# CODE, CRIME AND CREATIVITY: THE SURPRISING LINK BETWEEN LAWBREAKING AND SOCIAL EVOLUTION

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**ABSTRACT**

"Crime develops society and every society needs some element of crime in order to grow". This statement is hinged on the subject of Sociology of law. Crime as a factor of society's growth has different branches which stems from it and one of which is the part of innovation. From the early times, crimes have been 'committed' and on the other hand 'stopped' using different innovations, technologies, techniques. Some secrets have kept different kingdoms, nations and businesses strong and competitive over the years and these have in turn helped them survive the harsh attack of other kingdoms, nations, economic factors and pressures. This article seeks to explore the topic sentence from a perspective of intellectual property with recourse to the fact that a lot of crimes and crime fighting have stemmed from the element of Intellectual Property. The exploration takes into cognizance different areas and examples from both local and international plains.

**Keywords:** *Code, Crime, Creativity, Innovation, Evolution, Intellectual Property*

## INTRODUCTION

Codes are rules of conduct that are generally acceptable by a particular people, made by people of a certain location, profession, that are made with the aim of governing behavior.[1] Codes can also be ethical conduct which an organization, association or firm adheres to which guides their actions and activities. These codes may also prescribe sanctions for different acts which are considered unacceptable and impede the well being of the society.

Crime, the intentional commission of an act usually deemed socially harmful or dangerous and specifically defined, prohibited, and punishable under criminal law.[2] According to **Black's Law Dictionary**, a crime is defined as a positive or negative act in violation of penal law, or a breach of a legal duty, which is punishable by the state. It represents a public wrong, as opposed to a private injury, that threatens society and often involves two key components: a voluntary act and criminal intent. The **Nigerian Criminal Code**[3] and Penal Code[4] as an act or omission that violates public law, is forbidden by statute, and is punishable by the state upon conviction.

Creativity is the process of putting the mind to work to come up with ideas that are novel. It includes doing old things in a new way, or ideas for the advancement of an already existing product or service.[5] Creativity is idea generation, using the mind to access workable solutions to the everyday challenges of man. Creativity can be from an individual, a team or an organization/firm and it is very important to keep competitive edge and advantage in businesses.

Innovation, on the other side, is idea implementation - putting ideas into action. The achievement of this responsibility lies with the individual or organization to pursue such to a satisfying conclusion.

Some sociologists posit that crime is necessary for every society to grow and develop. The development of society springs the need for structure and shaping of the life of its members. This shaping is done by culture, norms and especially by law. Èmile Durkheim observes that crime is normal because it defines a society's moral boundaries.[6] Crime is not merely a social 'ill' to be suppressed; it is a high-pressure "shadow laboratory." When laws create barriers, human ingenuity (creativity) finds "workarounds" (innovation) that eventually become the standard for legitimate society (IP). This is the focus of intellectual property in this discourse: how many of these illegal ideas which became creations have framed society and its advancement by being the standard for modern technologies today. Intellectual Property is also concerned with the protection of the ideas and innovation which have been brought up as counter measures.

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[1] Science Direct, 'Codes of law' <https://www.sciencedirect.com/topics/social-sciences/code-of-laws#:~:text=In%20subject%20area%3A%20Social%20Sciences,On%20this%20page > accessed 31 January 2026

[2] Vaithulla Kamal Ahamed, 'Defining the Concept of Crime: A Sociological Perspective' (2021) *SSRN e library* <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3864739> accessed 30 January 2026

[3] section 2, Cap. C38, Laws of the Federation of Nigeria (LFN), 2010.

[4] Cap 53, Laws of the Federation of Nigeria (LFN) 2004.

[5] Mahdieh F and Anders PN, 'The association between creativity and innovation: A literature review' (2018) *Research Gate* <https://www.researchgate.net/publication/326318197_The_association_between_creativity_and_innovation_A_literature_review> accessed 31 January 2026

[6] Vejar, Cynthia, 'Durkheim and the Normalization of Deviance' (2023) *EBSCO* <https://www.ebsco.com/research-starters/history/durkheim-and-normalization-deviance> accessed 29 January 2026.

## I. Sociology: The "Strain" of Success

Society shapes law and law in turn shapes society. Every society has a picture of what is ideal and lawful, what is expected of its members and how they should go about their lives and businesses. For example, every adult is expected to earn a living so as to guard against stealing and other criminal acts. The society also proscribes certain behaviors or actions that are harmful to the individuals and their central interest. These behaviours and acts are however increasing in terms of scope and magnitude especially with the emergence of the internet and its complexities. They include the issues of cyber bullying, data piracy, hacking, plagiarism, fraud, OTP scams, ATM card hackers, etc. The society has risen up to match up with these crimes through laws, policies, better supervision, and even more innovative solutions like the plagiarism checkers, data protection laws and compliance, etc.

### The Strain Theory

Every individual in society has a role to play in the growth of society, but what if these people are crippled in a certain way? Society a lot of times, gives vague promises and leaves no workable ways for these promises to be actualized.[7] Robert K. Merton in the 1930s proposed this theory in assessing the cause of crime in society. He posited in his theory that society sets goals (wealth, success) but often blocks the means to get there.[8] This creates 'innovators'—individuals who accept the goals but reject the legal means. Growing up, people are promised a lot of things- fame, success, good homes, good standards of living, good primary healthcare, etc. They are led to believe these promises, told they can be anything they want, shown a picture of 'a successful life'. These goals/ideas are often given to them by institutions such as the media, schools, and government policies. They are shown that if they work hard, they can achieve what they want and some legitimate processes are promoted such as education, hard work, employment, savings, career advancement and fulfillment.[9]

Merton predicts that there is an inequality between these lofty ideals and the opportunities or means of achieving them. This imbalance called 'strain' is what is presumably responsible for the acts of deviance by people. This theory shifts the focus from the individual to assessing what social conditions are present that are making breaking the rules more likely:

- A talented person cannot afford the tuition or the popular schools required for high-paying jobs. To bridge the gap, someone might be tempted to cheat on exams or fake their credentials.
- You get to work hard and long for 40+ hours a week to survive financially, but the paycheck still doesn't cover feeding and rent. You begin to feel at loss playing by the rules, which might lead to theft or fraud just to survive.

[7] NU Editorial Contributors, 'Sociological Theories of Crime & Deviance' (2021) <https://www.nu.edu/blog/sociological-theories-of-crime/> accessed 28 January 2026.

[8] Peter Turvey, 'Differences between Creativity and Innovation' *Fleximize* <https://fleximize.com/articles/000536/differences-between-creativity-and-innovation#:~:text=Creativity%20and%20innovation%20are%20closely,and%20innovation%20drives%20meaningful%20change.> accessed 31 January 2026

[9] Charlotte Nickerson, 'Merton's Strain Theory of Deviance in Sociology' (2025) *Simply Psychology* <https://www.simplypsychology.org/mertons-strain-theory-deviance.html?hl=en-US#:~:text=Merton's%20Strain%20Theory%20says%20people,can%20lead%20to%20rule%2Dbreaking.> accessed 31 January 2026

- Socially, you feel like an odd person or are treated that way because of where you're from or your social class. If you are rejected by normal society, you might look for respect in gangs or underground groups instead.
- You would like to climb up the ladder as you are due for a promotion, but discrimination or 'office politics' keeps you stagnant. This unfairness creates resentment, some begin to lie on their resumes or sabotage others to get ahead.[10]

Strained people react by either conforming, innovating, ritualism, retreat, or rebellion; each reflecting different attitudes toward goals and means.[11]

Conformists accept the views of the society about success and strong achievements. They pursue this by legal means available, they go to school, work hard, develop their mind and perseverance. They register their intellectual property ideas and follow the laws and policies that are available to get protected the right way.

Some innovators still look to the aim for the ideals of society but they sometimes take the illegal way to achieve this. Where they feel the channel is insufficient or blocked, they may turn to the unapproved means. An unemployed person becomes susceptible to internet fraud to get monetary wealth.

The theory has been criticized for focusing mainly on lower-class crime and overlooking the roles of power, privilege, race, and gender in shaping deviance.

## I. The Innovation Engine: Case Studies in "Illicit" Engineering

Law and Crime are in a co-evolutionary arms race. Law prescribes and proscribes certain behaviors or actions of crime which are considered harmful by society. Crime in turn as it evolves widens in scope due to different new areas. Every "lock" of law; invites a "pick" (crime). This leads to a better "lock" - innovation. In the following case studies we will see that crime has improved society in different ways at different times. Some crimes have led to the questioning of security methods and measures and have helped to show loop holes even still in modern day technologies:

### 1. The Great Lock picking Wars[12]

The high standard of British security- the "unpickable" Bramah and Chubb locks was publicly unpicked in 1851 during the London Great Exhibition by an American - A.C. Hobbs. It was not to steal in the traditional sense, but was a scandalous breach of 'perfect security'. The industry pushed from simple mechanical 'wards' to pin-tumbler and magnetic-coded locking mechanisms. The Yale Lock patents and modern security engineering was a product of this. The lockpicker 'threat' created the multi-billion dollar physical security IP industry we have today.

### 2. Radar Detectors & Automotive "Electronic Warfare"[13]

'Superheterodyne' receivers which were illegal in many U.S jurisdictions were used by drivers to detect police radar frequencies and evade speeding tickets. To counter "Radar Detector-Detectors" used by police, engineers developed 'stealth' detectors that emit zero detectable signals and use frequency hopping. This high-stakes game of hide-and-seek perfected Low-Probability of

[10] ibid
[11] ibid
[12] Lars Buchwald, 'The Art of Opening' (2025) *Multipick* <https://multipick.com/us/blog/the-art-of-opening/?hl=en-US#:~:text=It%20wasn't%20until%201851,all%20attempts%20for%2067%20years.> accessed 3 February 2026.
[13] Wikipedia, 'Radar Detector' <https://en.wikipedia.org/wiki/Radar_detector?hl=en-US#:~:text=Using%20or%20possessing%20a%20radar,a%20driver%20who%20does%20not.> accessed 3 February 2026.

Intercept (LPI) radar. This engineering is now a massive IP asset in Autonomous Vehicle (AV) sensors, allowing multiple self-driving cars to use radar simultaneously without interfering with each other.

**3. Digital Rights Management (DRM) & "Fair Use" Reverse Engineering**

In the early 1990s, the video game industry was a 'walled garden'. Companies like Sega used the right of ownership to prevent anyone else from making games for their consoles.[14]

The Accolade Company wanted to make games for the Sega Genesis, avoiding licensing fees. To understand the security handshake, they reverse engineered Sega's code. Sega sued, claiming this was digital 'breaking and entering'. The court case[15] established that reverse engineering for the purpose of 'interoperability' was legal. This forced hardware engineers to develop more sophisticated, encrypted authentication methods. This battle created the legal and technical blueprint for modern Trusted Execution Environments (TEEs) and modern API licensing. The prohibited act of taking apart a competitor's code actually redefined the IP boundaries for the entire modern software ecosystem.

**4. The "Silk Road" & The Maturation of Cryptocurrency**

While Bitcoin was an academic concept first, it was the prohibited engineering of the Silk Road (an underground marketplace) that forced the rapid evolution of the technology. To stay ahead of international law enforcement, underground developers had to solve massive engineering hurdles in anonymity, decentralized escrow, and multi-signature wallets. No legitimate lab could have 'stress-tested' blockchain technology like they did. This forced legitimate fintech companies and law enforcement - like Chainalysis, to develop sophisticated blockchain analytics, know your customer (KYC) protocols, and high-speed settlement layers. Major Banks today hold thousands of patents for Private Blockchains and Secure Ledger Technology. These legitimate IP portfolios were built on the lessons learned from the failures and successes of the darknet's prohibited research and development (R&D).

**Nigerian Case Studies**

**1. Counterfeit Drugs and Pharmaceuticals**

There are reports suggesting that 15% or more of drugs in Nigeria are fake or substandard. This is a major area of illicit activity as there is a lot of lapses between law enforcement and individual consumer protection. This sophisticated counterfeiting of antibiotics, anti-malarials, and vaccines is done often by using fake labels. These drugs are harmful to consumers and are responsible for a lot of deaths. The act also causes loss of revenue to both the authentic producers and the government. NAFDAC in partnership with companies like Sproxil and mPedigre has developed Mobile Authentication Service (MAS) and introduced a system where consumers scratch a panel to reveal a code and send it via SMS to verify authenticity.[16] There is also leveraging the 'GreenBook' digital platform for real-time tracking of drugs along the supply chain. The innovation of handheld devices for on-the-spot detection of counterfeit medicines has also been

[14] Sega Enterprises Ltd. vs Accolade, Inc. 977 F.2d 1510 (9th Cir. 1992) *Wikipedia* <https://en.wikipedia.org/wiki/Sega_v._Accolade?hl=en-US#:~:text=The%20case%20was%20filed%20in,games%20they%20had%20for%20sale.> accessed 2 February 2026.

[15] ibid

[16] European Innovation Council and SMEs Executive Agency, 'Challenges of Counterfeiting in Nigeria' (2024) <https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/challenges-counterfeiting-nigeria-2024-11-11_en#:~:text=Counterfeiting%20is%20a%20pervasive%20global,meet%20safety%20or%20quality%20standards.> accessed 3 February 2026

introduced.[17] Special task forces have also been set up by NAFDAC to focus on seizing and destroying counterfeit products[18].

2. **High-Level Counterfeiting in Consumer Goods[19]**

The Nigerian market is saturated with a lot of substandard goods. This is as a result of counterfeiters in Nigeria who imitate branding and use substandard materials for products ranging from alcohol to clothing. The process of creating, distributing, and selling counterfeit consumer goods infringe on a lot of trademarks. 'Blockchain Technology' has been introduced to create immutable, transparent, and traceable records for products to ensure authenticity from production to sale.[20] A lot of companies are adopting quick response (QR) codes - when scanned, provide detailed information about the product's origin. Product genuineness is now being checked with hidden codes and Radio Frequency Identification (RFID) tags.

3. **Music and Film Piracy (Digital Piracy)[21]**

The Nigerian creative industry, despite being one of the largest in Africa, loses approximately USD 3 billion annually to piracy. This is due to unauthorized digital distribution of music and movies via file sharing, websites, and social media platforms. Technological measures have been innovated to control the use and distribution of digital content. The **Copyright Act[22]** has been updated to provide for dealing with online infringement, such as ordering Internet Service Providers (ISPs) to take down or block access to copyrighted content.[23] Also, improved modern online copyright registration systems now help creators secure their works faster. A new copyright policy has been introduced to help tackle these challenges.

4. **Theft of Traditional Knowledge and Genetic Resources**

This is where foreign entities sometimes patent genetic resources and plant-based medicinal knowledge derived from local communities without authorization. There is an increased push to document traditional knowledge and use geographical indicators to protect locally sourced materials to counter this issue.

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[17] NAFDAC, 'Anti-counterfeiting Strategies' (2024) <https://nafdac.gov.ng/about-nafdac/nafdac-anti-counterfeiting-strategies/#:~:text=Capacity%20Building,US%20EMMY%20Award%20of%20Excellence> accessed 3 February 2026

[18] Zillex Terpase Gbaeren, 'Addressing Counterfeiting and Piracy Challenges in Nigeria: The role of Intellectual Property Law' (2025) SSRN <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5451634#:~:text=Counterfeiting%20and%20piracy%20remain%20one,protect%20the%20lives%20of%20citizens.> accessed 3 February 2026

[19] Pharma West Africa, 'ACPN Raises Alarm Over Surge in Counterfeit Medicines Across Nigeria' (2026) https://www.pharma-westafrica.com/acpn-raises-alarm-over-surge-in-counterfeit-medicines-across-nigeria#:~:text=Ezeh%20also%20highlighted%20the%20alarming%20growth%20of,implications%20for%20national%20security%20and%20public%20health.> accessed 3 February 2026

[20] Benchmac and Ince, 'Innovative Strategies to Combat Counterfeiting: The Role of Technology' <https://share.google/vKmGRGi7GjoOaxyNx> accessed 3 February 2026

[21] Musa Alkali Lawan and others, 'Copyright and the Protection of Innovation: The Importance of Intellectual Property Rights in Nigeria' *JASR* <https://share.google/omRRpqFPu6UptZFbh> accessed 28 January 2026

[22] 2022, No 8, Laws of the Federation of Nigeria. See also Aaron Ologe, An Analysis of Piracy Provisions under Nigeria's 2019 Suppression of Piracy Act (2024) *JRLICJ* Vol 2 No 1. Accessed 5th, May 2026.

[23] Mondaq, 'Intellectual Property in Nigeria: An Overview of Recent Developments' <https://www.mondaq.com/nigeria/trademark/1365282/intellectual-property-in-nigeria-an-overview-of-recent-developments#:~:text=The%20NCC%20has%20also%20been,the%20same%20infringement%20under%20it.> accessed 28 January 2026

5. **Emerging Challenges: Artificial Intelligence (AI)**[24]

This is where AI is trained on protected datasets and AI-generated content infringes on existing copyrights. To counter this, regulators and brand owners are beginning to use AI to detect counterfeit patterns and track infringing products in real-time.[25] The Nigerian Copyright Commission (NCC) is also adapting laws to address AI-driven intellectual property infringement.

**The IP Transition: From Piracy to Patent**

When the 'means' are too restrictive, talented individuals begin to 'create'.They accept the goal but bypass the rules. Most IP law is designed to protect the systemic means. When a criminal finds a shortcut, they aren't just breaking a law; they are demonstrating a technical inefficiency in the current system. Émile Durkheim famously argued that crime is 'functional' for society. Crime pushes against the limits of what is possible. Without the prohibited engineering of the Blue Box or the P2P network, the legal system would have no reason to evolve its definitions of 'security' or 'ownership'. As these crimes occur, society reacts by creating new laws. These laws eventually crystallize into intellectual property frameworks that allow the 'innovation' to be commercialized safely.

Furthermore, these surreptitious innovations have helped to also generate counter measures both in law and technology, like the innovation of radar jammers, leading to the invention of radio jammer detection. This in turn grows awareness and advancement in the society.

**The Legitimization of the Illicit**

The transition from a criminal act to an intellectual property asset is rarely a straight line; it is a process of 'standardization'. When a disruptive technology (like P2P file sharing) breaks the existing legal framework, the industry initially reacts with litigation. However, once the breakthrough proves more efficient than the entrenched means, the market moves to capture and codify it. There have also been the incorporation of these illegal engineers into the mainstream institutions as a means of achieving balance and reducing the crimes. Patents are bought by the company that seeks to explore that particular hack and these illegal engineers are brought in for their knowledge on how the system already worked and the disruptive loop holes they were able to create in it; showing the need for more work to be done.

**The Case of Spotify: Refining the Pirate's Architecture**

The most famous example of this harvest of pioneer ideas is the evolution of the music industry. In the late 1990s, Napster and subsequent Gnutella networks - like Limewire, introduced the world to decentralized data distribution. Pirates perfected 'sharding' - breaking files into tiny pieces and peer-to-peer indexing, allowing users to download content from each other rather than a central, easily-blocked server. While brilliant, pirate networks were plagued by high latency, inconsistent speeds and security risks (malware). Daniel Ek (Spotify's founder) realized that the P2P model was technically superior to traditional server-client downloads, but it lacked legal and technical standardization.

Spotify's early engineering team took the 'illegal' P2P architecture and refined it into a high-performance, proprietary system. They added layers of Digital Rights Management (DRM) and Quality of Service (QoS) protocols. By standardizing the 'pirate' method, they created a product

[24] ibid (n20)

[25] Esther Gbenro and others, 'Intellectual Property Outlook for 2025: What Nigerian and Global Brand Owners Need to Know' (2025) <https://www.aluko-oyebode.com/attorneys/ayokunle-adetula/> accessed 28 January 2026

that was faster and more reliable than piracy itself.[26] Today, Spotify holds a massive portfolio of patents related to Predictive Caching and Adaptive Bitrate Streaming. These IP assets are essentially the 'civilized' versions of the engineering hacks used by 19-year-old hackers in the 2000s.[27]

The law did not just stop the pirate; it waited for the pirate to prove the technology worked, then it built a fence (IP law) around the technology to tax it.

**Section V: The Ethical & Critical Appraisal**

**Who Owns Evolution?**

The ultimate irony of the Sociology of Law is that while society benefits from the 'deviant idea' the original 'pioneer' (the criminal) is often punished, while the 'standardizer' (the corporation) is granted the intellectual property rights.

In IP law, the doctrine of clean hands posits that you generally cannot claim a patent if your invention was derived from illegal acts. However, 'technological laundering' is often performed by large scale industries. A criminal identifies a flaw and builds a 'hack'; the corporation studies the hack and then patents the 'fix'. This raises the question: doesn't the current IP system exploit the 'free research and development' of the underground? If a hacker exposes a vulnerability, they are prosecuted; yet the cybersecurity firm that patents the patch makes millions.

In Nigeria, primary legislation that regulates patents and designs is the **Patents and Designs Act(PDA)**[28] administered by Trademarks, Patents and Designs Registry, Commercial Law Department, Federal Ministry of Industry, Trade And Investment. Under the PDA, an invention is strictly unpatentable if its publication or exploitation would be contrary to public order or morality.[29] Importantly, the law states that just because an act is prohibited- like bypassing a network, the invention itself isn't necessarily 'immoral'. While specific 'prohibited engineering' patent cases are rare in public records, the Nigerian courts have always emphasized this in cases like ***Uwemedimo v. Mobil Producing Nigeria***[30] that for a patent to be valid, it must adhere strictly to the formalities of the Act.[31] If an invention's primary purpose is illegal, like a device designed specifically to bypass the Nigerian Cybercrimes Act, the Registrar can reject it on the grounds of 'Public Order'.

Furthermore, there is still another legal hurdle to be passed by illicitly derived work in Nigeria. The law grants the patent to the 'Statutory Inventor' who is the first to file. However, a patent can be nullified if the essential elements were obtained from another person's invention without their

[26] Aditi Mishra, 'Spotify's P2P Architecture: The Story of Music Streaming Revolution' (2025) *Medium* <https://medium.com/@aditimishra_541/spotifys-p2p-architecture-the-story-of-music-streaming-revolution-0b92cca9609d> accessed 3 February 2026

[27] Bao Tran, 'How Spotify's Patents Are Reshaping Personalized Music Algorithms' (2026) *PatentPC* <https://patentpc.com/blog/how-spotifys-patents-are-reshaping-personalized-music-algorithms?hl=en-US> accessed 3 February 2026

[28] Cap P2 LFN 2004.

[29] PDA section 1(4)(b); O. M. Atoyebi, 'An Examination of Patent and Design Protection in Nigeria: Prospects and Problems' (2024) <https://omaplex.com.ng/an-examination-of-patent-and-design-protection-in-nigeria-prospects-and-problems/?hl=en-US#post-3458-footnote-ref-4> accessed 3 February 2026

[30] (2019) 12 NWLR (Pt. 1685)

[31] Udo Ibuot, 'Appeal court affirms Commandclem, inventor of QIT special paints' *The Vanguard* (Nigeria, 2 Jan2010) <https://www.vanguardngr.com/2010/01/appeal-court-affirms-commandclem-inventor-of-qit-special-paints/> accessed 3rd February 2026

consent.[32] Per Merton's theory, a Nigerian creator who hacks into a corporate database, finds an unfinished algorithm, refines it, and tries to patent it can face a lawsuit by the corporation to invalidate the patent under this section, arguing the invention was stolen, not created.

## CONCLUSION

Society is a living organism. Crime is the 'mutation' in the social DNA. Most mutations are harmful, but some provide the necessary evolution to survive a changing environment. Intellectual property is merely the 'fossil record' of which mutations we chose to keep. The law needs to evolve as much as crime is also evolving. Worthy of note is also to look at the new ideas we lose when the law is too rigid. If the music industry had successfully killed P2P technology entirely rather than standardizing it, we might still be buying physical CDs. It can be seen that excessive IP enforcement can act as a 'straitjacket' on social evolution. If we treat every 'deviant' act as a threat rather than a signal, we risk technological stagnation.

In the Nigerian landscape, the law acts as a laundromat. It doesn't necessarily care if the engineer was a 'rebel', but it provides the tools for established institutions to 'reclaim' inventions that were birthed in the shadows.

It is recommended that the Nigerian laws be updated to match the growing spectrum of criminal acts in the country. Regulatory bodies should also be strengthened in areas of equipment, funding and personnel to be able to tackle both old and new methods of intellectual property crimes and crimes in general. Also innovative platforms should be created and people should be encouraged to use them in the furtherance of the growth of the society.

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**Case Law**

*Sega Enterprises Ltd v Accolade Inc* 977 F.2d 1510 (9th Cir 1992).