Intellectual Property

Intellectual Property and Fiscal Sponsors: A Closer Look

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Agenda

● Flash Poll
● Overview of IP
● IP considerations for nonprofits & fiscal sponsors
● Discussion
● Recommendations
● Wrap up
Defining Our Terms

Intellectual Property is a category of property that includes intangible creations of the human intellect.

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<th>Types</th>
<th>Description</th>
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<tr>
<td><strong>Copyrights</strong></td>
<td>Protect works of authorship, such as writings, music, and works of art that have been tangibly expressed.</td>
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<tr>
<td><strong>Patents</strong></td>
<td>Protect a broad range of inventions and designs, including but not limited to processes, machines, articles of manufacture, and compositions of matter; and new, original, and ornamental designs for articles of manufacture.</td>
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<tr>
<td><strong>Trademarks</strong></td>
<td>Protect words, names, symbols, sounds, or colors that distinguish goods and services.</td>
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<tr>
<td><strong>Trade secrets</strong></td>
<td>Protects information that companies keep secret to give them an advantage over their competitors</td>
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Why do legal protections for IP Exist?

The main rationale for intellectual property law is to encourage, through economic incentives, the creation of a wide variety of intellectual goods to benefit society. Traditional view is that only through total control of a creation that comes through monopoly ownership (for a “limited” period), will people and organizations create anything new and useful.
IP Stewardship in the context of Fiscal Sponsorship: A Balancing Act

- Charitable Purpose
- Private Benefit Rules
- Funder requirements
- Capacity challenges
- Protect

- Charitable Purpose
- Project Needs & Wants
- Respecting Creators
- Wealth building
- Unleash

Role of Fiscal Sponsor: achieve appropriate balance while being Communicator, Educator, & Advocate
Discussion

- How does IP show up in your work?
- Where are your bigger challenges with IP as an organization?
- Do you have solutions to these challenges to share?
Some Common Challenges we see with IP

- Poor understanding of IP by Project and FS staff
- Lack of capacity to administer/track
- Standard grant agreement language from foundations not aligned with intent of sponsor and project
- Contracting with 3rd parties (both revenue and expense contracts - especially universities!)
- Project transitions (both in and out!)
- FS Projects licensing their work (for money or for free)
- Policing/enforcing IP rights
- Trolls and other nefarious actors squeezing you
- Projects want their names registered with USPTO
- Private benefit v. public good issues in Model C relationships and Model A projects engaged in grantmaking (especially in artist context)
Recommended Solution

Develop an Intellectual Property Management Framework.

- **Contract**: make sure IP is addressed in your FSA.
- **Support**: creation/acquisition of IP by your projects.
- **Manage**: track IP created/acquired by your projects.
- **Transition**: include IP in Transfer Agreements.
- **De-risk**: protect yourself from infringement claims.
- **Leverage**: protect IP & define dissemination process.
- **Create Resources**: FAQs, trainings, workshops.
Examples of Licencing Structures to Achieve the Right Balance

- Creative Commons
- Copyleft
- Open Source
- Other Equitable contract terms
- Public domain (not a license)
Thank You!

Supported by our Organization Members &:

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