

产权组织标准委员会（CWS）

第八届会议

2020年11月30日至12月4日，日内瓦

关于多媒体商标新标准的提案

商标标准化工作队牵头人编拟的文件

导 言

1. 产权组织标准委员会（CWS）在2019年举行的第七届会议上同意重启第49号任务“为动作商标或多媒体商标的电子管理编写建议，以作为产权组织标准通过”的工作。第49号任务的工作在标准委员会第五届会议上暂停，直到一些欧盟成员国执行2008/95/EC号欧盟指令。标准委员会注意到，现在许多欧盟国家已经在实施关于新型商标（包括多媒体商标）的2008/95/EC号欧盟指令，因此这是重启工作的好时机。国际局是工作队牵头人。（见文件 [CWS/7/29](#) 第163段至第164段。）

拟议的新产权组织标准

2. 工作队编拟了关于动作商标和多媒体商标电子管理建议的新产权组织标准最终草案，供标准委员会审议通过。提案载于本文件附件。国际局提议将新标准指定为标准 ST. 69，与其他相关标准保持一致，即关于商标图形要素电子管理的标准 ST. 67 和关于声音商标电子管理的标准 ST. 68。

3. 拟议的标准提供了关于以电子或纸件形式提交动作商标和多媒体商标保护申请及其电子处理和公布的建议。其目标是方便各工业产权局进行动作商标或多媒体商标方面的数据处理和信息交换，为构成商标的动作影像或多媒体的录制及其图样和文字描述的电子管理提供指导。

4. 主管局目前接受多种格式的动作商标或多媒体商标。一些主管局接受展示动作的一系列平面图像，可能附有动作的文字说明。其他局接受若干不同格式的视频文件。拟议的标准与欧洲商标和外观设计网络¹的建议一致，建议以 MP4 作为提交视频的默认文件格式。

5. 如果标准委员会本届会议通过了拟议的新标准，则工作队提议终止第 49 号任务。

视频格式问题

6. 制定该标准时，国际局提出了一系列关于多媒体文件格式的问题。一些最广泛使用的多媒体格式受限于播放设备和软件的专利许可池。工作队讨论了关于不同格式兼容性、可用性、可及性和长期可获得性的关切和问题。整体而言，产权组织标准避免了受专利保护的技术。但在此情况下，使用最广泛、受到最多平台支持的格式在专利池内，而替代性格式并不被业界和申请人广泛使用。

7. 国际局为产权组织标准研究了各种多媒体格式的使用和潜在问题，并编拟了一份文件，供标准委员会工作队讨论。²这些问题不仅影响拟议的多媒体标准，还影响拟议的外观设计表现形式标准以及未来可能制定的其他标准。国际局举行了由若干相关标准委员会工作队（包括商标标准化和外观设计表现形式工作队）参与的会议，以讨论该情况并提出建议。

8. 在这些讨论的基础上，选出了建议使用的两套多媒体文件格式。第一套格式是国际标准化组织（ISO）制定的标准化格式，在业界广泛使用，受到最多平台和设备的支持，但在由 MPEG 许可管理机构（MPEG-LA）运行的专利许可池中。对于诸如微软 Windows、苹果电脑、安卓设备和苹果 iOS 设备等常见平台，许可费由提供方支付。这套格式建议使用 MP4 文件，配合 MPEG-2 或 H. 264/AVC 解码器。

9. 所选的第二套格式是为了避免专利许可问题。这些格式是由软件和互联网行业作为开放式规范开发的，用于许多互联网视频平台，并且 Chrome、Firefox、Safari 和 Edge 等最常用的网络浏览器均支持播放。这套格式建议使用 WebM 文件，配合 VP9 或 AV1 解码器。

10. 该标准建议主管局考虑到国家法规等因素和与利益攸关方的磋商，至少接受以其中一种格式提交申请。为支持各主管局选择最适合其自身及其利益攸关方的格式，各局应在与其他主管局的数据交换中接受所有这些格式。将多媒体文件转换为不同格式容易引发错误，因此不建议转换格式。

11. 工作队还审议了一些其他格式，其中包括容器格式 MKV 和 Ogg，以及解码器 MPEG-1、WMV、H. 263、Theora、H. 265/HEVC 和 Dirac。出于以下各种原因，不建议使用这些格式：一些格式是专有的、已经过时、缺乏广泛支持，并且/或是受限于相互竞争的不同机构的多个专利池。

12. 请标准委员会：

(a) 注意本文件的内容；

(b) 审议并批准新产权组织标准 ST. 69 的拟议名称：“关于动作商标和多媒体商标电子管理的建议”；

(c) 审议并通过转录于本文件附件的拟议新产权组织标准 ST. 96；并

¹ 关于新型商标表现形式的公报。可见：<https://euipo.europa.eu/ohimportal/en/news/-/action/view/3941045>。

² 文件可见网站：https://www.wipo.int/meetings/en/details.jsp?meeting_id=57089。

(d) 审议是否应终止第 49 号任务。

[后接附件]

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]

[附件和文件完]

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.