

## **'The History of Privatisation and the Public Domain'**

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The story of IPR is the story of privatisation. The public domain is defined by privatisation. Privatisation is a word coined in relatively recent times to describe the transfer of public assets into private hands. Public assets constitute part of the public domain. The Romans, who created the principles and concepts that underlie our property law, privatised the land, and many of the inhabitants, of the territories they conquered and turned into provinces. They established in law that land or things – realty or chattels – must be conquered, annexed, possessed in order to create property.

In the history of privatisation and the public domain, there is only one winner, and it is not the public domain. This fact is writ large in the history of IP law. The public domain awaits annexation by the conquerors at its borders, but it can be saved, not by defence but constructive engagement. In 452, when Attila the Hun, one of the most bloodthirsty privatisers in history, approached Rome with his conquering hordes, Pope Leo the Great met him and persuaded him to turn back. So too, some IP owners can be persuaded to turn back. As Creative Commons has shown, some are willing to make material available for free.