

Emlékkönyv Dr. Heka László egyetemi docens
65. születésnapjára

**Emlékkönyv Dr. Heka László
egyetemi docens 65. születésnapjára**

Szerkesztette
Badó Attila

SZTE ÁJTK
Összehasonlító Jogi és Jogelméleti Intézet
Szeged, 2024

© *Szerzők*, 2024

Borítóterv:
Hevesi István

Műszaki szerkesztő:
Kovács Ildikó

Felelős kiadó:
Badó Attila, Intézetvezető egyetemi tanár
Készült az Innovariant Kft.-ben
Felelős vezető: Drágán György
ISBN 978-963-306-999-8

TARTALOM

BADÓ ATTILA	
Előszó.....	7
ANTAL TAMÁS	
A vármegyei bíróságok a reformkorban, különös tekintettel a táblabírói intézményre (Madách Imrére emlékezve).....	9
BADÓ ATTILA	
A magyar alkotmányfejlődés rövid története.....	16
BALOGH ELEMÉR	
A lendvai 'vérengzés'. Adalék az 1848:V. tc. zala megyei gyakorlatához.....	28
BARANYI EMESE ZSUZSANNA	
Az albániai muszlimok és az iszlám házassági jog jelenléte Albániában.....	31
HARKAI ISTVÁN	
Hol a helye az online sajtónak a digitális platformgazdaságban?.....	44
HETTINGER, SÁNDOR	
The Requirement of Clarity, Intelligibility and General Comprehensibility When Translating Contracts with General Terms and Conditions into Hungarian.....	52
MEZEI, PÉTER	
A primer to upcycling – the meaning and relevance of transformative recycling for intellectual property law.....	62
MOLNÁR ANDRÁS	
Az el sem tűnt igazolás nyomában: politikai és jogi legitimáció <i>Az Éhezők Viadala</i> világában.....	71
NAGY ZSOLT	
Egy jogi rendszer jogszociológiai kritikája: <i>Cesare Beccaria</i>	80
PÉTERVÁRI MÁTÉ	
A második magyar csődtörvény fiúmei alkalmazásának személtetése.....	92
SZONDI ILDIKÓ	
Szeged, a szolidáris város.....	101
KÉPEK.....	105

PÉTER MEZEI*

A primer to upcycling – the meaning and relevance of transformative recycling for intellectual property law

1. Introduction

Upcycling might be defined as *transformative – recontextualized or repurposed – recycling and redistribution of tangible copies of works or goods that are protected by some form of intellectual property (IP) law*. By its very nature, upcycling is becoming the next conflict zone for IP rights holders and sustainability-oriented producers over the recycling of used consumables. This is especially true since IP rights and the circular economy are often in conflict by relying on the same resources with significantly different logics and policies. These are exclusive and proprietary rights with clear spatial and time-constraints, predominantly aiming the progress of economics and culture for IP law; and broader accessibility with a focus on the global and long-term effects of social and technological developments for the circular economy.

Upcycling is, however, far from being a single dimensional activity to be approached solely from the perspective of exclusive IP rights. It represents a new philosophy for environment-conscious producers and consumers, promising new bottom-up approaches to decrease the negative consequences of human activities on Earth.

With the growing need for green transition, upcycling can work as a case study for decision-makers from the domestic to the international level to re-imagine IP policies to support green transitions at *micro* level by allowing individual upcyclers the reuse of IP-affected goods; at *mezo* level by convincing investors and industry-level organisations to renew economic models and invest in transformative recycling; and at *macro* level by allowing legislation to incentivize innovative activities to minimize waste and maximize the benefits of consumables for their full life-cycle.

This short summary of the topic aims to analyse, first, the meaning and the promise of upcycling in a circular economy and the most fundamental conceptual elements of this phenomenon. Finally, the paper addresses three concerns that can have direct consequence for any possible legislation of upcycling in the near future. Namely, first, the contrast of exclusive IP rights and inclusive sustainability and circularity; second, the need for a holistic IP legislation to mitigate IP overlaps in consumables; and finally,

* professor, University of Szeged, Faculty of Law, Institute for Comparative Law and Legal Theory

‘spatial conflicts’, that is, the divergent needs of waste exporters and importers and the clash of developed and developing nations.

2. A primer on upcycling

2.1. *Upcycling as transformative recycling*

Upcycling might be used in numerous settings, including the re-collection, improvement and use for different purposes of data¹ or the value-recovering recycling of plastic bottles.² The common element of any such upcycling of resources is the *ability (though in certain cases, not a necessity) to create added value*. The Oxford English Dictionary defines upcycling as the “reuse (waste material) to create a product of higher quality or value than the original, and to reduce the need for new raw materials.”³ This paper cannot, however, approach upcycling in such a broad manner. The task is to limit our focus solely to the aspects of this activity that are relevant for IP law, and hence where the use affects tangible items (objects) that embody certain forms of IP protection.

Hence, we look at upcycling as *transformative – recontextualized or repurposed – recycling and redistribution of tangible copies of works or goods that are protected by intellectual property (IP) law*. Upcyclers recontextualize the physical embodiments of IP protected contents (the complete copy of the works or goods, or a part of it) for “pure” artistic/creative or commercial purposes. As Bridgens et al. put it: “[t]wo extremes are upcycling driven by necessity to meet basic human needs, for example using waste materials to construct shelters in informal settlements, and upcycling as an art or craft to make objects of beauty.”⁴ The source objects of upcycling shall be therefore more than raw materials, but goods that represent (embody, visualise etc.) IP protected expressions. As such, the reuse of deadstock fabric of fashion garments shall not be classified as upcycling, but only as mere recycling. E.g. the Cambodian fashion brand, Tonlé’s or the Chilean company, Ecocitex’s aim to collect waste from garment factories, mills and even households to repurpose them into stylish and sustainable products (new raw materials) cannot be treated upcycling, but a commendable recycling activity.⁵

¹ VEARNCOMBE, Julian et al.: *Data upcycling*. Ore Geology Reviews, 2017/89. 887–893. p.

² Chemists often refer to such practices (e.g. thermochemical conversion, including pyrolysis, in-line catalytic decomposition, gasification; compatibilization; or depolymerization) as upcycling. See: ZHAO, Xianhui et al.: *Plastic waste upcycling toward a circular economy*. Chemical Engineering Journal, 2022/428. Art.131928, 1–14. p. On the very broad spectrum of conceptual approaches to upcycling see SUNG, Kyungeun: *A Review on Upcycling. Current Body of Literature, Knowledge Gaps and a Way Forward*. In: The ICECESS 2015. 17th International Conference on Environmental, Cultural, Economic and Social Sustainability, Venice, Italy, 13–14 April 2015. 30–31. p.

³ *Oxford English Dictionary* (online). <https://www.oed.com/search/dictionary/?scope=Entries&q=upcycling> (07.27.2024.)

⁴ BRIDGENS, Ben et al.: *Creative upcycling. Reconnecting people, materials and place through making*. Journal of Cleaner Production, 2018/189. 146. p.

⁵ *Tonlé*. Zerrin (no date) https://zerrin.com/directory_listing/tonle/; NAST, Condé: *Inside a Chilean Factory Turning Old Clothes into High-Quality Eco-Yarn*. Vogue, 21 April 2022. <https://www.vogue.com/article/inside-ecocitex-yarn-factory>

Upcycling gained momentum in the fashion industry, however, it also affects other fields of the creative industry, e.g. art and designs. Consequently, upcycling might be carried out for commercial purposes, but that is not an obligatory conceptual element of the process. Attention shall be paid to the “non-industrialized” nature numerous upcyclers, many of whom are “artisans”, they produce handicraft goods, that is, a small number of unique items. Even if upcycling projects are run by renowned (or even luxurious) brands, the ultimate pieces of upcycled garments are very limited. Such a great example might be the luxury fashion company Prada’s Miu Miu subbrand, that “refashioned” vintage clothes from the 1930s and 1970s and prepared 80 new, upcycled products.⁶ Oftentimes, however, upcyclers are enthusiastic individuals or creative artists, who reuse goods kept in their home or which they inherited from their family or for purposes that have no (direct) commercial purpose. The added value of these unique upcycled goods might be nothing more than ‘sentimental’ or something that aims to raise awareness regarding (or protesting against) certain social phenomenon. Overall, upcycling might be a special form (a transformative way) of freedom of expression.⁷

2.2. Rationale of upcycling

By its very nature, upcycling is becoming the next conflict zone for IP rights holders and sustainability-oriented producers over the recycling of used consumables as IP law and the circular economy are relying on the same resources with significantly different logics and policies.⁸

IP law is based on the exclusive and proprietary nature of rights with clear spatial and time-constraints, predominantly aiming the progress of the linear economy⁹ and human culture, but offering some flexibility for both socially or personally relevant purposes.¹⁰ To the contrary, the circular economy (or sustainability in general) is more inclusive. It is not necessarily proprietary, but much more based on the concept of “commons”, nor is it limited to the territory of single countries. It is per se borderless. Overall, sustainability generally aims to guarantee broader accessibility with a focus on the global and long-term effects of social and technological developments for the circular economy.¹¹

⁶ SARGANI, Luisa: *Miu Miu Launches Upcycled Collection*. Women’s Wear Daily, 13 October 2020. <https://wwd.com/fashion-news/fashion-scoops/miu-miu-launches-upcycled-collection-1234631819/>

⁷ MEZEI, Péter: *Knock, Knock, Knockin’ on Transformiveness’ Doors*. IIC International Review of Intellectual Property and Competition Law, 2024/4. 495–498. p.

⁸ MONTAGNANI, Maria Lilla: *(Digital) Circular Economy and IPRs. A Story of Challenges and Opportunities*. IIC International Review of Intellectual Property and Competition Law, 2023/7. 1009–1012. p.

⁹ Especially its ‘make’ and ‘use’ prongs per Montagnani. See: MONTAGNANI, 2023. 1009. p.

¹⁰ CALBOLI, Irene: *Pushing a Square Pin into a Round Hole? Intellectual Property Challenges to a Sustainable and Circular Economy, and What to Do About It*. IIC International Review of Intellectual Property and Competition Law, 2024/2. 237–248. p.

¹¹ If not in a focused manner, this paradox led to the publication of a special issue in one of the leading IP journals in Europe on the overlaps of sustainability and IP. See the May 2023 issue of Journal of Intellectual Property Law & Practice at: <https://academic.oup.com/jiplp/issue/18/5>

When IP comes into play, transformative uses or – merely – reuses of protected subject matters are not evidently lawful or illegal. Certain secondary uses are expressly reserved – via exclusive rights – for the rightsholders, e.g. the adaptation of a copyrighted work, affixing the trademark on a new packaging of the product or relying on a patented invention to come up with a new innovation. At the same time, IP norms also list various transformative exceptions or limitations for the benefit of users of the works or goods, e.g. freedom of speech based parody of a copyrighted work or a trademark; artistic reappropriation of a physical object or the resale; rebinding books; maybe even repackaging pharma products. In sum, IP law might act as an enabler or an obstacle to the circular economy.¹² The same seems to be true for political economy, too.¹³ Indeed, Annette Kur and Irene Calboli note if the current framework does not provide sufficient room for responding to the pressing need to promote a circular economy, then we should consider alternatives and how the IP system may be modified to suit better a quality-focused, eco-friendly and sustainable economy in which practices such as upcycling should be incentivized under the law.¹⁴

Upcycling is, however, far from being a single dimensional activity to be approached solely from the perspective of exclusive IP rights or their exceptions and limitations. It represents a new philosophy for environment-conscious producers and consumers, promising new bottom-up approaches to decrease the negative consequences of human activities on Earth. It perfectly complements various other initiatives of the circular economy, e.g. the Ghana-based Or Foundation's Speak Volumes campaign, which invited brands to disclose the number of their unsold units, so that such publicity might contribute to the decrease of overproduction or oversupply of garments.¹⁵ Similarly, upcyclers proudly argue that their projects/companies provide fair wages and guarantee fair working conditions,¹⁶ or support women to become financially independent.¹⁷

¹² See, e.g., BALLARDINI, Rosa – PIHLAJARINNE, Taina: *Paving the way for the environment. Channelling „strong” sustainability into the European IP system.* European Intellectual Property Review, 2020/4. 247. p.; SOININEN, Niko et al.: *A brake or an accelerator? The role of law in sustainability transitions.* Environmental Innovation and Societal Transition, 2021/41. 72. p.

¹³ GREEN, Jeremy: *Comparative capitalisms in the Anthropocene. A research agenda for green transition.* New Political Economy, 2023/3. 330. p.

¹⁴ KUR, Annette – CALBOLI, Irene: *Intellectual property in the circular economy.* Journal of Intellectual Property Law & Practice, 2023/5. 337–338. p.

¹⁵ TONTI, Lucianne: *It's the industry's dirty secret: Why fashion's oversupply problem is an environmental disaster.* The Guardian, 18 January 2024. <https://www.theguardian.com/fashion/2024/jan/18/its-the-industrys-dirty-secret-why-fashions-oversupply-problem-is-an-environmental-disaster>

¹⁶ That is argued by the Cambodian Tonlé, the Kenyan SOKO or the South African Companies and IP Commission's program to recycle and upcycle seized counterfeit goods. See, respectively, note 1 (supra); *Ethical Brand Rating. SOKO* (Eco-Stylist). <https://www.eco-stylist.com/ethical-brand/soko/>; WIPO, *Upcycling Program for Counterfeit Goods.* <https://www3.wipo.int/wipogreen/en/docs/ipo-green-policy-note-9.pdf>

¹⁷ Compare to the 'I Was A Sari' project's partnership with Gucci. See: NAST, Condé: *These Indian Labels Are Upcycling Saris to Make Cool Garments and Products.* Vogue India, 26 November 2019. <https://www.vogue.in/fashion/content/indian-labels-upcycling-sarees-into-outfits-products-i-was-a-sari-bodements>

Furthermore, upcycling is far from being limited to the Global North's legal domain. As the Guardian's report indicated, "[a]t Kantamanto market in Accra, Ghana, where the Or Foundation works to support the community that trades in the global north's unwanted clothes, approximately 40% of every bale of textiles ends up as waste."¹⁸ Other Ghanaian entrepreneurs seek environmental justice by launching upcycling projects to minimize the negative effects of the importation of trash. As the project's website states, "The Revival is a community-led sustainable design non-profit educating, creating awareness, art and jobs with upcycled global textile waste coming to Ghana"; and then continues to state that "The Revival collects second-hand clothes that have been discarded, employs local craftsmen in Kantamanto and collaborates with fashion students from local universities as well as members of the public to participate in the creation of new outfits and art to give value to items tagged as 'trash'."¹⁹ Similar initiatives regarding the reduction of waste, mitigating the negative effects of overproduction and overconsumption, and the possibly reuse of wasted garments via upcycling might be found in Asia (the Hong-Kong-based *Redress*²⁰) or Latin-America (see *Banzo*²¹).

With the growing need for green transition, upcycling can work as a case study for decision-makers from the domestic to the international level to re-imagine IP policies to support green transitions at *micro* level by allowing individuals (upcyclers) the reuse of IP-affected goods; at *mezo* level by convincing investors and industry-level organisations to renew economic models and invest in transformative recycling; and at *macro* level by allowing legislation to incentivize innovative activities to minimize waste and maximize the benefits of consumables for their full life-cycle.

3. Major concerns regarding upcycling

Based on the above, we shall dissect three distinct, but intertwined concerns that IP law shall address when it comes to upcycling. First, the contrast of exclusive IP rights and inclusive sustainability and circularity that also leads to a 'commercial paradox of upcycling', that is, since upcycled products are capable to be commercially exploited, even if not on a mass scale, underdog upcyclers might face the resistance of incumbent market players, leading to an unwanted commercial fight over products that target different consumers and serve different goals. Second, the need for a holistic IP legislation to mitigate IP overlaps in consumables. Finally, 'spatial conflicts' exist, that is, there might be divergent needs of waste exporters and importers and there might a clash of developed and developing nations over the reuse of trash (something we might call 'trash clash'). This also relates to the phenomenon of 'waste colonialism'.

¹⁸ TONTI, 2024.

¹⁹ See <https://www.therevival.earth/>

²⁰ See <https://www.redress.com.hk/>

²¹ See SHOAI B, Maliha: *Latin America's homegrown fashion talent faces growing pains*. Vogue Business, 8 November 2023. <https://www.voguebusiness.com/story/fashion/latin-americas-homegrown-fashion-talent-face-growing-pains>

3.1. Exclusive IP rights versus inclusive upcycling – Monopolizing trash

The exclusive, though not monopolistic nature of IP rights means an ever expanding, but definitely high level of protection of creators, innovators and business. The underlying theory of IP is to provide incentives for creativity and innovation and to guarantee rewards for such acts to the benefit of those who come up with culturally, economically and/or socially desirable expressions in the fields of arts, literature, science, commerce and industry. As a consequence, these ‘absolute’ rights allow, on the one hand, the exclusive exercise or licensing of the relevant. On the other hand, in the lack of any exception or limitation, the rightholders might also enforce those rights against third parties carrying out unauthorized activities.

As indicated above, upcycling differs from this logic on a conceptual as well as a practical level. It aims to secure downstream market players (and, indeed, average persons) to (re)use materials or objects for a purpose that might only be indirectly connected to the original goal of the expressions embodied in those materials/objects. As such, upcycling does not only trigger novel creative and innovative solutions, but it is predominantly based on resources that their original creators/producers are unwilling to use. In other terms, upcycling does not only fill the void, but also targets a different socially and economically desirable goal, namely, a more sustainable living environment via more circularity of materials.

As upcycling is *per definitionem* a “secondary” use of goods, the downstream market – that is, the „mere” resale of the IP-protected physical object (e.g. a copyrighted book, a designed furniture or a trademarked product) – might be of crucial importance from an IP perspective, too. On the one hand, downstream commerce shall not be monopolized by IP rights holders. The doctrine of exhaustion, that is present in all major fields of IP law, allows lawful owners of copies of works/goods to legitimately resell those copies.²² Such resales shall not be controlled or prohibited by the rights holders at all. The exhaustion doctrine shall guarantee the resale of the original works/goods themselves, even if they are embedded into new tangible objects via physical recontextualization. On the other hand, various forms of IP law, e.g. trademark law, is conceptually based on the distinctiveness or non-confusing nature of the IP good (in case of trademark law, the mark itself). Therefore, upcycled goods might be able to mislead consumers on the source (authenticity) of the given product, and hence rights holders might have a legitimate ground to tackle upcycling. Such situations might arise e.g. in cases of repackaging pharmaceutical products, which activity ultimately “does not enable normally informed and reasonably attentive consumers, or enables them only with difficulty, to ascertain whether the product originates from the proprietor of the trade mark or an undertaking economically linked to him or her or, on

²² According to the doctrine of exhaustion, “the rightholder must accept that copies, or the originals of copyrighted works, and other subject matter lawfully placed into circulation by or with the authorization of the rightholder, through sale or in any other form of transfer of ownership, are subsequently distributed by the lawful owner of those copies or originals, if the rightholder received proper remuneration for the initial distribution”. See: MEZEI, Péter: *Copyright Exhaustion. Law and Policy in the United States and the European Union*. 2nd ed. Cambridge University Press, Cambridge, 2022. 2. p.

the contrary, originates from a third party adversely affects the function of indicating the origin of the mark”.²³ Whether the same could be the case with upcycled products, that is, whether normally informed users would be unable or only with difficulties to ascertain the origin of a transformed physical object (either for artistic or commercial purposes) is far from certain; indeed, it is most certainly a matter of degree, hence a case-by-case issue.

Global leaders of the luxury fashion industry (e.g. Chanel and Louis Vuitton) have taken steps every now and then to prohibit downstream (or underdog) companies from producing and selling fashion products, like jewellery, apparel, handbags and accessories. IP rightsholders’ classic arguments are that the secondary products might confuse average consumers, hence, infringe claimants exclusive trademark rights. As Calboli has shown, however, these recent cases ended up in a settlement between the parties.²⁴

This is why, from all the possible examples, the Finnish *Tableware jewellery and copyright* (2021)²⁵ case deserves a closer look. In its statement, the Finnish Copyright Council (FCC) assessed the doctrine of exhaustion in the context of upcycling works of applied art.²⁶ In the underlying case, upcycling artist A had used pieces of broken porcelain tableware, such as plates and cups to make jewellery (necklaces and earrings) out of them. The tableware was originally produced and marketed by company F. The used plates and cups had been decorated, inter alia, with floral patterns and berries of different colours.²⁷ Earring and necklaces from each set of broken tableware had been designed and produced in a way that their decoration themes would match each other.

It was concluded by the FCC that the decoration passed the threshold of originality and hence it is protected by the copyright of company F.²⁸ The porcelain pieces used for earrings and matching pendants had been chosen among the pieces of the same set of tableware.²⁹ The FCC had to consider, among other things, whether the distribution right to the copyright-protected tableware had been infringed by such use, or, alternatively, the said right had exhausted in accordance with the Finnish Copyright Act.

This statement of the FCC gained momentum, and also led to the first systematic review of the copyright aspects of upcycling in Europe.³⁰ There is indeed space to discover and analyse many other upcycling-related cases (transformative reuses) from other countries. As Judge Golaszewska summed up the ratio of a Polish judgment, “[t]he one who acquires the CDs (copies) shall be entitled to use them for the needs of

²³ Case C-224/20, Merck Sharp & Dohme and Others, CJEU, ECLI:EU:C:2022:893, para. 127.

²⁴ CALBOLI, Irene: *Upcycling, Sustainability, and IP. What It Means for the World of Fashion*. WIPO Magazine, July 2023. https://www.wipo.int/wipo_magazine_digital/en/2023/article_0022.html (12.14.2023.)

²⁵ Statement TN 2021:9 ‘Astiakorut ja tekijänoikeus’.

²⁶ The FCC functions under the Ministry of Education and Culture and consists of, e.g., copyright law scholars and representatives of various copyright interest groups. Instead of legally binding rulings, the FCC issues statements that have a recommending nature. These statements are widely accepted as important secondary legal sources by Finnish legal academics.

²⁷ TN 2021:9, para 35.

²⁸ TN 2021:9, para 38.

²⁹ TN 2021:9, para 35–37.

³⁰ MEZEI, Péter – HÄRKÖNEN, Heidi: *Monopolising trash. A critical analysis of upcycling under Finnish and EU copyright law*. Journal of Intellectual Property Law & Practice, 2023/5. 360–366. p.

room decoration. The one will use the copies themselves, not the works on the copies. Actually, in this case, the works will not be relevant for the one who acquires the copies for the purpose of room decoration.”³¹ This Polish decision – without using the term of upcycling – de facto legitimized transformative reuses of tangible copies of work.

3.2. *IP overlaps*

The second major concern as regards upcycling might stem from the fact that numerous IP-relevant objects/materials, especially from the fashion industry that is the major field of upcycling activities, are capable to embody or represent distinct IP rights (let us call them mixed goods). Most importantly, garments might secure copyright, trademark and design rights for their creators or producers. In pure IP law, this is not a hardest issue to manage. Since, however, upcycling is based on the reuse of the whole or parts of these source materials, the partially different logics of copyright and industrial property laws might complicate the transformation or reuse of these mixed goods. Trademark law’s rules on confusion might prohibit something that could fit into the freedom of speech under copyright law. Likewise, the doctrine of exhaustion has a slightly different scope in industrial property law than in copyright.

3.3. *Spatial conflicts – ‘trash clash’*

Strong IP regimes originate from the Global North, predominantly Europe and North America. To the contrary, other parts of the Globe are more or less lagging behind the high level of protection of IP rights. We will not judge whether the Global North’s approach is the right one. We shall, however, flag that strong IP rights led to capitalism (quickly outpacing the romantic view of authorship in copyright law) and, even worse, consumerism. The latter is notorious of the production of enormous waste and high carbon footprint. How the trash of such system is handled, is a serious concern of our modern society, and that brings us closer to the spatial concern of upcycling. Namely, that the vast majority of waste – in luckier situations, the unsold but fully functional products – land in the states of Global South, making them the dustbin for the Global North companies. To remain optimistic, however, we shall look at the bright side of such situation: numerous innovative start-ups have grown in those Global South countries (as well as in other more environment-conscious regions, e.g. Scandinavia in North Europe) that repurpose the wasted materials. In sum, there is a great chance that the pursuit of a more sustainable living environment will lead to significantly different policies, legislation and practices in the various nations of the Global North and South on a long term, that is, there might be a ‘trash clash’.

³¹ Judge Golaszewaska’s comments are cited from an oral discussion. Her opinion has been published in her book, too, to be translated from Polish soon.

4. Concluding remarks

Overall, humankind is at a policy momentum with respect to sustainability. IP law might have a significant role in preserving the Earth a liveable environment, upkeeping human well-being, managing the global environmental crisis and eliminating technological metabolism. Sustainability and IP co-exist parallel and overlap to a certain degree. Nevertheless, they are distinct concepts and their general goals are far from each other. The ultimate paradox is that no sustainability might be reached without incentivizing the creation and profit-oriented rewarding mechanisms. Unfortunately, the current paradigm of IP law is not focusing on sustainability – neither on normative, nor on policy levels. In sum, the trendy topic of upcycling, though still in its infancy, might function as an excellent case study for this discussion. Indeed, we cannot but expect greater debates around it – both in its breadth and depth.