

AUTHOR AUTONOMY AND ATOMISM IN COPYRIGHT LAW
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ABSTRACT

The power and ubiquity of personal computing and the Internet have enabled individuals—even impecunious amateurs—to create and communicate in ways that were previously possible only for well-funded corporate publishers. These individual creators are increasingly harnessing copyright law—insisting on ownership of their rights and controlling the ways in which those rights are licensed to others.

When the myriad individual authors empowered by today’s digital technology claim, retain, and manage their own copyrights, they exercise a degree of authorial autonomy that befits the Internet Age. But they simultaneously contribute to a troubling phenomenon I call “copyright atomism”—the proliferation, distribution, and fragmentation of the exclusive rights bestowed by copyright law. The information and transaction costs associated with atomism could hamper future generations of technology-fueled creativity and thus undermine the very purpose of copyright: to encourage the creation and dissemination of works of authorship for the ultimate benefit of the public.

In this project I aim to place contemporary copyright atomism in historical and doctrinal context by documenting copyright law’s previous encounters with proliferated, distributed, and fragmented copyright ownership—from medieval monasteries to the digital age. Along the way I examine how copyright law has encouraged and discouraged atomism and managed its consequences. This history demonstrates the enduring relevance of my concerns within copyright policy, highlights countervailing interests, and provides a framework for thinking about how to alleviate the unfortunate consequences of atomism—and how not to.