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# LES Asia Pacific Regional Conference

October 17, 2013

## Understanding How Patent Transactions Impact Valuations



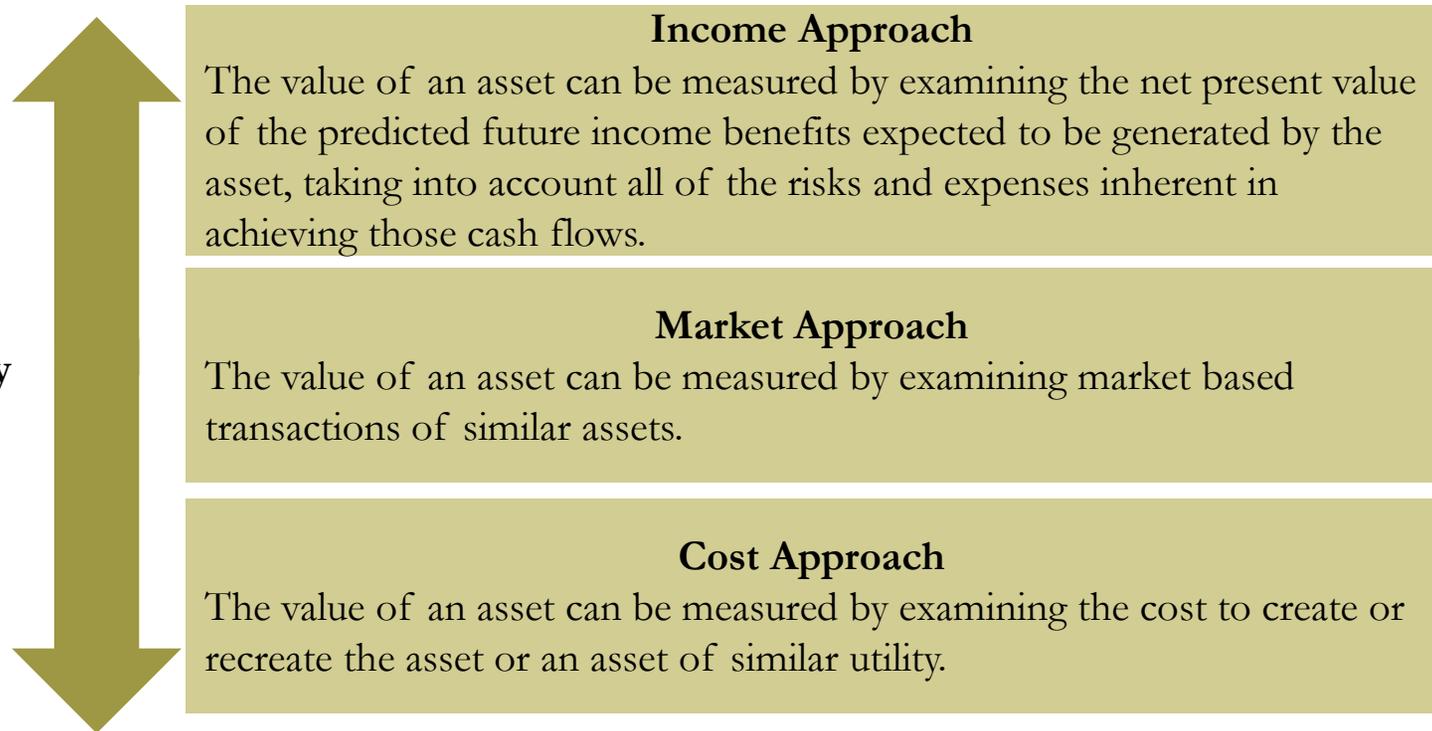
# Objectives

- Approaches to Value
- Patent monetization methods
- Value vs. Pricing
- Review of major patent transactions
  - Kodak
  - AOL / Microsoft / Facebook
  - MIPS
  - Nokia / Microsoft / MOSAID
- Patent brokerage report

# Valuation Methodologies

## Three Approaches to Value: Income, Market, and Cost

The Income Approach is a method widely used by acquirers of intellectual assets. The Market and Cost Approaches can also provide informative results. Nevertheless, the Market Approach is difficult to apply due to the lack of comparability among intellectual property assets, and the Market and Cost Approaches may not take into account the ability of the intangible asset to generate cash flows.



Utility in Valuing  
Intellectual Property

# Valuation Methodologies

## The Three Income Approach Valuation Methodologies

### **Relief from Royalty**

The Relief from Royalty methodology is based on the premise that a property's value can be measured by what the owner of the property would pay in royalties if it did not own the property and had to license it from a third party. Alternatively, this approach may also quantify the amount of income the owner would generate by licensing the intellectual property to others. This method requires the determination of projected royalty payments, which are derived by applying a royalty rate to an appropriate royalty base.

### **Incremental Income**

The Incremental Income methodology is based on the following premise: a property's value can be measured by the incremental earnings achieved by a proprietary product relative to an essentially identical but non-proprietary product (i.e., a generic version of the same product). The excess earnings may result from the proprietary product commanding a price premium, delivering manufacturing cost savings, and/or achieving larger sales quantities.

### **Profit Apportionment**

The Profit Apportionment methodology is a method used by licensing negotiators and damages experts to determine a reasonable royalty rate or valuation under an arm's-length transaction. This approach attempts to evaluate the share of the licensee's or purchaser's anticipated profit that a licensor or seller may seek in return for providing the licensee with access to the subject intellectual property.

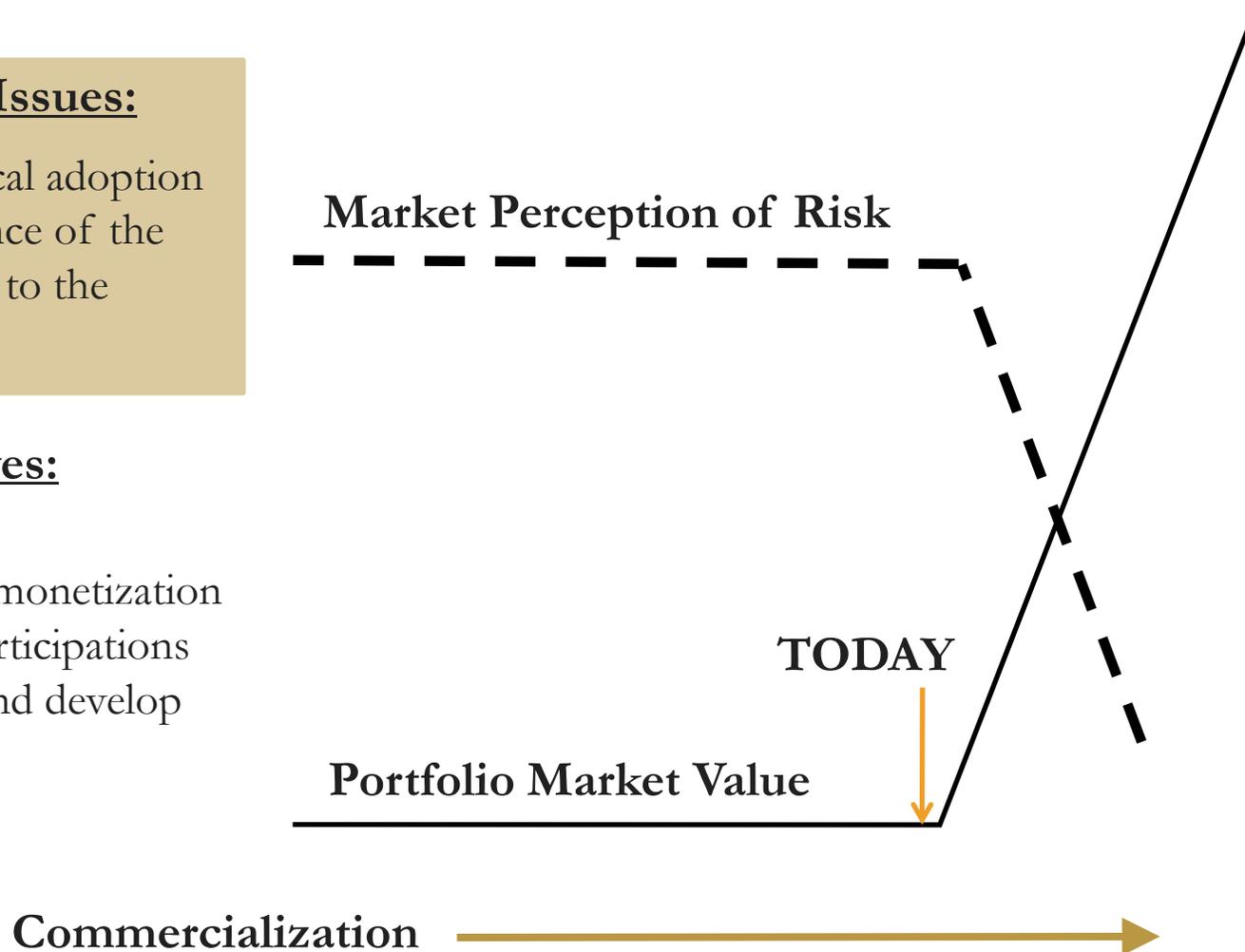
# Transaction Value Spectrum

## Relevant Issues:

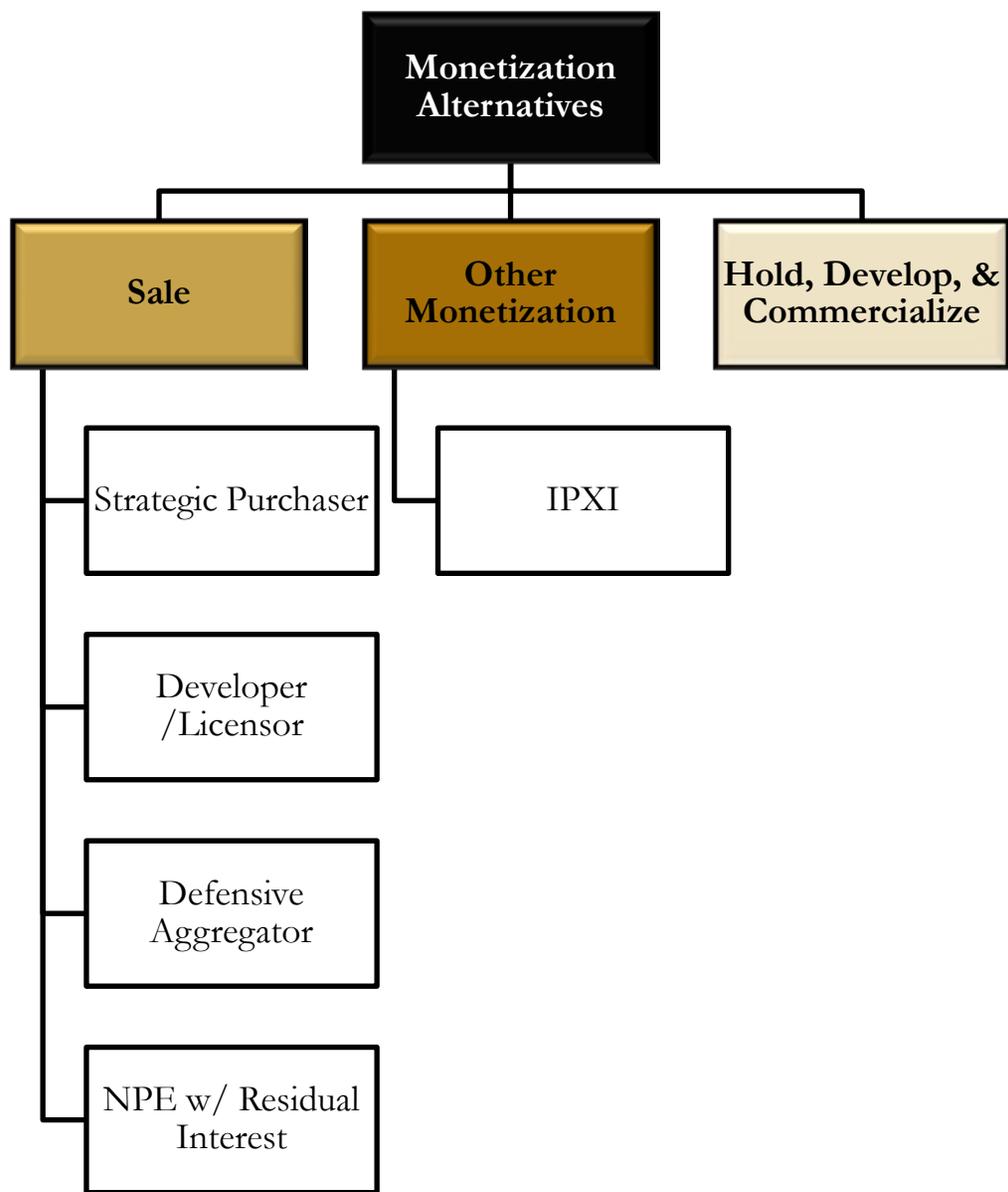
- 1) Technical adoption
- 2) Relevance of the patents to the market

## Alternatives:

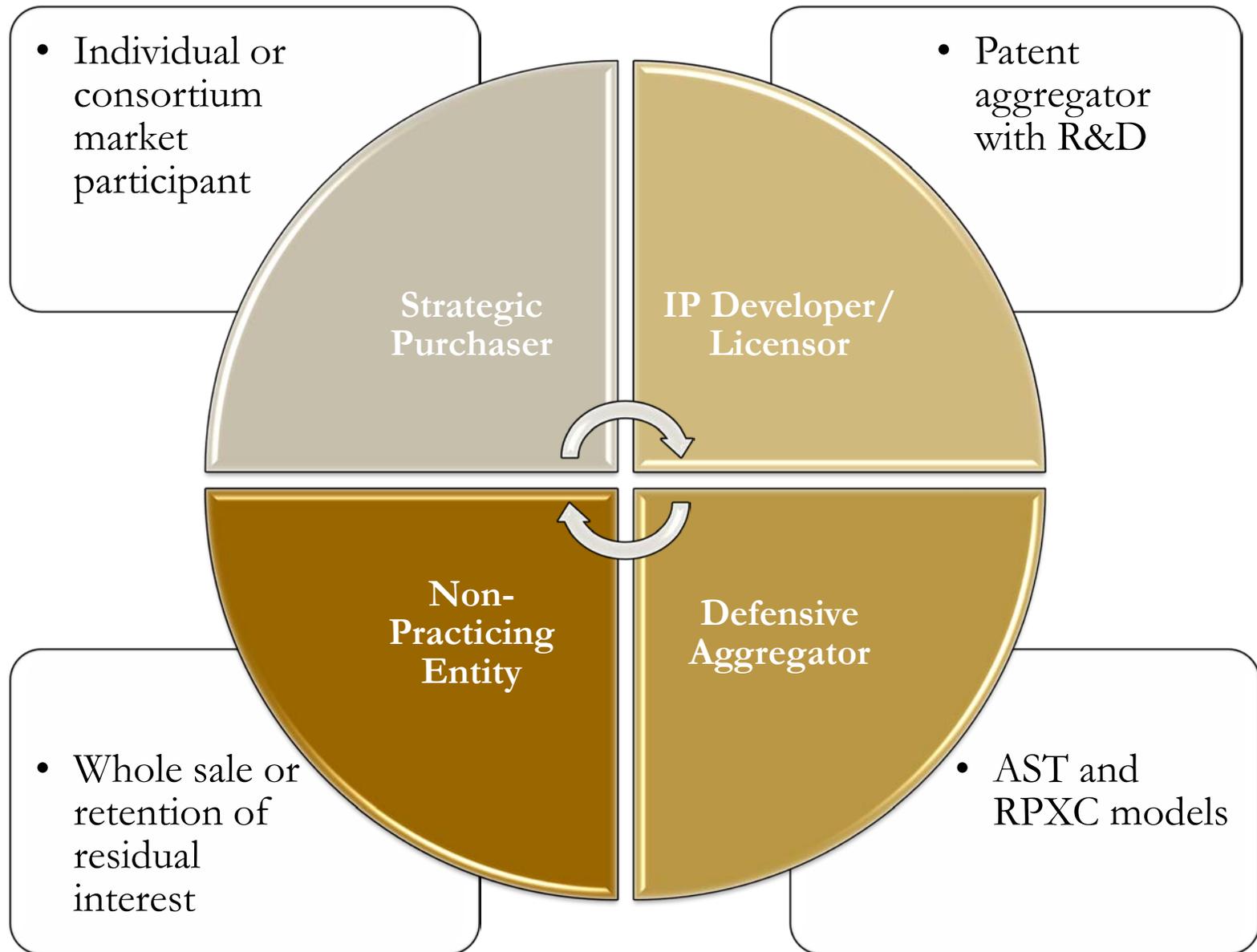
- 1) Sell
- 2) Partial monetization plus participations
- 3) Hold and develop



# Monetization Alternatives



# Sale: Acquirers of Patent Portfolios



## Patent Value vs. Patent Transaction

- Income approach to value typically based on cash flows of the industry, potential infringers, etc.
- Patents assumed valid and likely to prevail in a litigation setting
- Typically matches the “ask” price of a patent owner
- Transaction pricing follows a pattern similar to other patent transactions, in some cases
- Significant discounts from income approach due to potential for invalidity & trial prevail.
- Significantly lower than “ask” price

## Eastman Kodak Patent Transaction

- Kodak marketed 1,100 digital image patents over a 12 month time frame
- Expected selling price: \$2.2B to \$2.6B or ~\$2.1M per patent
- Actual selling price: \$525M or ~\$477K per patent
- Buyer consortium included Intellectual Ventures, RPX, Apple Inc., Google Inc., Samsung Electronics Co., Research In Motion Ltd., Microsoft Corp., China's Huawei Technologies, Facebook Inc. and Amazon.com Inc.

## AOL Patent Transaction

- AOL marketed ~800 instant messenger, web browsing, email advertising, etc patents over a 6 week time frame
- Original expected selling price: ~\$300M or ~\$375K per patent
- Actual selling price: \$1.1B or ~\$1.15M per patent
- Sold to Microsoft who later flipped a portion of the patents to Facebook Inc.
- Sale included a license back to AOL's entire patent portfolio

# MIPS Technologies, Inc. Patent Transaction

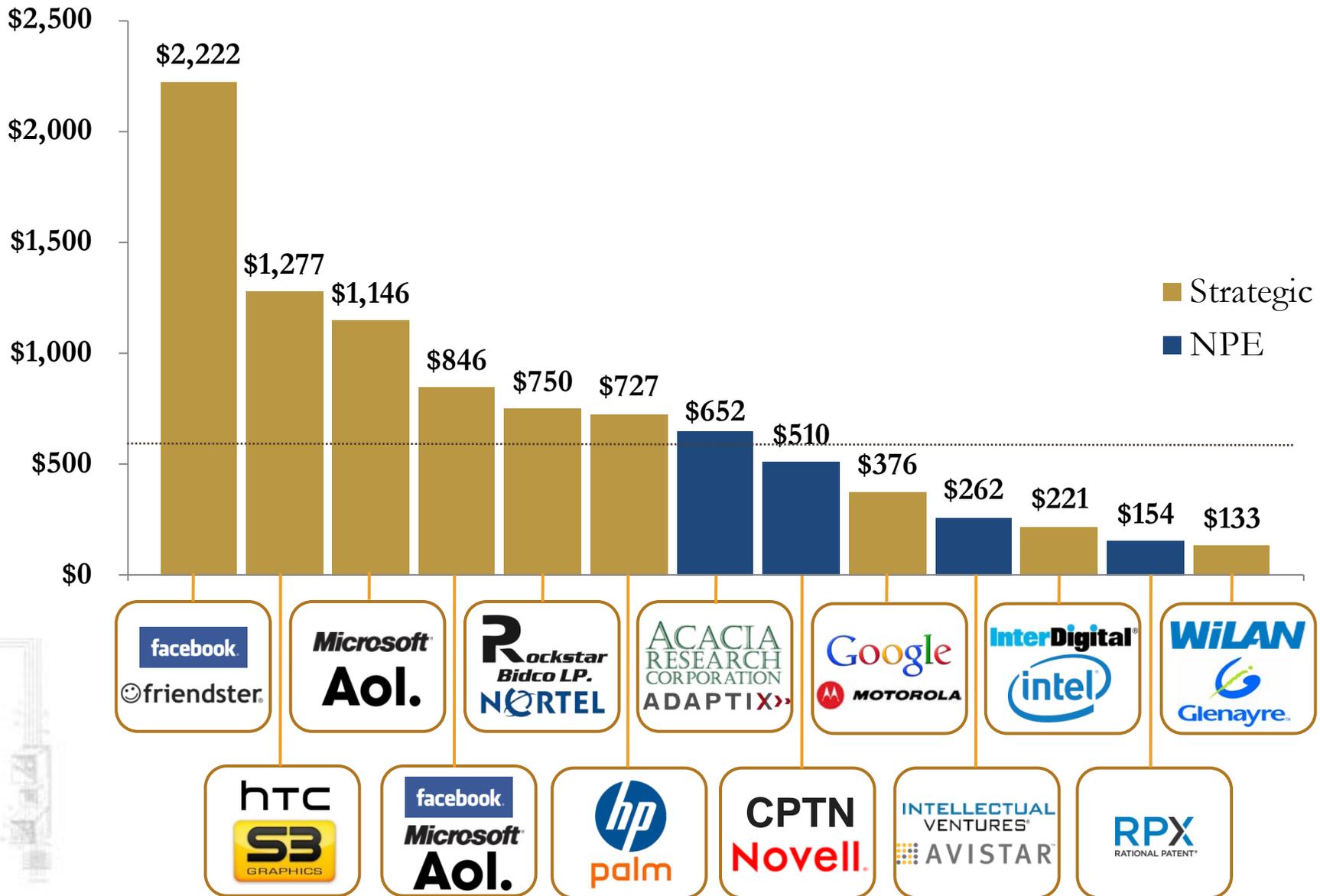
- MIPS is a provider of CPU (central processing unit) architectures and IP cores.
- Two separate agreements:
  - 1) 498 patents to Bridge Crossing (a division of Allied Security Trust) for \$350M or \$702.8K per patent, and
  - 2) 82 patents to Imagination Technologies Group plc for \$100M or \$820K per patent

# Microsoft - Nokia – MOSAID Patent Transaction

- MOSAID Technologies acquired 2,000 Nokia & Microsoft “Core Wireless” patents related to wide range of mobile communications devices and services
- MOSAID is paying for the portfolio through future expected royalty income, one-third to MOSAID and two-thirds to Nokia & Microsoft
- Limited change in control features

# IP Transaction Metrics

Implied Price per Patent (000's)



## Summary Transaction Metrics – Entity Type

Market Transactions	Price per Patent (Median)	Price per Patent (Average)
NPE Patent Transactions	\$0.144	\$0.199
Strategic Patent Transactions	\$0.422	\$0.870
IP-Driven Business Transactions	\$0.696	\$0.672

# Securing Premiums in IP-Driven Transactions

Ocean Tomo's experience in the market has shown us a few characteristics that seem to be common across patents and patent portfolios. The overall value range on a per-patent basis is typically \$10,000 to \$1,500,000, and typically falls in the following categories:

\$10K to  
\$100K

- Patent applications and issued patents in less desirable technology fields

\$100K to  
\$600K

- Issued patents in active technology fields

\$600K to  
\$1MM

- Patents that have been through successful re-examination, or patents that have an early priority date and have open application status so that the buyer has the ability to file continuations

Up to \$1.5MM

- Successful Markman hearing and/or litigation

# Patent Broker Report

Ocean Tomo's estimates from the previous slide are further validated by the January / February 2013 IAM Magazine Report by Kent Richardson & Erik Oliver reported:

- Number of packages per year: 276
- Sales rate: 16% of packages marketed
- Listed Price per US issued patent: \$433K
- Number US issued per package: 8 patents
- Average listed price per package: \$3.5M
- Total market: \$152M
- Total commission: \$33.6M

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# Patent Brokers – Most Recent Information

Current statistics include:

- Almost all patent sales in the U.S. are transacted between \$75,000 USD and \$300,000 USD per patent
- It is very uncommon for a patent to be sold for above \$500,000 USD
- Only twice has a patent sold for \$1,000,000 USD or above
- Areas of significant interest continue to be anything related to wireless technologies, cloud computing, haptics/gesture, speech recognition, and medical devices.
- The patents that sell for the larger values are those that:
  - have been successfully defended in litigation or re-examination; or
  - the portfolio has been built with a series of “open continuations” so that the buyer can customize the assets to their specific need
- Sellers still do not have realistic expectations of the length of time it can take to sell assets



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