



HARMONIZED SYSTEM
COMMITTEE

-
28th Session
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O. Eng.

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CLASSIFICATION OF MP3 PLAYERS

(Item VIII.21 on Agenda)

I. BACKGROUND

1. At its 24th Session, the Review Sub-Committee discussed a proposal from Switzerland to include a reference to “MP3 players” in the structured nomenclature of heading 85.19. It decided, however, that it would re-examine the entire question of the structured nomenclature of heading 85.19, once it had received the HS Committee’s advice on the classification of MP3 players.

II. SECRETARIAT COMMENTS

2. “MP3” is short for “MPEG Audio Layer III” and covers audio compression only (MPEG = Moving Picture Experts Group). This audio compression format enables audio files to be transferred to and stored in an automatic data processing (ADP) machine with a relatively small file size, while still maintaining near perfect fidelity when played back. The files, which can be downloaded from Internet Web sites, are stored on the appropriate media, such as hard disk, diskette, CD-ROM, and flash memory cards or similar solid state devices.
3. The music contained in an MP3 file can be listened to with any apparatus having the appropriate software (e.g., on the hard disk of an ADP machine or contained in a dedicated integrated circuit (“chip”)) and hardware (i.e., stereo loudspeakers or head- or earphones to be connected to the apparatus).
4. MP3 players are dedicated apparatus, presented in various (portable or non-portable) configurations (e.g., with an internal memory or with a replaceable flash memory card, with a microphone to record voices, with a built-in electronic organizer (phone book, calendar, world time)), or even in the form of a wrist watch including time functions. MP3 players are usually connected to an ADP machine to download the files. Some types of cellular telephones may also be used as an “MP3 player”, by downloading the file(s) directly from the Internet. In addition, some stand-alone CD-ROM or DVD players support MP3 format (for files stored on a CD), using an MP3 decoder (hardware and software).

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5. Based on the information provided by Switzerland in Doc. NR0202E1 (RSC/24) and from its own observations, the Secretariat has identified a number of typical configurations of MP3 players using solid state technology, as follows :

(i) Portable, battery operated apparatus consisting of a housing incorporating a flash memory and a microprocessor in the form of integrated circuits (“chips”), an electronic system including an audio-frequency amplifier, an LCD screen and control buttons. The microprocessor is programmed for MP3 software. The apparatus has connectors for stereo head- or earphones, and can be connected to an ADP machine for downloading MP3 files (using a parallel or USB port). The storage capacity usually ranges from 32 to 64 MB;

(ii) Portable, battery operated apparatus consisting of a housing incorporating a flash memory and a microprocessor in the form of integrated circuits (“chips”), an electronic system including an audio-frequency amplifier, an LCD screen, a microphone and control buttons. The microprocessor is programmed for MP3 software. The apparatus has connectors for stereo head- or earphones, and can be connected to an ADP machine for downloading or uploading MP3 or other files (using a parallel or USB port). The storage capacity usually ranges from 32 to 64 MB. They may contain additional software for an electronic organizer or a phone book; and

(iii) Portable, battery operated apparatus consisting of a housing incorporating a flash memory and a microprocessor in the form of integrated circuits (“chips”), an electronic system including an audio-frequency amplifier, an LCD screen, a microphone, a radio tuner and control buttons. The microprocessor is programmed for MP3 software. The apparatus has connectors for stereo head- or earphones and for a remote control, and can be connected to an ADP machine for downloading or uploading MP3 or other files (using a parallel or USB port). The storage capacity usually ranges from 32 to 64 MB.

6. With respect to stand-alone MP3 players using CD-ROM or DVD, the Secretariat suggests the following descriptions :

(i) Apparatus incorporating a CD drive, a microprocessor, a flash memory or a hard disk, an LCD screen, control buttons, input connectors for analogue audio signals and for a microphone and output connectors for audio, S-video and composite video, parallel and USB connectors for uploading or downloading MP3 files to or from an ADP machine or to or from a portable MP3 player and an ethernet port for connection to a home network or to the Internet. The connection to a TV set provides a graphical user interface for playlist editing and navigation, as well as display of animations. The apparatus is programmed to read MP3 and other audio compression formats, and can record analogue audio signals or voice. Other compression formats, such as AAC and MPEG4¹⁾, can be added;

(ii) Apparatus incorporating a CD drive, a microprocessor, a flash memory or a hard disk, an LCD screen, control buttons and output connectors for audio (earphones, loudspeakers or to a stereo system). The apparatus supports several formats (CD-DA²⁾, MP3, etc.) and reads standard CDs, CD-R and CD-RW. The functions of the apparatus can also be controlled with an infrared remote control;

(iii) DVD player (434 x 95 x 290 mm) incorporating an MP3 files decoder;

¹⁾ Note of the Secretariat : MPEG4 is a video compression technique.

²⁾ Note of the Secretariat : “CD-DA” stands for compact disk, digital audio.

(iv) System consisting of a CD-ROM drive for reading MP3 format files, comprising software for reading MP3 files, a remote control and connection cables, to be built into a car. The system is connected to the car radio, which is not included;

(v) System consisting of (i) a component comprising a hard disk and possibly a CD-ROM drive, and software for reading MP3 format files, (ii) a remote control and (iii) connection cables, to be built into a car. The system is connected to the car radio, which is not included; and

(vi) Car radio comprising, in addition to a radio tuner, a hard disk, a processor and an MP3 decoder, to read MP3 files. These files can be downloaded from an ADP machine by using the appropriate connections.

7. The Secretariat would like to remind delegates that the classification of DVD players will be dealt with under Agenda item VII.10. Therefore, it will not comment on the possible classification of the apparatus described in paragraph 6 (iii) above, in this document.
8. With respect to the classification of the other apparatus, the Secretariat understands that, by definition, all apparatus reproduce sound. Sound reproducing apparatus is classifiable in heading 85.19, unless they incorporate a sound recording device. The question, therefore, arises whether the storage of MP3 files (which are downloaded from the Internet or from an ADP machine) is to be regarded as “sound recording”, in which case heading 85.19 would not be applicable.
9. The Secretariat takes the view that the storage of pre-existing (MP3) files on the appropriate media incorporated in the apparatus (e.g., hard disk, solid state memory) is a transcription of data onto data media, and would not constitute the recording (or transcribing) of sound, which is described as “vibrations travelling through the air or another medium and sensed by the ear” (*Concise Oxford Dictionary, 10th edition, revised 2001*) and as “sensation auditive engendrée par une onde acoustique” (*Le Petit Larousse Illustré, 2002*), in English and French respectively. That being the case, the Secretariat considers that heading 85.19 would be applicable for those apparatus which have a play function only and do not incorporate a radio tuner, by application of General Interpretative Rule 1.
10. Those apparatus incorporating a sound recording device (a microphone, for example), but not a radio tuner, are, in the view of the Secretariat to be classified in heading 85.20, while those incorporating a radio, whether or not combined with a microphone, are classifiable in heading 85.27, in both cases also by application of General Interpretative Rule 1.
11. Although many of the types of apparatus described above can (or must) be connected to an ADP machine of heading 84.71 to download the MP3 files, the Secretariat considers that they are not classifiable as units of these machines, since they (i) perform a specific function other than data processing (i.e., reproduction of sound) and (ii) are not working in conjunction with an ADP machine when performing that function. Consequently, the provisions of Note 5 to Chapter 84 do not apply and classification in heading 84.71 should be ruled out.
12. In conclusion, the Secretariat suggests the following classifications :
- (i) Heading 85.19 (subheading 8519.99) : the apparatus described in paragraphs 5 (i), 6 (ii), 6 (iv) and 6 (v);

- (ii) Heading 85.20 (subheading 8520.90) : the apparatus described in paragraph 5 (ii);
 - (iii) Heading 85.27 (subheading 8527.13) : the apparatus described in paragraph 5 (iii); and
 - (iv) Heading 85.27 (subheading 8527.21) : the apparatus described in paragraph 6 (vi).
13. With respect to the apparatus described in paragraph 6 (i), the Secretariat hesitates to suggest a classification, since the apparatus at issue has the possibility to read MPEG4 format and could, therefore, be considered as a DVD drive (see paragraph 7 above).

III. CONCLUSION

14. The Committee is invited to rule on the classification of the apparatus described in paragraphs 5 and 6 above, and to indicate what action should be taken to give effect to this decision, taking into account the comments of the Secretariat in paragraphs 2 to 13.
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