

Committee on WIPO Standards (CWS)

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PROPOSAL FOR A NEW STANDARD ON MULTIMEDIA MARKS

Document prepared by the Trademark Standardization Task Force Leader

INTRODUCTION

1. At its seventh session in 2019, the Committee on WIPO Standards (CWS) agreed to resume work on Task No. 49 to “prepare a recommendation for the electronic management of motion or multimedia marks for adoption as a WIPO standard.” Work on Task No. 49 was suspended at the fifth session of the CWS pending implementation of directive 2008/95/EC by Member States in the European Union (EU). The CWS noted that many EU countries were already in the process of implementing EU Directive 2008/95/EC for new types of trademarks, including multimedia marks, making it a good time to resume the work. The International Bureau is the Task Force Leader. (See paragraphs 163 to 164 of document [CWS/7/29](#)).

PROPOSED NEW WIPO STANDARD

2. The Task Force prepared a final draft for a new WIPO standard on recommendation for the electronic management of motion and multimedia marks, for consideration and adoption by the CWS. The proposal is presented in the Annex of the present document. The International Bureau proposes the new Standard be designated as ST.69 for consistency with related standards ST.67 Electronic management of the figurative elements of trademarks and ST.68 Electronic management of sound marks.

3. The proposed Standard provides recommendations on presentation of applications for the protection of motion and multimedia marks, submitted electronically or on paper, their electronic processing and publication. It aims to facilitate data processing and exchange of information regarding motion or multimedia marks among industrial property offices, by providing guidance on electronic management of the recording of motion or multimedia constituting the mark, as well as its graphical representation and textual description.

4. Offices currently accept motion or multimedia marks in various formats. Some Offices accept a series of two-dimensional images showing the motion, possibly with a textual description of the motion. Other Offices accept video files in a number of different formats. The proposed Standard is compatible with the recommendations of the European Trademark and Design Network¹ which recommends MP4 as the default file format for video submissions.

5. The Task Force proposes to discontinue Task No. 49 if the proposed new Standard is adopted at the present session of the CWS.

VIDEO FORMAT ISSUES

6. While developing this standard, the International Bureau raised a set of issues with multimedia file formats. Some of the most widely used multimedia formats are subject to patent licensing pools for playback devices and software. The Task Force discussed these concerns and issues of compatibility, usability, accessibility and long-term availability of various formats. In general, WIPO Standards has avoided technologies that are covered by patents. However, in this case the most widely used formats with the broadest support across platforms are covered by patent pools, while alternative formats are not as widely used by industry and applicants.

7. The International Bureau researched usages of various multimedia formats and potential issues for the WIPO standard, and prepared a paper for discussion by CWS Task Forces². The issues affect not just the proposed multimedia standard, but the proposed design representation standard and possibly other standards in the future. The International Bureau convened a meeting of several relevant CWS Task Forces including Trademark Standardization and Design Representation to discuss the situation and propose recommendations.

8. Based on these discussions, two sets of multimedia file formats were selected for recommended use. The first set contains formats standardized by the International Organization for Standardization (ISO) with the widest use in industry and the broadest support across platforms and devices, but which are subject to patent licensing pools run by the MPEG Licensing Administration (MPEG-LA). For common platforms such as Microsoft Windows, Apple Mac, Android devices, and Apple iOS devices, the licensing fees are paid by providers. The first set recommends MP4 files with MPEG-2 or H.264/AVC video codecs.

9. The second set of formats was selected to avoid patent licensing issues. These formats were developed by the software and internet industry as open specifications, are used by many internet video platforms, and are well supported for playback by most common web browsers including Chrome, Firefox, Safari, and Edge. This set recommends WebM files with VP9 or AV1 video codecs.

10. The Standard recommends that Offices accept at least one of these formats for filing, considering factors such as national regulations and consultations with stakeholders. To support each Office in choosing which formats work best for them and their stakeholders, Offices should accept all of these formats in data exchange with other Offices. Converting multimedia files to a different format is error-prone and not recommended.

¹ Common Communication on the representation of new types of trademarks. Available at <https://euipo.europa.eu/ohimportal/en/news/-/action/view/3941045>.

² Document is available on website at: https://www.wipo.int/meetings/en/details.jsp?meeting_id=57089

11. The Task Force considered a number of other formats, including: containers MKV and Ogg; and codecs MPEG-1, WMV, H.263, Theora, H.265/HEVC, and Dirac. These formats were not recommended for various reasons, including: some formats were proprietary, outdated, not widely supported, and/or subject to multiple patent pools from competing bodies.

12. *The CWS is invited to:*

(a) note the content of this document;

(b) consider and approve the proposed name of new WIPO Standard ST. 69: "Recommendation for the electronic management of motion and multimedia marks";

(c) consider and adopt the proposed new WIPO Standard ST. 69, as reproduced in the Annex to this document; and

(d) consider whether Task No. 49 should be discontinued.

[Annex follows]

STANDARD ST.XX

RECOMMENDATION FOR THE ELECTRONIC MANAGEMENT OF MOTION AND MULTIMEDIA MARKS

Final Draft

Proposal presented by the Trademark Standardization Task Force for consideration at CWS/8

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INTRODUCTION

1. This Standard provides recommendations on presentation of applications for the protection of motion and multimedia marks, submitted electronically or on paper, their electronic processing and publication.
2. The Standard is aimed at facilitating data processing and exchange of information regarding motion or multimedia marks among industrial property offices, by providing guidance on electronic management of the recording of the movement or multimedia constituting the mark as well as its graphical representation and textual description.

DEFINITIONS

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

- (a) "mark" means trademark or service mark as defined in the legislation concerned;
- (b) "motion mark" is a type of mark constituted by movement;
- (c) "multimedia mark" is a type of mark which combines elements of movement and sound, hereinafter this combination is referred to as 'multimedia';
- (d) "gazette" means an official publication containing announcements relating to marks and made in accordance with requirements under national industrial property laws or international industrial property conventions or treaties;
- (e) "entry in a gazette" means a comprehensive announcement, including bibliographic data, made in a gazette regarding an application for the registration of a mark or a registration of a mark;
- (f) "Moving Picture Experts Group (MPEG)" is a set of standards for audio and video compression and transmission developed by the International Organization for Standards (ISO) and the International Electrotechnical Commission (IEC);
- (g) "codec" means a software method for encoding and decoding data such as video or audio to compress the data for storage. Video codecs covered in this Standard:

- MPEG-1, standardized as ISO/IEC-11172-2;
- MPEG-2 Part 2, standardized as ISO/IEC 13818-2 and as ITU-T Recommendation H.262;
- Advanced Video Coding (AVC) also known as H.264, standardized as MPEG-4 Part 10 in ISO/IEC 14496-10 and as ITU-T Recommendation H.264;
- High Efficiency Video Coding (HEVC) also known as H.265, standardized as MPEG-H Part 2 in ISO/IEC 23008-2 and as ITU-T Recommendation H.265;
- VP8, an open specification and reference implementation released by Google;
- VP9, an open specification and reference implementation released by Google and used by Netflix and YouTube; and
- AOM Video 1 (AV1), an open specification released by the industry consortium Alliance for Open Media. Not to be confused with AVI (Audio Video Interleave), a proprietary format from Microsoft.
- "container" means a format for storing various data and metadata elements. For multimedia files, a container usually contains video data formatted with a video codec, audio data formatted with an audio codec, and one or more metadata elements. Container formats covered by this Standard include:
- MP4 containers (.mp4) standardized as MPEG-4 Part 14 in ISO/IEC 14496-14; and
- WebM, an open specification container designed for royalty-free use particularly on the web.

REFERENCES

4. The following Standards and documents are of relevance to this Standard:

WIPO Standard ST.60	Bibliographic Data Relating to Marks
WIPO Standard ST.63	Content and Layout of Trademark Gazettes
WIPO Standard ST.64	Search Files for Trademark Search
WIPO Standard ST.66	Recommendation for the Processing of Trademark Information using XML

WIPO Standard ST.67	Recommendation for the Electronic Management of the Figurative Elements of Trademarks
WIPO Standard ST.68	Recommendation for the Electronic Management of Sound Marks
WIPO Standard ST.96	Recommendation for the Processing of Industrial Property Information using XML

GENERAL RECOMMENDATIONS

5. It is recommended that an application for the registration of a motion or multimedia mark contain a graphical representation of the movement or multimedia constituting the mark, optionally with a textual description of that movement or multimedia, or a recording of that movement or multimedia, according to the requirements of the Industrial Property Office (IPO) receiving the application.
6. Applicants should not submit a sound component with a motion mark, unless the protection is sought for a combination of motion and sound, in which case the application should be filed for a multimedia mark. Otherwise, if the protection is sought for motion and sound components independently, the applicant should submit separate applications for a motion mark and a sound mark (see [WIPO Standard ST.68](#)).
7. It is recommended that the indication “motion mark” or “multimedia mark” be included in the applications.
8. When applicants provide the motion or multimedia mark in electronic format, the characteristics of the file provided should be in conformity with the corresponding regulations established by the IPO concerned as per this Standard.
9. The changes to the requirements regarding motion or multimedia mark applications should be announced by the IPO as necessary. It is also recommended that the said requirements be available on the IPO website or announced in official publications at regular intervals.

RECOMMENDATIONS FOR THE GRAPHICAL REPRESENTATION OF MOTION MARKS

10. Electronic management of the graphical representation of the movement constituting the mark should follow relevant recommendations of the WIPO Standard ST.67.
11. Depending on the requirements established by the IPO, the graphical representation of a motion mark may consist of either:
 - (a) one single image depicting multiple stages of the movement constituting the mark; or
 - (b) a series of selected images that depict the movement and have the same format and size.
12. Format and size of the image(s) in the graphical representation of a motion mark should follow relevant recommendations of WIPO Standard ST.67 (see paragraphs 7 to 12 thereof).
13. If the graphical representation of a motion mark consists of a series of selected images, as per paragraph 11(b) above, the IPO may limit the number of images submitted.

RECOMMENDATIONS FOR THE GRAPHICAL REPRESENTATION OF MULTIMEDIA MARKS

14. It is recommended that the graphical representation of multimedia marks consist of separate graphical representations of elements of movement and sound constituting the mark.
15. It is recommended that the graphical representation of multimedia marks follow relevant recommendations for graphical representation of the sound as provided in [WIPO Standard ST.68](#) (see paragraphs 9 and 10 thereof) and of the motion (see paragraphs 10 to 13 above).

RECOMMENDATIONS FOR THE RECORDING OF MOTION OR MULTIMEDIA MARKS

16. It is recommended that the recording of the motion or multimedia constituting the mark be filed and processed in electronic format. The file should only contain the motion or multimedia mark for which the protection is sought.
17. Files containing motion or multimedia marks should use one of these preferred formats¹: MP4 container files (.mp4) with one of the following video codecs: AVC/H.264 or MPEG-2/H.262.²

¹ The recommended formats may be updated in the future as conditions change.

² These formats are ISO standards and have the widest hardware and software support. There are known patent pools covering these formats from the MPEG Licensing Administration, including for video playback, but common platforms such as Windows, Mac OS, Android, and iOS include licenses for playback at this time.

18. Where supported by the IPO, motion or multimedia marks may use one of these alternative formats instead: WebM³ or MP4 container files with one of the following video codecs: VP9 or AV1⁴.

19. Motion or multimedia marks should not use video container or codec formats other than the formats in paragraphs 17 and 18, including MPEG-1⁵, VP8⁶, or HEVC/H.265⁷.

20. IPOs should accept at least one of the preferred or alternative formats for filing, and should accept all of the preferred and alternative formats for data exchange with other IPOs. For filing, IPOs may accept formats other than preferred or alternative formats at their discretion as long as they convert the video to one of the preferred or alternative formats for data exchange and publication. However, it is preferable to avoid conversions altogether as described in paragraph 22.

21. IPOs should announce what container and codec formats are accepted by the IPO. IPOs should also verify that submitted multimedia files use a container and codec format accepted by the IPO. Such checks can be performed in software at the time of submission. Simply checking the file extension or container format is not sufficient, as some containers (particularly MP4) can use dozens of different codecs. If a submitted file does not use an accepted format, the file should be rejected⁸.

22. It is recommended that IPOs do not convert multimedia files to a different format, as this can introduce errors, artifacts, or reduction in quality. Conversion may be required in certain instances for publication or data exchange, such as where an IPO accepts formats not recommended by this Standard. In these cases, IPOs should verify that the converted format faithfully reproduces the relevant features of the original format. IPOs should preserve the multimedia file originally submitted by the applicant for the duration of the IP right. If format conversions are done for publication or data exchange, the original format should also be made available online or on request.

23. Multimedia files should not exceed 20 MB in size.

RECOMMENDATIONS FOR THE TEXTUAL DESCRIPTION OF MOTION OR MULTIMEDIA MARKS

24. Textual description of the movement or multimedia constituting the mark should not be the sole representation of the motion or multimedia mark, but, if the national legislation so permits, may supplement the other accepted way of representation.

25. The textual description of the motion mark may contain the description of the chronological order of images (see paragraph 11(b) above), the duration, the direction(s) and the frequency of the movement, as well as any other characteristics of the motion mark which the applicant wishes to specify.

26. The textual description of the sound should follow relevant recommendations for sound marks as provided in [WIPO Standard ST.68](#) (see paragraphs 17 and 18 thereof).

RECOMMENDATIONS FOR THE PUBLICATION OF MOTION OR MULTIMEDIA MARKS

27. It is recommended that the electronic publication of a motion or multimedia mark contain all representations of this mark accepted by the IPO.

28. It is recommended that the physical (paper) publication contain a graphical representation and/or textual description of the movement or multimedia if they are accepted by the IPO, as well as, if it is accepted, a reference to the recording of the movement or multimedia available for public inspection.

29. Publication of multimedia files should be done in one of the preferred or alternative formats given above. It is recommended that IPOs do not convert multimedia files to a different format, as this can introduce errors, artifacts, or reduction in quality. If any conversions are performed, then the original submission should also be made available. For example, conversions could be necessary if an IPO accepts submissions in formats other than the preferred or alternative formats recommended by this standard.

[End of Standard]

[End of annex and of document]

³ WebM is supported by most web browsers, though other platforms may require installing software to play.

⁴ These codecs are designed for royalty-free use and supported by most web browsers. Both codecs are also supported within MP4 containers. At this time industry use of AV1 appears limited, however major platforms are planning to adopt it in the near future.

⁵ Superseded by newer formats and not supported by MP4 containers.

⁶ Superseded by VP9 and not supported by MP4 containers.

⁷ Not widely supported at this time, covered by multiple competing patent pools.

⁸ It is up to the Office whether to reject the entire application, or to accept the application and require the applicant to replace the rejected files.