

Committee on WIPO Standards (CWS)

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PROPOSAL FOR THE REVISION OF WIPO STANDARDS ST.3, ST.9 and ST.80

Document prepared by the International Bureau

SUMMARY

1. The International Bureau is proposing revisions to WIPO Standards ST.3, ST.9 and ST.80. The proposed revisions to WIPO ST.80 firstly aim to align the Standard with changes that were made to the legal framework of the Hague System since the last revision of WIPO ST.80, and secondly to make minor corrections to the terminology and references used under the Hague System, and thirdly to enhance the understanding of published information. The proposed revisions to WIPO ST.3 and ST.9 are related to the proposed revisions to WIPO ST.80 and aim to correct INID codes and references in relation to the Hague, Madrid and PCT Systems.

BACKGROUND

2. WIPO Standard ST.80 on the “Recommendation concerning bibliographic data relating to industrial designs” was last revised in 2004 in order to reflect changes resulting from the entry into force of the Geneva Act (1999) of the Hague Agreement (hereinafter referred to as the “1999 Act”)¹. Since its last revision, there have been several amendments to the legal framework of the Hague System which require further revisions of WIPO Standard ST.80. In

¹ Refer to document SCIT/SDWG/4/2.

addition, the International Bureau notes that WIPO Standard ST.80 contains inaccurate references and terminology which require correction. Finally, the International Bureau has experienced certain limitations and confusion regarding the publication of information using WIPO ST.80, which could be improved by revising WIPO Standard ST.80. Therefore, the International Bureau presents a proposal for the revision of Appendix 1 to WIPO Standard ST.80 (List of INID Codes), which is explained below, for consideration and approval by the CWS.

3. The proposed revision to footnote 4 in WIPO ST.3, which is related to one of the proposed revisions to WIPO ST.80, aims to correct codes and references used in relation to the International Bureau of WIPO. The proposed revision to code (33) in WIPO ST.9, which is related to the proposed revision to footnote 4 in Standard ST.3, aims to correct the code to be used for an Office in its capacity as a PCT receiving Office. Therefore, the International Bureau presents proposals for the revision of footnote 4 in WIPO Standard ST.3 and of Appendix 1 to WIPO Standard ST.9 (INID Codes and Minimum Requirements for the Identification of Bibliographic Data Elements), which are explained below, for consideration and approval by the CWS.

4. All proposed revisions are indicated below using tracked changes, where underlined text represents an inclusion and strikethrough text indicates a deletion.

PROPOSED REVISION OF WIPO STANDARD ST.3

5. It is proposed to streamline and correct the text in footnote 4 on the use of the codes “WO” and “IB” in relation to the Hague, Madrid and PCT Systems. In addition, it is proposed to add and correct references to codes in Standards ST.9, ST.60 and ST.80. The two-letter code “WO” is used in relation to the publication of international applications under the PCT System, the publication of international registrations under the Hague System and the registration under the Madrid System. The two-letter code “IB” is used in relation to the filing of international applications with the International Bureau of WIPO under the Hague System and the PCT System.

6. The revised footnote 4 for WIPO would read:

“(4) The code “WO” is used in relation to the international publication under the Patent Cooperation Treaty (PCT) of international applications ~~filed with any PCT receiving Office, as well as the~~ publication of international design registrations under the Hague Agreement Concerning the International Registration of Industrial Designs (the Hague Agreement). ~~In this regard, reference is made to INID code (33) given in WIPO Standards ST.9 and ST.80. The code “WO” is also the appropriate code to be used with respect to, and the~~ international registrations of marks under the Madrid Protocol Concerning the International Registration of Marks. In this regard, reference is made to INID code (19) in WIPO Standards ST.9 and ST.80, as well as to INID code (190(330) given in WIPO Standard ST.60. The code “IB” is used in relation to the ~~receipt~~ filing of international applications ~~under the PCT~~ filed with the International Bureau of

WIPO in its capacity as a PCT receiving Office, and ~~for~~ to the filing of international industrial design applications under the Hague Agreement. In this regard, reference is made to INID code (33) in WIPO Standards ST.9 and ST.80."

PROPOSED REVISION OF WIPO STANDARD ST.9

7. A single change to WIPO Standard ST.9 is proposed to correct the Code (33) that must be used to identify the Office with which an international application under the PCT was filed. The code identifying that Office must be indicated in a priority claim to an international application under the PCT.

8. The revised Code (33) would read:

- "(30) Data relating to priority under the Paris Convention or the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement)*
(33) WIPO Standard ST.3 code identifying the national industrial property office allotting the priority application number or the organization allotting the regional priority application number; for international applications filed under the PCT, the code "WO" for the receiving Office is to be used."

PROPOSED REVISION OF WIPO STANDARD ST.80

9. The proposed changes to WIPO ST.80 can be summarized as follows:

(a) Revision of the notes following category code (30)

10. Firstly, it is proposed to align the text in Note (ii) with the terminology introduced in the Hague System with the entry into force of the 1999 Act (the term "application" is used instead of "deposit"). Secondly, it is proposed to replace the two-letter code "WO" with "IB" as this is the correct code used for WIPO in relation to international applications filed under the Hague System². Therefore, the code "IB" must be used to identify the International Bureau of WIPO as the authority with which the priority application was made in a priority claim to an international application under the Hague System.

11. The revised notes to category Code (30) would read:

- "(30) Data relating to priority under the Paris Convention*
(31) Serial number assigned to the priority application
(32) Date of filing of the priority application
(33) Two-letter code, according to WIPO Standard ST.3, identifying the authority with which the priority application was made

Notes: (i) With the proviso that when data coded (31), (32) and (33) are presented together, category code (30) can be used, if so desired.
(ii) For international ~~deposits made~~ applications filed under the Hague Agreement, the two-letter code "WOIB" is to be used."

² See also WIPO Standard ST.3, footnote 4.

(b) Revision of category code (50)

12. It is proposed to amend the wording in code (53) by deleting the words “when not all are so affected”. This amendment would broaden the scope of the code and provide for the indication of the industrial designs which are concerned by a particular transaction, including the case where all industrial designs are affected by a particular transaction (for example by a change in ownership). This amendment would provide clarity to users as the concerned designs would always be indicated together with the relevant transaction. It would also simplify electronic transactions as the system would be set to always indicate the concerned designs instead of having to differentiate whether all or some of the designs are concerned.

13. The revised Code (53) would read:

“(50) *Miscellaneous Information*

(53) Identification of the industrial design(s) comprised in a multiple application or registration which is (are) affected by a particular transaction ~~when not all are so affected~~”

14. The International Bureau is sometimes required to publish corrections, for example corrections which require the removal of a published code and its entire bibliographical content. Such corrections cannot sufficiently be indicated with the existing codes. It is therefore proposed to introduce new code (59) together with a free-text note to provide for the indication of corrections or amendments that do not fall under any of the existing codes or cannot sufficiently be displayed with the existing codes, for example corrections entailing the removal of bibliographical content³. The amendment would enhance the understanding of published information and changes made to published information of offices and users.

15. The new Code (59) and note to Code (59) would read:

“(59) Correction or amendment of published information”

- Notes:
- (i) Code (52) should be preceded by the two-letter code, according to WIPO Standard [ST.3](#), identifying the country whose national classification is used (the two-letter code should be indicated within parentheses).
 - (ii) ****Minimum data element for design documents only, as defined in subparagraph 4(b).**
 - (iii) Code (59) indicates information concerned by a correction, amendment or other relevant information concerning a transaction”

(c) Revision of category code (70)

16. Current Code (72) only allows for the indication of the “names” of the creators. It is proposed to revise Code (72) to provide for the indication of the “names and addresses” of the creators as the identity of the creator (which includes the address) is mandatory content for an international application designating certain designated Contracting Parties.

³ WIPO Standard ST.87 “Recommendations for the Exchange for the Exchange of Industrial Design Legal Status Data” contains codes for the correction or amendment of information.

The International Bureau is obliged to publish this information (see Rules 8, 15(2), 17(2) and 26(1) of the Common Regulations Under the 1999 Act and the 1960 Act of the Hague Agreement (hereinafter referred to as the “Common Regulations”)).

17. On January 1, 2012, new Rule 21*bis*, entitled “Declaration That a Change in Ownership Has No Effect”, was introduced into the Common Regulations⁴. Rule 21*bis* of the Common Regulations was modeled on Rule 27(4) of the Common Regulations under the Madrid Agreement and the Protocol (hereinafter referred to as the “Madrid Regulations”)⁵. Following the introduction of Rule 27(4) of the Madrid Regulations, WIPO Standard ST.60 was accordingly amended in 1996⁶ to provide for two additional codes in that context, namely (770) “Name and address of the previous applicant or holder (in case of change in ownership)” and (771) “Previous name and address of the applicant or holder (in case of no change in ownership)”. However, WIPO Standard ST.80 already contains code (78) allowing for the indication of the name and address of new owner, in case of a change in ownership. Therefore, it is proposed to add a Note to code (78) clarifying that code (78) also indicates the owner in case of a refusal of a change in ownership as well as the new owner in case of a withdrawal of refusal of a change in ownership.

18. The revised Code (72) and notes to category code (70) would read:

“(70) *Identification of parties concerned with the application or registration*
**(71) Name(s) and address(es) of the applicant(s)
(72) Name(s) and address(es) of the creator(s) if known to be such
**(73) Name(s) and address(es) of the owner(s)
(74) Name(s) and address(es) of the representative(s)
(78) Name(s) and address(es) of the new owner(s) in case of change in ownership

Notes: (i) Code (78) should also be used to indicate the name(s) and address(es) of the owner(s) in case of a refusal of a change in ownership, and the name(s) and address(es) of the new owner(s) in case of a withdrawal of refusal of a change in ownership.

(ii) **If registration has taken place on or before the date of making the industrial design available to the public, the minimum data requirement is met by indicating the owner(s); in other cases, by indicating the applicant(s).”

(d) Revision of category Code (80)

19. The proposed amendment to Code (81) aligns the text with the terminology under the Hague legal framework⁷:

20. The revised Code (81) would read:

“(80) Identification of certain data related to the international registrations of industrial designs under the Hague Agreement Concerning the International Registration of Industrial Designs and data related to other international conventions

⁴ Refer to document H/A/30/3.

⁵ Refer to document H/LD/WG/1/3. See current Rule 27(4) of the Regulations under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks.

⁶ Refer to document PCIPI/EXEC/XVIII/10.

⁷ For example, see Article 2 of the 1999 Act, and Rule 1(1)(x) and (xi) of the Common Regulations.

Information regarding designated Contracting Parties/Contracting Parties concerned
(81) Contracting Parties concerned

- I Contracting Parties designated under the 1934 Act
- II Contracting Parties designated under the 1960 Act
- III Contracting Parties designated under the 1999 Act”

UPDATE OF APPENDIX 2 TO WIPO STANDARDS ST.9 AND ST.80

21. It is proposed that all changes to Appendix 1 to WIPO Standards ST.9 and ST.80 be reflected in Appendix 2 (Deletions and Amendments to the Code List given in Appendix 1) of these two Standards accordingly once the proposed revisions have been approved by the CWS.

22. *The CWS is invited to:*

(a) note the content of this document;

(b) consider and approve the proposed revisions to WIPO Standards ST.3, ST.9 and ST.80, as indicated in paragraphs 6, 8, 11, 13, 15, 18 and 20 above; and

(c) request the Secretariat to update WIPO Standards ST.3, ST.9, and ST.80 with the approved respective revisions and necessary update of Appendix 2 to Standards ST.9 and ST.80 as indicated in paragraph 21 above; then publish those revised Standards.

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