Nonprofit Assets: Identifying Barriers to Recognizing Intellectual Property Assets in Strategic Management

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Abstract: This conceptual paper builds on a thesis previously presented at ISTR that governance teams should recognize intellectual property as assets to be managed per their fiduciary responsibilities (Walker, 2018). In the course of that work, the literature review offered scant rationale for why intellectual property assets might be valuable since they are not readily identifiable using the common management framework and tools of New Public Management (NPM). Further research led to uncovering that the United States Internal Revenue Service (IRS) considers intellectual property assets to be assets that require governance oversight as part of fiduciary duty (Walker, 2018), but offered no additional guidance as to how or to what ends. The paper addresses why intangible assets, like intellectual property, have value for nonprofit organizations and why, according to regulatory and oversight agencies like the IRS, necessitate fiduciary oversight. It will examine what barriers exist that keep managers and governance teams from recognizing and strategically managing and leveraging nonprofit intellectual property.

Keywords: strategic management, asset management, intellectual property, fiduciary duty

Background

The author surveyed nonprofit executives about their creation and management of intellectual property in 2014. At the time, there was almost no mention of intellectual property in nonprofit research or practitioner literature. In the years since the initial survey research and results the author continued to seek literature and other resources, specific to nonprofit management, for intellectual property management and strategy. As a practitioner, the author's purpose in this continued search is to understand and create a framework in which intellectual property (IP), and by extension, other intangible assets are recognized and strategically managed within nonprofit organizations. The underlying questions have been:

- Are there practical or regulatory rationales for recognizing and managing intellectual property in nonprofit organizations?
- Why is intellectual property not discussed or highlighted in nonprofit strategic management practices as assets of organizations?
- What can academics and practitioners do to bring intellectual property assets into the nonprofit strategic management discourse?

This conceptual paper is an attempt to highlight the need for a shared understanding and recognition of intellectual property assets and imagine what management framework(s) enables nonprofit managers and governance teams to identify and strategically manage and leverage all assets of the organization towards mission and vision accomplishment. This paper is not an attempt to cover every explanation or possible insight into the underlying questions. Rather, this paper is one practitioner's exploration that invites and welcomes other ideas and suggestions for incorporating IP assets into the nonprofit discourse and nonprofit management frameworks, tools, and education.

Intellectual Property Assets of Firms

In finance and financial accounting, an asset is an economic resource. Anything tangible or intangible that can be owned or controlled to produce value and that is held by a company to produce positive economic value is an asset. The balance sheet of a firm records the monetary value of the assets owned by that firm. It includes money and other valuables belonging to an organization. Assets are classified into two major categories: tangible assets and intangible assets. Tangible assets contain various subclasses, including current assets and fixed assets, but generally refer to resources that have a physical form, such as money, equipment, buildings, land, and inventory. Intangible assets are nonphysical resources and rights that are valuable to the firm because they can give the firm some kind of advantage in the marketplace. Intangible assets include an organization's goodwill, copyrights, trademarks, patents, trade secrets, and value-added intellectual capital.

Intellectual property assets are strategically used by industry to generate revenue, expand business opportunities, recruit and retain talent, attract investors, and to secure a market niche. In the United States (U.S.), four primary forms of legally defensible IP rights are granted: patents, trademark, copyright, and trade secret. Patents and trademarks are granted and administered through the U.S. Patent and Trademark Office. Patents are available for new, useful and non-obvious processes or products and must be vetted against existing patents and registered to be valid (Clowney, 2011). A trademark is defined as "…a word, symbol, or other signifier used to distinguish a good or service produced by one firm from the goods or services of other firms" (Landes and Posner, 2003) and must be registered to be enforceable. Copyright is the protection of facts or ideas in a work of original authorship, such as books, training manuals, computer programs, databases, and various forms of art, once they are in any tangible form of expression (Akin, et al., 2007). Copyright can be registered or not and still be a protected asset. However, to defend copyright as a right of access against infringement in a court of law, registration with the appropriate state and federal agencies is necessary. Trade secret, by contrast, is not registered or disclosed publicly as it "…is an item of information—commonly a customer list, business plan, recipe, or manufacturing process—that has commercial value and that the firm possessing the information want to conceal from its competitors in order to prevent their duplicating it." (Landes and Posner, 2003)

Commercial firms are increasingly acknowledging that IP is a primary source of a firm's value and represents a large portion of the market capitalization in publicly traded firms (Johnson, Neave and Pazderka, 2001; Phelps and Kline, 2009). From a managerial and governance perspective, the industrial firm's executives have a vested interest in the increasing pool of IP assets and the associated or realized value of the IP asset pool. External stakeholders, such as shareholders, institutional investors, collaborating firms, complementary firms, or customers, also value a commercial firm's IP assets. That value is expressed through financial and/or contractual transactions with the firm. Historically, commercial firms have chosen from defensive, offensive, and/or open strategies to manage and leverage their IP assets (Fisher and Oberholzer-Gee, 2013). Commercial firms increasingly employ a mix of those strategies to optimize business objectives (Henkel, Baldwin and Shih, 2012; Phelps and Kline, 2009; Roijakkers, et al., 2013; World Intellectual Property Office, 2011). There is also increasing recognition that commercial firms in knowledge-based industries rely heavily on the use of and leverage of intangible assets (Edvinsson and Malone, 1997). One question that is beyond the scope of this paper, but one that requires some consideration is: are nonprofits more like knowledge-firms or production firms?

Intellectual Property Management in Nonprofits

The literature on intellectual property and the commercial firm is extensive - both in academic literature and popular press. The corresponding literature on IP in the nonprofit organization is miniscule in comparison. The majority of peer-reviewed and professional literature on IP in the nonprofit sector is focused on basic legal rights in copyright and trademark. There is, however, a segment of literature that focuses on the economic and social justice impacts of strong and weak IP regimes of various countries on the development of pharmaceuticals. This is relevant in that some of the development work is done at, or in collaboration with, nonprofit institutions and the pharmaceuticals are targeting critical global health needs. The strategic choices these nonprofit institutions make about their IP can have significant consequences for addressing humanitarian issues. Further, research-oriented universities and nonprofit hospitals are two sub-sectors in the nonprofit landscape that sometimes have sophisticated IP policies, IP management personnel, and active leverage strategies. It is possible that these larger institutional nonprofits may offer managerial skills and policy frameworks that could inform the broader sector leadership, but there does not seem to be literature or professional development offerings that would enable that knowledge to disseminate to other nonprofit sub-sectors.

The practitioner literature also offered little guidance on intellectual property. A look in the indexes of the texts and nonprofit management manuals on the author's personal reference shelves gleaned the following references to IP and intangible assets. Fishman and Schwarz (2010) outline the restrictions on gifts of IP assets and the deductions allowable to the donor. LaPiana and Harrington (2008) mention that the organization name and other intangibles are possible assets transferred in nonprofit organization mergers.

The Jossey-Bass Handbook of Nonprofit Management and Leadership (Renz, 2010) contains four references to IP. Two references are related to donating gifts of property, of which IP is one form, and that special valuation or substantial rules may apply (Hopkins and Gross, 2010). The third reference is in Salamon's (2010) chapter in reference to technology challenges in nonprofit organizations. The fourth reference describing how IP royalties, licensing fees, or related fee-for-services are examples of the way aggregated earned revenue data obscures the methods of nonprofit earned revenue (Young, 2010).

The Jossey-Bass Handbook of Nonprofit Management and Leadership (Renz, 2010) has three references to intangible assets. The first reference comes in Nash's (2010) chapter on social entrepreneurship in relation to development of ideas for social enterprise. In this context, the intangible assets are social assets found in the community that inform the worthiness of a prospect for entrepreneurship and innovation(s) that address community needs. The second reference is in Gainer's (2010) chapter on marketing and describes the importance for nonprofits to "take steps to create the tangible and intangible value that will form the basis of stable, sustainable, long-term exchange relationships" (p. 304). Though the intangible here seems akin to the "goodwill", it still serves as a proxy for intangible assets more broadly. Gainer (2010) again alludes to a variety of intangible benefits, such as "…experience, status, social networks…" (p. 313), that are factored into the perception of the value offered by a nonprofit organization. Those intangible benefits listed are forms of intangible assets of the nonprofit organization.

Texts that made no reference to either topic: The Non-Profit Sector: A Research Handbook (Powell and Steinberg, 2006), The Handbook on Private Foundations (Edie & Nober, 2005), and Nonprofit Mergers & Alliances (McLaughlin, 2010). Though this is no substitute for the wide array of resources, professional development, and education available to managers of nonprofits, it does highlight how little practical attention is paid to a critical set of organizational assets in readily available reference and practitioner texts.

The very limited discussion of what intellectual property is, the forms intangible assets can take, and the value they create in nonprofit operations, in the text that do mention IP or intangible assets implies that they are unimportant assets or that they are rare assets in nonprofit organizations. Neither implication is true. In terms of value, the preceding section outlines the numerous valuable uses for IP and other intangibles in firms. The author's survey research (Walker, 2018) also showed that social entrepreneurs managing 501c3 nonprofits used IP assets in strategic ways. Respondents shared that their IP was used much like it is in industry: to generate revenue, expand market opportunities, recruit and/or retain employees and board members, and for developing funder/investor interest in the organization.

Since there is clearly IP in nonprofit organizations, why is it not more visible in the nonprofit strategic management literature, professional development curricula, higher education courses, and academic study of the sector? Let's turn to the questions that frame this conceptual exploration.

Q1: Are there practical or regulatory rationales for recognizing and managing intellectual property in nonprofit organizations?

It is possible, given the paucity of research and attention to IP in nonprofit organizations, that IP in nonprofit organizations could be considered to have no economic or practical value and, therefore, is not worth the attention. However, the existence of highly skilled and trained

Technology Transfer Offices (TTO) at institutions of higher education in the U.S. suggests that such an assumption is false. TTOs often focus on patentable innovation, but the author's work (University of Miami, 2020) with the Early Science Initiative (ESI) at the University of Miami and their TTO representative generated over 100 copyrights and trademarks from an initial IP audit of the ESI teams' development and authorship. The awareness of the volume of IP held by the ESI team generated numerous ideas for how to create value-added products and services that furthers ESI's mission of engaging children in science exploration and learning from birth to five years old. Let's look more broadly, though, at the regulatory and practical rationales that apply outside of very large institutions.

Regulatory

In the U.S., the Internal Revenue Service (IRS) is one of the main regulatory and enforcement agencies of nonprofit organizations and operates at the federal level. The IRS does not publicize extensive information on the intangible asset oversight expectations of nonprofit organizations and their governance teams. However, it is important to understand the IRS's position on nonprofit intangible assets.

First, the IRS is interested in intellectual property assets before an organization is even granted tax-exempt status. In the U.S., organizations that seek federal tax exemption from the IRS are required to submit Form 1023. That form describes the organization's charitable purpose, activities, some policies around governance issues, such as conflict of interest, and the current and expected assets of the organization. Of note, one question the IRS asks in Part VIII of the form is:

> Do you or will you publish, own, or have rights in music, literature, tapes, artworks, choreography, scientific discoveries, or other intellectual property? If "Yes," explain. Describe who owns or will own any copyrights, patents, or trademarks, whether fees are or will be charged, how the fees are determined, and how any items are or will be produced, distributed, and marketed. (IRS, 2017)

Most nonprofit organizations are likely to file only one Form 1023 in their course of operations. This filing also occurs at a fairly early point in their operations or financial maturity where understanding what all forms of IP might be generated over the life of the organization is not top of mind, or even imaginable, for most managers or founders.

The importance of the question is further explained by the IRS. The IRS Form 1023 instructions state:

> We are specifically interested in situations where an organization intends to exploit its intellectual property commercially. For example, if you intend to develop a smoking cessation program that will be marketed to the public, you should explain the ownership and rights, including sharing of revenues with private parties. If an organization intends to develop brochures and other materials relating to its fund raising efforts, this type of general explanation would be sufficient. (IRS, 2018)

Since the IRS is the primary federal enforcement agency for nonprofit organization operations and compliance, the above suggests that the IRS expects nonprofit organization governance teams to recognize, articulate, and understand the relevant rights and ownership in IP assets from its earliest operations. That the IRS had identified copyright created in brochures and fundraising materials as worthy of recognition as an asset is a signal that IP asset awareness, training, and management tools for nonprofit leaders and governance teams is worthy of more scrutiny and attention from academics and practitioners.

Second, in the IRS's Exempt Organizations Continuing Professional Education Technical Instruction Program for FY 1999, Roderick Darling and Marvin Friedlander authored a guide on IP for exempt organizations, which include nonprofits. The guide outlines scenarios related to nonprofit organizations exploiting IP and related discussion of tax, compliance, and self-dealing implications in the presented scenarios. Of critical importance, however, is the statement:

> For an exempt organization, seeing to appropriate exploitation of its intellectual property rights is no less a fiduciary duty than managing its financial endowment. Money left on deposit in a non-interest-bearing account will gradually lose its value to inflation. Intellectual property rights that are not efficiently exploited will eventually expire without ever having produced the public and monetary benefits that could have been achieved. For this reason, exempt organizations should not be discouraged from the timely and vigorous exploitation of their rights in intellectual property…The public and the exempt organization should derive benefit from the proper exploitation of intellectual property rights. (p. 38)

This is a very clear statement from the IRS about the importance of IP assets in nonprofit organizations. One challenge with Darling and Friedlander's rationale is that it does not separate out the two rights recognized in IP, which would help managers understand the strategic value, use, and tools for exploitation. IP assets are assets with rights of ownership and rights of exclusion. Understanding both sets of rights is critical to managers and governance teams being able to first create, identify, and/or track IP assets in nonprofit organizations, crafting policies related to ownership, and then further deciding if, how, and when to exercise rights of exclusion related to specific IP assets.

Practical

The author (Walker, 2018), presented a theoretical rationale for the governance teams to exercise fiduciary duty over IP assets prior to identifying the IRS's regulatory position. In earlier survey research by the author (Walker, 2016a), which has since been reinforced by practitioner experience, it is evident that nonprofit organizations create and leverage their IP assets for many strategic and operational purposes. Revisiting those findings allows us to see how, in the absence of specific guidance, education, and literature, some nonprofit organizations are strategically managing and leveraging their IP assets.

The survey respondents were asked if the organization licenses any of its IP to other external users. Eighteen answered the question and one skipped it. Nine (47.37%) of the respondents indicated yes and nine (47.37%) selected no. The nine respondents indicating yes were then asked five follow-up questions to understand the nature of the licensing. Three (33.33%) of the nine that license charge licensing fees to other users, one (11.11%) does not, and five (55.56%) charge for licenses only sometimes. When asked about the type of organizations that license the IP from our respondents, all nine (100%) organizations license to other non-profits, four (44.44%) license to for-profits, six (66.67%) license to government agencies, and one (11.11%) licenses to all three.

All survey respondents were then asked if the organization's IP is used to earn income via program fees, sales, or contracts to provide goods or services. This is distinct from the licensing revenue question presented earlier as it is related to the operations and services of the organization rather than scaling and/or replicative goals usually sought through licensing. Eleven (57.89%) selected yes and eight (42.11%) selected no. This suggests that more nonprofit organizations in the sample utilize IP as a source of revenue generation than do not. However, this limited sample does not indicate that leveraging IP for revenue is a top strategic priority. Of the 11 earning income with IP, seven (63.64%) go about it using at least two of the three options. The other four (36.36%) organizations rely exclusively on either sales or contracts to provide goods or services as the IP revenue generator.

In industry, IP assets are used to expand market opportunities, and partnering with other brands or companies is one strategy for market expansion. The survey respondents were asked if the organization's IP is used to create partnership opportunities with other organizations or agencies. Seventeen (89.47%) indicated yes and two (10.53%) indicated no. Those indicating yes were asked to identify the purpose of those partnerships. The response selections are as follows:

- 16 (94.12%): Reach new constituents
- 6 (35.29%): Advocate
- 12 (70.59%): Generate revenue
- 4 (23.53%): Other

The write-in responses for "Other" were:

- scale our mission efficiently and effectively
- educate/build capacity
- maintain quality control, consistency among programs, and fidelity to model
- serve teachers and help districts develop robust induction programs

Except for the quality control response, the write-in responses could be categorized with the answers provided. The responding nonprofits generally do utilize their IP for market expansion, and with this sample it is a priority.

All survey respondents then indicated that the organization has specific growth/scaling goals and that IP is leveraged to grow or scale the organization. From responses to previous questions, we know that nine (47.37%) license the IP, eight (42.10%) use it to generate revenue, and almost all use IP to expand market opportunities. All of these IP strategies can be critical components for scaling the organization. However, only 7 (36.84%) of 19 utilize all three strategies. Five (26.34%) use two of the strategies while six (31.58%) only attempt one strategy. One (5.26%) respondent indicated that it did not use any of the strategies in its operations.

Another use of IP in industry is to create a competitive advantage for recruiting and retaining employees and corporate board members (Bingham and Spradlin, 2011). Five (26.32%) of the respondents leverage IP to recruit either staff or board members. Three (60.00%) of those five executives believe that this strategy has resulted in a larger candidate pool. Two (40.00%)

did not know if the IP attracted more candidates. Though this is too small of a sample to be conclusive, it is interesting that none of the organizations said that this strategy had not increased the candidate pool. This suggests that some nonprofits are proactive in showcasing their IP to potential employees and board members.

Finally, respondents were asked a series of questions to determine if IP is used to generate revenue through grants, contracts, and program related investments (PRIs). These questions differ from those related to license fee and income questions because they are targeted at identifying if nonprofits use IP to obtain "investors" like a for-profit company would, but in the form of donors or grantors. Fifteen (78.95%) executives indicated that the organization seeks grants/contracts from government agencies, three (15.79%) do not, and one (5.26%) does not know. Eleven (73.33%) of the 15 seeking government grants/contracts currently have government grants or contracts that incorporate the nonprofit's IP in the execution of the agreement. Fourteen (73.68%) of 19 respondents leverage IP to seek grants or PRIs from foundations, three (15.79%) do not, and two (10.53%) do not know. Of the 14 seeking grants or PRI's, 10 (71.43%) currently have grants or PRIs that incorporate the nonprofits IP in the achievement of goals and/or deliverables. Nonprofits do leverage IP to attract investors, but it is not a universal strategy since one organization uses neither strategy to attract investors.

The survey examined specific strategic tactics for leveraging IP. However, the landscape for IP strategy ranges from protectionist, where the IP owner goes to significant efforts to retain all control of IP, to open, where the IP owner exerts no rights of exclusion. The author (Walker, 2016b) examined four nonprofit organizations and how their mission-oriented efforts are related to their IP control. The four organizations reviewed, College Summit, KIPP, Manchester Bidwell Corporation, and Creative Commons, leverage their IP in distinct ways that follow a rights exclusion continuum from protectionist to open. Even though each organization might not refer to these assets specifically as IP, they do recognize them as part of their strategic advantage and make specific tactical choices for leveraging IP in ways that advance the strategic goals of the organization.

Intellectual property assets are assets that governance teams are required under their fiduciary duties to manage for the benefit of the nonprofit's stakeholders, which can be the people it serves, donors, community members, collaborators, and other aligned organizations. To be clear, this issue of frameworks and tools for the strategic management of intangibles is not limited to nonprofit organizations. However, in industry, the inadequacies of financial accounting and reporting systems for strategic deployment of intangibles is complemented with other tools and frameworks that provide governance teams with a multi-faceted view of firm resources to inform strategy (Biondi & Rebérioux, 2012). As yet, there does not appear to be equivalent tools and frameworks in broad use by nonprofit managers and governance teams that incorporates the wide range of intangible assets, including IP, in nonprofit organizations into strategic decision-making.

Q2: Why is intellectual property not explicitly highlighted as an asset in nonprofit strategic management practices?

One possible explanation is that the voluntary and civil society rationales for the origins of the sector minimize the economic impact of nonprofit organizations, which would minimize the importance of asset management. When we conceive of the rationale of the existence of nonprofit organizations, broadly, as entities that express voluntary, social capital, and social/community network motivations (Clemens, 2006), the strategic management motivations will be oriented towards supporting or meeting the needs of the volunteers or members. In the civil society construct, nonprofits emerged to express democratic values and norms, provide mutual benefit/aid for members, special citizen preferences, and/or political socialization (Clemens, 2006). Again, the strategic management motivations will be oriented towards stakeholder satisfaction and engagement. However, the diversity of the sector and the goods and services provided by nonprofit organizations are not fully explained by these rationales.

The diversity of organizational size in the nonprofit sector (Boris and Steuerle, 2006) obscures the applicability of non-financial asset management and strategy. All registered, tax-exempt nonprofit organizations, which are the focus of much nonprofit management research and training, will have financial asset management needs. These needs range from basic cash flow and bill payment to complex endowment management. In all organizations with financial assets, financial asset management and fiduciary duty are applicable and enforced by regulatory forces at the state and federal level. However, not all nonprofits will need IP asset management skills, though, as the IRS states, some level of awareness is expected of nonprofit managers and governance teams.

The nonprofit sector's diversity of purpose and missions obscures the way in which IP is created and utilized in organizations. Often the focus of analysis is on the outputs and not the methods of providing services or experiences. The ways that nonprofits deliver services or experiences are often built on IP or the combination of IP and other capitals, such as human, structural, or network to create value-added services or experiences. When we describe scaling nonprofit impact, if we investigate what is being scaled, often IP is involved, as the author's own consulting work with ESI at the University of Miami and case study review of College Summit, KIPP, and Manchester Bidwell Corporation (2016b) highlight.

Anheier's (2000) argument that the nonprofit sector lacks a unique managerial framework or toolkit that serves managers in a way that addresses the multiple purposes and stakeholders of nonprofit organizations offers a distinct multi-factoral barrier. Anheier's assessment of why a distinct nonprofit management framework has not emerged highlights the relative newness of the sector, the motivations to copy management or practices from government or business, and multiple bottom lines without clear pricing mechanisms to incorporate multiple stakeholder preferences simultaneously. The newness perspective would explain how researchers and practitioners have overlooked IP as an asset critical in the development and delivery of services and experiences. The 'motivations to copy' barrier would be highly dependent on the source of copied practices and could easily miss IP's relevance to nonprofits. In practice, this could look like what survey respondents shared: that half owed having written IP policies to a board member or external legal counsel (Walker, 2016a). The talent recruited for board service and or sought for organizational needs will lead to specific knowledge and skills entering the managerial frame of reference. Further, without clear pricing mechanisms and multiple motivations for the purpose of the nonprofit, it could be reasonable to assume that IP asset management is not applicable or relevant to a sector that often gets misconstrued as being restricted from "profiting". This lack of a "profit motive" to many outside the sector would signal that the rights of exclusion and leverage of IP for value extraction would be irrelevant to the strategic management needs of nonprofit managers and governance teams.

Adopted managerialism, as described by Atreya and Armstrong (2002), Van de Walle and Hammerschmid (2011), and Anheier (2000), that specifically comes from public administration does not incorporate IP into its management framework. In the U.S., most government entities are not eligible to enforce rights of exclusion in IP. Though a government entity might recognize the right to ownership in IP assets, the inability to exercise exclusion or other strategies like those used by industry or some nonprofits, leads to management tools and decision-making systems that say nothing about IP. This would particularly impact organizations that attempt to align with government funding sources for much of their revenue generation.

One client case highlights this phenomenon in action (Soteres, Walker, and Hogan, 2017). HEARTH was established to fill a niche in delivering transitional housing services for women and children fleeing domestic violence. As local funding policies shifted, and placements in housing for all people facing housing needs were taken over by county government, the client was facing two issues. First, HEARTH was informed that they could no longer serve only women and children fleeing domestic violence since the county said all providers were identical in their service provided (transitional housing) and the needs of all clients, regardless of gender or other circumstances, were addressable by housing first. Second, HEARTH was informed that providers that did not comply would no longer receive federal funds distributed through the county Continuum of Care contracting. The client's governance team decided that their mission to serve women and children fleeing domestic violence is the critical reason why the organization exists. The governance team clearly articulated that their value is more than operating as a general emergency housing provider. Indeed, most of their staff had specific education and skills oriented towards working with women, children, and survivors of domestic abuse. For more than 20 years the funding needs of the client were aligned with the funding available from local government. As such, the agency positioned their services as primarily meeting the immediate housing needs of a particular group of people and secondarily offering specific safety protocols and additional supports that would enable them to achieve independence from abusive circumstances.

With the loss of key funding, HEARTH needed to articulate the value and impact their services created in both the housing and domestic violence provider landscapes to attract significant private funding. HEARTH was able to do this by highlighting specific IP and value-added programming, services, and relationships, built on their IP, to demonstrate their ability and success at providing specific client-focused stability, safety, life-skills training curricula, and sustained independence. That specific reframing took a lot of thought and discussion because prior to the change in funding priorities the provider agency only had to look like the services the county wanted provided (transitional housing) without any justification as to why additional services were part of a successful intervention strategy for the women and children fleeing domestic violence.

Finally, the fact that IP asset management is multifaceted might be a barrier to inclusion in research, training, and education in the nonprofit sector. As mentioned above, IP assets have two facets of rights: rights in ownership and rights to exclude. The double-rights pose several potential management and governance issues. First, recognizing, identifying, and tracking IP owned and/or authored by an organization requires time and ongoing attention to a specific asset class. This work, depending on the size of the organization, would require that more than one person inside the organization be able to recognize, articulate, and track IP assets. Second, as Bromfeld and Branard (2010) articulate "…the capabilities to manage IP are not the same as those needed to create IP…It is therefore important to identify the purpose of IP management, as well as to choose the most appropriate vehicle." This implies that management of IP assets is an active rather than passive activity in firms. This active management activity is one of the key values that TTOs bring to higher education institutions. Finally, the intention(s) leaders of nonprofit organizations have for leveraging IP needs to align with the mission of the organization, and from there discussion and decisions about the structures, processes, and tactics of exercising rights in exclusion become clearer to management and governance teams (Start Early, 2020).

Q3: What can academics and practitioners do to bring intellectual property assets into the nonprofit strategic management discourse?

This offering is by no means exhaustive. The author invites other ideas, further research, and discussion about how to incorporate a wide range of acknowledgement, training, and management tools into the nonprofit strategic management research, discourse, and application.

One idea is to bring increased awareness of IP assets in the nonprofit sector to nonprofit organizations and the variety of institutional funders that support them. Managers and governance teams would both be applicable audiences. This gap in awareness is highlighted by the 2014 survey respondents indicating that half of the organizations had directly developed IP with funds from a foundation or government agency, but that their rights in ownership were not clear.

External funding that does not come with clear guidelines on assignment of rights can lead to disputes over ownership and rights to exclusion (Bloom 2011a; Bloom 2011b), and therefore limits the ways in which nonprofit leaders can strategically leverage its' IP. The author's experience with foundation clients indicates that IP policies related to grantmaking are limited. Most foundation clients have not considered the question before and had little understanding of what rights they might have, or why explicit discussion of IP with grantees, might have strategic importance for both the funder and grantee's missions. Further, funder clients are also generally unaware that IP is also an asset requiring fiduciary oversight. Awareness can be generated in a number of ways, some of which follow, and could also include things like awareness campaigns, opinion pieces, dedicated forums in professional and research meetings.

A second idea is for academics and practitioners to intentionally incorporate the lexicon and definitions of IP assets and concepts into their work. For example, when referring to "nonprofit assets", it is not enough to assume that nonprofit managers interpret this as financial, tangible, and intangible. Naming and defining the full spectrum of nonprofit assets with value, regardless of their visibility on the financial statements, is critical to informed discussions and decision-making in the sector. Further, by naming all categories of assets in the academic and practitioner literature there is an opportunity to refine our collective insight and understanding of the nature, operations, and impact of a diverse sector.

Third, academics and practitioners could revisit the wealth of case studies that exist to describe managerial challenges in the nonprofit sector and highlight the IP assets, or value-added intangible assets more broadly, in the analysis. Manchester Bidwell Corporation, referenced earlier, has been the subject of at least two high-profile case studies (Stuart, et al., 2010; Brant, 2005), but neither of the case studies recognize or specifically name the variety of IP assets owned by the organization and how the assets influence the strategies used by the organization for furthering its strategic objectives and mission. It would make sense for this to be the case if management were unaware of the IP assets or how to strategically deploy them. However, the author's experience as an employee of the organization from 2000 to 2004 combined with the communications with the founder (Strickland, 2012) demonstrated a clear recognition of IP assets within the organization and a strategy for leveraging them. Knowing this, the case studies read like a profile that reinforces the "great man theory" of leadership rather than a sophisticated and intentional development of a catalog of IP assets and value-added intangible assets. Looking back and incorporating this lens on IP assets going forward would add depth and context to the management skills and strategies needed and utilized in the sector.

Finally, academics and practitioners can actively work to explore or develop alternate frameworks for nonprofit strategy and management. Management as a science, practice, and academic discipline has many threads that could inform the nonprofit sector. Kong (2003, 2015), Kong and Prior (2008), Kong and Ramia (2010), and Bronzetti and Veltri (2011) put forward compelling arguments for the intellectual capital framework as a potentially robust and informative set of practices and tools for nonprofit managers.

Intellectual capital is generally considered to be tacit and explicit knowledge of people in the organization (human capital), the processes, tools, systems, intellectual property, and physical assets of the organization (structural capital), and the information available to the organization through relationships outside the organization (network capital) (Stewart, 1997; Svieby and Lloyd, 1987). Organizations that utilize an intellectual capital framework are managing and leveraging all three capitals, as needed and appropriate, to achieve organizational goals. Indeed, the Nash (2010) reference above writes about the intangible asset of knowledge from the community that informs social enterprise innovation. This is an example of network capital. Both of Gainer's (2010) references to intangible assets could be forms of structural and network capital depending on the context. However, Toepler and Anheier's (2004) overview of nonprofit organizational theory and Anheier's (2000) analysis of why nonprofit-specific framework has yet to emerge create a number of questions that could be used to assess the appropriateness of intellectual capital or any other management framework for all or part of the nonprofit sector. Moreover, the question of whether nonprofits, in general, or a specific nonprofit organization, resembles a knowledge-based firm or production firm would inform the way any managerial framework would apply.

Conclusion

The nonprofit sector in the U.S. is a varied and complex landscape with an array of forms and stakeholder motivations. The services and experiences they provide and the impact and strategic goals they seek are diverse. This lack of uniformity had made a nonprofit management framework difficult to articulate and obscured the variety of intangible assets in the nonprofit organizations.

It is clear that some nonprofit organizations understand the strategic importance of IP, and actively utilize their IP assets to achieve their goals. It is not clear, however, that nonprofit organizations, academics, governing boards, and practitioners have tools for how to value these assets or relevant frameworks for leveraging IP for strategic purposes beyond service and experience delivery.

The relative newness of the non-profit sector may, in part, account for this. However, given that the IRS explicitly encouraged non-profit organizations to fully exploit their IP assets over 20 years ago, and warned against allowing such assets depreciate, suggests that it is well past time for academics and practitioners to be engaged in supporting the recognition, valuing, and leveraging of these critical assets.

The dual-rights nature of IP assets make the awareness, education, and applicable strategies that governance teams could utilize more difficult to adopt in nonprofit organizations. Focused efforts to begin to incorporate the lexicon and make IP assets an explicit part of any discussion on nonprofit assets would be a first step in educating all managers in the sector, including funders who could play a critical part in elevating the importance of IP assets.

Finally, this conceptual paper reinforces the need to identify or develop management frameworks that address the diverse needs of nonprofit organizations that overcome some of the barriers outlined. There are promising ideas in the intellectual capital framework, but more thought, discourse, and research are necessary.

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