

**The Council for Intellectual Property  
Protection on Internet (CIPP)  
Report for Fiscal Year 2022**

May 2023

Council for Intellectual Property Protection on Internet (CIPP)

[Overview]

## **1. A Report from the Effectiveness Verification Committee**

● For this fiscal year (fiscal 2022), 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 C2C (customer-to-customer) marketplace operators (from here on referred to as “Platformers”).

In both groups (Group 1 and Group 2) in general, the volume of distribution in the markets has continued to expand owing to the influence of Coronavirus. Considering this trend, we can say that the infringement occurrence rate has been kept extremely low. We believe that this is a result of continued efforts made by both Rights Holders (Organizations ) and Platformers through discussions at the CIPP.

● For Group 1, we confirmed that the occurrence rate of infringing goods has continued to be kept at a low level although showing a slight increase compared to the last fiscal year, as a result of Platformers’ voluntary patrols and removals of infringing goods by alerts from Rights Holders.

● As for Group 2, for the past several years, the occurrence rate of infringing goods has shown a downward trend. However, the rate slightly rose in last fiscal year. In this fiscal year, the rate has gone back to the same level as two years ago. We believe that there has been a seesaw battle between the Platformers and malignant sellers. We hope that the Platformers will continue to work on necessary self patrols so that the infringement occurrence rates will remain to be low and move up to Group 1.

## **2. A Report from the Guidelines Committee**

● The committee discussed how the “Guidelines for the Prevention of Distribution of Intellectual Property Rights-Infringing Goods on the Internet” (from here referred to as the

“Guidelines”) were being implemented and what the current situations were. The information was shared and the participants exchanged their opinions.

- The committee reviewed the Guidelines’ accompanying document and created the provisional version for a pilot implementation. The participants decided that they will continue to discuss the new information supplied from each company which categories or goods should be added or removed.

### **3. The Third Working Group**

- The group invited observers from the relevant government ministries and agencies to be briefed about strengthening measures regarding the inflow of counterfeit goods due to the revisions in the Trademark Act, the Design Act and the Customs Act.

- On measures to combat infringing goods in the BtoC (business-to-consumers) Platforms, the group decided to first find out the current situation in this fiscal year and will start discussion on how to deal with them in the next fiscal year.

[Report]

## **1. A Report from the Effectiveness Verification Committee**

### **(1) The Effectiveness Verification Method**

This fiscal year, as in the previous year, the committee, consisted of Rights Holders and their counterparts at Platformers, set out the operational procedures (please see the separate document 1: “Effectiveness Verification Implementation Method”). The effectiveness verification has been conducted based on these procedures.

#### ① The scope of effectiveness verification

This fiscal year, we examined six services, including Auction and 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 an infringement of a copyright or a trademark, based on on-screen texts or images, which would allow (Rights Holders) to request Platformers to suspend the acceptance 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 using the information provided (when checked against the Guidelines, etc.) that would allow Platformers to remove them as infringing goods but have characteristics as in the following:

① Exhibits of goods which are deemed to 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 their removal, 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 Platformers

We divided 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 Platformers.

(i) Group 1 (The average occurrence rate of infringing goods’ exhibits in the last three years is less than 2 percent): 5 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): 1 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): No service belonged to this group.

## (2) Verification Results

### ① Auction

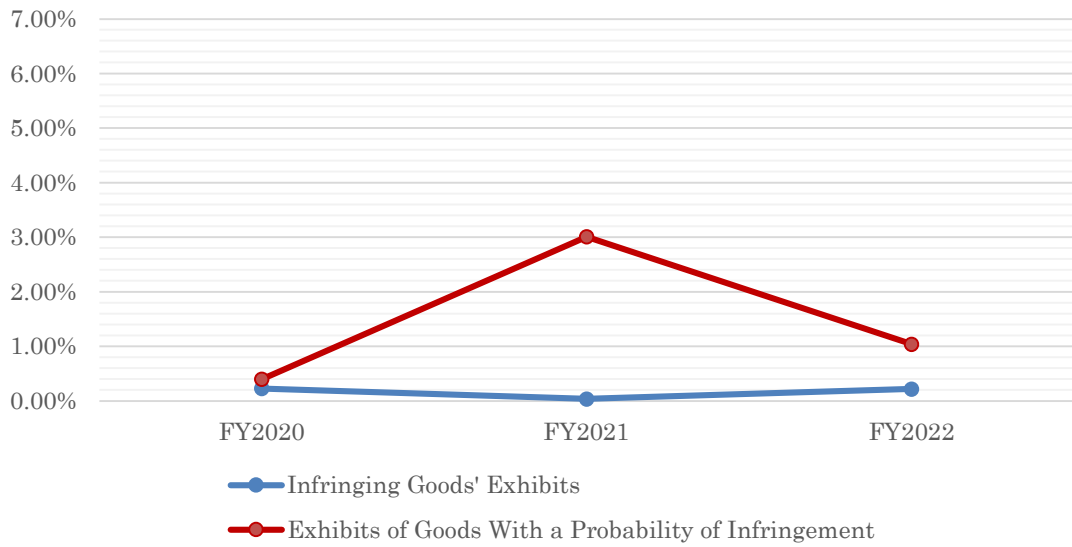
#### (i) Occurrence Rate of “Exhibits of Infringing Goods”

		FY2020		FY2021		FY2022	
		# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate
Copyright	Group 1	1,800	0.28%	1,247	0.08%	1,187	0.08%
	Group 2	—	—	—	—	—	—
	Group 3	—	—	—	—	—	—
Trademark	Group 1	2,197	0.18%	4,127	0.02%	2,480	0.28%
	Group 2	—	—	—	—	—	—
	Group 3	—	—	—	—	—	—
Total	Group 1	3,997	0.23%	5,374	0.04%	3,667	0.22%
	Group 2	—	—	—	—	—	—
	Group 3	—	—	—	—	—	—

#### (ii) Occurrence Rate of “Exhibits of Goods with a Probability of Infringement”

		FY2020		FY2021		FY2022	
		# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate
Copyright	Group 1	1,800	0.00%	1,247	3.53%	1,187	0.17%
	Group 2	—	—	—	—	—	—
	Group 3	—	—	—	—	—	—
Trademark	Group 1	2,197	0.73%	4,127	2.86%	2,480	1.45%
	Group 2	—	—	—	—	—	—
	Group 3	—	—	—	—	—	—
Total	Group 1	3,997	0.40%	5,374	3.01%	3,667	1.04%
	Group 2	—	—	—	—	—	—
	Group 3	—	—	—	—	—	—

Changes in Occurrence Rate of Infringing Goods' Exhibits at Auction  
(Total of Copyright and Trademark)



② Flea-Ma

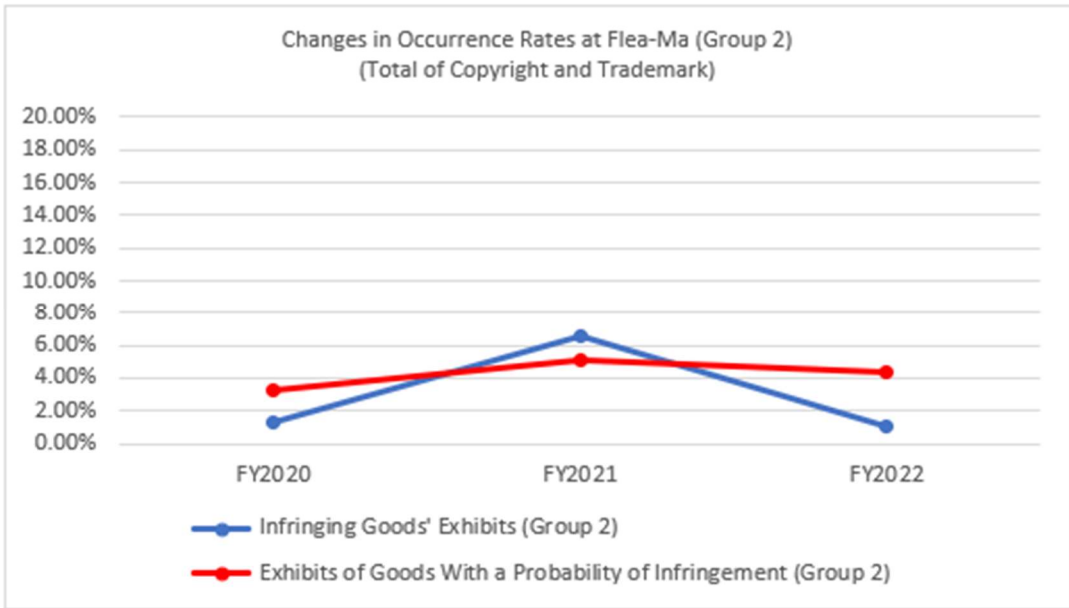
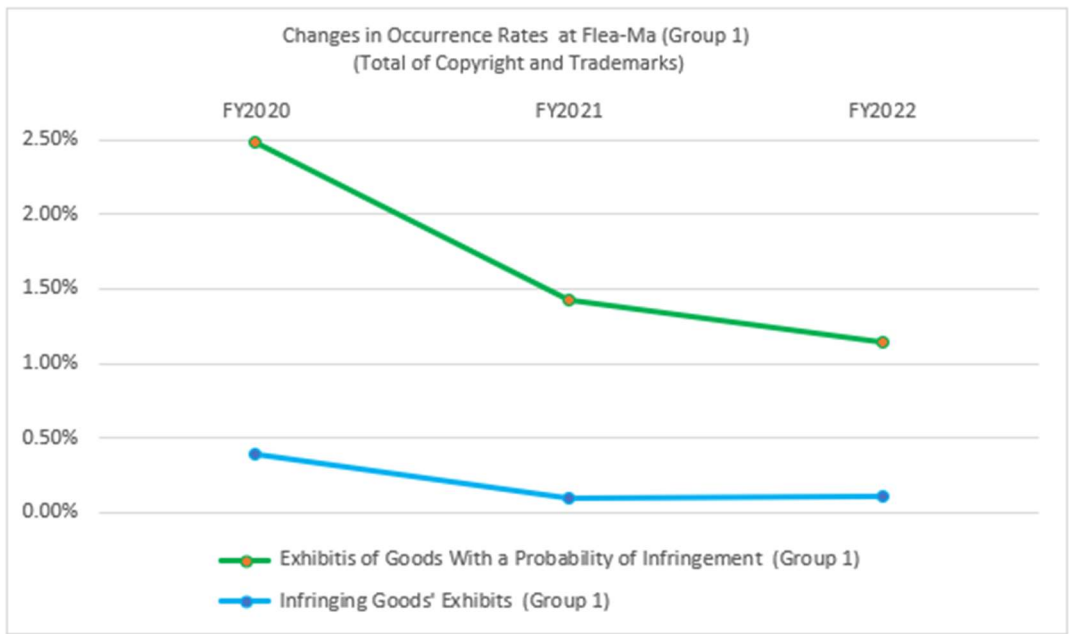
(i) Occurrence Rate of “Exhibits of Infringing Goods”

		FY2020		FY2021		FY2022	
		# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate
Copyright	Group 1	2,198	0.18%	2,813	0.18%	2,611	0.08%
	Group 2	1,301	0.54%	112	0.00%	26	0.00%
	Group 3						
Trademark	Group 1	4,742	0.49%	7,069	0.07%	4,802	0.12%
	Group 2	2,308	1.78%	1,171	7.17%	731	1.50%
	Group 3						
Total	Group 1	6,940	0.39%	9,882	0.10%	7,413	0.11%
	Group 2	3,609	1.33%	1,283	6.55%	757	1.45%
	Group 3						

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

		FY2020		FY2021		FY2022	
		# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate	# of verified items	% of Occurrence Rate
Copyright	Group 1	2,198	3.78%	2,813	2.17%	2,611	0.31%
	Group 2	1,301	0.00%	112	0.00%	26	0.00%
	Group 3						
Trademark	Group 1	4,742	0.39%	7,069	0.98%	4,802	1.42%
	Group 2	2,308	5.16%	1,171	5.64%	731	4.51%
	Group 3						
Total	Group 1	6,940	2.10%	9,882	1.32%	7,413	1.03%
	Group 2	3,609	3.30%	1,283	5.14%	757	4.36%
	Group 3						





**(3) An Analysis of Verification Results**

(i) Auction

All Auction services are categorized in Group 1. The occurrence rate of “Exhibits of Infringing Goods” has been kept extremely low for this fiscal year as well. Although the occurrence rate of “Exhibits of Goods With a Probability of Infringement” rose last fiscal year, it has declined this fiscal year, in terms of both of copyright as well as the trademark rights.

(ii) Flea-Ma

Although we verified six services in last fiscal year, two of them were closed down. Therefore, for this fiscal year, we verified four services.

In three services categorized in Group 1, the occurrence rates of infringement have been very low for “Exhibits of Infringing Goods” as well as “Exhibits of Goods With a Probability of Infringement.” The rates have been in decline every year. We believe that this is the result of the CIPP’s work. We hope that we will continue our efforts to keep this falling trend including finding new ways to tackle counterfeit issues.

One service in Group 2 saw a higher occurrence rate of “Exhibits of Infringing Goods” last fiscal year because it could not cope with the removals of some of the goods due to an increase in infringing goods. However, this issue has been solved this year and the rate has been fallen. This service shows commitment to act proactively in removing the goods and other measures. We hope they will continue their efforts.

(iii) Summary

To sum up, we can confirm that the measures to combat rights-infringing goods through the CIPP are working as Rights Holders and Platformers accumulate and share knowledge about these goods and exchange opinions about how to deal with them.

Also, in last fiscal year, figures regarding “Exhibits of Goods With a Probability of Infringement” at Auction and some of Flea-Ma Platforms increased. However, in this fiscal year, the figures improved. We believe that this deserves a nod of acknowledgement.

We will continue to implement effective measures further such as revising the Guidelines

when and if needed, by sharing information, analysis and review among Rights Holders and Platformers.

#### **(4) Others**

Verifying the effectiveness of the implementation is an indicator that shows how proactively both Rights Holders and Platformers at the CIPP have dealt with infringement eradication. Therefore, it needs to be conducted by a suitable and effective method which reflects reality accurately. In this context, we will continue to review and renew the existing methods to find new ways which are more suitable to Platformers' characteristics and to understand what's happening.

Also, using the results of a voluntary survey, we should make a detailed analysis of various issues at the time and find a way to implement countermeasures. We believe it is important to continue to make suggestions that will lead to revising the CIPP's Guidelines and mapping out various measures to stop the distribution of infringing goods.

## **2. A Summary of Activities of the Guidelines Committee**

### **(1) Revision of the Guidelines**

As there have been good results by implementing the countermeasures based on the Guidelines, we agreed that it is desirable that effective verification will be conducted this fiscal year using the current Guidelines.

### **(2) Revision of the accompanying document to the Guidelines**

The Guidelines' accompanying document has been updated based on suggestions by Rights Holders to add new information. The provisional version was made and implemented from November 2022 in agreement with full members. After the effectiveness verification for fiscal 2022 (conducted in January to February 2023), we agreed that this provisional version will be updated to the revised version. In our next meeting, we hope to obtain approval for this from the participants.

### **(3) Agendas**

The first meeting (held on Thursday, October 20, 2022):

--The participants discussed what should be on the agenda at the Guidelines Committee for this fiscal year.

--They brought suggestions for revising the accompanying document on the Guidelines and a project manager reported the opinions gathered from the organizations which submitted suggestions. The participants reviewed which of the suggestions should be taken up.

--The provisional version was made, coordinated and it was then decided to put it into implementation.

--The participants brought other suggestions for revising the accompanying document for the next fiscal year and discussed whether it will be updated or not.

### **3. A Report of the Third Working Group**

#### **(1) Implementation of the revised Trademark Act, Design Act and the Customs Act**

The Third Working Group invited officials from the relevant government ministries and agencies. We were briefed by the officials about the revised Trademark Act, Design Act and the Customs Act. The revision was put into force in October 2022. The participants shared the information among themselves.

In line with the revision, it became clear that when an overseas business operator brings counterfeit goods to Japan through postal service or any other methods, this constitutes an act of rights infringement. At the same time, when an overseas business operator bring counterfeit goods by postal services or any other methods, these goods will be categorized as “goods that are not to be imported” and the Customs will clamp down.

This means that if goods sent from an overseas business operator infringe the relevant laws, such as when a person in Japan purchases goods via an overseas shopping site for personal use, the goods can be seized by the Customs. We anticipate a fall in infringing goods in Japan and the occurrence rate of infringing goods at Platformers.

The participants agreed that they will continue to review the situations of the infringing goods' occurrence rates through effective verification as well as monitoring Platformers' daily activities.

#### **(2) Measures to combat infringing goods at BtoC Platformers**

The appearance of infringing goods at BtoC Platformers has been an issue. In this fiscal year, we decided that a voluntary verification of the occurrence of infringing goods at BtoC Platformers can be included in the existing verification. Rights Holders will monitor the situation on a voluntary base. This will provide the information to map out the measures. We will continue to pursue the best ways for the next fiscal year based on the result of this verification and the situations of BtoC Platformers.

#### **4. A Summary of Activities for This Fiscal Year**

For this fiscal year, the Guidelines Committee reviewed the Guidelines' accompanying document. At the same time, through the Effectiveness Verification Committee the effectiveness of the measures was verified.

It was confirmed that we continued to bring the occurrence rate of infringed goods in Group 1 at a low rate by promoting a "Japanese approach" in which both Rights Holders and Platformers respect each other's positions and collaboratively stand up against infringers. In the last fiscal year, we saw a rise in occurrence rates of some of "Exhibits of Goods With a Probability of Infringement" in Auction and Flea-Ma platforms that belong to Group 2. The figures improved after strengthening cooperation between Rights Holders and Platformers as well as intensifying monitoring activities at Platformers.

On the issue of how to deal with infringing goods at BtoC Platformers, which was referred to in last fiscal year, we decided that a voluntary effectiveness verification will be conducted in this fiscal year. Considering the results of this verification and the situations of the Platformers, we will discuss the measures from next fiscal year onwards.

The CIPP has been promoting proactive efforts to prevent distribution of intellectual property infringing goods through dialogue and discussion between Rights Holders and Platformers.

For example, Rights Holders and Platformers cooperate and discuss issues about each type of intellectual property infringing goods. This will be reflected in the Guidelines when necessary and proactive patrols based on the Guidelines by Platformers is being improved. The effectiveness verification results support this cooperation, which has a very important meaning as a scheme amongst private companies to protect consumers.

In the future, when the relevant government ministries and agencies consider policies to

protect consumers, we hope that the CIPP's efforts by private organizations will be used as a reference to build an environment for consumer protection.

We will continue to make public the results of the CIPP's efforts and discuss measures for a new type of infringement.

## Various Statistical Data

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

	2020	2020	2021
Total no. of goods exhibited	12,521	12,989	11,442

- ▷ Total figures for fiscal 2020 were of seven out of eight official members of the CIPP.
- ▷ Total figures for fiscal 2021 were of seven out of nine official members of the CIPP.
- ▷ Total figures for fiscal 2022 were of six out of nine 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 of the variation of the number of Platformers investigated differs at the time when the data were collected.

### ■ Number of self-deletions

	2020	2021	2022
Copyrights	162,107	232,284	137,317
Trademark rights	3,388,740	1,988,637	1,454,671
Total	3,550,847	2,220,921	1,591,988

- ▷ Total figures for fiscal 2020 were of seven out of eight official members of the CIPP.
- ▷ Total figures for fiscal 2021 were of seven out of nine official members of the CIPP.
- ▷ Total figures for fiscal 2022 were of six out of nine official members of the CIPP.
- ▷ 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

	2020	2021	2022
Copyrights	177,564	121,778	199,644
Trademark rights	663,584	587,144	718,856
Total	841,148	708,922	918,500

- ▷ Total figures for fiscal 2020 were of seven out of eight official members of the CIPP.
- ▷ Total figures for fiscal 2021 were of eight out of nine official members of the CIPP.
- ▷ Total figures for fiscal 2022 were of six out of nine 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 intellectual property rights. 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, 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 must be made aware during 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 the secrecy of communication, and that they should take actions not to undermine the value of either aspect of business.