

**The Council for Intellectual Property
Protection on Internet (CIPP)
Report for Fiscal Year 2019**

October 2020

Council for Intellectual Property Protection on Internet (CIPP)

[Overview]

1. A Report from the Effectiveness Verification Committee

● For this fiscal year, we have continued to verify the effectiveness of the measures against infringement not only in the Internet auction services (from here on referred to as the "Auction") but also in the flea market applications (from here on referred to as "Flea-Ma"). At the same time, we have catalogued and organized the verification results based on grouping by the occurrence rate of infringing goods in order to clearly show the effectiveness of voluntary efforts by Rights Holders as well as CtoC (customer-to-customer) marketplace operators (from here on referred to as "CtoC Platformers").

● In each group (Group 1 to Group 3), the volume of distribution in the markets generally expanded. Considering this factor, we believe that the effectiveness of verification measures against infringement through the CIPP continues to be effective. Meanwhile, one of the characteristics in recent years is that counterfeit goods' transactions are concentrated in specific services. Keeping this in mind, we believe that it is vital to continue the verification in all services to prevent the distribution of infringing goods.

● For Group 1, we confirmed that the occurrence rate of IPR-infringing goods has been kept at a low level, as in the last fiscal year, as a result of CIC Platformers' voluntary patrols and removals of such goods by alerts from Rights Holders.

● As for Group 2, a CtoC Platformer which was categorized in Group 3 in last fiscal year has been moved to Group 2 has shown some improvement but the violation ratio increased this fiscal year. We should strengthen and continue measures to reduce the distribution of infringing goods.

● As for Group 3, the infringement ratio at a CtoC Platformer has improved a lot compared to the level of Group 1 over the past two years. If their work continues in this direction this year, it will be moved up to Group 1 in the next fiscal year.

2. A Report from the Guidelines Committee

● The committee discussed how the "Guidelines for the Prevention of Distribution of IPR

(Intellectual Property Rights)-Infringing Goods on the Internet” (from here on referred to as the “Guidelines”), which had been revised in fiscal 2017, were implemented and what the latest infringement cases were.

- The committee made a series of discussions to improve the Guidelines to better deal with preventing the infringing goods' distribution in line with the recent trends. It made a substantial revision for the effective verification for the next fiscal year.

3. A Report from the Third Committee

- The Third Committee discussed how it can cooperate with Platformers for the "Copied Goods Combat Campaign" conducted by the Japan Patent Office International Cooperation Division in fiscal 2019.

- The committee was provided information regarding the latest measures to combat the counterfeit goods and the trends by the Ministry of Economy, Trade and Industry's Office for Intellectual Property Right Infringement. It was also briefed by the Customs Clearance Division of the Customs and Tariff Bureau at the Finance Ministry about how IPR-infringing goods are distributed through cross-border transactions. Based on these, the committee discussed how the Customs and the Platformers can cooperate with each other and what kind of a legal framework should be built and other related issues.

1. A Report from the Effectiveness Verification Committee

(1) The Effectiveness Verification Method

This year, as in previous years, we set up operational procedures (please see the document 2 “Effectiveness Verification Implementation Method”) at the Effectiveness Verification Committee, which consists of those who check the infringement situation as Rights Holders and their counterparts at CtoC Platformers. We have conducted the effectiveness verification based on these procedures.

① The scope of effectiveness verification

For this fiscal year as well, we decided to examine eight services, including Auction as well as Flea-Ma services.

② Types of exhibits for effectiveness verification

For this fiscal year, as in the previous year, we divided exhibits of goods into two categories.

(i) “Exhibits of Infringing Goods”

Exhibits of the goods that could be judged as infringement of a copyright or a trademark, based on on-screen texts or images, which would allow Rights Holders to request CtoC Platformers to suspend the entry of such goods.

(ii) “Exhibits of Goods With a Probability of Infringement”

These are the exhibits of goods that do not directly offer visible evidence of infringement in the information provided (when checked against the Guidelines, etc.) that would allow CtoC operators to remove them as infringing goods but have characteristics as in the following:

(1) Exhibits of goods which are deemed to be have infringed a copyright or trademark as a result of appraisal of on-screen texts and images by Rights Holders and if the Rights Holders make a request for removal, CtoC Platformers can take action for removal (“Exhibits of Infringing Goods Without Notice”), or (2) exhibits of goods which are deemed as without doubt being infringing goods if the Rights Holders purchase and appraise the goods based on various pieces of information (“Exhibits of Goods With a High Probability of

Infringement”).

③ Grouping of CtoC Platformers

We divided CtoC Platformers’ services into Groups 1 to 3 by the occurrence rate of infringing goods’ exhibits. This will further clarify the achievements of voluntary action by Rights Holders and CtoC Platformers.

(i) Group 1 (The average occurrence rate of infringing goods’ exhibits in the last three years is less than 2 percent): 6 services belonged to this group

(ii) Group 2 (The average occurrence rate of infringing goods’ exhibits in the last three years is more than 2 percent but less than 10 percent): One service belonged to this group.

(iii) Group 3 (The average occurrence rate of infringing goods’ exhibits in the last three years is more than 10 percent): One service belonged to this group.

(2) Verification Results

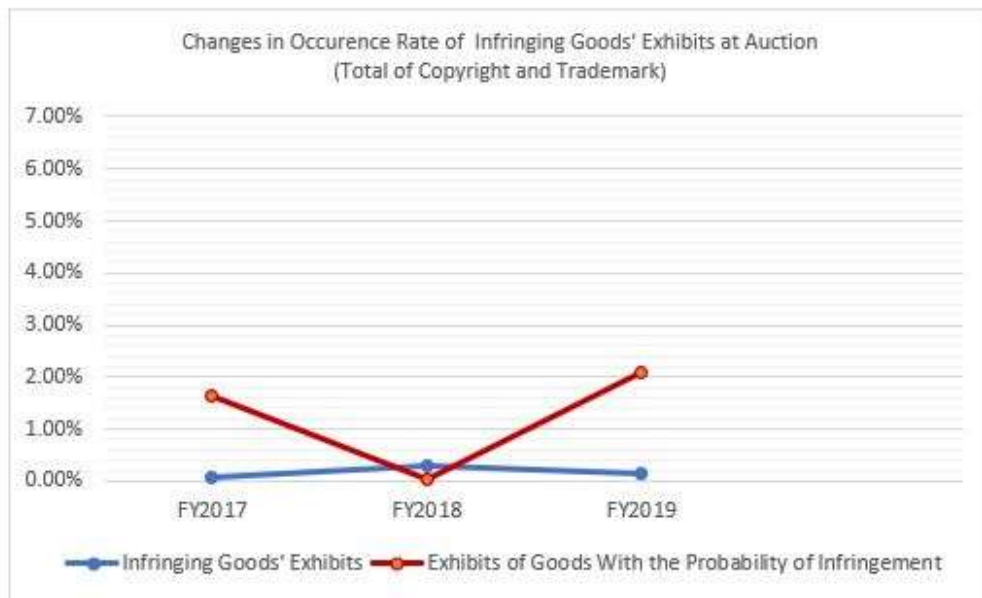
① Auction

(i) Occurrence Rate of “Exhibits of Infringing Goods”

		FY2017		FY2018		FY2019	
		# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate
Copyright	Group 1	2,972	0.07%	2,427	0.07%	1,513	0.00%
	Group 2	—	—	—	—	—	—
	Group 3	—	—	—	—	—	—
Trademark	Group 1	2,147	0.09%	2,062	0.44%	2,354	0.25%
	Group 2	—	—	—	—	—	—
	Group 3	—	—	—	—	—	—
Total	Group 1	5,119	0.08%	4,489	0.30%	3,867	0.16%
	Group 2	—	—	—	—	—	—
	Group 3	—	—	—	—	—	—

(ii) Occurrence Rate of “Exhibits of Goods With the Probability of Infringement”

		FY2017		FY2018		FY2019	
		# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate
Copyright	Group 1	2,972	0.64%	2,427	0.01%	1,513	3.37%
	Group 2	—	—	—	—	—	—
	Group 3	—	—	—	—	—	—
Trademark	Group 1	2,147	3.02%	2,062	0.02%	2,354	1.27%
	Group 2	—	—	—	—	—	—
	Group 3	—	—	—	—	—	—
Total	Group 1	5,119	1.64%	4,489	0.02%	3,867	2.09%
	Group 2	—	—	—	—	—	—
	Group 3	—	—	—	—	—	—



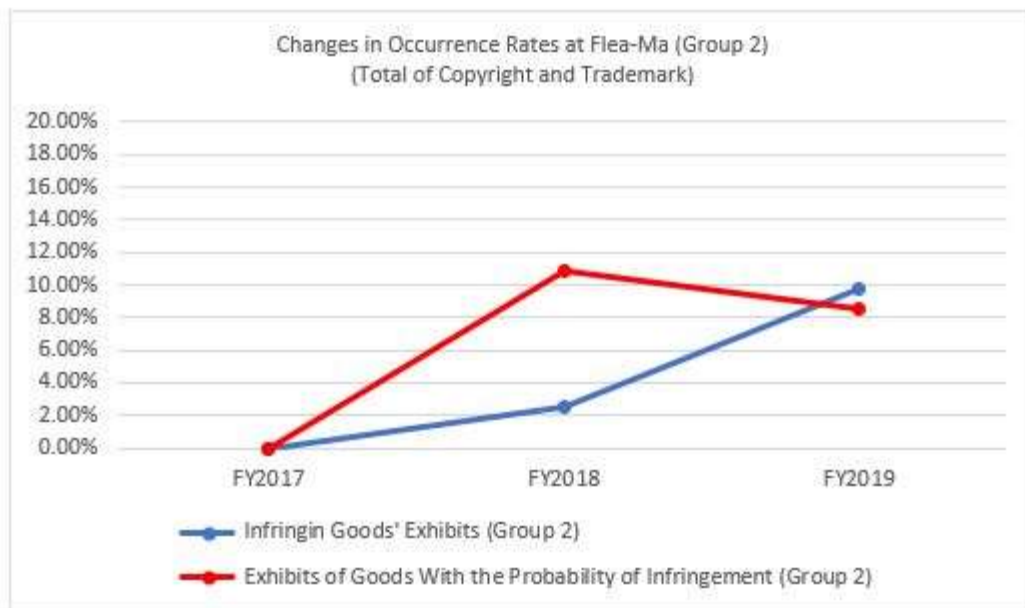
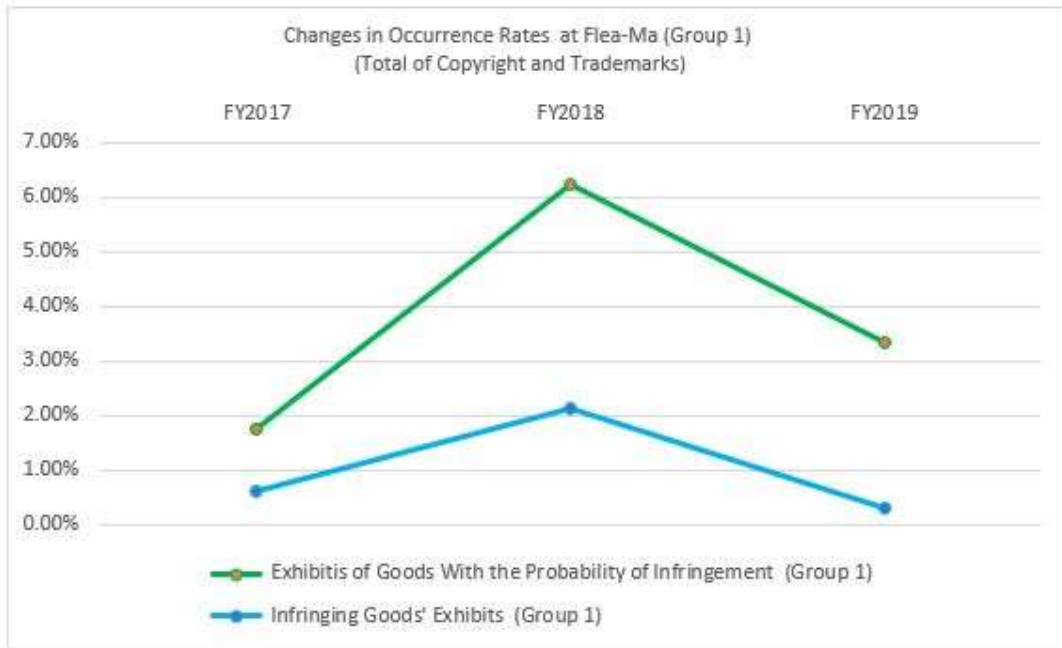
② Flea-Ma

(i) Occurrence Rate of “Exhibits of Infringing Goods”

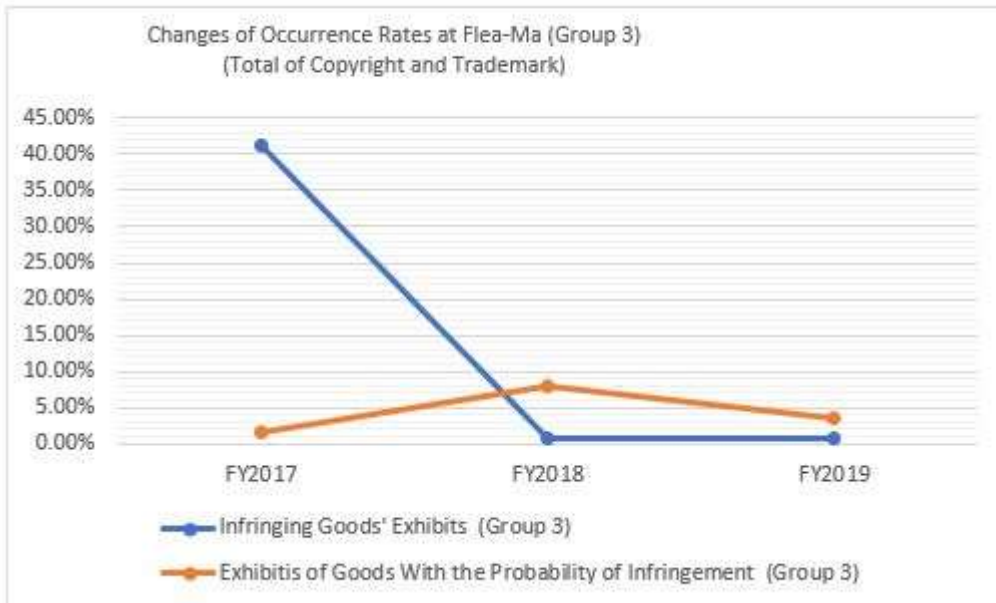
		FY2017		FY2018		FY2019	
		# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate
Copyright	Group 1	6,430	0.26%	3,506	1.06%	2,581	0.08%
	Group 2	—	—	705	0.14%	337	0.30%
	Group 3	477	26.20%	76	0.00%	30	0.00%
Trademark	Group 1	5,093	1.06%	4,389	2.96%	5,321	0.41%
	Group 2	—	—	1,083	4.16%	746	13.94%
	Group 3	2,302	56.25%	753	0.93%	608	0.82%
Total	Group 1	11,523	0.61%	7,895	2.12%	7,902	0.30%
	Group 2	—	—	1,788	2.57%	1,083	9.70%
	Group 3	2,779	41.22%	829	0.84%	638	0.78%

(ii) Occurrence Rate of “Exhibits of Goods With the Probability of Infringement”

		FY2017		FY2018		FY2019	
		# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate
Copyright	Group 1	6,430	1.07%	3,506	2.31%	2,581	5.50%
	Group 2	—	—	705	5.25%	337	0.00%
	Group 3	477	0.00%	76	26.32%	30	6.67%
Trademark	Group 1	5,093	1.19%	3,837	9.56%	5,321	1.86%
	Group 2	—	—	1,083	14.59%	746	12.33%
	Group 3	2,302	3.30%	753	6.11%	608	3.29%
Total	Group 1	11,523	1.13%	7,343	6.10%	7,902	3.05%
	Group 2	—	—	1,788	10.91%	1,083	8.49%
	Group 3	2,779	1.65%	829	7.96%	638	3.45%



* There were no services in Group 2 in fiscal 2017.



(3) An Analysis of Verification Results

(i) Auction

All Auction services are categorized in Group 1. The occurrence rates of “Exhibits of Infringing Goods” and “Exhibits of Goods With the Probability of Infringement” have been kept extremely low for this fiscal year as well.

(ii) Flea-Ma

This fiscal year we verified six services.

In four services categorized in Group 1, the occurrence rate of infringement has been low both for “Exhibits of Infringing Goods” and “Exhibits of Goods With the Probability of Infringement.”

A service categorized in Group 2 is a CtoC Platformer which had been moved from Group 3 to Group 2 last fiscal year. It has shown initiative to meet removal requests and we can see some improvement. However, their system was misused by people who are believed to live overseas. They exhibited infringing goods in a concentrated fashion. The service operator says that they could not remove all of these goods. As a result, the infringement occurrence rate rose slightly. Therefore, it is necessary to continue to strengthen countermeasures.

As for a service categorized in Group 3, their infringement occurrence rate was quite high in the initial year. However, after they utilized knowledge about infringing goods and know-how on how to deal with them through the CIPP, during the last and this fiscal year, they were able to curb the occurrence rate to equal the same level as in Group 1. It is expected that they will move up to Group 1.

(iii) Summary

As we have reported so far, we are able to confirm that the measures to combat rights-infringing goods through the CIPP are working because even the Platformers who had had a high ratio of infringing goods occurrence could accumulate and share knowledge about these goods and how to deal with them through the CIPP. As a result, the prevention of the

distribution of the infringing goods through their services drastically improved.

From this fiscal year, through the CIPP's Guidelines Committee, we could share information about the latest conditions, keywords and other signals that show infringing goods' exhibitions. We began our work for a drastic revision of the Guidelines. By doing these activities, the exhibits of these goods were curbed. It has been confirmed that it is important to share judging criteria of "infringing goods exhibits" between Rights Holders and CtoC Platformers through the Guidelines and others.

However, on the other hand, we have noticed that those who offer "infringing goods exhibits" have abused specific Platformers in a concentrated manner this fiscal year as in last fiscal year. Therefore, it is necessary that measures to prevent illegal goods' distribution should be taken in a cross-service way.

(4) Others

In this fiscal year, we have tackled an issue of mapping out more accurate verification methods which are more suited to each CtC Platformers' services. To solve this issue, we began to start a voluntary investigation in cooperation with Rights Holders. We will be analyzing the results of the investigation and continue to try to find a new verification method and its validity.

In addition, based on the voluntary investigation, we plan to review various issues at that time in more detail and to find countermeasures. We believe it is important that we will continue to make recommendations for revising the Guidelines and various measures to prevent the distribution of infringing goods.

By the way, after doing effectiveness verification for last several years, we feel that a situation has arisen where it is difficult to deploy measures to prevent infringing goods' distribution. This is due to a large volume of offers of infringing goods, probably from participants from overseas, an increase in infringing goods' exhibits which are difficult to directly or indirectly judge whether they are illegal goods based on their images or product explanations. Because of this situation, the efforts of the CIPP, which respects both Rights Holders' as well as CtoC Platformers' stances and offers a forum for both sides to take measures jointly, are being put to the test.

2. A Report from the Guidelines Committee

On the revision of the Guidelines

Because good results were achieved when the current Guidelines and the accompanying Guideline document were implemented, the committee agreed that the effectiveness verification should be made based on the current Guidelines.

On the accompanying Guideline document

We made a series of discussions On the accompanying Guideline document at this fiscal year's Guidelines Committee. The document was updated to improve the current prevention of the infringing goods' distribution and a substantial revision was made for the next fiscal year.

In addition, some of the revision proposals which were drafted this fiscal year will be forwarded to the next fiscal year's Guidelines Committee meetings.

Agendas

The first meeting: Reviewing what should be discussed at the Guidelines Committee this fiscal year.

Reviewing the revision in the accompanying document

The second meeting: Discussing the revisions in the accompanying document for the next fiscal year.

Bringing suggestions for revising the accompanying document and discussing which should be taken up

The third meeting: Discussing revisions in the accompanying document

Reviewing a revision proposal in the accompanying document and deciding which revisions will be made

3. A Summary of Activities for This Fiscal Year

As we stated so far, it has been confirmed that we continued to be able to force down the

occurrence rate of infringed goods in Group 1 to a low level this fiscal year by promoting a “Japanese approach” in which both Rights Holders and CtoC Platformers respect each other’s positions and collaboratively stand up against infringers.

In this fiscal year, the Guidelines Committee made a major revision to the supplementary Guidelines so that they will best cope with the trends in the recent counterfeit goods' exhibits. The committee also agreed that it would continue to discuss the positioning of the Guidelines and each company's measures will reflect not only the wording of the Guidelines but also based on information about the infringed goods, which was shared among the participants at the committee.

As for the Third Committee, it invited the relevant government ministries and agencies and had discussions about the recent measures to combat counterfeit goods and trends as well as how IPR-infringing goods are distributed through cross border trades and the suggested countermeasures. The Committee will continue to review effective measures in the next fiscal year.

We will continue to report the results of our work to Society and at the same time further our discussion regarding measures to tackle new forms of infringements.

Various Statistical Data

■ Number of goods exhibited (Unit: 10,000)

	2017	2018	2019
Total no. of goods exhibited	14,360	10,736	17,104

- ▷ Total figures of seven out of eight official members of the CIPP.
- ▷ To calculate, we measured the number of items on offer at a certain time on a certain day in December of the relevant year and then calculated the daily average as “the total number of goods exhibited.”
- ▷ It is difficult to compare figures year-by-year and see a trend because the number of Platformers investigated differ at the time when the data were taken.

■ Number of self-deletions

	2017	2018	2019
Copyrights	25,528	21,377	34,926
Trademark rights	335,771	309,941	370,732
Total	3,149,053	1,996,916	1,276,800

- ▷ Total figures of seven out of eight official members of the CIPP.
- ▷ One out of the seven platformers does not keep records of self-deletions by the type of infringement. Therefore, their figures were added only to the total figures.
- ▷ As in the case of the above table, it is difficult to compare figures year-by-year and discover a trend.

■ Number of deletion requests from Rights Holders

	2017	2018	2019
Copyrights	727	6,286	39,416
Trademark rights	320,617	146,462	921,652
Total	321,334	152,748	960,798

- ▷ Total figures of eight official members of the CIPP.
- ▷ The figures include the deletions of individual items as well as deletions made after removals of sellers from the service.
- ▷ Some Rights Holders change services and goods that they focus on during their surveillance in order to effectively combat the infringement of IPR. Therefore, it is difficult to compare figures year-by-year and demonstrate a trend.

Principles of the Japanese Approach

1. Both parties (Rights Holders and Platformers) must 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 interests but also the interests of consumers among others.
2. Rights Holders must be made aware that they should enforce their own rights, which are not automatically protected.
3. Platformers should be aware that they should make active efforts to protect intellectual property rights for the development of a sound 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 also the secrecy of communication, and that they should take actions not to undermine the value of either aspect of business.