



**SOCIAL IMPACT
COMMONS**

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.

Types:

Copyrights	Protect works of authorship, such as writings, music, and works of art that have been tangibly expressed.
Patents	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
Trademarks	Protect words, names, symbols, sounds, or colors that distinguish goods and services.
Trade secrets	Protects information that companies keep secret to give them an advantage over their competitors



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!



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