

# Valuation of Enabling IP-- Reaching End Game



UIA Washington

Peter S. Cope

April 9, 2008

# Enabling Means?

- Visibly makes process possible
- Invisibly makes process possible
- Combination of steps, multiple patents
- Blocks others from entering
- Opens doors for Licenses
- Closes doors for Licenses

# Visibly Makes Process Possible

- Individual skilled in the art or science of claims acknowledges the claim
- May be combination of commonly practiced technology or methods

# Invisibly Makes Process Possible

- Proprietary process incorporates the claim
- Claimant need not show to customers or inspectors

# Combination of Multiple Steps or Patents

- Aggregate of steps produce marketable process or product
- May be combined with existing issued patents
- May be combined with expired patents

# Blocks Others from Entering Market

- Prior history of patent enforcement may signal to competitors the risk/reward value
- Allowing infringement without enforcing rights weakens position

# Opens Doors for Licenses

- Strategy may be
  - Expand use of technology with royalty stream
  - Extend process through new patents
  - Build acquisition targets

# Closes Doors for Licenses

- Strategy- block competitors from further penetration/growth
- May allow prosecution of infringing companies who have not filed



# Valuation

- Assure early R&D work with Marketing Team
- Define market structure, yours and theirs
- Define value to process or product
- Define added value of IP
- Include appropriate customer validation as early as possible

# Valuation

- Don't assume "If you build it, they will come to buy."
- Engage early adaptors with appropriate NDA's and commercial terms
- Modify process or product if technically justified

# Valuation

- Assume value will decline after introduction– Aim High
- How high?
- Understand full implication of IP influence in market value equation
- Be Aggressive in establishing price
- What is the right multiple of cost?

# End Game?

- If exclusively licensed in all markets, geographies and uses, create multi-year agreement with technical, commercial and promotional obligations and punitive penalties; allow for currencies
- Otherwise, select geographies, markets and channels and price accordingly

# Summary

- Define Clear Commercial Strategy
- Communicate it clearly and regularly
- Frequently Verify Market Structure and Competitive Position
- Aggressively Assign Value
- Employ and Enforce Mutually Accountable Performance Agreements