

Комитет по стандартам ВОИС (КСВ)

Шестая сессия
Женева, 15-19 октября 2018 г.

ОТЧЕТ О РАЗРАБОТКЕ XML-СХЕМЫ ДЛЯ ДАННЫХ О ПРАВОВОМ СТАТУСЕ ПАТЕНТОВ

Документ подготовлен Международным бюро

ВВЕДЕНИЕ

1. На своей пятой сессии, состоявшейся 29 мая – 2 июня 2017 г., Комитет по стандартам ВОИС (КСВ) принял стандарт ВОИС ST.27 «Рекомендация в отношении обмена данными о правовом статусе патентов». КСВ также просил Целевую группу по XML для ПС разработать, по согласованию с Целевой группой по правовому статусу (ЦГПС), компоненты схемы расширяемого языка разметки (XML), основанные на новом стандарте ВОИС ST.27, для облегчения обмена данными о правовом статусе патентов. КСВ также просил представить отчет о результатах этой работы на его шестой сессии (См. пункты 50 и 53 документа CWS/5/22.)
2. Во исполнение упомянутой просьбы Целевая группа по XML для ПС провела три раунда обсуждений на Wiki-форуме и несколько совещаний в режиме онлайн. Этот вопрос также интенсивно обсуждался на заседаниях в очной форме, состоявшихся в Оттаве в 2017 г. и в Москве в 2018 г. Ввиду сложности структуры данных и различных подходов ведомств интеллектуальной собственности (ВИС) к вопросам правового статуса патентов Целевой группе необходимо больше времени для подготовки окончательного предложения по XML-компонентам схемы данных, описывающих правовой статус патентов.
3. В своих ответах на циркулярное письмо С. CWS 92, касающееся реализации стандарта ВОИС ST.27, некоторые ВИС отмечали, что его реализация в них будет зависеть от готовности компонентов XML-схемы данных, описывающих юридический статус патентов.

ОТЧЕТ О ХОДЕ РАБОТЫ

4. При разработке XML-компонентов схемы данных, описывающих правовой статус патентов, Целевая группа по XML для ПС использовала в своей работе XML-схему данных учетных записей о патентах, поскольку теоретически два этих массива XML-данных основаны на более или менее одинаковых компонентах данных. Главная разница между двумя этими массивами данных состоит в том, что массив данных «Правовой статус патентов» содержит все патентные заявки, рассмотренные ВИС на момент выпуска данных, в то время как массив «Учетные записи о патентах» содержит данные о конкретной патентной заявке, относящиеся ко всем этапам «цикла жизни» заявки.

5. Целевая группа согласовала структуру высокого уровня для XML-схемы данных, характеризующих правовой статус патентов, а также большинство XML-компонентов. По-прежнему не решены и продолжают обсуждаться следующие два главных вопроса:

- структура дополнительных данных, связанных с событием; и
- состав дополнительных данных, которые должны сообщаться в отношении события в соответствии с Приложением II к стандарту ВОИС ST.27.

6. В связи с вопросом о структуре дополнительных данных было предложено два варианта: (а) единая структура, которая поддерживает все события 21 категории, определенных в стандарте ВОИС ST.27; и (b) отдельная структура для каждой категории. Два эти варианта имеют свои плюсы и минусы, и члены Целевой группы имеют различные предпочтения. Проекты схем единой структуры и отдельных структур воспроизводятся в Приложениях I и II к настоящему документу, соответственно.

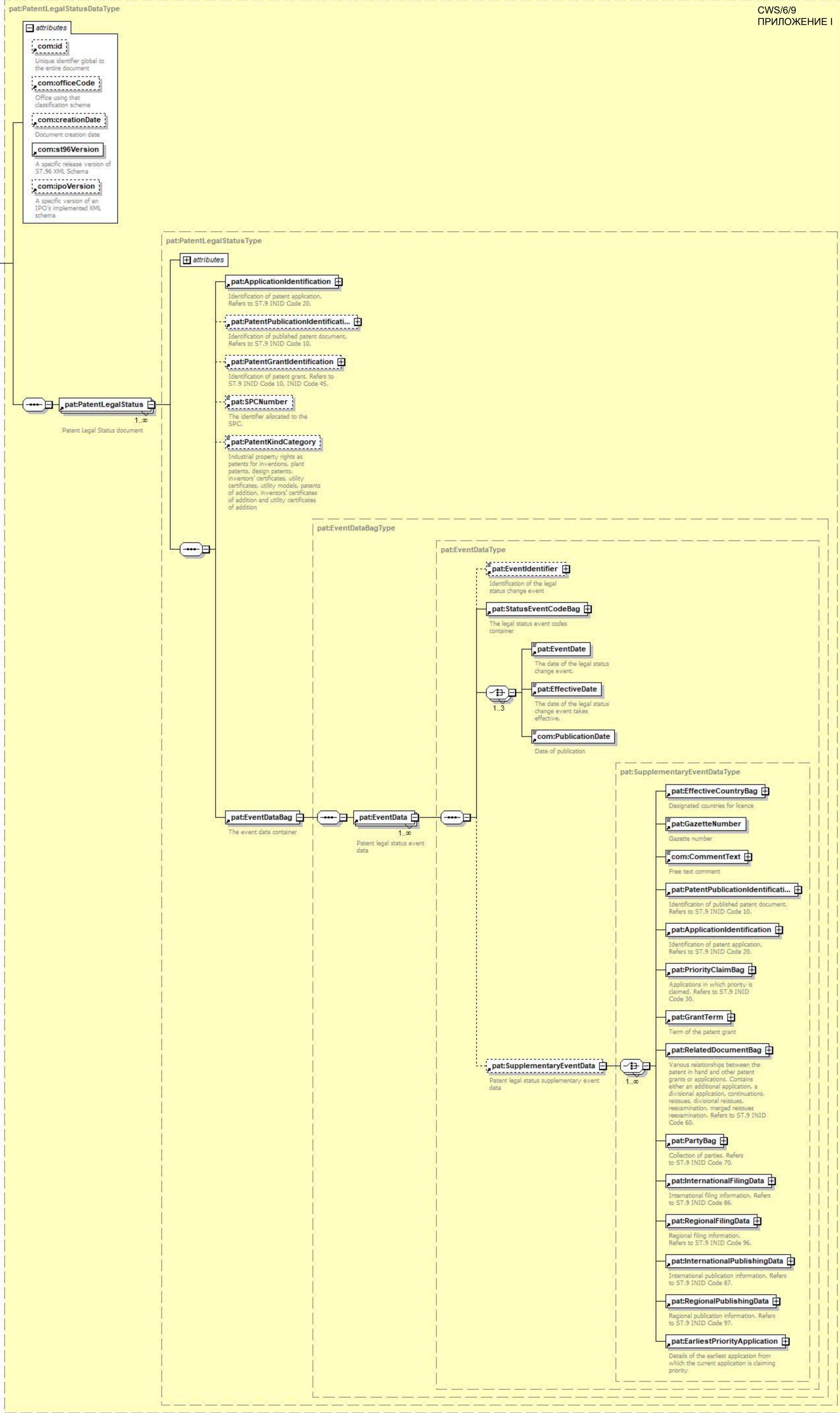
7. В связи с вопросом о составе дополнительных данных Целевая группа отметила, что анализ данных ВИС требует дополнительного времени. Целевая группа также отметила, что обновление Приложения II к стандарту ВОИС ST.27 с учетом принятого состава данных может оказаться нецелесообразным, поскольку применительно к некоторым ВИС Приложение II содержит связанную информацию общего характера, а не детальные и/или конкретные компоненты данных. Этот вопрос будет обсуждаться с Целевой группой по правовому статусу после того, как Целевая группа по XML для ПС завершит свою работу над схемой.

8. *КСВ предлагается:*

(а) принять к сведению результаты работы Целевой группы по XML для ПС и отчет руководителя Целевой группы, представленные в настоящем документе; и

(b) просить Целевую группу по XML для ПС представить окончательный проект схемы данных о правовом статусе патентов для его рассмотрения на седьмой сессии КСВ.

[Приложения следуют]



PatentLegalStatusData

A collection of patent legal status documents

attributes

com:mid

Unique identifier global to the entire document

com:officeCode

Office using that classification scheme

com:creationDate

Document creation date

com:st96Version

A specific release version of ST 96 XML Schema

com:ipoVersion

A specific version of an IPO's implemented XML Schema

pat:PatentLegalStatus

1..∞

Patent Legal Status document

pat:PatentLegalStatusType

attributes

pat:ApplicationIdentification

Identification of parent application. Refers to 57.9 INID Code 20.

pat:PatentPublicationIdentification

Identification of published patent document. Refers to 57.9 INID Code 10.

pat:PatentGrantIdentification

Identification of patent grant. Refers to 57.9 INID Code 10, INID Code 45.

pat:IPRightKindCategory

Industrial property rights or patents for inventions, plant patents, design patents, inventors' certificates, utility certificates, utility models, patents of addition, inventors' certificates of addition, and utility certificates of addition

pat:StatusEventDataBag

The event data container

pat:StatusEventDataBag Type

pat:StatusEventData

1..∞

Patent legal status event data

pat:StatusEventData Type

pat:StatusEventIdentifier

Identification of the legal status change event

pat:StatusEventCode

Based on WIPO ST-27 – The conventional legal status event code

Consists of one character StatusStateCode

one character PreviousStageCode

one character CurrentStageCode

three characters KeyEventCode

three characters DetailedEventCode and

three characters NationalEventCode

KeyEventCode, DetailedEventCode, and NationalEventCode must use XXX for unknown value

NationalEventCode must be an Alpha-numeric value with no special characters

pat:EventDate

The date of the legal status change event

pat:EffectiveDate

The date of the legal status change event takes effect

com:PublicationDate

Date of publication

pat:ApplicationFilingEventData

This category is a group of events related to the filing of an application. It includes, for example, when a national or regional IPO receives an application for the grant of an IP right together with any additional documentation and fees necessary to obtain a filing date under national or regional law or convention or the Patent Cooperation Treaty (PCT) as applicable. This category also includes events related to the filing of a provisional application, divisional application, continuation, continuation in part, or an application for conversion. It also includes entry of an international application into the national or regional phase

pat:ApplicationDiscontinuationEventData

This category is a group of events related to the discontinuation of an application. It includes, for example, when an application has been voluntarily withdrawn by the applicant, was deemed to be withdrawn, abandoned or lapsed or was refused by the IPO. The events in this category may move an application from the filing stage, examination stage or pre-grant challenge stage into the termination (likely) stage

pat:ApplicationRevivalEventData

This category is a group of events related to the revival, reinstatement or restoration of an application after it has been discontinued. It includes, for example, when an application was revived following a request for application revival after payment of an outstanding fee, responding to an obscuring office action which has resulted in the application being discontinued, or following an appeal. The events in this category may move an application from the termination (likely) stage into the filing stage, examination stage or pre-grant challenge stage

pat:SearchExaminationEventData

This category is a group of events related to the examination proceeding and prior art searches. It includes, for example, a formality examination or a substantive examination. It also includes a request for a prior art search and an announcement of the intention of the IPO to grant an IP right. The events in this category may move an application from the filing stage into the examination stage

pat:PreGrantReviewRequestEventData

This category is a group of events related to the request for a pre-grant review. It includes, for example, a request for a pre-grant opposition, pre-grant re-examination, or pre-grant limitation. It also includes when such a request was inadmissible, rejected or withdrawn. The events in this category may move an application from the examination stage or the termination (likely) stage into the pre-grant challenge stage

pat:IPRightGrantEventData

This category is a group of events which relate to the effective grant date of an IP right and/or entry of an IP right into the IPO's register. It includes, for example, when an IP right was granted following an examination, an appeal, pre-grant review or inadmissibility, rejection or withdrawal of a pre-grant review request. The events in this category may move an application from the examination stage or the pre-grant challenge stage into the grant stage

pat:ProtectionBeyondIPRightTerminationEventData

This category is a group of events related to the protection of an IP right beyond its term. It includes, for example, a request for a patent term adjustment (PTA), patent term extension (PTE) or a supplementary protection certificate (SPC) extension and also includes related events that occur subsequent to such a request. The events in this category occur during the grant stage

pat:IPRightCessationEventData

This category is a group of events related to the cessation of an IP right. It includes, for example, the cessation of an IP right following an IP right review, appeal, a refusal to reinstate, or a lapse or expiry. The events in this category may move an IP right from the grant stage or the pre-grant challenge stage into the termination (likely) stage

pat:IPRightRevivalEventData

This category is a group of events related to the reinstatement or restoration of an IP right after its cessation. It includes, for example, the request for the reinstatement and the decision to reinstate an IP right, including by way of an appeal. The events in this category may move an IP right from the termination (likely) stage into the grant stage or the post-grant challenge stage

pat:IPRightReviewRequestEventData

This category is a group of events related to a request for a review of an IP right after its grant. It includes, for example, a request for a post-grant opposition, re-examination, limitation, refusal, surrender, or invalidation. It also includes when such a request was inadmissible, rejected or withdrawn. The events in this category may move an IP right from the grant stage or the termination (likely) stage into the post-grant challenge stage

pat:IPRightMaintenanceEventData

This category is a group of events related to the maintenance of a granted IP right in full or amended form. It includes, for example, an IP right being maintained in full or amended form following an appeal, an IP right review or the inadmissibility, rejection or withdrawal of a request for an IP right review. The events in this category may move an IP right from the post-grant challenge stage into the grant stage

pat:PermanentTerminationEventData

This category is a group of events related to the permanent termination of an application or an IP right. It includes, for example, when an application or IP right was permanently terminated by the IPO or a court. The events in this category are not available to all IPOs

pat:DocumentModificationEventData

This category is a group of events related to modifications of an application, IP right, document or other documents, which occur outside the context of a pre-grant review or IP right review. It includes, for example, amendments and corrections of errors in applications and IP right documents. The events in this category may occur during any stage

pat:DocumentPublicationEventData

This category is a group of events related to document publication by the IPO. It includes, for example, publication of an application, IP right document or bibliographic information by the IPO. The events in this category may occur during any stage

pat:PartyChangeEventData

This category is a group of events related to the IPO recording changes in party data. It includes, for example, when the IPO records changes to a party concerned with the application or IP right, e.g. the applicant(s), owner(s), inventor(s) or representative(s). It also includes events related to the recording of changes in party contact information. The events in this category may occur during any stage

pat:LicensingInformationEventData

This category is a group of events related to the IPO recording licensing information and amendments to such records. It includes, for example, when an IPO records that a license, pledge or security interest has been agreed to, amended, cancelled or transferred. The events in this category may occur during any stage

pat:AdministrativeProcedureEventData

This category is a group of events related to the adjustment of an administrative procedure conducted by the IPO. It includes, for example, granting an extension of an administrative time limit or continuing processing of a necessary procedure. It also includes a suspension, stay or interruption of an administrative procedure, or the resumption of a suspended, stayed or interrupted administrative procedure. The events in this category may occur during any stage

pat:PaymentEventData

This category is a group of events related to the payment of fees. It includes, for example, payment of a renewal, maintenance or other designation fee. The events in this category may occur during any stage

pat:AppealEventData

This category is a group of events related to an appeal of a decision made during the prosecution of an IP right. It includes, for example, a request by the applicant, IP right owner, or third party for an administrative or court appeal of any decision made during the prosecution of an IP right and the procedural outcome of such an appeal. The administrative outcome of the appeal may be mapped to an event in another category, for example, application discontinued, application revived, IP right granted, IP right ceased, or IP right maintained. The events in this category may occur during any stage

pat:OtherEventData

This category covers events which cannot be categorized under any other Category. It is recommended to use this category as a last resort for unusual cases, where a liberal interpretation of the description of all other Categories would fail to adequately describe the nationally/regional event (e.g. legacy events or internal events)

pat:CorrectionEventData

This category is a group of events related to the correction or deletion of event information that the IPO previously provided. It includes, for example, correction in the legal status event code of an application or IP right provided under this Standard or the correction or deletion of an event that was announced erroneously in a patent gazette, IP register or other published documentation. The events in this category may occur during any stage