

## LICENSING: A MARKETING BONANZA?

James B. Townsend, Kansas State University  
Margaret W. Maxfield, Kansas State University

### Abstract

Licensing, usually thought to be almost the exclusive province of very large, if not multinational, firms, has been found to be otherwise. The subject appears to be of considerable interest to smaller firms. The financial aspects of that interest suggest that marketers have in licensing a potential goldmine.

### Background

Since 1804 the United States has traded abroad (Wilkins, 1970). This trade has taken the forms of exporting (and importing), ownership abroad, and licensing. These three forms embrace the range of commercial possibilities. This paper addresses what we believe are some hitherto unrecognized and lucrative aspects of licensing.

Abundant literature deals with exporting. Why not? If we expect to pay OPEC's bill, we need as much foreign exchange as we can generate. Our exports reached almost \$200 billion during the past 12 months, according to the Department of Commerce and its Survey of Current Business. Not without reason has exporting been called the fastest growing segment of our economy. An activity of this dimension generates a vast body of relevant literature. Not far behind is the literature dealing with ownership abroad (or investment, if we may use these words interchangeably). This is understandable, since U.S. direct investment abroad--subsidiaries, joint ventures, mergers, acquisitions--apparently totalled \$149 billion by 1979.\*

Licensing by contrast has been the literary dwarf of the Big Three. It has enjoyed neither the extent nor the depth of coverage of the other two. Licensing can include manufacture, use, sale, patents, processes, skills, know-how, trade secrets, trademarks, copyrights, good will, and so on (Townsend, 1980). Here we define it as simply a contract to use some intellectual property like a patent.\*\* Despite that limitation we are able to estimate U.S. licensing revenues today at almost \$10 billion, hardly a shabby figure, but one admittedly overshadowed by other foreign trade numbers. Tanaka (Tanaka, 1979) quotes a UNIDO estimate that worldwide technology transfers were \$11 billion in 1975. The U.S. share was some 55 to 60 percent of the total. If the dollar growth in technology transfer continues, the 1975 figure could rise to \$40-44 billion by 1985. Our estimate is extrapolated from these figures. The numerical

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\*Seymour J. Rubin, "Developments in the Law and Institutions of International Operations," American Journal of International Law (July 1974), p. 475, puts the ratio of foreign to domestic investment in the period 1950-1970 at 7:5, and our total is deduced therefrom.

\*\*A patent itself is, of course, physical, and may cover processes, implements, products, improvements, and compositions of matter (Townsend, 1980). Also see Fugate, 1973.

disparities, the seeming complexity of the subject, and the apparent lack of appreciable physical tangibility of a license may have significantly affected the overall attention paid licensing in the literature.

This is not to say that licensing has not been subjected to literary scrutiny, since that would not be true. However, one looks in vain for any extensive treatment of the subject. Texts seem generally to fall into the "how to" category. One exception (Telesio, 1979) focuses on the why's of licensing and many of the policy implications that derive therefrom. Journal articles appear to suffer the same deficiency, although a few extol the virtues of licensing and do allude to some of its pitfalls. Legal journals reflect the plethora of intellectual challenge licensing has for lawyers, but there one stops. Having scoured these articles, one comes away frustrated.

It is easy to conclude from the abundance of antitrust cases involving licensing that the process is one peculiar to very large firms, if not to multinationals alone. To conclude that is even more frustrating, though, when one is confronted with the fact that smaller companies tend to license more frequently than do larger companies. One prime source (Rhodes, 1974) notes that during the period 1961-1973 companies of under \$50 million in sales contributed 1,218 licensing activities of the 2,542 total recorded. No comparable figures exist today, but the information is useful for comparative purposes. We took \$50 million as a "small" company, since other companies had sales volumes ranging from \$50 million to more than \$1 billion. If popular concept consigns licensing to the very large companies, how does that pair up with the fact that smaller companies are far more innovative than large companies are, as is consistently claimed by the Department of Commerce?

Who does license? What is licensed? Does a firm have to be of a certain size, or is there a certain sales figure that makes one decide to license? Is there a cutoff point of some kind below which one cannot or dare not license? Can one profile a licensor? Some authors (Yanzito and Cavusgil, 1979) believe that successful exporters (our italics) can be profiled, but we are dubious that this can be done with licensors. If licensing can be lucrative and offers such obvious advantages over exporting and ownership, why isn't licensing more widespread? We reasoned that it was not widespread, because if it were, we would read more and hear more about it than we do. We had many questions but few answers. Our very ignorance became a challenge. We suspected there was something out there, but what?

### Methodology

As a conjunctive service to the Kansas Department of Economic Development, we surveyed all Kansas exporters of record, omitting only those that were merely plants for larger corporations. For instance, any licensing by Parker-Hannefin would be done by the corporation proper, not by its local assembly plant. Our ignorance suggested that reasonable survey objectives would be to determine the current extent of licensing

activity and the degree of interest in licensing among Kansas exporters. We wondered what factors helped or hindered licensing; in which areas of the world our exporters licensed; how they started licensing; how profitable licensing was or could be; what future plans licensors had; what could be done to remove perceived obstacles to licensing; and so on. We designed a one-page questionnaire, franked and addressed on the back, which required only checkmarks in response to most of the short questions. Exporters were not required to identify themselves, and we declared we would make no attempt to identify anyone. We guaranteed anonymity even if identity was disclosed. This apparently rang a bell with many, because a surprising number identified themselves in order to request a copy of our findings, rather than request findings by separate letter. A cover letter detailed our belief in the importance of the survey to Kansas firms. To increase response, we sent a printed reminder postcard three days after the questionnaire.

#### Mailing

Our mailing totalled 388 firms, the entire frame, not a sample. We received 141 returns, for a 36% response rate. However, since our mailing and our returns showed almost identical profiles of product SIC groups and size of firms, we consider the returns fairly representative of all the frame of exporters.

Licensors provided 15% of the returns, nonlicensors 85%. We had expected a split of wide dimensions, but the percentage of licensors was higher than we had anticipated. Contrary to popular opinion, fully a third of the exports from the great Wheat State of Kansas are manufactured goods. Most licensors had been licensing for more than five years. Licensors were almost evenly divided between those who initiated licensing and those who were solicited, a fact we found quite significant (more about this later). Licensing incomes per exporter ranged up to \$1.2 million and totalled an estimated \$6.8 million.

#### Results

Licensors and nonlicensors showed very different profiles of annual sales, significant at the 5% level. Licensor returns were largest in our largest sales group, over \$5 million, while nonlicensors ranged downward from that. Dependence on firm size, measured by numbers of employees, was even more pronounced, significant at the 1% level. Licensors reported more employees than did nonlicensors. At this writing we can only speculate why licensing tends to be associated with larger size and larger sales. We did find no significant difference between the two groups with respect to product SIC groups. Reported classifications ranged from 20 through 39, and both groups reported 35, "Machinery Except Electrical", far more frequently than other SIC designations. We began to think that we had learned something. We felt confident that we knew more at the working level than had been reported in the literature available to us.

The nonlicensors startled us. In fact, we ought to dedicate this paper to them. About 54% of them indicated either that they would be licensing by 1985 or that their decision could go either way, causing us to regard this large group as potential licensors. Of those who answered the question, 29% evinced an interest in a licensing seminar, and 22% wanted to meet with an active licensor. The more information we obtained, the more important our subject seemed to us.

What really excited our interest were the replies that

gave the main obstacles that kept exporters from licensing. Only a quarter reported no interest, product not suitable, etc. Of those who did not yet license, 31% said they needed to learn more about licensing. Ah, ha! There were 12% who stated that they needed to make more contacts that could lead to licensing, and 28% needed to expand their domestic markets (or, at any rate, thought they needed to), and 8% felt a need to increase firm size or assets. Was there any value in removing obstacles, if possible?

We decided some excitement was in order when we realized that an average potential licensing income from among the "potential licensors" (the 54% of the nonlicensors noted above) was some \$183,000. For Kansas exporters generally then, taking 85% of the 388 firms as an estimate of the nonlicensors and estimating 50% would license, we saw a potential for licensing income among Kansas exporters of some \$30 million. That got our attention. The figure seems reasonable. U.S. licensing income is about 5% of exporting income, and the same appears to hold true here.

#### Conclusions and Implications

We put it all together and concluded that, while there is significant and profitable licensing activity among Kansas exporters, in nonlicensors there is the potential for even greater income. This potential is accompanied by an avowed interest in licensing. Most significant of all is the obvious and crying need for information about licensing.

If nonlicensors want to learn more about licensing, who is to teach them? Certainly the legal professionals--licensing attorneys--will not, since they prefer to deal with consummate licensors. The business professions are unaware of licensing. In the academic world, selling seems within the purview of marketing, and this is selling at its best, to an interested and confident audience. We see the need for basic information in the form of seminars, one on one meetings, booklets, and contacts as a natural function for marketers. Certainly that responsibility cannot logically be placed elsewhere.

If nothing else, the need for information is underlined by the 32% who stated that the need to expand their domestic markets had kept them out of licensing. That is no barrier at all, except one of misinformation. Licensing in foreign markets has no relationship to the firm's domestic market, since a contract for the use of a patent is hardly conditioned on domestic sales. Neither is licensing conditioned on firm size or assets, as another 8% believed. The thinking of both groups apparently reflects the popular belief that only large--or larger--firms can license. That is simply not true, and merely points up the need for education. If more argument is needed, our licensors supplied that: those who initiated licensing were equipped with knowledge, and those who were launched into licensing when they were solicited by someone wanting to license might have sought licensing actively had they possessed the knowledge. Those planning to expand into new areas certainly need information.

Nothing succeeds like success. The Department of Commerce continually bemoans the sluggishness of export activity among small firms. Certainly, not all are capable of exporting, and among those that are, the perceived barriers to exporting--capital outlays, tariff and nontariff barriers, after-sales service, an inability to satisfy a questionable foreign market--

may simply be overwhelming. Licensing avoids such unpleasantnesses. Moreover, licenses are not subject to nationalization or expropriation. With this in mind, as more firms learn about licensing, nonexporting firms are bound to recognize licensing as an attractive way to trade abroad.

The evangelists for licensing have to come from the ranks of the marketers, for there is no other feasible supply. Our state alone has a calculated potential of \$30 million in licensing income, and we are gearing to meet that demand. Our people would say, "\$30 million ain't hay, Brother!" and we agree. It's really the pot of gold. In our book, it is marketing's bonanza, but since we can't divine the future, insofar as the actions of the marketing fraternity are concerned, we have titled this paper appropriately, we think, "Licensing: A Marketing Bonanza?"

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