IETF Trust update to ISOC BoT

March 2022
IETF Trust Purpose

Enable usage of IP Assets while protecting ownership

Hold IP Assets for IETF, IANA, ICANN, RIR Community

Domain ownership
  IETF.ORG, IESG.ORG, IRTF.ORG, IAB.ORG, IANA.ORG,…

Copyrights
  IETF RFC’s, Logos, Photos, Videos
  Contributions to the IETF: Internet Drafts, discussions, etc.

Trademarks
  IETF, IANA Marks, additional IETF marks (logo’s etc.)

Software
  IETF Tools, IETF YANG Catalog
Trust Structure

- Commonwealth of Virginia Trust
- IRS 501c3 Non-Profit
- Independent from ISOC and IETC LLC
- Website: TRUSTEE.IETF.ORG
- 5 Trustees
  - IETF Nomcom 3, IESG 1, ISOC BoT 1 = 5 Trustees
  - No financial support (travel or compensation)
  - Knowledge of IP law useful
  - Trustees are personally legally responsible/owners
- Annual budget ~100K
  - Legal & Administration Services, TM Registrations,
  - Document Storage (IETF bluesheets, other materials)
  - Domain Registrations, Trustee Insurance
**Trust Insurance Concerns**

- The IETF Trust carries $1 million Professional Liability and $3 million Directors & Officers insurance
- Levels are out of date having not kept up with inflation or risk levels
- Trust has tried to increase these amounts to appropriate levels
  - Current insurance provider won’t increase coverage limits
  - Very few companies providing insurance to trusts
- Quite possible that coverage may one day become unavailable from any source

**Impacts**

- Without adequate insurance the Trust and Trustees face a significant risk
- Without any insurance the Trust would be very high risk
- Trustees have personal liability

**Discussion**

- Insurance companies don’t like trusts due to their extensive use in family real-estate/wealth holding and tax optimization strategies
- Insurance Companies are comfortable with not-for-profit corporations
  - Large marketplace of insurance providers
  - Pricing more competitive due to large marketplace
Trustee Personal Liability

- The IETF Trust is a Virginia Common Law Trust
- Trustees aren’t just managing officers – they are the owners of the Trust & Trust assets
- Trademark (TM) Registrations are a good example
  - Individual Trustees are listed along with the IETF Trust in registrations as the owners
  - Some TM Registrations don’t allow trusts to listed leaving IETF Trustees as the direct owners
- IETF Trust’s legal liabilities can carry over into individual Trustees legal liabilities
- Trustees sign IETF Trustee Agreement acknowledging role, responsibilities and risk when joining
  - This is one agreement you really want to read before signing

Impacts

- Many potential trustees have avoided being IETF Trustees due to the required personal risk
- Trustees take on direct personal liability as owners of IETF Trust

Discussion

- Corporations directly own IP Assets and can register them worldwide
  
- IETF Trustees act, and community expectations, are very much like corporate directors
  - They oversee but do not personally own
- Corporate directors have better legal separation protections from personal liability
Why not fold under IETF LLC?

IETF Administration LLC is a disregarded entity of ISOC
- ISOC is the ultimate owner of the IETF LLC
- ISOC is also the owner of PIR (Public Interest Registry)

IETF Trust 2005 founding agreement signed by CNRI & ISOC
(source: https://trustee.ietf.org/documents/founding-documents)
- Restricts IETF Trust’s assets going to either CNRI or ISOC upon dissolution
- Folding under IETF LLC would be putting Trust assets under ISOC

IANA 2016 Transition transferred IANA assets to IETF Trust
(source: https://trustee.ietf.org/iana-ipr)
- IETF Trust chosen as an independent party to hold & protect IANA assets
- Expanded IETF Trust’s community to include ICANN + Names & Numbers
- Folding under IETF LLC would put IANA assets under ISOC a Registry Operator

IETF Trustees believe that folding under IETF Administration LLC would break agreements & expectations with the community and with past IP contributors
Exploring restructuring IETF Trust to a not-for-profit corporation

What would change:
- All IETF Trusts assets would transfer
- All current licenses would transfer
- Trustees would no longer be owners – demoted to directors
- Would move to Delaware from Virginia (same as IETF LLC)

What would be the same:
- Role & Service to IETF & Internet Community would continue
- IP Licenses terms would stay the same
- Would stay non-profit (501c3) entity
- Selection of Directors would follow process per RFC 8714
  - 5 Directors: 1 from IESG, 1 from ISOC, 3 from IETF nomcom
IETF Trustees are going to hold a consultation on Trust communities
- IETF Community
- ICANN
- Name & Numbers Community
- Internet Community

Want to hear to Community thoughts on proposal

Will kick off in April 2022 with a Webinar (details to be announced)

Will use TLP-INTEREST@IETF.ORG for discussion
Contact us

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