Preface

Recycling existing works in new media is an age-old recurrence, which continues to challenge copyright law and its future. Each time a new technology is invented there is a new way to re-introduce or recycle an existing work. Across the world, freelance authors of works previously in print dispute publishers’ continued exploitation of their works in new media. This book evaluates the efficacy of copyright law to address the copyright contracting of freelance works in the digital era. It argues that the copyright treatment of freelance work on a national and international level is inadequate to resolve ambiguities in the copyright contracting of new uses. The current proliferation of digital technologies expands the publisher’s exploitation powers. Historically, authors’ works became the property of publishers that would in turn exploit these for all they are worth. It is demonstrated that copyright law has been – and continues to be – a publisher’s and not an author’s right. But significantly, nineteenth-century British copyright was more sympathetic to authors and had some notable restrictions in place to contain publishers’ freedom of contract. This is no longer the case as full freedom of contract prevails. Given the continuing imbalanced bargaining between authors and publishers, and the lack of express and adequate legislation, an equilibrated copyright theory is proposed to justify legislative restrictions such as a pro-author default rule to be codified and applied by the courts. Other judicial interpretive principles and industry mechanisms are also suggested to address the inadequacies of copyright treatment of freelance work.