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Rethinking Copyright Through Sustainable Creative Use: The Upcycling Problem

ABSTRACT

Nowadays with the increase in production and consumption processes, the threat of an environmental crisis is becoming more serious, and the understanding that a transition to sustainable practices is necessary. When looked from the perspective of copyright law, the question of how to find solutions to this need to change and how the use of copyright protected works can be aligned with sustainability goals, remains a controversial issue. In this context, to progress in direct proportion to sustainability goals, the practice known as upcycling, which is the process of innovatively and creatively reorganizing and processing unused or outdated products to transform them into new products and which is often discussed as having the potential to reduce waste, stands out. It also increases consumers' awareness of environmental issues because it allows them to reuse and repurpose materials in their lives. However, upcycling practices, like every other practice that enhances the protection of the environment, lead to a conflict with traditional forms of intellectual property rights because often upcycling will involve the reuse or transformation of copyright protected patterns or works on the final upcycled products. While upcycling practices may also raise trademark related concerns, this study deliberately limits its analysis to copyright implications of upcycling. Therefore, although relevant to certain cases mentioned later in this study, trademark related issues are outside the scope of this study. As a result, this study will explore the growing conflict between upcycling practices, which are increasingly recognized as a part of the sustainability mission, and the principles of copyright law.

INTRODUCTION

The concept of sustainability², which has become central to today's legal and economic systems, is being transformed from a moral idea into a binding legal principle that concerns and affects both public and private law. In other words, sustainability is being transformed into a binding legal paradigm in the European Union (EU) and beyond, rather than merely a corporate

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² There is no consensus in the doctrine on how to define the concept of sustainability. In reports and sources published by the UN, the concept of sustainability is defined in various ways and is described as “*the least understood and applied concept from the global to the local scale.*” See at Özmehmet, E., “Dünyada ve Türkiye’de Sürdürülebilir Kalkınma Yaklaşımları (Approaches to Sustainable Development in the World and in Turkey)”, Yaşar Üniversitesi E-Dergisi 2008, Vol.3, I.12, p.2, (<https://dergipark.org.tr/tr/pub/jyasar/article/202943>, accessed date: 09.10.2025); Therefore, if an environmentalist approach is adopted, the concept of sustainability can be defined as “*the principle of not consuming existing resources while preventing the potential for future generations to benefit from these resources.*” See at. İçöz, A. / Kılınç, Y., “Çevre Maliyetleri Muhasebesi ve Raporlanması (Environmental Cost Accounting and Reporting)”, Uluslararası Sosyal Araştırmalar Dergisi 2016, Vol. 9, I. 42, p. 1521. The most common and comprehensive definition of sustainability can be described that it is “*the ability of a society, ecosystem, or functioning system to continue functioning for an indefinite future without being adversely affected by the depletion or overconsumption of the essential resources it requires for its continued existence.*” See at Gilman, R., Sustainability, UIA/AIA Call for Suitable Community Solutions 1992, Context Institute, (URL: <https://www.context.org/about/definitions/>, accessed date: 09.10.2025). The author's definition is “*sustainability refers to the ability of a society, ecosystem, or any ongoing system to continue to function into the indefinite future without being forced into decline by depletion or overload of the essential resources on which the system depends.*”

aspiration. The need for society to shift towards sustainable and circular forms of economic practice, considering the current strains associated with the environmental crisis driven by excessive rates of production and consumption, has never been timelier. Intellectual property (IP) law, like all law fields, has begun to find responses and ways to regulate and manage sustainability targets in this space.³ However, it is important to note that this study approaches these developments from the perspective of copyright law, deliberately limiting its scope to copyright related questions. In this context, upcycling⁴, which is often discussed within sustainability debates, is crucial. Upcycling serves as a creative approach to repurposing old and/or found products and materials for a second and new purpose, and it also may divert waste or materials from the landfill.⁵ An example could be clothing that has been designed from old or found items, like a bedsheet, or jewelry made from broken porcelain. Upcycling may help reduce waste, reuse products altogether, and, importantly, may create a new integrity to the materials that is unique and creative, potentially all without the added environmental costs (from production) traditionally. Under such conditions like this, this will attract environmentally conscious consumers. However, it is crucial to point out that upcycled materials may still incorporate the copyrighted designs or patterns, or known logos, from the prior materials they were upcycled from. In such instances, this intention to positively reuse and upcycle items may interfere with IP rights. As a matter of fact, the numerous disputes concerning upcycling in the past several years make it clear that legal uncertainty exists in noticeably defined cases. A case witnessed in French courts involved a designer who cut and designed actual Hermès silk scarves into jackets, with Hermès asserting copyright infringement because of the protected pattern on the scarf and the use of the Hermès logo on the designer jacket.⁶ Likewise, in Singapore, a seller on social media (Instagram) designed wallets and cases from second hand Louis Vuitton (LV) leather pieces and bags found on a sales platform, which resulted in Louis Vuitton bringing an infringement lawsuit against the seller.⁷ Likewise, in the United States, Chanel filed a lawsuit alleging infringement of its trademark rights, because workshops were making jewelry from buttons bearing Chanel’s copyrighted logo.⁸ While some

³ Izyumenko, E., “Copyright, Upcycling, and the Human Right to Environmental Protection.” Kluwer Copyright Blog 2024, para.1, (URL: <https://legalblogs.wolterskluwer.com/copyright-blog/copyright-upcycling-and-the-human-right-to-environmental-protection/>, accessed date: 17.11.2025).

⁴ The term upcycling was first introduced in *Salvo*, an architecture magazine, in 1994 by mechanical engineer, Reiner Pilz. See at. Calboli, I., “Upcycling, the Ongoing Battle: A (Hopeful) United States Perspective”, In. E. Izyumenko (ed.), *Intellectual Property and the Human Right to Healthy Environment*, Verfassungsbooks 2025, p.87, (URL: https://verfassungsblog.de/wp-content/uploads/2025/10/Izyumenko_IPAndTheHR2HE_2025.pdf, accessed date: 09.10.2025); “Upcycling also known as creative reuse, is the process of transforming by-products, waste materials, useless, or unwanted products into new materials or products of better quality and environmental value” See at. World Design Organization, “Upcycling”, WDO Glossary 2025, (URL:<https://wdo.org/glossary/upcycling/>, accessed date: 17.11.2025).

⁵ Mezei, P. / Härkönen, H., “Monopolising Trash: A Critical Analysis of Upcycling Under Finnish and EU Copyright Law”, *Journal of Intellectual Property Law & Practice* 2023, Vol. 18, No.5, p.361, (URL: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4316893, accessed date: 06.12.2025).

⁶ AWA Point, “Paris Court rules Hermès’ Copyright and Trademark Infringed in Upcycled Fashion Case”, 2025, (URL: <https://www.awa.com/awapoint/paris-court-rules-hermes-copyright-and-trademark-infringed-in-upcycled-fashion-case/>, accessed date: 17.11.2025).

⁷ The Business Times, “High Court Orders Instagram Seller to Pay Louis Vuitton S\$200,000 in Damages Over Counterfeit Goods”, 2025, (URL: <https://www.businesstimes.com.sg/singapore/high-court-orders-instagram-seller-pay-louis-vuitton-s200000-damages-over-counterfeit-goods>, accessed date: 17.11.2025).

⁸ The Fashion Law, “Chanel is Suing an Accessories Company Over Jewelry Made from Authentic Logo-Bearing Buttons”, 2021, (URL:<https://www.thefashionlaw.com/chanel-is-suing-shriver-duke-over-jewelry-made-from-authentic-logo-bearing-buttons/>, accessed date: 17.11.2025).

of these disputes also raise trademark related issues, such aspects fall outside the scope of this study. In the following parts of this study, the contribution of these cases to the subject of the study and their decisive role in our field of discussion will be revealed in detail. The common intersection of the cases we have mentioned is that, especially when well-known brands have clearly identifiable and distinctive patterns and elements, navigating upcycling is, so to speak, like moving through a “*legal tightrope.*”⁹ The reason for this is that, even though the products are upcycled, the protected elements of the original work or brand can still be visible. Copyright holders exercise their right to sue for unauthorized use in such cases. Our study aims not only to evaluate how the current copyright legislation is accepted or not but also to shed light on how sustainability goals, which are among the contemporary requirements that need to be integrated today, relate to copyright law.

This study consists of four parts. The first part addresses what upcycling is and how it fits into discussions about sustainability. The second part focuses on problems that matters with the intersection of copyright issues and upcycling practices. In other words, it will be shown how people can be creative with things without breaking copyright rules that protect original works. The third part examines how courts handle upcycling debates by analyzing courts views on this practice in different countries and their laws. The final part discusses the need to strike a balance between upcycling practices and copyright law and assesses how sustainability goals can be addressed within the framework of existing copyright law.

I. THE CONCEPT OF UPCYCLING

It would not be wrong to say that both the fashion and textile industries most clearly demonstrate the environmental costs arising directly from consumption. On a global scale, it has been noted that consumers “*miss out on \$460 billion worth of value each year by discarding clothes they can still wear,*” and that a garbage truck full of textiles is stored or burned every second.¹⁰ In terms of the environmental impact associated with personal consumption behavior, textile consumption is generally ranked 4th (after food, transportation, and housing) in terms of the environmental impact.¹¹ For this reason, it’s very often that we say products should not be thrown out, but rather they should be either upcycled, recovered, or repaired. The practice of upcycling has become particularly prominent in the fashion sector, but it is also seen in other creative fields such as handicrafts, visual arts, and industrial design.¹²

Upcycling is the creative process of increasing the value of waste materials to create new materials or products. It is a way to extend the life of waste and avoid wastefulness of any sort. Whether it be plastic waste, pre-consumer waste, or even food waste, upcycling sees the potential treasure in every pile of garbage. Also, it takes recycling further, while recycling mostly converts materials back into their original forms, upcycling creates products from by-

⁹ Gillet, E., “Upcycling: Ecolonomy vs. Intellectual Property”, IP Twins 2025, under the section titled “A Favourable Context for Upcycling”, para.2, (URL: <https://iptwins.com/2025/07/22/upcycling-ecolonomy-vs-intellectual-property/>, accessed date: 17.11.2025).

¹⁰ Ellen MacArthur Foundation, “A New Textiles Economy: Redesigning Fashion’s Future”, 2017, p.19, (URL: <https://content.ellenmacarthurfoundation.org/m/6d5071bb8a5f05a2/original/A-New-Textiles-Economy-Redesigning-fashions-future.pdf>, accessed date: 17.11.2025).

¹¹ Vlastelica, T. / Kostić-Stanković, M. / Rajić, T. / Krstić, J. / Obradović, T., “Determinants of Young Adult Consumers’ Environmentally and Socially Responsible Apparel Consumption”, Sustainability 2023, Vol.15, I.2, Article 1057, p. 1, (DOI: <https://doi.org/10.3390/su15021057> , accessed date: 17.11.2025).

¹² Mezei, P., “Greenifying Copyright: Economic Rights and User Flexibilities in the Context of Upcycling”, *Intellectual Property and the Human Right to Healthy Environment*, Verfassungsblog 2025, p.102, (URL: https://verfassungsblog.de/wp-content/uploads/2025/10/Izyumenko_IPAndTheHR2HE_2025.pdf.,accessed date: 17.11.2025).

products, waste materials, and unwanted items.¹³ In a nutshell, it refers to the process of decreasing waste, providing life and value to waste materials.¹⁴ Upcycling practices generally emphasize environmental and aesthetic value over profit value since the majority of added value is based on emotional or artistic quality; therefore, when a person creates a new product, that product becomes a form of expression or artistic freedom.¹⁵ The practice of upcycling, which is conceptually distinct from recycling but is often discussed alongside recycling and reuse within sustainability discourse, and which aims to prevent waste from being thrown away by extending the life of materials, is developing simultaneously with and as a result of sustainability goals as a concept. In this broader sustainability context, there are legislative and regulatory frameworks in support of the recycling process, while at the same time prohibiting the waste of unsold items. Firstly, the European Commission is targeting textiles sold in the EU market to be long-lasting and recyclable by 2030. In other words, this 2020 Circular Economy Action Plan (CEAP), which provides an inclusive framework for improving recycling and material recovery, sets goals aiming for all packaging placed on the EU market to be recyclable or reusable by 2030.¹⁶ In 2022, the Sustainable and Circular Textile Strategy which has developed an approach for the textile industry based on CEAP, aims to ensure that by 2030 all textile products placed on the market in the EU are easy to repair, long-lasting, recyclable, and made largely from recycled fibers. In other words, it emphasizes that the idea of destroying unsold or returned products does not follow a sound logic and aims to put an end to this situation.¹⁷ In addition to the regulations we have mentioned, the Ecodesign for Sustainable Products Regulation (ESPR), proposed in 2022 and coming into effect in 2024, like the other specified plans and strategies, aims toward the same goal by requiring new products to meet sustainability conditions such as being long lasting, easy to repair, and highly recyclable. At the same time, the destruction of unsold or unsalable consumer products has been banned across the EU.¹⁸

Also, an example of a country that has established a legislative framework to implement recycling programs into the circular economy is France, which established the “Law on the Fight Against Waste and the Circular Economy”¹⁹ (*AGEC Law-Anti-Gaspillage pour une Économie Circulaire*) in 2020, which prohibits the destruction of unsold consumer goods and

¹³ Calboli, (Upcycling), pp.87-88.

¹⁴ Plastic Reimagined, “Upcycling Explained: 4 Ways It Can Help the Planet”, 2025, (URL: <https://www.plasticreimagined.org/articles/upcycling-explained-4-ways-it-can-help-the-planet>, accessed date: 17.11.2025).

¹⁵ Mezei, (Greenifying), p.102.

¹⁶ “By 2030 textile products placed on the EU market are long-lived and recyclable, to a great extent made of recycled fibres, free of hazardous substances and produced in respect of social rights and the environment...” See at. European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: EU Strategy for Sustainable and Circular Textiles, COM (2022), 141 final, 30 March 2022; European Commission, Communication: A New Circular Economy Action Plan for a Cleaner and More Competitive Europe, COM (2020) 98 final, 11 March 2020, Section 3.3. “Packaging”.

¹⁷ See at. European Commission, EU Strategy for Sustainable and Circular Textiles.

¹⁸ See at. European Parliament and the Council, Regulation (EU) 2024/1781 of 13 June 2024 establishing a framework for the setting of eco-design requirements for sustainable products and repealing Directive 2009/125/EC, OJ L 2024/1781, 28.6.2024, pp.1-75, CELEX:32024R1781.

¹⁹ See at. French Parliament, Law No. 2020-105 of 10 February 2020 on the Fight Against Waste and the Circular Economy (*Loi n° 2020-105 du 10 février 2020 relative à la lutte contre le gaspillage et à l'économie circulaire*), Official Journal of the French Republic, 11.02.2020, (URL: <https://circulareconomy.europa.eu/platform/en/strategies/french-act-law-against-waste-and-circular-economy>, <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000041553759>, accessed date: 30.11.2025).

mandates the recreating and reusing of those products.²⁰ Also, in 2020, Germany amended the Circular Economy Act. (*Kreislaufwirtschaftsgesetz*) With this change, a due diligence obligation was introduced, specifically targeting e-commerce companies. This obligation prohibits the destruction of returned or unsold but still usable products. According to the updated legislation, products in stock will only be disposed of if they are unusable; otherwise, businesses are required to resell, recycle, or donate these products.²¹ Furthermore, the Netherlands, which aims to reduce primary raw material use by %50 by 2030 and to fully transition to a circular economy by 2050, has similarly adopted policies aimed at preventing and avoiding waste generation. In this context, in 2023, it regulated the obligation for textile producers to organize the collection and recycling of used textile products. At the same time, it has indicated that a direct ban on the destruction of unsold products is also on the agenda. Indeed, with a parliamentary motion adopted in 2022, they called for the enactment of national legislation in this direction and anticipated upcoming EU regulations.²²

Considering the information mentioned above, it can be said that, while many countries are establishing legal frameworks that support recycling, none of those legal frameworks specifically define or mandate that upcycling be an approved and supported practice. The current situation demonstrates that while legislative and regulatory frameworks may create some obligations for industries, there remains a great deal of legal uncertainty around the practice of upcycling and, as a result, many smaller companies are at a disadvantage to larger competitors who are providing a more significant portion of their products.²³ In fact, although these legislative and regulatory frameworks don't explicitly state or support upcycling as a separate existing practice, they can shape a regulatory environment that upcycling may give rise to. Therefore, it is especially essential that legal ethics within the scope of copyright law be reconsidered and examined in this context.

However, another significant development to mention at the EU level is the amendment made in 2025 to the Waste Framework Directive²⁴, which addresses upcycling and customized production practices. In Directive 2025/1892, which amends the Waste Framework Directive 2008/98/EC, the EU legislator foresees that the scope of new textile waste obligations should exclude independent tailors producing customized products and the first market placement of textile products derived from waste products, where some functions of the original product have been altered through repair, renewal, improvement, remanufacturing, and upcycling in order to support reuse and extend product life. In fact, Recital 22 in the Waste Framework Directive excludes upcycling-oriented transformations from extended producers' responsibility even if the original purpose of the product has changed, thereby implicitly accepting upcycling and the various forms of product transformation as a "desirable" way of customizing a product in, so to say, an environmentally friendly manner.

²⁰ Gillet, under the section titled "A Favourable Context for Upcycling", para.3.

²¹ Ecommerce News, "Germany Makes Destroying Products More Difficult", 2020, (URL:<https://ecommercenews.eu/germany-makes-destroying-products-more-difficult/>, accessed date: 30.11.2025).

²² Government of the Netherlands, "Circular Dutch Economy by 2050", (URL: <https://www.government.nl/topics/circular-economy/circular-dutch-economy-by-2050>, accessed date: 30.11.2025); Boeve, M. / Backes, J. / Veldkamp, R. / Vanden Brink, H., "Legal Options for Introducing a National Ban on the Destruction of Unsold Products and a National Right to Repair", Utrecht University Centre for Water, Oceans and Sustainability Law 2024, p.4, (<https://www.uu.nl/sites/default/files/rebo-montaigne-rapport-2024-Engels-Boeve-Backes-Veldkamp-VandenBrink-Onderzoek%20nationaal%20vernietigingsverbod%20onverkochte%20producten%20en%20reparatierecht-2.pdf>, accessed date: 30.11.2025).

²³ Gillet, under the section titled "A Favourable Context for Upcycling", para.4.

²⁴ See at. European Parliament and Council, Directive 2008/98/EC of 19 November 2008 on waste, as amended by Directive (EU) 2025/1892 of 16 October 2025, Recital 22.

In conclusion, upcycling offers a dual role in support of sustainable development; it both responds to and provides a means of achieving sustainability. Because even if people who do upcycling act in good faith, they may face the risk of a claim of rights and infringement regarding the product they recreate.²⁵ In this case, if an upcycled product contains a copyrighted pattern, image, or a trademarked logo, from a legal perspective, it falls within the exclusive domain of the rights holder. In such situations, rights holders often resort to legal action, claiming that their protected elements have been reused without their consent.

II. COPYRIGHT ISSUES ARISING FROM UPCYCLING

The evaluation of the upcycling application in terms of copyright law is related to the examination of how the rights of reproduction, adaptation, and distribution, as set forth in the EU's Directive 2001/29/EC (InfoSoc Directive)²⁶, are interpreted. Because upcycling requires changing the original design and structure of a finished product and then producing a second or new version of that product, there is an inherent conflict between the copyright, which protects the ideas and intentions behind a particular piece of art or work of authorship, versus the rights of property owners to use their own creations in whatever way they deem fit. Article 2 of the InfoSoc Directive regulates the right of reproduction, Article 3 regulates the right of making available to the public, and Article 4 regulates the right of distribution. In this case, the nature of the transformation process determines which of these rights is being violated. Firstly, the main question here is whether upcycling is considered "creating a new copy" or merely "transforming an existing copy", which is an important point to analyze. At first glance, it can be said that the exhaustion doctrine actually serves as a protective "shield" for upcycles. Article 4(2) of the Directive foresees that "*once a copy of a work has been put on the market by the rights holder or with their consent, the distribution right over that specific copy is exhausted.*" In other words, if the first sale occurs with the permission of the copyright holder, then the subsequent sale of that copy will not be considered a copyright infringement. Since upcycled products are generally obtained through legal means, at first glance, there seems to be no problem in this situation. However, the real question that needs to be asked, as we mentioned, is whether the product resulting from upcycling is considered identical to the original copy or a new copy. If it is accepted as a new copy, then under the current regulation, the copyright owner's reproduction right will come into play, and the exhaustion doctrine will not apply. As will be seen in the cases, which will be explained in detail in the later parts of the study²⁷, it has been stated that the physical medium of the copies of works resulting from upcycling can no longer be considered within the scope of the exhaustion doctrine. In other words, it has been decided that material transformation ends the exhaustion right. By examining these decisions, it will be seen that defending upcycling based on the exhaustion doctrine in EU practice is practically quite difficult. However, on the other hand, such a restrictive interpretation of the exhaustion doctrine is criticized in the doctrine. Even if a material transformation occurs, it is argued that the application of the exhaustion doctrine should not automatically be eliminated in cases where the upcycled product has been acquired legally and the rights holder has already received economic compensation from the initial sale. With this point of view, it is believed that the application of the exhaustion doctrine must be reviewed and reinterpreted with respect to the demands of the current era, including both societal and specifically sustainable

²⁵ Gillet, under the section titled "A Favourable Context for Upcycling", para.4.

²⁶ See *at*. European Parliament and Council, Directive 2001/29/EC of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, OJ L 167, 22.6.2001, p. 10–19.

²⁷ For detailed information, see the section III entitled "Judicial Approach Against Upcycling", below.

practices.²⁸ Based on this perspective, the question to be asked isn't about the existence of a transformation, but whether the transformation made truly emerges as a new and independent expression. If the resulting product doesn't contain a new expression that is legally protectable and essentially remains the same copy lawfully obtained, it should be accepted that the doctrine of exhaustion must be applied.

Secondly, these assessments are also valid in terms of copyright exceptions. Article 5 of the Directive provides for a limited exception and neither the Directive nor the laws of the member states include exceptions related to upcycling or transformation aimed at sustainability goals. The quotation exception in Article 5(3)(d) of the Directive stipulates that the quotation must be made "*to the extent required by the purpose*" and that a "*dialogue of ideas*" must be established with the original work. In this case, it is necessary to briefly mention the Pelham case. In the Pelham case, it was established that even a two second sample would not be considered a quotation because the new work doesn't establish a dialogue with the original.²⁹ This ruling is particularly important because elements used in upcycling practices similarly do not establish any critical, interpretative, or expressive relationship with the original work, so the criteria set forth in Pelham are directly applied by analogy. Therefore, since upcycling typically lacks a critical, interpretative, or expressive purpose, the quotation exception cannot be applied.³⁰

Thirdly, the pastiche exception may be the exception that appears to be closest to upcycling. Pastiche refers to the creation of a new whole by combining elements from different works.³¹ The Court of Justice of the European Union (CJEU) has not yet issued a definitive ruling on the scope of pastiche.³² Therefore, for now, it is quite difficult for upcycling to benefit from the existing exceptions within the EU copyright system. However, it can be said that if the CJEU interprets pastiche broadly, upcycling could also be included in it.³³ When trying to establish a connection from the perspective of upcycling, the practice involves combining different materials and motifs to produce new ones. For this reason, it can be also argued that upcycling could be considered within the scope of the pastiche exception.

As a result, in light of the statements made, it is seen that upcycling needs to be reconsidered in line with sustainability goals. The creative re-functionalization of something that has been released and sold with the permission of the rights holder should not be considered as creating a new copy, provided that it doesn't harm the economic value of the work. This means that a more liberally and flexibly interpreted exhaustion doctrine should be developed. By developing this way, we will also allow for new types of practices that are in line with our current sustainability objectives.

²⁸ Mezei / Härkönen, pp.365-366; Mähönen, J., "Financing Sustainable Market Actors in Circular Economy", University of Oslo Faculty of Law Legal Studies Research Paper Series No. 2018-28, pp.15-16, (URL: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3273263, accessed date: 06.12.2025); Calboli, I., "Pushing a Square Pin into a Round Hole? Intellectual Property Challenges to a Sustainable and Circular Economy, and What to Do About It?", International Review of Intellectual Property and Competition Law 2024, Vol.55, p.238, (URL: <https://doi.org/10.1007/s40319-024-01431-1>, accessed date: 06.12.2025).

²⁹ Mezei, (Greenifying), p. 105; Izyumenko, under the section titled "Copyright Exceptions: Quotation and Pastiche", para.1.

³⁰ Izyumenko, under the section titled "Copyright Exceptions: Quotation and Pastiche", para.1.

³¹ See full definition at Oxford Learner's Dictionaries, "Pastiche", (URL: <https://www.oxfordlearnersdictionaries.com/definition/english/pastiche?q=pastiche>, accessed date: 07.12.2025).

³² Mezei, P. / Jütte, B.J. / Sganga, C. / Pascault, L., "Oops, I Sampled Again... the Meaning of "Pastiche" as an Autonomous Concept Under EU Copyright Law", International Review of Intellectual Property and Competition Law 2024, Vol.55, p.1241. pp.1225-1256; Izyumenko, under the section titled "Copyright Exceptions: Quotation and Pastiche", para.2.

³³ Izyumenko, under the section titled "Copyright Exceptions: Quotation and Pastiche", para.2.

III. JUDICIAL APPROACH AGAINST UPCYCLING

Courts in different parts of the world tend to rule that upcycled products, which clearly contain protected elements, infringe IP rights unless the copyright holder's permission is obtained. In other words, courts are actually quite "wary" of upcycling.³⁴ Both in terms of copyright, meaning the acceptance of the work as a new copy, and in terms of trademark rights, meaning the creation of confusion in the consumer associating it with the original brand; the common view accepts that upcycling carries legal risks.³⁵ As will be seen in the cases examined below, in fact, the core rationale underlying judicial decisions: most judges state that upcycling itself isn't actually prohibited, but the real prohibited situation here is the unauthorized commercial use or reproduction of protected elements. According to this view, if the registered trademark or the part of the work on the old material isn't left visible during the use of that material, there will be no problem. The issue is claimed to be the unauthorized use by exploiting the "appeal" of the element protected by copyright law itself. However, it should be noted that although the current legal framework usually rules in favor of protecting the rights holder in such cases, such a strict application is being questioned in terms of sustainability goals. The case examples discussed below concretely demonstrate this judicial approach. When we look at these example cases, we understand that a complex picture is valid. Within the EU, it is seen that the Allposters and Finland decisions strictly limit upcycling. However, on the other hand, some foreign cases have also resulted in decisions in favor of upcycling. What is noteworthy, is the "reckless" use of power by luxury brands through trademark rights. Nowadays, the copyright system has not fully adapted to this new development, and as can be understood from the cases, the general trend in litigation is for rights holders to broadly interpret existing regulations to create a narrow space for upcycling. Against this background, the analysis in this part, proceeds primarily from a copyright law perspective; however, since upcycling related disputes are frequently litigated through trademark law, certain trademark based cases are also examined in order to better understand the judicial approach of upcycling practices. That's why, to understand the basis of this so to say "cautious" judicial approach, particularly in relation to copyright, it is necessary to recall how courts have interpreted the concepts of reproduction and exhaustion in situations involving the transformation of protected works.

Although not directly related to upcycling, Art & Allposters ruling in 2015 can be considered as guiding in terms of the fundamental issue in our study.³⁶ In the case, a company transferred images of famous paintings from paper posters onto canvas using a special chemical process and sold them. The CJEU accepted that the poster copies created were legally obtained. However, it ruled that transferring the image of the work to a new entity/being constitutes a new reproduction of the work and that this situation cannot be evaluated within the scope of redistribution of a copy whose first sale has already taken place.³⁷ In other words, in this case, the Court decided that changing the "existence" of a copy of the work (transferring the poster onto canvas in this case) means creating a new copy, and in this case, the distribution right of the copyright holder isn't exhausted.³⁸ Even though, the ruling isn't a classic example of

³⁴ Gillet, under the section titled "Other Case Law: Toward a Consistent Judicial Trend", para. 1.

³⁵ Gillet, under the section titled "Other Case Law: Toward a Consistent Judicial Trend", para. 1.

³⁶ *See at.* Court of Justice of the European Union, Case C-419/13, Art & Allposters International BV v Stichting Pictoright, ECLI:EU:C:2015:27, (URL: <https://curia.europa.eu/juris/liste.jsf?num=C-419/13>, accessed date: 01.12.2025).

³⁷ Izyumenko, under the section titled "Copyright Exhaustion", para. 1.

³⁸ Sasserath, O., "Allposters ECJ Decision: No Exhaustion of Rights in Modifications of Copyright Work", Kluwer Copyright Blog 2015, para. 7, (URL: <https://legalblogs.wolterskluwer.com/copyright-blog/allposters-ecj-decision-no-exhaustion-of-rights-in-modifications-of-the-copyright->

upcycling, it constitutes an important example related to upcycling. Because in most upcycling practices, the material form and purpose of use of an item are changed. In light of the case, using copyrighted content in a new form while reprocessing a product can be considered not as putting the original copy back into circulation but as producing a new copy. This shows that the “exhaustion of distribution rights from the first sale” defense may be invalid for upcycled products.³⁹ Also, this understanding provides a conceptual background that enables a clearer evaluation of subsequent judicial approaches explicitly addressing upcycling practices.

A. Finnish Tableware Jewelry (FCC-2021)

This incident shows how the reasoning expressed in *Art & Allposters* later reemerged in discussions about upcycling practices. In the review by the Finnish Copyright Council (FCC)⁴⁰, the upcycler artist revalued broken plates and cups produced by the company by making necklaces and earrings through the upcycling application. These broken plates and cups have fruit and flower patterns in different shapes and colors on them, and the FCC stated that these decorations exceeded the originality threshold and that the company protects these patterns with copyright. The main legal issue in this incident was whether the distribution right in the tableware protected by copyright was violated by the artist’s upcycling application or whether the exhaustion doctrine would apply. Although the company stated that it had a positive approach to the upcycling approach, it expressed that it would not allow commercial jewelry to be made with its protected rights.⁴¹ Thus, it claimed that the broken pieces would no longer be an original copy and that a change had been made to their existence, and therefore they were released to the market in a new form. The FCC majority decided that the porcelain pieces used as central elements of the jewelry contained decorative elements protected by copyright and therefore could not be considered “new and independent works”. It stated that the exhaustion doctrine could not be applied based on the CJEU’s *Art & Allposters* decision. However, the opposing opinion emphasized that the fundamental logic of upcycling was ignored and stated that unlike in the *Art & Allposters* case, this involved the reuse rather than the reproduction of the underlying works.⁴² According to the opposing view, jewelry are physically identical objects sold for the first time with the consent of the rights holder, and with being broken and rendered unusable for their original purposes doesn’t change the fact of exhaustion of the distribution right.⁴³ With upcycling, the lifespan of these objects has been extended, and circular economy has been promoted by giving new commercial value to products generally considered worthless or as waste through innovative methods. The opposing view also stated that the use of broken plate and cup pieces isn’t inherently included in the author’s economic rights and emphasized that priority should be given to environmental protection and sustainable development under Article 37 of the EU Charter of Fundamental Rights, stating that this is an important issue related to the interpretation of legislation that either hinders or promotes the circular economy.⁴⁴

[work/#:~:text=In%20relation%20to%20the%20second,exhaustion%20of%20the%20distribution%20rights,](#)
accessed date: 01.12.2025).

³⁹ Izyumenko, under the section titled “Copyright Exhaustion”, para. 1-2.

⁴⁰ *See at.* Tekijänoikeusneuvosto (Finnish Copyright Council), Opinion 2021:9 – Astiakorut ja tekijänoikeus,(URL: <https://okm.fi/documents/1410845/62222200/Lausunto+2021-09+Astia+korut+ja+tekij%C3%A4noikeus.pdf/e088e0c2-84d1-1f1b-ef89-404330f201d4/Lausunto+2021-09+Astia+korut+ja+tekij%C3%A4noikeus.pdf?version=1.1&t=1643965408749>, accessed date: 02.12.2025).

⁴¹ Mezei / Härkönen, p.361; Mezei, (Greenifying), pp.104-105.

⁴² Mezei / Härkönen, pp.362-363; Mezei, (Greenifying), p.105.

⁴³ Mezei / Härkönen, p.362.

⁴⁴ Mezei / Härkönen, p.362.

In a significant number of disputes related to upcycling, especially in cases involving luxury brands and visible brand identifiers, trademark law also has served as a legal framework.

B. Chanel v. Shiver & Duke (USA-2021)

One of the famous examples related to the upcycling application is the lawsuit filed by the Chanel brand against a small jewelry company named Shiver & Duke based in Atlanta.⁴⁵ Shiver & Duke took the original design buttons and logoed accessory pieces found on Chanel's vintage clothing, create and sold jewelry such as necklaces and earrings from them. Despite the Shiver & Duke's upcycling defense, Chanel claimed that this activity infringed on its trademark rights. The lawsuit was settled between the parties in 2022. Shiver & Duke agreed not to sell jewelry using Chanel's logo and buttons. The court stated that despite the upcycling claim, Shiver & Duke had infringed on trademark rights, engaged in unfair competition and diluted the trademark.⁴⁶ The use of Chanel's trademarks, such as the famous double C logo, on new products would still create the impression among consumers that there is an official connection with the Chanel brand regarding these newly created products, and that Chanel's brand value was also being exploited.⁴⁷

C. Hermès International & Hermès Sellier v. Maison R&C, Atelier R&C and Géraldine Lugassy Demri (France – 2025)

Hermès filed suit against Maison R&C and Atelier R&C and their manager, Géraldine Lugassy Demri⁴⁸, alleging that they infringed upon both Hermès' trademark and copyright by producing jackets from pieces cut from famous silk scarves, which also had the Hermès logo printed on them. The defendants contended that they had acquired the scarves legitimately, and as such provided a basis for the application of the doctrine of exhaustion of rights.⁴⁹ Nevertheless, the Court determined that, while the defendants had lawfully obtained the scarves, the jackets as produced from the scarves through upcycling had included decorative

⁴⁵ See *at*. United States District Court Southern District of New York, Chanel, Inc. v. Shiver and Duke LLC et al, No.1:2021cv01277-Document 34 (S.D.N.Y. 2022), (URL: <https://law.justia.com/cases/federal/district-courts/new-york/nysdce/1:2021cv01277/554187/34/#:~:text=back%20letter%20Cs%20,1%29%20trademark>, accessed date: 02.12.2025).

⁴⁶ Calboli, I., "Upcycling, Sustainability, and IP: What It Means for the World of Fashion", WIPO Magazine 2023, under the section titled "Chanel Inc. v. Shiver + Duke LLC", para. 1-4, (URL: <https://www.wipo.int/en/web/wipo-magazine/articles/upcycling-sustainability-and-ip-what-it-means-for-the-world-of-fashion-56361#:~:text=Notably%20in%20February%202021%20Chanel.upcycled%20Shiver%20%2B%20Duke%20products>, accessed date: 02.12.2025).

⁴⁷ Gillet, under the section titled "Other Case Law: Toward a Consistent Judicial Trend", para. 1-2.

⁴⁸ See *at*. Tribunal Judiciaire de Paris, Hermès International & Hermès Sellier v. Maison R&C, Atelier R&C ve Géraldine Lugassy Demri, 10 April 2025, No. 22-10720, (URL: https://cdn.prod.website-files.com/601987a724bdae251872ed2c/682371ab47c5a7cbfcb5bfee_TJ%20Paris%2C%2010%20avril%202025%2C%20n%C2%B022-10720.pdf, accessed date: 04.12.2025).

⁴⁹ Fashion Law Journal, "Hermès v. Maison R&C — Stitching a Precedent for Sustainable Fashion", under the section titled "The Facts: Hermès v. Maison R&C", (URL: <https://fashionlawjournal.com/hermes-v-maison-rc-stitching-a-precedent-for-sustainable-fashion/#:~:text=Maison%20R%26C%20denied%20any%20infringement,over%20their%20resale%20had%20ended>, accessed date: 04.12.2025).

elements protected by copyright⁵⁰, together with the prominent use of the Hermès logo, which had resulted in infringement of copyright, trademark, and unfair competition.⁵¹ Therefore, it can be argued that this case establishes that artistic design isn't accepted as a legitimate justification. The court also stated that claims related to "creative expression" or "environmental" purposes were not sufficient to mitigate the severity of the trademark and copyright infringements committed by the defendants. Therefore, it is evident that neither artistic nor environmental considerations were given precedence over IP rights.⁵²

D. Louis Vuitton Malletier v. Sandra Ling Designs (USA-2021) & Louis Vuitton Malletier v. Ng Hoe Seng (Singapore-2025)

In this lawsuit filed by Louis Vuitton Malletier S.A.S., it was alleged that Sandra Ling Designs produced new accessories such as phone cases and card wallets by dismantling genuine and second-hand LV bags, clothing, and other products, and that these products were visibly sold with the LV logo.⁵³ LV stated that the created products did not meet the brand's quality standards, that their original products were altered, and that their brand reputation was harmed by misleading consumers. Although the first sale doctrine defense was made in the case, the parties settled in 2022. As a result, Sandra Ling Designs, despite claiming to do upcycling, agreed to pay damages and to cease sales.⁵⁴

Also, in the 2025 case happened at the Singapore High Court, LV filed a lawsuit against Ng Hoe Seng, who operates under the name "Emcase SG" on social media.⁵⁵ Similarly, as in the Louis Vuitton Malletier v. Sandra Ling Designs case, LV claimed that Emcase SG infringed on its trademark rights by creating products using materials bearing the genuine LV logo. Emcase SG's defense was that these products were actually "original upcycled products". However, according to the court's assessment, the defense of "original upcycled products" relied on the reputation of the LV brand, and therefore, it was ruled that there was a strategy to gain unfair profit.⁵⁶

⁵⁰ Stravinskaite, L., "Paris Court Rules Hermès' Copyright and Trademark Infringed in Upcycled Fashion Case", Lexology 2025, (URL: <https://www.lexology.com/library/detail.aspx?g=a9834e0a-dc35-483f-9163-2b184adf59c9>, accessed date: 04.12.2025).

⁵¹ Dreyfus, N., "Upcycling of Jackets Made From Hermès Second-Hand Scarfs", Dreyfus 2025, (URL: <https://www.dreyfus.fr/en/2025/08/08/upcycling-of-jackets-made-from-hermes-second-hand-scarfs/>, accessed date: 04.12.2025).

⁵² Gillet, under the section titled "Spotlight on the "Hermès judgment by the Paris Judicial Court, April 10, 2025", para.2.

⁵³ See *at*. United States District Court for the Southern District of Texas Houston Division, Louis Vuitton Malletier S.A.S. v. Sandra Ling Designs, Inc. et al, No. 4:2021cv00352 – Document 34 (S.D. Tex. 2021), (URL: <https://law.justia.com/cases/federal/district-courts/texas/txsdce/4:2021cv00352/1813439/34/>, accessed date: 04.12.2025).

⁵⁴ Calboli, (Fashion), under the section titled "Louis Vuitton Malletier S.A.S v. Sandra Ling Designs, Inc.", para.1-5.

⁵⁵ See *at*. The High Court of the Republic of Singapore, Louis Vuitton Malletier v Ng Hoe Seng (2025) SGHC 122, (URL: https://www.elitigation.sg/gd/s/2025_SGHC_122, accessed date: 04.12.2025).

⁵⁶ Chen, K., "Singapore High Court's Take on Trade Mark Infringement Arising from "Upcycled" Products," Marks & Clerk Insights 2025, (URL: <https://www.marks-clerk.com/insights/latest-insights/102kv3g-singapore-high-court-s-take-on-trade-mark-infringement-arising-from-upcycled-products/#:~:text=In%20essence%2C%20NHS%20sold%20his,the%20High%20Court%20held%20that>, accessed date: 04.12.2025).

When considered collectively, these conflicts show how upcycling practices have been severely restricted by trademark law, especially in cases where luxury brands employ obvious brand identities to claim control over secondary product modifications.

E. Hamilton v. Vortic (USA-2021)

Contrary to the decisions considering upcycling mentioned above as an infringement, surprisingly, this decision ruled in favor of upcycling.⁵⁷ Hamilton International, a part of the Swatch Group, claimed forgery and trademark infringement because the small watch company Vortic upcycled parts of antique Hamilton brand watches and placed them into modern wristwatch cases for sale. The court found that Vortic provided full disclosure about the transformation process in its advertisements, marketing materials, and on the watch itself, and decided that there was no possibility of consumer deception. The court accepted the clear view of “Vortic Watch Co.” on the watches and the signed certificate of authenticity as sufficient explanation.⁵⁸ It also emphasized that the target audience consisted of sophisticated buyers who purchase expensive custom watches and would therefore pay attention to the information provided. The decision demonstrated that original brands could be used on restored products if full transparency and consumer information conditions are met, thereby strengthening the legal legitimacy of upcycling practices in the USA.⁵⁹ This example of an “upcycling victory” can be said to highlight the importance of user transparency in legal conflicts involving famous brands.

F. Marimekko / Tori.fi (Finland-2024)

While no legal action was taken related to it, Marimekko / Tori.fi incident worth discussing because it also illustrates how designer copyrights can conflict with product sustainability. Marimekko was the Finnish textile company that attempted to stop designers from advertising free dresses made from Marimekko’s outdated material for sale through online platforms. To explain in short, in 2024, a dress made from an old Marimekko tulle curtain was created by Elli Leppä for sale on the Tori.fi website, which resulted in Marimekko viewing the sale as a violation of their copyright and subsequently removing the dress from the website. A lawsuit was not initiated between the two parties. Concerning the exhaustion doctrine, several legal scholars believe that creating a new item from previously acquired legal materials and selling it doesn’t violate the rights of the original creator per the exhaustion doctrine. According to copyright law, the first sale right over a product made from legally acquired fabric can be considered exhausted, and this product can be sold⁶⁰; however, Marimekko’s interpretation limits this right. This event demonstrates the uncertainty surrounding transforming and selling copyright protected items legally.

⁵⁷ See *at.* United States Court of Appeals for the Second Circuit, *Hamilton International Ltd. v. Vortic LLC*, No.20—3369 (2nd Cir.2021), (URL: <https://law.justia.com/cases/federal/appellate-courts/ca2/20-3369/20-3369-2021-09-14.html>, accessed date:05.12.2025).

⁵⁸ Ghajar, B., / Roumiantseva, D., “Upcycled goods: Considering when restoration crosses into infringement” *IPWatchdog* 2022, under the section titled “Repurposed Antique Watches Pass the Test”, (URL: <https://ipwatchdog.com/2022/03/26/upcycled-goods-considering-restoration-crosses-infringement/>, accessed date: 05.12.2025).

⁵⁹ Ghajar / Roumiantseva, under the section titled “Repurposed Antique Watches Pass the Test”.

⁶⁰ Mezei, P., “Online Platforms and Upcycling – Are Platforms Entitled to Take Down Upcycled Products?”, *IPRinfo* 2024, para.4, (URL: <https://iprinfo.fi/artikkeli/online-platforms-and-upcycling-are-platforms-entitled-to-take-down-upcycled-products/#:~:text=it%20is%20again%20Finland%2C%20where.copies%20of%20copyrighted%20materials%20shall>, accessed date: 06.12.2025); Mezei / Härkönen, pp. 360-361.

IV. THE NEED TO FIND A BALANCE BETWEEN UPCYCLING AND COPYRIGHT

Sustainability and copyright law often seem to represent different interests: sustainability emphasizes the benefits of the environment and future generations, the public good, while copyright law protect the interests of individual creators/brand owners. However, these should not be thought of as a strict division; because today, in many areas of law, there is an approach to balancing fundamental rights.⁶¹ Within the framework of current copyright law regulations, the fact that upcycling practices are mostly considered violations is clearly incompatible with the EU's sustainability goals such as product reuse, extending product life cycles, circular economy, and waste reduction.⁶² Since copyright law is still predominantly based on a linear production-consumption model, in other words, adhering to "old time regulations", creative reuse practices are generally seen as a legal risk area within this system.⁶³ For this reason, the increasingly prevalent view is aimed at making copyright law more compatible with environmental goals. In doctrine, a new approach called like "ecological fair use" is discussed from this perspective, advocating for the introduction of a special exception model to prevent environmentally beneficial practices like upcycling from being automatically considered violations.⁶⁴ In other words, the goal is to establish a balanced and predictable relationship between copyright and sustainability goals. The establishment of this relationship between copyright and sustainability goals can also be examined through the proposed solutions aimed at reconciling it with upcycling practices. These can be described as internal and external reconciliation mechanisms.⁶⁵ Internal reconciliation means reinterpreting existing copyright doctrines and exceptions in line with environmental protection goals, while external reconciliation involves the application of human rights law to balance copyright with the fundamental right to a healthy environment. The first mechanism includes evaluating upcycling activities under the right of distribution instead of the right of reproduction, thereby allowing the application of the exhaustion doctrine.⁶⁶ In this approach, for example, discarded or broken items, when transformed into new products, are accepted as the same physical materials being reused rather than reproduced. In other words, no new copies are created; only the original tangible objects are repurposed. To give an example, when a broken porcelain dinner set is turned into jewelry, the decorated pieces remain the same physical objects initially released to the market with the rights holder's consent; they are only given a new form and their life cycles are extended.⁶⁷ Regarding the pastiche exception, this context may also seem particularly promising because upcycling inherently involves combining different styles and materials to create something new from a patchwork.⁶⁸ However, this approach also depends on courts broadly interpreting these exceptions, which indeed remains uncertain. The second mechanism

⁶¹ Izyumenko, under the section titled "A Solution? The Human Right to a Healthy Environment", para. 2.

⁶² Pihlajarinne, T., "Repairing and Re-Using from an Exclusive Rights Perspective – Towards Sustainable Lifespan as Part of a New Normal?" Rognstad, O-A. & Berg Ørstavik, I. (eds.), *IP and Sustainable Markets*, Edward Elgar Publishing 2021, p.86, (URL: https://books.google.hu/books?id=hXA4EAAAQBAJ&printsec=frontcover&hl=tr&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false, accessed date: 06.12.2025).

⁶³ Pihlajarinne, p.99; Calboli, (Sustainable), pp. 237-238; Mähönen, pp.15-16.

⁶⁴ Gillet, under the section titled "The Irrelevance of Good Intentions Without Intellectual Property Consideration", para.1.

⁶⁵ Izyumenko, under the section titled "A Solution? The Human Right to a Healthy Environment", para. 1.

⁶⁶ Izyumenko, under the section titled "How to Reconcile Copyright with the Human Right to a Healthy Environment? - Internal Reconciliation", para. 1-2.

⁶⁷ Mezei / Härkönen, p.363.

⁶⁸ Izyumenko, under the section titled "Copyright Exceptions: Quotation and Pastiche", para. 1-2.

accepts that upcyclers, whose practices have been unfairly restricted due to copyright reasons when environmental protection matters are not incorporated into the internal mechanisms of copyright law by the courts, should have the right to claim that such restrictions violate human rights related to a healthy environment.⁶⁹ Courts need to assess copyright related restrictions on upcyclers property rights or freedom of commercial activity in light of the human right to a healthy environment, as set out in Article 37 of the EU Charter of Fundamental Rights and increasingly recognized in international law. The increasing acceptance of environmental rights, such as the United Nation’s recognition in 2021 of the right to live in a healthy environment and recent decisions by the European Court of Human Rights (ECHR) relating to climate change obligations, provide even stronger bases from which to adopt environmentally friendly interpretations of copyright law through regulation and interpretation processes.⁷⁰ Additionally, these approaches are consistent with both Article 11 of the Treaty on the Function of the European Union and Article 3(3) of the Treaty on the European Union, both of which require that EU Member States partake in integrating the protection of the environment into their policymaking as well as to work towards promoting sustainable development.⁷¹ That’s why, the ultimate goal is to establish a reasonable equilibrium between copyrights and environmentally friendly practices, not to eliminate copyrights entirely. It should be seen that most upcyclers are not competitors producing on a large scale; their activities are usually limited to a niche market and an environmentally conscious audience. Therefore, it would be appropriate for the law to also make “room” for them when they do not pose a serious threat to the economic interests of copyright holders. If copyright law doesn’t allow for this accommodation of upcyclers, society may increasingly view copyright as an obstacle to “green transformation”.⁷²

CONCLUSION

Copyright must be re-evaluated based on sustainability goals that goes in sync IP protection systems with green practices. Upcyclers face copyright and trademark issues under current law because they are often blocked by copyright or trademark exclusivity; however, there are ways to allow for flexibility in the interpretation of how we create the rules of copyright law to allow upcycling, a place in the marketplace. Additionally, adaptations to existing rules and principles can allow for effective practice without the need to wait for legislation to implement new laws regarding upcycling as judicial bodies can take the lead by creating flexibility in existing rules and principles to meet the needs of today’s market. However, as they create flexibility in the interpretation of existing rules, they must protect the rights of copyright owners to have their IP protected and prevent consumers from being misled or deceived. How to achieve this balance between the right to IP protection and sustainability goals will require granting reasonable scope to both groups. One example of how to accomplish this would be to allow upcycling activities to occur within established limits, while still upholding other fundamental interests of rights holders. While this may sound difficult, it isn’t out of reach. Referring to Europe specifically, the long-standing tradition of rights judgments at both the EU level and the ECHR level promotes achieving this balance within the system. In conclusion, if a sustainable future is aimed for, copyright and IP law in general must also be part of this goal. In today’s world where the circular economy is gaining importance, it is expected that the law evolves to encourage

⁶⁹ Izyumenko, under the section titled “How to Reconcile Copyright with the Human Right to a Healthy Environment? - External Reconciliation”, para.1.

⁷⁰ Izyumenko, under the section titled “A Solution? The Human Right to a Healthy Environment”, para.2.

⁷¹ Mezei / Härkönen, p.365.

⁷² Mezei, (Greenifying), p.105-107.

innovative ideas rather than hinder them. Both the environment and culture will benefit from the inclusion of creative reuse methods such as upcycling in the IP framework. In this way, the false perception of opposition between IP rights and sustainability will be broken; “green” innovation will become a partner, not an enemy, of copyright. Courts and legislators in Europe are in a position to lead this transformation. Greening copyright law has now become a practical necessity rather than a theoretical wish. If the relevant authorities take bold steps, it will not be difficult in the future for activities like upcycling to be seen not as “infringement” but as a creative and socially beneficial form of reproduction. Thus, a balance can be established where what is right for the environment isn’t wrong for the law, and transforming the old to create new value can be accepted as a path that doesn’t contradict innovation, the purpose of IP, but rather makes it sustainable.