

30 October 2020

VIA E-MAIL TLP-INTEREST@IETF.ORG

IETF Trust
5177 Brandin Ct
Fremont, CA 94538

Re: Proposed Policy on Rights in IANA Parameter Registry Data

Dear IETF Trust:

Internet Corporation for Assigned Names and Numbers (“ICANN”) thanks the IETF Trust’s for its request for community input regarding its “Proposed Policy on Rights in IANA Parameter Registry Data” (“Proposed Policy”). ICANN agrees with the IETF Trust that there should be clear acknowledgement that the public is freely able to use the IANA parameter registry data without restriction. However, for the reasons described below, ICANN has identified some issues that need to be addressed or clarified in order to effectuate the Trust’s intent to disclaim the rights it might hold in the IANA Parameter Registry Data. ICANN is also supportive of working together with the IETF Trust to make this Proposed Policy more universal in its application, including clarification on all parties’ rights in the data and how to ensure the data in the IANA Parameter Registries is in the public domain.

ICANN and the IETF Trust are parties to a Memorandum of Understanding through which ICANN provides the IANA Protocol Parameter Function. ICANN subcontracts that work to its affiliate, Public Technical Identifiers (“PTI”), as part of PTI’s performance of all of the IANA Functions on ICANN’s behalf. ICANN and the IETF Trust agreed in 2016 to a transfer of IANA-related trademarks and domain name registrations to the IETF Trust, and ICANN (and PTI) maintain licenses from the Trust to continue using those marks and domain names in the performance of the IANA functions. As there are no other agreements that relate to any transfers of intellectual property rights as between ICANN and the IETF, ICANN notes that the assertion in the Proposed Policy that the IETF Trust “manag[es] the intellectual property assets of the . . . IANA” needs to be clarified. Neither the trademarks or domain names appear to be at issue in the Proposed Policy. ICANN also seeks clarification as to the scope of the Trust’s claimed ownership over the parameters and how this relates to ICANN/PTI, as the Proposed Policy statement that “[t]he Trustees will work with IANA . . . to clarify the distinction between the parameters themselves which are the Trust’s, and the website which is maintained by PTI” does not appear accurate as it asserts full Trust ownership over the parameters.

These two examples are indicative of the broader need for the Trust to clarify the rights that it is seeking to designate under the Creative Commons Zero (CC0) designation through the Proposed Policy. As recognized by the Trust, the CC0 designation does *not* affect “the rights that other persons may have in the work or in how the work is used,” and no warranties are made about the

contents. To the extent that the data within the parameter registries is subject to copyright, those rights belong to the creator (be it the IETF, ICANN through PTI, or third parties). ICANN encourages the Trust to include in the Proposed Policy a specific identification of the material that the Trust is making subject to the CC0 designation. This specificity will make it clearer to any person relying on the Proposed Policy that the IETF Trust does not hold all of the necessary rights to make the CC0 designation for the entirety of the IANA parameter data. As noted above, ICANN is supportive that a more universal Proposed Policy could also make clear which rights ICANN would similarly designate, as well as address rights in the IANA parameter data that are held by third parties.

While ICANN has long taken the position that it does not assert copyright protections over the data it includes in the parameter registries, ICANN is supportive of continuing to clarify that the rights it holds over that data (even if deemed to be subject to copyright protection) are in the public domain. As such, we support the Trust in its initiative in developing a Policy that transcends jurisdictional borders, so that the users of the IANA protocol parameter registries have common understanding of their ability to use the data no matter where they might be.

As for parameter registry content generated by third parties, ICANN understands that to the extent such contributions are incorporated in the contents of the IANA protocol parameter registries and subject to copyright protection or related rights (e.g., database rights), the third parties would be the owners of such rights in those contributions. Pursuant to RFC 5378, "Rights Contributors Provide to the IETF Trust," dated November 2008, contributors to the IETF license any copyrights in such contributions to the IETF Trust, which in turn may sublicense rights to any portion of the contributions. Because these contributions are subject to a license, the IETF Trust does not own any copyrights to such content and therefore cannot designate such content as subject to CC0. Nor can ICANN. The resulting policy should be clear on this limitation.

ICANN org looks forward to continuing to participate in the development of this Proposed Policy. As noted above, though we have concerns about the breadth of the proclaimed ownership, as well as some other specific language in the Proposed Policy, we remain supportive of the underlying intent and are committed to continuing to work with the IETF Trust and the IETF community to finalize a policy.

Very truly yours,



Göran Marby
President and Chief Executive Officer
Internet Corporation for Assigned Names and Numbers (ICANN)

CC: Harald Alvestrand