

Dealterms spin-offs

Framework on dealterms
related to providing spin-offs access to IPR

16 March 2023

UNL working group Dealterms
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Universiteiten
van Nederland }

Context

- First set of dealterms for providing spin-offs access to Intellectual Property Rights (IPR)
 - at least one of the scientific founders is committed to work fulltime for the spin-off
 - max TRL 4

Early Adopters

Erasmus MC	Radboud UMC	Wageningen University & Research
Leiden UMC	Radboud University	TU Delft
Leiden University	Tilburg University	TU Eindhoven
VU Amsterdam	University of Groningen	University of Twente
		TNO

IPR = patents, copyright on software or designs, database-rights, know-how

Motivation

- No uniformity in deal terms used by Universities for transfer of IPR to spin-offs
- No transparency to the outside world
- Many opinions

Goal

Fair, simple & transparent deal terms with the aim to conclude deals with spin-offs faster,
in which the perspective of founders as well as investors is included:

- Founder friendly
- Attractive for investors

no limitations by universities in growth of the spin-off

to optimize impact of the research

Dealterms - frame

Dealterms are solely related to transfer/licensing of Intellectual Property Rights

(not investment by university, use of facilities, ... etc)

Overview of 'tools' being used in dealmaking

	Always	Often	Sometimes	Never
Equity				
Fully dilutive shares	2	8	1	2
Non-dilutive shares till X MEUR investment/valuation	0	0	7	6
Non-dilutive shares	1	0	0	12
Special (voting)rights for Holding	1	1	5	6
Royalty				
Royalty on total turnover spin-off	1	1	7	4
Royalty on turnover related to IP	2	4	6	1
Cap on maximum amount of payable royalties	0	1	7	5
Option to pay off royalty obligations	0	1	5	7
Exit fee	0	2	6	5
General				
In case of patents: spin-off has to pay-back historical patent costs incurred by University	7	1	2	3
Signing fee	0	0	4	9
Milestone payments	0	3	7	3
Success fee	0	1	6	6
Transfer of ownership patent(applications)	2	5	5	1
Improvements of IP included in the deal	1	8	4	0
Does institution take equity for non-IP related contributions	2	2	7	2

International benchmark

	US MODELS ^{1,2}	SWISS MODELS ³	QUICK LINCENSE ⁴	UK ⁵
Equity	< 10% 'single digit'	Max 12% (max 9% non dilutive)		Up to 50% (Median 33%)
Dilution	Non-dilutive till X M\$ valuation	Fully dilutive		Fully dilutive
License	Royalty	Royalty	Royalty	
Exit Fee			Fixed exit Fee	
Possibility of assignment of patent to spin-off	No	No	No	Yes

Based on publicly available sources (February 2023)

Dealmaking (spin-offs) – basic principles

- No state-aid: market-conform
 - Benchmark with international KTO's
- Transparent, consistent & clear
- Simple
- Founder Friendly
- No hurdles for future investors
- Trust
- Stimulates growth of spin-off in favor of societal impact

Frame

- Deal terms are solely related to providing access to IPR
- Applicability:
 - at least one of the scientific founders is committed to work Fulltime for the spin-off
 - max TRL 4

Dealterm Frameworks

- Equity
- Royalty
- Hybrid: Equity + Royalty

Deal terms - general

- Spin-off is granted access to IPR in exchange for equity, royalties or combination of equity and royalties
- Starting point: exclusive license on the IPR till completion of the Milestone
- Milestone:
 - XXX k€ equity investment of YYY k€ turnover
 - Optional: technology Milestone
- Upon completion Milestone:
 - exclusive license is continued
 - option on transfer IPR after completion Milestone at no additional costs (at latest at exit)
- In case of patent(application):
 - spin-off bears costs for maintenance
 - Reimbursement of historical patent costs

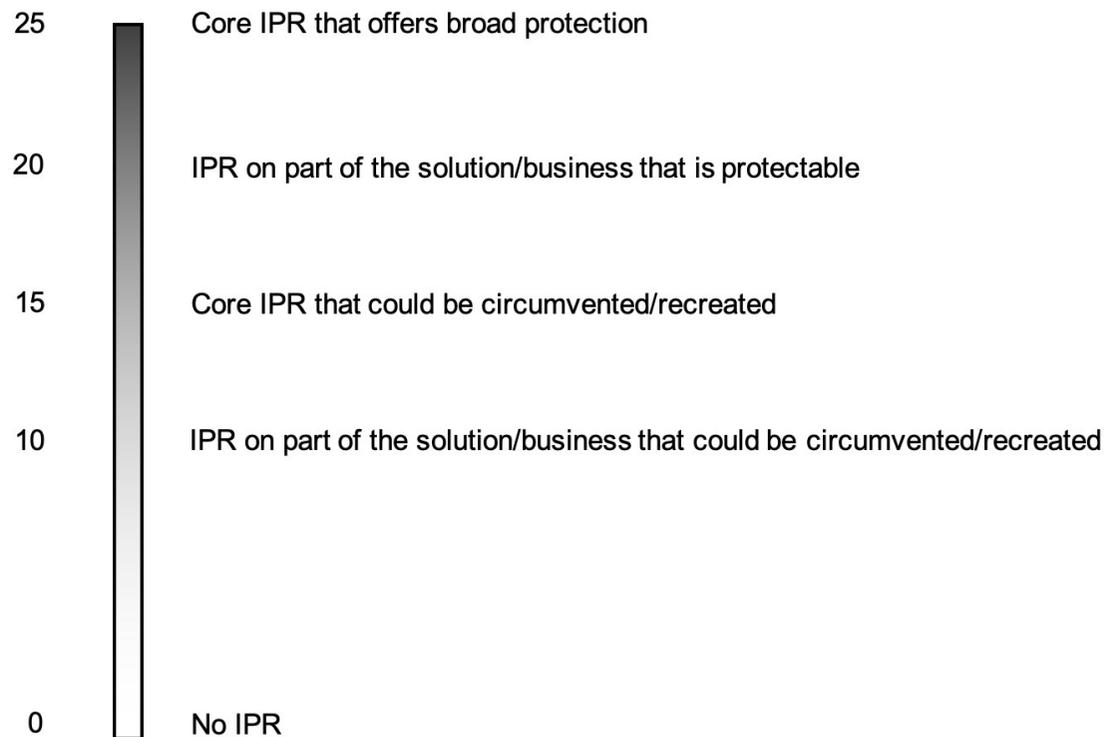
Equity

Deal terms – Equity (1)

- Fully dilutive shares
- No special rights for University/holding
(except for common protection clauses)
- Inventors maintain their rights on the inventor's fee
(*octrooiregeling*)

Deal terms – Equity (2)

- Importance IPR for spin-off determines deal
- Dealmaking: ruler as guideline



Royalty

Deal terms – Royalty

- Royalty on turnover related IPR - % depending on sector/market
- Sublicense fee – % depending on sector/market
- [optional] Milestone payment (e.g. upon certification or first commercial sales)
- [optional] Minimum annual royalty payment
- Royalty agreement stays in force at completion Milestone
- Royalty obligations stay in force at exit, option to buy-off

Hybrid

Deal terms – Hybrid

- Combination of equity and royalty
- Hybrid Royalty deal at softer conditions than full royalty deal

NL-Dealterms

	NL-HYBRID	NL-ROYALTY	NL-EQUITY
Equity	Max 12,5%		Max 25%
Dilution	Fully dilutive		Fully dilutive
License	Royalty	Royalty	
Exit Fee			
Possibility of assignment of patent to spin-off	Yes	Yes	Yes

NL-Dealterms - Benchmark

	US MODELS ^{1,2}	SWISS MODELS ³	NL-HYBRID	QUICK LINCENSE ⁴	NL-ROYALTY	UK ⁵	NL-EQUITY
Equity	< 10% 'single digit'	Max 12% (max 9% non dilutive)	Max 12,5%			Up to 50% (Median 33%)	Max 25%
Dilution	Non-dilutive till X M\$ valuation	Fully dilutive	Fully dilutive			Fully dilutive	Fully dilutive
License	Royalty	Royalty	Royalty	Royalty	Royalty		
Exit Fee				Fixed exit Fee			
Possibility of assignment of patent to spin-off	No	No	Yes	No	Yes	Yes	Yes

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