# IPC Section 479: Property mark.

## IPC Section 479: Property Mark – A Detailed Analysis  
  
Section 479 of the Indian Penal Code (IPC) deals with the offence of fraudulently using a counterfeit property mark. This provision aims to protect the rights of property owners and prevent fraudulent activities related to identifying and distinguishing property. It safeguards the integrity of markings used to denote ownership or origin and deters the unauthorized application of such marks.  
  
\*\*The Text of Section 479:\*\*  
  
“Whoever counterfeits any property mark used by another person legally entitled to use it, as a mark of property in goods, or knowingly utters, or sells any goods bearing a counterfeit property mark which has been used by another person legally entitled to use it as a mark of property in such goods, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”  
  
\*\*Breaking Down the Elements of the Offence:\*\*  
  
1. \*\*Property Mark:\*\* This refers to a distinctive mark, symbol, or design used by a person legally entitled to apply it to goods to indicate ownership, origin, or other characteristics. It differentiates the goods from those of other producers or owners. Examples include trademarks, logos, hallmarks, and other unique identifiers.  
  
2. \*\*Legally Entitled to Use:\*\* The genuine property mark must be used by someone legally authorized to do so. This emphasizes the protection of legitimate ownership and use of the mark. The person using the mark should possess legal rights over it, such as through registration or established usage.  
  
3. \*\*Counterfeiting:\*\* This involves imitating or forging a property mark with the intent to deceive. It encompasses creating a mark that is substantially similar to the genuine mark, such that it could mislead others into believing it is the authentic mark. The level of similarity must be sufficient to create confusion in the minds of ordinary consumers.  
  
4. \*\*Knowledge:\*\* The offence involves either knowingly using a counterfeit property mark or knowingly selling goods bearing such a mark. This implies that the accused must be aware that the mark is counterfeit. Innocent or unintentional use of a similar mark does not constitute an offence under this section. The prosecution needs to establish that the accused possessed the knowledge that the mark they used or sold was a fraudulent imitation.  
  
5. \*\*Uttering:\*\* This refers to the act of presenting or passing off a counterfeit property mark as genuine. It involves using the fake mark in a manner that suggests it is the authentic mark, with the intention to deceive others. This could include displaying the counterfeit mark on goods or using it in advertisements.  
  
6. \*\*Selling:\*\* This encompasses offering for sale or selling goods bearing a counterfeit property mark. The act of selling implies a commercial transaction where the goods are transferred to another party in exchange for consideration. The knowledge that the goods bear a counterfeit mark is crucial for establishing the offence.  
  
7. \*\*Goods:\*\* The offence relates to tangible items or merchandise to which a property mark can be applied. It includes manufactured products, commodities, and other physical goods traded in the market.  
  
8. \*\*Punishment:\*\* Section 479 prescribes a punishment of imprisonment of either description (rigorous or simple) for a term which may extend to two years, or with a fine, or with both. The quantum of punishment can vary depending on the severity of the offence and the extent of the fraudulent activity.  
  
\*\*Key Considerations:\*\*  
  
\* \*\*Distinction from Copyright and Patents:\*\* Section 479 focuses specifically on property marks, which are distinct from copyright and patents. Copyright protects original literary, artistic, musical, and dramatic works, while patents protect inventions. Infringements related to copyright and patents are dealt with under separate provisions of the law.  
\* \*\*Burden of Proof:\*\* The prosecution bears the burden of proving all elements of the offence beyond a reasonable doubt. This includes establishing that the mark is a genuine property mark, the accused counterfeited it or knowingly used or sold goods bearing the counterfeit mark, and that they did so with the intention to deceive.  
\* \*\*Defences:\*\* Possible defences could include lack of knowledge that the mark was counterfeit, accidental similarity of the mark, or authorized use of the mark. The accused might argue that they were unaware that the mark was fake, or that the similarity to the genuine mark was unintentional and did not constitute counterfeiting.  
\* \*\*Relationship with Other Offences:\*\* Section 479 can be read alongside other sections related to cheating and fraud, such as Section 420 (Cheating and dishonestly inducing delivery of property). Depending on the specific circumstances, an accused might be charged under multiple sections.  
\* \*\*Importance of Registration:\*\* While registration of a property mark is not a prerequisite for protection under this section, it provides strong evidence of ownership and facilitates legal action against infringers. Registered trademarks enjoy enhanced legal protection and make it easier to establish ownership in case of disputes.  
  
\*\*Conclusion:\*\*  
  
Section 479 of the IPC plays a crucial role in protecting property rights and preventing fraudulent practices related to property marks. By criminalizing the counterfeiting and knowing use of fake property marks, it safeguards the interests of legitimate owners and promotes fair competition in the marketplace. The provision's emphasis on knowledge ensures that innocent individuals are not penalized while effectively targeting those who engage in deceptive practices. This section contributes to maintaining order and transparency in commercial transactions and ensures that consumers are not misled by counterfeit goods. By penalizing both the counterfeiter and those knowingly dealing with counterfeit goods, the law discourages the entire chain of illicit activity related to property marks. This comprehensive approach makes Section 479 an effective tool in combating counterfeiting and protecting intellectual property rights.