



knowledge without boundaries

## **EIFL webinar**

# **The Google Books decision – what it is and why it is important for libraries**

**Tuesday, 24 November 2015**



# COPYRIGHT AND LIBRARIES PROGRAMME

Promoting a fair copyright system

WHAT WE DO IMPACT NEWS & EVENTS IN ACTION CONTACT US

## COPYRIGHT AND LIBRARIES PROGRAMME

COORDINATORS

NEWS

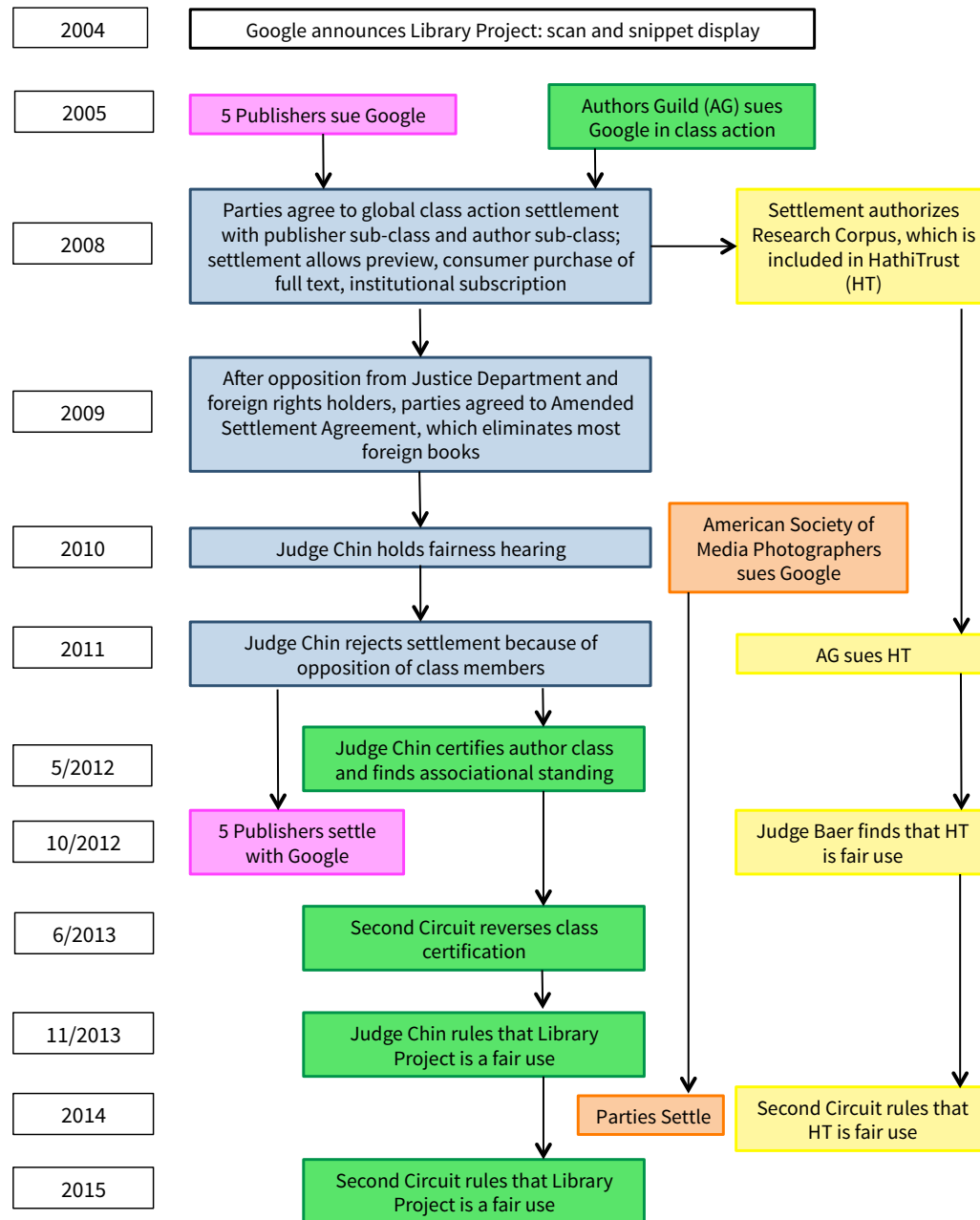
Restrictive copyright laws create legal barriers to using resources for education, research and socio-economic development. This can have significant consequences for people who use libraries in developing and transition economy countries, where the ability to produce and use knowledge is a major factor in development.

# The Google Books Decision:

What it is and why it is important for libraries

Jonathan Band

# Google Books Litigation Family Tree



2004

Google announces  
Library Project: scan  
and snippet display

2005

5 Publishers  
sue Google

Authors Guild  
(AG) sues  
Google in class  
action

2008

Parties agree to global class action settlement with publisher sub-class and author sub-class; settlement allows preview, consumer purchase of full text, institutional subscription

Settlement authorizes Research Corpus, which is included in HathiTrust (HT)

2009

After opposition from Justice Department and foreign rights holders, parties agreed to Amended Settlement Agreement, which eliminates most foreign books



2010

Judge Chin  
holds fairness  
hearing

American  
Society of Media  
Photographers  
sues Google

2011

Judge Chin rejects  
settlement because of  
opposition of class  
members

AG  
sues HT

5/2012

Judge Chin certifies  
author class and finds  
associational standing

10/2012

5 Publishers  
settle with  
Google

Judge Baer  
finds that HT is  
fair use

6/2013

Second Circuit  
reverses class  
certification

11/2013

Judge Chin rules that  
Library Project is a fair  
use

2014

Parties  
Settle

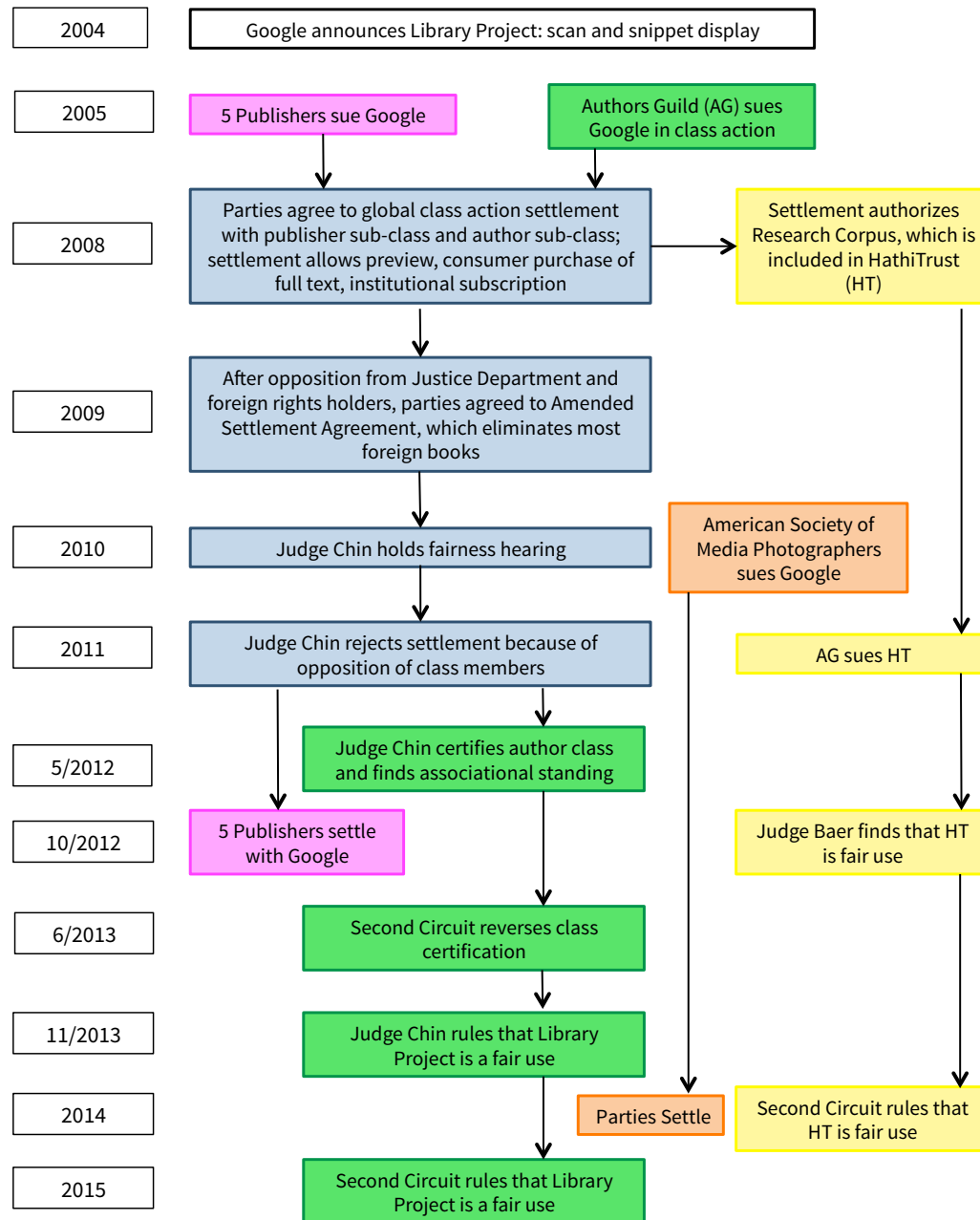
Second Circuit  
rules that HT is  
fair use

2015

Second Circuit rules  
that Library Project  
is a fair use



# Google Books Litigation Family Tree



## Implications for Libraries in Other Countries

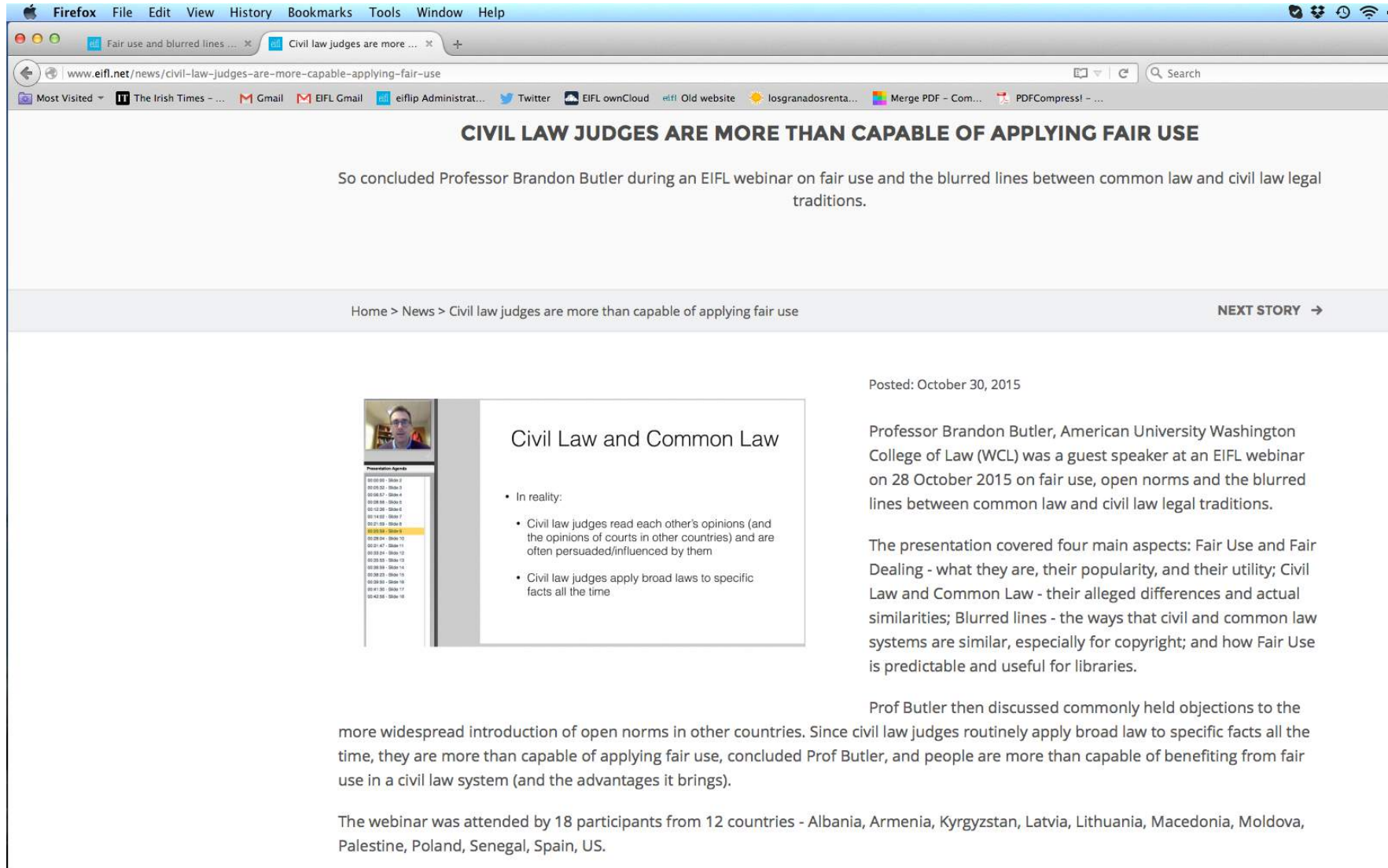
- Snippets viewable globally
- Not a legal precedent in countries without fair use
- But provides basis for advocacy to adopt fair use
- Encourages national digitization projects



**Question time**

# EIFL webinar and blog on fair use, October 2015

<http://www.eifl.net/news/civil-law-judges-are-more-capable-applying-fair-use>




The screenshot shows a Firefox browser window with the address bar displaying [www.eifl.net/news/civil-law-judges-are-more-capable-applying-fair-use](http://www.eifl.net/news/civil-law-judges-are-more-capable-applying-fair-use). The page title is "CIVIL LAW JUDGES ARE MORE THAN CAPABLE OF APPLYING FAIR USE". The main text reads: "So concluded Professor Brandon Butler during an EIFL webinar on fair use and the blurred lines between common law and civil law legal traditions." Below the text is a navigation bar with "Home > News > Civil law judges are more than capable of applying fair use" and a "NEXT STORY →" link. The article content includes a video player titled "Civil Law and Common Law" with a list of timestamps. To the right of the video player, the text states: "Posted: October 30, 2015" and "Professor Brandon Butler, American University Washington College of Law (WCL) was a guest speaker at an EIFL webinar on 28 October 2015 on fair use, open norms and the blurred lines between common law and civil law legal traditions." Below this, it says: "The presentation covered four main aspects: Fair Use and Fair Dealing - what they are, their popularity, and their utility; Civil Law and Common Law - their alleged differences and actual similarities; Blurred lines - the ways that civil and common law systems are similar, especially for copyright; and how Fair Use is predictable and useful for libraries." Further down, it notes: "Prof Butler then discussed commonly held objections to the more widespread introduction of open norms in other countries. Since civil law judges routinely apply broad law to specific facts all the time, they are more than capable of applying fair use, concluded Prof Butler, and people are more than capable of benefiting from fair use in a civil law system (and the advantages it brings)." At the bottom, it mentions: "The webinar was attended by 18 participants from 12 countries - Albania, Armenia, Kyrgyzstan, Latvia, Lithuania, Macedonia, Moldova, Palestine, Poland, Senegal, Spain, US."

## CIVIL LAW JUDGES ARE MORE THAN CAPABLE OF APPLYING FAIR USE

So concluded Professor Brandon Butler during an EIFL webinar on fair use and the blurred lines between common law and civil law legal traditions.

Home > News > Civil law judges are more than capable of applying fair use NEXT STORY →



### Civil Law and Common Law

- In reality:
  - Civil law judges read each other's opinions (and the opinions of courts in other countries) and are often persuaded/influenced by them
  - Civil law judges apply broad laws to specific facts all the time

Posted: October 30, 2015

Professor Brandon Butler, American University Washington College of Law (WCL) was a guest speaker at an EIFL webinar on 28 October 2015 on fair use, open norms and the blurred lines between common law and civil law legal traditions.

The presentation covered four main aspects: Fair Use and Fair Dealing - what they are, their popularity, and their utility; Civil Law and Common Law - their alleged differences and actual similarities; Blurred lines - the ways that civil and common law systems are similar, especially for copyright; and how Fair Use is predictable and useful for libraries.

Prof Butler then discussed commonly held objections to the more widespread introduction of open norms in other countries. Since civil law judges routinely apply broad law to specific facts all the time, they are more than capable of applying fair use, concluded Prof Butler, and people are more than capable of benefiting from fair use in a civil law system (and the advantages it brings).

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Thank you!