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How courts are drawing the line on luxury upcycling: a voyage across three jurisdictions

Reselling an original luxury product is generally protected, but what happens when a company dismantles it, rebuilds it into a new commercial product, and continues to use the original brand's marks? Mustafa Qazi outlines recent court decisions in China, South Korea, and France that draw clearer legal boundaries around luxury upcycling.



Mustafa Qazi

“The real dividing line is not upcycling itself. It is commercial circulation versus owner-retained personal use.”

Upcycling has become one of fashion's favorite words. It sounds virtuous, sustainable, and creative. Rework something old into something new, and you keep it out of landfill while making a fresh design statement. But over a little more than a year, courts in China, South Korea, and France have all been asked the same underlying question. Does taking apart a genuine luxury item and turning it into something else give you the right to keep using the original brand's name, its marks, and in some cases the copyright attached to it? Four separate rulings across three countries now answer that question, drawing a clearer line than many upcyclers expected.

Let's sail from east to west, port by port, and see what each case says.

First port: China

We drop anchor first in Hangzhou. The case involves Shenzhen Bangtu Cultural Media Co., Ltd., a company that acquired pre-owned Louis Vuitton bags, dismantled them, and reassembled the materials into altered handbags, which were sold through online platforms. Louis Vuitton took the matter to the Hangzhou Intermediate People's Court,

arguing that Bangtu's practices went beyond the lawful resale of second-hand goods and amounted to unauthorized commercial use of its trademarks on materially altered products, undermining Louis Vuitton's control over the origin, quality, and market attribution of the goods sold under its marks.

Bangtu framed the business as circular reuse. But the resulting products retained Louis Vuitton trademarks prominently on the exterior, identical or highly similar to those registered in Class 18 for handbags and related goods, while Bangtu's own labels were confined to interior placements or zipper hardware, insufficient to displace the original trademarks' function as indicators of origin.

The court sided fully with Louis Vuitton. It treated the trademarks as legally protected indicators of commercial origin and quality, not decorative remnants of recycled materials, and found that trademark protection is not confined to the moment of sale or to the immediate purchaser's understanding. It extends to how goods are perceived throughout their circulation, including by third parties encountering them in everyday use.

On exhaustion, the court accepted the

general principle but drew a firm boundary around it. Exhaustion presupposes continuity between the goods placed on the market by the trademark owner and those subsequently resold. Once a product is dismantled and materially altered, that continuity is broken. Even genuine Louis Vuitton materials could not save the defense, because the resulting products differed substantially in form, composition, and overall presentation.

Quality control was central to the reasoning too. The altered bags were produced outside Louis Vuitton's manufacturing processes and technical standards, and the court reaffirmed that quality control is a core function of trademark law. The court left only a narrow door open for lawful reuse. Lawful reuse requires a clear separation from the original trademark association. This entails removing or obscuring the original trademarks and ensuring that any reworked products are clearly and prominently branded under the reworking party's own marks.

The remedy reflected the finding seriousness. The court ordered the defendant to cease sales of the infringing goods, destroy any remaining inventory, publish a corrective statement, and pay substantial compensation to Louis Vuitton.

Second port: South Korea

We sail on to Seoul, and the waters shift. A tailor named Lee Kyung-han spent years, between 2017 and 2021, accepting authentic, often worn-out luxury bags, and in this case Louis Vuitton bags, from customers and refashioning them into smaller items like wallets and clutches for a fee. Two lower courts sided with Louis Vuitton, treating the reworked pieces as new goods that constituted unauthorized trademark use, and awarded damages before the case was overturned.

The Supreme Court reversed both. It held that if a product owner alters or upcycles a genuine, branded item for personal use and does not offer it for sale or circulate it in the market, the act does not constitute "trademark use" and therefore cannot be an infringement. It extended that protection to the person doing the work, reasoning that since an owner has the right to personally reform their property, they must also be free to seek assistance from technical experts to exercise that right.

Critically, Kyung-han's finished pieces went back to the customers who owned the originals. Nothing entered general circulation or was sold to the public. But the court did not hand out a blanket exemption. It warned that infringement could still occur

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if a provider mass-produces upcycled items or leads the design process to sell them as their own branded line in the marketplace. It set out factors for future cases to weigh, including where the refashioning request originated and what it involved; who had final decision-making authority over the product's purpose; form and quantity; the source of the materials used and the proportion they account for in the finished product; and ownership of the items. The case has been sent back down for further proceedings, so this question is not yet fully resolved.

Third port: France

This port holds two Paris Judicial Court rulings, roughly a year apart.

Hermès v. Maison R&C

Here, scarves replace bags. This is the only one of the four disputes that combines trademark with copyright. Maison R&C and its sister label Atelier R&C built a business around taking vintage Levi's denim jackets and customizing them with decorative patches cut from Hermès silk scarves, with clients able to select different scarf designs and customize the placement and style of the patches. Some of those patches contained the word "Hermès" woven into the fabric of the original scarf.

Hermès sent a cease-and-desist letter in 2021, and when the business continued regardless, it sued for copyright and trademark infringement, as well as unfair competition. The court sided with Hermès on every count. On originality, it confirmed the scarf designs were protected creative works. On exhaustion, it held that incorporating Hermès's copyright-protected scarves into denim jackets constituted a change of medium or form compared to the original product and therefore precluded copyright exhaustion.

The trademark findings were just as strict. The court found infringement on the denim jackets bearing the Hermès word mark, cut from the original scarves and sewn onto the jackets. Removing the name did not help either. The defendants could not prove the scarves had entered the EEA (European Economic Area) through an authorized Hermès sale, so they had no basis to claim exhaustion. Their referential use defense failed for the same underlying reason: the Hermès mark was no longer used solely to identify the original scarves but had become part of Maison R&C's own product branding.

The court quickly dismissed the environmental argument. The court found that the defendants' primary motive was commercial, not creative or ecological.

Damages were modest, but the precedent mattered far more than the sum.

Chanel v. Kamad Reworked

A year later, the same court applied similar reasoning to jewelry and accessories. Kamad Reworked sold necklaces, bracelets, belt chains, and earrings built around charms bearing Chanel's interlocking CC monogram and Chanel word marks, marketed as original creations made from upcycled Chanel buttons and belt buckles.

The court did not accept authenticity as a shield, and for two reasons. First, Kamad never proved the components came from Chanel products placed on the EEA market. Second, and more importantly, even genuine components would not have mattered because the court treated the exhaustion principle as protecting resale rather than reconstruction. What Kamad sold was a newly built product, not the original one being resold, and that alone took the case outside the exhaustion doctrine.

The court also split the infringement analysis into two parts. Where Chanel's word marks appeared identically, infringement followed automatically from the identity of the sign and goods; no confusion analysis was needed. For the CC monogram, the court considered consumer perception and found that the mark occupied a dominant position on the charms and was highly distinctive. Hence, consumers were likely to assume a Chanel connection despite the smaller "Kamad Reworked" markings on the reverse.

Two further findings matter for similar business. Kamad's website disclaimer told

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customers they were buying a Kamad creation, not one from the brand the component originated from. The court found that this backfired: rather than dispelling confusion, it confirmed to the consumer that part of the product did come from Chanel. Separately, Kamad supplied each buyer with a certificate of authenticity vouching for the genuine origin of the components. The court treated that certificate as a misleading commercial practice, since it created the impression that the finished products themselves carried Chanel's approval.

Because Kamad never appeared in the proceedings and disclosed no financial information, the court could not calculate final damages. It awarded provisional damages, ordered destruction of stock, and required disclosure of sales data along with publication of the judgment.

Charting the common current

Three of these four rulings, Bangtu, Maison R&C, and Kamad, follow the same reasoning in three different countries. A business acquired branded goods, took them apart, rebuilt them into new products, kept the original marks visible or reproduced them, and sold the results to the public on its own account. All three advanced some version of a circular-economy or sustainability defense. All three lost, on closely related reasoning. Exhaustion protects the resale of the original goods, not a new product built from their parts. Material alteration breaks the link between the goods and the brand owner's control; once that link is broken, the trademark rights reattach.

South Korea looks different only because



the facts were different. Kyung-han never sold anything to the public. Every reworked piece went back to the person who owned the original and asked for the work. Nothing he made ever entered the market under his own name or anyone else's. That is what kept the case out of the definition of trademark use altogether, and it is a narrower question than the one the French and Chinese courts were answering. Had Kyung-han instead built a retail line and sold his reworked bags to the public, the Korean court's own language on "special circumstances" suggests the outcome would likely have matched the other three.

The real dividing line is not upcycling itself. It is commercial circulation versus owner-retained personal use. Rework something for yourself or have someone rework it for you and hand it straight back to your own dock, and the law across all three jurisdictions is comfortable with that. Rework it and set it sailing to strangers under the original brand's marks, and every court that has looked at it so far has said that is where liability starts.

Conclusion

Luxury fashion upcycling is unlikely to disappear, and these rulings are not really trying to stop it. Taken together, they answer a narrower question: what did the brand agree to when it first sold the product? On that question, the four courts arrived at the same place via two different routes. Three asked whether exhaustion survives reconstruction and said it does not. Korea asked an earlier question, whether returning a reworked item to its owner was trademark use at all, and answered that one instead. Different routes, same destination.

That does not mean commercial upcycling has no legal path. A brand can license an upcycler, decide how its marks may be used, set quality standards, and approve what reaches the market. The legal route exists; its commercial logic is another matter. Luxury depends on careful control of its identity and its market appearance. Licensing means allowing another business to sell products connected to that identity. A collective framework could make licensing easier by consolidating vetting and quality standards in one place, rather than having every brand handle them alone. But it cannot replace consent. The brand still has to agree.

The courts also point to another route, and the Chinese and French decisions together show its limits. Hangzhou suggested that removing or obscuring the mark and selling under the upcycler's own name may be enough. Paris shows why removal alone does not settle it: exhaustion protects goods the

brand itself lawfully put on the market, and Maison R&C could not prove that is where the scarves came from. Separately, the scarf's printed design remained protected by copyright regardless of what happened to the mark.

These decisions distinguish resale from rebuilding a genuine product into a new commercial one. The harder question, and the one still open, is what the finished product is actually selling. Take a Hermès scarf turned into a jacket, or a Chanel button set into a necklace. Two sources of value now sit in the same object. One comes from the upcycler: the design, the craft, the creative choices that produced something new. The other was already there: the protected identity or design that still tells people they are looking at Hermès or Chanel. The law can look at these separately. It leaves the upcycler's own creative work untouched while asking whether the continued use of the brand's protected identity has crossed a legal boundary.

That is not a verdict on upcycling itself. Good design, skilled construction, and a genuine eye for materials have value in their own right. What these rulings identify is something narrower: the point where a business stops selling its own creative work and starts relying on another brand's protected identity to sell the finished product without that brand's permission.

That is what these decisions settle. What remains open is whether brands, upcyclers, and the law can protect identity, reward creativity, and allow circularity to grow.

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RÉSUMÉ

Mustafa Qazi runs *Lux Juris*, a publication focused on fashion and luxury law. His work covers intellectual property, brand protection, and the legal issues shaping the fashion and luxury industries. *Lux Juris* is read by lawyers, academics, and professionals working across the fashion and luxury sectors. What drives Mustafa is making legal knowledge accessible: making fashion and luxury law easier to understand, interpret, and apply.