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ОБЩИЕ ПРИНЦИПЫ И ПЛАТФОРМА ДЛЯ ОБМЕНА ДАННЫМИ В ОБЛАСТИ ИНТЕЛЛЕКТУАЛЬНОЙ СОБСТВЕННОСТИ

Документ подготовлен соруководителями Целевой группы по обмену данными об ИС

РЕЗЮМЕ

1. Целевая группа по обмену данными об ИС представляет рабочий проект «Рекомендации по обмену данными об интеллектуальной собственности и их использованию» для рассмотрения Комитетом по стандартам ВОИС (КСВ) и представления комментариев.

СПРАВОЧНАЯ ИНФОРМАЦИЯ

2. На двенадцатой сессии в 2018 году КСВ одобрил создание задачи № 67, сформулированной следующим образом:

«Проанализировать существующую практику и проблемы, с которыми сталкиваются ведомства ИС, с целью поиска решений для улучшения глобального обмена данными об ИС».

(См. пункт 146 документа CWS/12/29.)

3. Для выполнения этой работы на той же сессии КСВ учредил Целевую группу по обмену данными об ИС и назначил Японское патентное ведомство (ЯПВ), Ведомство интеллектуальной собственности Саудовской Аравии (SAIP) и Международное бюро соруководителями Целевой группы. (См. пункт 147 документа CWS/12/29.)

4. Со времени последней сессии КСВ Целевая группа по обмену данными об ИС организовала пять заседаний в режиме онлайн для проведения анализа практики и проблем, с которыми сталкиваются ведомства интеллектуальной собственности (ИС), чтобы выявить эффективные решения для расширения глобального обмена данными об ИС. Целевая группа решила, что первым шагом в разработке структуры и платформы для обмена данными об ИС должна стать подготовка набора рекомендаций по обмену и использованию данных об ИС. По итогам своей деятельности Целевая группа подготовила рабочий проект «Рекомендации по обмену данными об интеллектуальной собственности и их использованию» для рассмотрения КСВ и представления комментариев. Дополнительные сведения об истории работе Целевой группы содержатся в документе CWS/13/14.

ПРОЕКТ «РЕКОМЕНДАЦИИ ПО ОБМЕНУ ДАННЫМИ ОБ ИНТЕЛЛЕКТУАЛЬНОЙ СОБСТВЕННОСТИ И ИХ ИСПОЛЬЗОВАНИЮ»

5. Рабочий проект был подготовлен на основе Политики распространения информации IP5 2011 года[1] и в нем изложены рекомендации по обмену и распространению данных об ИС, включая библиографические данные, полнотекстовые данные, изображения, цитирования и данные о правовом статусе. Он касается данных, которыми обмениваются ведомства ИС или которые передаются третьим сторонам.

6. Цель проекта рекомендаций заключается в создании гармонизированной структуры для обмена данными об ИС между ведомствами ИС и их использования. Он направлен на установление четких и последовательных руководящих принципов в таких ключевых областях, как использование и повторное распространение данных об ИС, совершенствование правил и метрик качества данных, ответственность за точность, содержание и форматы файлов, а также своевременность передачи данных и протоколы обмена данными между ведомствами ИС. Таким образом, рекомендации будут способствовать эффективному, прозрачному и взаимно-обратному обмену данными об ИС во всем мире в поддержку сотрудничества между ведомствами ИС.

7. Проект рекомендаций имеет следующую структуру.

- Основной текст. Определение условий представления, использования и распространения данных об ИС. Виды и средства обмена и распространения данных об ИС, а также требования к гарантии и качеству данных.

- Приложение I. Пример контрольного перечня, используемого ведомствами ИС для исправления ошибок в данных.

8. На момент подготовки настоящего документа Целевая группа по обмену данными об ИС еще продолжала обсуждать проект рекомендаций, который представлен в приложении к настоящему документу для проведения консультации в рамках КСВ.

9. КСВ предлагается:

а) принять к сведению содержание настоящего документа; и

[1] https://link.epo.org/ip5/IP5_patent_information_policy_june2013.pdf

b) рассмотреть рабочий проект «Рекомендации по обмену данными об интеллектуальной собственности и их использованию», который изложен в пунктах 5–7 и воспроизведен в приложении к настоящему документу, и представить свои комментарии к нему.

[Приложение следует]

RECOMMENDATIONS FOR THE EXCHANGE OF INTELLECTUAL PROPERTY DATA AND ITS USE

Working Draft for Consultation

INTRODUCTION

1. This Standard provides both recommendations for the exchange of intellectual property (IP) data in electronic format provided by IP offices and recommendations for the use of IP data exchanged between IP offices.

2. In recent years, government agencies in many WIPO Member States have been embracing the open data global trend by making their data available online. However, as many still do not make bulk IP data available publicly and with an increasing interest in IP data, there is a need to streamline and make IP data more available for:

(a) better quality IP office administration services such as examination; and

(b) more focused technical research by users in each country, thereby stimulating innovation.

SCOPE OF THE STANDARD

3. This Standard provides a framework for exchanging IP data between IP offices and disseminating IP data to the public.

4. This Standard provides the recommended contents of IP data to be exchanged as referred in "TYPES OF IP DATA EXCHANGED" below, but it does not specify the detailed data structure of each content. Detailed recommendations on the structure of the data are provided in other WIPO Standards, in particular Standards listed below in the References Section.

DEFINITIONS

5. For the purpose of this Standard, the expression:

(a) "intellectual property data" or "IP data" means data related to patents, industrial designs and trademarks.

(b) "originating Office" means an IP office which publishes its own IP data.

(c) "providing Office" means an IP office which provides IP data to another IP office. When an originating Office provides IP data to a receiving Office directly, the providing Office means the originating Office.

(d) "receiving Office" means an IP office which receives IP data directly from a providing Office.

(e) "library" means an institution that is either directly governed by the IP office or operates as a non-commercial entity. It is authorized by the IP office to disseminate its IP data. Such institutions are established or controlled by a public or semi-public body for the purpose of disseminating information to the public, such as a depository library located within an IP office.

(f) "third party" means any IP office, organization, academic institution, individual or enterprise, which is neither the providing Office (or its library) nor the receiving Office (or its library).

(g) "external use of data" means the use, the processing, and the provision of the exchanged data to third parties excluding IP offices for personal use, company use and commercial use.

(h) "official use" means the use of data by officials of a receiving IP office or, where applicable, by an official of a library:

- in the course of official procedures for the grant of IP titles, including search, examination, maintenance and appeal procedures;
- for the purpose of statistical and technical analyses in the framework of the official business of the IP office;
- to provide special services for the public to meet specific requirements of individual and corporate users based on their own needs;
- for the purpose of providing systematic training activities, provided that the use of the data is compatible with fair practice and does not exceed the extent justified by the purpose or copies of the data for the use of the receiving Office or library;
- for the use in any existing or future public services of the receiving IP office; and
- in the provision of tools in order to support the users in using IP data more efficiently.

(i) “library use” means the use of data by members of the public when conducting searches at IP offices or in libraries.

(j) “data exchange use” means the use of exchanged data for provision to third party IP offices (under the condition of mutual acceptance of the reciprocity principle).

(k) “internal use” of data consists of “official use”, “library use” and “data exchange use” by the receiving Office as provided for above:

(l) “marginal cost” comprises all costs, with the exception of the production costs, in making the product available (e.g., cost of the blank disc, use of the computer, the copy, packing/transport and labor).

(m) “bulk format” means being able to download more than one document in a single transaction.

6. For the purposes of this Standard, the word(s):

(a) “may” refers to an optional or permissible approach, but not a requirement.

(b) “should” refers to a strongly encouraged approach, but not a requirement.

(c) “should not” refers to a strongly discouraged approach but not a prohibition.

CONDITIONS FOR PROVISION, USE AND DISSEMINATION OF IP DATA

PRINCIPLES

7. Each IP office shares the common view that its own IP data should be provided to the public and to any third party based on the principle of marginal cost or free of charge, and that the quality of examinations should be improved and the utilization of IP data by users should be promoted. In order to achieve these goals, IP offices are recommended to support the barrier-free flow of IP data, exchange IP data among themselves in compliance with the reciprocity principle recommended in this Standard, and provide the exchanged IP data to third parties.

Reciprocity principle

8. When an originating Office provides IP data to a receiving Office, the originating Office should be eligible to receive such IP data from the receiving Office, and the receiving Office should be ready to provide its own IP data equivalent to the provided IP data to the originating Office. When a receiving Office provides exchanged IP data provided by an originating Office to a third-party IP office, the originating Office should be eligible to receive such IP data from the third-party IP office, and the third-party IP office should be ready to provide its own IP data equivalent to the provided IP data to the originating Office. However, this does not apply if the originating Office explicitly states that it does not require data equivalent to the data provided by the originating Office from the said receiving Office or the said third-party IP office.

Authorization for internal use

9. Receiving Offices should be allowed the use of exchanged data internally without any restrictions for “official use” and “library use”. A receiving Office should be allowed to provide exchanged data to third-party IP office(s) under the provision that the reciprocity principle is respected by the third-party IP office.

Authorization for external use

10. Receiving Offices should be allowed to provide exchanged data in any form, including bulk form, to third parties for external and commercial use.

11. Third parties may only redistribute the data if they have added value, such as by providing provisions for AI model training. The data should not be redistributed in its original, “as-is” form[1]

Free of charge

12. Provision of IP data to third-parties should only be provided either free of charge or at marginal cost. Therefore, any exchanged data should not then be provided by any IP office to external partners at a price higher than marginal cost.

TYPES OF IP DATA EXCHANGED

13. The Recommendations in this Standard apply to all types of exchanged data, including a set or a subset of data received or provided to IP offices, in addition to a database containing data from several IP offices. The exchanged IP data is limited to the data based on information that is already open to the public by each IP office in line with its applicable IP legislative frameworks such as IP gazette data.

[1] This intention should be reflected in the bilateral agreements made between the IP offices and any commercial vendors.

14. The data provided or exchanged by IP offices should include at least the following types of data downloaded in bulk format, preferably in compliance with existing WIPO Standard formats such as WIPO Standard ST.96 or ST.97:

(a) bibliographic data including classification information, preferably in XML or JSON format;

(b) [patent documents] full text data of the publications, including the claims and specifications, preferably in XML format;

(c) [trademark and industrial design documents] full text data of the publications, preferably in XML format; and

(d) image data of drawings.

Note: If (b) covers (a), (a) is not required.

15. It is further recommended that IP offices may include the following types of data:

(a) details regarding citations made during search or examination procedures; and

(b) legal status data regarding a particular IP right.

MEANS OF IP DATA EXCHANGE

16. IP data may be provided on various electronic data carriers, e.g., Hard Disk Drive (HDD) or optical discs, but is preferably provided media-less such as application programming interfaces (APIs) and file transfer protocol (FTP). These are free exchanges and chosen from available means at the time of publication.

REQUIREMENTS FOR WARRANTY AND QUALITY OF IP DATA

17. The originating Office will be the authoritative source for data provided directly to receiving Offices.

18. Third party recipients of IP data should not hold the originating Office liable for any reason, including defects in the provided data, for example, concerning the completeness, accuracy or correctness of the data made available or supplied. The third-party recipient waives all rights to claims against the originating Office.

19. Claims raised by third-parties should be dealt exclusively with the IP office directly providing the data for internal or external use. The originating Office bears no responsibility for data provided by the receiving Office to any third party.

20. Any questions, issues, or support, and costs associated therewith, arising from the data provided to the third party should be handled by the providing Office directly and not the originating Office. Any IP office which handles such questions or issues from the third parties may inform the originating Office, if appropriate.

21. The receiving Office should put in place data error correction processes to report on detected errors to the originating and/or other IP offices where appropriate. Consequently, the originating Office should correct those errors at the source. To minimize defects in IP data, the originating IP office may check some items using a basic checklist (see ANNEX I) before providing IP data.

22. The publication data to be provided or exchanged by the IP offices should be updated as frequently as possible to ensure it is up to date. The frequency of data updates is preferably at least once a month and ideally at the publication frequency of the originating Office.

REFERENCES

23. References to the following Standards and resources are of relevance to this Standard:

WIPO Standard ST.3	Two-Letter Codes for the Representation of States, Other Entities and Intergovernmental Organizations;
WIPO Standard ST.9	Bibliographic data on and relating to Patents and SPCs;
WIPO Standard ST.16	Identification of different kinds of patent documents;
WIPO Standard ST.26	Presentation of nucleotide and amino acid sequence listings using XML;
WIPO Standard ST.27	Exchange of Patent Legal Status Data;
WIPO Standard ST.36	Processing of Patent Information Using XML;
WIPO Standard ST.60	Bibliographic data relating to marks;
WIPO Standard ST.61	Exchange of Trademark Legal Status Data;
WIPO Standard ST.66	Processing of trademark information using XML;
WIPO Standard ST.80	Bibliographic data relating to industrial designs;
WIPO Standard ST.86	Processing of industrial design information using XML;
WIPO Standard ST.87	Exchange of industrial design legal status data; and
WIPO Standard ST.96	Processing of intellectual property information using XML.

[Annex I of draft standard follows]

ANNEX I (Example of a Checklist)

The description of the contents includes at least the following information:

(a) country code

(b) data type (Bibliographic Data, Image Data, Full Text etc.)

(c) range of documents supplied

(d) kind code and/or document type

(e) total number of documents

(f) publication date and publication period covered

(g) contact Person (sender)

[End of Annex I and of draft standard]

[End of Annex and of document]