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The Resale Market Boom—What Sellers and Brands Need to Know

Andrew Grant, Collen Ganin, and Akua Asare-Konadu examine unique legal questions facing resellers and brands in the resale marketplace and explain how to navigate them, including secondhand-dealer laws and IP infringement. Recommerce—the sale of pre-owned goods—is nearly a \$40-billion-a-year industry, and is expected to soon double.

Consumer demand for sustainable goods has created systemic change in the fashion and apparel industry.

The sale of pre-owned goods, or "recommerce," has ballooned to a [\\$36 billion industry](#), and is expected to double in the next five years. The recommerce market is also diverse—brick-and-mortar is still relevant, but the future of resale is digital.

Consumer-to-consumer apps like eBay and Poshmark hold the [largest market share](#), but consignment sites like The RealReal have become increasingly important. Traditional retailers are also entering the recommerce market in droves. Sustainability leaders like Patagonia, REI, and Eileen Fisher have long-established buy-back and/or resale programs, and others like Levi's and The North Face have followed their lead by creating similar programs.

The luxury market—historically a recommerce hold-out—has even embraced the resale boom. For example, Kering, the luxury behemoth that owns Gucci, Balenciaga, Bottega Veneta, and Saint Laurent, among others, acquired a 5% stake in French resale platform Vestiaire Collective in early 2021. Luxury sites like The RealReal helped to elevate public perception of resale, which undoubtedly expedited the luxury market's recent change of heart.

The "e-commerce recommerce" renaissance presents challenges for resellers and brands to navigate—including prevention of IP infringement through authentication and possible expansion of secondhand dealer laws to e-commerce. As discussed below, resellers and brands can navigate these issues through preparation and strategic partnerships within the circular economy.

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