

May 31, 2013

To: Secretariat of Intellectual Property Strategy Headquarters, Cabinet Secretariat

Council for Intellectual Property Protection on Internet (CIPP)

### **CIPP Report for FY 2012**

As you have already known as a participant, since FY 2005, the CIPP has been committed to the collaborative activities on the private-sector level by inviting the Secretariat of Intellectual Property Strategy Headquarters, Cabinet Secretariat, National Police Agency, Ministry of Economy, Trade and Industry, Ministry of Internal Affairs and Communications, Agency for Cultural Affairs, and Japan Patent Office as observers in order to solve the problem of the distribution of intellectual property rights (IPR) infringing goods arising from Internet auctions.

We hope this report will help you plan IPR protection policies for FY 2013 as it represents a consensus of right holders (individuals and organizations) and Internet auction operators.

[Overview]

1. Report of the Effectiveness Verification Committee

We confirmed that the percentage of auctioned infringing goods had remained at a low level as a result of the implementation of certain measures including voluntary patrols by auction operators and removals upon notice from right holders.

2. Report of the Guidelines Committee

In addition to the verification of the guidelines revised in FY2011, we examined whether the guidelines should be revised and exchanged views on the situation of infringing goods these days.

## 1. Report of the Effectiveness Verification Committee

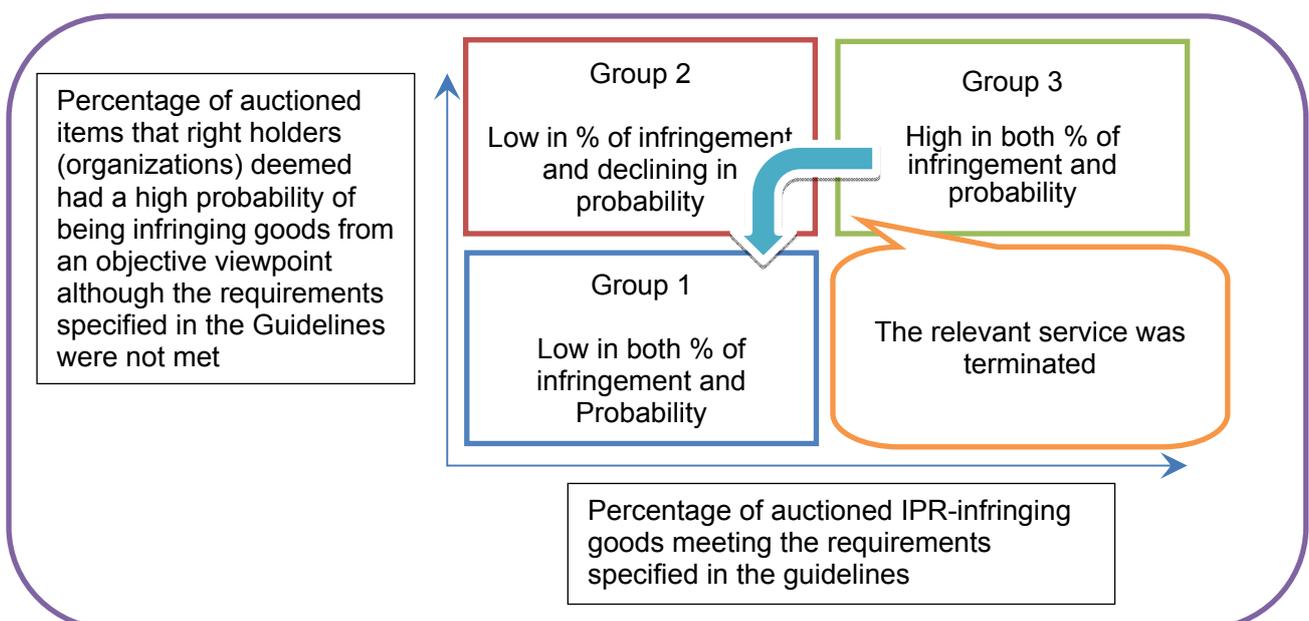
### (1) Effectiveness Verification

As usual, we set up the “Effectiveness Verification Committee” consisting of the individuals who were actually in charge of removal requests and voluntary removals. This year, as in past years, auctioned items were divided into two groups for carrying out the verification: (i) auctioned items that were judged as infringing upon a trademark or copyright based on their on-screen text or graphics, and would allow right holders to request auction operators to suspend them (Table 1), and (ii) auctioned items that were judged as having a high probability of being infringing goods as a result of purchase and appraisal based on various pieces of information, even though there were no direct grounds in the posted information that would allow auction operators to remove such goods (Table 2).

The effectiveness verification this year allowed some right holders, who could afford it, to perform verification more than once during the period. Accordingly, it is expected that the verification process will find numbers that are closer to our actual perception. This year's verification was governed by the guidelines revised in 2011. Other details of the implementation overview are as indicated in Annex 1.

The targets of the verification were Group 1 (three member companies; see the figure below for the definitions of the groups) and Group 2 (two member companies). Since the service categorized as Group 3 (one non-member company) in the past was terminated, there is no target in that group this year. The non-member company consistently had an extremely high percentage of infringing goods since the beginning of the effectiveness verification by the CIPP and, according to a source, was subject to a criminal penalty, which we can easily imagine contributed to the termination of the service.

[Figure 1: Definitions and Descriptions of Groups]



(2) Verification Results

Table 1 % of infringing goods		2010		2011		2012	
		# of verified items	% of infringement	# of verified items	% of infringement	# of verified items	% of infringement
Copyright	Group 1	9068	0.77%	9007	0.90%	9025	0.11%
	Group 2	161	1.86%	29	0.00%	73	1.37%
	Group 3	55	0.00%	4	50.00%	—	—
Trademark	Group 1	3019	0.43%	4517	0.42%	7388	1.31%
	Group 2	242	1.65%	567	3.00%	277	5.05%
	Group 3	300	84.33%	400	99.25%	—	—
Total	Group 1	12087	0.69%	13524	0.74%	16593	0.64%
	Group 2	403	1.74%	596	2.85%	350	4.29%
	Group 3	355	71.27%	404	98.76%	—	—

Table 2 % of goods with high probability		2010		2011		2012	
		# of verified items	% of probability	# of verified items	% of probability	# of verified items	% of probability
Copyright	Group 1	9068	1.61%	9007	0.28%	9025	0.18%
	Group 2	161	0.62%	29	27.59%	73	24.66%
	Group 3	55	9.09%	4	25.00%	—	—
Trademark	Group 1	3019	0.36%	4517	0.11%	7388	0.07%
	Group 2	242	17.36%	567	5.11%	277	3.97%
	Group 3	300	15.33%	400	0.00%	—	—
Total	Group 1	12087	1.30%	13938	0.24%	16593	0.13%
	Group 2	403	10.67%	596	5.70%	350	8.29%
	Group 3	355	14.37%	404	0.25%	—	—

Table 3: Total — % of Infringing Goods

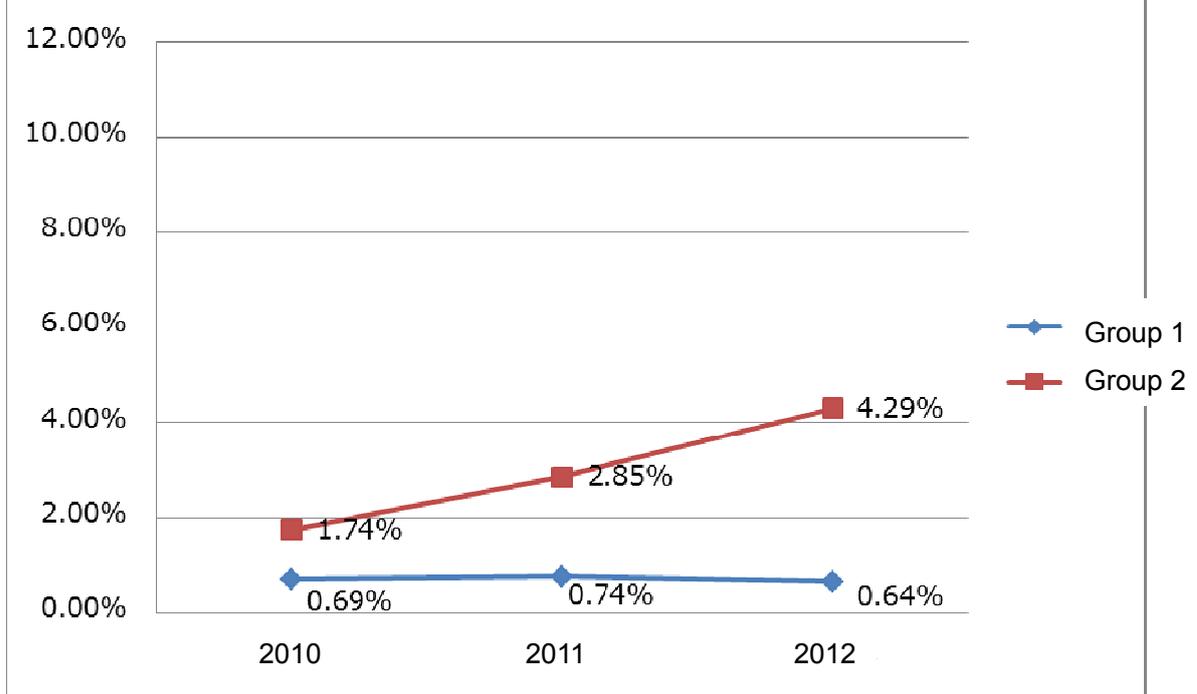
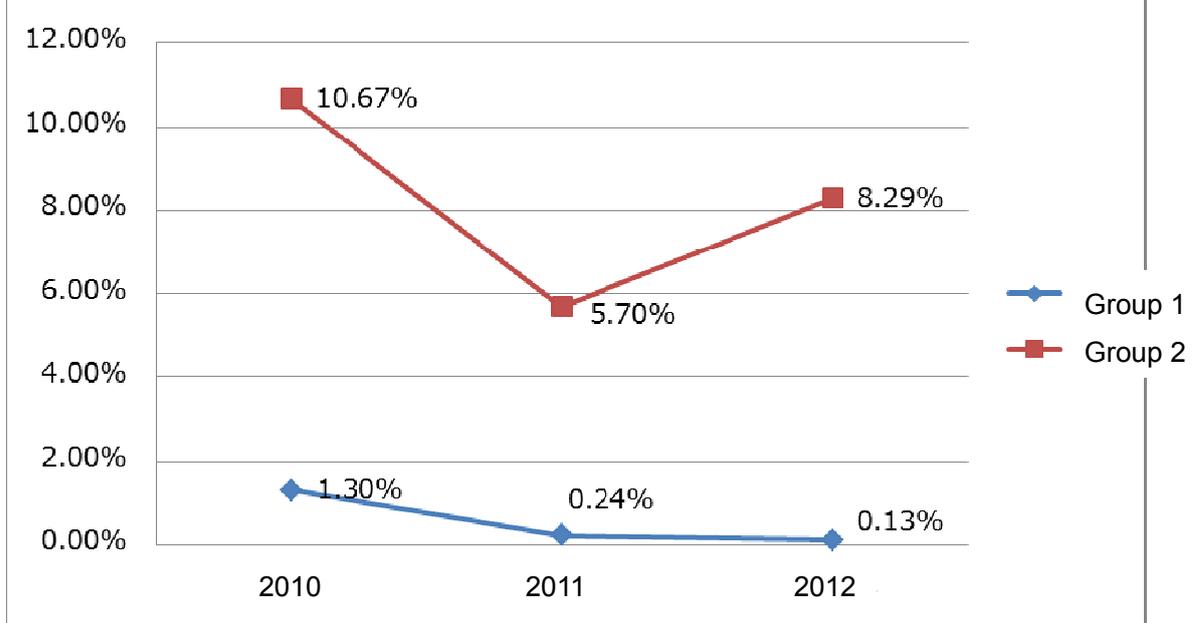


Table 4: Total — % of Goods with High Probability



### (3) Analysis of Verification Results

#### A. Copyright-related Auctioned Items (Tables 1 and 2)

Group 1 slightly decreased from average to around 0.1%. Similarly, the percentage of items with a high probability slightly decreased. The number of auctioned copyrighted works in Group 2 is so limited that the percentage changes significantly even when the actual count fluctuates by only a few. Therefore, it is difficult to say whether we should perform an analysis in this situation.

#### B. Trademark-related Auctioned Items (Tables 1 and 2)

Group 1 remained around 1% although a slight increase in number was observed. In Group 2, the percentage of auctioned infringing goods was around 5%, showing a slightly increasing trend. The items with a high probability in Group 2 slightly decreased. It is expected to improve the situation to the same degree as the last fiscal year by reviewing and reinforcing voluntary patrols through reaffirming the trend of infringing goods or otherwise. In general, however, it remains at a low percentage, basically.

#### C. Overall Trends (Tables 3 and 4)

Group 1, which is taking proactive action against IPR-infringing goods, remains stabilized at a lower level (around 1%) in general as a result of further improvement in measures from the last year. The number in Group 2 is as stated in Section B because it is mostly comprised of auctioned items that are related to trademarks.

## 2. Report from Guidelines Committee

The Guidelines Committee was set up again this year as a venue for sharing information to address new auctioning tricks as well as to check the operation status of "Guidelines for the Prevention of Distribution of Internet IPR Infringing Goods," which were revised in FY2011.

Although it is confirmed that the newly revised guidelines have no particular defects, we mutually confirmed that the Guidelines Committee is helpful for further strengthening cooperation among right holders and operators and for taking swift and reliable action because the tricks used by those who auction IPR-infringing goods change on a daily basis. The Guidelines Committee has facilitated the exchange of specific views and discussions among interested parties concerning, not only guidelines, trends in infringing goods and similar topics, but also trivial matters inside and outside the Guidelines Committee.

### 3. Summary

As stated above, we successfully reduced the percentage of infringing goods in Group 1 this fiscal year again by promoting a “Japanese Approach” in which both right holders and operators respect each other’s positions and collaboratively stand up against infringers. In the next fiscal year it is scheduled to discuss measures to take against rights infringement in shopping malls in order to specifically expand the scope of our efforts.

We would appreciate it if the government would introduce CIPP’s approach, which has results unlike any other in the world, to other countries, and help the approach become recognized as the de facto standard of measures against IPR-infringing goods on the Internet.

Statistical Data (Provisional Values)

■ Overall Auctioned Items

	2008	2009	2010	2011	2012
Yahoo! Auction	1,817	2,250	2,212	2,512	2,631
Rakuten Auction	107	205	284	319	317
Bidders	537	638	766	785	888
MOBAOKU	334	364	451	432	367

In units of ten thousand.

The figures on Yahoo! Auction, Rakuten Auction and MOBAOKU represent their daily average values in December while the figures on Bidders represent the total of auctioned items as of the end of December.

■ Voluntary Removals

	2008	2009	2010	2011	2012
Copyright	524,802	29,202	38,338	78,052	62,694
Trademark	52,801	180,253	74,025	139,792	233,273
Total	577,603	209,455	112,363	217,844	295,967

■ Removal Requests from Right Holders

Directed to: Yahoo! Auction, Rakuten Auction, Bidders Auction, MOBAOKU, and girls auction (total of five auctions)

(Note that girls auction was added in December 2007.)

	2008	2009	2010	2011	2012
Copyright	294	6,542	4,826	2,601	754
Trademark	46,747	34,129	40,200	71,644	54,428
Total	47,041	40,671	45,026	74,245	55,182

\* The figures on removal requests from right holders include the cases where individual auctioned items or IDs of the sellers were suspended.

\* Since some right holders change target auction sites to monitor infringing goods each year and the number of removal requests from right holders depends on the target auction site chosen, it is difficult to simply compare the figures year by year.

\* The number of copyright-related removal requests increased during 2009 because right holders intensively made removal requests as infringing goods were auctioned on a recurring basis in certain contents. Accordingly, a similar tendency is observed. The same goes for the number of removal requests based on trademark rights during 2011.

#### Principles of the Japanese Approach

1. Both parties (right holders and auction operators) shall be aware that they should fully respect each other's positions and then make collaborative efforts in standing up against their common enemies, that is, infringers, in order to protect not only their own interest but also interest of consumers among others.
2. Right holders shall be aware that they should enforce their own rights, which are not automatically protected.
3. Auction operators shall be aware that they should make active efforts to protect intellectual property rights for sound development of the Internet.
4. Both parties shall be aware in the course of the promotion of countermeasures that they should agree on the equal importance of the protection of intellectual property rights and the securement of users' freedom for business and secrecy of communication, and that they should take actions not to undermine the value of both aspects.