

Internet Archive appeals loss in library ebook lawsuit

Hachette and three other publishers – HarperCollins, Wiley & Sons, and Penguin Random House – sued the Internet Archive in 2020 after it opened a program dubbed the National Emergency Library. The National Emergency Library expanded the Archive's long-running Open Library program, which lets people digitally "check out" scanned copies of physical books. Publishers dubbed both systems "willful digital piracy on an industrial scale," and in a March ruling, a New York judge substantially agreed.

The March ruling found that the Internet Archive's scanning and lending of books didn't fall under the protections of fair use law, and an August settlement required it to remove public access to commercially available books that remained under copyright. In addition to affecting the Archive, the ruling cast doubt on a legal theory called "controlled digital lending" that would allow other libraries to offer access to digitized versions of books they physically own – rather than relying on frequently expensive and limited lending systems like OverDrive.

Internet Archive director of library services Chris Freeland acknowledged that the appeal could be a difficult legal battle. "As we stated when the decision was handed down in March, we believe the lower court made errors in facts and law, so we are fighting on in the face of great challenges," said Freeland in the Archive's announcement. "We know this won't be easy, but it's a necessary fight if we want library collections to survive in the digital age." Freeland says the Archive will share more details about the case as it

progresses.

Court documents indicate the Internet Archive is still preparing its response to the lawsuit by UMG and other record labels; a pretrial conference in that case is currently scheduled for October.

<https://www.theverge.com/2023/9/11/23868870/internet-archive-hachette-open-library-copyright-lawsuit-appeal>