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## mapping cases to everyday practices

*“Canada should be applauded for its recent court decisions that have made the interpretation of their fair dealing clause much more flexible and also for its new and innovative copyright reform that has expanded users’ rights and protections. (Sean Flynn et al, Comment upon Special 301).”*



Claude Théberge (1934-2008)

*The Lost Scarf* (1996)

Image courtesy of [www.claudetheberge.com](http://www.claudetheberge.com)



*Théberge v. Galerie d'Art du Petit Champlain inc.* 2002 SCC 34:

“The proper balance among these and other public policy objectives lies not only in recognizing the creator’s rights but in giving due weight to their limited nature. ... exceptions to copyright infringement seek to protect the public domain in traditional ways such as fair dealing.”

**No copy... therefore no copyright and no infringement. Links anyone?**



*Law Society of Upper Canada v. CCH Canadian* 2004 SCC 13

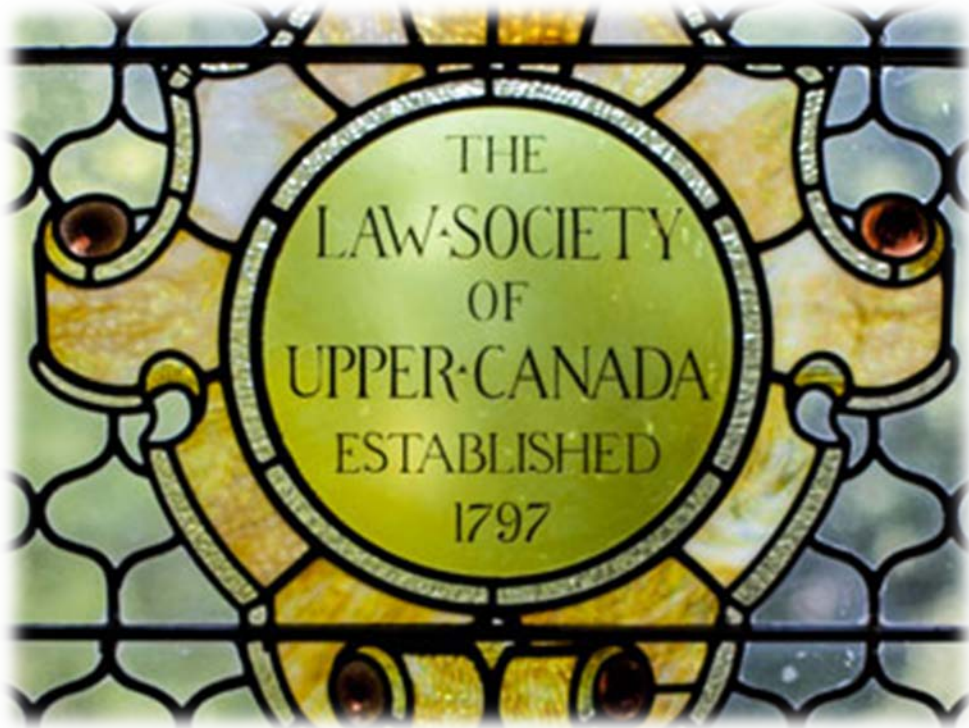
“As an integral part of the scheme of copyright law, the s. 29 fair dealing exception is always available ...”

Fair dealing is contextual.

**Section 29: Fair dealing for the purpose of research or private study does not infringe copyright**

**Image courtesy of the Law Society Gazette**





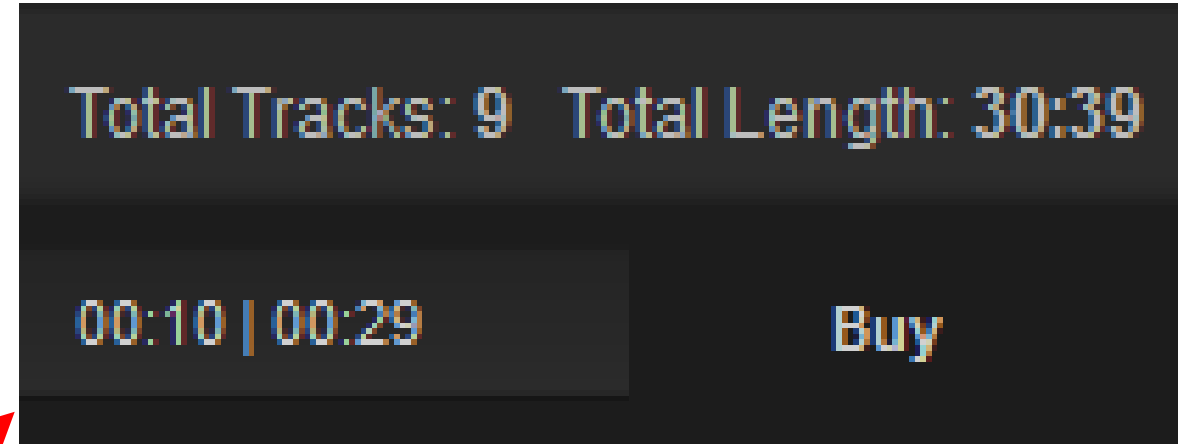
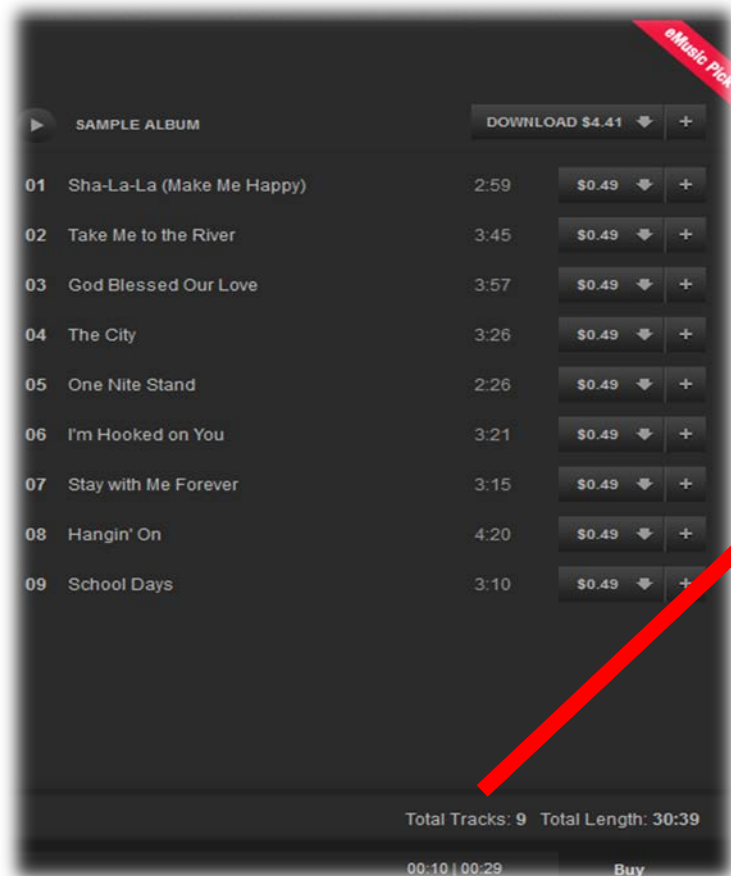
“Research must be given a large and liberal interpretation ... .”

Commerciality is not a bar to fairness.

“The availability of a license is not relevant to deciding if a dealing is fair.”

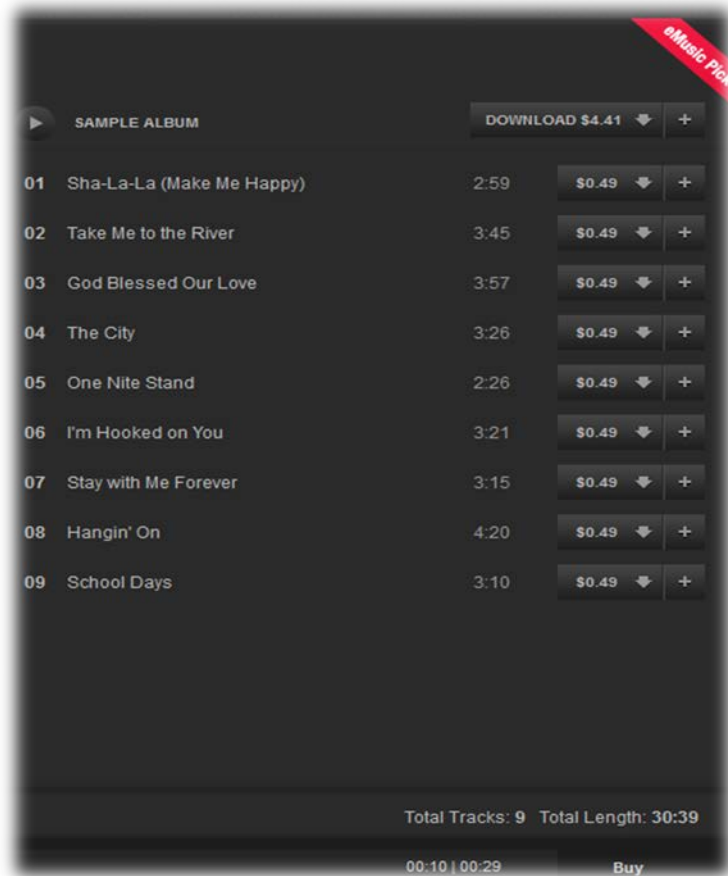
No liability to institutions for third-party (i.e. students) conduct.

“ ‘Dealing’ connotes not individual acts, but a practice or system.”



*Explores your mind*  
Performed by Al Green

Image courtesy of emusic.com



## *SOCAN v. Bell Canada, 2012 SCC36*

“Limiting research to creative purposes would also run counter to the ordinary meaning of “research”, which can include many activities that do not demand the establishment of new facts or conclusions. [Research] can be piecemeal, informal, exploratory, or confirmatory. It can in fact be undertaken for no purpose except personal interest.”

**Constant theme ... fair dealing is transferrable.**



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***Thank You***