

## **Interim Summary Responses to Cross-Border Acts of Content Piracy**

Copyright Subdivision of the Cultural Council  
March 2022

### **1. Introduction**

Based on the main issues for investigation resulting from the 21<sup>st</sup> Session of the Council for Cultural Affairs Copyright Subcommittee (decided by the Copyright Subcommittee on July 19, 2021), the International Subcommittee has investigated the following items.

- (1) Issues and responses regarding copyrights in the overseas publication of Japanese content;
- (2) Responses to cross-border acts of piracy;
- (3) International responses for copyright protection.

In reference to the “study of further support measures such as collaboration with relevant parties in the overseas publication of copyrighted works” to guide the direction of such measures prescribed in the Intellectual Property Strategic Program 2021 (Intellectual Property Strategy Headquarters, July 13, 2021), and based on the call for short- and mid-term action, the Copyright Subcommittee put priority on the consideration of “1) Issues and responses regarding copyrights in the overseas publication of Japanese content.” The Copyright Subcommittee duly compiled an interim summary<sup>1</sup> in December 2021.

Since January 2022, the International Subcommittee has focused on “2) Responses to cross-border acts of piracy,” and the Subcommittee is proceeding with deliberations for organizing an opportunity for the Subcommittee members, the relevant authorities and organizations to present the results of their study and receive questions from the Subcommittee. The presentations will be given from mainly the following perspectives:

- The situation of damages from pirated editions
- Current measures being taken against pirated editions
- Future efforts (issues, measures which would like to be taken but not being implemented, new developments, etc.)

In addition, the Subcommittee discussed the Piracy Countermeasures Consultation Desk (provisional name) scheduled to be established under the Cultural Affairs Agency next fiscal year. In particular, the Subcommittee considered the Consultation Desk’s system and administrative contents, including the consultation targets,

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<sup>1</sup> Copyright Subdivision of the Cultural Council Interim Summary, “Issues and responses regarding copyrights in the overseas publication of Japanese content.”  
[https://www.bunka.go.jp/seisaku/bunkashingikai/chosakuken/bunkakai/62/pdf/93637101\\_03.pdf](https://www.bunka.go.jp/seisaku/bunkashingikai/chosakuken/bunkakai/62/pdf/93637101_03.pdf)

contents of consultations, and desired functions of the service, as well as special considerations for its establishment.

## **2. Main discussion points (current situation and issues, possible measures, etc.)**

Curtailing copyright infringement in Japan and overseas and enabling creators and contents industry employees to receive appropriate compensation for their work are important from the perspective of building a creation ecosystem and further promoting Japan's culture. In this regard, the interim report "Issues and responses regarding copyrights in the overseas publication of Japanese content" compiled in December last year points out the necessity of both the distribution of legitimate editions of works and measures for countering pirated editions.

Moreover, as the interim summary states, with the growing oligopolization of measures by foreign capital to distribute contents, it will be increasingly important to collaborate with platformers and ensure that copyright holders can assert their rights as copyright holders.

### **(1) Damage caused by pirated works**

In tandem with the increasing demands for people to stay at home due to the COVID pandemic, the damage resulting from pirated editions has reached the worst situation ever. In addition to infringement of works online or offline, the infringement of Japanese contents has been spreading to all fields, including publishing, music, software, and so on. In addition, the more the online environment develops through the development of high-speed networks and the diffusion of high-performance terminals, the more infringements by pirated editions tend to increase. Reports from committee members in all fields and related experts to the International Subcommittee reveal the following situation.

- Regarding online infringements, as of July 2021, the total number of visits to piracy sites in Japan reached around 600 million per month, marking a great increase over the little less than 400 million monthly visits as of March 2018 to the major manga piracy site "Manga Mura" when it was at its peak.<sup>2</sup>

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<sup>2</sup> This analysis is based on data from SimilarWeb. The survey targeted copyright infringement sites handling movies, TV shows, animation, manga, etc. (excluding music). The visualization of the situation regarding piracy sites is important for solving infringement problems, but the "Survey Research on the Execution of the Revised Copyright Law" reported to the Subcommittee in February 2022 states that while analysis is conducted in conjunction with the "estimated values" provided by multiple access analytical tools for measuring the number of visits to piracy sites, "since detailed estimation methods are not open to the public, it is difficult to determine how accurately the current methods reflect the actual situation." Thus it should be understood that at present there are limitations to accurately assessing the situation with the current technology.

- The total amount of damage caused by the online piracy of Japanese contents, including movies, publications, music, and games, is estimated at from more than 330 billion yen to more than 430 billion yen in 2019.<sup>3</sup>
- Among these losses, the increase in the damage from pirated editions of manga has been marked, and in the one-year period from January 2021, the estimated damage to the manga industry exceeded one trillion yen.<sup>4</sup> This figure greatly exceeds the combined 612.6 billion yen in legitimate market sales for both paper and electronic manga books<sup>5</sup>, showing the significant damage to the sales of legitimate editions.  
In addition, the existence of many piracy sites for manga translated into English has also been confirmed. Among them, the access visits to the top five sites exceeded 600 million monthly visits, mainly by visits from overseas users, as of December 2021, greatly surpassing the number of visits (approximately 390 million) to the top 10 Japanese piracy sites<sup>6</sup> and indicating the increasing damage from pirated editions overseas.
- In regards to the field of music, with the transition from package sales to music streaming, the number of cases of illegal streaming through unlicensed music apps has been increasing. This has hindered the growth of legitimate streaming services and the return of profits to artists.<sup>7</sup>
- Similarly, regarding the infringement of software, game devices for the multiple unauthorized recordings of so-called retro games and pirated versions of business software are being sold. Concerning retro games, the estimated damage caused by the deletion of games for the five-month period from May 2021 is equivalent to 1.37 billion yen.<sup>8</sup>

## **(2) Current countermeasures against piracy sites**

Based on the situation described above, copyright holders, relevant authorities and organizations are devising a wide range of means from their respective standpoints for taking countermeasures against pirated editions.

### **Measures by copyright holders, publishing right holders**

- Copyright holders and publishing right holders are taking continuous anti-piracy measures, including requests for the removal of sites illegally providing contents, the initiation of proceedings for demanding information disclosure overseas, the bringing of criminal charges in collaboration with the police, and so on.

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<sup>3</sup> Estimates by Content Overseas Distribution Association (CODA)

<sup>4</sup> Estimate by Authorized Books of Japan (ABJ)

<sup>5</sup> Survey by Research Institute for Publications (FY 2020)

<sup>6</sup> Estimate by Authorized Books of Japan (ABJ)

<sup>7</sup> Recording Industry Association of Japan

<sup>8</sup> Estimate by Association of Copyright for Computer Software

### **Measures by relevant organizations**

- In addition to these kinds of efforts by copyright holders and publishing right holders, various relevant organizations are promoting efforts for more efficiently and effectively countering piracy sites.  
On top of the anti-piracy measures such as requests for the removal of platformers, the Contents Overseas Distribution Association (CODA) is focusing on specific actions against illegal site operators and online services through collaboration with cyber security experts, with the aim of strengthening international anti-piracy enforcement. In cases where the execution of copyrights is impossible in countries where piracy operators have established their bases, “knock and talk” direct negotiations with the operators are being carried out to stop acts of infringement. “Name and Shame” measures to identify and reveal malicious piracy sites are also being taken. CODA is also implementing measures to deter ad placements in collaboration with advertising associations and platformers and to prevent piracy sites from appearing in search results.
- Authorized Books of Japan (ABJ) is conducting anti-piracy campaigns using copyrighted characters and using the ABJ logo to certify legitimate services. In addition, ABJ is taking measures to reduce access to sites by users by compiling lists of piracy sites and utilizing youth filtering and security software.
- The Association of Copyright for Computer Software (ACCS) is promoting: 1) security measures such as requests for piracy site removals as well as fact-finding surveys, 2) support and cooperation for investigation activities by police, 3) awareness-raising and educational activities such as lectures for investigative agencies, etc.
- The Recording Industry Association of Japan (RIAJ) established the Copyright Protection Promotion Center to deter illegal searches and request removals of piracy sites for pirated videos, unlicensed music apps, illegal auctions, etc. In addition, depending on the case, it pursues the exercise of copyrights, including claims for damages and the bringing of charges against copyright violators.

### **Efforts by governments, international organizations**

- In order to effectively prevent damage caused by pirated works and ensure that copyright holders receive their due profits, the Japanese government in October 2019 formulated its “Comprehensive Measures and Work Schedule to Combat Online Piracy.” Moreover, based on the progress of various measures for the passage and enforcement of revisions to the Copyright Law in 2020, including “measures against leech sites” and the “criminalization of downloads of infringed content,” the government updated its “Comprehensive Measures and Work Schedule to Combat Online Piracy,” and is taking a whole-of-government approach to carry out effective anti-piracy measures.
- In order to enhance the effectiveness of copyright protection domestically and overseas, the Agency for Cultural Affairs (ACA) is supporting the preparation of copyright systems overseas, the strengthening of the enforcement of copyrights, the promotion of the distribution of awareness-raising materials, and so on, based

on the government's "Comprehensive Measures and Work Schedule to Combat Online Piracy." More specifically, the ACA is conducting seminars targeting developing countries in the Asia-Pacific region utilizing funds-in-trust provided to WIPO, training seminars for supporting human resources development in countries where copyright infringements are arising, copyright awareness-raising events in Japan and abroad, and so on.

- At the same time, as part of the anti-piracy measures taken by international frameworks, WIPO is promoting its "WIPO ALERT,"<sup>9</sup> which is a platform WIPO uses for providing information.

### **(3) Issues for anti-piracy measures**

Although the results of cases leading to the detection of piracy sites are now available as a result of piracy countermeasures by governments and related organizations, based on the current situation of infringement damages, the further strengthening of countermeasures is necessary. The following issues have been identified in the promotion of piracy countermeasures by relevant organizations, etc.

- Japanese contents are popular overseas, but compared to, for example, copyright holders in the United States, Japanese copyright holders tend not to exercise their rights, leading as a result to increasing damage from pirated works. At the same time, copyright holders have pointed out the problem of high costs for measures against piracy. In many cases the attempts at exercising copyrights end up as a waste of money, with only some cases resulting in copyright holders being able to recover costs through civil lawsuits. That concern has worked to stop the exercise of copyrights.
- The advancement of communications technology has made the piracy problem borderless. Moreover, pirated works produced and distributed overseas are flooding into domestic markets. Piracy countermeasures should be developed in cooperation with other countries overseas.

In addition, it is believed that almost all current operators of piracy sites are overseas individuals or organizations with their bases in foreign countries. Because of that, there are obstacles to the disclosure of information and collaboration with local investigative agencies, making the resolution of problems more difficult.

- Because of the impact of the advancement of digitalization and networking and the diffusion of advanced-technology terminals, the crime of copyright infringement is becoming more prevalent. Awareness-raising campaigns particularly targeting young generation, including school education, regarding the protection of copyrights are important.
- Since individual creators often have inadequate knowledge about copyrights, even if their contents are infringed, they tend not to take appropriate action.

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<sup>9</sup> The WIPO Alert aims at countering piracy by an international framework for countering the problem of advertisements placed on piracy sites. Lists of infringement sites (alert list) are provided to WIPO, which WIPO then disseminates to advertisers and advertising agencies.

- The transformation of the thinking and awareness of users of pirated works domestically and overseas and the enhancement of legitimate editions of works to attract overseas manga fans to legitimate sites are issues to be addressed from now.

#### **(4) Conceivable measures for resolving problems**

Although copyright holders' exercising of their copyrights is the fundamental response to the infringement of copyrighted material, the current situation of damages being incurred does not permit a situation of non-action. Government should further strengthen the efforts to combat piracy in collaboration with relevant groups and organizations. In response to the issues identified above, the measures that the Agency for Cultural Affairs believes should be taken in the future are given below.

- Supports for strengthening the exercising of copyrights
  - Establishment of a Piracy Countermeasures Consultation Desk (provisional name)
  - Provision of support, including for costs, to help copyright holders exercise effectively their copyrights
- Measures for strengthening international collaboration
  - Review of intergovernmental consultations, training seminars conducted up to now, etc.
  - Strengthening of cooperation with WIPO
- Diffusion of awareness-raising regarding measures against piracy

In particular, the Agency for Cultural Affairs will take special note of the following points as it establishes its Piracy Countermeasures Consultation Desk.

- Clarification of contents for consultation, targets for consultation, etc.
- Need for collaboration with current intellectual property rights consultation desks
- When providing consultation, expectation for advice on measures against illegal use of copyrighted material, including on accessing international networks and utilizing opportunities for the collective exercise of copyrights, as well as information on measures taken by national administrative agencies.
- Securing of attorneys who can provide suitable advice even in cases when domestic piracy appears to be expanding internationally.

### **3. Toward the future**

- In order to make the measures described above more concrete, the Piracy Countermeasures Consultation Desk (provisional name) will be established in fiscal 2022, and efforts should be enhanced to realize the effective exercise of copyrights as well as to prompt copyright holders to exercise their rights.

- At the same time, necessary reviews should be conducted of existing projects for strengthening international collaboration and raising awareness of anti-piracy measures and more effective ways should be sought to implement such initiatives.
- It is essential for the International Subcommittee to continue its discussions based on the situation of damages currently being incurred and the present situation of countermeasures against piracy.