Pergamon

International Business Review 9 (2000) 407–430

INTERNATIONAL BUSINESS REVIEW

www.elsevier.com/locate/ibusrev

Affiliate and non-affiliate intellectual property transactions in international business: an empirical overview of the UK and USA

Jeremy Clegg *, Adam R. Cross

Centre For International Business, Leeds University Business School, University of Leeds, Leeds LS2 9JT, UK

Abstract

This study investigates the pattern and growth of affiliate and non-affiliate international transactions in intellectual property (IP) for the USA and the UK. Using official data, it explores how far and in what ways the patterns of licensing and franchising activity accord with theoretical expectations. We find significant differences in the pattern of non-affiliate and affiliate transactions by country and region. While these can directly be linked to the extent of foreign direct investment (FDI) by the investing countries, it is also evident that the policy regime developments of the host countries, as well as the international (and regional) regime, have a bearing on the method by which intellectual property is exploited. Leading these are the degree of limitation in host market size, the degree of fragmentation of markets on a regional basis and, possibly, the excess transaction costs imposed on FDI by cultural and institutional barriers in certain countries.

Keywords: Intellectual property; Royalties; Fees; Franchising; Licensing; Affiliate versus non-affiliate transactions

1. Introduction

It has been estimated that the global payments of fees and royalties for the use of technology stood at $48 billion in 1995, and that in aggregate some four-fifths of these transactions were affiliate transactions that occurred between parents and

* Corresponding author. Tel.: +44-113-233-4512; fax: +44-113-233-4465.
E-mail address: ljc@lubs.leeds.ac.uk (J. Clegg).

0969-5931/00/$ - see front matter
PII: S0969-5931(00)00011-1

their affiliates within multinational enterprises (MNEs) (UNCTAD, 1997). For the USA, the annual compound growth rate of balance of payments in receipts of royalties and fees stood at 12.6% in the decade 1986–96. This growth exceeds that of foreign direct investment (FDI) or merchandise exports (Contractor, 1999). This signifies that the international transfer of intellectual property (IP) has been pulling ahead of other international transactions. Yet, little is known, and still less understood, about what accounts for this.

Of course, as levels of FDI rise within the world, it is to be expected that so too will the levels of affiliate-related transactions in intellectual property. However, firms also service foreign markets using non-affiliate licensing agreements with independent local firms.[1] As we shall see, non-affiliate transactions in total have also been rising in value. But, what shapes the use of the non-affiliate versus the affiliate route for the international transfer of intellectual property in different markets? In interpreting these transactions it is important not be transfixed by the relatively modest overall magnitude of non-affiliate trade. Rather, it is helpful to look at such country detail as is available. From this, it becomes evident that the importance of these transactions exhibits substantial variation. A review of the empirical evidence on the choice of international non-affiliate versus affiliate intellectual property transfers can tell us something about the common issues facing international licensors and franchisors in world markets. Accordingly, this paper investigates the usage of non-affiliate transfers of intangible assets relative to internal transactions, by host markets and region.

There is a high degree of statistical concentration in the geographical distribution of receipts linked to intellectual property. A few developed countries account for the bulk of the world's exports of technology and related services, to an extent that exceeds the concentration in trade in visible goods (merchandise trade) and even in FDI. Collectively, firms from the top five source countries accounted for 89.9% of all receipts in 1995 (UNCTAD, 1997). The USA dominates, with 56% of global receipts, followed by Japan (12.5%), the United Kingdom (11%), Germany (5.8%) and France (4.6%). This concentration is a reflection of the fact that the bulk of the world's technology and transferable firm-specific assets currently reside in the hands of firms from the leading developed countries.[2] In this study, we analyse receipts for the international sale of rights to intangible assets for the USA and the UK. In so doing, we capture 67% of the world's international receipts in respect of intellectual property.

The paper is organised as follows. First, we briefly review the literature on inter-

[1] Equivalent terms are 'unaffiliated' (usage of the US Department of Commerce) and 'unrelated' (the UK Office for National Statistics), referring to transactions between parties where the parent holds less than 10% of local equity, i.e., there is no FDI. These terms, employed by economic statisticians, equate with the designations of 'internal' and 'external' market transactions in the theory of international business.

[2] Although we are not concerned here with the balance of technology trade, it is interesting to note that only three countries record a surplus, namely the USA, the UK and France, while the Federal Republic of Germany has historically recorded a deficit.