

TRANSFER PRICING OF INTANGIBLES

Using ktMINE Royalty Rate Finder



MGMT 663 / ECON 663 / INTA 663

FEM Analysis Group

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Executive Summary

We conducted a transfer pricing analysis to determine an arm's length royalty payment for the license of technology and know-how from MEDCO to MED-IRE for use in the manufacture of the MEDTENT product for sales in EMEAA.

The Transfer Pricing Analysis

FEM Analysis group selected the Comparable Uncontrolled Transaction (CUT) method as the best method under the US Treasury Section 482 Regulations. We also selected net sales as the profit level indicator. The following summarizes our application of the CUT method.

- **Transaction:** The license of technology and knowhow from MEDCO to MED-IRE for use in the manufacture of the MEDSTENT product using the CUT method.
- **Application of Selected Method:** In the application of the CUT method, four (4) comparable licensing agreements were identified and the corresponding royalty rates were examined to construct an arm's length range of results that can be applied to the tested transaction.

Our first screening used eight filters, which included effective dates between January 1st 2012 to December 31st 2017. We also filtered based on Agreement type, Industry, Exclusivity, Territory- Worldwide and Territory- Not USA, Royalty Rates and Related Party. These filters resulted in 74 agreements.

Our second filtering of these 74 agreements was based on the similarity of names of Licensor and Licensee and duplications of agreements. This resulted in the rejection of 32 agreements. We further rejected 13 companies, which were non-firms (Universities, Individuals and Government Agencies), as seen in Table 1.

The third screening we applied was based on the Profit Level Indicator (PLI) of the Licensee ranging from 19% - 33% EBIT or Return or Net Sales of the tested party. This resulted in 4 more agreements being rejected. We also rejected firms where the details of agreements substantially differed from the MEDCO and MED-IRE agreement.

- Sixteen of the agreements above were rejected because of the tested parties' EBIT was out of range.
- Four agreements were further rejected because Licensor and Licensee had entered into a collaborative cost sharing agreement to conduct R&D. This presented us with different facts and circumstances, which would not be applicable to MEDCO and MED-IRE.
- One agreement, which also allowed Licensee to sell within the USA, was rejected.


Table 1 shows all rejected agreements in orange colour.

Our search was narrowed down to four agreements after applying these filters. These are shown in Table 2. For these four, we were unable to find the EBIT or ROS data on Capital IQ, for which reason we were unable to reject them.

Recommended Arm's Length Consideration: Based on the application of the CUT method and the net sales profit level indicator, a full range of royalty rates for the license of comparable technology is from 5 percent to 7 percent of net sales. The interquartile range is from 5 percent to 6.25 percent, with a median of 5.63 percent. Any royalty

that falls within this intercompany range is consistent with the arm’s length standard and should thus be applied to the license of technology and know-how from MEDCO to MED-IRE for use in the manufacture of the product. Our team therefore recommends the arm’s length consideration for the license of MEDCO’s intangibles to MED-IRE should be 5.63%, which is the median of the interquartile range of the net sales PLI.

Figure 1 Screening Criteria



Search CenterResults SummaryAgreement ViewAnalysis Center

(Available export balance: 100)

Search Filters

Agreement ID new

Full Text

Document Summary

Fields new

Agreement Type

SIC Code

Industry

Royalty Rate

Effective Date

Exclusivity

Verbatim Territory

Normalized Territory

Economic Region new

Licensors

Licensee

Filing Company

Related Party new

Patent Number new

Patent CPC new

Patent IPC new

Search Summary

New SearchSave SearchExport SearchExport Agreements

See Results →

Operator	#	Filter	Criteria	Step Count	Result Count
	1	Effective Date Filter	BETWEEN 1/1/2012 AND 12/31/2017	1514	1514
			Edit Delete		
AND	2	Agreement Type	MANUFACTURING/PROCESS INTANGIBLE	8597	717
			Edit Delete		
AND	3	Exclusivity	EXCLUSIVE, MULTI-EXCLUSIVITY	13990	622
			Edit Delete		
AND	4	Normalized Territory	WORLDWIDE	6588	358
			Edit Delete		
AND NOT	5	Normalized Territory	UNITED STATES	3732	340
			Edit Delete		
AND	6	Industry	HEALTHCARE: PRODUCTS AND SUPPLIES	2682	104
			Edit Delete		
AND	7	Royalty Rate	VARIABLE LICENSE NET SALES GREATER THAN 0%	9937	75
			Edit Delete		
AND	8	Related Parties	NON RELATED PARTIES	18012	74
			Edit Delete		

See Results →

Boolean Logic

Figure 2 Comp Sets

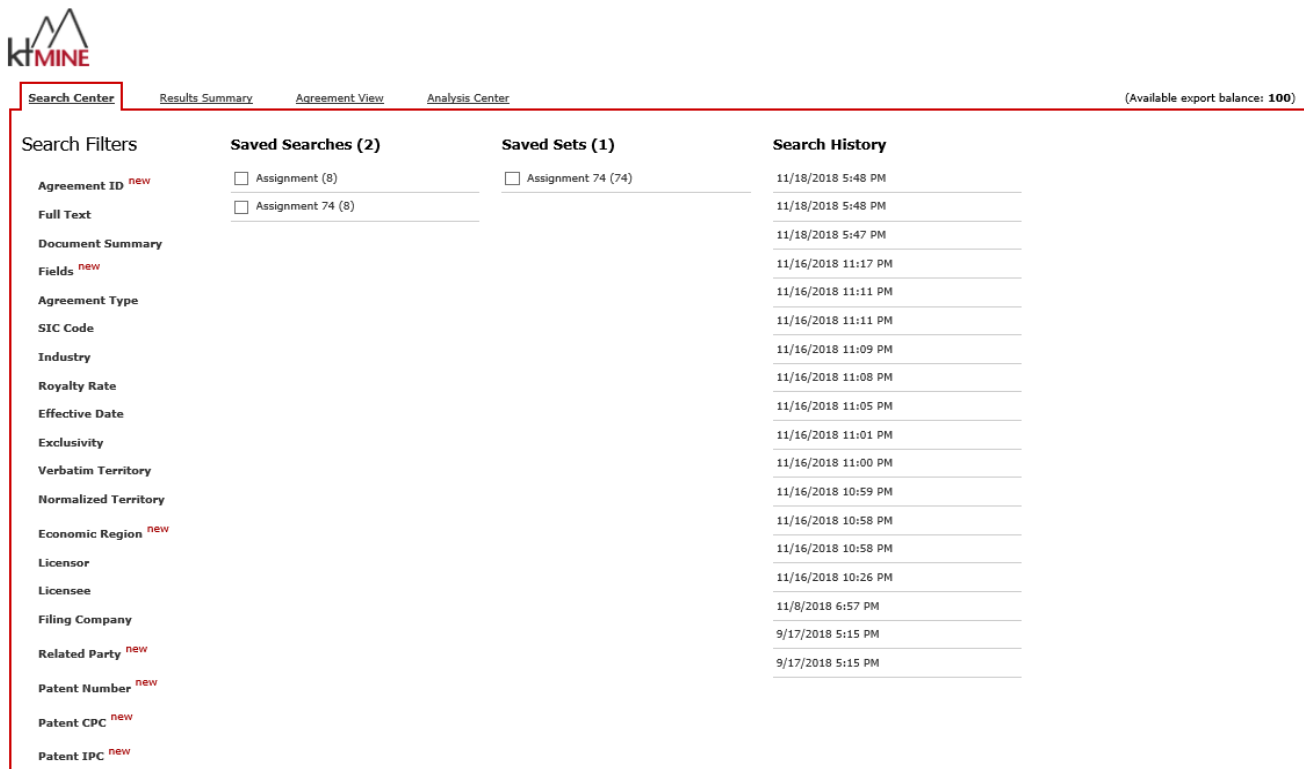


Table 1 Accept Reject Matrix

#	Agreement	Licensor	Licensee	Effective Date	Accept/Reject	Reason
1	77993	CONMED Corporation, Musculoskeletal Transplant	Musculoskeletal Transplant Foundation, Inc., CONMED	01/3/2012	reject	EBIT out of range
2	78050	HEALTH DISCOVERY CORPORATION	NEOGENOMICS LABORATORIES, INC.	01/6/2012	reject	same / similar name
3	78051	Health Discovery Corporation, NEOGENOMICS, INC.	NEOGENOMICS, INC., Health Discovery Corporation	01/9/2012	reject	same / similar name
4	78052	HEALTH DISCOVERY CORPORATION	NEOGENOMICS LABORATORIES, INC.	01/6/2012	reject	same / similar name
5	79602	UNIVERSITY HEALTH NETWORK	VISTAGEN THERAPEUTICS, INC.	03/19/2012	reject	not similar
6	79694	Regenerative Sciences, LLC, BioRestorative Therapies	BioRestorative Therapies, Inc., Regenerative Sciences,	01/27/2012	reject	same / similar name
7	81027	Quick-Med Technologies, Inc.	Derma Sciences, Inc.	07/12/2012	reject	same / similar name
8	81096	ASPENBIO PHARMA, INC.	Ceva Santé Animale S.A.	07/25/2012	reject	profit out of range
9	81255	Quick-Med Technologies, Inc.	Derma Sciences, Inc.	07/12/2012	reject	same / similar name
10	81380	Ian McNiece	Proteonomix Inc	06/18/2012	reject	not similar
11	81423	ROS Acquisition Offshore LP	Bacterin International, Inc.	08/24/2012	reject	Contract terms differ
12	81493	TOMOTHERAPY INCORPORATED, Accuray Incorporated	COMPACT PARTICLE ACCELERATION CORPORATION, TOMO	04/20/2012	reject	not similar
13	99457	Memory Dx, LLC	Amarantus Bioscience, Inc.	12/14/2012	reject	profit out of range
14	100086	Advanced Cell Technology, Inc.	International Stem Cell Corporation, PacGen Cellico, LLC	02/01/2013	reject	EBIT out of range
15	100150	the Board of Trustees of the University of Arkansas	Cyto Wave Technologies, Inc.	12/15/2012	reject	not similar
16	100259	Intellikine LLC, Intellikine, Inc.	Infinity Pharmaceuticals, Inc.	12/24/2012	reject	same / similar name
17	100304	Argentum Medical LLC	TriStar Wellness Solutions, Inc.	03/07/2013	reject	EBIT out of range
18	100356	The George Washington University	Protea Biosciences, Inc.	11/28/2012	reject	not similar
19	100372	ULURU INC.	ORADISC GMBH	10/19/2012	fail to reject	profit potential for the comparables is unknown
20	100993	Washington University	Chromadex	03/04/2013	reject	same / similar name
21	101064	ARADIGM CORPORATION, GRIFOLS, S.A.	GRIFOLS, S.A., ARADIGM CORPORATION	01/01/2013	reject	same / similar name
22	101065	ARADIGM CORPORATION, GRIFOLS, S.A.	GRIFOLS, S.A., ARADIGM CORPORATION	01/01/2013	reject	same / similar name
23	101128	Oregon Health & Science University	Regen BioPharma, Inc.	06/05/2013	reject	not similar
24	101646	INTREXON CORPORATION, SYNTHETIC BIOLOGICS, INC.	SYNTHETIC BIOLOGICS, INC., INTREXON CORPORATION	08/06/2012	reject	same / similar name
25	101700	INTREXON CORPORATION, SYNTHETIC BIOLOGICS, INC.	SYNTHETIC BIOLOGICS, INC., INTREXON CORPORATION	08/06/2012	reject	same / similar name
26	101737	Savicell Diagnostic Ltd., Ramot at Tel Aviv University	Ramot at Tel Aviv University Ltd., Savicell Diagnostic Ltd.	07/24/2012	reject	not similar
27	101870	Geron Corporation	BioTime Acquisition Corporation	01/01/2013	reject	EBIT out of range
28	102407	Oregon Health & Science University	Regen BioPharma, Inc.	06/05/2013	reject	same / similar name
29	102517	Ligand Pharmaceuticals Incorporated	Azure Biotech, Inc.	07/17/2013	fail to reject	profit potential for the comparables is unknown
30	102550	Geron Corporation	Asterias Biotherapeutics, Inc.	10/01/2013	reject	same / similar name
31	102554	Geron Corporation	Asterias Biotherapeutics, Inc.	10/01/2013	reject	same / similar name
32	102609	Canterbury Laboratories, LLC	Ferndale Pharma Group, Inc.	03/22/2012	fail to reject	profit potential for the comparables is unknown
33	102651	Sgenia Solutions, S.L., ZENON Biosystem, S.L., Braeden	Braeden Valley Mines Inc., Sgenia Solutions, S.L., ZENON	11/26/2013	reject	CSA makes the facts and circumstances different
34	102795	The National Institutes of Health, Food and Drug Administration	KineMed Inc.	01/03/2012	reject	same / similar name
35	102805	The National Institutes of Health, Food and Drug Administration	KineMed Inc.	01/03/2012	reject	same / similar name
36	102990	BIMINI TECHNOLOGIES LLC, CYTORI THERAPEUTICS, INC.	CYTORI THERAPEUTICS, INC., BIMINI TECHNOLOGIES LLC	07/30/2013	reject	profit out of range
37	103913	Progressive Spinal Technologies LLC	Alphatec Spine, Inc.	11/30/2013	reject	Contract terms allow sales in USA
38	104021	Echo Therapeutics, Inc., Medical Technologies Innovation Asia	Medical Technologies Innovation Asia, Ltd., Echo Therapeutics	12/09/2013	reject	CSA makes the facts and circumstances different
39	105505	Massachusetts Institute of Technology (MIT)	MetaStat Biomedical, Inc.	06/02/2014	reject	same / similar name
40	105530	MetaStat, Inc., MetaStat BioMedical, Inc., Northstar	ASET Therapeutics, LLC	06/14/2014	reject	same / similar name

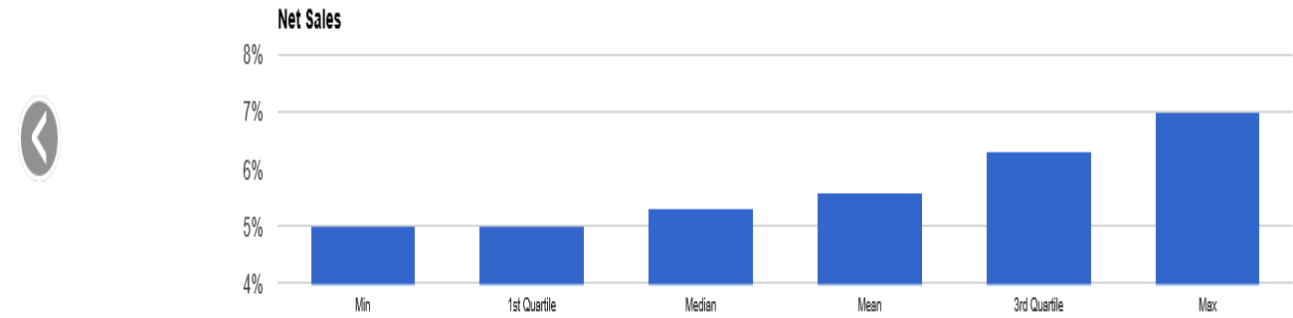
41	105547	Enterprise Partners Management, LLC	Celladon Corporation	07/18/2014	reject	EBIT out of range			
42	106600	Asuragen, Inc.	Interpace Diagnostics, LLC	08/13/2014	reject	not similar			
43	106619	INFINITY PHARMACEUTICALS, INC., ABBVIE INC.	INFINITY PHARMACEUTICALS, INC., ABBVIE INC.	09/02/2014	reject	same / similar name			
44	106673	William Marsh Rice University	Tubz, LLC	12/09/2014	reject	not similar			
45	108035	Lamina Equities Corporation	Alternative Energy & Environmental Solutions, Inc., Uni	02/25/2015	reject	EBIT out of range			
46	110353	The Regents of the University of California	Breathing Technologies, Inc.	10/21/2013	reject	same / similar name			
47	110354	THE REGENTS OF THE UNIVERSITY OF CALIFORNIA	INNOVATION ECONOMY CORPORATION	11/03/2014	reject	same / similar name			
48	110536	Vertical Designs Ltd	Abattis Bioceuticals Corp.	12/21/2012	reject	EBIT out of range			
49	110567	4-Antibody AG, Agenus Inc., Incyte Europe Sarl	Incyte Europe Sarl, Agenus Inc., 4-Antibody AG	01/09/2015	reject	CSA makes the facts and circumstances different			
50	110610	The Regents of the University of California	Breathing Technologies, Inc.	05/19/2014	reject	same / similar name			
51	110688	Quest Diagnostics Clinical Laboratories, Inc.	Vermillion, Inc., Aspira Labs	03/11/2015	reject	EBIT out of range			
52	110740	Yissum Research Development Company of the H	Immune Pharmaceuticals Ltd., Yissum Research Devel	03/12/2015	reject	not similar			
53	110999	Lamina Equities Corporation	Unique Growing Solutions, Inc.	02/25/2015	reject	EBIT out of range			
54	111176	Z Healthcare Management LP	IMC HOLDINGS, INC.	09/01/2012	reject	EBIT out of range			
55	111424	HAND MD CORP.	SYNERGY CHC CORP.	08/18/2015	reject	EBIT out of range			
56	111498	Z Healthcare Management LP	IMC HOLDINGS, INC.	09/01/2012	reject	same / similar name			
57	111589	Z Healthcare Management LP	IMC HOLDINGS, INC.	09/01/2012	reject	same / similar name			
58	111868	The General Hospital Corporation	ZELTIQ Aesthetics, Inc.	09/08/2015	reject	EBIT out of range			
59	113178	Medical Lasers Manufacturer, Inc., Laser Lab Corp	Medical Lasers Manufacturer, Inc., Medifirst Solutions	10/01/2015	reject	CSA makes the facts and circumstances different			
60	113201	THE WISTAR INSTITUTE OF ANATOMY AND BIOLOGY	ONCOCYTE CORPORATION	01/22/2016	reject	same / similar name			
61	113357	THE WISTAR INSTITUTE OF ANATOMY AND BIOLOGY	ONCOCYTE CORPORATION	01/22/2016	reject	same / similar name			
62	116187	THE WISTAR INSTITUTE OF ANATOMY AND BIOLOGY	ONCOCYTE CORPORATION	09/18/2013	reject	same / similar name			
63	116418	DUKE UNIVERSITY	Medifocus Inc.	10/06/2015	reject	not similar			
64	116473	NUVECTRA CORPORATION	ALEVA NEUROTHERAPEUTICS SA	03/14/2016	fail to reject	profit potential for the comparables is unknown			
65	116510	YALE UNIVERSITY	Protea Biosciences Group, Inc.	04/12/2016	reject	same / similar name			
66	116856	YALE UNIVERSITY	Protea Biosciences Group, Inc.	04/12/2016	reject	same / similar name			
67	116857	YALE UNIVERSITY	Protea Biosciences Group, Inc.	04/12/2016	reject	same / similar name			
68	118327	William M. Rosellini	Nexxon MedSystems Inc.	12/15/2016	reject	not similar			
69	119110	CO-DIAGNOSTICS, INC.	WATERMARK GROUP INC.	10/13/2016	reject	EBIT out of range			
70	119266	PhotoMedex, Inc., Radiancy, Inc., PhotoTherapeut	ICTV Brands Inc., ICTV Holdings, Inc.	10/04/2016	reject	EBIT out of range			
71	119312	TRUSTEES OF DARTMOUTH COLLEGE	CHROMADEX, INC.	07/13/2012	reject	not similar			
72	119313	Washington University	Chromadex	03/04/2013	reject	same / similar name			
73	119432	Technion Research and Development Foundation	Microbot Medical Ltd.	06/01/2012	reject	EBIT out of range			
74	119524	L.R. RESEARCH AND DEVELOPMENT LTD	MEDIWOUND LTD	11/20/2016	reject	EBIT out of range			

Table 2 List of final agreements

Accept/Reject Matrix									
#	Agreement	Licensor	Licensee	Effective Date	Accept/Reject	Reason			
19	100372	ULURU INC.	ORADISC GMBH	10/19/2012	fail to reject	profit potential for the comparables is unknown			
29	102517	Ligand Pharmaceuticals Incorporated	Azure Biotech, Inc.	07/17/2013	fail to reject	profit potential for the comparables is unknown			
32	102609	Canterbury Laboratories, LLC	Ferndale Pharma Group, Inc.	03/22/2012	fail to reject	profit potential for the comparables is unknown			
64	116473	NUVECTRA CORPORATION	ALEVA NEUROTHERAPEUTICS SA	03/14/2016	fail to reject	profit potential for the comparables is unknown			

Figure 3 Analysis Center Results (PLI - %NET SALES only)

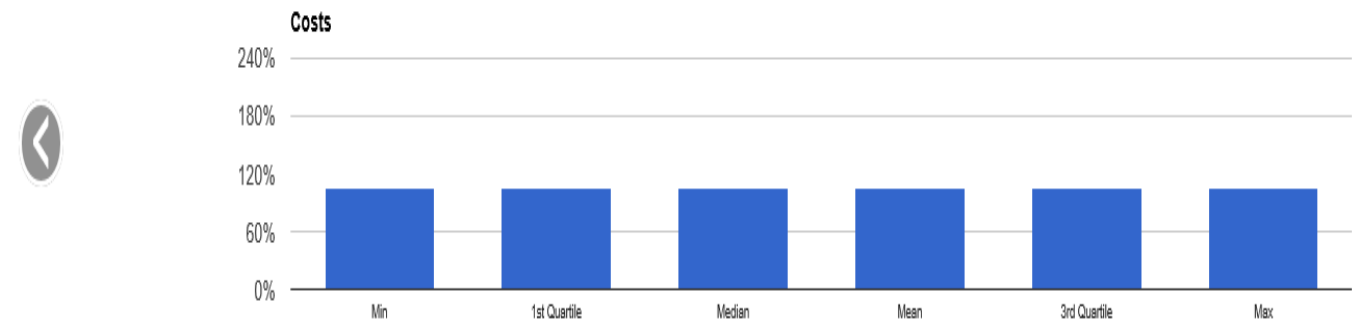
▼ License



Common Base	Observations	Minimum	1st Quartile	Average	Median	3rd Quartile	Maximum
Net Sales	4	5.00%	5.00%	5.63%	5.25%	6.25%	7.00%
Costs	1	105.00%	105.00%	105.00%	105.00%	105.00%	105.00%

Figure 4 Analysis Center Results (PLI - %Cost)

▼ License



Common Base	Observations	Minimum	1st Quartile	Average	Median	3rd Quartile	Maximum
Net Sales	4	5.00%	5.00%	5.63%	5.25%	6.25%	7.00%
Costs	1	105.00%	105.00%	105.00%	105.00%	105.00%	105.00%

Aggie Honor Code

Attach a copy of the Aggie Honor Code, with the signatures of your team members, to the end of your document.

AGGIE HONOR CODE

As members of the Aggie Community - whether as students, faculty or staff - we aspire to excellence in all that we do. One of the simplest and most straightforward ways to attain excellence is to judge our actions against the Aggie Code of Honor: An Aggie does not lie, cheat or steal, or tolerate those who do. With this as our standard, we pursue excellence in Texas and around the world.

What is the Aggie Code of Honor?

"An Aggie does not lie, cheat or steal, or tolerate those who do."

The Aggie Code of Honor affirms values that apply to students, faculty and staff alike. This simple statement exemplifies two of our core values—excellence and integrity—and underscores our commitment to ethical conduct and compliance with laws and official policies. These core values forge a strong base to embrace our other core values of leadership, loyalty, respect and selfless service.

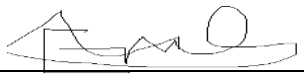
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PLEASE SIGN BELOW AND ATTACH TO YOUR ASSIGNMENT.

All the members of my team acknowledge, and have complied with, the Aggie Honor Code on this assignment. I am signing on behalf of the members of my team below:

Team Member: [PRINT AND SIGN name] Maheen Zahid  [TEAM CAPTAIN]

Team Member: [PRINT AND SIGN name] Firdaws Sayibu 

Team Member: [PRINT AND SIGN name] Eniola Olatunji 

Date: 11/ 18/ 2018

