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| CWS/4/3  |
| ORIGINAL: English |
| DATE: April 4, 2014  |

**Committee on WIPO Standards (CWS)**

**Fourth Session**

**Geneva, May 12 to 16, 2014**

Proposal for the extension of the activities of the CWS to include copyright within the scope of WIPO Standard ST.96

*Document prepared by the Secretariat*

1. On February 4, 2014, the Intellectual Property Office of United Kingdom (UKIPO) submitted a proposal to the Secretariat for the extension of the activities of the Committee on WIPO Standards (CWS) to include copyright orphan works within the scope of WIPO Standard ST.96. It was informed that the UKIPO would soon be licensing orphan works protected under copyright. The intention of the UKIPO is to provide a service whereby residents and organizations in the United Kingdom are able to make commercial use of orphan works legally. In order to support the business, there will be a need to start exchanging and storing data. As WIPO Standard ST.96 is the accepted data format for patents, industrial designs and trademarks, the UKIPO proposes that ST.96 be extended to include copyright orphan works. (See Annex to this document.)

2. It should be recalled that the CWS and its predecessor “the Standards and Documentation Working Group” (SDWG), worked on standardization only for patents, trademarks and industrial designs. According to the activities of the CWS and the former SDWG, WIPO Standard ST.96 currently provides recommendations only on the said three types of intellectual property in eXtensible Markup Language (XML).

3. It is also recalled that the WIPO General Assembly, at its fortieth session, held in September 2011, was asked to clarify the mandate of the CWS (see document WO/GA/40/17) and the following clarification was made:

“The WIPO General Assembly reaffirmed and clarified its decision regarding the creation and mandate of the CWS at its 38th session in 2009, as contained in paragraph 249 of document WO/GA/38/20. The WIPO General Assembly also confirmed and clarified that the core mandate is that which is contained in paragraphs 11 to 16 of document WO/GA/38/10, ….”

The core mandate contained in the above document is as follows:

“The mandate of the CWS would be to continue to work on the revision and development of WIPO standards relating to intellectual property information. The CWS would, in effect, perform the same work as the SDWG, but under a different name.” (See paragraph 13 of document WO/GA/38/10.)

4. It is understood that copyright is included in the definition of intellectual property although documentation requirements are different for copyright compared to patents and trademarks as registration and other formalities are not conditions for protection. Thus, the International Bureau is of the view that, for the purpose of considering the second request of the UKIPO (see paragraph 5(b) of Annex to this document), topics relating to copyright information standards could be considered within the mandate of the CWS.

5. The International Bureau, therefore, proposes, before substantive discussion on the UKIPO request can take place, that the CWS confirm that the activities of the CWS cover the matter of copyright information standards.

6. Secondly, the International Bureau suggests that the CWS should consider the need and merits of taking up the proposal of the UKIPO. In this respect, the International Bureau is of the view that the said proposal is clear and informative enough to acknowledge that standardization at an international level, would facilitate the exchange of data about copyright orphan works with other interested countries. In this respect the fact that the European Union (EU) Directive and Regulations has asked for the creation of national databases and entrusted the Office for Harmonization in the Internal Market (OHIM) to create the European database of copyright orphan works in anticipation of data exchange between EU member states, constitutes a relevant illustration.

*7. The CWS is invited to:*

 *(a) consider the proposal from the United Kingdom, referred to in paragraph 1 and Annex to this document;*

 *(b) consider and confirm the inclusion of the development of copyright information standards for copyright orphan works to be in the activities of the CWS;*

 *(c) create a new Task which is defined as “develop a data dictionary and XML schemas for inclusion of copyright orphan works in WIPO Standard ST.96”; and*

 *(d) request the XML4IP Task Force to carry out the new Task after inviting members of the CWS to nominate experts on copyright information to join the Task Force.*

[Annex follows]