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## Things to consider when licensing technology in India

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The key points to keep in mind when licensing technology in India are similar to those that will apply in any common law country. When seeking to license technology, the patentee company should be clear about certain key points, including:

- Ensuring that any proposed partner has the necessary capabilities for effective use and dissemination of the technology;
- Financial aspects such as the payment mode in upfront payments, milestone payments and royalty;
- Ownership of IP generated from the continuing development of the technology should be considered and clarified at the time of licensing; in fact, it is advisable to include clauses in this respect in the licence agreement;
- The right to sub-license – this is usually relevant in the context of exclusive licences. The accounting procedure should be discussed and made clear to ensure that fees and royalties can be monitored. Further, as a general rule sublicensing, or even licensing subsidiaries in the case of a non-exclusive license or sole License, is not advisable;
- Licensors should also assess whether the technology has special status or is subject to special protection e.g. (e.g. Plant Breeders Rights - protection for new varieties of plants); and

- Once an agreement has been completed and signed, it is usually advisable to register the licence at the Patent Office, though this is not currently widely practised. Although not an obligation, registration does give both licensor and licensee the added benefit of proof of ownership and legal undertaking in the event of infringement or ownership challenges.
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