# IPC Section 486: Selling goods marked with a counterfeit property mark.

## IPC Section 486: Selling Goods Marked with a Counterfeit Property Mark – A Detailed Analysis  
  
Section 486 of the Indian Penal Code (IPC) addresses the offence of selling goods marked with a counterfeit property mark. This provision targets the distribution and sale of counterfeit goods, focusing on the act of selling items bearing fraudulently applied marks. While other sections address the creation of counterfeit marks or the possession of instruments for counterfeiting, Section 486 specifically targets the final stage in the counterfeiting process – the introduction of counterfeit goods into the market. By criminalizing this act, the section aims to protect consumers from being deceived by counterfeit products and safeguards the interests of legitimate businesses whose trademarks are being infringed.  
  
\*\*The Text of Section 486:\*\*  
  
"Whoever sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things bearing, or any receptacle or covering having marked thereon, or any label having written or printed thereon, or otherwise attached thereto, any counterfeit property mark, knowing such property mark to be counterfeit, shall, unless he proves that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."  
  
  
\*\*Breaking Down the Elements of the Offence:\*\*  
  
1. \*\*Selling, Exposing for Sale, or Possession for Sale/Trade/Manufacture:\*\* The section covers a range of activities related to the distribution of counterfeit goods. This includes the actual act of selling, displaying goods with the intention to sell ("exposing for sale"), and possessing goods with the intent to sell, trade, or use them in manufacturing processes. This broad scope targets various stages of the supply chain and prevents individuals from evading liability by claiming they were merely storing or transporting the goods.  
  
2. \*\*Goods or Things Bearing Counterfeit Mark:\*\* The goods themselves must bear the counterfeit property mark. This could include the product itself, its packaging, any receptacle or covering containing the product, or any attached labels. The mark must be physically present on the item being sold or possessed for sale.  
  
3. \*\*Receptacle, Covering, or Label:\*\* The section explicitly includes receptacles, coverings (packaging), and labels. This ensures that even if the product itself doesn't bear the counterfeit mark, using counterfeit marks on the packaging or labels still constitutes an offence.  
  
4. \*\*Counterfeit Property Mark:\*\* The mark must be a counterfeit version of a genuine property mark. This implies an imitation or forgery of a mark used by another person to denote ownership or origin of goods. The counterfeit mark must be sufficiently similar to the genuine mark to deceive an average consumer.  
  
5. \*\*Knowledge of Counterfeit Mark:\*\* A crucial element is the seller's knowledge that the mark is counterfeit. This means the individual must be aware that the mark is not genuine. Innocent or unintentional sale of goods bearing a counterfeit mark, without knowledge of its falsity, is not covered under this section.  
  
6. \*\*Burden of Proof and Defence:\*\* The wording of the section places a partial burden of proof on the accused. While the prosecution must initially establish the elements of the offence, including knowledge, the accused can offer a defence by proving they took reasonable precautions and had no reason to suspect the mark's genuineness. This defence requires demonstrating proactive steps taken to verify the authenticity of the marks and a reasonable belief in their genuineness at the time of the sale.  
  
7. \*\*Punishment:\*\* Section 486 prescribes a punishment of imprisonment of either description (rigorous or simple) for a term which may extend to one year, or with fine, or with both.  
  
  
\*\*Key Considerations:\*\*  
  
\* \*\*Focus on Consumer Protection:\*\* Section 486 prioritizes consumer protection by targeting the sale of counterfeit goods. It aims to prevent consumers from being misled and deceived by fake products.  
\* \*\*Protection of Legitimate Businesses:\*\* The section also protects the interests of businesses by preventing the unauthorized use of their trademarks and preserving the value and reputation associated with their brands.  
\* \*\*Importance of Due Diligence:\*\* The defence available under this section highlights the importance of due diligence and taking reasonable precautions to ensure the authenticity of goods being sold. Businesses must implement procedures to verify the origin and legitimacy of their products and trademarks.  
  
  
  
\*\*Conclusion:\*\*  
  
Section 486 of the IPC plays a crucial role in combating the trade of counterfeit goods by specifically targeting the act of selling products bearing counterfeit property marks. By criminalizing this activity and offering a defence based on reasonable precautions, the section encourages businesses to implement robust systems for verifying the authenticity of their products and trademarks. This provision protects consumers from deception, safeguards the interests of legitimate businesses, and promotes a fairer and more transparent marketplace. It contributes to the overall framework of intellectual property protection and strengthens efforts to combat counterfeiting in India.