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