# IPC Section 483: Counterfeiting a property mark used by another.

## IPC Section 483: Counterfeiting a Property Mark Used by Another – A Detailed Analysis  
  
Section 483 of the Indian Penal Code (IPC) addresses the counterfeiting of a property mark used by another person. This section broadens the scope of trademark protection beyond the scenarios covered in Section 479. While Section 479 deals with counterfeiting a mark used by someone \*legally entitled\* to use it, Section 483 covers counterfeiting a mark used by \*another\* person, even if that person's use isn't strictly legal. This addresses situations where a mark might be in use but not formally registered, providing a layer of protection against counterfeiting even in such cases.  
  
\*\*The Text of Section 483:\*\*  
  
“Whoever counterfeits any property mark used by another person, whether such person is or is not legally entitled to use it as property mark, 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 mark used on goods to indicate their origin, manufacturer, or other characteristics. This encompasses trademarks, logos, and other distinctive identifiers. The definition of "property mark" is consistent with how it's used in other related sections.  
  
2. \*\*Used by Another Person:\*\* This is the crucial distinction between Section 483 and Section 479. Section 483 applies even if the person using the mark isn't legally entitled to do so. This acknowledges that trademarks may be in use and establish goodwill even before formal registration. This broader scope protects against counterfeiting even in cases where the original user may not have perfect legal title.  
  
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, so it could mislead others into believing it's the authentic mark. The level of similarity must be sufficient to confuse ordinary consumers. The counterfeit must be likely to deceive a person into believing it is the original mark.  
  
4. \*\*Regardless of Legal Entitlement:\*\* The phrase "whether such person is or is not legally entitled to use it as property mark" explicitly states that the legal status of the original mark's user is irrelevant. This broadens the protection offered by this section, covering situations where the original mark might not be registered or where its use might be technically infringing on someone else's rights. The focus is on preventing the deceptive practice of counterfeiting itself, irrespective of the underlying legal complexities of the original mark's use.  
  
  
5. \*\*Punishment:\*\* Section 483 prescribes the same punishment as Section 479: imprisonment of either description for a term which may extend to two years, or with fine, or with both. This indicates that the act of counterfeiting is considered equally serious, regardless of the legal status of the original mark's user.  
  
\*\*Key Considerations:\*\*  
  
\* \*\*Overlap and Distinction from Section 479:\*\* While Section 483 overlaps with Section 479, it offers broader protection by covering marks used by others regardless of their legal entitlement. Section 479, however, specifically requires that the infringed mark be used by someone legally entitled to use it.  
\* \*\*Practical Implications:\*\* Section 483 provides a practical solution for businesses that may be using a mark without formal registration. It offers them protection against counterfeiting even if their use isn't fully legally compliant. This encourages businesses to develop distinctive marks and build brand recognition without fear of immediate counterfeiting, even before they navigate the registration process.  
\* \*\*Focus on Deception:\*\* The core principle underlying Section 483 is the prevention of deception. The section aims to protect consumers from being misled by counterfeit marks and to safeguard the goodwill associated with a particular mark, regardless of its formal legal status.  
\* \*\*Burden of Proof:\*\* The prosecution bears the responsibility of proving all elements of the offence beyond a reasonable doubt. This includes demonstrating that the mark was counterfeited and that it was used by another person, irrespective of their legal entitlement to use it.  
  
  
\*\*Conclusion:\*\*  
  
Section 483 of the IPC plays a vital role in protecting property marks and preventing deceptive practices in the marketplace. By extending protection to marks used by others, even if they are not legally entitled to use them, it provides a wider safety net against counterfeiting. This broader scope encourages the development of distinctive marks and protects the goodwill associated with them, even before formal registration. The section's focus on the act of counterfeiting itself, irrespective of the legal complexities surrounding the original mark, simplifies enforcement and promotes a fairer marketplace for both businesses and consumers. This approach strengthens intellectual property protection and helps maintain trust and transparency in commercial transactions. By penalizing the act of counterfeiting directly, Section 483 acts as a deterrent and contributes to a more secure business environment.