Episode 58: Summary

HEARSAY
The legal podcast

Episode name: Copyright, Copyleft: The Use and Reuse of Media
Guest(s): Michael Green and Wen Wu

What area(s) of law does this episode consider?	Developments in copyright law, including the evolution and proliferation of copyleft.
Why is this topic relevant?	Copyright law has to continuously evolve to keep up with the ever evolving proliferation of original content creators and new media types. Newer mediums such as open source software provide a challenge to traditional concepts of copyright, importing into the law their own ideas of rights and ownership - such as the now infamous copyleft slogan "all wrongs reserved".
What legislation is considered in this episode?	*Copyright Act 1968* (Cth)
What cases are considered in this episode?	*Temple Island Collections Ltd v New English Teas Ltd & Anor* [2012] EWPCC 1 (BAILII link) ● Two parties created conceptually similar, but slightly different, content for commercial use. Judge Birss held that there were obvious similarities between the two works and that these similarities were due to the fact that the defendant saw the original work before creating his own image.
What are the main points?	● Copyright attaches to a variety of dramatic, literary, artistic and musical works. Computer software has been deemed as literary work for the sake of the Act. ● There are exceptions in the *Copyright Act* for educational institutions, libraries and archives for certain uses of original works. ● Authorial contribution is paramount to determining who the author of a piece of work is and if someone recreates a piece of work after they have seen it, with the intent to recreate it then they may be in breach of copyright. ● Creative Commons is an example of an open source license that allows the owner of the copyright to license their work to everyone and specifies the ways in which their work may be used.
What are the practical takeaways?	● When starting a commercial software project that might include open source code, take a copy of the original open source code that you use. ● Make sure to freely give back to the open source community if you have used any of its code, especially if you fix a bug or enhance the original open source work. ● To be an effective copyright lawyer, you need to have an understanding of the area you are working in, outside of the law. To do this, get practical experience in the copyright area you wish to work in. Talk to people who actually work in the area, not just lawyers.