

# The Diminishing Public Domain with Regard to the Copyright in the Digital Age

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## ABSTRACT

This work begins with a crude observation of copyright developments and focuses on discussing the recent expansion movement of copyright regime in response to the digital age. Then in the next chapter, I will begin to discuss the meaning and the importance of the public domain in the copyright regime. While arguing a positive definition of the public domain is needed, the attempt to recognize and emphasize its importance is also urgent. My conclusion is that, the diminishing public domain in the name of fighting the digital technology is not justified, particularly when considering the very purpose of the existence of the copyright regime is to ensure that a good balance is struck between the public and private interests.

Finally, following the opinions formed in the previous chapters, if the expansion of copyright is not a panacea to cure the digital syndrome, what should we do when facing the ferocious digital revolution? I will give a brief introduction on the current technological and legal solutions, and conclude that there is no conflict between the usage of the law and technology.

**Keywords: Copyright expansion, copyright regime, digital piracy, public domain, public interest**

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# 數位時代著作權公共領域的縮減

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## 摘 要

本文第一章，簡要地介紹了近年來無論立法或是司法實務，爲了因應數位科技巨幅降低非法重製行爲的成本，都有逐年擴張著作權保護範圍、以致於公共領域相對逐年縮減的趨勢。第二章則進一步探討，在目前充斥「著作權」的語彙時，有關「公共領域」的概念與討論，長期以來被「著作權」的語彙所遮蔽，亟需吾人重新審視公共領域與著作權利相依相存的共生關係。筆者認爲，以著作權制度的存在目的來看，法律須在維護私權與保障公益間維持平衡，故公共領域的過分縮減，可能危害到著作權制度存在的本旨，長期而言可能對創作環境不利，有害於原先著作權制度所服務的公益目的。

面對數位時代的挑戰，筆者繼續扼要介紹了法律及科技面的可能解決方法。結論是，要維護著作權制度存在的根本價值，也就是在私利與公益間取得平衡，不能只是依賴一味的擴張著作權利範圍，必須進一步尋找其他可能的解決之道。

**關鍵字：**著作權擴張、著作權制度、非法數位重製行爲、公共領域、公益