

April 25, 2014

To: Secretariat of Intellectual Property Strategy Headquarters, Cabinet Secretariat

Council for Intellectual Property Protection on Internet (CIPP)

CIPP Report for FY 2013

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 infringements of intellectual property rights (IPR) arising from Internet services.

We hope this report will help you plan IPR protection policies for FY 2014 as it represents a consensus of right holders (individuals and organizations) and Internet service providers.

[Overview]

Report on Effectiveness Verification

- It was confirmed that Group 1 has kept the percentage of infringing goods at a low level as a result of the implementation of certain measures including voluntary patrols by Internet service providers and removals upon notice from right holders.
- In the case of Group 3 (the definition of which has changed since the FY2012 and earlier reports), although the percentage of goods infringing upon a trademark or that have a high probability of being infringing goods remains high, new steps for dealing with infringing goods are planned.

1. Report of the Effectiveness Verification Committee

(1) Effectiveness Verification

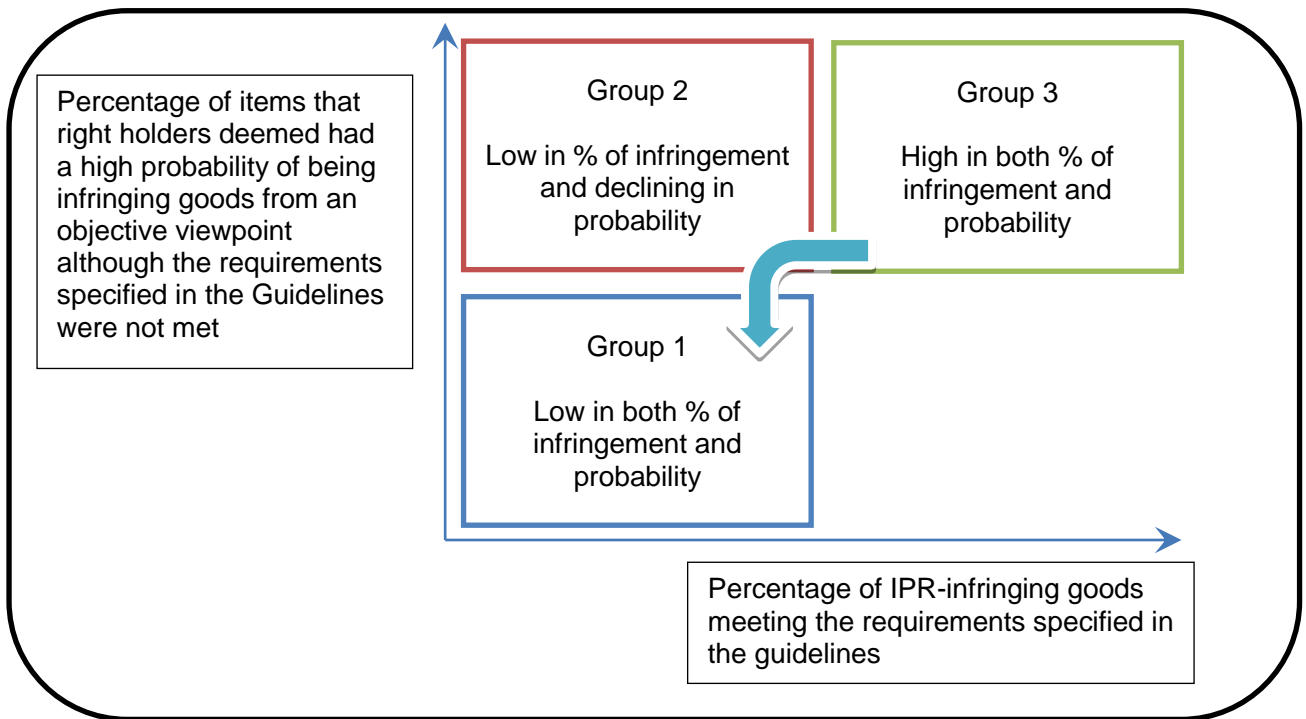
As usual, we set up the “Effectiveness Verification Committee” consisting of the individuals who were actually in charge of removal requests and voluntary removals. Effectiveness verification was performed as described in the “Implementation Method” in Annex 1.

As in past years, goods were divided into two categories for the purposes of verification: (i) goods that could be identified 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 (percentage of infringing goods: horizontal axis of Figure 1, Table 1), and (ii) items that when purchased and appraised can be clearly identified by the right holder from available information as being an infringing goods even though there were no direct grounds in the posted information that would allow auction operators to remove such goods (in accordance with their guidelines) (goods with high probability of being infringing goods: vertical axis of Figure 1, Table 2).

Taking note of the fact that the single company categorized as Group 3 up until the FY2012 report, which was a non-member and had not implemented any measures for dealing with infringements, has since ceased to operate its service, and given that there are now no longer any companies like the aforementioned non-member, which can be seen as a consequence of the diverse range of measures taken by all parties concerned, Group 3 shall now be used to indicate members that intend to commence taking new practical steps for dealing with infringing goods. As a result, the definition of the three groups has changed. Details are as follows.

- Group 1・・・
Three member companies (as in reports up to FY2012)
Percentage of infringing goods or goods with high probability of being infringing goods are both low
- Group 2・・・
One member company
(Not included in the analysis for this year due to small data set.)
- Group 3・・・
One member company
Expected to introduce measures for dealing with intellectual property infringements in the future.

[Figure 1: Definitions of Percentage and Descriptions of Groups]



(2) Verification Results

Table 1 Percentage of Infringing Goods

| | | 2011 | | 2012 | | 2013 | |
|-----------|---------|---------------------|-------------------|---------------------|-------------------|---------------------|-------------------|
| | | # of verified items | % of infringement | # of verified items | % of infringement | # of verified items | % of infringement |
| Copyright | Group 1 | 9007 | 0.90% | 9025 | 0.11% | 7,381 | 0.18% |
| | Group 2 | 29 | 0.00% | 73 | 1.37% | 49 | 0.00% |
| | Group 3 | — | — | — | — | 690 | 0.00% |
| Trademark | Group 1 | 4517 | 0.42% | 7388 | 1.31% | 7,833 | 0.71% |
| | Group 2 | 567 | 3.00% | 277 | 5.05% | 96 | 0.00% |
| | Group 3 | — | — | — | — | 1,040 | 58.85% |
| Total | Group 1 | 13524 | 0.74% | 16593 | 0.64% | 15,214 | 0.45% |
| | Group 2 | 596 | 2.85% | 350 | 4.29% | 145 | 0.00% |
| | Group 3 | — | — | — | — | 1,730 | 35.38% |

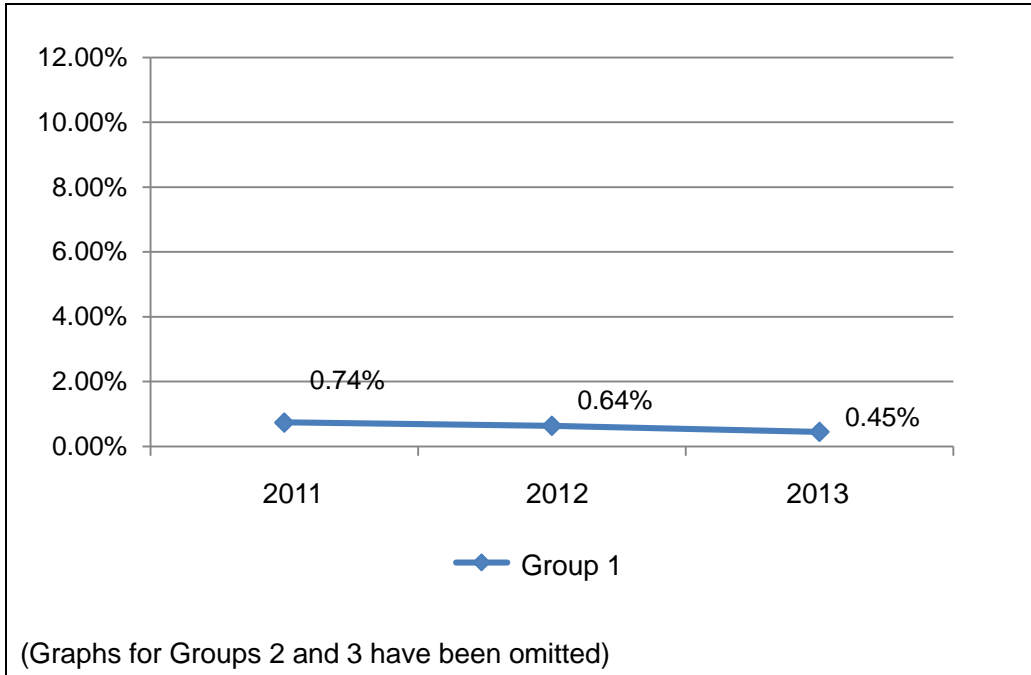
For Group 3, due to the loss of continuity by changing membership from 2013, the figures for 2011 and 2012 have been omitted.

Table 2 Percentage of Goods with High Probability

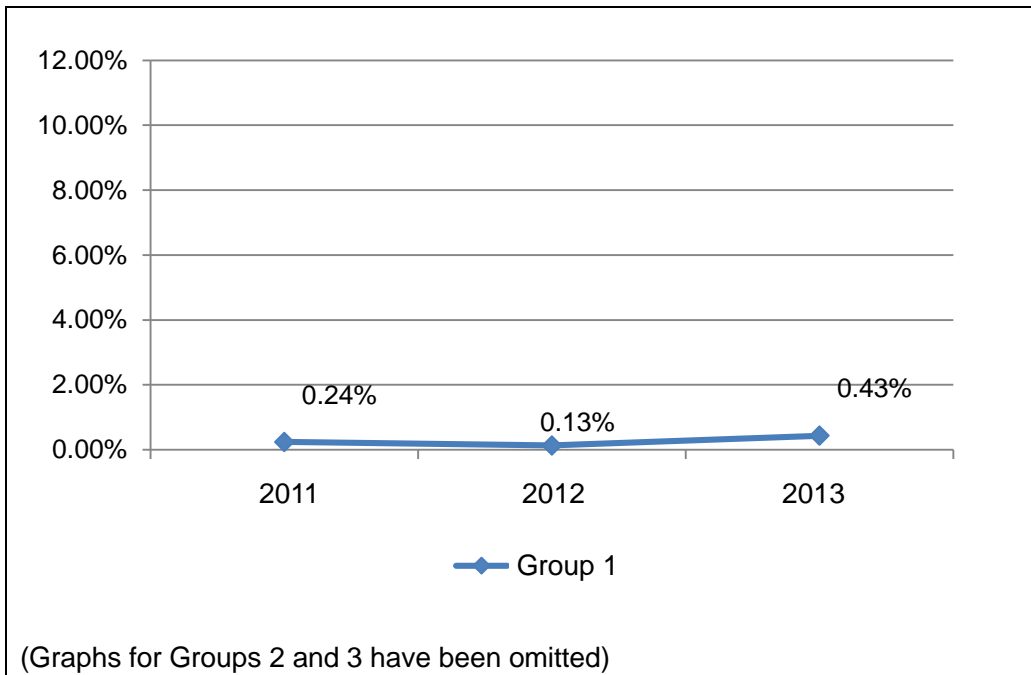
| | | 2011 | | 2012 | | 2013 | |
|-----------|---------|---------------------|------------------|---------------------|------------------|---------------------|------------------|
| | | # of verified items | % of probability | # of verified items | % of probability | # of verified items | % of probability |
| Copyright | Group 1 | 9007 | 0.28% | 9025 | 0.18% | 7,381 | 0.58% |
| | Group 2 | 29 | 27.59% | 73 | 24.66% | 49 | 0.00% |
| | Group 3 | — | — | — | — | 690 | 0.87% |
| Trademark | Group 1 | 4517 | 0.11% | 7388 | 0.07% | 7,833 | 0.29% |
| | Group 2 | 567 | 5.11% | 277 | 3.97% | 96 | 0.00% |
| | Group 3 | — | — | — | — | 1,040 | 13.37% |
| Total | Group 1 | 13938 | 0.24% | 16593 | 0.13% | 15,214 | 0.43% |
| | Group 2 | 596 | 5.70% | 350 | 8.29% | 145 | 0.00% |
| | Group 3 | — | — | — | — | 1,730 | 8.38% |

For Group 3, due to the loss of continuity by changing membership from 2013, the figures for 2011 and 2012 have been omitted.

Graph 1 Percentage of Infringing Goods for Group 1 (Total)



Graph 2 Percentage of Goods with High Probability for Group 1 (Total)



(3) Analysis of Verification Results

A. Copyright-related items (Tables 1 and 2)

For Group 1, the percentage of infringing goods rose slightly from last year to 0.18%. The percentage of goods with high probability (of infringements) also rose slightly to 0.58%.

Group 2 was excluded from analysis because of the small data set.

Group 3 also had low rates, with a percentage of infringing goods being 0.00% and percentage of goods with high probability being 0.87%.

B. Trademark-related items (Tables 1 and 2)

For Group 1, the percentage of infringing goods fell slightly from last year to 0.71%.

Group 2 was excluded from analysis because of the small data set.

The rates for Group 3 are a cause for considerable concern, with a percentage of infringing goods being 58.85% and percentage of goods with high probability being 13.37%.

C. Overall Trends (Graphs 1 and 2)

At less than 1%, the percentages of infringing goods for Group 1, in which measures for dealing with IPR-infringing goods are well-advanced, remains very low. This is the third year running in which the total has been below 1% even when the goods with high probability are included.

Group 2 was excluded from the graphs and analysis because of the small data set. Group 3 was also excluded from the graphs because of the lack of continuity with the definition of Group 3 in previous reports (up until FY2012).

(4) Other

In the effectiveness verification process, sharing of information took place in relation to the multiple instances in software listings of items not displayed by retailers and similar, namely “manuals”, “product keys”, “modified save data”, and “recovery disks”. In this regard, the view was expressed that steps should be taken to deal with this through an investigation of the situation by the right holder and the obtaining of an objective legal opinion.

While Guidelines Committee meetings normally provide a forum for discussion of trends in infringing goods, as no such meetings were held during this fiscal year the Effectiveness Verification Committee fulfilled this function instead.

2. Summary of this Year's Activities

As stated above, this report has found that promoting a “Japanese Approach” in which

both right holders and operators respect each other's positions and collaboratively stand up against infringers has again succeeded in keeping the percentage of infringing goods in Group 1 at a very low level this fiscal year. In Group 3, which currently has a high percentage of infringing goods, because the operator concerned is a member of the CIPP, the future investigation and implementation of suitable measures for reducing the percent of infringing goods can be anticipated in collaboration with the member operators and right holders in Groups 1 and 2. Also, a review of current procedures for countering rights infringements in Internet shopping malls has been presented to the CIPP by operators. Beginning in the next fiscal year, the CIPP intends to hold detailed discussions of these procedures to make possible the adoption of more practical measures.

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 for measures against IPR-infringing goods on the Internet.

Statistical Data

■ Overall Auctioned Items

| | 2009 | 2010 | 2011 | 2012 | 2013 |
|----------------------------|-------|-------|-------|-------|-------|
| Yahoo! Auction | 2,250 | 2,212 | 2,512 | 2,631 | 3,149 |
| Rakuten Auction | 205 | 284 | 319 | 317 | 317 |
| DeNA Shopping (Bidders) | 638 | 766 | 785 | 888 | 1,048 |
| MOBAOKU | 364 | 451 | 432 | 367 | 331 |

- In units of ten thousand.
- All figures are daily average values in December. In the case of DeNA Shopping, the figures for 2009 to 2012 are the total number of auction items at Bidders on the last day of December.

■ Voluntary Removals

| | 2009 | 2010 | 2011 | 2012 | 2013 |
|-----------|---------|---------|---------|---------|---------|
| Copyright | 29,202 | 38,338 | 78,052 | 62,694 | 62,400 |
| Trademark | 180,253 | 74,025 | 139,792 | 233,273 | 54,791 |
| Total | 209,455 | 112,363 | 217,844 | 295,967 | 117,191 |

- Totals for Yahoo! Auction, Rakuten Auction, DeNA Shopping, MOBAOKU, and Shoppies.

■ Removal Requests from Right Holders

| | 2009 | 2010 | 2011 | 2012 | 2013 |
|-----------|--------|--------|--------|--------|--------|
| Copyright | 6,542 | 4,826 | 2,601 | 754 | 315 |
| Trademark | 34,129 | 40,200 | 71,644 | 54,428 | 44,905 |
| Total | 40,671 | 45,026 | 74,245 | 55,182 | 45,220 |

- Totals for Yahoo! Auction, Rakuten Auction, DeNA Shopping, MOBAOKU, and Shoppies.
- The figures on removal requests from right holders include the cases where individual items were removed and cases where items are removed due to a vendor being suspended.
- Year-to-year comparisons of removal requests by right holders are difficult because right holders may focus their monitoring on different services or product types at different times.

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.