

Public Domain vigor in Copyright based on John Locke

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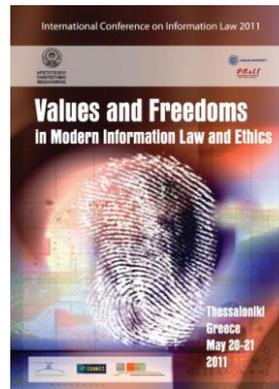
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Abstract: In this work, we're approaching John Locke's labor theory for the appropriation of intellectual property balance between copyright of the labourer and the protection of the common good. Locke's labor theory is framed by the no-harm principle. Locke thought of the public good and was a proponent of the idea that property must be limited in order to maintain a stable social order. The *enough and as good* proviso in Locke's theory argues that a grant of property must not do any harm to other persons' equal abilities to create or to draw upon the pre-existing cultural matrix and scientific heritage that exists in the commons and where from the author draws and appropriates resources. Locke was fully aware of the importance of preserving a vibrant public domain to promote the formation of ideas, works and the evolution of authors. For him, the authorial rights cannot be held captive in traditional concepts of property and ownership. Locke's interest and views for the public domain considering it as a commons in which cultural and scientific heritage resides and upon which the general public including authors have all right to draw materials from but no right to appropriate them in a way that restricts others from accessing materials in the commons have been revived in contemporary copyright literature and copyright activism.

Keywords: Emmanuel Kant, John Locke, public domain, inalienable right, intellectual property, commons, the no-harm principle, the no-spoliation proviso, the enough and as good proviso, "domaine public payan," "tragedy of the commons," archives, non-transformative uses of works, positive protection of the public domain.



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