

## **Committee on WIPO Standards (CWS)**

### **Fifth Session**

**Geneva, May 29 to June 2, 2017**

### **EXTENSION OF WIPO STANDARD ST.96 TO INCORPORATE EXTENSIBLE MARKUP LANGUAGE (XML) SCHEMA FOR ORPHAN WORKS AND GEOGRAPHICAL INDICATIONS**

*Document prepared by the Secretariat*

#### **INTRODUCTION**

1. The Intellectual Property Office of United Kingdom (UK IPO) submitted a proposal regarding the extension of WIPO Standard ST.96 to incorporate copyright orphan works to the fourth session of the Committee on WIPO Standards (CWS) held in May 2014 (see document CWS/4/3).
2. On the basis of the proposal, the CWS discussed creation of a new Task to develop a data dictionary and XML schemas for inclusion of copyright orphan works in WIPO Standard ST.96. Although several delegations supported the proposal to create the new Task, some delegations expressed reservations and were not in a position to agree on the creation of this new Task during the session of the CWS. The discussion was therefore not completed. (See paragraphs 29 and 30 of document WO/GA/46/7.)
3. At its reconvened fourth session held in March 2016, the CWS recalled its discussion on this topic, which took place at its fourth session. The CWS noted the support of the Delegation of Canada for the proposal as reproduced in document CWS/4/3 and the interest of the Delegation of the Russian Federation in extending WIPO Standard ST.96 to other types of intellectual property, including geographical indications. The Delegation of the United Kingdom, as the proponent of the proposal, suggested not to open the agenda item for discussion at the reconvened fourth session and to leave it on the agenda of the next session of the CWS to be held in 2017. The CWS agreed to keep this item on the agenda of its next session. (See paragraphs 24 to 28 of document CWS/4Bis/16.)

#### PROPOSAL FOR THE EXTENSION OF ST.96 TO INCORPORATE ORPHAN WORKS

4. On March 29, 2017, the Intellectual Property Office of United Kingdom (UK IPO) submitted a revised proposal to the Secretariat for the extension of WIPO Standard ST.96 to incorporate XML for orphan works (see Annex I to the present document).

#### PROPOSAL FOR THE EXTENSION OF ST.96 TO INCORPORATE GEOGRAPHICAL INDICATIONS

5. On December 2, 2016, the Federal Service for Intellectual Property of the Russian Federation (Rospatent) sent a letter to the Secretariat proposing the extension of WIPO Standard ST.96 to incorporate XML for geographical indications (see Annex II to the present document).

#### PROPOSED NEW TASK TO THE XML4IP TASK FORCE

6. If the CWS approves the proposals mentioned above, the relevant development work should be dealt with by the XML4IP Task Force since the revision of WIPO Standard ST.96 is under the responsibility of the Task Force. Therefore it is proposed to assign the following new task to the Task Force for revision of ST.96: "develop XML schema components for orphan works and geographical indications".

7. Once the proposals have been approved, the International Bureau will issue a circular to invite CWS Members to nominate their experts in the area of orphan works and geographical indications to the XML4IP Task Force.

8. The CWS request the XML4IP Task Force to present progress report on the new development to its next session to be held in 2018.

9. *The CWS is invited to:*

*(a) consider the proposal from the United Kingdom, referred to in paragraph 4 and Annex I to this document;*

*(b) consider the proposal from the Russian Federation, referred to in paragraph 5 and Annex II to this document;*

*(c) if the above proposal(s) is approved, assign the new task to the XML4IP Task Force and request the International Bureau to invite its members to nominate experts on orphan works and geographical indications to the Task Force, referred to in paragraph 6; and*

*(d) request the XML4IP Task Force to report on the progress on the new task to the next CWS session.*

[Annexes follow]

## **PROPOSAL FOR THE EXTENSION OF WIPO STANDARD ST.96 TO INCORPORATE EXTENSIBLE MARKUP LANGUAGE (XML) SCHEMA FOR ORPHAN WORKS**

*Document prepared by the UK IPO*

The UK IPO proposed to the Committee on WIPO Standards (CWS) in May 2014 (CWS/4/3) that the data exchange standard known as WIPO Standard ST.96 should be extended to include orphan works in addition to the other IP rights of Patents Trade Marks and Designs.

The prompt for extending ST.96 was the UK IPO's orphan works licensing scheme (where rights holders cannot be located) to allow the reproduction of orphan works for use in the UK only. For this the UK IPO has developed an online application process and a public database of identified orphan works subject to the UK IPO's verification process and those it has agreed to license.

The EUIPO administers the EU orphan works system which also holds records of identified orphan works within the EU that are being used through the EU Directive on orphan works. Whilst the UK scheme is different to that of the EU, the similarities between the systems and the core information they hold around the orphan work, the rights holders, diligent searches etc. is fundamentally the same.

The UK IPO therefore considers that WIPO Standard ST.96 using XML, used as the UK IPO's naming standard and for internal/external data-exchange relating to patents, trade marks and registered designs, should be available for use with data relating to orphan works.

It should be noted that the UK IPO is not suggesting there should be any mandatory registration of copyright as this would contravene the Berne Convention, nor is it asking other countries to set up orphan works schemes; this proposal is about facilitating mutually-compatible technical standards.

The UK IPO would therefore like to extend ST.96 to cover orphan works. The UK IPO has prepared a draft XML schema based on ST.96 for discussion by the expert group of the CWS, i.e. XML4IP Task Force, if the CWS approves this proposal (see Annex to this proposal.)

[Annex to the proposal follows]

ANNEX TO THE PROPOSAL

APPENDIX A - DRAFT XML SCHEMA FOR ORPHAN WORKS ([OrphanWorkSchema Draft.zip](#))

APPENDIX B - DIAGRAM OF DRAFT XML SCHEMA FOR ORPHAN WORKS



[Annex II follows]



**МИНИСТЕРСТВО  
ЭКОНОМИЧЕСКОГО РАЗВИТИЯ  
РОССИЙСКОЙ ФЕДЕРАЦИИ  
ФЕДЕРАЛЬНАЯ СЛУЖБА  
ПО ИНТЕЛЛЕКТУАЛЬНОЙ  
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02.12.2016 № 10-1-9-699

На № \_\_\_\_\_ от \_\_\_\_\_

Mr. Yun  
Head of Standard Section  
International Classification  
and Standards  
World Intellectual  
Property Organization

Dear Mr. Yun,

In addition to earlier sent letter № 10-1-9-614 as of September 30, 2016, please, find enclosed the updated proposal of the Russian Federation for the amending of the WIPO Standard ST.96.

I look forward to further strengthening our cooperation.

Sincerely yours,

Pavel Spitsyn

Director  
International Cooperation Department

Encl.

## **PROPOSAL FOR THE AMENDING OF THE WIPO STANDARD ST.96**

Document prepared by Rospatent

### **BACKGROUND AND REQUEST**

1. In accordance with Russian legislation in force, Rospatent registers appellations of origin (AO) in the National Registry.
2. In electronic exchange of information with WIPO under the Madrid system, there is a need to specify appellations of origin as challenging registrations when preparing decisions on the provisional refusal.
3. At present, there are no XML WIPO Standards designed to describe geographical indications, such as appellations of origin.
4. Rospatent proposes to extend the scope of WIPO Standard ST.96 to cover geographical indications.

### **PROBLEMS ENCOUNTERED WITH THE CURRENT WIPO STANDARD ST.96**

1. Currently, ST.96 only describes three types of intellectual property rights – trademarks, inventions/utility models and industrial designs. In accordance with Russian legislation in force, as well as the legislations of other countries, geographical indications are similar to trademarks, but they have a number of essential features that are not covered by existing XML WIPO Standards applicable to trademarks, in particular ST.96. This leads to the need of using compatible ST.96 implementation schemas for processing data related to geographical indications.
2. Preliminary discussion on this issue took place under the umbrella of XML4IP Task Force. The participants analyzed the requirements and drafted proposals for

corresponding XML schemas, but the discussion on this issue was suspended.

### **THE PROPOSED CHANGES TO THE STANDARD**

Rospatent submits for consideration and approval of the CWS the following proposals:

- (A) extend the scope of WIPO Standard ST.96 to cover geographical indications;
- (B) incorporate geographical indications in the Data Dictionary and XML-schema of WIPO Standard ST.96 ;
- (C) define the associated components of XML-schema.

[End of Annex II and of document]