File No. 39222

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE FEDERAL COURT OF APPEAL)

BETWEEN:

YORK UNIVERSITY

Appellant
(Appellant)

- and -

THE CANADIAN COPYRIGHT LICENSING AGENCY
("ACCESS COPYRIGHT")

Respondent
(Respondent)

Style of cause continued on inside cover page

REPLY FACTUM OF YORK UNIVERSITY TO THE INTERVENERS
(Pursuant to the Order of Justice Karakatsanis dated March 29, 2021 and Rule 42 of the *Rules of the Supreme Court of Canada*, SOR/2002-156)

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Société québécoise de gestion collective du droit de reproduction, the Authors Alliance, Ariel Katz, the Canadian Association of Law Libraries, the Canadian Association of University Teachers, the Canadian Federation of Students, the Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic, le Centre de droit des affaires et du commerce international, Chaire L.R. Wilson sur le droit des technologies de l'information et du commerce électronique, Society of Composers, Authors and Music Publishers of Canada, the Copyright Collective of Canada, the Canadian Media Producers Association, Association québécoise de la production médiatique, the International Federation of Reproduction Rights Organisations, the International Authors Forum, the International Publishers Association, the Canadian Musical Reproduction Rights Agency Ltd., the Canadian Retransmission Collective, CONNECT Music Licensing Service Inc., la Société de gestion collective des droits des producteurs de phonogrammes et de vidéogrammes du Québec, the Association of Canadian Publishers, Canadian Publishers' Council, The Writers' Union of Canada, Canadian Association of Research Libraries, the Copyright Consortium of the Council of Ministers of Education, Canada, Music Canada, Canadian Music Publishers Association, Association québécoise de l'industrie du disque, du spectacle et de la vidéo, Association des professionnels de l'édition musicale, Canadian Independent Music Association, Colleges and Institutes Canada, and Universities Canada

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PART I – OVERVIEW

1. York replies to the arguments of the interveners noted below. Contrary to their submissions on fair dealing: (1) there is no reason to turn back the clock on this Court's fair dealing jurisprudence; (2) moral rights are not at issue; (3) there is a genuine *lis* between the parties; and (4) the industry-specific arguments of the intervening music associations and media producers are not instructive to the issues of educational fair dealing before the Court.[1]

2. Regarding the interveners' submissions on tariff enforceability: (1) SOCAN's enforcement situation is different from Access Copyright; (2) the "other remedies" referred to in s. 68.2(1) of the *Copyright Act* do not suggest that tariffs are mandatory; (3) tariffs are not intended to protect collectives from their customers; (4) the Copyright Board does not address enforcement issues in its tariff approval decisions; and (5) publication in the *Canada Gazette* is not "clear and distinct authority" to bind unwilling users. Finally (6), as submitted by one intervener, this appeal does not require consideration of the retransmission regime.

PART II – STATEMENT OF ARGUMENT

A. Interveners Raising New Issues

3. Certain interveners[2] raise new issues contrary to the order of Justice Karakatsanis dated March 29, 2021, which provided that "interveners or group of interveners are not entitled to raise new issues". This Court should disregard the submissions of interveners regarding new issues. Nevertheless, York addresses the new issues below in summary form.

B. York's Appeal on Fair Dealing

(1) No reason to turn back the clock on *CCH* (COPIBEC and IAF)

4. COPIBEC asks this Court to revisit its leading fair dealing decisions—*CCH*, *SOCAN*, and *Alberta (Education)*—which held that fair dealing is a user's right that should not be interpreted restrictively.[3] This has been a consistent feature of this Court's fair dealing

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1 Capitalized terms not otherwise defined have the meanings given to them in York's appellate factum dated February 5, 2021 and its responding factum dated April 6, 2021.

2 COPIBEC, Authors Alliance, and Canadian Association of Research Libraries.

3 Factum of COPIBEC paras. 6-10. See also para. 25.

jurisprudence since 2004, as unanimously reaffirmed in 2012.[4] Yet COPIBEC argues that this « *n'est pas strictement exacte* » and asks the Court to roll back the jurisprudence to a stricter, outdated « *test en trois étapes* » purportedly derived from the *Berne Convention*.[5]

5. The *Berne Convention* was not intended to freeze Canadian law in the past, nor does its "three-step test" substitute for this Court's well-established fair dealing test, nor does it override Parliament's intent to create non-restrictive user's rights. This Court's approach is consistent with the *Berne Convention* and other international instruments. On this point York relies on CIPPIC's submissions, which discuss the facilitative nature of the three-step test.[6]

6. COPIBEC also overlooks that this Court has provided guidance on when it will overrule its past decisions. Overturning precedent "is a step not to be lightly undertaken" and must be based on "compelling reasons that the precedent was wrongly decided."[7]

7. Beyond its general dissatisfaction with the law, COPIBEC provides no reason for this Court to overrule its prior decisions, other than an allegation that *CCH* did not refer to the *Berne Convention* (which is incorrect),[8] and sweeping assertions regarding foreign fair dealing law and commentary.[9] As this Court held in *Alberta (Education)*, authorities from foreign jurisdictions with more restrictive fair dealing laws are not "particularly helpful."[10]

8. The International Authors Forum and its coalition ("**IAF**") take a subtler approach. They do not say directly that this Court's past decisions were wrongly decided, nor do they cite *CCH*, *SOCAN*, or *Alberta*. Instead they ask the Court to apply the "three-step test" from the *Berne Convention*, which they interpret more restrictively than (or as a restrictive gloss

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4 *CCH Canadian Ltd. v. Law Society of Upper Canada,* 2004 SCC 13, [2004] 1 S.C.R. 339, para. 48; *Society of Composers, Authors and Music Publishers of Canada v. Bell Canada*, 2012 SCC 36, [2012] 2 S.C.R. 326, paras. 11, 29.

5 Factum of COPIBEC, para. 10.

6 Factum of CIPPIC, paras. 19-26.

7 *Canada v. Craig*, 2012 SCC 43, [2012] 2 S.C.R. 489, paras. 24-25.

8 *CCH*, 2004 SCC 13, para. 19.

9 Factum of COPIBEC, paras. 8-9.

10 *Alberta (Education) v. Canadian Copyright Licensing Agency (Access Copyright)*, 2012 SCC 37, [2012] 2 S.C.R. 345, para. 19.

on) this Court's two-step, multifactor test.[11] That is inconsistent with *CCH* and *SOCAN*, both of which held that fair dealing is a user's right that must not be interpreted restrictively.[12]

(2) Moral rights are a new issue and not engaged in this case (COPIBEC)

9. COPIBEC raises a new issue not raised in the courts below alleging that « *la politique institutionnelle de York ne comporte aucune consigne sur la protection des droits moraux ni aucun mécanisme pour en assurer le respect* ».[13] In COPIBEC's view, copying an excerpt from a work « *implique – par définition – qu'on porte atteinte à l'intégrité de l'œuvre* ».[14] The argument appears to be that copying excerpts from a work is prejudicial to the creator's moral rights, and copying the whole work could never be fair dealing.[15] This would eviscerate fair dealing, as neither excerpts nor whole works could be copied. *CCH* provides otherwise, as this Court held that copying excerpts and whole works may be fair dealing.[16]

10. COPIBEC mixes concepts by seeking to inject moral rights into this appeal. Moral rights under the *Act* are distinct from copyright (an economic right).[17] Determining that the use of a work is fair dealing (and thus not an infringement of copyright) says nothing about whether moral rights might have been violated. Further, this Court does not have the benefit of reasons from the courts below, nor an adequate factual foundation, on the potential application of moral rights. York's Guidelines do not address moral rights, and neither party pleaded nor presented evidence on this new issue.

(3) There is a genuine *lis* between the parties (Authors Alliance and CARL)

11. The Authors Alliance and Ariel Katz ("**Authors Alliance**") and the Canadian Association of Research Libraries ("**CARL**") argue that the courts below should not have addressed York's counterclaim, or that the courts' reasons were *obiter dicta*. Authors Alliance says that there was no *lis* or "live controversy" between York and Access

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11 Factum of IAF, paras. 3, 12-26.
12 *CCH*, 2004 SCC 13, para. 48; *SOCAN*, 2012 SCC 36, para. 11.
13 Factum of COPIBEC, para. 14. See also paras. 11-15.
14 Factum of COPIBEC, para. 13.
15 Factum of COPIBEC, paras. 13-14, 17.
16 *CCH*, 2004 SCC 13, paras. 56, 68.
17 *Théberge v. Galerie d'Art du Petit Champlain inc.*, 2002 SCC 34, paras. 11-19.

Copyright, and CARL submits that the decision on the counterclaim was "effectively an advisory opinion."[18] These arguments opposing the counterclaim advance new issues and improperly take a position on the outcome of the appeal (contrary to Rule 42(3)).

12. Fair dealing was a live dispute between the parties given Access Copyright's action for royalties and other remedies against York as a non-licensee. Both parties pleaded fair dealing. Access Copyright pleaded that the activities permitted under the Guidelines were "not encompassed within the 'fair dealing' exemption under the *Copyright Act*."[19] York denied these allegations and relied on fair dealing in defence to Access Copyright's action.[20]

13. Fair dealing was thus very much a "live controversy" between the parties. It was in that context that York brought a counterclaim seeking a declaration (consistent with the one affirmed by this Court in *CCH*) that "any reproductions made that fall within the guidelines set out in York's [Guidelines] […] constitute fair dealing" under the *Copyright Act.*[21] This guidance will be significant to both parties, as reflected in the parties' factums in this Court.

14. There is no merit to CARL's suggestion that this dispute could only be resolved in a proceeding involving "the entire universe" of copyright owners and other "educational institutions and their communities" besides York.[22] CARL overlooks *CCH*, where this Court granted a declaration that "the Law Society does not infringe copyright when a single copy of a reported decision, case summary, statute, regulation or limited selection of text from a treatise is made by the Great Library in accordance with its 'Access to the Law Policy.'"[23] The parties in *CCH* were limited to the Law Society and certain publishers (plus interveners).

15. Declarations such as in *CCH* and York's counterclaim are practical and help dispel the uncertainty inherent in the multifactor fair dealing test. Like York's Guidelines

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18 Factum of Authors Alliance, paras. 6, 20; Factum of CARL, paras. 3(b), 7, 20-21.
19 Amended Statement of Claim filed April 5, 2016, para. 27: FCA Record, Amended Appeal Book – Book of Essential Documents ("**B.E.D.**"), Tab 6, p. 196.
20 Amended Statement of Defence and Counterclaim filed April 8, 2016, paras. 2, 19(a)(iii): FCA Record, B.E.D., Tab 9, pp. 276-277.
21 *Ibid*., para. 25(a)(iii): FCA Record, B.E.D., Tab 9, p. 280.
22 Factum of CARL, para. 20.
23 *CCH*, 2004 SCC 13, para. 90.

themselves, the declaration sought in York's counterclaim is needed to provide clarity to university faculty regarding the application of students' fair dealing rights. Absent guidance from this Court, "expensive lawsuits […] [regarding fair dealing] are bound to continue."[24]

(4) Industry-specific arguments about music and audiovisual media are not instructive (Music Industry Associations and Producers Coalition)

16. Music Canada and its coalition (the "**Music Industry Associations**") offer submissions regarding the user's perspective and quantitative thresholds in the context of the music industry.[25] This is not instructive to the issues before the Court, as this case relates to educational fair dealing in the post-secondary sector. Unlike the hypothetical commercial examples posited by the Music Industry Associations, this case is limited to whether copying for university students under York's Guidelines constitutes fair dealing. Both professors and students share the same symbiotic purpose of education, and that purpose aligns with the purposes of copyright to disseminate knowledge.[26] Commercial use of music is not engaged.

17. The Music Industry Associations posit a commercial file sharing platform and assert that "[f]ollowing York's logic, the service's purely commercial purpose would be ignored, as a matter of law, in favour of the purposes of its consumers."[27] This does not follow from York's submissions regarding educational fair dealing, and the hypothetical is already fully addressed by this Court's colourability analysis from *Alberta*.[28]

18. The Canadian Media Producers Association and its coalition ("**Producers Coalition**") argue that York's Guidelines have implications for the audiovisual works that its members represent.[29] But the Producers Coalition suggests no reason why audiovisual works should be treated differently from any other type of work or subject-matter for the purposes of fair dealing.

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[24] David Vaver, *Intellectual Property Law: Copyright, Patents, Trade-marks* (2nd ed. 2011), p. 236.
[25] *E.g.*, Factum of Music Industry Associations, paras. 9, 20, 28.
[26] See York's Appellant's Factum, paras. 68-77.
[27] Factum of Music Industry Associations, paras. 9-10.
[28] *Alberta (Education)*, 2012 SCC 37, paras. 22-23.
[29] Factum of Producers Coalition, paras. 22-28.

C. Access Copyright's Appeal on Tariff Enforceability

(1) SOCAN's enforcement situation is different

19. The Society of Composers, Authors and Music Publishers ("**SOCAN**") operates under the Performing Rights Regime but has a much different enforcement position than Access Copyright. Unlike Access Copyright, SOCAN can—and does—sue for copyright infringement because it receives exclusive assignments of copyrights from its members.[30]

20. SOCAN's factum outlines its preference to sue users both for infringement and under its tariff, or either, at its choice.[31] But this litigation preference does not inform the issues of statutory interpretation before the Court. SOCAN's ability to sue for infringement demonstrates that collectives with exclusive rights have an adequate enforcement position absent a "mandatory tariff." Access Copyright's members could put themselves into the same position by assigning exclusive rights to their collective.

21. Nothing turns on the fact that SOCAN doubles up some of its infringement actions with claims to enforce its tariffs. As the Federal Court of Appeal noted, "a great many" of the cases where SOCAN recovered royalties from non-licensees were default judgment cases.[32] SOCAN cites one case which was not a default judgment (*Kicks Roadhouse*), but the primary monetary remedy in that case was damages for infringement. The trial judge also gave SOCAN an "elect[ion]" to collect tariff royalties as an alternative to damages, but the reasons contain no substantive discussion regarding whether the tariff was mandatory.[33]

22. The enforceability of SOCAN's tariffs does not appear to have been adjudicated, likely because SOCAN owns or has exclusive assignments of the performing rights in virtually all popular musical works in current use in Canada.[34] SOCAN is the only place for users to go to obtain those rights; it has no competitors. The result is that SOCAN tariffs are

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30 *Society of Composers, Authors and Music Publishers of Canada v. Kicks Roadhouse Inc.*, 2005 FC 528, [2005] F.C.J. No. 646, para. 4.
31 Factum of SOCAN, paras. 22-25.
32 *York University v. Copyright Licensing Agency*, 2020 FCA 77, 448 D.L.R. (4th) 456, para. 198: Access Copyright's A.R., Vol. I, Tab 4, p. 188.
33 *Kicks Roadhouse Inc.*, 2005 FC 528, para. 27.
34 *Ibid.*, para. 4.

de facto mandatory if a user wishes to avail itself of a licence, without being *de jure* enforceable against non-licensees. There are no other lawful options. This is very different from Access Copyright, which has competitors offering the same rights to the same works.

(2) "Other remedies" in s. 68.2 do not suggest mandatory tariffs (SOCAN)

23. SOCAN also argues that the phrase "[w]ithout prejudice to any other remedies" in s. 68.2(1) has no meaning unless tariffs are mandatory against non-licensees. According to SOCAN, the "'other remedies' […] necessarily [refers to] the civil remedies set out in Part IV of the Act", including an action for copyright infringement (a Part IV remedy).[35]

24. SOCAN's argument does not follow. The phrase "[w]ithout prejudice to any other remedies available" merely preserves whatever remedies may be available in a court of competent jurisdiction against a defaulting licensee beyond the recovery of unpaid royalties. For example, licences under a tariff typically include requirements on the licensee beyond paying royalties, such as reporting obligations. The collective society may seek a declaration or other judicial relief to enforce the conditions of the tariff against the defaulting licensee.[36]

25. The "other remedies" referred to in s. 68.2(1) do not "necessarily" include an action for infringement as SOCAN argues. Further, s. 70.4 uses identical language in the context of licence arbitrations (addressed in *SODRAC*), and there is no doubt that a user cannot be sued for copyright infringement if it accepts an arbitrated licence under s. 70.4.[37]

26. Moreover, contrary to SOCAN's argument, an action for infringement is only possible if tariffs are ***not*** mandatory against users. It is an "elementary" principle that a user cannot simultaneously be liable to pay royalties under a licence and damages for infringement.[38] If tariffs are mandatory, then all users are automatically licensed to perform the activities covered under the tariff, and by definition they cannot have infringed copyright.

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35 Factum of SOCAN, para, 29.

36 See House of Commons Committees, Legislative Committee on Bill C-60, vol. 1, no. 1-9, 2nd Sess., 33rd Parl., October 12, 1987, pp. 9:9, 9:75-9:76.

37 *Canadian Broadcasting Corp. v. SODRAC 2003 Inc.*, 2015 SCC 57, [2015] 3 S.C.R. 615, paras. 108, 110.

38 *Composers, Authors and Publishers Association of Canada, Ltd. v. Sandholm Holdings Ltd.* (1955), 24 C.P.R. 58, p. 68. See also s. 70.17 of the *Copyright Act*.

(3) Tariffs are not intended to protect collectives from their own customers (Collective Societies Coalition)

27. Canadian Musical Reproduction Rights Agency Ltd. and its coalition ("**Collective Societies Coalition**") flips the antitrust purpose for regulating collective administration by arguing that "tariffs approved by the Board in the General Regime are tools to balance out the market power of *users* who are unwilling to licence the use of copyright-protected works from collective societies at the rates and on the terms proposed."[39] There is no foundation in the legislative history or elsewhere for this notion that Parliament intended to regulate collective administration to protect the collectives from the "market power" of customers.

28. Protecting collectives societies from their own customers would be anticompetitive. Where the customer has alternatives (*e.g.*, York's library consortia licences), the collective may compete by lowering its prices or improving its product, or it should lose the business.

29. Contrary to these interveners' arguments, the ability of collective societies to enter into voluntary licensing agreements with users does not suggest that the regulation of collective administration is intended for some purpose other than to curb the market power of collectives.[40] Voluntary negotiations are backstopped by the licence arbitration process if the parties cannot agree (ss. 70.2-70.4). The Board's decision caps the amount that the collective society may extract from the user, but the user is not bound to accept the licence.[41]

(4) Copyright Board does not address enforcement (CAP)

30. The Canadian Publishers' Council and members of its coalition ("**CAP**") picks up the argument in Access Copyright's factum that York's defence to the enforceability of the tariff is a "collateral attack" on the administrative decisions of the Copyright Board.[42] CAP goes further with groundless allegations that York "procedurally orchestrated […] a *calculated ambush* that seeks to overend the heart of the Board's jurisdiction."[43] There is no

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39 Factum of Collective Societies Coalition, para. 24 (emphasis in original). See also paras. 7, 12.
40 Factum of Collective Societies Coalition, paras. 27, 32.
41 *SODRAC 2003 Inc.*, 2015 SCC 57, para. 107.
42 Access Copyright Appellant's Factum, paras. 113-120.
43 Factum of CAP, para. 10 (emphasis in original).

basis in the record for CAP's narrative of York orchestrating the AUCC and its members. It would be inappropriate for a party to make evidence-free allegations, let alone an intervener.

31. CAP's submissions regarding administrative law and collateral attack are premised on legal error and misapprehension of the procedural history of this case. The legal error is that the Copyright Board does not, as CAP assumes, determine whether approved tariffs are enforceable against non-licensees. The Board's jurisdiction in the tariff approval process is to determine fair and equitable royalty rates and other terms of licences (s. 70.15(1)).

32. If the collective society believes that the approved tariff is enforceable against a particular user, the collective society may sue to collect royalties in a "court of competent jurisdiction" (s. 68.2(1)). This means the Federal Court or a provincial superior court (s. 41.24), not the Copyright Board. The Board has repeatedly held that tariff compliance and enforcement issues are matters for the courts, not the Board.[44]

33. This is related to CAP's procedural misapprehension. CAP appears to believe that York had "orchestrated" others to get the enforcement issue out of the Copyright Board and into the Federal Court.[45] No such thing happened. Access Copyright, not York, brought the enforcement action to the Federal Court based on its interpretation of s. 68.2(1).

34. Regarding s. 66.7 of the *Copyright Act* (which provides a mechanism for Board decisions to be enforced as court orders), CAP is incorrect that the trial decision "was *acting on this power*."[46] Access Copyright referred to this provision in its pleadings, but the trial judge did not consider it (other than mentioning it in a list of issues).[47] The trial judge's decision on tariff enforceability is based on s. 68.2(1).[48] Section 66.7 is inapplicable and was not cited by Access Copyright in its factums in this Court, nor in the Federal Court of Appeal.

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44 See *e.g.*, *Collective Administration in Relation to Rights, Re*, 2018 CarswellNat 5497 (Copyright Bd.), para. 42.

45 Factum of CAP, paras. 10, 13 (fn 13).

46 Factum of CAP, para. 16 (emphasis in the original).

47 *Canadian Copyright Licensing Agency v. York University*, 2017 FC 669, [2018] 2 F.C.R. 43, para. 6: Access Copyright's A.R., Vol. I, Tab 2, p. 15.

48 *Ibid.*, para. 210: Access Copyright's A.R., Vol. I, Tab 2, p. 68.

(5) Publication in the *Canada Gazette* is not "clear and distinct authority" to bind unwilling users to a licence (CDACI and Chaire Wilson)

35. CDACI and Chaire Wilson advance various arguments for the mandatory nature of tariffs, such as the fact that approved tariffs must be published in the *Canada Gazette*, which allegedly « *informe le public qu'il est tenu de respecter* ».[49] Neither this nor any other arguments of the interveners identifies "clear and distinct" authority to bind an unwilling user to the burdens of a licence, which is the legal standard set by this Court in *SODRAC*.[50]

36. Moreover, there is much in the *Canada Gazette* that is merely notice, like awards and appointments. Approved tariffs are published in the *Canada Gazette* for the same reason: to provide public notice; specifically, public notice of the royalties and related terms and conditions of a licence available from the collective society to any prospective licensee.

(6) The retransmission regime is different (Copyright Collective of Canada and Collective Societies Coalition)

37. Two intervener groups address the retransmission regime (ss. 71-76): Copyright Collective of Canada ("**CCC**") and the Collective Societies Coalition. CCC urges this Court to confine its decision to the General Regime applicable to Access Copyright, whereas the Collective Societies Coalition uses the retransmission regime as an illustrative example.[51]

38. This appeal does not require the Court to address whether retransmission tariffs are mandatory. The retransmission regime must be interpreted within its broader interlocking statutory scheme, including the *Broadcasting Act*.[52] This scheme has a different historical origin and is structurally different from the General Regime or any of the other aspects of the *Act* which form the context of the General Regime (*e.g.*, the Performing Rights Regime).

PART III – SUBMISSIONS ON CASE SENSITIVITY

39. There is a Confidentiality and Protective Order made in the Federal Court on August 31, 2015 (attached to Form 23A). However, nothing in this Reply Factum is confidential.

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49 Factum of CDACI and Chaire Wilson, paras. 7-8.
50 *SODRAC 2003 Inc.*, 2015 SCC 57, para. 107.
51 Factum of CCC, para. 4; Factum of Collective Societies Coalition, paras. 15-17, 29-30.
52 *Reference re Broadcasting Regulatory Policy*, 2012 SCC 68, paras. 34, 57, 75.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Toronto, May 6, 2021

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PART IV – TABLE OF AUTHORITIES

	Statutes	**Paragraph(s) referred to**
1.	*Copyright Act*, R.S.C., 1985, c. C-42, ss. 41.24, 66.7, 68.2, 70.15, 70.17, 70.2-70.4, 71-76 *Loi sur le droit d'auteur*, L.R.C. (1985), ch. C-42, art. 41.24, 66.7, 68.2, 70.17, 70.2-70.4, 71-76	29, 31-34, 37

	Cases	**Paragraph(s) referred to**
2.	*Alberta (Education) v. Canadian Copyright Licensing Agency (Access Copyright)*, 2012 SCC 37, [2012] 2 S.C.R. 345	4, 7, 8, 17
3.	*Canada v. Craig*, 2012 SCC 43, [2012] 2 S.C.R. 489	6
4.	*Canadian Broadcasting Corp. v. SODRAC 2003 Inc.*, 2015 SCC 57, [2015] 3 S.C.R. 615	25, 29, 35
5.	*CCH Canadian Ltd. v. Law Society of Upper Canada*, 2004 SCC 13, [2004] 1 S.C.R. 339	4, 7, 8, 9, 13, 14, 15
6.	*Collective Administration in Relation to Rights, Re*, 2018 CarswellNat 5497 (Copyright Bd.)	32
7.	*Composers, Authors and Publishers Association of Canada, Ltd. v. Sandholm Holdings Ltd.* (1955), 24 C.P.R. 58	26
8.	*Reference re Broadcasting Regulatory Policy CRTC 2010-167 and Broadcasting Order CRTC 2010-168*, 2012 SCC 68, [2012] 3 S.C.R. 489	38
9.	*Society of Composers, Authors and Music Publishers of Canada v. Bell Canada*, 2012 SCC 36, [2012] 2 S.C.R. 326	4, 8
10.	*Society of Composers, Authors and Music Publishers of Canada v. Kicks Roadhouse Inc.*, 2005 FC 528, [2005] F.C.J. No. 646	21, 22
11.	*Théberge v. Galerie d'Art du Petit Champlain inc.*, 2002 SCC 34, [2002] 2 S.C.R. 336	10

	Doctrine	**Paragraph(s) referred to**
12.	David Vaver, *Intellectual Property Law: Copyright, Patents, Trade-marks* (2nd ed. 2011)	15

	Hansard	**Paragraph(s) referred to**
13.	House of Commons Committees, Legislative Committee on Bill C-60, vol. 1, no. 1-9, 2nd Sess., 33rd Parl., October 12, 1987, pp. 9:9, 9:75-9:76.	24