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Green Trademarks and Eco-Labelling: Between Consumer Protection and IP Rights

Akhilesh Santosh Kakade^a

^aAdvocate

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The study, Green Trademarks and Eco-Labelling: Between Consumer Protection and Intellectual Property Rights, focuses on the way sustainability-oriented branding has turned trademarks from a form of commercial origin marker to environmental governance tools. It argues that although there is a new environmental consciousness that creates consumer behaviour and business reputation, the legal architecture of trademark registration, certification and enforcement is still fragmented across jurisdictions. Through a doctrinal and comparative methodology that includes Indian, EU and US frameworks, the paper probes the legality of intellectual property and environmental regulation and their harmonisation to foster genuine claims of sustainability. It recognises greenwashing (exaggeration or falsification of claims about something being ecological) as one of the key threats to consumer confidence and trademark integrity. Analysing the relevant provisions in the Indian Trade Marks Act 1999, the EU Trade Mark Regulation 2017/1001, and consumer protection regulations such as misleading advertisement guidelines in India 2022 and the EU Green Claims Directive, the study concludes that regulations will need to incorporate pre-mark environmental verification in trademark and certification-mark regulations. Internationally, while TRIPS and the Madrid System guarantee formal protection of marks, no real standard for environmental integrity is provided. To fill this gap, the paper proposes a balanced regulatory model, which constitutes both eco-label verification and inter-agency coordination between IP and consumer authorities, and digital disclosure tools, such as blockchain traceability and QR-linked transparency, to guarantee verified sustainability. It also calls for public-private partnerships for credible third-party certification and proposes a multilateral soft law under the cooperation of WIPO-WTO-UNEP in order to ensure the mutual recognition of legitimate eco-labels. Ultimately, the paper concludes that sustainability will need to be

developed from being a marketing advantage to being a binding legal responsibility, making ecological accountability part of the normative structure of intellectual property and consumer law.

Keywords: *green trademarks, eco-labelling, greenwashing, intellectual property, consumer protection law.*

INTRODUCTION

The twenty-first century has seen a paradigm shift in market behaviour, as environmental awareness plays an increasingly important role in consumer behaviour and corporate practices. Businesses from all sectors are now trying to signal ecological responsibility through the use of eco-labels and green trademarks (such as Fairtrade, Energy Star and India's GreenPro) to indicate compliance with sustainability standards.¹ These marks, communicating environmental quality or ethical sourcing, go beyond the traditional purpose of trademarks, which serve only to identify the source of commercial origin, and transform them into instruments of environmental governance and 'sustainability communication.'² However, the proliferation of such marks has been accompanied by the rise of greenwashing, a phenomenon in which corporations exaggerate or fabricate their environmental performance to gain a competitive advantage.³ A systematic review describes greenwashing as the promotion of false or exaggerated environmental claims to increase one's reputation, and does not provide a true ecological benefit.⁴ The ensuing erosion of consumer confidence in their validity undermines the credibility of the legitimate certification systems and creates significant regulatory problems.⁵

Although green trademarks and eco-labels are of increasing importance, the legal treatment of these trademarks still largely varies across jurisdictions. Trademark law is primarily

¹ Alexandra Mogyoros, 'Improving eco-labels: are green certification marks up to the task?' (2023) 18(5) Journal of Intellectual Property Law & Practice <<https://doi.org/10.1093/jiplp/jpad029>> accessed 15 October 2025

² Andrew Griffiths, 'Trade Marks and the Consumer Society' (2018) 15(2) Scripted – A Journal of Law, Technology & Society <<https://script-ed.org/article/trade-marks-and-the-consumer-society/>> accessed 15 October 2025

³ Emma Sammons, 'Green' is the New Black: Enforcing Consumer Protection Laws Against Greenwashing in the Fashion Industry' (2024) 38(1) Emory International Law Review <<https://scholarlycommons.law.emory.edu/eilr/vol38/iss1/5>> accessed 15 October 2025

⁴ Sebastião Vieira de Freitas Netto et al., 'Concepts and forms of greenwashing: a systematic review' (2020) 32 Environmental Sciences Europe 19 <<https://doi.org/10.1186/s12302-020-0300-3>> accessed 15 October 2025

⁵ Valerie J Peterson, 'Gray Areas in Green Claims: Why Green Claims: Why Greenwashing Regulation Needs an Overhaul' (2024) 35(1) Villanova Environmental Law Journal <<https://digitalcommons.law.villanova.edu/elj/vol35/iss1/6>> accessed 15 October 2025

concerned with distinctiveness and confusion, while environmental and consumer-protection law is more concerned with truth. With this institutional separation, what would otherwise have been misleading labels, such as ‘eco’ or ‘green,’ are often left unregulated at the registration level and can potentially mislead consumers under the guise of protection of intellectual property rights.⁶ Moreover, at the international level, treaties such as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the Madrid System for the International Registration of Marks guarantee formal biodiversity protection of marks but have nothing to say about verification of environmental integrity or sustainability. A lack of harmonisation contributes to enforcement gaps, with multinational corporations taking advantage of the regulatory asymmetries to sell the same products with different representations of the environment in different countries. The European Union Agency for Fundamental Rights (FRA), for example, points out that the ‘fragmented enforcement architecture’ undermines consumer protection from misleading environmental marketing.⁷ Further, in KPMG’s view, a ‘patchwork of national compliance standards’ puts global brands at reputational and legal risk when it comes to sustainability.⁸

In this regard, the present paper aims to understand how the intellectual property regime, especially trademark and certification mark regimes, can be effectively reconciled with environmental governance and consumer protection. Accordingly, this paper focuses on whether these two legal regimes - intellectual property and environmental regulation - can be harmonised without diluting their respective policy objectives. It seeks to explore the conceptual and doctrinal underpinnings of green trademarks and certification marks in domestic and international law, analyse some of the regulatory and enforcement challenges of greenwashing in key jurisdictions, such as India, the European Union, and the United States, and assess the adequacy of the prevailing legal frameworks for ensuring the integrity of environmental claims. The paper further aims to consider the adequacy of international IP instruments such as TRIPS and the Madrid System to integrate mechanisms of eco-labelling,

⁶ Margaret Chon, ‘Trademark Goodwill as a Public Good: Brands and Innovation in Corporate Social Responsibility’ (2017) 21 *Lewis & Clark Law*

Review 277 <<https://digitalcommons.law.seattleu.edu/faculty/758>> accessed 15 October 2025

⁷ ‘Enforcing consumer rights to combat greenwashing’ (*European Union Agency for Fundamental Rights*, 07 March 2024) <<https://fra.europa.eu/en/publication/2024/enforcing-consumer-rights-combat-greenwashing>> accessed 15 October 2025

⁸ ‘The Challenge of Greenwashing: An International Regulatory Overview’ (*KPMG International*, 2024) <<https://assets.kpmg.com/content/dam/kpmgsites/uk/pdf/2024/12/the-challenge-of-greenwashing.pdf>> accessed 15 October 2025

and to make a normative proposal towards converging intellectual property protection and sustainability objectives with consumer trust.

Methodologically, this study adopts a doctrinal and comparative approach. It also undertakes a critical analysis of the statutory provisions, policy instruments, and judicial developments - using the Trade Marks Act 1999 (India), the EU Trade Mark Regulation (2017/1001) and the proposed EU Green Claims Directive. Using reports from the Organisation for Economic Co-operation and Development (OECD)⁹, the FRA and WIPO to put the legal analysis into context, the study brings interdisciplinary insights from environmental policy, consumer law and economics. Secondly, insights from the marketing literature on sustainability are used to illustrate the ways in which consumer perceptions of trust and authenticity determine the effectiveness of eco-labelling regimes.

The following chapters, therefore, proceed from conceptual foundations to applied policy analysis:

Chapter II provides the conceptual and doctrinal framework of the green trademarks and certification marks as a means of sustainable branding.

Chapter III takes a look at the problem of greenwashing and considers how consumer protection and advertising law can play a part in the remediation of misleading environmental claims.

Chapter IV explores the international dimension in the form of TRIPS, the Madrid System and new soft-law frameworks like WIPO GREEN.

Chapter V proposes a balanced framework of IP protection, consumer trust and environmental regulation and concludes with a synthesis that draws on the wider implications of this in terms of sustainable trade and regulatory design.

⁹ 'Environmental Policies and Evaluation' (OECD) <<https://www.oecd.org/environment/tools-evaluation/environmental-labelling-and-information-schemes-9789264259119-en.html>> accessed 15 October 2025

CONCEPTUAL AND DOCTRINAL FRAMEWORK OF GREEN TRADEMARKS AND CERTIFICATION MARKS

The modern move towards sustainability has stretched the conceptual limits of trademark law. Traditionally, trademarks meant commercial source and that consumers could differentiate between the goods of one trader and those of another.¹⁰ However, as purchasing decisions are also shaped by environmental awareness, these marks, thereby heralding ecological or ethical messages (often referred to as green trademarks or eco-labels), have adopted a communications role beyond the source identification. These marks now function as indicators of positive environmental quality, responsible production, or conformity to certification schemes.¹¹ The doctrinal evolution of such marks thus illustrates what Andrew Griffiths refers to as the transformation of the trademark into a ‘social signifier within the consumer society,’ both of brand identity and public trust.¹² With the conceptual change of trademarks described, the following sections examine how this change is accommodated under the statutory regimes.

Distinctiveness and the Expansion of Trademark Function: Under both the Trade Marks Act 1999 (India) and the EU Trade Mark Regulation 2017/1001 (EUTMR), a trademark must be distinctive for it to be registrable. Terms such as ‘eco,’ ‘bio,’ or ‘green’ are frequently denied registration as descriptive of product characteristics based on section 9(1)(b)¹³ of the Indian Act and article 7(1)(c) EUTMR¹⁴. Yet increasingly, IP offices are accepting stylised or graphically distinctive variants that have acquired secondary meaning. This pragmatic approach accommodates environmental communication within trademark doctrine while preserving the distinctiveness requirement. Alexandra Mogyoros suggests that such marks are examples of the transition from private identifiers to public information tools - conveying verifiable sustainability messages that impact consumer choice.¹⁵

Certification Marks: Structure and Oversight: The certification marks offer a systematic way of checking the credibility of the environmental claims. They are not like common marks: the owner and user are distinct; licensed users are licensed by the holder (who is often an

¹⁰ Lionel Bently et al., *Intellectual Property Law* (6th edn, OUP 2022)

¹¹ Griffiths (n 2)

¹² *Ibid*

¹³ Trade Marks Act 1999, s 9(1)(b)

¹⁴ Regulation (EU) 2017/1001 of the European Parliament and of the Council 2017, art 7(1)(c)

¹⁵ Mogyoros (n 1)

independent body) to use the mark under certain conditions. This principle is codified in the Indian Act sections 69 to 78 and articles 83 to 93 EUTMR. Examples are the Fairtrade certification (managed by Fairtrade International) and the Ecomark in India (managed by the Bureau of Indian Standards). An example that illustrates the importance of certification marks in playing the role of aligning market incentives with the conservation of biodiversity in cases where they are backed by a credible verification and transparent governance is the agroforestry coffee ownership in India by Delphine Marie-Vivien.¹⁶ However, poor oversight runs the risk of turning certification systems into marketing tools with no ecological substance - a point also raised by the Organisation for Economic Cooperation and Development, warning that too many uncoordinated eco-labels can confuse the consumer and be less effective.¹⁷

Collective Marks and Sustainable Associations: Collective marks governed by sections 61-68 of the Indian Act and articles 74-82 EUTMR are used by associations or cooperatives that have common ethical or environmental goals. They create a group reputation and allow individual members to associate with sustainability promises. The Forest Stewardship Council (FSC) and Rainforest Alliance, and other schemes combine collective membership with certification processes where communities that practice forestry can find their way into premium markets without violating environmental requirements.¹⁸ The FSC Trademark Policy (V3-0) requires compliance monitoring, thus ensuring that the mark value is not based on affiliation but on ecological performance.¹⁹

Interaction with Consumer-Protection Law: Although certification and collective marks may enhance transparency in the market, they coexist with consumer-protection laws that simply forbid deceptive environmental claims. The Consumer Protection Act 2019 (India) prohibits unfair trade practices, and the EU Unfair Commercial Practices Directive 2005/29/EC is in a similar vein, banning false 'green' representations. The future EU Green Claims Directive attempts to govern the substantiation criterion, whereby scientific

¹⁶ Delphine Marie-Vivien et al., 'Trademarks, Geographical Indications and Environmental Labelling to Promote Biodiversity: The Case of Agroforestry Coffee in India' (2014) 32(4) Development Policy Review <<https://doi.org/10.1111/dpr.12060>> accessed 15 October 2025

¹⁷ Environmental Policies and Evaluation (n 9)

¹⁸ 'Requirements for use of the FSC® trademarks by certificate holders' (Forest Stewardship Council, 2021)

<<https://fsc.org/sites/default/files/2021-10/FSC-STD-50-001%20V2-1%20EN.pdf>> accessed 15 October 2025

¹⁹ *Ibid*

substantiation of environmental claims is required.²⁰ Empirical evidence proves that the credibility of eco-labels is not related to legal protection alone, but also to independent verification and accessibility of information to the population. Sebastiao de Freitas Netto et al highlight the fact that transparency in governance and methodology is invaluable in avoiding greenwashing.²¹ Thus, consumer protection legislation complements trademark legislation by ensuring that representations relating to sustainability are factually verifiable.

International Law and Soft-Law Mechanisms: International IP instruments only partially account for environmental labelling. Trademarks are protected through articles 15-21 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), but are left to the discretion of individual countries to regulate certification marks. The Madrid System makes it possible to register cross-border without the underlying substantive veracity of environmental claims being considered. Consequently, harmonisation relies on soft-law initiatives like ISO 14024:2018 Environmental Labels and Declarations - Type I Environmental Labelling - Principles and Procedures, which provides voluntary best practices, and the GREEN Database of the World Intellectual Property Organisation (WIPO) that spreads technologies that benefit the environment.²² These initiatives reflect a movement towards IP systems that are aligned with sustainability, led by the world community, even without binding treaty obligations.

The Public-Good Dimension of Trademark Goodwill: Margaret Chon conceptualises trademark goodwill as a public good that represents collective trust between producers and consumers.²³ When there is an environmental influence in the mark, the trust goes beyond pure commercial interest to social values of sustainability and transparency. Hence, green trademarks require accountability, not just by way of remedies for infringement, but also by revealing and verifying obligations. These principles, if incorporated in domestic and international regimes, should balance the proprietary nature of trademarks with their developing role as the means of environmental governance.

²⁰ 'Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on substantiation and communication of explicit environmental claims (Green Claims Directive)' (*EUR-Lex*) <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023PC0166>> accessed 15 October 2025

²¹ Sebastião Vieira de Freitas Netto (n 4)

²² ISO 14024:2018 *Environmental Labels and Declarations – Type I Environmental Labelling – Principles and Procedures* (2nd edn, ISO 2018)

²³ Chon (n 6)

GREENWASHING AND CONSUMER PROTECTION

Greenwashing - false or exaggerated claims of environmental sustainability - has become one of the most pressing issues in modern-day regulatory discourse. It refers to the deceptive practice of exaggerating or fabricating the ecological merits of products or services, typically through selective disclosure, overstating impacts or through misleading environmental imagery. As sustainability becomes more of an integral part of brand identity, such practices tangle with competition and destroy consumer trust. The legal treatment of greenwashing is to be found at the intersection of the intellectual property (IP), advertising regulation and consumer protection fields.²⁴

In India, the legal basis is the Consumer Protection Act 2019 (CPA), which states that an unfair trade practice includes 'misleading advertisements' that misrepresent the quality, composition or standard of a product.²⁵ Under section 21 of the Act, the CCPA has issued Guidelines for Prevention of Misleading Advertisements & Endorsements for Misleading Advertisements 2022, which require scientifically testable ecological or 'green' claims and ban the use of vague phrases such as 'eco-friendly', 'sustainable' or 'green' without proof of measurable environmental benefits.

Complementing this regulatory instrument, the Advertising Standards Council of India (ASCI) has issued its Guidelines for Advertisements Making Environmental/Green Claims 2023 that lay down some principles of accuracy, clarity and substantiation.

ASCI focuses on the following key requirements for environmental claims: they should be specific, based on the complete life-cycle of the product and independently verifiable. Scholarly analysis by NLSIU's Centre for Environmental Law Education, Research and Advocacy (CEERA) calls attention to these developments as 'India's slow move towards aligning with international developments such as the Green Claims Directive of the EU or the Green Claims Code in the UK, which broadly represent a worldwide move towards evidence-based sustainability marketing.'²⁶ Indian jurisprudence has long been aware of the

²⁴ Consumer Protection Act 2019, s 2(47)

²⁵ Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements 2022

²⁶ Riddhi Paritosh Vyas, 'GUARDING GREEN CLAIMS: INDIAN APPROACH TOWARDS A SUSTAINABLE FUTURE' (National Law School of India University, 16 September 2024) <<https://ceerapub.nls.ac.in/guarding-green-claims-indian-approach-towards-a-sustainable-future/>> accessed 15 October 2025

role deceptive commercial communication may play in misrepresenting a product, whether or not it is expressed in creating a false statement, where there is a possibility of confusion within the public about the source or quality of the product. In the case of *Dabur India Ltd v Colortek Meghalaya Pvt Ltd*.²⁷, Justice S Muralidhar of Delhi High Court held that imitation of the overall trade dress and packaging design of a product, including its colour scheme, setting and look, could lead to passing off and unfair trade practice, if it creates confusion in the mind of an average consumer. His Lordship noted that deceptive similarity refers not only to words or marks, but also to visual and environmental stimuli that impact a consumer. This reasoning resonates strongly with modern marketing for sustainability: packaging that has a 'green' impression by images or tone, but no real environmental merit, also misleads consumers by non-verbal association.

This was the view taken in *Colgate Palmolive Company and Another v Anchor Health & Beauty Care Pvt Ltd*²⁸, where Justice J D Kapoor held that mere imitation of another's overall colour combination and packaging with a different word mark can deceive the unwary purchaser. The Court issued an injunction against infringement of the unique red and white trade dress of Colgate by emphasising that the totality of impression is the important factor and not the differences in isolation. This practice has significant consequences on the concept of the green trade dress, where the use of earthy colours, recycled surfaces, and symbols of sustainability would become the quasi-certification signs. Not only does the misuse of such visual cues violate goodwill, but it also interferes with the informative value of environmental branding. These developments can be seen as a slow alignment of India's norms for advertising with the global trend of evidence-based environmental marketing.

The same goals have been pursued by regulators internationally. The Unfair Commercial Practices Directive 2005/29/EC (UCPD)²⁹ of the European Union also forbids environmental claims that are not clear, accurate and substantiated, and the Proposal of a Green Claims Directive 2023 provides a pre-market verification system to state explicit sustainability claims like carbon-neutral, biodegradable or climate-positive. In the United Kingdom, similar duties of transparency and evidence are codified in the Competition and Markets Authority Green

²⁷ *Dabur India Ltd v Colortek Meghalaya Pvt Ltd* (2010) SCC OnLine Del 391

²⁸ *Colgate Palmolive Co and Anr v Anchor Health & Beauty Care Pvt Ltd* (2003) 27 PTC 478 (Del)

²⁹ Directive 2005/29/EC of the European Parliament and of the Council 2005

Claims Code 2021.³⁰ All these efforts are indicative of a new worldwide agreement: representations of the environment are not marketing puffery but truth-testable facts.

Greenwashing liability, however, is not limited to brand owners themselves. Under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021 - as amended in 2023 - digital intermediaries are required to delete misleading advertisements, upon being notified and have mechanisms in place for due diligence of hosted content.³¹ Certifying bodies that place their marks without proper verification can also be held liable civilly or statutorily if the consumers rely on such fraudulent collateral endorsements. On the other hand, where marks have been granted certification marks (e.g. Ecomark scheme run by the government), then under sections 74-78 of the Trade Marks Act 1999³², registration can be used to prevent unauthorised or deceptive use, and infringement occurs where the presence of the mark misleads the public that it complies with the standard. Both provisions introduce a multi-level liability across the advertising ecosystem - for manufacturers, certifiers and digital platforms alike.

Seen in its entirety, the Indian law now provides the necessary foundation for a viable anti-greenwashing regime. ASCII's self-regulation, CCPA's binding guidelines and twin Colgate Palmolive and Dabur India rulings of the Delhi High Court each hold that misrepresentation on sustainability is an unfair trade practice and a species of trademark misrepresentation where it is embedded in packaging or marks. However, enforcement gaps still exist - especially in relation to digital influencers, comparative 'greener than' statements and cross-border e-commerce. That gap can only be bridged by coordinated monitoring between consumer authorities, IP registries and environmental authorities. By acknowledging that misleading environmental claims corrode both consumer confidence and dilute trademark goodwill, Indian law appears to be shifting toward a balanced approach-one that reconciles intellectual-property incentives with the broader imperative of environmental integrity.

³⁰ 'Green claims code: making environmental claims' (*gov.uk*)
<https://www.gov.uk/government/publications/green-claims-code-making-environmental-claims>
 accessed 15 October 2025

³¹ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021

³² Trade Marks Act 1999

INTERNATIONAL HARMONIZATION AND THE ROLE OF TRIPS AND MADRID SYSTEM

The continued growth of sustainable trade occurs despite the fragmented way in which eco-labelling and certification marks are regulated internationally. At the multilateral level, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) creates only a floor design, which leaves the substantive framework of environmental and quality-related marks to national choice. Article 15 of TRIPS defines a trademark in the broadest sense as ‘any sign that is capable of distinguishing the goods or services of an undertaking from those of other undertakings’ and allows members to address in their national laws collective or certification marks.³³ Articles 22-24 protect GIs, which are associations of specific features or reputations with the source of a product and hence represent the closest available multilateral form of sustainability-linked IP protection.³⁴ This shows how domestic GI systems can be used as a prototype for a sustainability certification under international IP regimes.

GI and certification marks fulfil an informational role: they both convey collective quality assurance, authenticity and traceability. Under TRIPS, however, the protection of GIs is mandatory, while that of certification marks is optional. This asymmetry means that whilst eco-labels are potentially soft IP, GIs already have treaty-level recognition, which indirectly contributes to environmental and cultural sustainability. Scholars have recently emphasised that GI specifications that include soil conservation, biodiversity, and traditional practices also implicitly contain environmental protection and thus qualify as sustainability labels in themselves. The WIPO report *Geographical Indications and Sustainability* also highlight how well-managed GIs build rural economies by encouraging community management of natural resources. In India, the work of Ganesh Hingmire shows how this link between GIs and sustainable development can work in practice by furthering the participation and connection of more than 125 GI registrations over the years through the Great Mission Group Consultancy (GMGC)³⁵ and how TRIPS flexibility can benefit local producers and ecologically sound production. As Hingmire explains, ‘Geographical Indications serve as

³³ Agreement on Trade-Related Aspects of Intellectual Property Rights 1995

³⁴ *Ibid* art 22-24

³⁵ ‘About GMGC’ (*Great Mission Group Consultancy*) <<https://gmgc.co.in/about-us/#vision-mission>> accessed 15 October 2025

tools of credible development, protecting traditional knowledge, encouraging community involvement and enhancing environmental balance.³⁶ His analysis goes on to say that India's GI system creates social capital and strengthens rural entrepreneurship by linking ecological conditions with market identity.

While WIPO's Madrid System provides an efficient means of obtaining protection for trademarks on an international level, the protection of certification marks is not fully uniform under the Madrid System. Whereas some members (such as the EU and the US) allow certification marks, others do not, and this restricts cross-border recognition.³⁷ According to Mogyoros, eco-labels rely not only on legal registration but on plausible governance, and existing multilateral mechanisms are not enough to ensure such governance.³⁸ WIPO's WIPO GREEN service and ISO 14024 Type I Environmental Labelling Standard attempt to bridge this gap and standardise the sustainability data, as well as provide clear verification. Meanwhile, the joint WTO-UNEP report *Making Trade Work for the Environment, Prosperity and Resilience* (2018) calls on states to work together to reconcile trade and environmental goals by using joint labelling standards and capacity building, but the report is non-binding.³⁹

The difficulty of the sustainability of intellectual property regimes is not only restricted to trade marks but also applies to other forms of intellectual property. As Irene Calboli has observed, 'repair, resale, upcycling and recycling of existing products is an important activity to achieve sustainability and a circular economy, but present intellectual-property (IP) rules can become an obstacle when these activities are not performed by or with the consent of the IP owners.'⁴⁰ Her critique reveals how tensions of sustainability are felt throughout IP

³⁶ Prof. Ganesh S Hingmire and Paresh Chinchole, 'CAN GEOGRAPHICAL INDICATION CONSIDER FOR CREDIBLE DEVELOPMENTAL - ANALYSIS ON INDIAN PERSPECTIVE LEADING TO DEVELOPING ECONOMIES!' (WTO)

<https://www.wto.org/english/thewto_e/minist_e/mc10_e/profganeshppmc10_e.pdf> accessed 15 October 2025

³⁷ 'Madrid System - The International Trademark System' (WIPO) <<https://www.wipo.int/en/web/madrid-system/>> accessed 15 October 2025

³⁸ Mogyoros (n 1)

³⁹ 'Making Trade Work for the Environment, Prosperity and Resilience' (World Trade Organization) <https://www.wto.org/english/res_e/publications_e/unereport2018_e.htm> accessed 15 October 2025

⁴⁰ Irene Calboli, 'Pushing a Square Pin into a Round Hole? Intellectual Property Challenges to a Sustainable and Circular Economy, and What to Do About It' (2024) 55 *International Review of Intellectual Property and Competition Law*

<<https://scholarship.law.tamu.edu/cgi/viewcontent.cgi?article=3078&context=facscholar>> accessed 15 October 2025

systems, requiring interpretation in the same way that the global framework requires flexibility if it is to be effective in meeting environmental goals.

The experience of both TRIPS and GI practice is that harmonisation should not imply uniformity. A realistic approach would extend the use of GI-style specification and control mechanisms to eco-labels: the existence of transparent standards, third-party oversight and periodic audit. WIPO and WTO could adopt soft-law guidance along the lines of the GI model that promotes mutual recognition of legitimate environmental certification marks. Until such integration takes place, the international regime will continue to be dichotomous - GIs as binding origin-linked sustainability signals; eco-labels as voluntary process-linked signals built on consumer trust. Yet India's GI ecosystem, cultivated by practitioners like Prof. Hingmire, illustrates how community intellectual property can bridge this divide by enshrining sustainability within legal recognition, trade policy, and local livelihoods.

TOWARDS A BALANCED FRAMEWORK: SUSTAINABILITY, IP, AND CONSUMER RIGHTS

The rapid rise in 'green' marketing around the world and global certification of sustainability has revealed the inadequacy of current intellectual-property and consumer-protection systems at certifying environmental claims. While trademarks and certification marks are market vehicles used to convey quality and authenticity, they are not usually subject to statutory restrictions against the misleading use of them. A balanced approach is therefore required to reconcile IP protection, consumer rights and sustainability objectives in a coordinated regulatory framework which promotes innovation but discourages green washing.

The first of the pillars of reform is that of statutory eco-label verification in trademark and certification-mark law. Current IP regimes, such as the Trade Marks Act 1999⁴¹ of India and the EU Trade Mark Regulation 2017/1001⁴², provide for registration of certification marks, but do not make it mandatory to pre-market assess environmental impacts and periodically examine compliance. Requiring verification of environmental attributes (either by independent accreditation or environmental audit reports) would bring certification marks

⁴¹ Trade Marks Act 1999

⁴² Regulation (EU) 2017/1001 of the European Parliament and of the Council 2017

in line with international sustainability standards such as ISO 14024. This scheme draws its inspiration from the Ecomark programme of the Bureau of Indian Standards (1991), which is the first scheme in the country that certifies environmentally friendly products in sixteen categories.⁴³ However, Ecomark has not received sufficient use because it is a voluntary system and because it is not well integrated with trademark law. Linking Ecomark-type verification to certification-mark registration has the potential of transforming it from a soft sustainability label into a well-recognised and enforceable right. This measure would also enhance public confidence by bringing auditability to the IP registration process.

The second reform is on institutional coordination between consumer regulators and IP offices. Misleading environmental claims can fall into both the trademark infringement and deceptive advertising jurisdictions. The Central Consumer Protection Authority (CCPA) Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements 2022 forbid unsubstantiated claims of eco-friendly, natural, or biodegradable, but enforcement is detached from the management of trademarks.⁴⁴ A coordinated mechanism (e.g. memorandum of understanding between the CCPA and the Controller General of Patents, Designs and Trade Marks [CGPDTM]) that could facilitate data sharing, joint investigation, and suspension of deceptive green trademarks. Similar cross-regulatory cooperation is emerging in the EU with the Green Claims Directive 2024 and the Unfair Commercial Practices Directive (UCPD), which require substantiation of environmental claims before they are allowed to be used on the market.⁴⁵ Institutional integration would therefore provide consistency for the policy of consumer protection and IP policy, tackling the problem of greenwashing both as a problem of market deception and as a problem of IP misuse.

Technological innovation can be used to further strengthen this regulatory architecture. Blockchain trace and QR-based disclosures provide resistance to tampering protocols of product check, as well as consumer transparency. The systems based on blockchain have been tested to monitor carbon footprint and supply chain provenance, and such that the

⁴³ 'Ecomark Scheme to Promote Sustainable Consumption and Eco-Friendly Production with Strict Environmental Standards' (PIB, 04 October 2024)

<<https://www.pib.gov.in/PressReleasePage.aspx?PRID=2061878>> accessed 15 October 2025

⁴⁴ Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements 2022

⁴⁵ Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on substantiation and communication of explicit environmental claims (Green Claims Directive) (n 20)

environmental characteristics of a certified product cannot be edited after it is captured.⁴⁶ QR codes have the potential to connect consumers with the certification database or environmental-audit summary and encourage informed decision-making and consumer responsibility. Combining these digital transparency tools with national IP registries would establish a vibrant ecosystem where consumers, regulators and certifiers are able to access real-time data on the environmental performance.

However, it may be that including sustainability criteria in IP law causes legal frictions. One issue is the possible clash with freedom of trade and competition laws: mandatory environmental disclosure may result in an unequal burden on small producers or an advantage for incumbents with the means to comply with the disclosure. Another risk is potential inconsistency with the WTO principles of non-discrimination under the Technical Barriers to Trade (TBT) Agreement, which discourages national standards that cause unfair prejudice to imported products.⁴⁷ Such conflicts can be balanced by a proportionality approach - ensuring that measures imposed based on sustainability achieve legitimate environmental goals and are non-discriminatory and the least trade-restrictive available.⁴⁸ The WTO-UNEP joint report *Making Trade Work for the Environment, Prosperity and Resilience* recognises this balancing act, calling for policy coherence between environmental labelling and international trade obligations.⁴⁹

Another aspect entails public-private partnerships (PPP) to verify a credible third-party. Instead of taking a purely governmental approach, PPP models may permit recognised industry associations or non-governmental organisations to certify sustainability claims, as part of the Forest Stewardship Council (FSC) model and Fairtrade model.⁵⁰ Collaboration between state regulators, IP offices and independent certifiers would spread the responsibility for monitoring, create a measure of credibility and lower the administrative burden. These forms of hybrid governance are what scholars refer to as polycentric

⁴⁶ Shamika N Sirimanne and Clovis Freire, 'How blockchain can power sustainable development' (*UN Trade and Development*, 22 July 2021) <<https://unctad.org/news/how-blockchain-can-power-sustainable-development>> accessed 15 October 2025

⁴⁷ Agreement on Technical Barriers to Trade 1995

⁴⁸ 'DS381: United States – Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products' (WTO) <https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds381_e.htm> accessed 15 October 2025

⁴⁹ 'Making trade work for the environment, prosperity and resilience' (*World Trade Organization*) <https://www.wto.org/english/res_e/publications_e/unereport2018_e.htm> accessed 15 October 2025

⁵⁰ Requirements for use of the FSC® trademarks by certificate holders (n 18)

sustainability regulation, in which the responsibility is shared by several actors in the global green economy.⁵¹

In conclusion, there is a need for a balanced framework of sustainable IP governance through a convergence of IP protection, consumer regulation and environmental accountability. The eco-label verification of trademark law, the cross-linking of consumer and IP law, and a Green Mark Registry would entrench the concept of sustainability deep in the legal structure of market identity. This framework can be operationalised by creating digital transparency mechanisms and verifying them through the use of PPP-based verification without crushing innovation. The challenge now is to balance these measures with the principles of trade and competition proportionally and cooperatively in rulemaking. When introduced consistently, this system would make trademarks and certification marks more than mere commercial labels and active means of environmental integrity and consumer confidence. These mechanisms would make it a multi-layered regulatory ecosystem that would guarantee that sustainability is a marketed characteristic and not a marketing phrase.

CONCLUSION

The study has shown that green trademarks and eco-labelling constitute important intersectional areas between intellectual property (IP) law, environmental sustainability and consumer protection. They provide consumers with a way to differentiate environmentally responsible products while giving strong incentives to firms to innovate in the market through reputation and differentiation. However, the lack of a unified international system continues to divide standards and brings regulatory uncertainty as well as confusion to the consumer. Although national programs (Ecomark Scheme in India, the Ecolabel Regulation in the EU and the Green Labelling Scheme in Singapore) have provided credible examples, they are still constrained by a voluntary basis and low cross-border applicability.

Although existing IP frameworks are flexible, they are still insufficiently incorporated into environmental responsibility. Under the TRIPS Agreement, trademark and certification mark regimes offer scope for recognising eco-labels in which environmental substantiation and periodical verification are not mandated. Equally, consumer protection acts are used to deal

⁵¹ Benjamin Cashore et al., 'Can Non-state Governance 'Ratchet Up' Global Environmental Standards? Lessons from the Forest Sector' (2007) 16(2) Review of European Community & International Environmental Law <<https://doi.org/10.1111/j.1467-9388.2007.00560.x>> accessed 15 October 2025

with false claims of greenness, but they tend to work separately from IP offices. This self-governing drift continues to support the danger of greenwashing- a situation in which sustainability is a branding issue and not a performance one.

The solution for the future involves a coherent policy framework where IP law, consumer protection, and environmental regulation would be appropriately coordinated. This was feasible through statutory eco-label verification processes in the process of trademark registration, joint monitoring systems of IP and environmental authorities, and digital transparency mechanisms like blockchain traceability or QR-linked sustainability disclosures. Sustainability criteria could be institutionalised in the legal system of market identity by creating a 'Green Mark Registry' jointly operated by the environment and IP authorities. Such an approach would turn voluntary environmental obligations into binding legal obligations.

At the international level, WIPO-WTO-UNEP cooperation provides the most realistic approach to harmonisation. In particular, WIPO's technical knowledge on certification marks, the WTO's trade governance, and UNEP's mandate on the environment can all be pooled together to facilitate a soft law model or a multilateral code of conduct on eco-labelling. This would guarantee coherence in policy, but one without strict uniformity, national flexibility would be achieved, and mutual recognition of credible sustainability marks would be achieved.

In conclusion, sustainability must not be an exclusive marketing advantage, but it must become a legal obligation. While originally designed merely to allow differentiation in the market, IP law must now advance the wider goals of ecology and ethics. The incorporation of environmental responsibility into the design of trademarks and certification marks is not just a juristic breakthrough, but a moral necessity of the twenty-first century.