

**The Council for Intellectual Property
Protection on Internet (CIPP)
Report for Fiscal Year 2020**

May 2021

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 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 2), the volume of distribution in the markets generally expanded. Considering this current trend, we believe that the effectiveness of verification measures against infringement through the CIPP continues to be working. In particular, we did not see counterfeit goods' transactions were being concentrated in specific services, which used to be one of the characteristics in recent years.

● For Group 1, we confirmed that the occurrence rate of IPR (Intellectual Property Rights)-infringing goods has continued to be 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. The situation improved in some of the Group 3 CtoC Platformers which moved to Group 1 this fiscal year, after measures over the past three years. We also believe that this was a major achievement,

● As for Group 2, CtoC Platformer were in this category because the occurrence rate of IPR-infringing goods was high due to the concentrated exhibitions of counterfeit goods in fiscal 18 or 19. They successfully curbed the occurrence rate for this fiscal year. If their work continues in this direction, they will be moved up to Group 1 in the next fiscal year.

2. A Report from the Third Committee

● The committee was briefed by Japan Patent Office International Cooperation Division's Counterfeit Section about the need for regulations in Trademark Law regarding IPR-infringing goods through cross-border transactions. Then it exchanged opinions with the

Japan Patent Office and the Platformers about issues related to imports of infringing goods for personal use.

1. A Report from the Effectiveness Verification Committee

(1) The Effectiveness Verification Method

This fiscal year, as in previous years, we set out operational procedures (please see the document 1 “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 examined 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 aims to 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): 2 services 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): No service belonged to this group.

(2) Verification Results

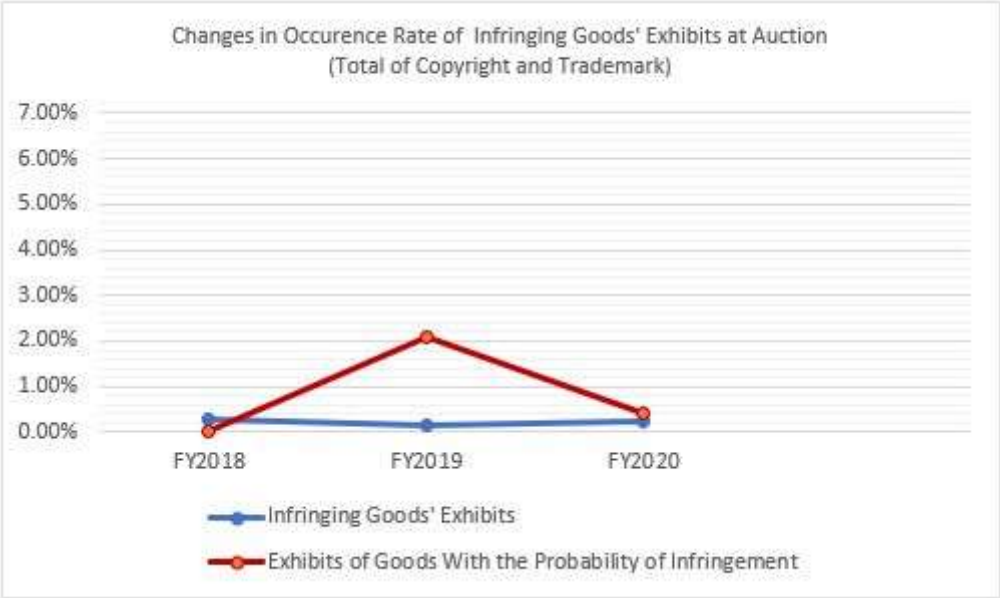
① Auction

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

		FY2018		FY2019		FY2020	
		# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate
Copyright	Group 1	2,427	0.15%	1,513	0.00%	1,800	0.28%
	Group 2	—	—	—	—	—	—
	Group 3	—	—	—	—	—	—
Trademark	Group 1	2,062	0.44%	2,354	0.25%	2,197	0.18%
	Group 2	—	—	—	—	—	—
	Group 3	—	—	—	—	—	—
Total	Group 1	4,489	0.30%	3,867	0.16%	3,997	0.23%
	Group 2	—	—	—	—	—	—
	Group 3	—	—	—	—	—	—

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

		FY2018		FY2019		FY2020	
		# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate
Copyright	Group 1	2,427	1.40%	1,513	3.37%	1,800	0.00%
	Group 2	—	—	—	—	—	—
	Group 3	—	—	—	—	—	—
Trademark	Group 1	2,062	0.02%	2,354	1.27%	2,197	0.73%
	Group 2	—	—	—	—	—	—
	Group 3	—	—	—	—	—	—
Total	Group 1	4,489	0.02%	3,867	2.09%	3,997	0.40%
	Group 2	—	—	—	—	—	—
	Group 3	—	—	—	—	—	—



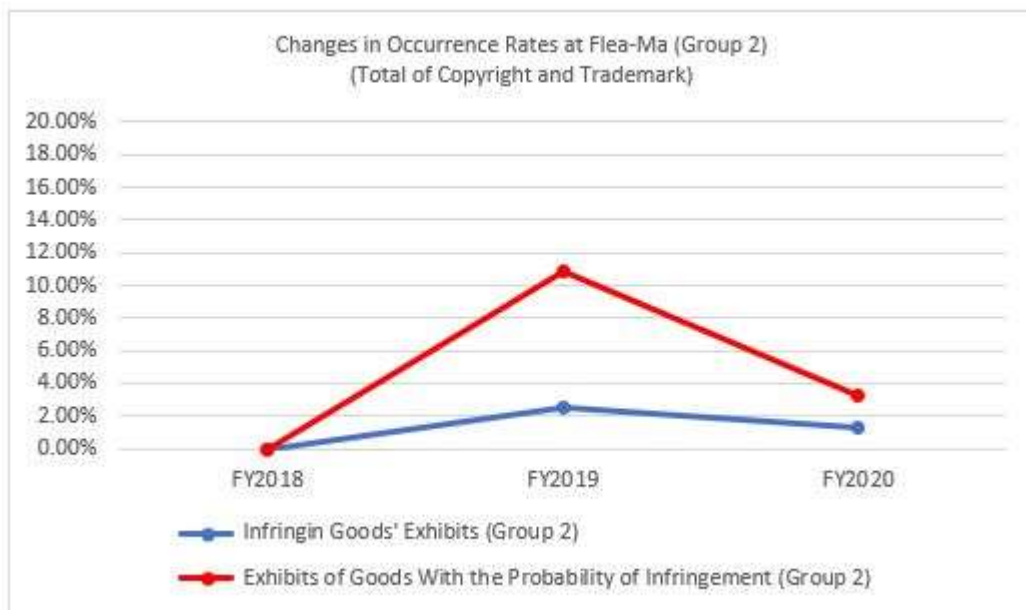
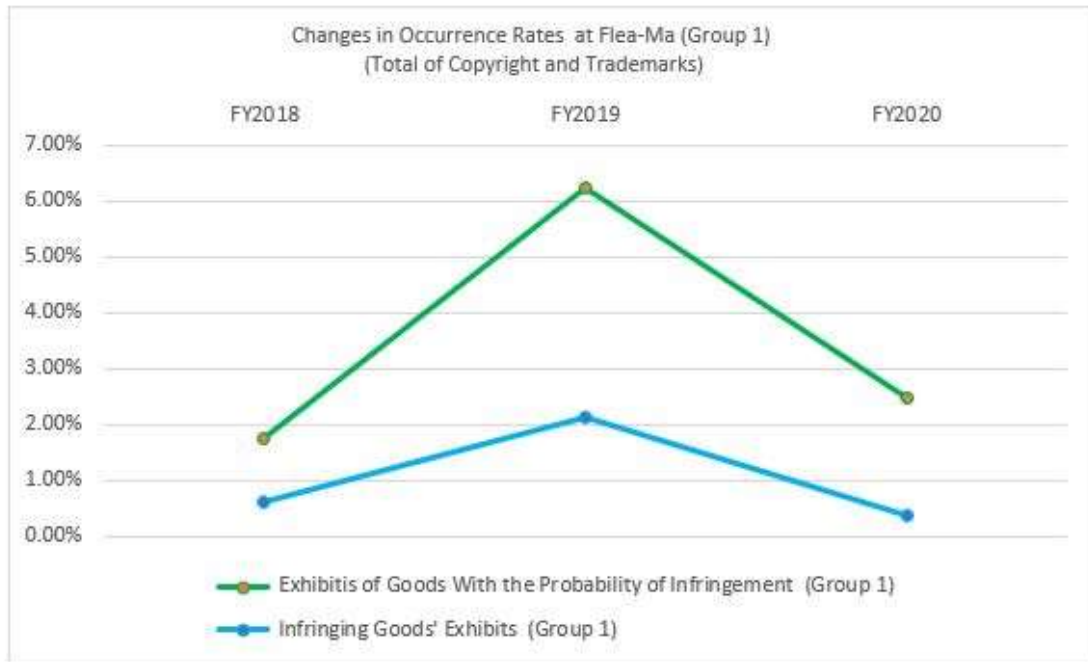
② Flea-Ma

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

		FY2018		FY2019		FY2020	
		# 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%	3,500	1.06%	2,198	0.18%
	Group 2	—	—	705	0.14%	1,301	0.54%
	Group 3	477	26.20%	76	0.00%		
Trademark	Group 1	5,093	1.06%	4,389	2.96%	4,742	0.49%
	Group 2	—	—	1,083	4.16%	2,308	1.78%
	Group 3	2,302	56.25%	753	0.93%		
Total	Group 1	11,523	0.61%	7,895	2.12%	6,940	0.39%
	Group 2	—	—	1,788	2.57%	3,609	1.33%
	Group 3	2,779	41.22%	829	0.84%		

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

		FY2018		FY2019		FY2020	
		# 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%	2,198	3.78%
	Group 2	—	—	705	5.25%	1,301	0.00%
	Group 3	477	0.00%	76	26.32%		
Trademark	Group 1	5,093	1.19%	3,837	9.56%	4,742	0.39%
	Group 2	—	—	1,083	14.59%	2,308	5.16%
	Group 3	2,302	3.30%	753	6.11%		
Total	Group 1	11,523	1.13%	7,343	6.10%	6,940	2.10%
	Group 2	—	—	1,788	10.91%	3,609	3.30%
	Group 3	2,779	1.65%	829	7.96%		



* There were no services in Group 2 in fiscal 2018.

(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, as in previous year, we verified eight services.

In six 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.”

We would like to point out about one of these services. Its infringement occurrence rate was quite high in the initial year. However, after it utilized knowledge about infringing goods and know-how on how to deal with them through the CIPP, it was able to improve to the level of Group 1. We believe that this is noteworthy.

Two services in Group 2 had a relatively high occurrence rate in the last fiscal year and also in the year before. This was because their services were abused by those who live overseas who exhibited infringing goods in a concentrated manner. As a result, these services could not cope with the removals of these goods in a timely fashion. However, they have shown their commitment to proactively act in removing the goods and other measures from the beginning. We could confirm some improvements in the situation. During this fiscal year, the occurrence rate was curbed to some extent. We hope they will move up to Group 1 in next fiscal year.

(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.

In particular, following a major revision and implementation of the Guidelines in the previous fiscal year, the exhibits of rights-infringing goods, which are regulated under the Guidelines, were curbed this fiscal year. We believe that, as a result, the overall exhibit ratio of rights-infringing goods was curbed. We conclude that it is important to share judging criteria of "infringing goods exhibits" between Rights Holders and CtoC Platformers through the Guidelines and others.

(4) Others

In this fiscal year, we were very much affected by troubles caused by the coronavirus epidemic, which made it difficult for us to take active measures. Therefore, we could not fully discuss an agenda of new measures to map out more accurate verification methods which are more suited to each CtC Platformers' services. However, this continues to be an important issue.

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 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 in a rapid manner. This is due to a large volume of offers of infringing goods, probably from participants from overseas, and 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 Summary of Activities for This Fiscal Year

In this fiscal year, in view of the effects caused by the spread of coronavirus, the schedule of our meetings was postponed. Therefore, we didn't review guidelines in the Guidelines Committee and only implemented effectiveness verification at the Effectiveness Verification Committee.

On effectiveness verification, it was confirmed that we continued to force down the occurrence rate of infringed goods in Group 1 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, we at the CIPP were concerned that the rights-infringing goods’ distribution will increase with the increase in volume of goods in the e-commerce market following the new lifestyles. However, it was reported that the number of removals instigated by Platformers was more than in other years¹ and the appearance ratio of infringing-goods was kept low. We believe that this was achieved by Platformers’ voluntary measures including removals of such goods².

Based on the results at the effectiveness verification for this fiscal year, we were able to show that our measures have been working suitably.

As for the Third Committee, it invited the relevant government ministries and agencies and had discussions about measures to eradicate IPR-infringing goods which come to Japan through cross border trades. The Committee will continue to consider effective measures in the next fiscal year.

Regarding the state and government’s actions about consumer protection, in December 2019, the Consumer Affairs Agency set up a review group “to facilitate the environment for consumer transactions using digital platforms” and held a meeting³. On April 28, 2021, “the Act for the Protection of Consumers who use Digital Platforms” was enacted which rules the facilitation of the environment to protect consumers.

1 We should note that the number of removals for each fiscal year cannot be simply compared because the number of businesses which release the figures and the number of members vary each year.

2. We would like to add some points made at the CIPP meetings. If we take consideration of the time when rights-infringing goods were distributed, the situations of COVID-19 in each area in foreign countries may be influencing the appearance of rights-infringing goods in each Platformer in Japan. Therefore, it was suggested that we should continue to keep our eyes on the influx of rights-infringing goods through cross-border transactions.

3 A review group “to facilitate the environment for consumer transactions using digital platforms” at the Consumer Affairs Agency https://www.caa.go.jp/about_us/about/plans_and_status/digital_platform/

The Act is applied to digital platforms where BtoC (business-to-consumers) transactions are conducted. It requires the operators of these platforms to investigate when troubles occur and to make efforts to check the sellers' identities. It also defines that the government can ask the operators to remove listing of goods and has the right to demand release of the sellers' identification information. It continues to be important to voluntarily implement measures for consumer protection by not only BtoC platformers but also other platformers. We believe that the cooperation between Rights Holders and Platformers in a commercial field, such as the CIPP, will become more vital. At the CIPP, the Third Committee will continue to discuss BtoC Platform issues.

Through joint work by Platformers and Rights Holders, the CIPP's efforts will drive forward voluntary actions to prevent the distribution of IPR-infringing goods. We believe that these efforts are very much meaningful as a scheme of cooperation for consumer protection among private businesses.

In the future, when the related government ministries and agencies review measures for consumer protection, we hope that they will consult efforts by private businesses to move forward with facilitating the environment for consumer protection.

We will continue to release the results of our measures and discuss how to deal with new type of infringement.

Various Statistical Data

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

	2018	2019	2020
Total no. of goods exhibited	10,736	17,104	12,521

- ▷ 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

	2018	2019	2020
Copyrights	21,377	34,926	162,107
Trademark rights	309,941	370,732	3,388,740
Total	1,996,916	1,276,800	3,550,847

▷ 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 in fiscal 2018 and 2019. Therefore, their figures were added only to the total figures.

▷ As in the case of the table about the number of goods exhibited, it is difficult to compare figures year-by-year and discover a trend.

■ Number of deletion requests from Rights Holders

	2018	2019	2020
Copyrights	6,286	39,416	177,564
Trademark rights	146,462	921,652	663,584
Total	152,748	960,798	841,148

▷ Total figures of seven out 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.