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**Committee on WIPO Standards (CWS)**

**Sixth Session**

**Geneva, October 15 to 19, 2018**

Proposal for new WIPO standard for the exchange of industrial design legal status data by industrial property offices

*Document prepared by the International Bureau*

## Introduction

1. At its fifth session held from May 29 to June 2, 2017, the Committee on WIPO Standards (CWS) agreed on the revised description of Task No. 47: “Prepare a final proposal for the detailed events and a guidance document with regard to patent legal status data; prepare a recommendation for the exchange of legal status data on trademarks and industrial designs by industrial property offices” (see paragraph 55 of document CWS/5/22).
2. During the week of the fifth session of the CWS, the Legal Status Task Force (LSTF) held its meeting in person and reported to the CWS its agreement to give priority to the preparation of a proposal for a new standard on industrial design legal status rather than trademark legal status. Since the fifth session of the CWS, the Task Force has worked on the preparation of a proposal for a new standard on the exchange of industrial design legal status data.

## PROPOSED NEW WIPO STANDARD

1. Within the framework of Task No. 47, the LSTF prepared a proposed recommendation for the exchange of industrial design legal status data for consideration and adoption by the CWS as a new WIPO standard, which is based on WIPO Standard ST.27 (Recommendation for the Exchange of Patent Legal Status Data”).
2. The proposed name of the new standard is “WIPO Standard ST.87 – Recommendation for the Exchange of Industrial Design Legal Status Data”. The draft of the proposed new WIPO standard which consists of the main body and Annexes I to IV, is reproduced in the Annex to the present document.

### Objective

1. Similar to WIPO Standard ST.27, but for industrial designs in registration systems, the proposed standard is intended to promote the efficient exchange of legal status data in a harmonized manner between IPOs in order to facilitate access to that data by IP information users, IPOs, IP data providers, the general public and other interested parties. It should be noted that the legal status of industrial designs protected under patent law is described by WIPO Standard ST.27.
2. By providing a standardized model which can describe the legal status of an industrial design application during its prosecution in a registration system or of a registered industrial design, the proposed standard aims to improve the worldwide availability, reliability and comparability of legal status data for industrial designs.

### Scope

1. Taking the diversity of IP laws and practices among various jurisdictions into consideration, the proposed standard is not aimed at harmonizing procedural or substantive requirements under national/regional laws and regulations.
2. The proposed standard is intended to provide recommendations on legal status data for industrial designs in registration systems. WIPO Standard ST.27 should be referred to for the legal status of industrial designs protected under patent law.
3. The proposed standard includes legal status events related to the international registration system under the Hague Agreement.

### Overall Industrial Design Prosecution Model

1. The proposed new standard uses a general prosecution model to broadly describe the industrial design prosecution practices among IPOs worldwide and under the Hague Agreement. The Overall Industrial Design Prosecution Model incorporates States, Stages, and Events to describe the prosecution of industrial designs in registration systems. Based on these three components, the legal status of the application or industrial design can be uniquely described.
2. During the discussion, the Legal Status Task Force noted that some IPOs can provide legal status event information on industrial designs only after the Registration Stage according to their applicable design law. In order to draw the attention of information users, the Task Force agreed on the inclusion of a text describing the practice in the proposed standard (see paragraph 19 of the proposed standard).
3. In order to make the practice mentioned above clearer, the Task Force discussed whether a new starting point should be added to the Registration Stage in the overall prosecution model. In the proposed model, there is a single starting point in the prosecution model, which indicates where a procedure is commenced with the IPO. Provisionally, the Task Force agreed not to include another starting point. However, the Task Force considers that it would be better to discuss this topic in a wider participation at this session of the Committee in order to make a final decision on it.



### States, Stages and Events

1. In the proposed standard, the meaning of the state, stage, and event are the same as in WIPO Standard ST.27. The “state” of the application or IP right refers to whether it is active, not active or terminated after an event occurred according to the applicable law of the IPO. The “stage” refers to a phase in the prosecution of an application or IP right, which encompasses the happening of events. An “event” refers to an action during the prosecution of an application or IP right caused by the applicant, IP right owner, IPO or third party according to applicable law, which may cause a change in the state and/or stage of the application or IP right.

### List of Categories, Key Events and Detailed Events

1. Similar to WIPO Standard ST. 27, the proposed standard provides a list of categories and events that should be used to exchange legal status data between IPOs. The events are grouped into an event category, which provides a high-level cluster of related events. A single key event and several detailed events are defined in a category. Each category, key event and detailed event has a defined respective code.
2. The proposed standard defines 20 categories, 20 key events and 155 provisional detailed events. It should be noted that the detailed events defined in the proposed new standard are provisional and should be reviewed and assessed by IPOs for finalization in due course. The categories describe a group of events which are of particular importance to the prosecution of an industrial design and share a common theme. The category description defines the theme of events included in that category. A key event is an important event related to the category. Key events are meant to enable IPOs to map national/regional events to a generic, universally-termed event that is understandable by a user. The detailed events are events in a category, which are more specific than a key event. They may describe a practice specific to only a few IPOs, or they may describe a practice that is nearly universal but that is of a specific nature.

### Data Structure and Format for Exchange

1. The proposed new standard recommends the same structure of how legal status data should be exchanged, as Standard ST.27 does. In the same manner as recommended in WIPO Standard ST.27, the proposed new standard recommends exchanging the legal status data of an application or industrial design in coded form, which consists of the ST.3 two-letter office code, the creation date of data file, the identification of application or IP right and event data; the event data comprises the following components: the status event code, the calendar dates linked to the event, and supplementary data associated with the event.

### Implementation

1. Similar to WIPO Standard ST. 27, implementing the proposed standard will require that IPOs map their national/regional events to the events defined in the proposed standard or at the very least a category. When implementing the proposed standard, it is recommended that an announcement be made and the International Bureau be informed by providing a mapping table of national/regional events to the events in the proposed standard in accordance with the template provided. The proposed standard suggests that the frequency of exchange of legal status data should occur at one month intervals at a minimum, ideally at weekly intervals.
2. The International Bureau plans to publish, on the website of WIPO, the mapping tables of IPOs once they have been provided.

## FURTHER DEVELOPMENT

1. The LSTF noted that the following several pending works should be carried out after adoption of the proposed standard.

### Assessment and Finalization of Detailed Events

1. Once the proposed standard has been adopted, it is proposed that IPOs start assessing their business practices and IT systems to determine how to best produce and exchange legal status data on industrial designs following the recommendations made in the new standard, including the provisional detailed events.
2. As the detailed events listed in Annex I of the proposed new standard are provisional, it is proposed that IPOs review them and carry out a mapping exercise to determine whether the said detailed events describe their prosecution practices. It should be noted that the provisional detailed events are not necessary to cover all national and regional practices for all IPOs; rather they reflect the common practices of some IPOs and that major events in the prosecution lifecycle are covered for the majority of IPOs for data exchange and for the interest of users. On the basis of inputs by IPOs, the Legal Status Task Force plans to finalize the list of detailed events and submit it for consideration and approval at the next session of the CWS.
3. In light of the aforementioned, and on the condition that the new standard is adopted at the present (sixth) session of the CWS, it is proposed to include the following Editorial Note at the front of new standard:

“Editorial Note by the International Bureau

The detailed events included in this Standard are provisional and will be reviewed and assessed by industrial property offices (IPOs) for one year. On the basis of the outcome of the review and assessment reported by IPOs, a final proposal for the inclusion of detailed events in this Standard will be submitted for approval at the seventh session of the CWS. For the time being, IPOs may choose to exchange legal status data on the basis of categories and key events only, if they so desire.”

The Committee on WIPO Standards (CWS) adopted the present standard at [its sixth session on October 19, 2018].

### Guidance Document

1. The proposed standard requires an IPO to map their national/regional events to a standard event, so that a receiving party may understand the legal status of an application or IP right without in-depth knowledge of the specific national or regional prosecution practices of that IPO. In order to assist IPOs to conduct the mapping, the proposed standard includes comprehensive descriptions of categories and events with several examples.
2. However, the Task Force considers that IPOs, in particular the IPOs which did not participate in the Task Force’s discussions, need more information to carry out the mapping in a harmonized way. Therefore the Task Force plans to prepare a proposal for a guidance document which will become an Annex to the new standard once the guidance document to WIPO Standard ST.27 has been finalized.

### Development of XML for Legal Status Data Exchange

1. In order to facilitate the exchange of industrial design legal status data among IPOs, the proposed standard will likely have to be operationalized in XML. However, the proposed standard does not discuss the operationalization of the exchange of legal status data in XML format, which should be discussed and developed by other CWS Task Force(s) which deal with XML, in accordance of the decision by the CWS.
2. Following the agreement made at the fifth session of CWS in relation to Standard ST.27, the LSTF requests the CWS to invite the XML4IP Task Force to develop XML schema components to facilitate the exchange of industrial design legal status data based on the proposed new standard. Once a draft XML schema has been prepared, it should be reported to the CWS for its consideration and decision on whether the XML schema should be integrated into the new WIPO standard or into WIPO Standard ST.96.
3. The CWS is invited to:

 *(a) note the content of this document;*

 *(b) consider whether or not another starting point should be added to the Registration Stage, as indicated in paragraph 11, above;*

 *(c) consider and approve the name of the proposed standard “WIPO Standard ST.87 – Recommendation for the exchange of industrial design legal status data”;*

 *(d) consider and adopt the proposed new WIPO Standard ST.87, as reproduced in the Annex to the present document;*

 *(e) request the Secretariat to issue a circular to invite IPOs to assess their business practices and IT systems and review the provisional detailed events, as referred to in paragraphs 20 and 21 above;*

 *(f) consider and approve the proposed Editorial Note to be included in the proposed WIPO standard, as referred to in paragraph 22;*

 *(g) request the Legal Status Task Force to finalize the list of detailed events and prepare the guidance document for industrial design legal status data, as referred to in paragraphs 21 to 24, above, and present them for consideration and approval at its seventh session; and*

 *(h) request the XML4IP Task Force to develop relevant XML schema components, as referred to in paragraphs 25 and 26 above, and report the outcome of the Task Force work for consideration at its seventh session;*

[Annex follows]