LICENSING INTERNATIONAL

Negotiating Strategies for Licensees and Licensors

Steven W. Heller
Alita Friedman

Coursework in Licensing Studies



STEVEN W. HELLER, ESQ.

- **Attorney with 25+ Years - Trademarks and Licensing**
- **Business Law Professor - Graduate and Undergraduate**
- **Founder of Licensing Agency The Brand Liaison**

THE BRAND LIAISON

Premier Licensing Agency
Represent Both Brands (Licensors) and Manufacturers (Licensees)

Specialty Areas:

- Fashion
- Lifestyle
- Children's
- Sports
- Art/Photography
- Celebrities

INTERNATIONAL LICENSING AWARDS 2017 NOMINEE

CAREER HIGHLIGHTS/LESSONS:

- Ninja Turtles – 1987! When it was a comic book and a figurine.
- Sesame Street-Kmart Deal – Opening Order $100 Mill
- Worldwide Licensing for Gloria Vanderbilt, Gitano, Nautica; Licensing Deals with Disney, MGM, Warner Brothers, NFL, MLB, NBA, NCAA, and FIFA.
- Last Year – NFL Rights for Apparel/Accessories for China/Asia
- Celebrities – Daymond John, Kevin James, Catherine Zeta Jones, David Tutera



123 SESAME STREET

Disney

NFL

NAUTICA



ALITA FRIEDMAN

- Founder/CEO Alita's Brand Bar
- A former C.P.A. and Chief Brand Officer with over 30 years of experience
- Adjunct M.B.A. Professor at Lehigh University
- Women In Toys Executive Board Secretary & Treasurer
- Wonder Woman of the Year Award Winner

EST. 2014

ALITA'S BRAND BAR

BRANDING • LICENSING
PROMOTIONS

A Boutique Agency creating revenue streams for brands.

Represents licensees and licensors in:

- Gaming
- Entertainment
- Consumer Products and Services

***FUN FACT**: Alita collaborated with Gene Simmons from the band KISS to co brand a line of merchandise and they first met here at the Licensing Show!*

WOMEN IN TOYS
TOYS · LICENSING · ENTERTAINMENT

My Singing Monsters

UGLYDOLL™

InkTober™

Crawford the Cat

Lufthansa

WE ARE GLAD YOU ARE HERE!

Why are you here?

Licensors?

Licensees?

WE ARE GLAD YOU ARE HERE!

Everyone wants to get the most out of a license and negotiate the best deal.

Our goals for today:

- Provide a handy reference term sheet to use for negotiating licensing agreements
- Offer tools/insights to tackle common deal hurdles and provide solutions
- Explore payment structures to maximize your revenues (for licensors) and minimize exposure (for licensees)

YOU MUST HAVE AT LEAST ONE COMPELLING DRIVER!

GET READY FOR LICENSING:

- Are you ready to license your brand?
- How will you know?

An agent will help assess.

COMPELLING DRIVER (CONSIDER THESE FACTORS):

- Brand Awareness
- Sales History/Growth
- Social Media Fan Base
- Unique Offering
- Patent
- Brand Differentiation
- Unique Marketing Activities

What is your most compelling driver?

LAS VEGAS LICENSING EXPO 2019

LICENSING INTERNATIONAL

LICENSING
Working with Agents

AGENT REPRESENTATION STRUCTURE



- Services to be Performed
  - Introductions
  - Negotiations
  - Management of Licensing
  - Royalty Collection
- How Compensated
  - Contingency/Performance Based
  - Monthly Fee / Retainer
- Commissions on Licensing Performance
  - ✓ % of Advance
  - ✓ % Royalty payments
  - ✓ % of Guarantee

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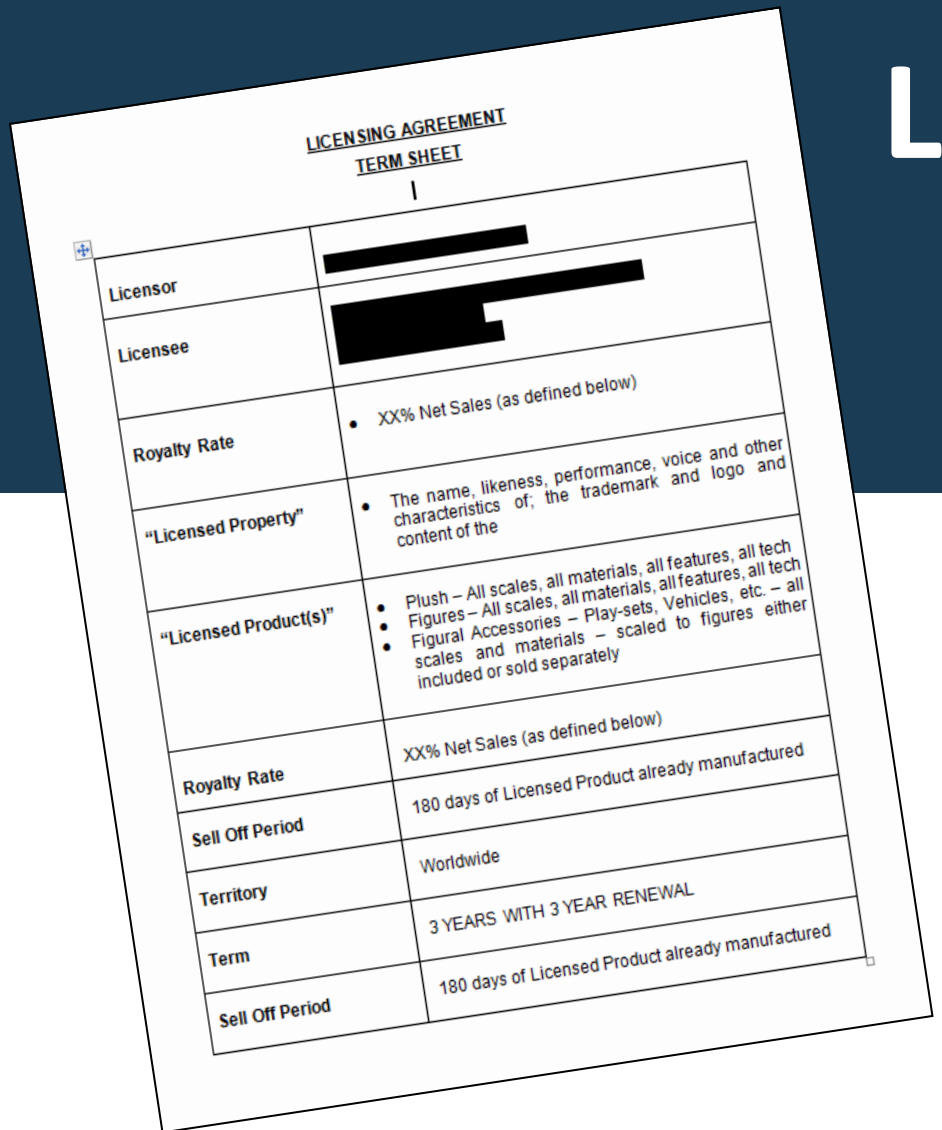
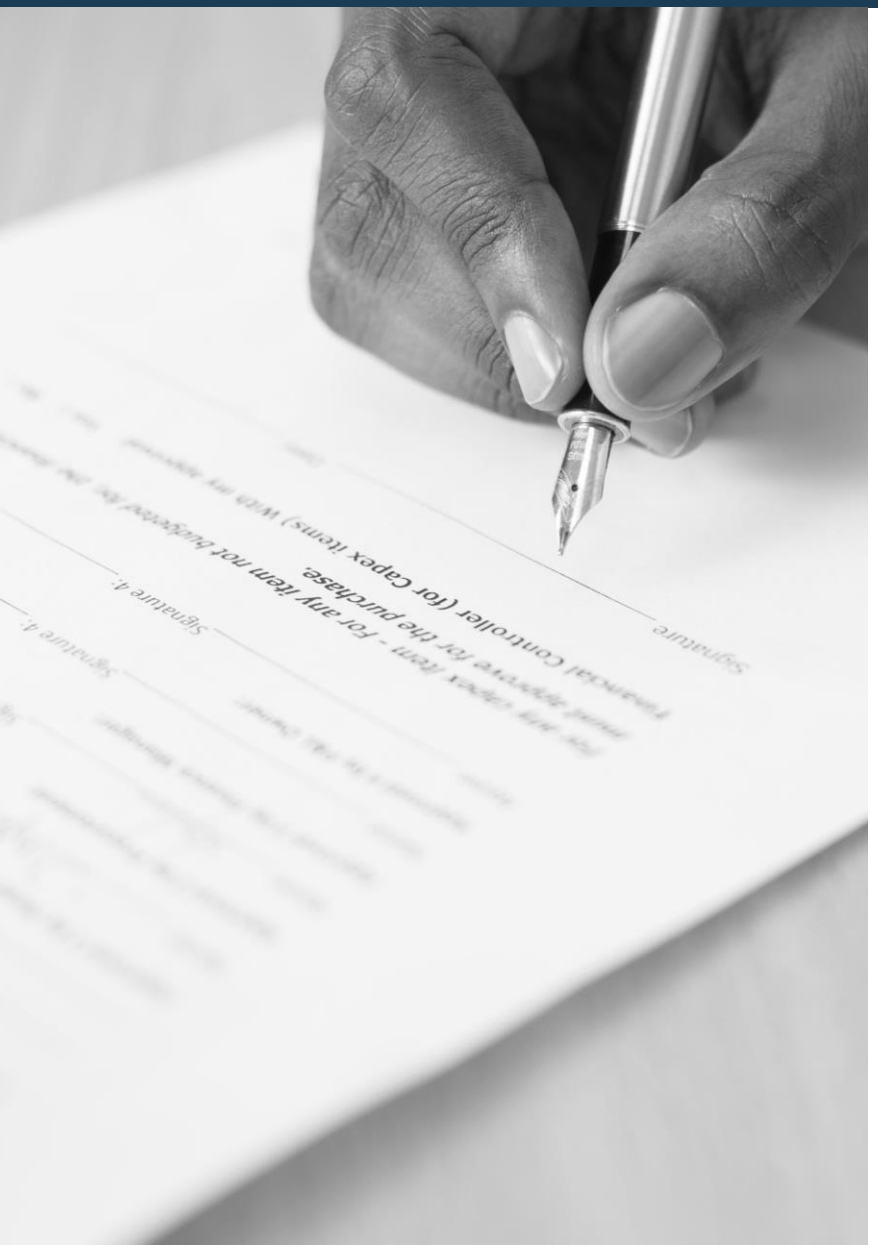
LICENSE AGREEMENTS DEAL TERMS



LICENSING AGREEMENT
TERM SHEET

Licensor	[redacted]
Licensee	[redacted]
Royalty Rate	• XX% Net Sales (as defined below)
"Licensed Property"	• The name, likeness, performance, voice and other characteristics of; the trademark and logo and content of the
"Licensed Product(s)"	• Plush – All scales, all materials, all features, all tech • Figures – All scales, all materials, all features, all tech • Figural Accessories – Play-sets, Vehicles, etc. – all scales and materials – scaled to figures either included or sold separately
Royalty Rate	XX% Net Sales (as defined below)
Sell Off Period	180 days of Licensed Product already manufactured
Territory	Worldwide
Term	3 YEARS WITH 3 YEAR RENEWAL
Sell Off Period	180 days of Licensed Product already manufactured

KEY DEAL TERMS: RIGHTS



- Identify the Parties
- What is the Licensed Property?
- Licensed Product Categories
- Exclusivity
- Territory
- Channels of Distribution
- Term (initial, extensions, renewal, sell-off period)

KEY DEAL TERMS: MONEY



- Financial Deal Terms
  - ✓ Royalty Rate / Tiered Royalty
  - ✓ Advance
  - ✓ Minimum Guarantees &
  - ✓ Min. Performance Thresholds
  - ✓ “Net Sales” Definition
- Royalty – Rate and how calculated (Wholesale/Retail)
- Reporting/Audits/Inspection

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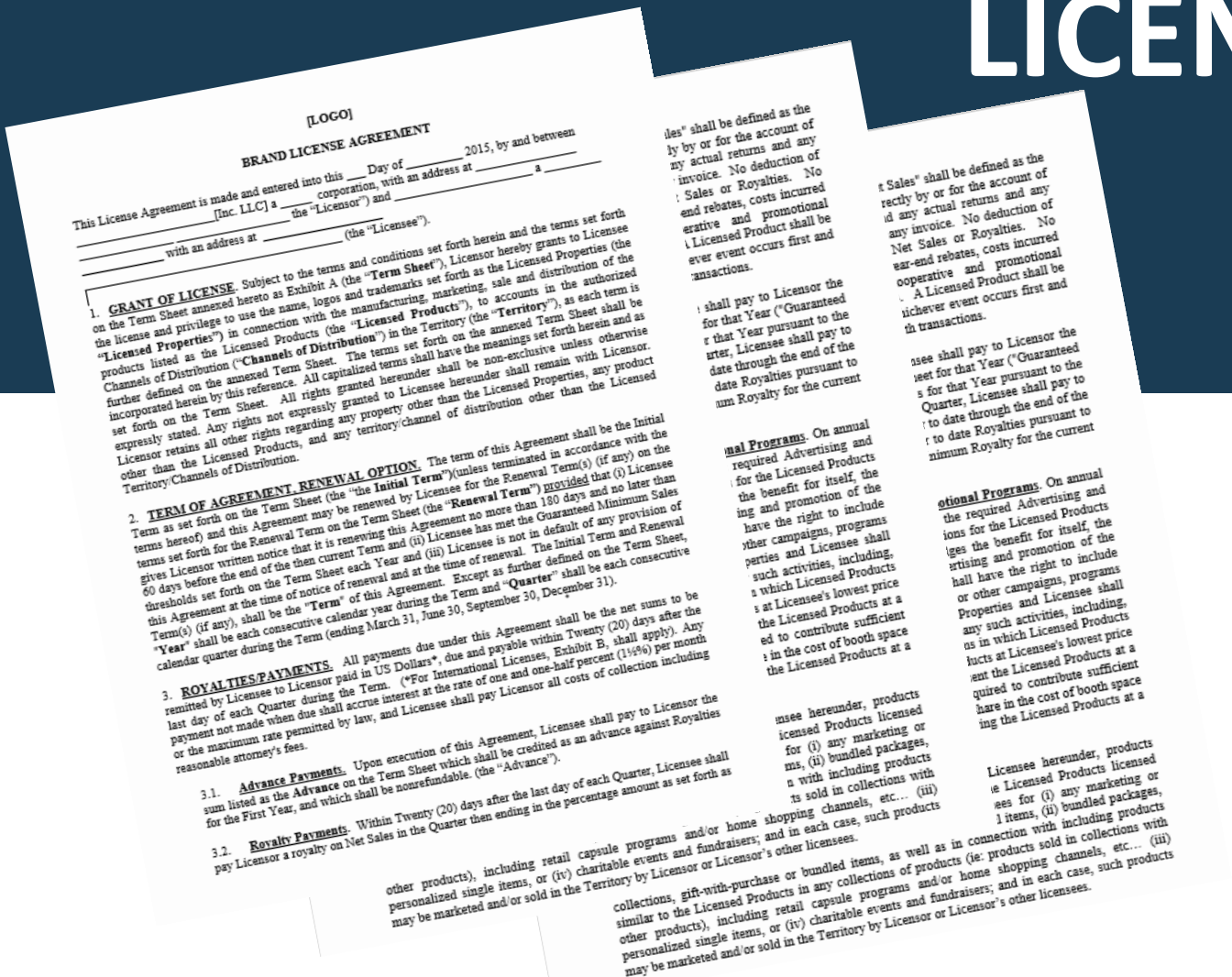
LICENSING INTERNATIONAL

LICENSE AGREEMENTS LONG FORM



[LOGO]

BRAND LICENSE AGREEMENT

This License Agreement is made and entered into this ___ Day of _____ 2015, by and between _____ [Inc. LLC] a _____ corporation, with an address at _____ a _____ _____ with an address at _____ (the "Licensee").

1. **GRANT OF LICENSE**. Subject to the terms and conditions set forth herein and the terms set forth on the Term Sheet annexed hereto as Exhibit A (the "**Term Sheet**"), Licensor hereby grants to Licensee the license and privilege to use the name, logos and trademarks set forth as the Licensed Properties (the "**Licensed Properties**") in connection with the manufacturing, marketing, sale and distribution of the products listed as the Licensed Products (the "**Licensed Products**"), to accounts in the authorized Channels of Distribution ("**Channels of Distribution**") in the Territory (the "**Territory**"), as each term is further defined on the annexed Term Sheet. The terms set forth on the annexed Term Sheet shall be incorporated herein by this reference. All capitalized terms shall have the meanings set forth herein and as set forth on the Term Sheet. All rights granted hereunder shall be non-exclusive unless otherwise expressly stated. Any rights not expressly granted to Licensee hereunder shall remain with Licensor. Licensor retains all other rights regarding any property other than the Licensed Properties, any product other than the Licensed Products, and any territory/channel of distribution other than the Licensed Territory/Channels of Distribution.

2. **TERM OF AGREEMENT, RENEWAL OPTION**. The term of this Agreement shall be the Initial Term as set forth on the Term Sheet (the "the **Initial Term**")(unless terminated in accordance with the terms hereof) and this Agreement may be renewed by Licensee for the Renewal Term(s) (if any) on the terms set forth for the Renewal Term on the Term Sheet (the "**Renewal Term**") provided that (i) Licensee gives Licensor written notice that it is renewing this Agreement no more than 180 days and no later than 60 days before the end of the then current Term and (ii) Licensee has met the Guaranteed Minimum Sales thresholds set forth on the Term Sheet each Year and (iii) Licensee is not in default of any provision of this Agreement at the time of notice of renewal and at the time of renewal. The Initial Term and Renewal Term(s) (if any), shall be the "**Term**" of this Agreement. Except as further defined on the Term Sheet, "**Year**" shall be each consecutive calendar year during the Term and "**Quarter**" shall be each consecutive calendar quarter during the Term (ending March 31, June 30, September 30, December 31).

3. **ROYALTIES/PAYMENTS**. All payments due under this Agreement shall be the net sums to be remitted by Licensee to Licensor paid in US Dollars*, due and payable within Twenty (20) days after the last day of each Quarter during the Term. (*For International Licenses, Exhibit B, shall apply). Any payment not made when due shall accrue interest at the rate of one and one-half percent (1½%) per month or the maximum rate permitted by law, and Licensee shall pay Licensor all costs of collection including reasonable attorney's fees.

3.1. **Advance Payments**. Upon execution of this Agreement, Licensee shall pay to Licensor the sum listed as the **Advance** on the Term Sheet which shall be credited as an advance against Royalties for the First Year, and which shall be nonrefundable. (the "Advance").

3.2. **Royalty Payments**. Within Twenty (20) days after the last day of each Quarter, Licensee shall pay Licensor a royalty on Net Sales in the Quarter then ending in the percentage amount as set forth

...les" shall be defined as the ...ly by or for the account of ...ny actual returns and any ... invoice. No deduction of ... Sales or Royalties. No ...end rebates, costs incurred ...erative and promotional ... Licensed Product shall be ...ever event occurs first and ...ransactions.

... shall pay to Licensor the ... for that Year ("Guaranteed ...r that Year pursuant to the ...arter, Licensee shall pay to ...date through the end of the ...date Royalties pursuant to ...um Royalty for the current

...**nal Programs**. On annual ... required Advertising and ... for the Licensed Products ... the benefit for itself, the ...ing and promotion of the ... have the right to include ...other campaigns, programs ...perties and Licensee shall ... such activities, including, ...n which Licensed Products ...s at Licensee's lowest price ... the Licensed Products at a ...ed to contribute sufficient ...e in the cost of booth space ... the Licensed Products at a

...nsee hereunder, products ...licensed Products licensed ... for (i) any marketing or ...ms, (ii) bundled packages, ...n with including products ...ts sold in collections with ... etc… (iii)

other products), including retail capsule programs and/or home shopping channels, etc… (iii) personalized single items, or (iv) charitable events and fundraisers; and in each case, such products may be marketed and/or sold in the Territory by Licensor or Licensor's other licensees.

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Licensee hereunder, products ...e Licensed Products licensed ...ees for (i) any marketing or ...l items, (ii) bundled packages, ... with including products ... collections with ... etc… (iii)

collections, gift-with-purchase or bundled items, as well as in connection with including products similar to the Licensed Products in any collections of products (ie: products sold in collections with other products), including retail capsule programs and/or home shopping channels, etc… (iii) personalized single items, or (iv) charitable events and fundraisers; and in each case, such products may be marketed and/or sold in the Territory by Licensor or Licensor's other licensees.

KEY LEGAL-ESE: PRODUCTS



- Quality and Approvals (Product and Packaging)
- Samples Submissions – 3 Stage
  - ✓ Concept Development (Boards/CADS)
  - ✓ Pre-Production Samples
  - ✓ Final Production
- Seconds/IR's
- Manufacturing Requirements
  - Compliant Factories
- Advertising and Marketing Requirements.
  - Annual Plan and Updated

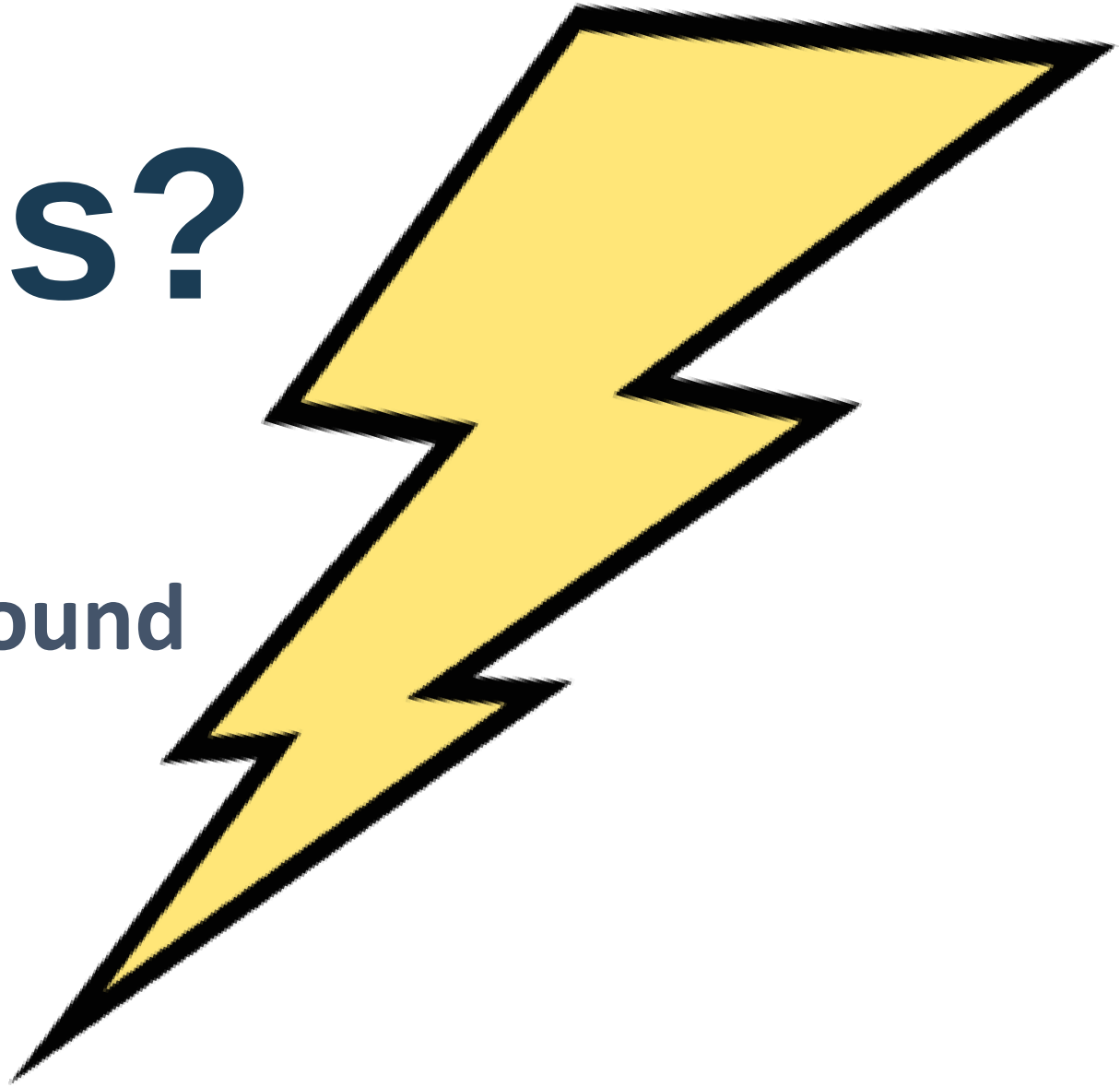
KEY LEGAL-ESE: IP AND TERMINATION



- IP Ownership Rights:
  - ✓ Trademark, Copyright, Patent, Trade Secrets
  - ✓ Improvements, Derivatives
- Termination
  - Breach, Cure Periods
  - Legal Compliance
  - Factory Compliance
  - Quality Assurance
- Warranties, Indemnification, Insurance
- Choice of Law and Jurisdiction
- Assignment, Notice
- Confidentiality

Questions?

Lightening Round



Contact Info

EST. 2014
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THE BRAND LIAISON

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THANK YOU!