

## **The Adventure of the Shrinking Public Domain**

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Several scholars have explored the boundaries of intellectual property protection for literary characters. Using a case study of the history of intellectual property treatment of Arthur Conan Doyle's fictional character Sherlock Holmes, this paper builds on that scholarship, with special attention to characters that appear in multiple works over time, and to the influences of formal and informal law on the entry of literary characters into the public domain. While copyright protects works of authorship only for a limited time, copyright holders have sought to slow the entry of characters into the public domain, relying on trademark law, risk aversion, legal ambiguity, and other formal and informal mechanisms to control the use of such characters long after copyright protection has arguably expired. This raises questions regarding the true boundaries of the cultural commons and the effects of non-copyright influences in restricting cultural expression. The paper addresses these questions and their normative implications.