

# ***Art & Allposters International BV v Stichting Pictoright (C-419/13)***

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# **(C-419/13) *Art & Allposters International BV v Stichting Pictoright***

- Summary
- Illumination of the *acquis*
  - Exhaustion of the distribution right
  - Reproduction
  - Adaptation
- The Court's reasoning

## **(C-419/13) *Art & Allposters International BV***

- “The distribution right shall not be exhausted within the Community in respect of the original or copies of the work, except where the first sale or other transfer of ownership in the Community of that object is made by the rightholder or with his consent.” (ISD, Art 4(2))

## **(C-419/13) *Art & Allposters International BV***

- “...[T]he consent of the copyright holder does not cover the distribution of an object incorporating his work if that object has been *altered* after its initial marketing in such a way that it *constitutes a new reproduction* of that work....” [46] [*emphasis added*]

# Reproduction

- Duplication not necessary
- Consistent with (C-128/11) *Usedsoft GmbH v Oracle International Corp* [70]?

# Exhaustion of the distribution right

- What is the scope of the principle established in *Art & Allposters*?
  - a framed print?
  - a collage from a copy of a work?
  - damaged copies of a work?

# Adaptation

- “...[A] technique of creative expression which seeks to *intervene* in the work itself rather than to adjust the work to the expressive characteristics of another artistic language, making the work, in its own language, a different work in so far as it is only vaguely recognisable in its original expression.”

(Opinion of AG Cruz Villalòn [58])

## The Court's reasoning

- Application of general principles
- Support for key conclusion from
  - “...the principal objective of Directive 2001/29 which, according to recitals 9 and 10 of that directive, is to establish a high level of protection of, inter alia, authors, allowing them to obtain an appropriate reward for the use of their works.”