

April 28, 2015

To: Secretariat of Intellectual Property Strategy Headquarters, Cabinet Secretariat

Council for Intellectual Property Protection on Internet (CIPP)

CIPP Report for FY 2014

As you have already known as a participant, since FY2005, 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, Japan Patent Office, and Consumer Affairs Agency as observers in order to solve the problem of the distribution of intellectual property rights (IPR) infringing goods arising from Internet services.

We hope this report will help you plan IPR protection policies for FY2015 as it represents a consensus of right holders (individuals and organizations) and Internet service operators.

[Overview]

1. Report of the Effectiveness Verification Committee

- For Group 1, we confirmed that the infringing goods occurrence rate has been kept at a low level as a result of the implementation of certain measures including voluntary patrols by Internet service operators and removals upon notice from right holders.
- For Group 3 (different from Group 3 up to the FY2012 report), although the infringing goods occurrence rate for trademark-related auctioned items was high, countermeasures such as the suspension of accounts used by sellers of infringing goods are being implemented, and other continued action against IPR-infringing goods is under consideration.

2. Report of the Guidelines Committee

We checked the operation status of the “Guidelines for the Prevention of Distribution of Internet IPR Infringing Goods” (hereinafter, referred to as the “Guidelines”) which were revised in FY2010, and examined whether the Guidelines should be revised. Although there are no apparent special circumstances this year necessitating the revision of the Guidelines, we confirmed that information will continue to be shared between right holders and operators from here on, too.

1. Report of the Effectiveness Verification Committee

(1) Effectiveness Verification Method

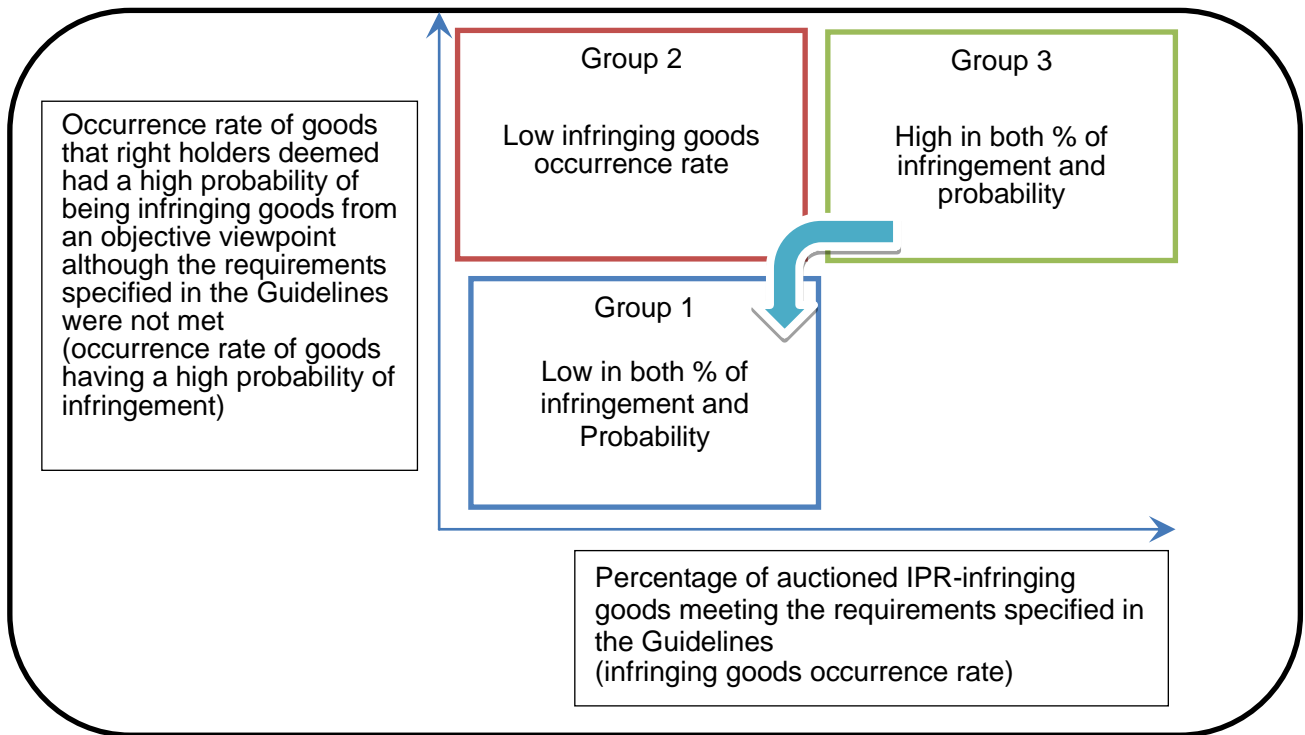
This year, as in previous years, we set up the “Effectiveness Verification Committee” consisting of the individuals who were in charge of removal requests on the right holders’ side and voluntary removal on the operators’ side. Effectiveness verification was performed based on the implementation overview in Annex 1.

As described in the implementation overview, this year, too, auctioned items were divided into two groups for carrying out the verification; (i) auctioned items that could be judged as infringing upon a copyright or trademark based on their on-screen text or graphics, and that would allow right holders to request auction operators to suspend them (see Figure 1, horizontal axis, and Table 1), and (ii) auctioned items that were deemed as without doubt being infringing goods as a result of purchase and appraisal based on various pieces of information by the right holder, even though there were no direct grounds in the provided information (when checked against the Guidelines, etc.) that would allow auction operators to remove such goods (see Figure 1, vertical axis and Table 2).

This year, too, member companies were categorized into three groups, Groups 1 to 3, and there was no change from last year in the composition of each group. Details are as follows.

- Group 1
3 member companies (same as up to the FY2012 report)
Infringing goods occurrence rate and occurrence rate of goods with a high probability of infringement both low
- Group 2
1 member company
(Not targeted for analysis this year due to the scarcity of inspection parameters)
- Group 3
1 member company
Countermeasures for IPR-infringement will be required in the future

[Figure 1: Definition of “Percentage” and Descriptions of Goods]



(2) Verification Results

Table 1 Infringing Goods Occurrence Rate

		2012		2013		2014	
		# of verified items	% of infringement	# of verified items	% of infringement	# of verified items	% of infringement
Copyright	Group 1	9,205	0.11%	7,381	0.18%	9,044	0.02%
	Group 2	73	1.37%	49	0.00%	37	0.00%
	Group 3	—	—	690	0.00%	602	0.00%
Trademark	Group 1	7,388	1.31%	7,833	0.71%	5,364	0.17%
	Group 2	277	5.05%	96	0.00%	7	0.00%
	Group 3	—	—	1,040	58.85%	1,200	84.67%
Total	Group 1	16,593	0.64%	15,214	0.45%	14,408	0.08%
	Group 2	350	4.29%	145	0.00%	44	0.00%
	Group 3	—	—	1,730	35.38%	1,802	56.38%

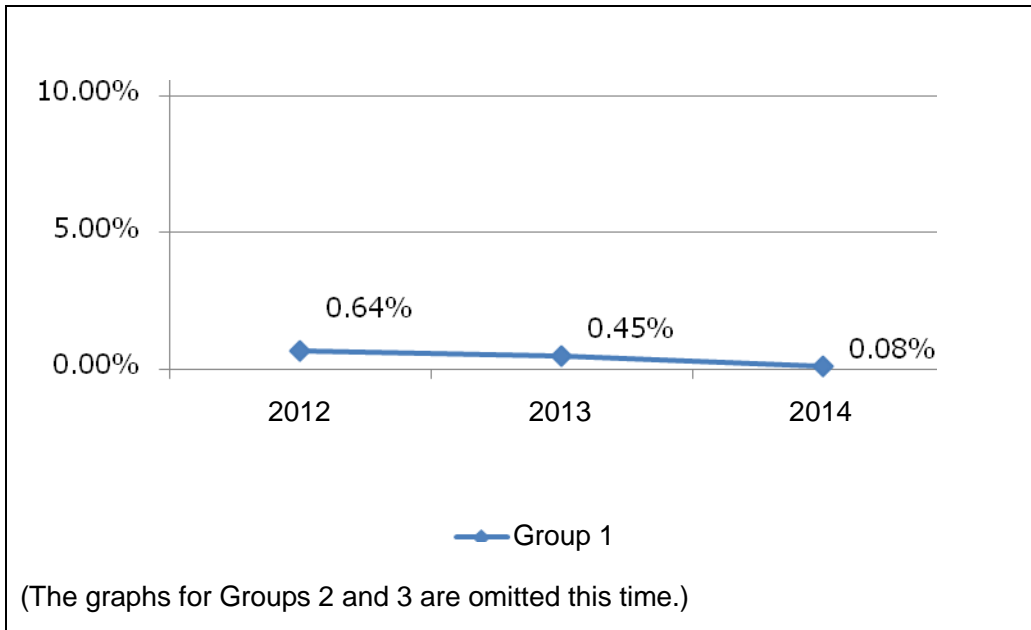
FY2012 values for Group 3 are not listed since its members differ from those of the following years and lack continuity.

Table 2 Occurrence Rate of Goods having a High Probability of Infringement

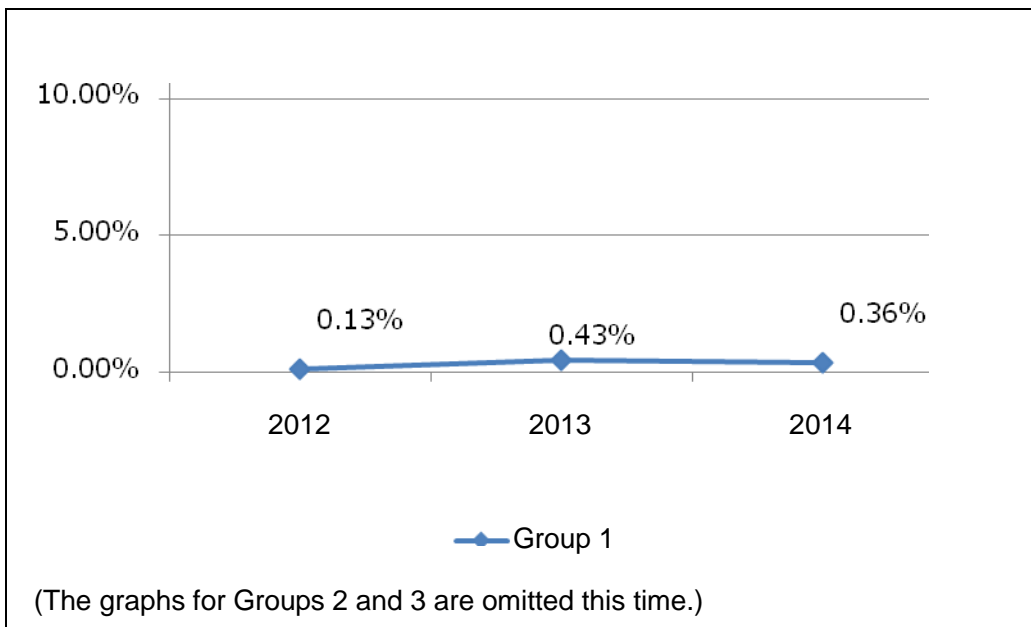
		2012		2013		2014	
		# of verified items	% of probability	# of verified items	% of probability	# of verified items	% of probability
Copyright	Group 1	9,205	0.18%	7,381	0.58%	9,044	0.53%
	Group 2	73	24.66%	49	0.00%	37	86.49%
	Group 3	—	—	690	0.87%	602	0.17%
Trademark	Group 1	7,388	0.07%	7,833	0.29%	5,364	0.07%
	Group 2	277	3.97%	96	0.00%	7	42.86%
	Group 3	—	—	1,040	13.37%	1,200	3.92%
Total	Group 1	16,593	0.13%	15,214	0.43%	14,408	0.36%
	Group 2	350	8.29%	145	0.00%	44	79.55%
	Group 3	—	—	1,730	8.38%	1,802	2.66%

FY2012 values for Group 3 are not listed since its members differ from those of the following years and lack continuity.

Graph 1 Changes in Infringing Goods Occurrence Rate of Group 1
(Total for Copyrights and Trademarks)



Graph 2 Changes in Occurrence Rate of Goods Having a High Probability of Infringement of
Group 1 (Total for Copyrights and Trademarks)



(3) Analysis of Verification Results

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

For Group 1, the infringing goods occurrence rate decreased from the previous year to 0.02%, and the occurrence rate of goods having a high probability of infringement also decreased slightly to 0.53%.

For Group 2, analysis was not performed since population was scarce. Furthermore, the fact that a sudden increase in the occurrence rate of goods having a high probability of infringement was observed when effectiveness verification was implemented is due to the fact that many goods having a high probability of being infringing goods were put up for auction by specific sellers, and prompt decisions cannot be made by only effectiveness verification this year as to if the situation worsens. We should study measures in the future by closely observing also the results of effectiveness verification from next year onwards.

For Group 3, the infringing goods occurrence rate was 0.00%, and the occurrence rate of goods having a high probability of infringement also was at a low level of 0.17%.

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

For Group 1, the infringing goods occurrence rate decreased from the previous year to 0.17%, and the occurrence rate of goods having a high probability of infringement also decreased to 0.07%.

For Group 2, analysis was not performed since population was scarce.

For Group 3, although the occurrence rate of goods having a high probability of infringement fell from last year's figure of 13.37% to 3.92%, the infringing goods occurrence rate rose from the previous year to 84.67%, a situation which requires extremely close attention. The operators concerned implemented measures such as the suspension of accounts used by sellers of infringing goods, and implemented countermeasures for preventing repeat offenses by sellers of infringing goods. The effectiveness of the countermeasures in question will be periodically verified while taking the opinions of the right holders into consideration, and is scheduled to be analyzed based on the results of effectiveness verification from next year onwards.

C. Overall Trends (Tables 1 and 2)

For Group 1, which is taking proactive action against IPR-infringing goods, the infringing goods occurrence rate remains stabilized at an extremely low level of less than 1%. Even with the occurrence rate of goods having a high probability of infringement added on, the occurrence rate has remained at below 1% for four years consecutively.

For Group 2, graphical representation and analysis were not performed since

population was scarce. Graphical representation and analysis were omitted for Group 3, too, for lack of continuity with the Group 3 up to the FY2012 report.

(4) Other

In the effectiveness verification process, information was shared regarding the fact that, continuing on from last year, many “manuals,” “product keys,” “tampered saved data,” and “recovery disks,” which are not evident in retail stores, were put up in software-related auctions. A survey into the current status of this is in progress by some right holders and operators, and certain measures are being implemented after objective legal evaluation is performed, and it has been reported that, from here on, a widening of the scope of these measures also is under consideration.

2. Report from Guidelines Committee

The Guidelines Committee was set up as a venue for sharing information to address new auctioning tricks as well as to check the operation status of Guidelines which were revised in FY2010.

Although it was confirmed that the newly revised Guidelines have no particular defects, we reached the conclusion that information must be continually exchanged with a view to revising the Guidelines in the future so that further cooperation is built among right holders and operators for taking swift and reliable action because the tricks used by those who auction IPR-infringing goods change on a daily basis. (Details are according to Annex 2.)

3. Summary of Activities This Year

As stated above, it has been confirmed that we limited the occurrence rate of infringing goods in Group 1 to an extremely low level this fiscal year by promoting a “Japanese Approach” in which both right holders and operators respect each other’s positions and collaboratively stand up against infringers. Currently, in Group 3, too, that has a high infringing goods occurrence rate, these results have been taken in and countermeasures, such as suspending the accounts used by sellers of infringing goods, are already being implemented; and, from here on, sufficient measures to lower the infringing goods occurrence rate are to be studied and put into practice with collaboration between right holders and Group 1 and Group 2 member companies.

From next year onwards, further study is scheduled for measures to take against IPR infringement of not only Internet auction services but also Internet shopping malls, which started to be discussed in the previous year, and measures to take against IPR infringement in new commerce services that use smart phone applications, and, these new kinds of

operators have already been admitted to the council.

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

■ Overall Commercial Items

	2010	2011	2012	2013	2014
YAHUOKU!	2,212	2,512	2,631	3,149	3,678
Rakuten Auction	284	319	317	317	305
DeNA Shopping (Bidders)	766	785	888	1,048	707
MOBAOKU	451	432	367	331	304

- In units of ten thousand.
- All figures are daily average values in December. Of the DeNA Shopping figures, the figures represent the total of commercial items as of the end of December during the period 2010 to 2012 when the service was named Bidders.

■ Voluntary Removals

	2010	2011	2012	2013	2014
Copyright	38,338	78,052	62,694	62,400	24,685
Trademark	74,025	139,792	233,273	54,791	90,680
Total	112,363	217,844	295,967	117,191	115,365

- YAHUOKU!, Rakuten Auction, DeNA Shopping, MOBAOKU, and Shoppies (total of five services)

■ Removal Requests from Right Holders

	2010	2011	2012	2013	2014
Copyright	4,826	2,601	754	315	116
Trademark	40,200	71,644	54,428	44,905	30,458
Total	45,026	74,245	55,182	45,220	30,574

- YAHUOKU!, Rakuten Auction, DeNA Shopping, MOBAOKU, and Shoppies (total of five services)
- The figures on removal requests from right holders include cases where individual items were removed and the removal of individual items results from measures to suspend use by sellers.
- Some right holders change target services and target goods to selectively monitor to take proactive action against IPR-infringing goods. For this reason it is difficult to analyze trends in the number of removal requests from right holders by simply comparing figures year by year.

Principles of the Japanese Approach

1. Both parties (right holders and platform providers) 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. Platform providers 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.