

The Structural Transformation of the Public Domain —An Overview of the Theories and Practices of American Jurisprudence on the Transition of Copyright

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Abstract

Public domain is commonly conceived of as an informational open space in which the public may access content without consideration of any need to seek the right holders' permission. Interpreted in terms of the copyright framework, the public domain is usually treated as an opposite pole of the exclusive proprietary rights regime. However, social context may play a greater role than is usually thought. This article, therefore, intends to explore the essential character of the public domain, its function and category with reference to the theories and practice of the American jurisprudence, with a particular focus on constitutional perspectives. After which, an evaluation is offered of major currents of thought regarding the public domain.

Key Words: public domain, copyright, access to information, civil society, intellectual property