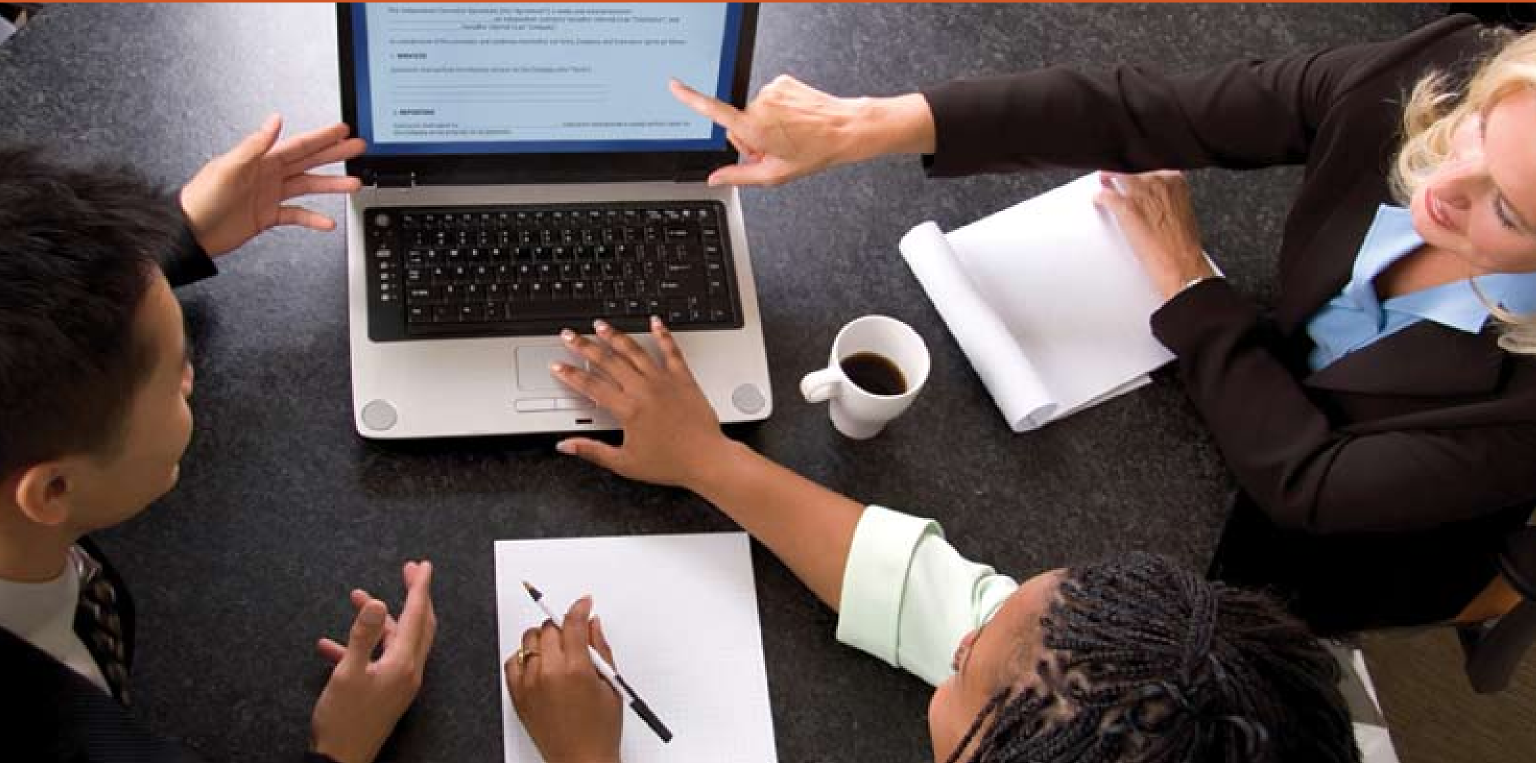
Technology Licensing Guidebook

A look at licensing intellectual property from both sides of the table

By The Law Firm of Williams Mullen and The University of Virginia Patent Foundation



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Introduction

Williams Mullen is one of the largest law firms headquartered in Virginia. It represents numerous businesses and individuals in the licensing and commercialization of new technologies. The not-for-profit University of Virginia Patent Foundation protects and licenses inventions and other intellectual property created by the faculty and staff at UVA. Williams Mullen and the Patent Foundation often represent different sides of the bargaining table when it comes to licensing intellectual property. This *Technology Licensing Guidebook* is a collaborative effort between the Patent Foundation and Williams Mullen to provide a basic overview to those not previously involved in licensing — what issues each party considers important during license negotiations, how those issues are balanced, and how the agreed-upon balance is memorialized in a written contract. We hope that by having authors from both sides of the negotiating table we can provide you with an introduction to the subject that is not slanted towards the interests of either party.

A Word of Caution

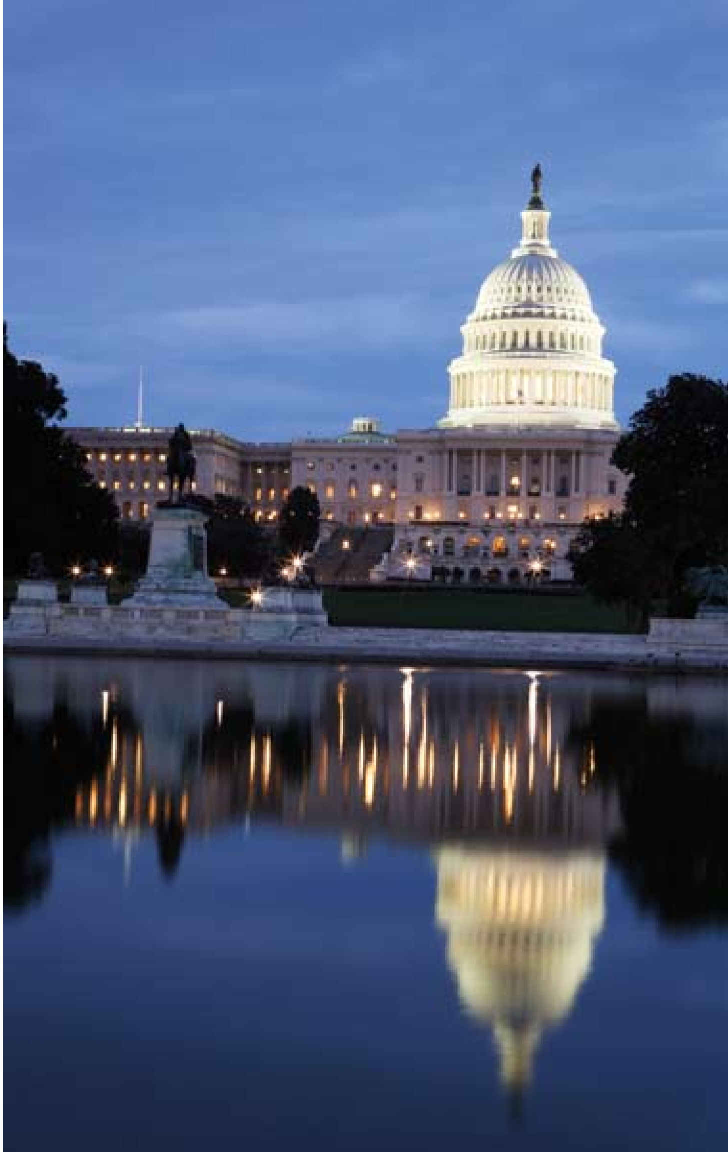
Please keep in mind that each technology is different, each market is different, and each licensor and licensee is different. As a result, there really is no "standard" license agreement. This *Guidebook* introduces some basic licensing concepts, but there are many other issues that can come into play in a license agreement. There are also many trade-offs made between the parties that can differ significantly from what is presented here. For these and other reasons, this *Guidebook* is not intended to be specific business or legal advice. We urge you to seek the advice of an experienced attorney before incorporating elements of this *Guidebook* into an actual license agreement.

As these terms are used in this booklet, the **licensor** grants a license to the **licensee**.

Intellectual Property Basics

Because we will be discussing the licensing of intellectual property (IP), you may find it helpful to read this brief overview. If you are already familiar with IP, you may find this section helps clarify your thinking.

Intellectual property is created by human imagination, ingenuity, experience, and intellect. The U.S. Constitution provides that Congress can pass laws to "promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." This period of exclusive right allows people and companies to profit from their creations. This not only encourages authors and inventors to be creative, but also encourages companies to invest in new business opportunities and encourages investors to put their money behind new products and services. As our economy continues to become more knowledge-based and technology-based, IP has become increasingly important to businesses.



There are four general types of IP:

Patents. A government grants a patent in return for a full disclosure of the invention to the public. Patents give the patent owner the right to keep others from practicing an invention for a period of years. This provides a profit motive for the development of new products. Once an invention is fully disclosed in a patent, others will see it and improve it, thus moving technology and industry forward.

To obtain a U.S. patent, an invention must be useful, must not have been described in writing more than a year before you apply for the patent, and must be unique enough that it wouldn't be obvious to someone skilled in the field of the invention. Most patents are "utility patents," which cover machines, articles of manufacture, chemical compounds or mixtures, and their uses. Patents can also be obtained on ornamental, non-functional designs (design patents), or on cultured plant varieties (plant patents).

Because patents are granted by governments, their reach ends at the country's border. To obtain international patent protection, a patent owner must file a patent application in each country under that country's patent laws. In the United States and most other countries, patents have a term of 20 years from the date of filing. It takes, on average, three to five years to obtain a patent. Unfortunately, once you have a patent, there are no "patent police." It is the patent owner who must police the marketplace for unauthorized users of the invention. Once such an "infringer" is identified, the patent owner can sue the infringer in federal court to collect money damages and seek a court order blocking further infringement.

Copyrights. Every artist, musician, performer, author, and computer programmer has a copyright in his or her creative work as soon as that work is reduced to a tangible medium, e.g., a sketch, a painting, a book, a computer disk, a music recording, or even handwritten notes. (If authorship occurs in the course of employment, the copyright is automatically owned by the employer.) A copyright gives the owner the exclusive right to

make and distribute copies. It also gives the owner the right to publicly perform the work (e.g., a screenplay), display the work (e.g., sculpture), make derivative works, and claim authorship of the work. It is advisable for copyright owners to mark their works with a copyright notice (e.g., © 2007 XYZ Corp.), to serve as a "no trespassing" sign. A copyright registration can be filed with the Copyright Office of the Library of Congress, which makes it possible to collect damages and attorneys' fees from an infringer.

The main distinction between copyrights and patents is that copyrights can only cover the non-functional features of authored works, while patents cover functional features of discoveries and inventions. This contrast is illustrated by computer software: a copyright can cover the literal wording of the computer code or program, whereas a patent can cover the use of that program for a specific function.

Trademarks are pictures, words, or even colors used to identify goods with the source of those goods. Trademark rights under state law arise from using a mark in commerce, and you often see the designation "TM" after a mark to indicate that the business is using the words or symbols as a trademark. Trademark rights under federal law may be obtained by filing a trademark registration application with the U.S. Patent and Trademark Office. Federally registered marks provide nationwide protection, and are indicated by "®."

Trade Secrets are just that: secrets. If a company only gives information to those who need to know, then competitors can't take advantage of it. For example, if your company has a way of making a product more cheaply, it might be best to just keep that method a secret. This isn't as easy as you might think: employment contracts, employee ID cards, escorting visitors at all times, and safes and vaults are all things companies use to protect their trade secrets. Unfortunately, even these measures aren't foolproof, and often a competitor can "reverse engineer" a product to uncover the secrets it contains. In such cases, patent protection may be a safer way to protect the technology's value.

The Benefits of Licensing

Benefits to the Licensor

Licensing IP is a widespread practice, for good reasons. An inventor or author isn't always in the position to make and sell their patented article or authored work themselves. Likewise, small companies sometimes lack the necessary financial, physical, or manpower resources to commercialize their IP. For example, a small company that has developed a new method for making gasoline from crude oil is very likely to license it to an established company, because building a refinery just isn't feasible for a small business. Another example of an organization that licenses its technology to others is a university. Because universities are not in the business of making or selling products, they license their inventions to others who have the capability to develop products.

But licensing isn't limited to such situations; even big companies license their inventions out. Today most large companies have "intellectual asset management" (IAM) departments, which study the company's intellectual assets and license idle IP to others. Some big companies make a great deal of money from their IAM programs. And even if a company can make and sell a product, it may out-license the technology anyway, e.g., it may license an Asian company and a European company to make and sell the product in their markets, while preserving the U.S. market for itself.

Benefits to the Licensee

There are good reasons why companies license IP in from others. Some companies don't have the financial, physical or manpower resources to carry out discovery research. By taking a license from others, these organizations do not need to support a research and development department, yet still can enjoy a stream of improved new products. Big companies with huge resources in-license technologies, too. Sometimes the company has a large sales force in a very narrow field, and by searching for and licensing similar inventions made by others, it can maximize its profits in that narrow field. Similarly, it may have a strong market presence in a particular region, and wants to earn profits by marketing an invention that has been successful elsewhere. Or, a big company may in-license simply because the technology is just better than what it has been able to invent itself.

Common Goals, Differing Perspectives

At a fundamental level, both parties to a license have strong common objectives that are fairly simple. They both want:

1. To have a clear context and framework for agreement
2. To enable the licensee to make, use, and sell the product
3. To see the product reach the marketplace as soon as possible
4. To fairly allocate income from the technology's success
5. To define procedures for managing the license
6. To have strong IP protection
7. To have the ability to resolve disputes fairly and quickly
8. To get out of the deal if it just isn't working out
9. To stop infringers
10. To fairly allocate liability

While the goals are common, the licensor and the licensee have different perspectives and ideas as to how to achieve them, as shown in the table on the next page.

Table 1: Common Goals, Differing Perspectives

Goal 1
To have a clear context and framework for agreement

Licensor and **Licensee** want to use language with care, so the parties will clearly understand their rights and obligations

Goal 2
To enable the licensee to make, use, and sell the product

Licensor wants to limit the license to cover products the licensee will actually make

Licensee wants a broad license to block competitors and broaden opportunities

Goal 3
To see the product reach the marketplace as soon as possible

Licensor wants licensee to apply 100% effort to this product

Licensee wants to prioritize this product relative to other products

Goal 4
To fairly allocate income from the technology's success

Licensor wants strong royalties and other fees

Licensee wants to limit royalties and fees to maximize profit

Goal 5
To define procedures for managing the license

Licensor and **Licensee** want predictability and to avoid legal pitfalls

Goal 6
To have strong IP protection

Licensor wants protection world-wide, at licensee's expense

Licensee wants to manage costs by limiting protection to intended markets

Goal 7
To have the ability to resolve disputes fairly and quickly

Licensor and **Licensee** want any suit or arbitration resolved in its own backyard

Goal 8
To get out of the deal if it just isn't working out

Licensor wants to terminate if the licensee isn't performing

Licensee wants to terminate if the product fails, or if other opportunities are better

Goal 9
To stop infringers

Licensor wants all infringers stopped, at licensee's expense

Licensee wants to sue only if the infringement is financially significant

Goal 10
To fairly allocate liability

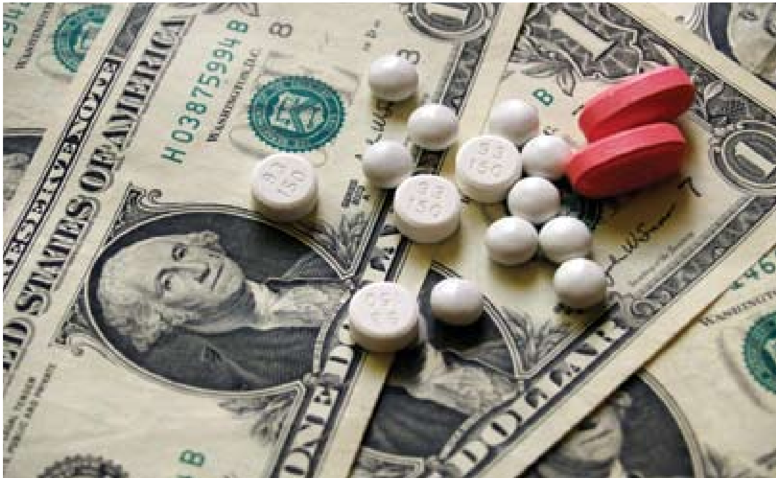
Licensor wants protection against lawsuits due to product defects

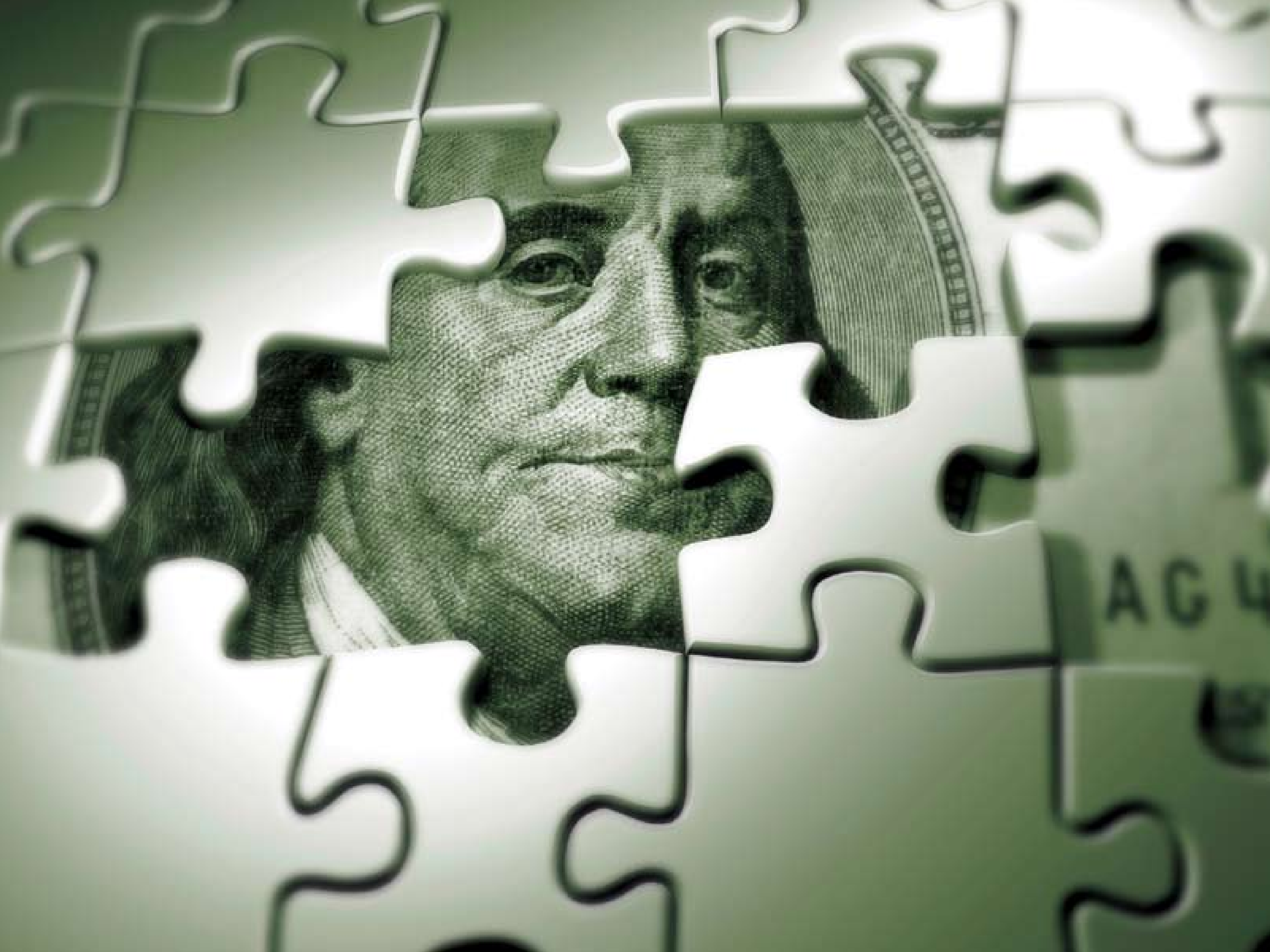
Licensee wants to limit its liability to licensor and minimize insurance costs

The differing perspectives of the licensor and licensee bear further elaboration.

Goal 1. Both licensor and licensee want **to have a clear context and framework** that defines their new relationship. This means they have to use care as they negotiate terms to make sure they are talking about the same things. It would be unfortunate to reach agreement, only to later realize each side thought the other was talking about a different patent! They also want to avoid misunderstandings about how royalties will be calculated. The common way to avoid such problems is to agree early on about these basic issues, and then when someone later refers to "the patent" or "product sales" everyone knows they are on the same page.

Goal 2. Both licensor and licensee want **to enable the licensee to make, use, and sell the product**, but a licensor usually wants to tailor that right to match the products the licensee actually plans to make and sell. For example, if the licensee wants to develop a specific drug for treating lung cancer, then the licensor might prefer to license other, similar drugs covered by the patent to another company. Or, the licensor may wish to license the same drug to another company that wants to develop it for treating breast cancer; or, limit the licensee's rights to the U.S., saving the foreign markets for one or more other company (ies). The licensee, on the other hand, often wants to get the broadest rights possible. It may want to have the right to sell the drug for all medical uses, since the cost of FDA approval for a lung cancer drug will be formidable, but once approved, FDA approval for the same drug for breast cancer should be far cheaper; and the same factory can produce the drug for both uses. The licensee may want to have the right to make and sell the drug around the world, even though it doesn't yet have the capability to do so, because the U.S. represents only about half of the world market for drugs.

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Goal 3. Both the licensor and the licensee want **to see the product reach the marketplace as soon as possible**, but there are often differing views as to what "as soon as possible" means. For the licensor, it ideally means that the licensee will apply all available resources and diligence to developing and marketing the product. The licensee, however, often sees "as soon as possible" to mean as soon as possible relative to the company's other business priorities. So, for example, a licensee may want to allocate resources among the licensed software and other software in development, or shift top priority to a more promising product opportunity if one arises.

Goal 4. Both the licensor and the licensee want **to fairly allocate income from the technology's success** in the marketplace as new products are introduced. However, the licensor's interests are quite different from the licensee's. The licensor may want to get some payments as soon as possible, well before the product is sold. There are many types of pre-sales payments that a licensor can ask for, and some are quite traditional. The licensor also wants to get a good royalty return from sales once the product reaches the marketplace. Royalties on sales vary greatly, depending on the field of the technology, its degree of improved value in the marketplace compared with existing technologies, and its stage of commercial development. For example, a paint formulation with only modestly better properties than existing paints might earn only a 1% royalty; a new drug for treating allergies might earn a 10% royalty; and a ready-for-distribution computer program might earn a 75% royalty!

The licensee, however, sees the world quite differently. For the licensee, pre-sales payments and royalties are expense items. Whatever the licensee has to pay to the licensor cuts directly into its profits, so a licensee generally wants to pay the licensor as modestly as possible. The licensee may also want to delay payment obligations as long as possible, since anything it pays the licensor before product sales begin will have to come from profits on other products, or from invested funds.

Goal 5. Both parties want **to define procedures for managing the license**, in order to provide for predictability and avoid unpleasant surprises. For example, a licensor wants to get regular sales reports and royalty payments from the licensee and to verify that the licensee is meeting its commitments to develop the licensed product. A licensee wants to get written notice of overdue payments or other problems that can lead to license termination and to have a grace period during which such problems can be corrected. Both parties want to know as soon as possible if there is an infringer and to be certain that sending required notices to a certain address by mail, fax, or e-mail will satisfy reporting requirements to the other party.

Goal 6. The licensor and licensee want **to have strong IP protection**, but the licensee usually pays the costs, which, in the case of patents, are expensive. So while a licensor may prefer highly aggressive efforts to patent the invention around the world to maximize the potential for the broadest possible sales and the best royalty income, a licensee may want to exercise economic restraint. A small or modest-sized company licensee is likely to be quite practical, wanting the strongest possible patent protection in large markets, adequate protection in modest markets, and no protection in small or remote markets that it is unlikely to enter. Large companies, on the other hand, usually want to patent very broadly, because they can afford to do so and because their market presence is more likely to reach worldwide.

Goal 7. Should there be a disagreement, the licensor and the licensee want **the ability to resolve disputes fairly and quickly**. But the licensor and the licensee may have different views as to the best approach. One party might prefer to use mediation or arbitration rather than resorting to the courts. Court proceedings are public, expensive, and protracted whereas mediation and arbitration are private, somewhat cheaper, and faster. However disputes are resolved, each party usually wants to have the proceedings in its own location, for convenience and in hope of a home court advantage.

Goal 8. The licensor and the licensee want the ability **to get out of the deal if it just isn't working out**. Each may also want to limit the other party's ability to terminate the license. A licensee usually wants to be able to terminate the license anytime, so that if it decides for business reasons to discontinue product development or sales, it can avoid fees and costs that may accrue after discontinuation. A licensee wants to limit the licensor's ability to terminate the license and then license the technology to a competitor. A licensor may want to terminate if the licensee is making no progress in developing the licensed product, or fails to make required payments.

Goal 9. Both parties want **to stop infringers**. Infringers eat into the market for the licensee's product, which cuts the licensee's profits, and limits the licensor's royalties. But the licensee usually incurs the cost of suing infringers. So, although a licensor may want to stop all infringers, a licensee may want to do a careful economic analysis before filing suit. An infringement suit is one of the most expensive kinds of lawsuits, so it may not make economic sense to sue a small infringer. Other, more cost-effective solutions may be available.

Goal 10. The licensor and the licensee want **to fairly allocate liability**. The licensor wants the licensee to pay any court costs or damages resulting from making, using, or selling the invention, since these activities are controlled solely by the licensee. Recognizing that suits for bodily injury, death, or property damage can result in very large damage awards, the licensor usually wants the licensee to carry insurance against such losses. But a licensee may want to limit these responsibilities or minimize insurance premiums.

Terms of a License

Once both parties have agreed to the bargain, the terms in a license agreement memorialize the bargain, ideally in unquestionably clear language. Because patent licenses can last for 20 years or more, and those for copyrights and trademarks for even longer, the individuals representing the licensor and the licensee may be long gone when a question about the bargain arises in the future. Clear contract language is needed for a long-term, collaborative relationship between the licensor and the licensee.

1. The **Recitals** (sometimes labeled Witnesseth) describe the background and the complimentary desires that led to the license. Frequently-used words and those used as shorthand for complex concepts are collected in the **Definitions** section.

2. The **Grant** describes what rights the licensee receives under the license. In the case of a patent, the grant section may give the licensee the right to make, use, sell, offer to sell, and import a product covered by the patent. The grant of copyright and trademark licenses will outline conditions of use, such as where they can be used and whether they can be modified.

3. The **Diligence** section of the license is included to ensure that the technology reaches the market as soon as reasonably possible. This is particularly important for federally-funded inventions which the law says must steadily progress towards commercialization. Diligence provisions usually set up specific dates and corresponding milestones that are reasonably achievable and must be reached by the licensee.

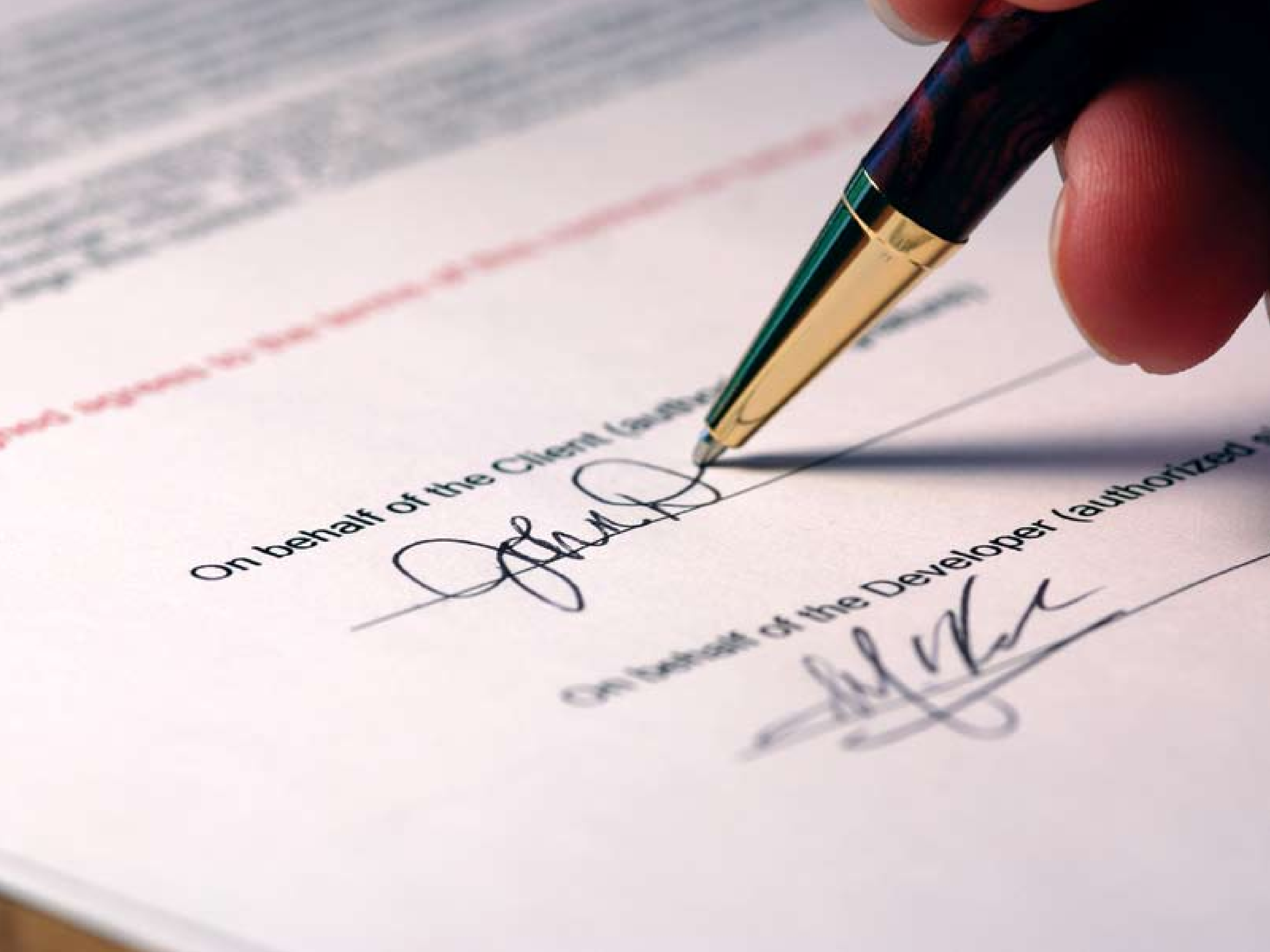
4. The **Royalty and Payment** section explains what payments the licensee owes the licensor and how payments will be calculated and made. Such payments may include up-front fees, running royalties, milestone fees, minimum annual royalties, sublicensing payments, or other specially negotiated fees.

5. Procedural sections such as **Books, Records, and Examination** list general reporting procedures the parties must follow. They describe the type of information each party must give to the other so that everyone is assured all obligations under the license are met.

6. The **Intellectual Property Protection** section describes the steps to be taken by each party to protect the IP, who will be responsible for controlling IP protection, and who will pay for it.

Table 2 Terms of a License

Goal	License Section
To have a clear context and framework for agreement	Recitals and Definitions
To enable the licensee to make, use, and sell the product	Grant
To see the product reach the marketplace as soon as possible	Diligence
To fairly allocate income from the technology's success	Royalty and Payment
To define procedures for managing the license	Books, Records and Examination and other procedural provisions
To have strong IP protection	Intellectual Property Protection
To have the ability to resolve disputes fairly and quickly	Dispute Resolution
To get out of the deal if it just isn't working out	Term and Termination
To stop infringers	Infringement
To fairly allocate liability	Insurance and Indemnification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7. The **Dispute Resolution** section states how the parties will seek to resolve any disagreements, where meetings to resolve disputes will be held, who will attend such meetings, and whether the parties will try mediation or arbitration before resorting to the courts.

8. The **Term and Termination** section states the reasons that a party may terminate the license. For example the licensee may terminate the license if the technology doesn't work or no longer meets the licensee's needs. The licensor may terminate if the licensee is not fulfilling its obligations to develop a product or pay royalties. The license also may terminate after a certain time (e.g., after 10 years or when the last patent expires).

9. A coordinated effort between the licensor and licensee may be needed to stop infringers. The **Infringement** section states which party will take the lead, which party will pay, and how any money damages will be divided.

10. In the event that a party is sued by a third party as a result of the license (e.g., for product liability or patent infringement) the **Insurance and Indemnification** section describes the amount and type of insurance that must be in place to protect the parties, which party will control any legal defense or settlement, and which party will ultimately be responsible.

A Very Simplified License

Unfortunately, "simple license agreement" is an oxymoron! Licenses contain many pages of single-spaced legal prose, some of which can be quite complex. However, it is possible to strip a generalized model license down to its bare bones, as shown on the following pages. Although very few licensors or licensees would ever sign such a license, it provides a relatively painless introduction to the style and format of most license agreements. The companies named in the simplified license are fictitious. Most importantly, the royalty rates, fees, and performance milestones shown are completely imaginary, and should not in any way be considered to suggest what fair terms would be for any particular real-world license. We have also added a bit of humor to balance out the dryness of the contract language.

License Agreement

For educational purposes only. The simplified terms of this license are not likely to be appropriate for actual licenses.

LICENSOR: Gobbler Locator, Inc., 2 Turkey Way, Fryville, VA 22901 (“GOBBLER”)

LICENSEE: Giblet & Dressing, LTD., 1127 Turkey Cavern Rd., Lynchbird, VA 24501 (“GIBLET”)

RECITALS:

1. Turkey hunting is a popular American avocation.
2. GOBBLER has (1) invented certain devices and methods to locate, attract, and count wild turkeys; (2) registered the Turkinator® trademark for use in the sale of such devices; and (3) developed certain trade secrets for their manufacture.
3. GIBLET has a successful line of hunting products and wants a license to GOBBLER’S inventions, trademark, and trade secrets in order to make and sell the devices invented by GOBBLER.
4. GOBBLER is willing to grant GIBLET such a license.

ARTICLE I – Definitions

1.1 **Affiliate** means any entity more than 50% owned by GIBLET.

1.2 **Effective Date** means the opening day of the first fall turkey season after this license is signed.

1.3 **Field** means wild turkey location, attraction, and census.

1.4 **Intellectual Property** (IP) means:

(a) The U.S. Patents and applications covering the Turkinator® technology:
U.S. Patent 6,443,803 (tunable turkey call)
U.S. Patent 4,965,953 (remote controlled turkey decoy)
U.S. Patent 4,904,221 (Mississippi turkey caller)
U.S. Patent 9,642,065 (Extensible game caller with removable mouthpiece and two diaphragm sounder)
U.S. Patent Application 2005/81,797 (surveillance system for animals)
U.S. Patent Application 2006/12,345 (remote controlled satellite triangulated infrared turkey sensor);

(b) Trademark Reg. No.: 78773443 covering the mark Turkinator®;

(c) Trade secrets of GOBBLER necessary to produce the Turkinator® and other Licensed Products.

1.5 **Licensed Product(s)** means the Turkinator® brand product and all products that are covered by, use, or are made or used with methods covered by the IP.

1.6 **Net Sales** means the money received from the sale of Licensed Products, less all discounts, credits, allowances, duties, transportation, insurance, taxes and other governmental charges paid. **Net Sales** in the case of non-cash sales means the fair market value of everything received by GIBLET for the Licensed Products.

1.7 **Sublicensing Revenue** means anything given to GIBLET by sublicensees for use of any of its rights hereunder.

1.8 **Territory** means all land within the U.S. south of the Mason-Dixon Line and east of the Mississippi.

ARTICLE II – Grant

2.1 **Grant**. GOBBLER grants to GIBLET an exclusive license to make, use, offer to sell, and sell Licensed Products in the Field, but only in the Territory. GOBBLER may sublicense any or all of these rights.

ARTICLE III – Diligence

GIBLET agrees to diligently develop, manufacture, and sell Licensed Products.

Performance Milestones: To demonstrate diligence, by the end of the second fall turkey season of this license, GIBLET will have sold 300 Licensed Products, and by the end of the fifth fall turkey season of this license, GIBLET's annual Net Sales will reach at least $10,000. GOBBLER can, but is not required to, terminate this license if these milestones are not met.

ARTICLE IV – Royalty and Payment

4.1 **License Fee**: As partial consideration for this license, GIBLET agrees to deliver to GOBBLER, upon signing this license, a License Fee of $100, six bottles of scotch, and a 27" turkey tail feather.

4.2 **Royalty**: In addition to the License Fee, GIBLET agrees to pay GOBBLER a running royalty of 3.14% of Net Sales, payable as provided below. Upon expiration of the last of the patents, the royalty will be reduced to 1.5%.

4.3 **Minimum Annual Royalty**: GIBLET agrees to pay GOBBLER no less than the following annual amounts, even if running royalties for that year are lower:

Year One	$75
Year Two	$150
Year Three and after	$400

4.4 **Milestone Payments**: GIBLET agrees to pay GOBBLER the following milestones:
(a) $100 on the construction and successful testing of the Turkinator prototype;
(b) $100 on the sale of the first Licensed Product;
(c) $250 upon publishing of the first Turkinator magazine or on-line advertisement.

4.5 **Sublicensing Revenue**: In addition, GIBLET agrees to pay to GOBBLER 42% of all Sublicensing Revenue if sublicensed before GIBLET has sold 2,500 Turkinators; 24% if sublicensed after GIBLET has sold 2,500 Turkinators; 12% if sublicensed after GIBLET has sold 4,586,351 Turkinators.

4.6 **Payment**: Payment of the royalties shall be made by GIBLET to GOBBLER quickly but in no event after January 31, April 30, July 31, and October 31 of each year for sales in the preceding calendar quarter. All other payments will be made within 10 days of becoming due. Each payment shall be accompanied by a written statement of how many Licensed Products were sold and the amount of royalties payable under this license. Overdue payments bear interest of 12% until paid.

ARTICLE V – Books, Records, and Examination

5.1 **Annual Reports**: GIBLET agrees to give an annual report to GOBBLER no later than 30 days after the end of each year of this license which shall include: the number of Licensed Products sold; gross sales; Net Sales; all deductions made in calculating Net Sales; and amounts of Sublicensing Revenue.

5.2 **Books**: GIBLET shall keep only one set of books of account.

5.3 **Records**: GIBLET agrees to keep all records on the Turkinator® technology and sales for 5 years, or until 8 minutes and 19 seconds after the sun burns out, whichever occurs first.

5.4 **Examination**: GOBBLER can look at GIBLET's books and records during normal business hours on reasonable notice, as long as GOBBLER brings lunch for everyone.

ARTICLE VI – Intellectual Property Protection and Infringement

6.1 GOBBLER agrees to keep GIBLET fully informed about patent prosecution and IP protection efforts, and GIBLET agrees to pay all costs of those efforts.

6.2 In the event that GIBLET decides not to continue to pay for any part of the protection of the IP, GIBLET will let GOBBLER know so GOBBLER can take over payments. GIBLET's right under this license to practice that part of the IP shall immediately terminate.

6.3 Each Party shall promptly rat out any suspected infringers or others misusing the IP. GIBLET has the first right to sue their pants off, and after deducting its costs, will pay GOBBLER royalties on the infringer's sales. If GIBLET doesn't, GOBBLER can sue, and keep all the money.

6.4 If GIBLET is sued for infringing IP of others, GOBBLER will not be liable.

ARTICLE VII – Dispute Resolution

All disputes concerning the interpretation or application of this license shall be discussed by GOBBLER and GIBLET over a turkey dinner in Fryville, VA. Any disputes which are not resolved by agreement shall be decided by the pull of the dried wishbone from a turkey breast.

ARTICLE VIII – Term and Termination

8.1 This license starts on the Effective Date and
(a) as to the Patents, ends with the last patent to expire;
(b) as to the Trademark, ends 30 years from the Effective Date;
(c) as to the trade secrets, ends 30 years from the Effective Date.

8.2 GOBBLER may terminate if GIBLET fails to meet its obligations under this license unless GIBLET cures within 30 days.

8.3 GIBLET may terminate if it decides to leave the turkey hunting business.

ARTICLE IX – Representations and Warranties

9.1 GOBBLER represents and warrants that it owns the IP and has the right to grant this license.

9.2 EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS LICENSE, GOBBLER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, INCLUDING A WARRANTY OF SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

9.3 The IP is licensed “AS IS” — what you see is what you get.

ARTICLE X – Insurance and Idemnification

10.1 If GOBBLER gets sued by a third party for any action by GIBLET under this agreement, GIBLET will pay GOBBLER’S lawyers’ fees and any money damages GOBBLER is ordered to pay.

10.2 For so long as GIBLET manufactures, uses, or sells any Licensed Product(s), GIBLET will have the following insurance: (i) worker’s compensation, (ii) $5 million of product liability insurance, and (iii) $5 million of general liability insurance. GOBBLER will be a named insured.

ARTICLE XI – General

11.1 This is the whole deal. Only the terms of this agreement matter, regardless of what anyone has said before.

11.2 This is a contract under Virginia law.

11.3 Any breach because of Acts of God is forgiven.

11.4 If one of us lets the other slide once, they don’t have to let them slide the next time.

11.5 If a clause is illegal, we will ignore the clause.

11.6 GIBLET will put the appropriate patent numbers on the Licensed Products.

____________________	____________________
GOBBLER LICENSOR	GIBLET LICENSEE
____________________	____________________
DATE	DATE

How to Read a License

DO read the license in pieces (no greater than 20% at a time). Take a long break between pieces to give your mind time to refocus. Realize that the most important language is in the first third of the document, so be sure to focus on and reread this portion.

DON'T read the entire document at one sitting, especially while reclining (unless you suffer from insomnia).

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