Dealing in data

KtMine's **David Jarczyk** analyses licensing data from 2000-2012 and spots the key IP trends

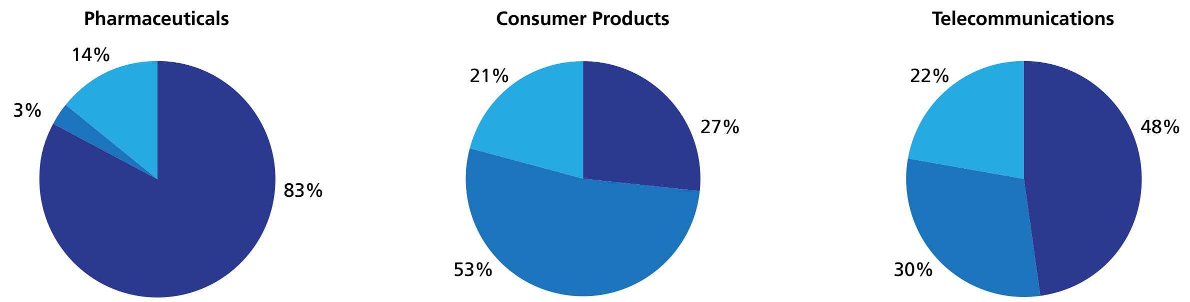
Finding useful IP information in the current public domain is a complex and daunting task. With IP representing over 80% of corporate value, priority should be given to transparency in the IP world. The following analysis contains unprecedented insight into IP deals, a critical aspect of building corporate value.

The analytics focus on IP deals in the pharmaceutical, software, consumer products, and telecommunications industries with the goal of identifying key licensing trends specific to each sector. Using ktMINE, license agreements ranging from 2000-2012, were analysed.[1] Specific attention was paid to the royalty payment structures, type of IP licensed, exclusivity, territory, and royalty rates.

Agreement type

The pharmaceutical and telecommunications industries show a trend to license-out manufacturing intangibles versus marketing intangibles. Specifically, 83% for pharmaceutical and 48% telecommunications, including patents, know-how, and technical information. Conversely, only 27% of consumer product agreements license the right to marketing intangibles, such as trademarks, trade names and similar marks.

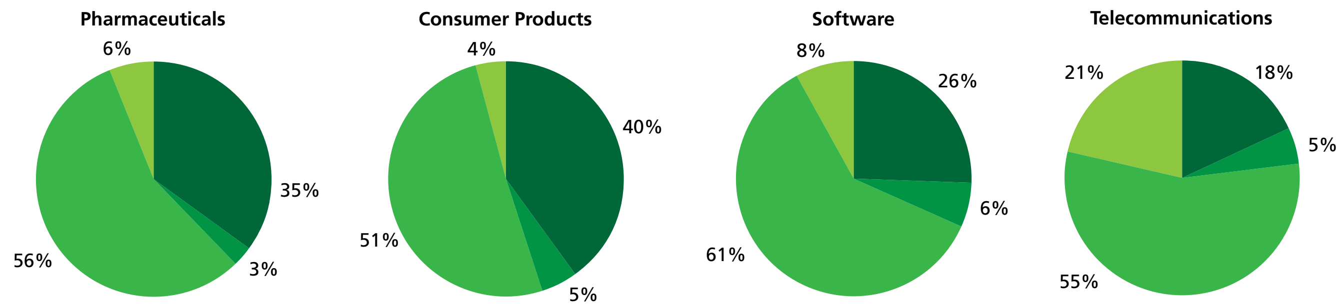
AGREEMENT TYPE
- Manufacturing IP
- Marketing IP
- Manufacturing & Marketing IP



Exclusivity

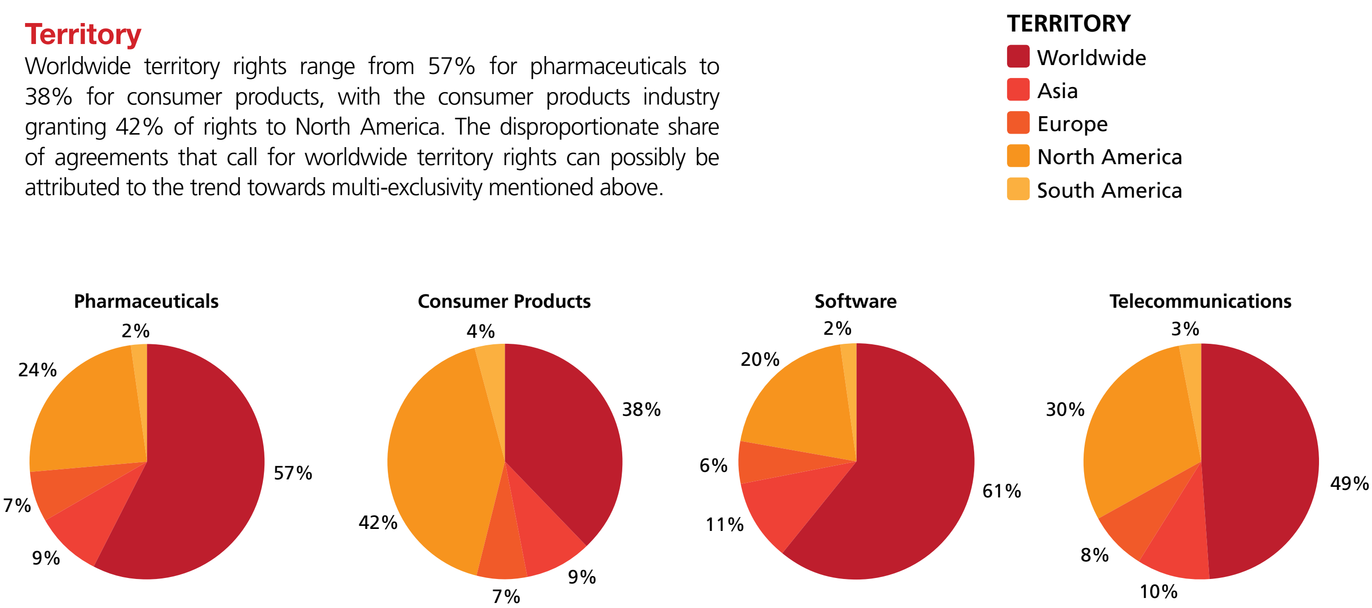
More than 50% of agreements in each industry provide multi-exclusive rights, indicating these deals can include exclusive terms in one territory or field of use, while including non-exclusive terms in another. There is a noted limit to exclusivity to certain markets, applications, geographies and field of use while allowing non-exclusive rights in other territories.

EXCLUSIVITY
- Exclusive
- Non-Exclusive
- Multi-Exclusive
- Not Reported



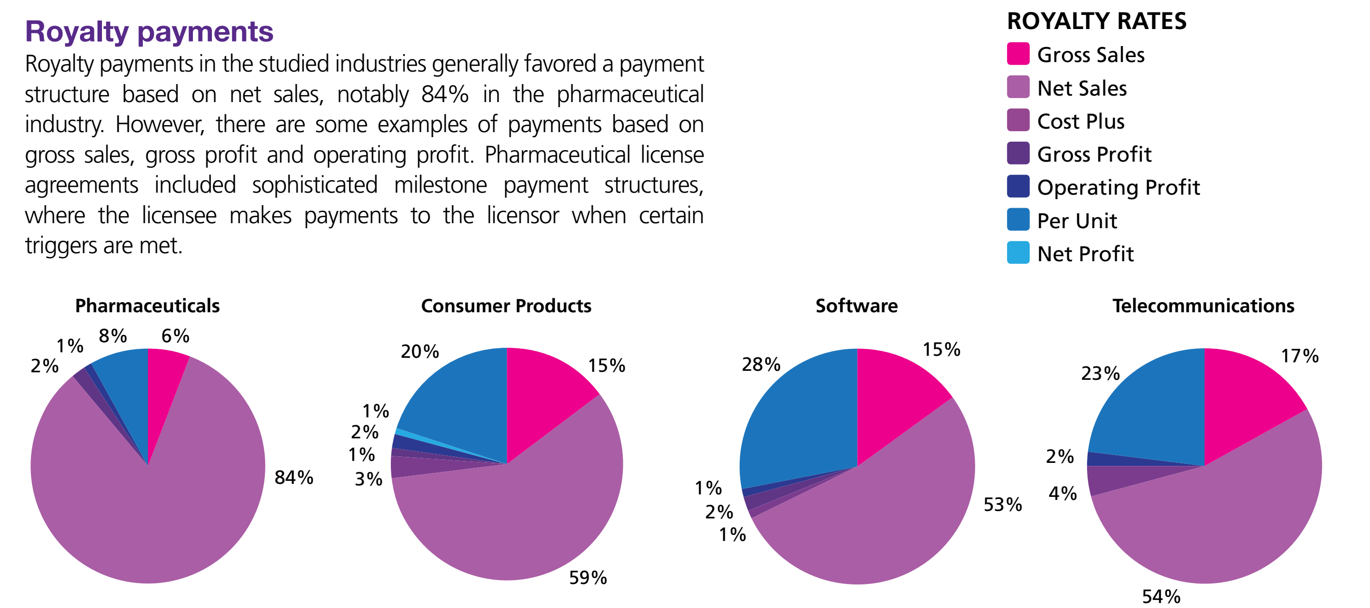
Territory

Worldwide territory rights range from 57% for pharmaceuticals to 38% for consumer products, with the consumer products industry granting 42% of rights to North America. The disproportionate share of agreements that call for worldwide territory rights can possibly be attributed to the trend towards multi-exclusivity mentioned above.



Royalty payments

Royalty payments in the studied industries generally favored a payment structure based on net sales, notably 84% in the pharmaceutical industry. However, there are some examples of payments based on gross sales, gross profit and operating profit. Pharmaceutical license agreements included sophisticated milestone payment structures, where the licensee makes payments to the licensor when certain triggers are met.



These analytics provide the first level of transparency available for IP deals. Arming oneself with high-level detail such as this should spark curiosity regarding the true make up of IP deals. As a driver of corporate value, great care must be taken when structuring IP deals. The trends presented should be utilised to uncover the more detailed questions analysts ought to consider when dealing in IP. Only through a thorough investigation of IP deals can one really begin to uncover the true value of IP.

Footnote

1. ktMINE is an IP information services firm providing global IP intelligence to valuation experts, licensing professionals, IP executives, IP damages experts, and consultants worldwide. ktMINE's solutions include IP Valuation, IP Deal Making and Commercialization and IP Monitoring.

Author

As president and CEO of ktMINE, David Jarczyk plays a pivotal role in managing the overall business operations and innovations of the firm. David is accredited with a CLP designation and holds an MBA and BS in Economics and Finance from DePaul University in Chicago Illinois.