

# **Public Domain in Patentability after the Uruguay Round: Developing Country Perspective with Specific Reference to Kenya**

## **Abstract:**

Public domain is a central prerequisite for an effective patent system. A viable and vigorous public domain is indispensable to inventiveness. Inventors constantly "engage in the process of adapting, transforming, and recombining what is already 'out there' in some other form." The public domain is the pool from which inventors have an unfettered right to extract information without fear of encroaching on third party patent rights. Ordinarily, public domain is the public interest not only because it increases the stock of free public knowledge, but also because of its recognition and affirmation that "new work is in some sense based on the works that preceded it." Thus, no patent system, however much it professes to defend the rights of the patentee, can exist.