

Working Group on the Legal Development of the Hague System for the International Registration of Industrial Designs

Seventh Session
Geneva, July 16 to 18, 2018

INCREASED GRANULARITY CONCERNING THE DATA IN THE INTERNATIONAL REGISTER: PROGRESS REPORT

Document prepared by the International Bureau

I. BACKGROUND

1. At its sixth session held in June 2016, the Working Group on the Legal Development of the Hague System for the International Registration of Industrial Designs (hereinafter referred to as the “Working Group”) discussed a possible new information structure for the International Register with a view to improving the current structure¹.
2. The Working Group considered a series of identified technical constraints in the current information structure. The constraints reported by the Offices of certain Contracting Parties mainly related to the Locarno Classification sub-class, product indication and the creator’s name and address, especially when data has to be imported into their domestic systems.
3. In a bid to enhance granularity and thus facilitate data importation and foster more opportunities in terms of the legal development of the Hague System, the Working Group supported the proposed new information structure that would facilitate the storage of design-specific information in the International Register. Accordingly, the Working Group further invited the International Bureau to present an analysis of the practical, technical and legal implications of the proposed information structure. That information is presented below.

¹ Refer to document H/LD/WG/6/4.

4. Furthermore, in its invitation of April 19, 2017, requesting comments on the Draft Report of the sixth session of the Working Group², the Secretariat informed Working Group members that major technical developments on the information structure of the International Register were taking place under the XML4IP Task Force of the Committee on WIPO Standards (CWS). This Task Force is responsible for revising WIPO Standard ST.96 “Recommendation for the processing of industrial property information using XML (eXtensible Markup Language)” (hereinafter referred to as “Standard ST.96”).

5. This document presents a progress report on the above project.

II. IMPLEMENTATION PROGRESS

6. The International Bureau is working on a new IT system to support its core functions, notably the administration of the International Register and examinations. During its development, the database of the new system was redesigned to endow it with data storage and retrieval flexibility based on the proposed level of granularity. This new system will be rolled out in 2018 and its benefits should be evident in early 2019. Most of the changes presented in the analysis below will become visible only when the new system is launched.

7. With respect to electronic data exchange with the various Offices, the data structure was defined by the XML4IP Task Force. As a result, Hague-specific XML components were incorporated into version 3.0 of Standard ST.96; more than 10 Offices actively contributed to this version. Regarding the transition from legacy to Standard ST.96, a roadmap was presented to the CWS and an updated version is found in the Annex to this document.

III. ANALYSIS

TECHNICAL IMPLICATIONS

8. Data modeling for the electronic exchange of data with Offices was achieved through the development of Standard ST.96. This led to the inclusion of Hague-specific XML components into the published version of the standard (version 3.0) released in February 2018³. The resulting XML Schema Definition (XSD) is thoroughly documented, as requested by the Delegation of Japan during the last Working Group session⁴.

9. Data modeling of the International Register for the International Bureau’s new core IT system was completed in 2017.

PRACTICAL IMPLICATIONS

10. Description by design – In the revised data model of the International Register, the underlying database leverages rich relationships. Indeed, one description can be *linked* to one or several designs, without being repeated. This would spare users the hassle of copying and pasting descriptions⁵. More importantly, the “same text” associated with more than one design would not be reckoned multiple times when determining the word count for calculation of additional fees⁶.

² Refer to document H/LD/WG/6/7 Prov.

³ Available at: http://www.wipo.int/standards/en/part_03_standards.html.

⁴ Refer to document H/LD/WG/6/7 Prov., paragraph 94.

⁵ Refer to document H/LD/WG/6/7 Prov., paragraph 90.

⁶ Refer to document H/LD/WG/6/7 Prov., paragraphs 88, 91 and 93.

11. Design-specific designation – In its new core IT system, the International Bureau will store information in the form of a matrix in which each design is associated with the designation of a Contracting Party. While this flexible approach will help to accelerate legal developments, it also eliminates the need to send the list of designations under each design to the Offices of designated Contracting Parties, as this would make the consumption and management of the Hague data by Offices more complex while yielding little benefit.

12. Legacy data – Registrations recorded before the roll-out of the new core system will not be altered⁷. However, it might be necessary to enrich certain registrations for which a request for partial change in ownership has been filed. In such instances, and only when necessary, the International Bureau may enrich the Register before recording the partial transaction. Such changes would be documented in such a way that the original record remains retrievable.

LEGAL IMPLICATIONS

13. The enhanced granularity of the data contained in the International Register unleashes the potential for further developments in the operation of the Hague System, amongst which the theoretical possibility of design-specific publication.

14. In that context and during the sixth session, the Delegation of the United States of America asked for the possible legal implications of introducing the concept of design-specific publication⁸.

15. Pursuant to Rules 18(1)(a) and 26(3) of the Common Regulations Under the 1999 Act and the 1960 Act of the Hague Agreement, the prescribed period for notification of refusal starts from the date of publication of the international registration.

16. Multiple publication dates for the same international registration would result in different refusal periods and require the setting and monitoring of various deadlines for one and the same international registration. Depending on how design-specific publication would be introduced, this may or may not make the process more complex and increase the workload for the Offices of designated Contracting Parties.

17. Moreover, where the Contracting Party has made a declaration under Article 13(1) of the 1999 Act, the question arises whether the requirements notified through the declaration should apply to each portion of the international registration as published, or to the whole international registration.

18. The issue would require thorough analysis. Consequently, introduction of the concept of design-specific publication should be excluded from the scope of this initiative which should focus on technical developments pertaining to information structure, until it can be demonstrated that the positive outcome of such a move outweighs any negative impact.

IV. CONCLUSION AND NEXT STEPS

19. This initiative is a significant step toward preparing the system for the future evolution of the legal framework and should give the Offices of Contracting Parties access to more useful and meaningful data when they communicate electronically with the International Bureau.

20. With regard to next steps, the International Bureau will continue to invest its efforts in the successful deployment of its new core system, while updating the application form to ensure that users take advantage of the new information structure. It will also continue its effective collaboration with Offices to foster wide adoption of the new version of ST.96.

⁷ Refer to document H/LD/WG/6/7 Prov., paragraph 87.

⁸ Refer to document H/LD/WG/6/7 Prov., paragraph 90.

21. Moreover, if the Working Group considers that the International Bureau should prepare an analysis of practical and legal implications resulting from a possible introduction of the concept of design-specific publication, as mentioned in paragraph 18, for a future meeting of the Working Group, it may so indicate.

22. *The Working Group is invited to:*

(i) note the content of the present document;

(ii) comment on the next steps proposed in paragraphs 20 and 21, above.

[Annex follows]

High-level roadmap for Hague System electronic data exchange with Offices														version	0.9.1	
<i>This document is not authoritative nor binding. Its purpose is only to give an overall direction.</i>														4 May 2018		
	Q4-2016	Q1-2017	Q2-2017	Q3-2017	Q4-2017	Q1-2018	Q2-2018	Q3-2018	Q4-2018	Q1-2019	Q2-2019	Q3-2019	Q4-2019	2020	Q1-2021	
Workstreams																
International Bureau																
Detailed specifications	✓															
General Testing	✓	✓														
Launch ST.96 Bulletin stream (using XSLT)			x		>		✓									
Hague Core IT System improvement			✓	✓	✓	✓	✓									
Announce ST.96 as authoritative format					>											
ST.96 output																
XML4IP Task Force																
Testing Office to IB communications	✓	✓														
Testing of IB to Office communications		✓	✓	✓	✓	✓										
Publication of ST.96-V3					>	✓										
CIPO & USPTO																
Prototype of IB to Office communications	✓															
Authoritative Data Format (IB to Office)																
Hague DTD	Effective							Sunset Period								
Hague ST.96			x		x	x	>	BETA	Effective							
Data Format used for Office to IB																
Hague MECA IN DTD	Effective							Sunset Period								
Hague ST.96	BETA			Effective												
Other events																
Hague Working Group							June									
CWS			May						October							
XML4IP TF 2017 meeting				Sept.			May									
Legend																
Done as scheduled	✓	Effective														
Not done as scheduled	x	BETA testing phase														
Postponed	>	Sunset period (phasing out)														
To do																

[End of Annex and of document]