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Source: Association de Gestion Internationale Collective des Oeuvres Audiovisuelle (AGICOA)
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International Federation of Film Producers Associations (FIAPF)
International Federation of the Phonographic Industry (IFPI)
International ISBN Agency
ISO TC46/SC9/WG3—International Standard Textual Work Code (ISTC)
ISSN International Centre

Joint Response to the MPEG Call for Requirements for a Rights Data Dictionary and a Rights Expression Language

Background

This response to the MPEG Call for Requirements for a Rights Data Dictionary and a Rights Expression Language is submitted by the organizations responsible for development of the following ISO standards:

International Standard Audiovisual Number (ISAN)
International Standard Book Number (ISBN)
International Standard Recording Code (ISRC)
International Standard Serial Number (ISSN)
International Standard Textual Work Code (ISTC)
International Standard Musical Work Code (ISWC)

Those organizations are currently engaged in an analysis of functional requirements for identifiers and descriptors for use in the music, film, video, sound recording, and publishing industries. The analysis is designed to provide a shared frame of reference for describing the nature of the business and information transactions that take place in the course of production, distribution, and rights management, and a structured statement of requirements that will serve as the basis for guiding further development of schemas for the identification and description of digital entities.

The conceptual business architecture and information architecture being developed for this analysis project are documented in *Content Delivery and Rights Management: Functional Requirements for Identifiers and Descriptors for Use in the Music, Film, Video, Sound Recording, and Publishing Industries* (Attachment B).

Elements of the model outlined in that document are directly relevant to the definition of requirements for a Rights Data Dictionary and a Rights Expression Language (RDD-REL). Notes highlighting the details of the model that are of particular relevance to requirements for an RDD-REL are appended as Attachment A.

Summary Assessment

A number of key observations have been drawn from a comparison of the model documented in *Content Delivery and Rights Management* (CDRM) with the draft *Requirements for a Rights Data Dictionary and a Rights Expression Language* (ISO/IEC JTC1/SC29/WG11/N4045):

- 1) The CDRM model defines *property*, *content*, and *product* as separate and distinct entities. In the context of intellectual property management and protection (IPMP), those distinctions are critical, inasmuch as from a legal perspective *rights* attach directly to *property*, and are associated with *content* and *product* only indirectly through the embodiment of *property* in *content* and the subsequent incorporation of *content* into a *product*. The model being used as the basis for the draft RDD-REL requirements document (section 2.1), on the other hand, associates “Rights” directly with “Digital Items.” That association is particularly critical in the context of work that is being done within MPEG-21 on Digital Item Identification and Description, where there is currently an operative distinction made between a “Digital Item,” a

“Resource”, and the abstraction defined in the CDRM model as *property*. The net effect is that the model used in N4045 as the basis for defining requirements for an RDD-REL tends to obscure and oversimplify semantic and legal distinctions that are critical for the effective management and protection of intellectual property.

- 2) The CDRM model defines *right* and *authorization* (i.e., permission) as separate and distinct entities. The <indec> model makes a parallel distinction between the entities it defines as “right” and “permission.” Again, in the context of IPMP, that distinction is critical from both a semantic and a legal perspective. Although the draft RDD-REL requirements document appears to recognize a distinction between “rights” and their related “permissions” (page 7), the model on which the requirements are based and the detailed statement of requirements fail to make the distinction clear. The distinction is blurred somewhat further by occasional references to “upstream rights” and “downstream rights,” which appear to correspond roughly, but not precisely, to the legal distinction between *right* and *authorization*, as reflected in the CDRM model.
- 3) The CDRM model defines *right* as a legal term and reflects the fact that from a legal perspective a *right* is always defined in precise terms and is specific to the national *legislation* under which it is established. The draft RDD-REL requirements document, on the other hand, refers to “rights” either in the aggregate (e.g., “copyright,” “neighbouring rights”) or in terms of categories (e.g., “transport rights,” “render rights”) that do not correspond to categories established in law. It should be noted that the categories and individual “rights” detailed in the draft RDD-REL statement of requirements (section 2.3) in fact correspond more closely to *authorizations* (or “permissions”) as defined in the CDRM and <indec> models than they do to *rights* in the legal sense.
- 4) In the CDRM model, the complex set of relationships between *legislation, right, authorization, exception, property, originator, territory, term, condition, owner, agent, competent authority, user, use, infringement, and remedy* is fully articulated. The absence of those relationships in the model on which the draft RDD-REL requirements document is based, again, tends to obscure and oversimplify relationships and associations that are critical for the effective management and protection of intellectual property.

Overall, the requirements set out in the N4045 tend to focus on “permissions” as distinct from “rights” (in the legal sense of those terms), or on the “downstream” side of the IPMP lifecycle as opposed to the “upstream” side. As a result, any RDD-REL developed on the basis of those requirements has better prospects of serving as a support for the “downstream” management of the proprietary interests of the producers and distributors of Digital Items (as defined in MPEG-21), or *products* (as defined in the CDRM model) than the “upstream” management of the *property* interests or the *rights* of the owners of intellectual property (as defined in the CDRM model).

Notwithstanding that observation, it is clear from the CDRM model that the task of designing and implementing systems to support the “upstream” management of property interests and rights fully and effectively would be enormously complex. Balancing the complexity of the functional requirements with the technical requirements for a machine-readable language, usability, extensibility, customisability, and interoperability (as outlined in sections 2.1.17 through 2.1.21 of the draft RDD-REL requirements document) would pose an even greater challenge.

It must also be noted that the “upstream” management of property interests and rights encroaches on business dealings and transactions that are much more sensitive in nature than

those on the “downstream” side. While dealings between distributors and consumers can be expected to be conducted in a relatively “open” manner, rights owners and other stakeholders will have serious reservations about openly declaring the details of their dealings. If details relating to those business dealings are recorded at all using an RDD-REL—and that is a big “if”—requirements relating to privacy, security and access to such information will be of utmost importance.

Recommendations

The organizations submitting this response to the Call for Requirements for a Rights Data Dictionary and a Rights Expression Language recommend:

- 1) That MPEG re-assess the intended scope of functionality of an RDD-REL and determine whether it is in fact feasible to support the “upstream” management of *property* interests and *rights* as well as the “downstream” management of *authorizations* or permissions relating to Digital Items or *products*.
- 2) That the requirements for an RDD-REL be reviewed against the model documented in *Content Delivery and Rights Management* (Attachment B), and revised as necessary to reflect the aspects of that model that are relevant to an RDD-REL.
- 3) That MPEG assess the implications of design decisions relating to Digital Item Identification and Description for the IPMP element of the MPEG-21 framework as a whole, and more specifically for an RDD-REL.
- 4) That MPEG work in concert with AGICOA, CISAC, FIAPF, IFPI, the International ISBN Agency, ISO TC46/SC9/WG3 (ISTC), the ISSN International Centre, and other stakeholders on the further development of models and the resolution of issues relevant to intellectual property management and protection.

Notes on the relevance of the Content Delivery and Rights Management model to requirements for a Rights Data Dictionary and a Rights Expression Language

The following observations are extrapolated from the model developed for AGICOA, CISAC, FIAPF, IFPI, the International ISBN Agency, ISO TC46/SC9/WG3 (ISTC), and the ISSN International Centre, as documented in *Content Delivery and Rights Management: Functional Requirements for Identifiers and Descriptors for Use in the Music, Film, Video, Sound Recording, and Publishing Industries* (see Attachment B).

There are three sections of that document that are particularly relevant to requirements for a Rights Data Dictionary and a Rights Expression Language (RDD-REL):

- In the **Information Architecture** section of the document, **Figure 2** (on page 10) provides a structured representation of the legal framework for intellectual property management and protection (IPMP) in the form of an entity-relationship diagram. **Table 2** (on pages 11 and 12) provides definitions for all the entities depicted in the diagram.
- **Annex A – Entity Attributes and Relationships** lists and defines attributes and relationships associated with each of the entities in the information architecture. **Tables A1** (*agent*), **A2** (*authorization*), **A4** (*competent authority*), **A5** (*condition*), **A12** (*exception*), **A13** (*infringement*), **A14** (*legislation*), **A17** (*originator*), **A18** (*owner*), **A22** (*property*), **A27** (*remedy*), **A28** (*right*), **A29** (*term*), **A30** (*territory*), **A32** (*use*), and **A33** (*user*) define the attributes and relationships associated with the entities that comprise the legal framework for IPMP.
- In the **User Transactions** section of the document, **Table 5.3** (on pages 28 to 31) provides a mapping of attributes and relationships associated with *property* to the eight generic user transactions defined in the model. Of particular relevance to an RDD-REL are the data requirements associated with “use” and “control” transactions (as defined on page 20).

(Note: All terms in italics represent entities as defined in the model.)

1. Information Architecture

The structured representation of the legal framework for IPMP in **Figure 2** serves to highlight the range and complexity of information associated with intellectual property rights. Of particular relevance to requirements for an RDD-REL are the following:

- 1) Although it is common to refer to intellectual property rights in the aggregate (e.g., as “copyright” or “neighbouring rights”) and in generic terms (e.g., as “reproduction right” or “distribution right”), from a legal perspective a *right* is defined in precise terms and is specific to the national *legislation* under which it is established.
- 2) A *right* may be limited by a statutory *exception*.
- 3) A *right* may pertain (or may not pertain) to a particular type or class of *property*.
- 4) A *right* pertains (or may not pertain) to a specific *property*.

- 5) A *right* is applicable only within the *territory* (or territories) governed by the *legislation* under which the *right* is established.
- 6) Within a given *territory*, the applicability of a *right* to a specific *property* is dependent on one or more circumstances relating to the *originator* of the *property* (i.e., the nationality, the country of residence, or the location of the corporate headquarters of the *originator*) or to the first public release of the *property* (i.e., the country in which the *property* is first published, broadcast, etc.).
- 7) A *right* may pertain to a particular type or class of *use*.
- 8) A *right* is applicable and enforceable only for a specified *term* (i.e., for a specific period of time).
- 9) A *right* may be subject to one or more *conditions* (i.e., stipulations, provisos, or limitations).
- 10) An *exception* may pertain (or may not pertain) to a particular type or class of *property*.
- 11) An *exception* is applicable only within the *territory* (or territories) governed by the *legislation* under which the *exception* is established.
- 12) An *exception* may pertain to a particular type or class of *use*.
- 13) An *exception* may be applicable only for a specified *term* (i.e., for a specific period of time).
- 14) An *exception* may be subject to one or more *conditions* (i.e., stipulations, provisos, or limitations).
- 15) An *authorization* may be granted by a *rights owner*, by an authorized *agent* of the *rights owner*, or by a *competent authority* authorized by *legislation* to act on behalf of a *rights owner*.
- 16) An *authorization* pertains (or may not pertain) to a specific *property*.
- 17) An *authorization* may be applicable only within a specific *territory* (or territories).
- 18) An *authorization* may pertain to a particular type or class of *use*.
- 19) An *authorization* may be applicable only for a specified *term* (i.e., for a specific period of time).
- 20) An *authorization* may be subject to one or more *conditions* (i.e., stipulations, provisos, or limitations).

2. Entity Attributes and Relationships

The attributes and relationships defined in **Annex A** serve to highlight additional characteristics associated with intellectual property rights. Of particular relevance to requirements for an RDD-REL are the following:

- 1) A *right* can normally be categorized by type (e.g., reproduction right).
- 2) A *right* may have a specific scope of application (e.g., the right may be applicable only to reprographic reproduction).
- 3) A *right* comes into force as of a particular date.
- 4) The period of time (i.e., the *term*) during which a right is applicable or enforceable with respect to a specific *property* may be variable and (at any given point in time) indeterminate, inasmuch as it may be dependent on a contingent event (e.g., the death of an author).
- 5) An *exception* can normally be categorized by type (e.g., fair use exception).
- 6) An *exception* may have a specific scope of application (e.g., the exception may be applicable only to uses constituting communication to the public).
- 7) An *exception* comes into force as of a particular date.
- 8) An *authorization* can normally be categorized by type (e.g., authorization for public performance).
- 9) An *authorization* comes into effect as of a particular date, and may expire as of a particular date.
- 10) A *property* can normally be categorized by type (e.g., literary work, performance).
- 11) A *use* can normally be categorized by type (e.g., reprographic reproduction).
- 12) A *use* may have a specific extent (e.g., a single performance in public before an audience of 800).
- 13) A *use* may occur on a specific date or on a date or dates that are indeterminate, inasmuch as they are dependent on a contingent event (e.g., the date of first use).
- 14) A *condition* may entail one or more specific requirements that must be met in order to satisfy the *condition*.
- 15) A *condition* may be applicable for a specified period of time.

3. User Transactions

The mapping of attributes and relationships associated with *property* to the generic user transactions “use” and “control” in **Table 5.3** serves to highlight the extent of data required to support responsible use and effective control of a *property*. Of particular relevance to requirements for an RDD-REL are the following:

- 1) Accurate identification of the *property* is a prerequisite. Note that the model defines *property* as an entity in its own right distinct both from the *content* that embodies the *property* and from the *product* that incorporates the *content*. *Content* perceived and identified as a single entity may embody one or more distinct *property* entities. (See **Figure 3** and the definitions of *product*, *content*, and *property* in **Table 3**.)
- 2) All *rights* pertaining to the *property* must be identified. Given that *rights* are defined in precise legal terms and are specific to the *territory* or territories governed by the *legislation* under which they are established, each *right* pertaining to a *property* must be identified not only by type but also by its defined scope of application and its effective date.
- 3) The identification of a *right* entails identification of the *legislation* that establishes the *right*.
- 4) The relationship between a specific *right* and any *exception* that limits that right must be identified. The identification of an *exception* entails identification of the *legislation* that establishes the *exception*.
- 5) The *owner(s)* of each right in the property must be identified.
- 6) The *territory* (or territories) within which each *right* pertaining to the *property* is applicable must be identified.
- 7) The *term* during which each *right* pertaining to the *property* is applicable must be identified. The identification of the *term* may entail the identification of a beginning date, an ending date, an event on which the *term* is contingent, and its duration.
- 8) All *conditions* attached to a *right* that pertains to the *property* must be identified. Identification of a *condition* entails identification of the type and specific requirements of the *condition*, its effective date, and expiry date.
- 9) All *authorizations* pertaining to the *property* must be identified. The identification of an *authorization* entails identification of the type of authorization, its scope, and its effective date as well as identification of the *user* to whom the *authorization* has been granted.
- 10) All *use* of the property must be tracked. Tracking of *use* entails identification of the use transaction, the type of use, the scope, extent, and date of use, as well as identification of the *user*.
- 11) The *originator* of the *property* must be identified. Note that the *term* of protection for a *property* may be dependent on the date of death of an author; hence the requirement to identify the *originator* and to provide a date of death, where applicable.
- 12) The *territory* in which the *property* was first published or broadcast must be identified. The protection given to a specific *property* (i.e., the applicability of a

specific *right* to that *property*) is in certain instances dependent on where the *property* was first published or broadcast.

- 13) An association must be made between the *property* and *content* embodying the property.