ABSTRACT

This thesis undertakes a comprehensive analytical and empirical examination of the criminal enforcement of trademark counterfeiting, situating the study at the intersection of intellectual property law and criminal law with particular emphasis on the Indian legal framework. Against the backdrop of rapid globalisation, technological advancement, and the expansion of transnational supply chains, trademark counterfeiting has evolved from a private commercial dispute into a phenomenon with serious implications for public health, consumer safety, state revenue, and economic governance. While intellectual property law has traditionally relied on civil remedies to protect proprietary interests, the growing scale, organisation, and societal harm of counterfeiting have increasingly justified the invocation of criminal sanctions, albeit amid significant doctrinal and policy conundrums.

The research critically analyses whether criminal law is an appropriate and effective instrument for addressing trademark counterfeiting, and how such enforcement may be balanced against concerns of over-criminalisation, procedural fairness, and the diversion of public resources to protect private rights. Adopting a blended methodology, the study combines doctrinal analysis, comparative legal research, and an empirical multi-stakeholder investigation. A comparative assessment of the penal frameworks in India, the UK, and the USA is undertaken to identify convergences, divergences, and global trends in criminal trademark enforcement, particularly in response to organised counterfeiting networks and digital marketplaces.

From an Indian perspective, the thesis examines the statutory architecture under the Trade Marks Act, 1999, judicial interpretations, and the operational realities of enforcement by police and courts. The empirical component draws on primary data collected from industry executives, legal practitioners, investigating officers, judicial officers, and consumers across selected states, enabling a validation of enforcement efficacy from multiple institutional and experiential viewpoints. The findings reveal a pronounced emphasis on investigative and preventive measures, significant reliance on judicial discretion, and a relative underutilisation of punitive sanctions, resulting in a structural imbalance between process and outcome. The thesis argues that criminal enforcement of trademark counterfeiting in India remains procedurally cautious and rights-sensitive, yet deterrence-deficient.

It concludes by proposing calibrated legal and institutional reforms aimed at strengthening enforcement coherence, enhancing investigative capacity, and aligning criminal sanctions with broader principles of justice, proportionality, and public interest. By integrating comparative insight with empirical evidence (n=181), the study contributes to the evolving discourse on the legitimate role of criminal law in intellectual property enforcement.