

## Jason Bloom in Bloomberg Law: Internet Archive's Public Interest Defense may Fall Short

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**PRACTICES** Intellectual Property, Copyright

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Haynes Boone Partner [Jason Bloom](#) talked with *Bloomberg Law* about four book publishers' copyright lawsuit against the Internet Archive that could upend the digital library's Coronavirus-driven initiative to offer free access to books.

Here is an excerpt:

Authors and publishers' concerns were simmering even before the nonprofit archive's "National Emergency Library" prompted the lawsuit, filed Monday in the U.S. District Court for the Southern District of New York.

The initiative allows access to its 1.3 million books collection, removing the limit on how many copies can be checked out at a given time. The complaint asks for an injunction blocking dissemination of all the publishers' works.

The Internet Archive poses the expanded services as an emergency library providing education tools in a pandemic. But its unfettered approach—and what the plaintiffs deemed "industrial scale" infringement—probably won't hold up to the fair use analysis used in copyright trials, attorneys say.

The four major publishers could secure a preliminary injunction to force the Internet Archive to remove their works, copyright attorneys say. The volume of books allegedly infringed could also create a large degree of financial liability for the nonprofit, with statutory damages ranging between \$750 and 30,000 per work infringed, and up to \$150,00 if the infringement is deemed willful.

"I don't think they have a leg to stand on regarding fair use," said Jason Bloom of Haynes Boone, adding that he was a "little bit" surprised that it took the publishers as long as it did to sue.

"It's not that different from a Napster-type situation," he said, referring to the peer-to-peer file sharing service forced to shut down in 2001 after a court battle.

To read the full article, click [here](#).