

Committee on WIPO Standards (CWS)

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PROPOSALS FOR THE NEXT STEP IN RELATION TO COPYRIGHT ORPHAN WORKS METADATA

Document prepared by the International Bureau

INTRODUCTION

1. At its sixth session, held in 2018, the CWS agreed to include copyright orphan works as part of WIPO ST.96 (see paragraph 68 of document CWS/6/34). At its eighth session, held in 2020, the CWS noted that XML schema components for copyright orphan works were included in WIPO ST.96 version 4.0, and the XML4IP Task Force planned to further enhance some copyright orphan work-related components in due course inviting interested parties, including organizations from copyright industry, for feedback.
2. In order to support the work of the XML4IP Task Force, the International Bureau launched a project to improve existing WIPO ST.96 copyright orphan works related components, as well as providing a review of existing copyright industry standards and metadata practices, and presented a document CWS/9/4 entitled *Proposals for Improvement of Copyright Orphan Work Metadata in WIPO Standard ST.96* summarizing this work. This document included the two proposed models for values indicating rights holders' roles and creative work categories, for consideration at the ninth session of the CWS. The International Bureau informed the CWS that it had circulated draft document to copyright federations for comment while preparing the draft proposals. (See document CWS/9/4.)
3. At the ninth session of the CWS, several delegations explicitly supported the work done by the International Bureau and committed to providing feedback to the draft proposals or to provide a concrete suggestion to improve them. Another delegation expressed its difficulty in providing comments on the proposals as it does not have copyright in its business portfolio. Noting that the other Intellectual Property Offices (IPOs) might have the same difficulty, the

International Bureau confirmed that the XML4IP Task Force would reach out to copyright Offices and industry groups for assistance with this work.

4. Following the ninth session of the CWS, based on the feedback received, the International Bureau improved the draft proposals indicated above in paragraph 3 and invited the Member States and Observers of WIPO to provide their feedback through circular [C.CWS 156](#). The International Bureau further improved these draft proposals, taking into account the responses to the Circular, which are provided in document CWS/10/7 for consideration by the CWS.

5. Also at its ninth session, the CWS approved changing certain instances of “industrial property” to “intellectual property” in the [WIPO Handbook on Intellectual Property and Documentation](#) (see paragraphs 106 to 108 of document CWS/9/24). As a follow-up, the Secretariat is proposing to revise WIPO Standard ST.3 at the current session to add new codes for two IPOs that practice copyright but not industrial property: Marshall Islands and Niue (see document CWS/10/4).

6. Through internal consultation by the CWS Secretariat with copyright experts in the International Bureau, the observation was presented by the Sector in charge of copyright and creative industries that after the consultations that already took place with Member States and stakeholders, and several rounds of improvements based on the comments received, the revised working draft in document CWS/10/7 is already of good quality and appears to be ready for adoption.

PROPOSAL FOR THE NEXT STEP

7. As detailed in document CWS/9/4 “Proposal for improvement of copyright Orphan work metadata in WIPO Standard ST.96” referred to in paragraph 3 above and its annexes, copyright orphan work metadata management includes within its scope a certain number of practices and numerous types of standards and metadata currently being used in copyright industries. It should be noted that the scope of the document focuses on orphan works while considering standards and metadata used in the creative industries that are relevant for identifying and exchanging information about orphan works. This aims to ensure that WIPO ST.96 will be interoperable with other data standards around the world, developed or used by creative industries, including collective management organizations and libraries.

8. The International Bureau notes that the analysis of the information contained in document CWS/9/4 and the finalization of recommended metadata fields for the orphan works standard under development require knowledge related to standardization of business data and practices in copyright offices and the copyright industries rather than how to structure this data in XML format. Therefore, if more work is needed, experts from copyright offices and industry groups should be invited to participate in finalizing the proposal. Two options for methods of undertaking this additional step are presented below for consideration by the CWS.

Option 1: Creation of new Task Force

9. As the majority of XML4IP Task Force members represent Offices which do not have copyright business in their work portfolio, the participants of the XML4IP Task Force have sought feedback from the relevant governmental copyright authorities, and two Member States have nominated their copyright experts to join the XML4IP Task Force. Some members of the XML4IP Task Force considered it could be possible for another expert group to complete the draft proposal and then the XML4IP Task Force will incorporate the approved proposal into WIPO ST.96. This collaborative effort would be similar to that of the XML4IP Task Force and the Legal Status Task Force who work together to develop and improve XML components which capture legal status data.

10. In order to finalize a recommendation on extending ST.96 to cover orphan works with the participation of experts from copyright offices and the creative industries, a new CWS Task could be created for which the description would read:

"Prepare final proposals for metadata recommendation on right holders' role and categories of creative works, to be referenced as to XML components in WIPO Standard ST.96 for copyright orphan works".

11. The new Task Force, if created, could be named the "Copyright Orphan Works Metadata Task Force", to handle the new Task if established.

12. In this scenario, it is suggested that the CWS request the new Task Force to submit the final proposals for the improved structures and recommended metadata for both the right holder and creative work classifications, as captured by the revised proposals which form part of document CWS/10/7, for consideration and approval by the CWS at its next session. It is suggested that if this proposal is adopted, the CWS could request the Secretariat to issue a circular inviting its Members and Observers, in particular Copyright Offices and Institutions as well as international Non-Governmental Organizations representing creative industry stakeholders, to nominate their experts on orphan works to the new Task Force.

Option 2: Another round of consultation through a CWS circular

13. Another option to obtain one more round of views, and to make sure copyright experts are invited to comment, would be to have another round of consultation through a CWS circular, explicitly referring to consultation with Copyright Offices, as a final step in order to ensure the quality and completeness of the proposals reproduced in document CWS/10/7 for approval by the CWS and subsequent incorporation in WIPO Standard ST.96. This could be a more straightforward way to prepare a final proposal and would address the concerns that the XML4IP Task Force may perceive in terms of the need for feedback by the subject matter experts from the relevant governmental copyright authorities.

14. In this scenario, it is suggested that the CWS request the Secretariat to issue another circular inviting its Members and Observers, with explicit reference to Copyright Offices, and institutions as well as international Non-Governmental Organizations representing creative industry stakeholders, to review the revised working draft included in document CWS/10/7 and submit their comments, if any. It also requests the Secretariat to present, at its next session, the final proposal reflecting the results of the consultation, for consideration and approval by the CWS, or the proposal for the further step, depending on the comments received in the consultation.

15. *The CWS is invited to:*

(a) note the content of the present document; and

(b) consider the two suggested options referred to in paragraphs 9 to 14 above and decide the next step to be taken.

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