

What Preloved Luxury can learn from Prebuilt¹ LEGO® (or luxury as seen from a plastic perspective)

The figures are there for all to see: the second hand luxury market is there to stay. The ReLuxury Event to be held in Paris on 15th November celebrates this new market which is attracting entrepreneurs and clients.



From an IP perspective, the secondary market is based on the notion of exhaustion of trademark rights. Before trademark owners put their product on the market, they have all control over it: in the luxury sector often products are strictly controlled within the framework of exclusive distribution networks. But once the product has been sold to a customer, the trademark owners' rights on the product are exhausted and they can no longer object to the product being sold or resold at whatever price the owner of the product may be satisfied with.

Previously seen as unattractive, the secondhand market was associated to charity shops and thrift stores – you wouldn't be seen dead wearing a secondhand coatand the very idea of second hand jewellery...

But things have changed and luxury brands are now at the centre of a new concept : not second hand but ... preloved (an expression coined by Stanislas de

¹ Prebuilt is not a LEGO® term – it is one I made up for the purposes of this article

Quercize). Clients of luxury brands are looking to buy vintage products : more accessible but also – in a strange twist of irony – clients are seeking novelty in whimsical products of the past which have been forgotten in a world submerged with “icons”.

So what does LEGO® have to do with anything? Well ... everything! It’s like a laboratory – a concentration of all the challenges the secondary market throws at brand owners and how brand owners might choose to deal with them. LEGO® also has a few ideas up its sleeve which luxury brands might want to consider

LESSON N°1: PROTECT AND ENFORCE YOUR IP LOUDLY AGAINST THE RIGHT TARGETS

If the primary market is already a battleground, the secondhand market is even harder to “control”. Sellers are demultiplied and finding a “source” is as good as impossible. It is therefore critical to make sure the primary market is as clean as it can be and extend actions to the secondary market.

LEGO®’s IP enforcement strategy is completely integrated into its global communication – it’s about making sure clients are not fooled by less pricey and less qualitative products. The brand is a quality stamp and all efforts are made to keep the brand trust. Strong IP assertion and enforcement are key components to this message.

Keeping clean primary and secondary markets means:

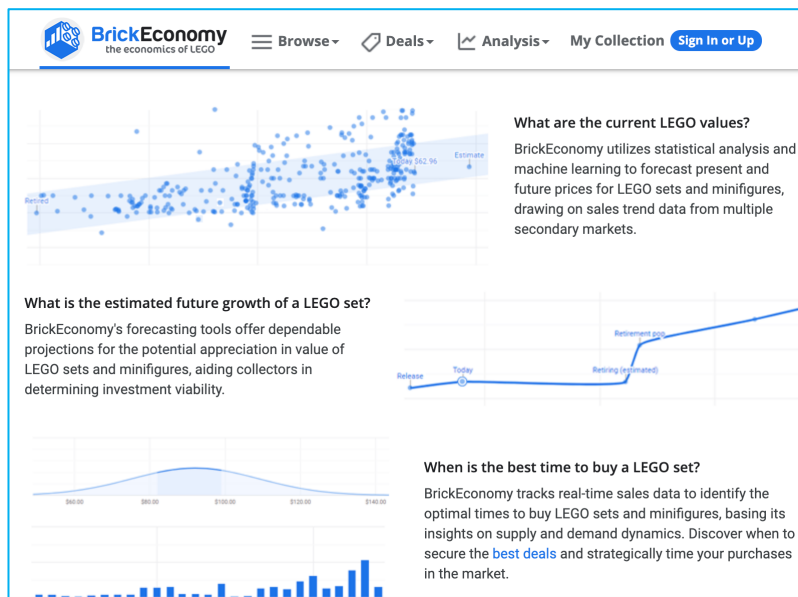
- Fighting against fake Legos sold under the LEGO® brand is nothing new – trademark rights are a well-oiled tool. It’s not a problem of efficiency of IP rights – more one of quantity. The “whack-a-mole” conundrum is true of the primary market – it will be of the secondary market.
- Countering clever counterfeiters who will tap into the vintage market of limited editions which fetch very high prices. The difficulty for the brand will be to recognize and identify the fake vintage sets or minifigures among all its historical pieces.
- Fake Legos which offer thematic figurines from licensed collections (like Star Wars) are pursued energetically as any passive attitude would stir the ire of the licensor.

- Dupes (or lookalikes) muddy the waters- As is the case with luxury icons, the LEGO® minifigures are no longer protected by designs and publicly assumed copycats have flourished around the world – and not only China

			
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These characters (always sold as “LEGO® compatible”) dilute LEGO®’s identity and pose as “legitimate” alternatives. These too circulate on the secondary market alongside the LEGO® and offer much more competitive prices. LEGO® has successfully tackled these imitations before courts worldwide² using and building all IP tools available³.

LEGO® aficionados of the secondary market are actually LEGO®’s best friends as they keep a close eye on the “market value” of minifigures and sets and are very clear that dupes do not belong to the world of LEGO® investors:



² <https://flatfeecorp.com/articles/LEGO®-versus-lepin-2017-copyright-infringement-lawsuit-china>

³ <https://www.worldtrademarkreview.com/article/general-court-confirms-validity-of-LEGO®-s-3d-mark-toy-figure>

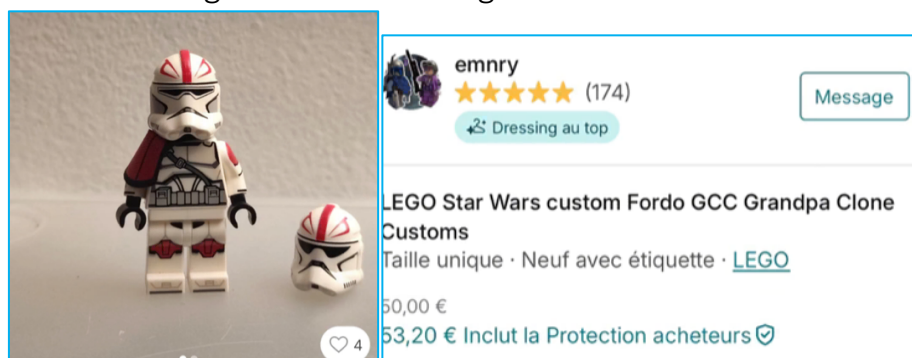
LESSON N°2: DON'T TREAT YOUR CLIENTS LIKE CRIMINALS

For many years, the customisation of LEGO® minifigures has been cult within the LEGO® community (a little like the tuning of cars).

Initially, LEGO® remained quite passive, watching the LEGO® community contributed to a certain aura around the value of authentic LEGO® . But some warning signals came as the phenomenon grew:

- Firstly, collectors began customising LEGO® characters to create characters from the theme sets which were missing. Perhaps these figurines had not been granted under the license or perhaps LEGO® was reserving the launch of the figurine for a later set. Either way it was a problem...
- Secondly, collectors had fun adding third party brands with which LEGO® had no connections. When these brands were competitors of LEGO® 's licensors, it was a problem and some brands LEGO® was not keen to be associated with

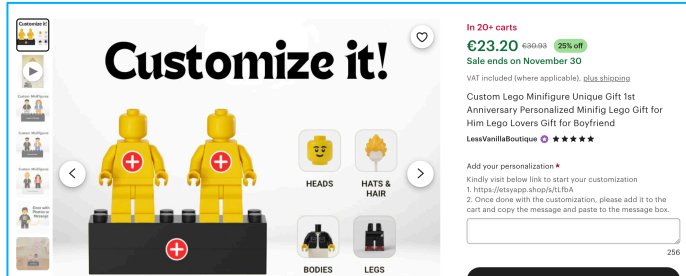
Of course, these customised pieces then circulate on the secondary market. They may be sold in all transparency, they may be made of bits and bobs, or they may be sold as original rare items...again the risk of confusion is rampant.



LEGO® tried to place boundaries on this practice by issuing an announcement in 2022. It delicately condoned the customization “for personal use” but insisted that third party trademarks should not be printed onto the minifigures⁴. This led to some backlash from the most passionate.. but I don’t believe LEGO® has sought to enforce its policy against any member of the “pre-built” community.

⁴ https://lan.LEGO®.com/news/overview/protecting-the-LEGO®-minifigure-trademark-r315/#=_

On a side note, I discovered that there are many websites which offer “personalised LEGO® figurines” – I don’t know if LEGO® has ever brought an action for alteration or modification of its products.

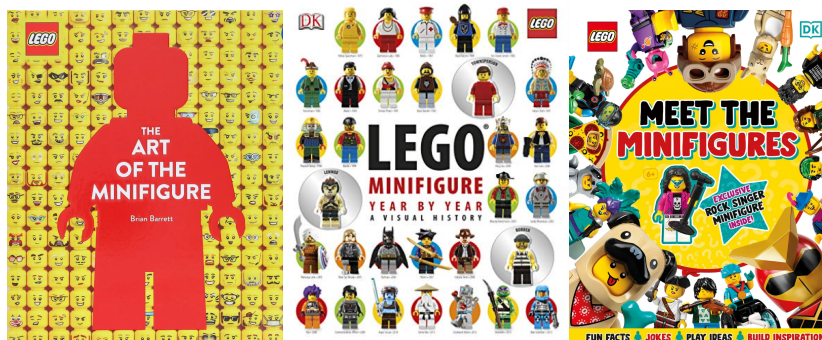


LESSON N° 3: OBSERVE & LEARN

Clients who seek a brand on the secondary market love that brand ... but are looking for something different, something the brand is not offering them. They are passionate about the brand and connaisseurs, they are nostalgic, they want something unique, they want something which tells a story, they want to participate in the life of the brand

LESSON N°4: OFFER YOUR PRELOVED BRAND COMMUNITY WHAT THEY ARE SEEKING

1. *Who makes up the LEGO® “Prebuilt community”?* : If LEGO® is a child’s toy manufacturer, its community is largely composed of adults. LEGO® has adapted its communication and its services to respond to these unexpected clients. Its slogan “ADULTS WELCOME” says it all.
2. *LEGO® ’s prebuilt community has a passion for the history of the brand and its products:* LEGO® publishes books destined for collectors which provide all the details of the minifigures over the years; and thematic books celebrating the artistic value of the design behind the toys



3. *LEGO®'s prebuilt community loves stories*: LEGO® went all in with its LEGO® films which nourish the narrative behind the LEGO® toys all the while creating avenues for merchandising, story telling and endless new sets.



4. *LEGO®'s prebuilt community is nostalgic*: LEGO® might have chosen to compete with players of the secondary market by selling or purchasing vintage LEGO® or offering a “preowned certification” service⁵. Instead, it has chosen to offer reeditions of sets from the past in limited editions.

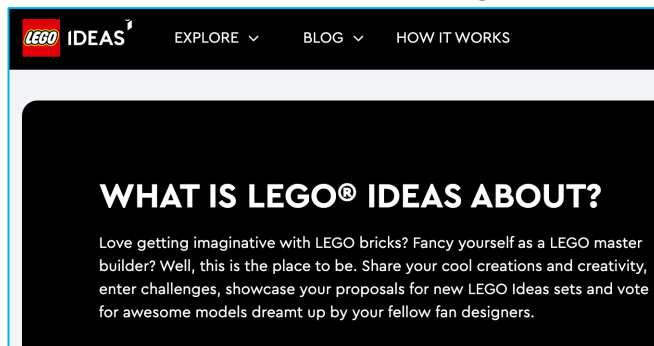


Perhaps not quite the same “vibe” as an authentic piece from the past but offering something out of the ordinary which answers the need for nostalgia and novelty

5. *LEGO®'s prebuilt community loves rarity*: LEGO®'s vintage pieces are limited. They are sold as rare.
6. *LEGO®'s prebuilt community loves personalised products* : the customiser community especially. Here, LEGO® has chosen the route of directly competing with the second hand customisers



7. *LEGO®'s prebuilt community wants to “live” the brand as a community:*
LEGO® now acts as a community manager. Its LEGO® IDEAS initiative brings its community into the heart of hearts. It invites its community to bring ideas, create new sets, vote for the best and see these come to life. LEGO® is relentlessly tapping into the community to understand and know what its clients are looking for.



LEGO® as a sandbox of ideas to observe.

The main lessons I take from the LEGO® example are:

1. Never before has it been more important to decide what you are not willing to compromise on and to fiercely protect your brand against what harms your brand essence;
2. Never before has it been more important to approach brand protection with subtlety and differentiation to choose battles wisely and not mistake the friend for the foe;
3. The secondary market may be a disruptor, but it can also be a revival and a rejuvenation ... an excuse to play, to innovate and think creatively as never before.