

Making Copyright Work for Creative Upstarts

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A bedrock assumption of copyright law holds that conferring exclusive rights encourages authors to create. Yet, legal rights, by themselves, may be insufficient. After all, rights are not self-executing. Without the ability to exploit their rights effectively, authors may forgo the very benefits that copyright law is supposed to confer. Copyright law's undemanding formal entry requirements mask the reality of a system that is far from welcoming to the uninitiated. The law itself is technically complex. And navigating the institutions that have developed around the law can entail substantial information and transaction costs. Independent authors and artists ("Creative Upstarts") often lack even a basic awareness of the copyright system. Yet, seeking advice from legal counsel can be prohibitively expensive. As a result, many Creative Upstarts fail to take common-sense measures to secure or enforce their rights. Such forgone potential undermines the incentive value of copyright law. Because Creative Upstarts represent some of the most innovative and diverse sources of creativity, we should take seriously the systematic failures of the copyright system to serve their interests. This project considers ways in which the copyright system could be reconfigured to become more user-friendly and sensitive to transaction costs. It explores low-cost mechanisms to disseminate copyright information and to enable Creative Upstarts to register and license their works, enforce their rights, and navigate around the conflicting rights of others. Reliance on legal informatics technology, in particular, offer a promising way forward.

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