

The Effectiveness Verification Implementation Method (Verification for fiscal 2023, implemented from January to February 2024)

This effectiveness verification is conducted to find out the continuing effectiveness of infringement prevention measures taken in the current CtoC (consumer-to-consumer) markets (from here on referred to as “CtoC markets”) on the Internet such as auction and flea markets by numerically measuring how many infringing goods and infringements currently exist in the CtoC markets.

In addition, considering that the Third Working Group has been discussing the implementation of countermeasures in the BtoC (business-to-consumer) markets, the verification will be conducted in these markets on a voluntary basis to understand how effective the current measures are to prevent infringement.

Description

Date and Frequency of Verification: Any one day during the period from January 9 to February 2 in 2024, regardless of time and day of the week. This will not preclude verification more than once during this period.

Services: <Auction>

-Yahoo Auction
-Mobaoku

<Flea markets>

-mercari
-Rakuten Rakuma
-Shoppies
-Yahoo! Fleama

This will not preclude conducting a voluntary fact-finding survey on any other services in the CtoC and the BtoC markets.

Verification Items: Relevant organizations and companies will decide which goods should be verified. However, they are to select the goods where a fixed-point, long-term verification is possible. This is because the same goods must be verified in all markets and a similar verification is necessary in the future as well. This will not prevent them from choosing goods which are different from those in the previous fiscal year.

In addition, the popularity of the items in the markets will be considered when choosing the goods for verification.

Attention: Names of companies or brands which are related to the chosen goods do not have to be made public. However, it is unavoidable to make public some information such as “a well-known U.S. maker of spreadsheet business software” etc. Therefore, it is better to get approval from relevant companies beforehand.

Methodology: The effectiveness rate will be calculated by dividing the number of infringing goods and acts of infringements by the verification parameter.

Example: If 10 infringing goods are found among 100 items, the infringement rate will be 10%.

If the number of goods for verification at the markets exceeds 100, the verification parameter will be 100. In this case, the top 100 items in a search list (such as a list ranked by remaining time or a randomly created list) will be verified.

Note: However, to compare and analyze the verification results in each year and to adopt the same conditions, a list of goods ranked by exhibition time will be used for verification as much as possible. The top 100 items will be chosen from the oldest.

However, despite of the above, verifying more than 100 goods will not be precluded if the goods in the markets for verification exceed 100.

Voluntary verification: The voluntary verification, including the methods below, will not be precluded. However, each method should be clearly explained.

For future reference and to examine trends of infringement and probabilities in the markets, (1) one method will be to make a list of goods for verification at a certain time and check if they are removed or not after a certain interval and (2) another will be to verify 100 goods chosen from the newest results.

Judgment Criteria: Any items that are deemed to be infringing copyrights and/or trademarks by both Rights Holders and market operators, based on on-screen texts or images, should be counted. The goods must be the ones that Rights Holders can make suspension requests to market operators. Information on screen includes not only those listed in searches but also information on individual goods' screens.

If a selected item infringes both a copyright and a trademark, it will be counted as an infringement of either of them.

The nature of the infringement will be indicated in a separate Excel spreadsheet.

Note: Any items which may violate the Unfair Competition Prevention Act will not be counted because we cannot make a definitive judgment due to the nature of the Act.

As for CtoC markets, the Guidelines already exist. Therefore, the following counting methods will be adopted.

The following goods' data will be counted separately from the above data. These are the goods that have no grounds for infringement in the information provided by CtoC operators when checked against the Guidelines, etc., but have characteristics as in the following. (1) 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 removal, CtoC operators can take action for removal ("Infringing Goods Without Notice"), or (2) 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 ("Goods With a High Probability of Infringement").

If any issues of concern arise during verification, it can be indicated in the margin by using a special note.

For example, there are some goods for which removal requests may not be issued as infringing goods when checked against the Guidelines. Therefore, they may not be the ones with a high probability of infringement, but it is assumed that illegal acts or rights-infringement acts have been committed.

**Recording
Method:**

It is required to keep a record which is deemed reasonable proof to show third parties that the verification results are based on actual work done although recording of the details of verification findings is voluntary. However, procedures which will become necessary to check the verification later should be implemented. It is desirable that the information obtained through the verification should be shared among Rights Holders, Platformers and other relevant people.

Note: Proofs showing that the verification has been implemented should be kept on hand by the verifier.

Reporting Method: Fill out the attached Excel spreadsheet and submit it to the chief of the Rights Holders' side of the committee by February 9, 2024.