

## **Committee on WIPO Standards (CWS)**

### **Twelfth Session** **Geneva, September 16 to 19, 2024**

#### **PROPOSALS FOR IMPROVEMENT OF COPYRIGHT ORPHAN WORK METADATA IN WIPO STANDARD ST.96**

*Document prepared by the International Bureau*

#### **SUMMARY**

1. This document provides a summary of work undertaken by the International Bureau since the eleventh session of the Committee on WIPO Standards (CWS) to finalize the proposed new categories for copyright orphan work metadata in WIPO ST.96. After the workshop held in May 2024, the International Bureau is proposing that the new categories are included in the next version of WIPO ST.96 as proposed in the Annex to working document CWS/10/7.

#### **INTRODUCTION**

2. At its sixth session held in 2018, the CWS agreed to extend WIPO Standard ST.96 to cover copyright orphan works and requested the XML4IP Task Force develop and incorporate the new XML schemas (see paragraph 68 of document CWS/6/34).

3. At its eighth session held in 2020, the CWS noted that XML schema components for copyright orphan works data were published as part of version 4.0 of WIPO ST.96, and the XML4IP Task Force planned for the enhancement of some copyright orphan work components, specifically referencing the `cpy:RightsHolderCategory` and `cpy:OrphanWorkKindCode` schemas (see paragraphs 86 and 92 of document CWS/8/24).

4. At its ninth session held in 2021, the CWS considered a draft working paper presented by the International Bureau which proposed providing a structured means of categorizing rights holder roles and creative works as is currently captured in WIPO standard ST.96 components: `cpy:RightsHolderCategory` (category which identifies the type of rights holder) and `cpy:OrphanWorkKindCode` (code list which identifies a kind of orphan work). The main aim of this paper was to improve the interoperability of WIPO ST.96 with other data standards around the world, which are developed or used by cultural industries, collective management organizations as well as with national and university libraries. The CWS invited its Members to comment on the proposals for copyright orphan work metadata, as reproduced in the Annex to document CWS/9/4, and noted that the International Bureau would present the final proposals for the categories being proposed for consideration at its tenth session. (See paragraphs 21 to 24 of document CWS/9/25.)

5. At its tenth session held in 2022, the CWS noted that the Member States and Observers of WIPO were invited to provide their comments on the improved proposals via circular C.CWS 156. Nine responses were received from six Member States and three Observers. The working paper had been revised according to the feedback received and the CWS was invited to comment on the revised working draft for copyright orphan work metadata presented in the Annex to document CWS/10/7. (See paragraphs 50 to 51 of document CWS/10/22.) In terms of next steps, the CWS agreed to perform another round of consultation to solicit input from copyright Offices and industry and requested the Secretariat to issue a circular inviting its Members and Observers, with explicit reference to Copyright Offices, and institutions as well as international Non-Governmental Organizations (NGOs) representing creative industry stakeholders, to review the revised working draft included in document CWS/10/7 and submit their comments. The CWS requested the Secretariat to present, at its eleventh session, a final proposal reflecting the results of the consultation for consideration and approval by the CWS, or a proposal for next steps, depending on the comments received during the consultation. (See paragraphs 52 to 57 of document CWS/10/22.)

6. At its eleventh session, the CWS noted that the Member States and Observers of WIPO were invited to provide their comments on the improved proposals through circular C.CWS 171. The CWS noted that nine responses had been received from eight CWS Members and one Observer (see document CWS/11/19 Rev.). Also at its eleventh session, the CWS agreed that a seminar or workshop be organized so that copyright and technical experts could collaborate on improving the draft presented in the Annex to document CWS/10/7. The CWS requested that the Secretariat organize this workshop in early 2024, inviting Offices which had responded to one of circulars C.CWS.156 and C.CWS.171, and the Members and Observers of the CWS which have copyright orphan work registration systems or plan to implement the WIPO ST.96 copyright orphan work schemas. The CWS noted that a revised proposal for copyright orphan work would be presented at its twelfth session for consideration. (See paragraphs 129 and 130 of document CWS/11/28.)

#### SUMMARY OF WORKSHOP ON COPYRIGHT ORPHAN AND WIPO STANDARDS

7. As a follow up of the agreement made at the eleventh session of the CWS, a workshop on copyright orphan and WIPO Standards took place virtually on May 7, 2024. The session was moderated by Ms. Margaret Haig from the United Kingdom IP Office (UK IPO) and invitees were the CWS Task Force members and Offices which were either those who responded to CWS circulars C.CWS.171 or C.CWS.156, or are implementing a system to manage access to copyright orphan works. Several Organizations presented how they are using orphan works including UK IPO, Korean Copyright Commission (KCC), Fonoteca Nacional Mexico, European Union Intellectual Property Office (EUIPO) and the International Bureau. All presentations indicated that they are at various stages of development of a copyright orphan work platform or database and welcomed standardization to support these activities.

8. Participants of the workshop were glad to hear about the activities of organizations in this space. However, one delegation indicated that the latest proposal referenced in Circular C. CWS.171 appeared to be beyond the agreed scope, which was initially agreed to facilitate the exchange of copyright orphan work data between IPOs. They were also unsure how the incorporation of these categories within WIPO ST.96 would assist participating organizations. None of the organizations participating in the discussion had established international arrangements to exchange data but participants noted that a revised WIPO ST.96 which included the new categories could also be used for back-office processes. The participants also noted that the categories for creative works would need to be broad as copyrighted works could be themselves broad and all could be orphaned.

9. Since there was no agreement at the workshop on the proposals and any next steps, the International Bureau proposed in order to move forward that participants consider the following options:

- Option 1: incorporate the proposed right holders and creative work categories which were published as the Annex to document CWS/10/7 in the next or future version of WIPO ST.96; or
- Option 2: continue the discussion on the proposals either via the XML4IP Task Force or an alternative forum with subject matter experts.

#### NEXT STEPS

10. After the workshop, the International Bureau briefed the XML4IP Task Force on the results of the workshop at the Task Force meeting held in May 2024. At the meeting, the International Bureau, as the Task Force Leader, proposed to include the two set of codes regarding the right holders and creative work categories for copyright orphan works in version 8.0 of WIPO Standard ST.96, whose publication is scheduled on October 1, 2024. At the following XML4IP Task Force meeting held in July 2024, the International Bureau recalled its proposal made in May and there was no objection to the proposal while one Task Force office requested more time for internal discussion.

11. The CWS is invited to take note of the discussion and incorporation of the proposed categories into the WIPO ST.96 version 8.0; and encourage its Members and Observers to nominate their subject matter experts to the XML4IP Task Force to improve the relevant copyright orphan work WIPO ST.96 XML components in the future.

12. *The CWS is invited to:*
- (a) note the content of the present document; and*
  - (b) encourage its Members and Observers to nominate their subject matter experts to the XML4IP Task Force to improve the relevant ST.96 XML components in the future as indicated in paragraph 11 above.*

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