

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PARAMOUNT PICTURES)	
CORPORATION, a Delaware)	
corporation; and CBS)	
STUDIOS, INC., a Delaware)	
corporation,)	
)	Case No. 2:15-cv-09938-RGK-E
Plaintiffs,)	
)	
vs.)	
)	
AXANAR PRODUCTIONS, INC., a)	
California corporation; ALEC)	
PETERS, an individual, and)	
DOES 1-20,)	
)	
Defendants.)	
_____)	

CONFIDENTIAL

VIDEOTAPED DEPOSITION OF TERRY McINTOSH

Date and Time: Friday, October 28, 2016
1:32 p.m. - 4:59 p.m.

Location: 2200 Sixth Avenue, Suite 245
Seattle, Washington

Reporter: Ronald L. Cook
CCR, CRR, RDR, FAPR

Job No. 8140

A P P E A R A N C E S

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Also Present: LUCAS CHEADLE, Videographer

SEATTLE, WASHINGTON; FRIDAY, OCTOBER 28, 2016
1:32 P.M.

--o0o--

THE VIDEOGRAPHER: Good afternoon. We are going on the record at 1:32 p.m. on October 28th, 2016. This is Media 1 of the video deposition of Terry McIntosh, taken by plaintiff, in the matter of Paramount Pictures Corporation, et al., vs. Axanar Productions, Inc., et al., filed in the United States District Court, Central District of California, Case No. 2:15-cv-9938-RGK-E.

This deposition is being held at 2200 Sixth Avenue, Suite 425, Seattle, Washington. Videographer is Lucas Cheadle, from Prolumina, Seattle, Washington. The court reporter is Ron Cook, from SRS Premier, Seattle, Washington.

Will counsel and all present please note their appearances and affiliations for the record.

MS. JASON: I'm Jennifer Jason, on behalf of plaintiffs, Paramount Pictures Corporation and CBS Studios, Inc.

THE WITNESS: I'm Terry McIntosh, here to be deposed.

MR. MORNIN: Joseph Mornin, for defendant

I N D E X

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Axanar Productions.

THE VIDEOGRAPHER: Will the reporter please swear in the witness.

TERRY McINTOSH, deponent herein, being first duly sworn on oath, was examined and testified as follows:

E X A M I N A T I O N

BY MS. JASON:

Q. Hi, Mr. McIntosh.

A. Hello.

Q. Have you had your deposition taken before?

A. A long time ago, and certainly nothing this formal. It was regarding a pet store, so --

Q. Oh, okay.

A. Nothing of this magnitude.

Q. So just to remind you of a few things. The court reporter is going to write down everything that everyone in this room is saying, and he will prepare a transcript of today's deposition. After the depo -- after the deposition is over, the transcript will be sent to you for your review, and you'll have

1 an opportunity to make any changes to the transcript
 2 that you deem appropriate. Do you understand that?
 3 A. Yes.
 4 Q. And since the court reporter is writing
 5 down everything that we say, it's important that we
 6 don't talk over each other, so I'd appreciate it if
 7 you let me finish asking my questions before you begin
 8 your answer. Do you understand that?
 9 A. Yes.
 10 Q. If you need a break, just let me know.
 11 If possible, I prefer if we don't take a break while a
 12 question is pending. So you'll just answer the
 13 question and then we can take a break.
 14 A. Sure.
 15 Q. What is your profession?
 16 A. By trade, I am a computer geek, so
 17 computer programmer, working with hardware, software,
 18 anything of that nature.
 19 Q. Where do you work?
 20 A. Right now I'm at Amazon.com.
 21 Q. And how long have you been working there?
 22 A. Since April 8th of this year.
 23 Q. And where were you working prior to that?
 24 A. Self-employed.
 25 Q. Do you know who Erin Ranahan is?

6

1 A. Yes. That is the lead counsel for the
 2 defense, I believe.
 3 Q. Were you contacted by Ms. Ranahan before
 4 this deposition?
 5 A. Yes.
 6 Q. And how many times did you talk to
 7 Ms. Ranahan?
 8 A. Twice.
 9 Q. And what did she say to you about this
 10 deposition?
 11 A. On the initial contact was to introduce
 12 herself and offer her services as a -- as counsel for
 13 this specific action. She had told me that it was
 14 probably best if counsel was present.
 15 In the back of my mind I was thinking
 16 it's probably not a good idea to have counsel for the
 17 defense, that doesn't have my best interest at heart,
 18 represent me, and a few days later I had sent her an
 19 e-mail asking her some questions to that effect. "If
 20 I were an off-the-street customer, would you recommend
 21 that I proceed with your representing me?" Things of
 22 that nature, which had not gone answered.
 23 Q. And did she respond to that e-mail?
 24 A. She did briefly. She didn't answer the
 25 questions. She had -- in that time we had spoken

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1 again on the telephone, and I had told her that I was
 2 seeking independent counsel, counsel that just
 3 represented my interests alone, and she had withdrawn
 4 her offer to represent me based on that.
 5 Q. And as the attorney for Alec Peters and
 6 Axanar Productions, did she offer you legal services
 7 for free?
 8 A. Yes. It was to be at no charge.
 9 Q. Did you have any other conversations with
 10 her about your deposition?
 11 A. So the first telephone call; I sent her
 12 an e-mail; she had replied to me via e-mail with a
 13 engagement letter, which outlined the extent of her
 14 services, were I to accept.
 15 After reading the document and discussing
 16 it with my counsel, I declined based on just that --
 17 that was the conversation that we had where I told her
 18 I was seeking my independent counsel. She had also,
 19 from her end, pulled herself out of that situation, so
 20 by mutual agreement it just wasn't going to happen.
 21 Q. And there was no contact after that?
 22 A. Correct.
 23 Q. Do you know Alec Peters?
 24 A. Oh, yes.
 25 Q. When did you meet him?

8

1 A. First time I met him was the Sunday
 2 before the Prelude to Axanar shoot, so we're talking
 3 mid-May of 2014. We had spoken on the telephone and
 4 online many times before that, but that was the first
 5 time I'd actually met him face-to-face.
 6 Q. When did you first start talking to him
 7 online?
 8 A. To go back a little bit farther, I was a
 9 customer of his at the Propworx company back in -- I
 10 would say a year or two prior to anything Axanar
 11 coming up. That was how I had become familiar with
 12 him. And I think vaguely he'd become familiar with me
 13 just as being a customer of buying props and costumes
 14 for Stargate -- the Stargate franchise that his
 15 company was facilitating.
 16 Regarding Axanar specifically, I would
 17 say January of 2014 is when we started to speak about
 18 my being available, potentially, to help have some
 19 fun, and that was -- that was my thought process on
 20 that. And he accepted that offer around mid-February,
 21 and that was when I had started to become involved in
 22 what would become Axanar.
 23 Q. And in February 2014, was that Axanar or
 24 what was called Prelude to --
 25 A. It was called -- Star Trek: Axanar was

9

1 the official title back then. Prelude to Axanar was
 2 the work that was being moved forward.
 3 **Q. And what did Mr. Peters tell you about**
 4 **Star Trek: Prelude to -- Star Trek: Axanar at that**
 5 **time?**
 6 A. Just like an overview?
 7 **Q. Yes.**
 8 A. That he wanted to make a really good fan
 9 film; they wanted to crowdfund it using a Kickstarter
 10 platform, so donors would finance the effort rather
 11 than people involved in the production writing a
 12 check, so to speak; that it was going to be
 13 approximately 20 to 25 minutes in length; that he had
 14 Christian Gossett, who was a great artist -- or in my
 15 opinion a great artist. He's just a wonderful artist.
 16 He was going to be directing it and doing the film
 17 geek bits for it, storyboards and things of that
 18 nature, to make that happen. And my role, should I
 19 choose to accept it, was going to be helping with the
 20 social media and marketing aspect of it.
 21 **Q. Did you do anything else other than**
 22 **social media and marketing?**
 23 A. Creating some artwork, so -- they wanted
 24 to go to conventions around the LA area and they
 25 wanted to have backdrops and whatnot, so between

10

1 myself, Tobias Richter, who was the visual -- primary
 2 visual effects artist for the film itself, he would
 3 create hero shots of like the ship and how they would
 4 be 3D rendered and whatnot, and then I would use a
 5 program such as Photoshop or Illustrator to add a logo
 6 or artwork for the actors, maybe their head shot from
 7 their management, to create a little here's who's
 8 going to be in it, here's our look and feel of the
 9 ship, and either create handout materials or backdrop
 10 materials for, say, a convention booth, things of that
 11 nature.
 12 **Q. You mentioned a ship. What ship are you**
 13 **referring to?**
 14 A. The USS Ares, which is the ship designed
 15 by Alec Peters, Sean Tourangeau and Tobias Richter,
 16 which would be where the Axanar adventure takes place.
 17 **Q. Are you familiar with the source material**
 18 **that was used to create the USS Ares?**
 19 A. Oh, yes.
 20 **Q. And what was that?**
 21 A. Alec wanted a ship that looked like a
 22 Luna-class ship, which is a canon ship from the Star
 23 Trek universe, first appeared in the First Contact
 24 film. And that ship -- the Enterprise has its little
 25 engines sticking up above the bulk of the ship. He

11

1 wanted one where the engines were below the bulk of
 2 the ship, to give it a more unique feel. And he
 3 provided several images of hero Star Trek ships from
 4 the -- the actual Star Trek commercial universe as
 5 inspiration for that.
 6 **Q. You mentioned a logo that you added.**
 7 **What was that logo?**
 8 A. It was the Star Trek: Axanar using a --
 9 serpentine font I believe was the specific font, where
 10 it was laid out Axanar -- Star Trek was in a much
 11 smaller size, and the A for Axanar was an elongated
 12 star shape, which is similar to a star shape that
 13 appears on the original series of Star Trek's
 14 uniforms. There's a little A symbol in between
 15 that -- there's a little delta of a star that's kind
 16 of been stretched out. He wanted to carry over that
 17 symbol into Axanar so that was done.
 18 **Q. By "he," you mean Mr. Peters?**
 19 A. Yes.
 20 **Q. You mentioned a serpentine font. Where**
 21 **did that come from? Was that -- were there**
 22 **inspiration for that font?**
 23 A. That was actually pre-me. I believe that
 24 was done before my coming on board. I was just told
 25 use that font. I believe it was done either by Sean

12

1 Tourangeau or Tobias Richter, who chose that specific
 2 font.
 3 **Q. What were the handouts that you prepared**
 4 **or that you assisted with preparing?**
 5 A. Fundamentally, it was just a one- or
 6 two-paragraph overview, just as appears on the Axanar
 7 Productions website today on the "What Are We About?"
 8 page. It just says we're a fan film, made by
 9 professionals; we want to make the best fan film we
 10 can. It's set in -- you know, 20 years before the
 11 original series episode Whom Gods Destroy, taking the
 12 character of Garth of Izar from that one episode and
 13 expanding on that character's story, and why he was --
 14 why that character was required reading at Starfleet
 15 Academy for Captain Kirk, and things of that nature.
 16 **Q. Did Mr. Peters talk to you about why he**
 17 **wanted to use Garth of Izar?**
 18 A. Yeah, several reasons. One, he owned the
 19 actual costume that was used in 1969 on the -- or '68
 20 on the actual television show for that character. He
 21 purchased it through whatever means. I'm sure at
 22 Christie's auction or something. He was told that he
 23 looks somewhat like the actor that played that
 24 character many years ago, and that he had played the
 25 character in another Star Trek fan film, Star Trek:

13

1 New Voyages, in an unreleased vignette, like a little
2 short mini-episode, and was encouraged by the people
3 in that fan production that he might be good to -- to
4 continue on with that role.

5 **Q. You mentioned the use of professionals on
6 Star Trek: Axanar. Did you talk to Mr. Peters about
7 using professionals?**

8 A. Oh, that was a fundamental aspect of his
9 view of the production, were that professionals from
10 the film and television industry would be
11 participating to create this fan film, and by their
12 participation, it would elevate the look, feel and
13 finished product of the production, rather than, say,
14 a person like me, who hasn't been from the film
15 industry making a fan film or might be considered less
16 than professional. He wanted people who actually
17 worked on Star Trek or were professional actors or
18 professional artists to create all the materials to
19 give it that extra elevation of quality.

20 **Q. Do you remember the professional actors
21 and artists that were involved in Axanar?**

22 A. Oh, absolutely. Richard Hatch, a very
23 wonderful gentleman. John Hertzler. He is another
24 wonderful gentleman, just as a person, let alone an
25 actor. Kate Vernon, someone that I've admired since

14

1 he owned one of the costumes, the -- Steve Ihnat's
2 Garth of Izar costume, but he wanted other costumes to
3 be as Star Trekky for that era as possible, yes.

4 MS. JASON: I'd like the court reporter
5 to mark as Exhibit 185 a document that is a Facebook
6 page that says "axanar" at the top.

7 (Deposition Exhibit 185 was marked
8 for identification.)

9 **Q. BY MS. JASON: Mr. McIntosh, can you take
10 a look at this document, and let me know when you're
11 finished.**

12 A. Sure.

13 Okay.

14 **Q. I'm going to direct your attention to a
15 post on June 13th, 2014. It says, "Terry McIntosh
16 shared a video to Crowd Powered's Timeline."**

17 **"We would be most grateful if you would
18 consider helping to get the word out about the new
19 independent Star Trek production, Star Trek: Axanar.
20 100% crowd funded by fans and for the fans. Thank
21 you!"**

22 **And then there's a link to a Facebook
23 post.**

24 **Do you recognize this post?**

25 A. Not specifically, but my mug shot is

16

1 16 Candles back in my youth, which wasn't recently.
2 Gary Graham, from many series, Alien Nation and, of
3 course, Star Trek. He'd be reprising his character of
4 Soval, a vulcan character from Star Trek Enterprise,
5 since that character could theoretically still be
6 alive in the Star Trek universe about the time where
7 Axanar was taking place.

8 And let's see. Who am I missing?

9 Gary -- oh, at that time -- oh, what's
10 his name? It was the Battlestar Galactica, as the
11 No. 2 guy. Bald. Worked with Kate Vernon.

12 **Q. We can come back to that.**

13 A. Sure.

14 **Q. You mentioned Soval.**

15 A. Mm-hmm.

16 **Q. Did you talk to Mr. Peters about the look
17 of the Soval costume?**

18 A. Vaguely. I wasn't involved in things
19 like that, since I'm based in Seattle, two states
20 away. You know, we're literally on the Vancouver,
21 Canadian border here and they're down almost to the
22 Mexican border. There's a distance, but he -- there
23 was talk internally that he wanted all the costumes to
24 be as Star Trek canon as possible, and that was part
25 of the professionalism of the project. He wanted --

15

1 right there, as Facebook would show, and so I'm quite
2 sure that I posted it.

3 **Q. Why did you call Star Trek -- why did you
4 call Star Trek: Axanar an independent Star Trek
5 production?**

6 A. That was the way Alec Peters wanted the
7 project to be conveyed, as an independent Star Trek
8 production, by fans, for fans, but done by
9 professionals.

10 MS. JASON: I'd like the court reporter
11 to mark an exhibit, 186, a multipage document that
12 starts with PL0006865. Thank you.

13 (Deposition Exhibit 186 was marked
14 for identification.)

15 THE REPORTER: Exhibit 186.

16 **Q. BY MS. JASON: Mr. McIntosh, I'm going to
17 ask you to turn to the page where at the bottom it
18 says PL0006887. It's in the middle of the document
19 but slightly towards the back.**

20 A. Okay.

21 It appears to me to be the Indiegogo
22 campaign, that was the last fundraiser of three for
23 the production.

24 **Q. Do you see the part that's in the red
25 box?**

17

1 A. Yes.

2 **Q. So this says, "Axanar is not just the**

3 **best independent Star Trek (don't call us a fan**

4 **film!), but a new way of fans getting the content they**

5 **want. And you are part of that revolution."**

6 **Do you know who wrote this?**

7 A. Alec Peters.

8 **Q. Why does it say "don't call us a fan**

9 **film"?**

10 A. That was -- Alec wanted the production to

11 appear as professional as possible. Again, as I've

12 said before, by professionals, for Star Trek viewers.

13 Anyone who is not just a fan of the fan film niche of

14 Star Trek -- Trekkieness, he wanted it to be something

15 recognized as an independent production that could be

16 made to look as polished as a proper CBS/Paramount

17 production but made for pennies on the dollar, by

18 fans. They would pour their passion into that to

19 create this work. It was very appealing, you know.

20 But looking at this -- it just makes me

21 giggle in retrospect, because it's -- the talk

22 internally was "We're a fan film, we're a fan film,

23 we're a fan film," but publicly he would always be

24 presented as "We're an independent production," and

25 that contradiction did create some friction

18

1 internally.

2 **Q. Did Mr. Peters give instructions to**

3 **market the film Axanar as not being a fan film?**

4 A. Specifically, yes.

5 **Q. Did he instruct people to emphasize the**

6 **fact that Axanar was using professionals?**

7 A. Yes.

8 **Q. And was that in connection with it not**

9 **being a fan film?**

10 A. That was in connection to the

11 professional nature of how he wanted it to be

12 perceived, yes.

13 **Q. Now I'd like you to turn to a page**

14 **towards the beginning of the document, and it's**

15 **PL0006868.**

16 **We're on Exhibit 186?**

17 **Yes.**

18 A. Okay.

19 **Q. Do you see at the top of the page there's**

20 **a post by -- well, first of all, this is a Facebook**

21 **post. At the top of the -- in the search bar it says**

22 **"Axanar Face Group," and there is a post by Adam**

23 **Kotaska, and it says that it was on July 28th at**

24 **1:49 p.m. It says, "Who keeps making these" -- "those**

25 **false Axanar movies on YouTube? I was searching for**

19

1 **some gaming videos of that Axanar mod for Sins of a**

2 **Solar Empire and instead I found like dozens of empty**

3 **videos claiming to be 'Axanar full movie,' all of them**

4 **created minutes or hours ago. I'm just bringing it to**

5 **attention."**

6 **Is this post familiar to you?**

7 A. The concept behind it is quite familiar

8 to me, yes.

9 **Q. Do you see there's a post that says**

10 **"Terry McIntosh" on July 28th at 1:58 p.m., and it has**

11 **a red box around it?**

12 A. Yes.

13 **Q. And it says, "Terry McIntosh If we knew**

14 **who is making them then we'd have them taken out,**

15 **Adam. In the meantime, when our registered trademark**

16 **for Axanar is back from the feds then we'll be**

17 **enrolled in YouTube's program that will automatically**

18 **filter them out."**

19 A. Yes.

20 **Q. Did you write that?**

21 A. Yes. I remember writing this one

22 specifically.

23 **Q. Were there discussions at Axanar**

24 **regarding trademarking Axanar?**

25 A. Yes.

20

1 **Q. What were those discussions?**

2 A. It came about specifically for this type

3 of matter. One thing I've noticed is those who pirate

4 movies and charge folks to be able to screen them

5 online, say a movie that is still in the theaters or a

6 television series that is popular, those who don't

7 wish to buy it on Amazon.com or somewhere else,

8 they'll post it through a fraudster streaming service.

9 Some movies that haven't even come out yet, in order

10 to lure people in by polluting search engine results,

11 will put "Axanar full movie" on a fake video clip on

12 these fraudster sites to lure people to click on them.

13 They'll be redirected to a place where they can enter

14 their PayPal information and give actual money to

15 these typically overseas fraudsters, and find out

16 that, A, what they're looking for doesn't actually

17 exist, B, they're now out the money, and, C, they

18 might find some pirated movies of some kind they can

19 watch but not specifically this.

20 That was an irritant because it made

21 Axanar look bad. You know, someone could go there, be

22 pilfered out of cash, and then come back and complain

23 to us, you know, how -- "us" meaning Axanar

24 Productions when I was a part of it, that they weren't

25 able to watch the Axanar full movie.

21

1 So there was talk of a way to -- rather
 2 than one at a time go to YouTube and shoot them down
 3 as fake videos that were luring people into some sort
 4 of scam, that a trademark application could be made
 5 for the word "Axanar," which I remember specifically
 6 going to the trademark website for the government and
 7 seeing that it was not currently protected. That we
 8 could do that and engage in YouTube's program that
 9 would scan for the word "Axanar" automatically,
 10 flag -- at least bring it to our attention that videos
 11 exist like that, and then potentially pull them out or
 12 knock them off of YouTube as a scam or a fake
 13 automatically, which would lower the burden of myself
 14 or other people who were forced to waste time to deal
 15 with that issue.

16 **Q. You mentioned potentially trademarking**
 17 **the word "Axanar." Was there anything else that was**
 18 **discussed in terms of something that would be**
 19 **trademarked relating to Axanar?**

20 A. I specifically remember the word
 21 "Axanar." I don't remember anything else.
 22 Certainly they couldn't trademark "Star
 23 Trek," and that was one of the things that Alec was
 24 concerned about shortly after Prelude to Axanar's
 25 release, was getting "Star Trek" off of it, off of

22

1 Prelude to Axanar, off of the websites, off of any
 2 in-person marketing, so bits that would appear on a
 3 convention floor or materials, he wanted "Star Trek"
 4 out, to remove that potential irritant to CBS or
 5 Paramount, and those words were specifically said.

6 But I only recall just trademarking the
 7 word "Axanar" for this purpose, the purpose of the
 8 context of this -- you know, getting the fraudsters at
 9 bay, and then after the -- the lawsuit had been filed
 10 and served on them, it was discussed that that could
 11 potentially be a bargaining chip, if they were
 12 successfully able to trademark the word "Axanar," to
 13 be able to maybe bring that to the bargaining table
 14 with the plaintiffs.

15 Nothing ever came of that. I don't
 16 believe they ever filed for a trademark, but it was
 17 discussed at some time.

18 **Q. As a bargaining chip for settlement with**
 19 **the plaintiffs in this case?**

20 A. Yes.

21 **Q. Was there any other purpose for**
 22 **trademarking "Axanar"?**

23 A. There were brief and -- I vaguely
 24 remember conversations of being able to merchandise,
 25 say, the Axanar donor store on the website, to be able

23

1 to offer T-shirts or mugs or coffee. Other items that
 2 could bring in further donations to the production to
 3 keep it solvent.

4 I don't recall any specific talks of
 5 there being an overt marketing campaign or merchandise
 6 like being sold at Target, or anything of that nature.
 7 It was all strictly to be kept fairly internally. But
 8 just another revenue stream other than an Indiegogo or
 9 a Kickstarter, a way for more donations to come in.

10 They were also incredibly vigilant, Alec
 11 Peters specifically, in making sure that the words
 12 "Star Trek" did not appear on any merchandise that was
 13 offered, or a likeness of one of the actors from one
 14 of a series, like, say, a William Shatner, or the USS
 15 Enterprise likeness, things of that nature, which
 16 would overtly potentially confuse folks. He wanted
 17 everything to be the USS Ares, Garth of Izar, things
 18 that were -- him specifically as Garth of Izar, so his
 19 likeness, or the Axanar logo.

20 To his benefit, you know, he -- he had
 21 the foresight to not just go stampeding through that
 22 china shop on anything that CBS or Paramount overtly
 23 owned.

24 **Q. He didn't go stampeding into -- like a**
 25 **bull in a china shop in terms of merchandise?**

24

1 A. Correct. Like I said, he didn't want to
 2 create a merchandise line at retail. And by him
 3 saying that, he had obviously thought it through. But
 4 he definitely wanted to offer various products on the
 5 Axanar donor store, which is on the website of
 6 AxanarProductions.com.

7 **Q. Can you please turn to the next page of**
 8 **Exhibit 186, PL0006869.**

9 A. Okay.

10 **Q. If you look towards the bottom of the**
 11 **page, there's a post that's outlined in a red box. Do**
 12 **you see that?**

13 A. I do. I also recall writing it.

14 **Q. All righty.**

15 **It says, "Terry McIntosh" -- this is**
 16 **something you wrote -- "'Axanar' is not trademarked**
 17 **with the feds, because no one bothered to do so,**
 18 **including CBS. We walked in and took it. In the case**
 19 **of registered trademarks, the first person in line**
 20 **gets the goods, so to speak, especially since a**
 21 **trademark search showed no competing or close marks**
 22 **that are already registered."**

23 **What did you mean when you said, "We**
 24 **walked in and took it"?**

25 A. Specifically what it says. Alec said

25

1 that go and check on the trademark website. I did,
2 just as I mentioned a few moments ago, found that it
3 wasn't specifically registered under the trademark
4 database, which was the tool that I used for the
5 Patent and Trademark Office -- saw that it wasn't
6 registered, let Alec know that, and he wanted to put
7 in motion the ability to register it.

8 Nothing, to my knowledge, ever came of
9 that, after he -- after even reminding him several
10 times of other fraudster sites or those fake videos
11 that we had talked about just a short time ago were
12 continuing to come up. I don't believe that they ever
13 did trademark it.

14 **Q. Do you know whether an application was**
15 **filed to trademark it?**

16 A. I don't believe there was, no. Nothing
17 to my knowledge, anyway.

18 **Q. If you could turn the page, please, to**
19 **PL0006870. There's a post in the middle of the page,**
20 **another Facebook post, says "Terry McIntosh." Do you**
21 **see that in the middle, where it starts with, "Aye,**
22 **and in" --**

23 A. Yes.

24 **Q. So it says, "Aye, and in this matter**
25 **we've spoken to outside counsel who researched the**

26

1 A. As a corporate entity?

2 It's my understanding that it's a
3 registered S corp in California that is the legal
4 entity that the Axanar fan film operates under as a
5 business.

6 **Q. Does it do any other business?**

7 A. Not that I'm aware of, other than Axanar
8 business. Meaning fundraisers, getting the studio
9 going, things of that nature. I don't believe it does
10 any other business, no.

11 **Q. Did you have a title with Axanar**
12 **Productions?**

13 A. Yes, towards the end. I was the chief
14 technical officer of the corporation, for the purposes
15 of the production.

16 **Q. You mentioned towards the end that that**
17 **was your title. When did you stop working for Axanar**
18 **Productions?**

19 A. That would have been on May 15th of this
20 year. May 15th-ish.

21 **Q. And why did you stop working for Axanar**
22 **Productions?**

23 A. Got tired of the drama. Axanar, when it
24 started, was brilliant and creative and positive and
25 just a den of good feelings, doing wonderful things

28

1 **word 'Axanar' and signaled the all clear. All we have**
2 **to do is wait for the feds to do their thing, which**
3 **involved processing the paperwork, performing their**
4 **own search through," and then it continues.**

5 A. Yes.

6 **Q. What outside counsel did you speak to?**

7 A. I didn't speak to anyone. This was all
8 information relayed back to me from Alec. Alec is the
9 alpha and the omega at Axanar. Nothing happens
10 without his direct knowledge and involvement.

11 So I was told by him that that was --
12 that process was in motion. He was going to have it
13 trademarked after I found that it wasn't currently
14 trademarked and let him know. He was going to speak
15 to whoever his attorney was at the time.

16 This is pre-lawsuit, mind you, so
17 Winston & Strawn was not in the equation at that time.

18 Alec said that he was going to have it
19 done. Like many things, it never happened. So . . .

20 **Q. Do you know who his outside counsel was**
21 **at that time?**

22 A. Not specifically. I just remember him
23 saying it was a lady. I don't know who she is,
24 though.

25 **Q. What is Axanar Productions?**

27

1 with wonderful people to create something positive for
2 a franchise that we all loved. Towards the last nine
3 months that I was with the production, and this
4 includes a period of several months before that the --
5 the lawsuit was served, up until the time I left, it
6 had just become bitter and paranoid and angry and
7 vindictive, and I didn't like who I was becoming
8 because of that, and since I was a volunteer and
9 wasn't being paid, I'm out the door.

10 I decided to go back to work, start
11 earning some revenue, evening some income again, after
12 two years of not, by choosing to participate in the
13 production, and just divorce myself of that toxic
14 environment. So that's what I did.

15 **Q. Did Mr. Peters ever offer you stock in**
16 **Axanar?**

17 A. Several times.

18 **Q. When was that?**

19 A. Around, I would say, September-ish.

20 **Q. Of 2016?**

21 A. No, of 2015.

22 Five percent in total of the for-profit
23 studio, the new corporation that he was starting, that
24 the studio would operate under. 2.5 percent of that
25 five percent would be due to past contributions on the

29

1 Axanar itself -- you know, on the film and helping
 2 around that, with a three-year vesting period. The
 3 other 2.5 percent would be for my past and ongoing
 4 contributions in the Ares Digital software that I
 5 conceived of and created, which is a fulfillment
 6 platform, that would be used by Axanar to fulfill its
 7 donor perks, but also I wanted it to be a revenue
 8 stream for myself. If I'm going to put all this
 9 effort into it, we could -- and by "we," I say
 10 whomever was involved in it at the time, would be able
 11 to make it a commercial product and offer it to
 12 anybody who used Kickstarter or Indiegogo and had
 13 perks to fulfill.

14 **Q. When you reference the commercial**
 15 **product, you're just talking about Ares Digital?**

16 A. Correct.

17 **Q. And what was the commercial product?**

18 A. The software itself of Ares Digital. So
 19 Ares Digital was -- it came about because with the
 20 Prelude to Axanar fundraiser there -- they used the
 21 BackerKit software, which is a commercial product that
 22 you load your donor information into, everybody who's
 23 donated to the cause, and it was a system where it
 24 would say, "Okay, you owe John Smith three patches, a
 25 copy of the film," and blah, blah, blah, "for his \$50

30

1 donation." Things of that nature. It would keep
 2 track of who donated at which level, which physical or
 3 digital perks they would be able to receive for their
 4 participation and contribution.

5 It was terribly expensive to use
 6 BackerKit. I believe Axanar paid over \$10,000. And
 7 functionally it was just a mess, in our opinion. My
 8 opinion, Diana's opinion, Alec's opinion. It was just
 9 a hard-to-use piece of software. And I'm like, "Well,
 10 I'm a computer geek. I can probably knock this out,"
 11 I'm thinking to myself.

12 So over a period of about two weekends --
 13 two weeks, I created a prototype of my own version,
 14 and I plopped it down, "Ta-da. What do you think?"

15 They liked it. I -- "Okay, I can work
 16 with this."

17 So I created a more static
 18 non-database-driven version, where people who donate
 19 to Axanar could log in using the e-mail address that
 20 they had provided us with their donation, download
 21 their digital perks or a copy of the script or a
 22 little set of photos, things of that nature. They
 23 could log in and pull them down at their leisure, so
 24 it was an automated process.

25 That went over quite well, and that's

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1 when I had decided, "Okay. Well, Alec, you're a good
 2 salesman; I'm a geek. We can work this out. You sell
 3 the thing once I finish it. I'll write the thing. So
 4 I'll be the Scotty, you be the Captain Kirk, so to
 5 speak. You're out front and center, I'm down in the
 6 engine room, and we can" -- "with that combination, we
 7 can turn this into a for-profit venture."

8 Still owned by me, he gets a cut for his
 9 participation, but that could move forward.

10 Over a period of a year, my desire to go
 11 into business with Alec diminished significantly,
 12 especially once the lawsuit hit, and in my opinion he
 13 went a little crazy on social media, saying things
 14 that probably shouldn't have been said publicly,
 15 especially when you're facing a lawsuit from two
 16 multibillion-dollar corporations. In my opinion,
 17 that's the time to do a whole lot of shutting up and
 18 not lashing out at donors and the public and carrying
 19 on like that.

20 That caused me to back off of working on
 21 the Ares Digital product at all. I hadn't worked on
 22 it since January of -- of this year. I just shelved
 23 it. I had given thought of going back to work, and
 24 that's what I did. My thought process for that was to
 25 lower my stress level and general drama level by going

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1 back to work and just creating a buffer between myself
 2 and Axanar with work.

3 That had the opposite effect that I had
 4 intended, because instead of creating a buffer to
 5 allow myself to decompress, in -- using my own words,
 6 it allowed me to open my eyes and kind of see what was
 7 going on in the bigger picture, and I didn't like
 8 that. That is when I decided to remove myself from
 9 the production and just -- it just wasn't fun anymore.
 10 I didn't like the environment. I just went back to
 11 work full-time and washed my hands of Axanar and Ares
 12 Digital.

13 **Q. You mentioned Mr. Peters lashing out at**
 14 **donors. In what way did Mr. Peters lash out at**
 15 **donors?**

16 A. Anyone, donor, fan, critic, that asks him
 17 a question on social media that he doesn't like or
 18 makes an accusation or takes one of his past quotes,
 19 something that he has said previously, and usually
 20 they come armed with screen shots so it can't be taken
 21 out of context, and confront him with it, to directly
 22 contradict something that he has later said, he
 23 typically lashes out, calls them a hater, a loser,
 24 questions their manhood or womanhood, just schoolyard
 25 nonsense.

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1 And that was also another significant
 2 factor of why I decided to divorce myself from it, is
 3 it's -- you know, I realize that we're a fan film, and
 4 in my mind that's what we were. He wanted to call it
 5 a professional production. Knock yourself out. But
 6 in the end you don't go and punch the people who
 7 fundraised your -- your effort and punch them in the
 8 face and call them a loser just because they have
 9 questions about the money they gave you.

10 **Q. You mentioned a new studio that you said**
 11 **was for profit.**

12 A. Yes.

13 **Q. What were you referring to?**

14 A. A point in time came around, I would say,
 15 late 2014 that Alec had finally pushed through and
 16 convinced everybody that it -- he wanted to get a
 17 studio space just for Axanar, rather than renting a
 18 space like he did for Prelude to Axanar. So Prelude
 19 to Axanar, down in Hollywood, he found a studio space
 20 he could rent for a week. Then he'd put up all the
 21 green screens and all the stuff, and when that was
 22 done he'd tear everything down and walk away and give
 23 the studio a check for 10 grand or whatever it was.
 24 And that's just done with.

25 He wanted a studio space that was just

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1 for Axanar so he could build all the sets, which the
 2 sets are significant. I mean, they're -- the people
 3 who built them -- I've seen them in person. Very
 4 nice. That's the first time I've ever seen, you know,
 5 Hollywood sets before.

6 So they're proper -- they were built very
 7 well. And they're not the type of thing that, in my
 8 opinion, you can easily build somewhere else and bring
 9 in, just because it would require, in my opinion, a
 10 lot of trucks, and you'd need people to physically get
 11 them out of trucks and move them into places, and --

12 So Alec wanted to get a studio space that
 13 was just for Axanar, rent it out, lower cost, meaning
 14 a place that wasn't obscenely expensive per month that
 15 he could -- or per month. He could keep it for a long
 16 period of time; Axanar would run out of it.

17 In those conversations it was discussed,
 18 Well, that's an ongoing expense, and we only have X
 19 number of dollars total. How is that going to be
 20 self-sustaining?

21 **Q. By "X number of dollars total," do you**
 22 **mean of donor funds?**

23 A. Correct. Money that was raised from the
 24 Kickstarter or the Indiegogo or ongoing contributions
 25 from the sale of Axanar swag in the donor store. Ways

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1 that money was coming into the production.

2 **Q. And that money was paying for the rent?**

3 A. Rent -- everything.

4 And then later I find out it was also
 5 paying a check to him as income and a check to Diana
 6 and a check to others. So that was money going out.

7 But there came a point in time where he
 8 picked a studio space, signed a lease, that was in
 9 Valencia -- or is in Valencia, California, since it is
 10 still operating, that has since gone from just Axanar
 11 itself to now it is a separate corporation renting out
 12 the studio space for income.

13 Just recently Alec says that every dollar
 14 that is raised or that is brought in from that effort
 15 is going back into Axanar, but they're still two
 16 completely separate corporations, with no
 17 accountability. No one can see where that money's
 18 going, and that's another way that he lashes out at
 19 people that question that.

20 **Q. You say two separate corporations. What**
 21 **are the two corporations?**

22 A. So there's Axanar Productions, which the
 23 Axanar fan film and everything related to that
 24 operates under, and then he finally started -- from a
 25 third party bringing it to my attention, he had

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1 incorporated in Georgia Industry Studios, which is a
 2 completely separate for-profit corporation, at least
 3 as how it's registered, doing business in California,
 4 and they're now in control -- to what extent, I don't
 5 know, but that entity is in control of the lease and
 6 other fiscal responsibilities of that studio space
 7 existing or continuing to operate. So I would assume
 8 utilities, the actual lease itself, which, if I recall
 9 correctly, is about 12,000 bucks a month, so not an
 10 insignificant amount of money.

11 So it's my understanding that just to
 12 keep the lights on is about \$15,000 a month. And it's
 13 my understanding that Industry Studios, that now
 14 separate legal entity, is responsible for that portion
 15 of it.

16 Alec has said publicly in the last few
 17 weeks that any money raised from renting out that
 18 space to other productions, whomever they may be, that
 19 money goes into Axanar Productions to help pay Axanar
 20 Productions back for the year and a half that it's
 21 hemorrhaged money for the studio space. That remains
 22 to be seen whether it's true or not.

23 My personal opinion is likely not. But I
 24 have no proof either way.

25 **Q. What did Mr. Peters tell you about**

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1 **creating a for-profit studio?**
 2 A. So the original discussion was -- and it
 3 was more of a roundtable via Facebook, or maybe it was
 4 a YouTube group or -- you know, where you're behind
 5 your webcam. And it was discussed, Well, if you're
 6 going to do this and you're going to get this space,
 7 it's not going to be cheap, and you can't just, you
 8 know, hemorrhage money into this thing every month to
 9 be able to keep it going, because every month that
 10 it's sitting there and you're not making Axanar is
 11 less money that you're going to have to build the sets
 12 and get the costumes and bring in the people who do
 13 the lights and the electricity and -- to make the
 14 actual film. So how is this thing going to exist for
 15 any period of time?
 16 At least until the film's done. Because
 17 there was talk that the film isn't going to be ready
 18 for about a year at this point, which, for those of us
 19 who were thinking it was going to be a one-year
 20 commitment to participate in Axanar, we're now at two
 21 years. So some of us were getting a little antsy.
 22 But a point in time came where everybody
 23 sat down and was like, Okay, what can we do? Why
 24 don't you slide all the Star Trek sets for Axanar off
 25 to the side and then rent out a portion of it, you

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1 know, for a day or a week or whatever it happens to
 2 be, people can come in from, you know, a Scooby Doo
 3 film or goodness knows what it happens to be. They
 4 can use the sets, pay Axanar a couple grand for having
 5 done that -- free money, in my opinion, because
 6 otherwise that space would just be sitting there doing
 7 nothing anyway -- and that could help offset the
 8 monthly costs of Axanar holding the lease for that
 9 space.
 10 Other people agreed. Alec was already
 11 well ahead of that discussion, where he was getting
 12 ready to do that.
 13 **Q. Did Mr. Peters talk to anyone to put that**
 14 **plan in motion, any third parties, about potentially**
 15 **renting out the space from him?**
 16 A. I do recall him speaking with David
 17 Gerrold, who is an author and -- he wrote the Trouble
 18 with Tribbles episode of the original Star Trek
 19 series, to potentially turn one of his more recent
 20 books into like a webisode series for YouTube or
 21 something of that nature.
 22 I don't know what came of it. Like I
 23 said, I'm two states away so I'm not privy to
 24 everything that goes on down there, but there was
 25 discussion through the interwebs between all of us in

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1 various little groups that that was a possibility.
 2 And I think a few other similar type of
 3 things. I just don't remember what they were.
 4 **Q. You can't remember right now any specific**
 5 **names of anyone else?**
 6 A. Well, there was David Gerrold -- oh,
 7 Richard Hatch had something -- I believe, some project
 8 that he was involved on a third-party project, they
 9 needed a place to shoot.
 10 **Q. Do you recall what that project was?**
 11 A. Personally, it didn't look interesting to
 12 me, and if I don't dig it, it kind of goes in one ear
 13 and out the other.
 14 **Q. Was it a Star Trek-related production?**
 15 A. I don't -- no. It was a sci-fi-related
 16 thing, but it really was its own independent property.
 17 It really didn't have anything to do with Star Trek.
 18 I think they even did a little like
 19 three-minute teaser or something that they cobbled
 20 together for a pitch video for a potential fundraiser.
 21 I don't know if anything ever came of it or not.
 22 **Q. Was that teaser filmed at the studio?**
 23 A. Not that I'm aware of. I don't believe
 24 it was. If I remember it correctly, it looked like it
 25 was filmed at a quarry or something. It had a lot of

40

1 rocks and -- it was a dystopian type of theme. So I
 2 don't think it was actually shot at the studio.
 3 I do know two things have shot at the
 4 studio post my departure. Some sort of office or like
 5 an awards show scene for some production that I'm not
 6 familiar with, because Alec had posted photos about it
 7 on the Industry Studios website. It looked like some
 8 sort of awards show reception scene from some project
 9 that I'm not familiar with.
 10 **Q. Was that related to Axanar -- excuse**
 11 **me -- to Star Trek?**
 12 A. Not that I'm aware of. It didn't look
 13 like it. It looked like a current time period piece,
 14 so something that was happening in our present day,
 15 based on the costumes and whatnot.
 16 And then there was another project that
 17 completed fundraising on Kickstarter just in the past
 18 few months that wanted to film using the studio
 19 space's green screen, and I remember that
 20 production -- someone had posted in one of the hater
 21 groups, that I'm now a part of, that that third-party
 22 production was saying that they were going to use
 23 Industry Studios as a filming location.
 24 **Q. And Industry Studios is the studio that**
 25 **you've been discussing that -- where you think the**

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1 **rent is approximately 12- to \$15,000 a month?**
 2 A. Yes.
 3 **Q. That was used to shoot Star Trek: Axanar?**
 4 A. Correct.
 5 Well, let me back up there. Just to be
 6 clear, Prelude to Axanar was not filmed at that studio
 7 space. That was filmed at -- I think it's pronounced
 8 Cathay Studios, kind of down in -- in LA -- or
 9 Hollywood proper.
 10 To my knowledge, there's only one thing
 11 regarding Star Trek: Axanar that's been filmed at the
 12 studio, and technically it was filmed in the parking
 13 lot, and that is the vulcan scene, where natural light
 14 was used with green screens to show Gary Graham as
 15 Soval and Diana Kingsbury was a little pixel in the
 16 back comped in, and then an actor that I'm not
 17 familiar with, and they created about a two-minute
 18 scene for the recent Indiegogo. It was part of the
 19 pitch video. "Here's what we're working on."
 20 **Q. Were you there when they filmed the**
 21 **vulcan scene?**
 22 A. No.
 23 **Q. Were you -- you mentioned that Mr. Peters**
 24 **offered stock to you in Axanar Productions. Did he**
 25 **ever say how much Axanar Productions was worth?**

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1 A. It wasn't stock in Axanar Productions.
 2 It was always to be stock in this separate for-profit
 3 entity that, in my understanding, now owns or controls
 4 the debt for the studio space, and it's now known as
 5 Industry Studios, if my information is correct.
 6 So it was never, "Axanar itself is worth
 7 a million bucks, and we want to give you five
 8 percent." It was never that, to which, to his credit,
 9 is probably smart he didn't do that. It was always
 10 this separate entity.
 11 And it was a total of five percent,
 12 2.5 percent for past contributions to Axanar and
 13 ongoing contributions -- I was expected to stay -- and
 14 then 2.5 percent for finishing the Ares Digital
 15 product, which was on -- which was and is my property.
 16 To this day it's still mine. He owns -- he owns
 17 nothing about that. To turn that into an actual
 18 registered company and turn that into a profit center.
 19 That I have since declined as well. So I
 20 walked away with nothing, and I'm perfectly fine with
 21 that.
 22 Just to be clear, I wasn't expecting pay
 23 or compensation of any kind for my participation with
 24 Axanar. I was just in it to have fun and try
 25 something different. Again, I'm a computer geek; I

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1 have zero experience in the entertainment world or the
 2 Hollywood world or -- and have no real desire to get
 3 into that. I mean, if something happens, cool, but it
 4 was just -- I had joked to you before this process
 5 that that was how I -- participating in Axanar is how
 6 I chose to invest my midlife crisis. Instead of
 7 buying a Corvette, I took what turned out to be two
 8 years off to try something new and fun and meet Star
 9 Trek actors and participate in something that I was
 10 really passionate about, and unfortunately that's kind
 11 of gone straight into the ground from 30,000 feet, so
 12 it's --
 13 I don't regret participating in it,
 14 because I have somehow managed to have the entire
 15 Hollywood experience, from what I understand, in one
 16 project, from awesome at one end to a litigious train
 17 wreck on the other, so I've had that full cheese wheel
 18 of experience that I do not choose to move forward
 19 with.
 20 **Q. Mr. McIntosh, I'm going to direct your**
 21 **attention back to Exhibit 186, and it's**
 22 **Page PL0006871. It's the document we were talking**
 23 **about with the trademark issues.**
 24 **If you look towards the bottom of the**
 25 **page, do you see that there's a post by Sturm VomAlk,**

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1 **and it looks like it's citing to -- it states 15 USC**
 2 **Section 1127, and it is saying, "The term 'trademark'**
 3 **includes any word, name, symbol, or device, or any**
 4 **combination thereof -- used by a person"?**
 5 A. I see that, yes.
 6 **Q. And do you see below there's a post that**
 7 **says "Terry McIntosh Commerce," it looks like it's**
 8 **saying it's not equal to profit, "Sturm. We can be**
 9 **not-for-profit, as we are, of course, and still**
 10 **conduct commerce, and still have registered**
 11 **trademarks."**
 12 **What commerce was it that you were --**
 13 **that Axanar was conducting?**
 14 A. In that context -- and, again, I remember
 15 this conversation fairly well. Or this -- this
 16 specific set of posts, because I had to do some
 17 research on it, ask Alec questions and whatnot. And
 18 that was in relation to the -- like the donor store.
 19 So offering a shirt that says "Axanar" on it, or
 20 offering a mug or things of that nature, that said
 21 "Axanar," where if they were sold, that money -- the
 22 profit from it would be money that goes into the
 23 production for its ongoing expenses, things of that
 24 nature.
 25 **Q. If you could turn the page. We're now on**

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1 PL0006872.
 2 **If you look at the very bottom of the**
 3 **page, there's the post "Terry McIntosh," and it,**
 4 **again, has the red box around it. It says, "Yeah we**
 5 **know about those. Once our registered trademark for**
 6 **'Axanar' is back from the feds then YouTube will**
 7 **banhammer the bajeebuz out of the name" -- "out of**
 8 **those based on the name Axanar. Now, if they hadn't**
 9 **used our copywritten art then we could have nuked them**
 10 **now, but, alas, they aren't," and then it has the sad**
 11 **face.**
 12 A. Sure.
 13 **Q. Do you remember writing this?**
 14 A. I've used that fundamental concept in
 15 many replies to folks, yes.
 16 **Q. Did anyone register for a copyright in**
 17 **anything relating to Axanar?**
 18 A. Not that I'm aware of. It was more of an
 19 implied copyright as an artist.
 20 Say if I post a photo that I've taken of
 21 this process or outside of a tree or something and I
 22 post it on Facebook, and someone takes that image and
 23 uses it in marketing, let's say, and I recognize, "No,
 24 I took that photo because you can see my thumb in the
 25 corner," or something to that effect, there's an

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1 implied copyright, based on my understanding.
 2 I am not an attorney. Let's just get
 3 that out of the way right now. But there's my
 4 understanding that as creator there is an implied
 5 copyright for your work, and if someone wishes to
 6 properly file for an actual legal copyright, where you
 7 give the Feds 200 bucks or whatever it is, that you
 8 get a little certificate back.
 9 In this case it was an implied copyright.
 10 We have created some marketing imagery that we have
 11 the original files for, we have the original artist,
 12 there's no controversy that we created it, that some
 13 people were using to spam in this context of this post
 14 to create those fake fraudster sites to try to suck
 15 people in and pull money out of them.
 16 Now, if -- what I was saying there is if
 17 those fraudsters, who were trying to pull money out of
 18 people to see a film that hadn't even been created
 19 yet, would have used, say, a photo of the USS Ares or
 20 a piece of marketing that we could flatly say, "Look,
 21 we" -- "this is our art. You can't use our art," then
 22 we could go to YouTube and file a little copyright
 23 complaint and say, "They're using our copyright," and
 24 that -- to make that go away.
 25 Their -- YouTube's trademark process to

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1 have something taken down from a trademark is a bit
 2 more involved. They actually require you to have a
 3 registered trademark. We can't just -- we -- and I
 4 say "we" again in the context of I was still
 5 participating in Axanar. We couldn't go to YouTube
 6 and say, "Well, we're creating Axanar. These people
 7 are spamming out with fraudster intentions that
 8 they're" -- "that they have an Axanar," without -- and
 9 we couldn't do anything about it unless we had that
 10 actual trademark. YouTube would have just said,
 11 "Well, file and get a trademark and we'll work with
 12 you."
 13 Copyright is -- because of the DMCA, it's
 14 my understanding that it's less involved. DMCA, you
 15 can kind of swat things down with a fly swatter and
 16 then prove it later. Trademark, far more complicated.
 17 And that's when the conversation happened
 18 at Axanar where, "Alec, go register this as a
 19 trademark."
 20 "Yeah, I'm on it. I'm on it."
 21 To my understanding, it's -- he never --
 22 nothing's ever come of it.
 23 **Q. You mentioned merchandise as being one of**
 24 **the sources of the in-commerce definition before,**
 25 **where we were talking about the -- in trademark,**

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1 **the -- the commerce that was being conducted was for**
 2 **merchandise.**
 3 A. Oh, on the donor store? Correct.
 4 **Q. Was there anything else that was -- that**
 5 **was a use in commerce that would fall within that?**
 6 A. Later -- and by "later" I mean after much
 7 of this -- these discussions -- Alec had, without the
 8 knowledge of most of us involved with the production
 9 at any level, talked to some guys who ran a little
 10 coffee shop or coffee online sales business -- I still
 11 don't even know what the full story was on it because
 12 I really didn't care, other than I thought it was
 13 stupid -- to make Axanar coffee and offer that in the
 14 donor store.
 15 They did it. So there were like six
 16 labels created by whoever did the art, where there
 17 would be Kharn's -- who was the Klingon bad guy in
 18 Axanar. There would be Kharn's dark roast coffee and
 19 Andorian ice coffee and just a whole bunch of stupid
 20 stuff.
 21 I came later to find out that they were
 22 actually offering it not on the Axanar donor store but
 23 that little third-party company was actually offering
 24 that stuff on their website independently of Star
 25 Trek: Axanar.

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1 **Q. So that the profits would be going to**
2 **that other company, not to Axanar Productions?**
3 A. That was my understanding. Axanar would
4 get a cut of it, but to what extent or degree, I have
5 no idea.
6 I wasn't -- me as Terry was not involved
7 with the money of Axanar in any way, so I don't know
8 how that worked out. I just remember Alec saying we
9 get a cut of it and it goes towards Axanar
10 Productions.
11 There were a few of us that behind the
12 scenes were talking about how that was just stupid.
13 But Alec is, like I said, the alpha and the omega of
14 Axanar. When he says something, you either can pick a
15 fight, which usually doesn't end well, or you can back
16 off and just go, "Okay," and most of us just said,
17 "Okay."
18 MS. JASON: Let's take a break.
19 THE WITNESS: Okay.
20 MS. JASON: Go off the record.
21 THE VIDEOGRAPHER: The time is 2:33 p.m.,
22 and we're now off record.
23 (Short recess.)
24 THE VIDEOGRAPHER: The time is 2:46 p.m.
25 We're now on the record.

50

1 **Q. BY MS. JASON: Mr. McIntosh, were people**
2 **paid for their work on Axanar?**
3 A. I have come to learn that several people
4 were. Alec paid himself and Diana. How much, I'm not
5 specifically sure. And it's my understanding that
6 some of the construction folks who were building the
7 sets, Dean Newbury and Dominic something or other --
8 Let me find out here.
9 **Q. That's okay.**
10 A. -- and a gentleman named Dominic, and I
11 think a few other smaller contractor folks that would
12 come in.
13 Dean and Dominic, it's my understanding
14 that they were 1099 employees of Axanar Productions.
15 Anyone else, it was kind of like, Hey, we need you to
16 come in and do some lighting or something, so they
17 would come in on just a purely contractor-type basis.
18 So four people I know of for sure, Alec
19 and Diana as employees of Axanar, and then Dean and
20 Dominic as the set folks but as 1099, I understand it,
21 and then a couple other miscellaneous people, but I
22 don't know who they are.
23 That's all that I'm aware of who's been
24 paid.
25 **Q. So there were others that were not paid**

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1 **who worked on Axanar?**
2 A. I was never paid. Not so much as a
3 penny.
4 Oh. Tobias Richter was paid for his
5 contributions, but he's in Germany. He just did the
6 visual effects, purely as a arm's length business
7 transaction. So for him it was more of a work for
8 hire rather than, Hey, here's a salary kind of thing.
9 And then there were other proper
10 expenses, arm's length expenses, utilities, things of
11 that nature, that were paid.
12 **Q. Why were some people paid while others**
13 **were not?**
14 A. Good question. I have no idea.
15 **Q. Who was responsible for deciding who**
16 **would be paid?**
17 A. Alec, exclusively.
18 **Q. And who was responsible for deciding how**
19 **many people were paid?**
20 A. Alec, exclusively.
21 **Q. Do you know whether there was an Axanar**
22 **Productions bank account?**
23 A. To my knowledge, there was, yes. A
24 proper business bank account, yes.
25 **Q. What do you know about that bank account?**

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1 A. On several occasions I would have
2 expenses that would need to be expensed, and he gave
3 me a debit card number or a credit card -- I don't
4 know which of the two it was -- to be able to use for
5 those specific preapproved expenses.
6 There -- I know there was also an Axanar
7 proper bank account because there were some revenues
8 that -- say, from Google Ad Sense, and when people
9 look at your YouTube videos, you can earn a chunk
10 of -- you know, a couple cents here and there every
11 time someone watches your video, that goes into an
12 account as a pay per click kind of deal, and I think
13 there was about \$1,200 accumulated up in that account
14 around the first of the year, that I had just noticed.
15 I was just going through the Google account that we
16 use, and I'm like, Oh, this is" -- "we got some money
17 in here. I need a bank account to put it in," kind of
18 thing.
19 **Q. So what exactly was that \$1,200 for?**
20 A. It was -- based on what I had discovered,
21 it was from YouTube videos on the Star Trek: Axanar
22 YouTube channel that were showing ads, so any -- it
23 wasn't -- how I specifically -- and this was my doing.
24 I didn't want ads appearing on the Prelude to Axanar
25 video itself or the vulcan scene video itself, because

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1 in my mind that was a little shady, and that's my
 2 word, to be able to derive revenue from a Star Trek
 3 thing.
 4 But the videos that were on the side,
 5 like their little production logs of how it's
 6 coming -- how we're coming along at Axanar or
 7 podcasts, things of that nature, where they're talking
 8 about what's happening this week at Axanar, to me
 9 seemed like fair game. So those would have little
 10 videos, little ads that appeared, at YouTube's
 11 discretion, however they make them appear, and I think
 12 those were the ones that would tick odd -- every time
 13 someone viewed it, you'd get like two cents or
 14 something of that nature. And then over a period of
 15 time, well over a year, it accumulated up to about
 16 1,200 bucks-ish.
 17 So that's -- that's where the money came
 18 from, as far as I know.
 19 **Q. Was Mr. Peters aware of these ads?**
 20 A. Yes.
 21 **Q. Did he instruct you to put the ads up, or**
 22 **it was your idea?**
 23 A. I don't recall specifically. I know
 24 the -- I remember raising my objection to having ads
 25 appear on the Prelude to Axanar 22-minute video, and

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1 specifically on the vulcan video. I don't remember
 2 whose idea it was to either yea or nay it on the
 3 others.
 4 **Q. Did he want you to put ads on Prelude to**
 5 **Axanar or the vulcan scene?**
 6 A. There was some discussion at the time,
 7 and it was based on observing other fan productions,
 8 like Star Trek: Renegades -- they were known as Star
 9 Trek: Renegades at that time. They were showing ads
 10 on their full movie and on their trailers and whatnot,
 11 and so Alec's position, if I remember correctly, was,
 12 "If they're doing it, we should be able to do it."
 13 I do recall digging my heels in, where I
 14 just wasn't comfortable with that, putting it on
 15 Prelude to Axanar or the little vulcan scene. Where I
 16 do also remember saying that I didn't have a problem
 17 doing it on the other things.
 18 **Q. Do you know whether ads were ever put up**
 19 **on Prelude to Axanar or the vulcan scene?**
 20 A. I believe for a very, very brief time.
 21 And it was a mistake. Rob had put it -- Rob is the
 22 one who uploaded it. I never had the source material,
 23 like I did with Prelude to Axanar, where I have all
 24 the camera bits, all the audio, everything that was
 25 assembled to create it, which is on a hard drive that

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1 I provided to you. I have nothing from the vulcan
 2 scene, and I don't know if that's intentional or
 3 whether Rob was just holding all his toys and not
 4 wanting to share them. I'm thinking it's probably
 5 that latter bit.
 6 So Rob was exclusively responsible for
 7 uploading the vulcan scene to YouTube, where I would
 8 be uploading the other stuff, as the geek, to do those
 9 things. And if I remember correctly, it was uploaded
 10 and the little box wasn't ticked to not monetize it,
 11 and a brief period of time like I'd go in there just
 12 to check the quality of it, and I'm like, "Why am I
 13 seeing an ad for Sketchers shoes?" or something.
 14 So I believe I brought it to their
 15 attention, "We need to go in there and remove that."
 16 Alec said, "Sure, do it."
 17 I logged in and unticked the "Show Ads"
 18 box.
 19 So there was -- and likely pocket change
 20 at best in revenue from the vulcan scene. I mean,
 21 only a few days' worth. And it wasn't viewed that
 22 often. So it wasn't a significant amount, if any.
 23 **Q. Is it possible that since you've left**
 24 **they have added the ads back into the vulcan scene and**
 25 **Prelude to Axanar?**

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1 A. It's possible. Since I divorced myself
 2 from the production, I have not checked anything
 3 regarding Axanar. I'm staying away from it as if it's
 4 the plague. I'm participating in one of the hater
 5 groups, the hater group, as Alec says, but I don't go
 6 to the Axanar public page, I'm not able to see what
 7 goes on in the fan group or the donor group or his
 8 secret Federation Council group that only the inner
 9 circle gets to talk smack about people in. I don't
 10 watch their videos on YouTube. So I don't know what's
 11 going on since I divorced myself in the middle of May.
 12 **Q. Do you know whether it's possible to**
 13 **track the Google ad revenues, or does it all come in**
 14 **at the same time?**
 15 A. To my knowledge, it's an aggregate, but I
 16 wouldn't be surprised if YouTube does have a method
 17 maybe that I'm not aware of, a screen somewhere in
 18 their system where you could actually break it down by
 19 specific -- that would make sense that they would
 20 have. I just never bothered to check. So . . .
 21 **Q. What else can you tell me about the**
 22 **Axanar bank account?**
 23 A. It exists. How much money in it at any
 24 given time, I don't know. I've used it with Alec's
 25 approval to purchase odds and ends and knickknacks,

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1 and a couple geek things that were a few hundred bucks
2 here and there. Other than that, I really don't have
3 much knowledge of it.

4 **Q. You mentioned you had a debit or credit
5 card number attached to the account.**

6 A. Yes.

7 **Q. Was it a physical card or you just had
8 the number?**

9 A. You just -- I told him on one occasion,
10 "Hey, I need to" -- it was for a convention, something
11 last year in San Francisco, the Bay Area. They were
12 going to some convention that was happening in like --
13 down by the -- your baseball stadium, so that's like
14 south of the city, I guess. And he had to have me
15 find a -- like a Kinko's or a place that would --
16 could print some pull-up banners, the kind that
17 retract into a little device and you stow it away and
18 then bring them up at the convention location.

19 So I had to find a place down there in a
20 city that I'm not familiar with that was close to the
21 location and negotiate a price and whatnot, and I'm
22 like, I just need a -- a card to give him, so he just
23 sent me through like Facebook Messenger, here's the
24 card number and the expiration date and, you know, the
25 billing address in case they need the ZIP code, that

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1 A. No.

2 **Q. Did he pay for your monthly cell phone
3 bill?**

4 A. No.

5 **Q. Are you aware of him paying for anyone
6 else's car insurance?**

7 A. There were talks in the detractor circles
8 before they officially were labeled the haters, and I
9 think one of them -- I'm not throwing anyone under the
10 bus here, but it is my personal belief that Christian
11 was maybe participating a little in things that he
12 knew after he left the production last -- May of last
13 year, May of 2015; that Alec may have been making
14 expenses that were inappropriate, including car repair
15 and whatnot.

16 I have no personal knowledge about any of
17 that, who was paying what where, just because, again,
18 my physical distance away from anything like that
19 would preclude me from having witnessed it.

20 And also, frankly, I didn't care. I had
21 enough on my plate. I don't need to be looking into
22 other people's stuff.

23 But it's my understanding that he was
24 paying for a great many expenses of his own, that
25 could be considered perfectly legitimate or maybe that

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1 kind of thing.

2 And I just kept it on file in a little
3 encrypted deal on the -- on my laptop.

4 **Q. Do you know if anyone had debit or credit
5 cards associated with the Axanar Productions bank
6 account?**

7 A. No. Unfortunately, that's one of the
8 things I wouldn't know, being a few states away, but
9 it -- reasonable to assume that Alec absolutely had
10 one. Otherwise he wouldn't have been able to give me
11 the number. It's possible that Diana had one, since
12 she would have legitimate use to need to buy postage
13 or things -- boxes to send things out to people. So
14 that would be reasonable. Other than that, I don't
15 know.

16 **Q. Did Mr. Peters pay for your car insurance
17 while you were working on Axanar?**

18 A. No.

19 **Q. Did he pay for the gas for your car while
20 you were working on Axanar?**

21 A. No.

22 **Q. Did he pay for your health insurance
23 while you were working on Axanar?**

24 A. No.

25 **Q. Did he buy you a cell phone?**

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1 in the opinion of some might be in a more gray area of
2 legitimate business expenses.

3 The only things he has ever paid for or
4 Axanar has ever paid for on my account is specifically
5 the three times that I have traveled down there. The
6 first was for the Prelude to Axanar shoot itself in
7 May of 2014, so they -- "they" meaning Axanar -- paid
8 for my hotel.

9 Fun story there. Some -- for some time.
10 Fleabag hotel.

11 My airfare. I paid for my rental car for
12 the week and the gas and all the related expenses. So
13 their expense was the actual round-trip airfare and
14 the hotel.

15 Second time I went down was in November
16 of 2014, for the Bent-Con convention that was
17 happening at the Marriott in Burbank, like right
18 across from the Bob Hope Airport. They paid for my
19 airfare and hotel.

20 That was a very easy trip. You just walk
21 across the street with your luggage, so there was no
22 car involved or anything like that.

23 The third time was this past September,
24 September of 2015. That was --

25 Let me back up. The convention was

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1 November of 2014. September of 2015 Alec asked me to
2 fly down to do tests for video monitors on the set --
3 the bridge set that they had created. So we'd get LCD
4 monitors and stick them in the various holes around
5 the bridge and have some sort of animated looping
6 geekery going on. He wanted me to come down there and
7 work on that so he flew me down.

8 I stayed at his place, his sofa, for -- I
9 think I was there for two days -- three days, two
10 nights. And the only expense they paid for there was
11 my airfare.

12 **Q. What exactly did Mr. Gossett tell you**
13 **about potential expenses that Mr. Peters had used**
14 **donor funds for that were inappropriate?**

15 A. Specifically, he told me nothing. It was
16 a chat room type of -- someone commenting probably on
17 the Hollywood Reporter or -- one of the articles that
18 were popular and critical of Axanar, one where I think
19 your clients had said something to the effect of, "We
20 have not authorized this, and we object to someone
21 making money off of Star Trek." This was about August
22 of last year, of 2015.

23 I'm very observant of some weird things,
24 like people's prose and their writing style and their
25 word choice and how they assemble sentences. One of

1 and new tires and things of that nature.

2 Whether it's true or not, I don't know.

3 **Q. Did you ever talk to Alec about whether**
4 **he was using the funds of Axanar Productions that came**
5 **from donors on his personal expenses?**

6 A. There was one time he and I vaguely got
7 into expenses, and we got into a row. And that was
8 something that had planted a seed in my mind that
9 later bore fruit and became my divorce from the
10 production. And that was -- it was my opinion that
11 money was being spent that if I were in charge of the
12 money would not have been spent, such as allegations
13 of spending it on car repairs or going to just
14 convention after convention and surely using Axanar
15 funds to pay for the hotel and flights for things like
16 that, which some could say are legitimate expenses,
17 some might say are not legitimate expenses.
18 Especially considering the crowdfund nature of the
19 revenue for Axanar, you know, where people give us all
20 this money to make a film. We're a year and a half
21 in. We have no film, but you're going around to all
22 these conventions. One of them I think was even in
23 Europe, one in Germany, and I think he went back
24 another time to England for some Warhammer thing, with
25 a sidebar of meeting a few Axanar fans, so maybe that

1 the comments that were made there lead me to believe
2 that it was maybe Christian that was making them and
3 some accusations that were made. And, again, that is
4 just pure supposition as to who was actually behind
5 that phantom account. It's my opinion it was
6 Christian was saying that Alec was using money to pay
7 for his car payment and work on the car and tires and
8 things of that nature.

9 Specific allegations that someone just
10 off the street wouldn't have knowledge of and
11 wouldn't, in my opinion, think to bring up something
12 like that. You know, if it was just an Internet
13 troll, how are they going to -- why would they
14 specifically say something like he's paying for his
15 car payment? That's what led me to believe that it
16 was someone inside, and then I looked. My opinion was
17 that it was Christian.

18 And since then I've come to understand
19 that that is actually what happened, based off of
20 Alec's own annual report last year, where some car
21 expenses were listed for a few thousand dollars, and
22 other things that have come to light more recently.
23 Some leaks somewhere, where some people have said
24 that -- or alleged that actual expenses were made
25 using Axanar funds for car payments and car repairs

1 was how he connected it in his mind. I don't know;
2 that's just a guess.

3 But things just smelled a little stinky
4 at certain times, and one learns, with Alec, to pick
5 your fights, because a simple raising a question can
6 quickly become a hater train wreck, where you're just
7 accused of being the antichrist, when you're like,
8 "How the heck did we get here? I just asked you a
9 question," and now, you know, we have this massive
10 drama to clean up, when we didn't need to have it.

11 So, like I said, you need to learn to
12 pick your fights with Alec, and that was not a fight
13 that I think I was willing to get into personally.

14 **Q. So where were you getting this**
15 **information other than through these online -- through**
16 **this online source that you believe could have been**
17 **Mr. Gossett, was there anything else that led you to**
18 **believe -- either in conversations with Alec or things**
19 **that you saw, anything else that led you to believe**
20 **that Alec was using the funds -- donor funds for**
21 **personal expenses?**

22 A. There are detractors of the production,
23 and have been for -- roughly since Prelude to Axanar
24 was -- was released. Typically it started out as
25 Internet trolling type things, "Axanar sucks, a bunch

1 of losers," and you're just like water off a duck's
2 back, you know. You just learn to let that go.

3 After the -- I would say around the time
4 of the Indiegogo campaign, which was July of 2015,
5 people in the haters circle -- again, Alec's word; he
6 calls them all haters and losers -- started to do
7 research. They weren't just flinging poo for the sake
8 of flinging poo on the Internet. They were actually
9 going and researching things that he said in the past
10 and connecting dots.

11 And Alec would say, Oh, I've given Axanar
12 \$10,000 of my own money for this or, No, I wasn't
13 spending money on this, and later he would confirm
14 that maybe that wasn't the case, and they were
15 connecting all those dots.

16 Then a point in time came where he
17 released the -- I believe he released the 2014 annual
18 report. It wasn't a well-prepared document. I think
19 it was like a one-page Word thing, and I think he even
20 posted it as a Facebook comment. Rough outlines of
21 where the money for Prelude to Axanar's fundraiser
22 went.

23 Then 2015 came and he released a
24 multipage document, more -- a little more polish to
25 it, where he broke down how the money from the

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1 profit of selling a company 15 years ago. As he likes
2 to tell people as part of his defending himself in the
3 online community, "Oh, I sold AuctionWorks in 1999 for
4 \$10 million, and you all are a bunch of losers.
5 You've never done that."

6 Well, where's your \$10 million, Killer?
7 You know, that kind of thing.

8 **Q. Did he ever tell you he was paying
9 himself?**

10 A. Not that I recall. It was discovered
11 rather than in an admission.

12 **Q. So the first time you discovered it, was
13 that when you saw the annual report from 2015?**

14 A. That was the confirmation. I believe it
15 was Aaron saying, Oh, some checks came in from like
16 ADP or wherever it happened to be. We didn't go into
17 that much detail. He's like, "Oh, yeah, some checks
18 came in. Alec had to sign them. Diana got one, Dean
19 got one," the set guy, "and Dominic got one, and Alec
20 got one, and everybody left to go hit the bank," kind
21 of thing.

22 And that's where I was like, "You
23 suckers."

24 **Q. Did you ever say anything to Mr. Peters
25 about the fact that he was paying himself?**

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1 Kickstarter for the Axanar feature was spent, and
2 that's when a lot of people really started raising
3 Cain in the community -- in the online community.

4 And that's when I -- that was another
5 seed that planted in my head that eventually led to my
6 divorce, was where he laid out a section where Diana
7 was getting paid and he was getting paid. And I had
8 known that that was happening beforehand. Aaron
9 Harvey, who is an artist on the production, who is
10 physically down there, shortly after my visit in
11 September he and I were chatting on Facebook about
12 something completely not related, just yakety-yak, and
13 he said that he was down there and saw checks come in
14 that Alec had to sign and then they were being handed
15 out. So that is what confirmed to me that people were
16 being paid well before he did the annual report, by
17 his own hand, that confirmed that people were being
18 paid, including himself.

19 I was irked. Not so much that I wasn't
20 being paid but that he was. I mean, I didn't -- like
21 I said, I wasn't expecting to get any cash or
22 compensation from the Axanar deal. My -- my purpose
23 was just the participating in it. But I was irritated
24 that he was paying himself, especially if he
25 supposedly is swimming in some loot from a \$10 million

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1 A. I believe we had -- like I alluded to a
2 short time ago, I believe I did kind of throw in a
3 little zinger every now and then, but we did not, to
4 my recollection, have like a -- a proper talk about
5 it, because I probably would have let him have it.

6 And, like I said, I don't think that was
7 a -- in retrospect, that was a battle that I wanted to
8 fight. I wanted to squirrel up my animosity for
9 something that really mattered, and that -- if he's
10 paying himself, there's nothing I could have done
11 about it anyway. So pick the battle, that kind of
12 thing.

13 MS. JASON: Are we on 188?

14 THE REPORTER: 187.

15 MS. JASON: I'd like the court reporter
16 to mark a document as No. 187, Exhibit No. 187.

17 This is a single-page document that is
18 labeled at the bottom AX000343.

19 Can you take a look at this document,
20 please, Mr. McIntosh.

21 THE WITNESS: It is in this packet?

22 MS. JASON: It's not. It's a separate
23 document.

24 (Deposition Exhibit 187 was marked
25 for identification.)

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1 THE REPORTER: Exhibit 187.
2 **Q. BY MS. JASON: Can you take a look at**
3 **that, and let me know when you're finished.**
4 A. Okay.
5 **Q. Do you see the comment by Bill Watters in**
6 **the middle of the page?**
7 A. Yes.
8 **Q. It says, "I'll chime in here as Axanar's**
9 **convention and events coordinator, everyone's travel,**
10 **hotel, etc has been paid for out of pocket. The**
11 **production has not spent dime on towards sending**
12 **anyone 'jet-setting'."**
13 A. I see that, yes.
14 **Q. Was Mr. Watters Axanar's convention and**
15 **events coordinator?**
16 A. Yes. He's based out of the Bay Area.
17 **Q. Do you see the comment below, which says**
18 **"Terry McIntosh"?**
19 A. Yes.
20 **Q. And after reading this, do you recognize**
21 **this post?**
22 A. Not specifically, but if it's here, then
23 I'm sure I wrote it.
24 **Q. This appears to be a series of questions**
25 **and answers. Do you know where these questions came**

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1 **from?**
2 A. Not specifically. Although it might be
3 in relation to this image up here, Star Trek: Equinox,
4 and then there's a screen capture of an image. It's
5 hard to make out.
6 Sorry. I'm just reading -- or trying to
7 make sense of the text that's in that image there.
8 **Q. Take your time.**
9 A. Now I'm just reading through the rest
10 here, just to see if I was taking -- whenever I reply
11 to someone with the little two brackets on either
12 side, to a question, typically that means that I have
13 taken it somewhere out of a response chain and then I
14 reply to it, and just kind of stack them like that.
15 So that's why I'm just checking to see if that's
16 specifically what happened here.
17 **Q. So typically you're responding to a**
18 **question that someone else has asked?**
19 A. Other comments, yeah. Something in that
20 chain, typically. Just to help, rather than have 50
21 different replies, I'll just make one and just start
22 stacking things.
23 And it looks like this isn't even the
24 full comment chain, so I'll just naturally assume that
25 that is what I'm doing, then. That somewhere higher

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1 up in this is -- are these questions. Because
2 that's -- that makes sense. That would be something
3 that I would typically do.
4 **Q. Do you see where it says, "Why did you**
5 **use our money to jet set around to conventions, build**
6 **offices and sets"?**
7 A. Correct.
8 **Q. And do you see the response that says,**
9 **"Axanar doesn't spend Kickstarter funds on travel or**
10 **conventions. Anyone that's read the first feature**
11 **Kickstarter text can plainly see that's precisely what**
12 **was said the money would be spent on -- studios and**
13 **sets."**
14 A. Correct, I see that.
15 **Q. Did Mr. Peters tell you that Axanar**
16 **wasn't spending Kickstarter funds on travel or on**
17 **conventions?**
18 A. Absolutely. And that's where many of my
19 talking points come from, is by bouncing questions off
20 of him and that he would say, This is what we're
21 doing, and then I would parrot that out.
22 **Q. Do you remember in this example whether**
23 **he told you to give this response?**
24 A. Not specifically. But there are times
25 just in the course of talking with Alec, Why, this

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1 certain question's coming up. What should I tell
2 them? And, No, I'm not spending Axanar money. I'm --
3 out of my own pocket I'm going to these conventions.
4 And then I would parrot that out to folks.
5 Again, being two states away, I have no
6 direct knowledge, typically, and without access to the
7 bank account, I just have to take his word for it.
8 It's my opinion later down the road,
9 especially after the divorcing myself, that many of
10 the things I was told to say might not be factual, and
11 that irritates me.
12 **Q. So is it your current belief that this**
13 **statement wasn't accurate?**
14 A. That is my current belief, yes.
15 **Q. That --**
16 A. That it is not accurate.
17 **Q. That Axanar did spend Kickstarter funds**
18 **on travel or conventions?**
19 A. Based on the 2015 annual report that Alec
20 produced and released himself, so he can't -- no one
21 put those words in his mouth. He created that
22 document. And then based on supposition, by
23 connecting dots, and based on other things that he
24 said slipping up, in my opinion, my words, while
25 responding to other people, just over time, whether

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1 it's on Facebook or a place called TrekBBS, which is a
 2 website that Trek folks go and congregate. It's kind
 3 of like a Facebook without the fancy social polish.
 4 It's just a place where you just -- questions,
 5 comments, and people just reply to. Old-style
 6 bulletin board, I would say.

7 Alec, when he -- I've noticed -- like I
 8 said previously, he is not proactive, he is reactive,
 9 by his nature. And he doesn't -- it's -- I've
 10 observed, remember all the things that he's said in
 11 the past, which -- and this is just my wording. The
 12 truth doesn't need versions. So sometimes he'll say
 13 one thing, and to a parallel question that should be
 14 first equal with one that he's already answered, he
 15 might give a modified answer. Sometimes in the same
 16 day. Sometimes you can get two different answers in
 17 the same paragraph, unfortunately.

18 So it is my opinion that things that I
 19 was instructed to say or information that I was given
 20 has come to be proven false, either factually or just
 21 by appearance.

22 **Q. You mentioned earlier visiting the bridge
 23 set. What was the bridge set?**

24 A. That was in my visit in September 2015,
 25 when I was down to the studio to check -- I'd brought

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1 some old-style monitors, the four-by-three aspect
 2 ratio, like old TVs used to be before everything went
 3 wide screen, because they would fit in the holes.

4 If you -- if you recall the Star Trek
 5 bridge and all the stations, there were like little
 6 window panels with little blinkies going on and
 7 things. Rather than creating a transparency that's
 8 backlit, which would create a more static item there,
 9 the thought process was to put something like this in
 10 that hole, and since it's a computer screen, you can
 11 create a video that loops various blinkies and
 12 technobabble and geekery that just looks cool, doesn't
 13 serve any other purpose as just being something to
 14 fill in a hole, would fit in that space. So that was
 15 the purpose of me being down there.

16 And through that process with the
 17 monitors that I brought, Milton, who was the director
 18 of photography for the film, Milton Santiago, brought
 19 one of his fancy cameras down. We put one of the
 20 monitors in the hole with a -- a filler video, and he
 21 would see how it looked on film, whether the screen
 22 was too glossy, meaning it was reflecting lights that
 23 were above, or whether it was too matte, or whether it
 24 was too -- you know, the graphics weren't able to be
 25 seen, just the way cameras operate, it wasn't

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1 sensitive enough to see it, things of that nature.

2 **Q. Was there an effort, with these monitors,
 3 to make it look like the Star Trek bridge?**

4 A. Oh, specifically, yes. The entire
 5 purpose was to make it look like the original series,
 6 but with a modern sensibility.

7 **Q. And who instructed you -- did someone
 8 instruct you to make the monitors look exactly like
 9 the Star Trek original series?**

10 A. Alec, specifically. Matter of fact, he
 11 contacted Doug Drexler, who worked on the Next
 12 Generation, Deep Space Nine and Enterprise, I believe,
 13 and Voyager as well.

14 There is an episode where -- of Deep
 15 Space Nine where they take David Gerrold's Trouble
 16 with Tribbles episode from back in the late '60s, and
 17 the characters from Deep Space Nine have a time-travel
 18 incident where they go back to that same time period,
 19 and the writers have crafted a story where the
 20 characters from Deep Space Nine help that original
 21 story unfold, and through visual effects, some of the
 22 characters interact in a way.

23 For that specific episode, CBS -- or
 24 maybe it was Paramount, I don't know -- it's hard to
 25 keep track of who owned what back then. Those people

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1 had to reproduce part of the original series set as
 2 closely as possible to how it stood in the '60s so the
 3 visual effects people could marry the two generations
 4 of acting, that were several decades apart, into one
 5 cohesive scene that you could buy. You know, as a
 6 viewer, you'd go, "I'd buy that that's actually
 7 happening."

8 So Doug had created some of the loopy
 9 blinkies that would appear in those monitors holes, as
 10 best he could, to replicate how they used to appear in
 11 the original series, and Alec, to my understanding,
 12 contacted him and goes, "Do you still have those?"
 13 And I guess Doug gave them to him.

14 So I have those -- they're on the hard
 15 drive that I gave you, where those were the things
 16 that were for the camera test when I went down.

17 **Q. So Doug gave Mr. Peters the orig -- the
 18 monitors or the screens that were used for the Star
 19 Trek television series?**

20 A. For that episode of the proper Deep Space
 21 Nine series.

22 That's my understanding. I wasn't there
 23 to see Doug hand them or e-mail them, but that is my
 24 understanding, that Alec e-mailed them, likely, or
 25 called him and said, "Hey, do you got those? We're

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1 doing a test." And my opinion is Doug said, "Sure,"
2 and sent them over.

3 Whatever the case may be, Alec had them
4 in his possession and e-mailed them to me.

5 **Q. Were you there for any of the**
6 **construction of the bridge?**

7 A. No.

8 **Q. Did you see the bridge at any other times**
9 **besides the time when you brought the monitors?**

10 A. No. Only on that trip. Everything else
11 I learned about it -- anything that was happening down
12 there with the studio -- that was -- when I went down
13 in September, that was my first visit to the studio.

14 That studio space I had never seen -- I'd only seen it
15 in photos shared on Facebook or Alec would send me a
16 photo. Here's what it looks like from away above,
17 like if they're on a crane-type device and they'd take
18 a photo.

19 So that was my first and only time
20 physically being there.

21 **Q. And did the bridge resemble the Star Trek**
22 **bridge, in your opinion?**

23 A. Oh, definitely. Still to this day I
24 don't think any work has been done on it since I left,
25 so it's still about half done. Structurally it's up.

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1 possession, and then those were handed to Alec, who
2 handed them to Dean and whomever else was building the
3 sets, and that's how that came to be.

4 So it's -- it's my understanding, and
5 Alec would quarrel about this all the time, that the
6 sets are millimeter to millimeter as close as you can
7 get to building an actual original series bridge set,
8 which was part of the marketing. "We're" -- "Our
9 set's going to be so awesome. We've got professional
10 set builders building this thing. It's going to be
11 better than James Cawley's."

12 **Q. And by the original series, are you**
13 **referring to the first television series of Star Trek?**

14 A. Yes, from the late '60s.

15 **Q. We've been talking a lot about Star Trek.**
16 **How familiar are you with Star Trek?**

17 A. I've been a fan since I was a fetus. Not
18 so much these days. Unfortunately, it's like that
19 time you're a teenager in high school and you barf on
20 the booze that you drank too much of; kind of sours
21 you on it. This whole Axanar thing has kind of put my
22 Star Trek fandom on life support. This -- I wore a
23 Star Trek shirt, a completely licensed Star Trek
24 shirt, today because it's starting to come back a
25 little bit. I find myself watching an episode again

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1 It just hasn't been fully painted and made all pretty,
2 but, oh, yeah, it's -- they're using the plans.
3 They're using the Paramount plans, the original
4 blueprints of the bridge that they got ahold of to
5 build the Axanar set.

6 **Q. How did they get ahold of those?**

7 A. It's my understanding that James Cawley,
8 from Star Trek: New Voyages, got a copy of them
9 through whatever means he got a copy of them. And
10 we're talking the original blueprint-size blueprints.

11 And that's what -- he gave those to Alec,
12 and Alec -- the people Alec hired to build the sets
13 actually used that.

14 I don't know -- some of them are the
15 original plans, like Desilu 1960s blueprints, some of
16 them are ones that were drafted for that Deep Space
17 Nine episode, so that would be mid to late '90s,
18 because they had to kind of reverse engineer some of
19 that to make it all work, my understanding.

20 So -- and all these blueprints are on the
21 hard drive I gave you. So there are some that are
22 original, that were scanned in through whatever method
23 into a computer and made into a digital file; some are
24 the newer plans that were reverse engineered by Doug
25 Drexler or whomever, that came in James Cawley's

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1 from time to time. But there was a period of time
2 from when the lawsuit dropped, last -- the end of last
3 December, until maybe a month and a half after I left
4 Axanar, where just the thought of Star Trek just --
5 unpleasant.

6 **Q. Have you seen every episode of the Star**
7 **Trek television series?**

8 A. Many times. All -- all series -- all
9 movies. I own them all on Blu-ray and -- between the
10 Star Trek franchise and the Stargate franchise, I -- I
11 fall asleep at night with an episode playing on my
12 screen. Literally. And I've done that for decades.
13 Whether it was back on VHS tape versions of it or DVDs
14 or Blu-rays now. I'm pretty pathetic that way, but
15 that's how I go to sleep. So that was my thing.

16 So I'm intimately familiar with all the
17 shows. Probably more than is considered mentally
18 healthy.

19 **Q. You mentioned your visit to the studio in**
20 **September. Did you see anything from any of**
21 **Mr. Peters' other businesses at the studio?**

22 A. Oh, absolutely.

23 **Q. What did you see?**

24 A. He runs -- a little backpedaling, if I
25 could. So Propworx was a company that he owns and

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1 continues to own --
 2 **Q. And by "he," you mean Mr. Peters?**
 3 A. Mr. Peters. Prior to Axanar becoming a
 4 thing.
 5 And one of -- for those who don't know
 6 Propworx, its purpose is to take costumes, sets --
 7 less sets but more costumes and props -- from movies
 8 and television show franchises after they've finished
 9 or wrapped. He gets them from the studios and sells
 10 them -- the bits to collectors. Some go for a
 11 significant amount of money.
 12 That's how, again, I was introduced to
 13 Alec, is -- Star Trek stuff is typically out of my
 14 price range. It just -- I'm not spending \$60,000 on a
 15 T-shirt -- or a shirt from Captain Kirk for -- that's
 16 just -- no. That's just not going to happen.
 17 Stargate, more in my price range. So I'm
 18 an avid Stargate collector. I have many costumes,
 19 many props from the actual show, COAs, certificate of
 20 authenticity. So that's how I became familiar with
 21 Alec.
 22 There came a point in time, I think it
 23 was 2011-ish, where Alec had finished -- maybe 2012,
 24 where Alec had declared bankruptcy through Propworx,
 25 owing MGM and other studios significant amounts of

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1 money, from after having amassed all those items, sold
 2 all those items, and this is just my supposition -- I
 3 wasn't there; I don't know the specifics of it -- but
 4 somehow the money didn't get to the studios, and he
 5 Chapter 7'd it through bankruptcy.
 6 So I think, if I remember correctly,
 7 that's how I got on Alec's real radar, is because in
 8 some of the collecting forums people were giving him a
 9 hard time for the bankruptcy. And I think I was
 10 defending him in some aspects of it, where, you know,
 11 bankruptcy is part of the US code, it's a right or
 12 it's a process for people to get out of financial
 13 trouble, to try to start themselves over again, and,
 14 you know, things of that nature.
 15 And I remember Alec had sent me an e-mail
 16 thanking me for his defense, and it's like, "Well, I
 17 don't really know you. I'm just trying to set the
 18 record straight here."
 19 And I think that's where we kind of
 20 really got on each other's radar more than just a
 21 customer and company type situation.
 22 A point in time later came where I was
 23 buying more and more stuff from Propworx and other
 24 organizations, and I started following what Alec --
 25 what was in Alec's collection. And he has a massive

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1 Star Trek collection, or at least he did. It's my
 2 understanding he's selling it off now to pay his legal
 3 bills. But just tons of really nice costumes.
 4 High-end stuff, stuff that now I have the funds to
 5 potentially drop 3- or \$4,000 for one or two of them.
 6 But he usually -- or since the Axanar
 7 studio opened he's been taking them out of his house
 8 or apartment or wherever he lives now and keeping them
 9 at the Axanar studio, which is now Axanar/Industry
 10 Studios/Propworx, since all three organizations are
 11 running out of the same physical space. So he would
 12 leave his costumes on mannequins throughout the Axanar
 13 space.
 14 **Q. Was he selling them from the Axanar
 15 space?**
 16 A. His specific ones? Not at the time.
 17 They would just be on display. Like he'd have his
 18 Garth costume there, and whenever someone came by,
 19 he'd be sure to ferry them through, oh, this is the
 20 Garth costume that Steve Ihnat gentleman wore, or this
 21 is the Trelane costume that he also owns, the guy from
 22 the harpsichord episode. Things of that nature.
 23 Various costumes, and they'd be more of a talking
 24 point to, in my opinion, kind of boost his
 25 credibility. I know Star Trek really well because,

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1 look, I own 20 costumes that you know exactly what
 2 they are despite looking at them.
 3 It's my understanding that the quantity
 4 of his collection has decreased lately, but he still
 5 owns some fairly good ones, and it's my understanding
 6 that they're still on display there.
 7 **Q. Was Mr. Peters doing any other business
 8 for Propworx at the Axanar studio?**
 9 A. So Propworx 1.0 exited in a bankruptcy.
 10 He was allowed to keep the intellectual property, so
 11 the name Propworx and logos, things of that nature,
 12 just fundamental basic stuff. Then he revived it and
 13 reincorporated it, it's my understanding, at the same
 14 time that Axanar was incorporated, and so both
 15 businesses are running out of the same physical space
 16 now. So it's my understanding that Propworx is a
 17 fully functional for-profit business, also operating
 18 out of the same physical address and space.
 19 **Q. Do you know when it started operating out
 20 of that physical space?**
 21 A. Early 2015, so shortly after it was -- it
 22 was -- the space was secured and they moved into it.
 23 And I base that only by one of the -- the
 24 haters who is following -- did very good research, and
 25 I guess he looked up in the Secretary of State's

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1 records for California the registration dates for
 2 Propworx 2.0 -- I call it 2.0. It's just Propworx,
 3 Inc. -- and Axanar Productions, and they were
 4 registered, if I remember correctly, like within a day
 5 of each other. So like February-ish of 2015.

6 **Q. Do you know if donor funds ever went to**
 7 **Propworx?**

8 A. Logic suggests that it would have to
 9 have, in some -- even a passive capacity. If Axanar
 10 holds the lease and is paying the -- you know, the
 11 lease amount every month, and Propworx is running out
 12 of that space, it's passively receiving a benefit at
 13 best for having done that, because Propworx isn't
 14 paying the lease.

15 So whether any overt money was moving
 16 between the two, I couldn't say, but passively
 17 Propworx is benefiting from the Axanar space.
 18 Definitely, without question.

19 MS. JASON: Let's take a break.

20 THE WITNESS: Sure.

21 THE VIDEOGRAPHER: The time is 3:32 p.m.
 22 This is the end of Disc 1. We're now off the record.
 23 (Short recess.)

24 THE VIDEOGRAPHER: The time is 3:41 p.m.
 25 This is the beginning of Disc 2, deposition of Terry

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1 McIntosh. We're now on the record.

2 **Q. BY MS. JASON: Mr. McIntosh, prior to**
 3 **this lawsuit being filed, are you aware of Mr. Peters**
 4 **talking to -- working with any attorneys for Axanar?**

5 A. If I understand you correctly, the only
 6 attorneys that I'm aware of that he spoke to were just
 7 regarding incorporating the business, you know, as one
 8 does when one starts a business, and the trademark
 9 issue. As far as I was told, he was on that and that
 10 was in motion. It never came to pass, so I'm thinking
 11 it was more of a "Shut up, Terry," kind of thing,
 12 rather than it was actually in motion, which is
 13 typical for Alec.

14 **Q. Are you aware of any other attorneys from**
 15 **before the lawsuit?**

16 A. Like I said, I -- his attorney -- I
 17 remember him saying it was a lady. I don't remember
 18 her name. He had mentioned her when the discussion
 19 first came up about offering me five percent of the
 20 studio, that he was going to have his attorney prepare
 21 documents and things like that. Nothing ever came of
 22 it. I had left many months later and still nothing
 23 had come of it. So whether that person exists or not,
 24 I don't know.

25 **Q. You mentioned he hired an attorney to**

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1 **incorporate the business. By "business," do you mean**
 2 **Axanar Productions?**

3 A. Yes.

4 **Q. Do you know who that attorney was?**

5 A. No.

6 **Q. Was it a different attorney than the**
 7 **trademark attorney?**

8 A. My -- my understanding is it was the same
 9 person. Like his personal counsel kind of thing.
 10 Someone he knows and is familiar with and has dealt
 11 with for years, kind of thing.

12 **Q. Did you discuss this lawsuit with**
 13 **Mr. Peters?**

14 A. No.
 15 Well, not since leaving.

16 **Q. Not since --**

17 A. He -- since I left, I have not said boo
 18 to him. On any topic. Matter of fact, I had to
 19 unblock him on social media just to be able to pull up
 20 our transcripts.

21 So, no, we are not on speaking terms.

22 **Q. But you were on speaking terms at the**
 23 **time the lawsuit was filed?**

24 A. Yes. Yes, for approximately five months.

25 **Q. What did he tell you about the lawsuit?**

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1 A. That it was fairly meritless, in his
 2 opinion; that he was going to -- originally -- this is
 3 before Winston & Strawn had been retained, that he was
 4 going to actively troll the legal -- the legal
 5 landscape to find a high-powered firm to represent the
 6 cause pro bono and that he thought he could pull that
 7 off, which subsequently he did. To his credit.
 8 Again, salesmanship. More power to him.

9 That's pretty much the extent of it.

10 MS. JASON: I'm done for now.

11 THE WITNESS: Oh. Actually, one more
 12 amended thing.

13 **Q. BY MS. JASON: Go ahead.**

14 A. One thing Alec loves to say, and it was
 15 said many times publicly and privately since the
 16 lawsuit was filed, is -- he would crow his legal
 17 credentials personally, as having gone through law
 18 school and having been for a time accepted by the bar.
 19 I think it was North Carolina or somewhere like that.
 20 For a time.

21 That is -- that specific -- and many of
 22 us verified those credentials; we didn't just take his
 23 word for it. That specific occurrence lent a lot of
 24 weight to what he said within the production. So I
 25 just want to make that perfectly clear.

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1 I have not gone through law school. I am
2 not an attorney. Neither is anyone else, to my
3 knowledge, involved in the production. So many of us
4 would rely on that implied experience as being far
5 ahead of any of us. So if he would say do something
6 this way, such as the trademark, when we went through
7 and I made comments based on things that I'd bounce
8 off him, we took that as, Okay. Well, he's an -- he's
9 been an attorney. He knows theoretically what he's
10 talking about. His knowledge in that aspect is or
11 should be greater than mine. So we'd take him at his
12 word.

13 And unfortunately, in my opinion, maybe
14 we should have all retained outside counsel on some of
15 those things, but it is what it is, you know.

16 And that's all I have to say on that.

17 MR. MORNIN: Why don't we take a very
18 short break and then I'll ask my questions.

19 THE WITNESS: Works for me.

20 THE VIDEOGRAPHER: The time is 3:46 p.m.
21 We're now off the record.

22 (Short recess.)

23 THE VIDEOGRAPHER: The time is 3:52 p.m.
24 We're now on the record.

25 E X A M I N A T I O N

1 traveled to LA at Axanar's expense, yes. Exclusively.

2 **Q. How long were you in LA for each of those**
3 **trips?**

4 A. So the Prelude to Axanar shoot, I -- the
5 shoot itself was two days, spread several days apart,
6 so I was down for six days, I believe, or maybe it was
7 seven. A week-ish. No longer than a week.

8 For the Bent-Con convention, which was
9 November of 2014, which was my second trip to LA, that
10 was for a weekend, so three full days and two nights,
11 I believe.

12 And the third trip, which was September
13 of this past year, was three calendar days and two
14 nights. I flew in in the afternoon of the first day
15 and then flew out the afternoon of the third.

16 MR. MORNIN: I'd like the court reporter
17 to mark this as Exhibit 188.

18 (Deposition Exhibit 188 was marked
19 for identification.)

20 THE REPORTER: Exhibit 188.

21 **Q. BY MR. MORNIN: Is this your Facebook**
22 **account that was used to post this comment?**

23 A. It appears to be.

24 **Q. Do you remember posting this comment?**

25 A. I haven't read it yet. Give me one

1 BY MR. MORNIN:

2 **Q. So you mentioned that your role at Axanar**
3 **was chief technical officer. Did you have any other**
4 **positions at Axanar?**

5 A. Yes. Ultimately I was labeled coproducer
6 on the film, as well as ultimately chief technical
7 officer of the production company. Titles that were
8 essentially honorary, since Alec hands them out like
9 Tic Tacs, but that is what I left with, yes.

10 **Q. And you served in those roles**
11 **simultaneously?**

12 A. Yes.

13 **Q. And you were a volunteer; is that**
14 **correct? You were -- you were not an employee or an**
15 **independent contractor?**

16 A. Correct.

17 MS. JASON: Objection to the extent those
18 are legal definitions.

19 THE WITNESS: I'm sorry.

20 **Q. BY MR. MORNIN: And you were based in**
21 **Seattle for the duration of your employment or your**
22 **volunteer work at --**

23 A. Correct, yes.

24 **Q. And you worked remotely that whole time?**

25 A. Except for the three instances that I

1 moment.

2 **Q. Take your time.**

3 A. Yes. I -- I definitely wrote this.

4 **Q. Do you recall what you meant when you**
5 **said, "So much so that I invested two years of my" --**
6 **"of my life FULL TIME"? Does that mean that you were**
7 **working full-time for Axanar?**

8 A. That means that I was participating in
9 Axanar full-time, meaning I had no other jobs going
10 on, say, income-wise. So from the time that I would
11 wake up until the time that I went to sleep, with some
12 exception, was spent doing Axanar business, whatever
13 that may be. Working on the website, social media,
14 graphics, things of that nature.

15 **Q. Would you characterize Axanar as a fan**
16 **film?**

17 MS. JASON: Objection. Asked and
18 answered. But I'll give you a chance to respond.

19 THE WITNESS: In my personal opinion?

20 Yes. Axanar, when it started out, how it
21 was pitched to me, how I went into it, was we were
22 making a -- a really awesome fan film.

23 What it came to be towards the end, in my
24 opinion, less fan film, more ego and commercial
25 venture, but that is just my opinion.

1 **Q. BY MR. MORNIN: Do you think that a fan**
 2 **film can also be a commercial venture?**
 3 A. No. By definition, in my mind, a fan
 4 film cannot be a commercial venture, because you're
 5 using the intellectual property of another property --
 6 of another entity -- a property that you love -- in
 7 this case my love of Star Trek was my reason for
 8 participating -- without permission to create
 9 something wonderful, with the effect of creating
 10 something that honors that, that would do justice to
 11 your personal passion for that -- that project.
 12 Once it travels into the commercial
 13 realm, in my opinion, it loses some of that luster.
 14 Now, that's just my opinion. What it is
 15 legally may be -- I may be completely wrong.
 16 **Q. Do you think that a fan film can employ**
 17 **professionals, like actors, set designers, et cetera?**
 18 A. That's reasonable, yes.
 19 MR. MORNIN: I'd like to mark this as
 20 Exhibit 189, please.
 21 (Deposition Exhibit 189 was marked
 22 for identification.)
 23 THE REPORTER: Exhibit 189.
 24 **Q. BY MR. MORNIN: Do you recognize this**
 25 **document?**

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1 A. Yes.
 2 **Q. Could you tell us what it is, please?**
 3 A. It is Alec's nondisclosure agreement for
 4 participating in Axanar Productions, dated April 29th,
 5 2015.
 6 **Q. And this is the agreement that you**
 7 **signed?**
 8 A. Yes.
 9 **Q. So I'd like to talk a little bit about**
 10 **Ares Digital and the donor management system, but**
 11 **before I get there, I'd like to talk about the**
 12 **Kickstarter and Indiegogo campaign. So if you could**
 13 **just explain in a bit more detail what your role was**
 14 **in creating and facilitating and managing those**
 15 **campaigns.**
 16 A. So the Prelude to Axanar Kickstarter
 17 campaign, which was May -- no, April -- March to April
 18 of 2014, pretty much done by Alec exclusively, meaning
 19 setting it up, typing all the text, getting all that
 20 in there. So my job, along with others, was to get it
 21 out on social media. Spam Star Trek groups, with
 22 links to the fundraiser -- and "spam" is my word. You
 23 know, we'd go in there, and, "Hey, we got a new Star
 24 Trek fan film," copy and paste, put the link in there,
 25 donate it -- donate to us, deal with what was then --

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1 what is now the Axanar Fan Group; back then it was
 2 called the Axanar Marines group. A way where fans or
 3 supporters of the project could come in and basically
 4 fan group, just share their stories, build positive
 5 feelings for the production, things of that nature.
 6 The production would share concept art or production
 7 art with the fans to get them more jazzed and pumped.
 8 Things of that nature.
 9 **Q. So how did the Kickstarter and Indiegogo**
 10 **campaigns interface with the Ares Digital system that**
 11 **you built?**
 12 A. They didn't. Ares Digital came much
 13 later.
 14 **Q. I guess my question is: My understanding**
 15 **is that data was exported, or something like that,**
 16 **from Kickstarter or Indiegogo and then imported into**
 17 **Ares Digital; is that correct?**
 18 A. So when you use a fundraiser platform, it
 19 builds up a list of all the people who have donated,
 20 how much they've donated, the date and time, the perk
 21 levels. So if someone donates \$25 and that perk level
 22 entitles them to a patch, a digital download of the
 23 finished film -- whatever it happens to be, whether
 24 it's a physical item that must be shipped or a digital
 25 item that they can click and download and then consume

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1 at their leisure, that information is stored -- or
 2 ultimately retrieved out of a fundraiser platform,
 3 Indiegogo or Kickstarter, as a CSV file, so a
 4 comma-separated value file. That can then be consumed
 5 with either Excel, if someone wanted to fulfill it
 6 themselves, say if it's a smaller fundraiser, or they
 7 could use a third-party system like BackerKit, which
 8 is a company that specifically deals in people
 9 importing all their donor records and then using their
 10 system to fulfill those things.
 11 As I said earlier, BackerKit, in the case
 12 of Axanar, was expensive, five figures range. Low
 13 five figures it cost Axanar to use it for Prelude to
 14 Axanar, and in the opinion of myself and Diana and
 15 Alec and others, it was not friendly to use, it was
 16 just a convoluted system, and that was when I, the
 17 geek, had thought to myself, I can create a better
 18 system than this on my own. It would save Axanar the
 19 expense of having to use BackerKit or another system
 20 again, so win for them.
 21 Axanar would be my real-world test case
 22 for my software, real donors, real system, to be able
 23 to work out kinks and bugs, and then ultimately --
 24 fingers crossed -- everything successful and it could
 25 launch as its own independent business to generate

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1 revenue that I personally wasn't receiving by
 2 participating in Axanar.
 3 **Q. So is Ares Digital a desktop application,**
 4 **a Web application, something else?**
 5 A. It's a Web-based application, so a
 6 software as a service through a web browser.
 7 **Q. So I understand that you and Terry were**
 8 **talking about offering Ares Digital as a -- as a**
 9 **commercial product.**
 10 A. I am Terry.
 11 **Q. Sorry. Alec is what I mean.**
 12 A. Correct, yes. On several occasions.
 13 **Q. Before that were you ever compensated for**
 14 **your work on Ares Digital?**
 15 A. No.
 16 **Q. Was anybody else compensated for it?**
 17 A. Not that I'm aware of.
 18 **Q. Did anybody else contribute to building**
 19 **Ares Digital?**
 20 A. No.
 21 **Q. Either in terms of code or ideas or**
 22 **anything else?**
 23 A. Ideas that would be turned into code,
 24 other than --
 25 Let me -- let me step back from that. So

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1 I did 100 percent of the code work for that project.
 2 I conceived of it, I brought it to Alec's attention, I
 3 created it, I assembled it, cobbled together, whatever
 4 phrases you wish to use. That entire effort from
 5 conception to launch is mine and mine alone.
 6 Alec and I had discussed some future
 7 features that he would want to see in the system
 8 should we choose to partner up in an official capacity
 9 and create a business relationship, such as the
 10 ability to connect to the US Postal Service to pull
 11 realtime shipping rates based on the shipper location
 12 and the destination location, how much that would
 13 cost, and the ability to print postage or labels.
 14 That was something that would be
 15 beneficial to the product and also beneficial to
 16 Axanar as Customer No. 1, so to speak. So that was an
 17 idea that was put forth to me as something that they
 18 would like to see in the system. So that's
 19 reasonable.
 20 **Q. So did you discuss with anyone other than**
 21 **Alec before that point about what features needed to**
 22 **be built into the Ares Digital platform?**
 23 A. Diana and I. Diana Kingsbury and I had
 24 spoken a few times about things that she might like to
 25 see, or, more precisely, I would say problems that she

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1 encountered using the BackerKit system. Ways that we
 2 could streamline that process and make it so it
 3 didn't, for lack after better term, suck so much.
 4 BackerKit was just horrible, a horrible experience,
 5 especially for Diana, and that was something that I
 6 wanted to alleviate for her. Just the ability to have
 7 something that she could log into and make things
 8 happen and not walk around like she was going to freak
 9 out because things weren't cooperating with her.
 10 **Q. Has anybody else other than you had**
 11 **access to the Ares Digital code at any point?**
 12 A. No.
 13 MR. MORNIN: I'd like to mark this as
 14 Exhibit 190, please.
 15 (Deposition Exhibit 190 was marked
 16 for identification.)
 17 THE REPORTER: Exhibit 190.
 18 **Q. BY MR. MORNIN: Do you recognize this**
 19 **post?**
 20 A. Oh, absolutely.
 21 **Q. So there's a link here to**
 22 **axanar.ares.digital. So first of all, is ares.digital**
 23 **the primary domain name where Ares Digital currently**
 24 **lives?**
 25 A. My Ares Digital, the one that I own and

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1 created, yes.
 2 **Q. What other Ares Digitals are there?**
 3 A. Bill Watters and Alec and parties unknown
 4 at this time decided to scrape the HTML code that
 5 would appear in a Web browser that you could access
 6 when it was still -- when my version was still online.
 7 They pulled down the HTML code, they pulled down the
 8 images, the cascading style sheets, which is a geek
 9 term for code that says where a Web browser should
 10 render an image or whether it should fade in and out
 11 or whether something should zoom on the screen or come
 12 out. Basically the look and feel of the effort.
 13 They have taken -- I dare say stolen --
 14 that effort of mine, and, through Bill's own effort,
 15 re-created the functionality behind the scenes, which
 16 they didn't have access to, and have launched that as
 17 a product, named Ares Digital, calling it Ares Digital
 18 2.0, and claiming that I have stolen the Ares Digital
 19 name, that Bill created it all along, and that I was
 20 in no way a part of the Ares Digital thought process,
 21 or minimally, peripherally.
 22 And that is all a blatant lie that can be
 23 proven.
 24 **Q. Do you know the domain name where the**
 25 **Bill Watters version of Ares Digital is available?**

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1 A. I believe it's on the Axanar Productions
 2 domain name, so I think it's
 3 aresdigital.axanarproductions.com or something to that
 4 effect.

5 **Q. Are you currently offering Ares Digital**
 6 **as a commercial service to the public?**

7 A. Not yet. I do have plans to put the
 8 polish on it, so to speak, to make it ready as a
 9 commercial product and launch that first quarter of
 10 2017.

11 **Q. Have you offered it commercially at any**
 12 **point before now?**

13 A. No.

14 **Q. So there's a subdomain here,**
 15 **axanar.ares.digital. What's at that subdomain?**

16 A. That was the domain -- once I had
 17 purchased Ares Digital -- ares.digital as a domain, I
 18 believe it was last July -- July of 2015, that was the
 19 domain that I had assigned for the Axanar portion of
 20 Ares Digital.

21 So Ares Digital itself exists as a
 22 platform, and I designed it to serve not only Axanar,
 23 as Customer No. 1, but any number -- potentially an
 24 unlimited number of clients, and they would access
 25 that system either through a subdomain of

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1 ares.digital, so it could be terry.ares.digital, or it
 2 could be thisorganization.ares.digital, whatever it
 3 happened to be, or I could -- the client, whomever
 4 that happened to be, could choose their own specific
 5 full domain name, so axanarfulfillment.com, let's say,
 6 and that could point into the system, where the
 7 parties could then access it.

8 **Q. Were you still volunteering for Axanar**
 9 **when you made this post?**

10 A. Let me see what the date is.
 11 I don't see a specific date on it, but
 12 from what memory serves, I had already departed the
 13 production at that point.

14 **Q. So you departed the production but you**
 15 **were still maintaining a website on Ares Digital on**
 16 **behalf of Axanar?**

17 A. No. When I left the production I shut
 18 the server that Ares Digital was running off of down.
 19 A later point in time came after Alec and Bill had
 20 launched their clone -- I dare say ripoff -- of my
 21 work that I created a parody site, and that's what
 22 this is referring to. It is vulgar, it is nasty, and
 23 it's intended to be that way. It's intended to
 24 critique their theft of my -- my intellectual
 25 property.

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1 **Q. Did you register the domain ares.digital**
 2 **when you were still affiliated or volunteering with**
 3 **Axanar?**

4 A. Yes.

5 **Q. Did you register any other domain names**
 6 **while you were there?**

7 A. Possibly. Nothing that would be Axanar
 8 related, but I'm sure I probably did. Or at least
 9 renewed domain names that I had owned for some time.

10 **Q. Have Axanar or Alec asked for the return**
 11 **of the domain name ares.digital?**

12 A. It was discussed before my -- or
 13 actually, no, shortly after my departure, within a few
 14 days, I believe. I told Alec, "If you want Ares
 15 Digital, I will finish it at that time," get it so it
 16 has all the things that I wanted to put in there and
 17 the things like the shipping -- the realtime shipping
 18 with the US Postal Service, credit card processing, so
 19 he could move the donor store off of the website and
 20 add it directly into the fulfillment platform. Things
 21 of that nature. I said that I would add it in there,
 22 and to make an offer.

23 He came back with, "I'll give you two
 24 percent of the for-profit studio," which, running
 25 through my head at the time, two percent is less than

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1 the original five percent that I'd been offered, so
 2 that was out.

3 He then offered \$2,000 for it, and I
 4 replied back that that was laughable and he should add
 5 an extra zero onto that for me to take him seriously.
 6 After all, it took perhaps a thousand hours of my
 7 time -- probably not that much -- maybe 500 hours of
 8 my time to develop the system from concept to what it
 9 was at the time.

10 And since I wasn't being paid for Axanar
 11 and Ares Digital isn't related to Axanar, it's its own
 12 entity, entirely owned by myself, that I should be
 13 paid for that effort. I wasn't just going to turn
 14 over the keys to my property without getting a little
 15 bit of a check.

16 So I had floated the figure that \$20,000,
 17 that sounds good. I'll hand over the keys.
 18 Nothing came of it.

19 **Q. Did you write any of the code for Ares**
 20 **Digital while you were still affiliated with Axanar?**

21 A. The vast majority of it, yes.

22 **Q. Did you ever use the Ares Digital code to**
 23 **facilitate fulfilling perks to donors on Kickstarter**
 24 **or Indiegogo?**

25 A. The Prelude to Axanar Kickstarter, yes.

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1 **Q. You used the Ares Digital platform for**
2 **that?**
3 A. Yes. In two -- in two parts. When it
4 was a static effort, right after I had created the
5 proof of concept and showed it to Alec, and then later
6 a more robust system, that could serve not only Axanar
7 but my intended goal of serving hundreds, thousands
8 potential clients. So in both aspects, yes.
9 MR. MORNIN: Are we on 190? Is that
10 right?
11 THE REPORTER: 191.
12 MR. MORNIN: 191.
13 (Deposition Exhibit 191 was marked
14 for identification.)
15 THE REPORTER: Exhibit 191.
16 **Q. BY MR. MORNIN: Do you recognize this**
17 **post?**
18 A. Absolutely.
19 **Q. So this comment reads, "Not a single perk**
20 **has gone out for either of the feature fundraisers,**
21 **however, in full disclosure, the delay lands squarely**
22 **on me."**
23 **Could you explain what you meant by that?**
24 A. Back in September, on my trip down to LA,
25 that was when Alec and I had briefly discussed that

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1 adding features to the Ares Digital system that I
2 created as it existed up to that point, that was when
3 the ability to add credit card processing so they
4 could move the donor store onto the Ares Digital
5 platform was discussed, adding the realtime shipping
6 information. So, again, someone orders or is due X, Y
7 and Z, how much is it going to cost to ship from the
8 studio space, in Axanar's case, to the end customer
9 and have that process be automated. That way Diana
10 wouldn't have to take a big carton of boxes to the
11 Post Office and have to do it that way.
12 About October-ish is when I started to
13 back away from Axanar, primarily because I was helping
14 to take care of my dad, who was in an ongoing battle
15 with cancer, so I was taking care of him while my mom
16 was still working.
17 Flash forward a little bit. We get up to
18 the point where the lawsuit has dropped, so this is
19 just after the holidays, past New Year's of this year,
20 2016, and, for lack of a better term, I just wasn't
21 feeling it anymore. Watching the paranoia grow,
22 watching the hatefulness and bitterness from Alec go
23 on, especially to the donors, and lashing out at those
24 close to him, I did not want to go into business with
25 someone like that, period. Not going to happen.

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1 If I'm going to have a fiduciary duty to
2 clients through the Ares Digital system, I don't want
3 to go into business with someone who could potentially
4 jump on a social media comment, where someone says,
5 "I'm having a problem with your system," and he could
6 reply back with profanity or calling them losers or
7 haters, as he does with the Axanar donors. I -- I
8 just am not going to involve myself with something
9 like that.
10 And that was when the decision was made,
11 shortly thereafter, that I was just going to finally
12 and ultimately divorce myself from the situation, and
13 take my toys with me.
14 **Q. Have you disclosed donor information to**
15 **anyone other than Alec at any point?**
16 A. Not without his express consent, no.
17 **Q. Who have you disclosed it to with his**
18 **consent?**
19 A. Many people while with Axanar.
20 Through -- through a course of business. Dealing with
21 people in the donor and the Axanar fan groups, we
22 would discuss their donations publicly. So someone
23 would say, "Am I in the system?" or "I made a donation
24 via PayPal three weeks ago. Can you check and see if
25 it was received?" I'd coordinate with Diana, since

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1 she was the one who had access to the PayPal accounts,
2 of which there were two, for Axanar, to find out if
3 their money was received, whether it was an
4 installment or whether it was a donation in full, and
5 then account for it in the spreadsheets appropriately.
6 **Q. Do you still have access to any donor**
7 **information? Records, data, anything related to**
8 **donors on Kickstarter, Indiegogo, or anything else?**
9 A. The original spreadsheets, yes.
10 **Q. You still have those files?**
11 A. Yeah.
12 **Q. Have you shown them or shared them with**
13 **anybody else?**
14 A. No.
15 Oh. Other than counsel, as part of the
16 subpoena.
17 **Q. So you mentioned that you discussed donor**
18 **information with the specific donor whose information**
19 **was in question. Did you ever discuss donors with**
20 **third parties?**
21 A. Alec, Diana. Primarily those two.
22 **Q. Anybody not affiliated with Axanar?**
23 **I mean, did you ever discuss donors on,**
24 **for instance, social media platforms or in e-mail**
25 **chains, anything like that?**

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1 A. Since my --
 2 MS. JASON: Objection. Vague. Discuss
 3 the thought of donors or something specific?
 4 **Q. BY MR. MORNIN: Did you ever discuss any**
 5 **personal information, such as the names or the amount**
 6 **of the donation, of any donor on social media or any**
 7 **other public forum?**
 8 A. While with Axanar? Yes.
 9 **Q. After Axanar?**
 10 A. Not that I can recall.
 11 **Q. So you mentioned that you were never paid**
 12 **for your work with Axanar.**
 13 A. Correct.
 14 **Q. Did you ever expect to be paid?**
 15 A. No.
 16 **Q. Did you ever -- did you ever want to be**
 17 **paid for your work?**
 18 A. Well, who doesn't? Sure.
 19 **Q. Fair enough.**
 20 A. No, when I walked into Axanar, I knew
 21 what I was getting myself into in that respect. It
 22 was going to be a fan film, it was going to be an
 23 awesome fan film, it was going to have Star Trek stars
 24 in it, and at that time a member from Battlestar
 25 Galactica -- Hogan is his last name. He played number

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1 two guy on the new Battlestar Galactica, the newer
 2 one. He was originally going to be in Prelude to
 3 Axanar. That was all terribly exciting. I get to
 4 meet these people; I don't have to pay 60 bucks for an
 5 autograph at a convention. Count me in. So that was
 6 terribly exciting.
 7 And since I'm not from the film or the
 8 television industry, just the entire process of
 9 learning, witnessing, and participating in production
 10 of a film of some kind just seemed -- and still seems
 11 just like a -- a once-in-a-lifetime opportunity of
 12 sorts. So that was a --
 13 Even when Axanar was -- and excuse my
 14 language -- crap towards the end, it was still a -- an
 15 interesting experience. It's always been a wild ride.
 16 And I think I joked earlier, when we were
 17 on one of our breaks, that this one participation in a
 18 project has given me, in my opinion, the entire cheese
 19 wheel of possible outcomes of a Hollywood experience:
 20 awesome, creative, collaboration, fun, moving at a
 21 breakneck pace, going all the way over to just a
 22 litigious train wreck that just seems like it will
 23 never end.
 24 So doesn't matter how you look at it,
 25 it's -- it's still a wild ride.

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1 Do I regret that I chose to participate,
 2 even with all the negativity and drama and -- and
 3 whatnot that it came to be?
 4 I'd have to say no. It's still an
 5 experience. Probably one that I'll never have again
 6 in my life. So even if it's good, even if it's bad,
 7 on my deathbed, hopefully many, many, many years from
 8 now, I can look back on this and go, "Well, it wasn't
 9 boring." So . . .
 10 **Q. So did you ever discuss compensation of**
 11 **any kind with Alec or anyone else at Axanar?**
 12 A. Compensation for my participation in
 13 Axanar?
 14 No. Alec is the one who brought it up by
 15 offering stock percentages in the for-profit company
 16 that he had planned to create and, it's my
 17 understanding, has since created.
 18 **Q. You also mentioned that Axanar paid for**
 19 **at least part of the travel for your trips down to LA.**
 20 A. All travel.
 21 **Q. Right. Meaning flights, hotels, but not**
 22 **rental car, et cetera?**
 23 A. I paid for my rental car for the Prelude
 24 to Axanar shoot. No rental car was needed for the
 25 Bent-Con visit, since I was staying at the hotel

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1 across the street from the airport where the
 2 convention was happening. And on my third visit, Alec
 3 and Diana were my transportation for those few days.
 4 **Q. Did you ever eat any meals that Alec or**
 5 **Axanar paid for?**
 6 A. I'm sure I did, yeah.
 7 **Q. Did you receive any other financial perks**
 8 **from Alec or Axanar?**
 9 A. Financial perks, as in --
 10 **Q. As in anything that you would consider a**
 11 **financial gain or something that maybe you didn't have**
 12 **to pay for that you would have had to pay for**
 13 **otherwise.**
 14 A. Oh, I'm sure that they paid for some
 15 meals. They paid for the car, they paid for the --
 16 they paid for the hotel, and the airfare.
 17 We did eat on several occasions, and I do
 18 recall Alec picking up the check, so I don't know
 19 whether that was him personally or Axanar, but it's
 20 reasonable to assume that Axanar picked up -- it ended
 21 up going on the Axanar budget somehow, so that's
 22 reasonable.
 23 That's about it.
 24 **Q. Okay.**
 25 **I'd like to introduce this as**

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1 **Exhibit 192, please.**
2 **(Deposition Exhibit 192 was marked**
3 **for identification.)**
4 THE REPORTER: Exhibit 192.
5 THE WITNESS: And I remember this one as
6 well.
7 **Q. BY MR. MORNIN: Okay.**
8 **So you say, "An all expenses paid trip to**
9 **L.A. for a week or two would be wonderful," and later**
10 **you say, "I need a free trip!"**
11 **And you recall making those comments?**
12 A. Oh, absolutely.
13 MR. MORNIN: I'd like to also introduce
14 this as 193, please.
15 (Deposition Exhibit 193 was marked
16 for identification.)
17 THE REPORTER: Exhibit 193.
18 **Q. BY MR. MORNIN: Could you just read that**
19 **first comment for us?**
20 A. Which page?
21 **Q. Sorry. On the second one, 193. Begins**
22 **"As long as Paramount."**
23 A. "As long as Paramount and CBS are paying
24 for my time off from work, renting the car, buying the
25 gas, and have me in a moderate hotel then I'd be happy

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1 to live stream the whole thing... even the deposition
2 itself. I'm not looking for a profit, but my out of
3 pocket expenses will be paid or I predict memory
4 issues."
5 And I stand by it.
6 **Q. So are you receiving any form of**
7 **compensation for participating in this trial?**
8 A. None whatsoever. Matter of fact, I hope
9 somebody's going to pay me 20 bucks for my parking
10 today. Not going to happen, but it would be nice.
11 **Q. And no compensation for testifying here**
12 **today?**
13 A. No. None whatsoever.
14 **Q. But you hope to be?**
15 A. Who wouldn't?
16 **Q. What did you mean when you said, "I**
17 **predict memory issues"?**
18 A. "I predict memory issues" meant that if
19 I'm going to be subpoenaed to give this deposition in
20 Los Angeles, where it would cost me significant amount
21 of money from missed work, paying for round-trip
22 airfare, paying for hotel, paying for car or other
23 transportation, that is a significant hardship to me,
24 and I would expect to be compensated for doing that.
25 It turns out that cooler heads prevailed

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1 and you fine folks came to me. That's awesome.
2 **Q. So I'd like to talk a little bit more**
3 **about your departure from Axanar. That was around**
4 **May 15th, 2016; is that correct?**
5 A. Correct.
6 **Q. Did you take anything with you when you**
7 **left Axanar?**
8 **Well, let me be more specific.**
9 A. Two states away.
10 **Q. Did you take any code with you that you**
11 **created while you were volunteering or affiliated with**
12 **Axanar?**
13 A. Well, my Ares Digital code.
14 **Q. Any other code?**
15 A. Anything that was in the production
16 archive when I turned it off.
17 **Q. Could you explain what you mean by**
18 **"production archive"?**
19 A. So at Axanar -- I've said this before --
20 it's reactive instead of proactive, whether it's Alec
21 or the production in general. Not a lot of thought
22 has tended to go into organization of materials or
23 archives of previous work or places where people who
24 are currently participating in the production.
25 Especially towards the end, folks who were doing art,

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1 many art folks, there was no central repository for
2 them to keep their works or to keep it in a central
3 location. So if you needed something from, say,
4 person X, you wouldn't have to hunt down person X to
5 get a copy of it to use for whatever reason. It
6 needed a central location, in my opinion, for things
7 to go in.
8 So approximately two years ago I
9 volunteered my Google Drive, which is an online hard
10 drive, I guess you would say, a place where you can
11 create directories, share access to those directories
12 with other people, where they can upload or download
13 either in their specific sections or entire sections.
14 For example, someone who would have
15 access to everything would be myself or Alec, since
16 he's the boss. People who would have access to only
17 specific things could be Tobias Richter, let's say.
18 He only needs access to be able to upload all of -- as
19 he continues to do, all of his work on the visual
20 effects for the feature film. So he would only need
21 access, along with some other people. Like, say, Rob
22 is the editor, Tobias is doing the visual effects,
23 Alec's the boss. Those three would have access to
24 that folder, let's say, while Alec would still have
25 access to everything as an umbrella, being the

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1 ultimate boss, and me as the geek would also have at
2 that time access to everything that was in that file.
3 **Q. This was your personal Google Drive**
4 **account?**
5 A. Correct.
6 **Q. Do you know roughly how much disc space**
7 **was used by Axanar?**
8 A. I was paying per month, I think it was
9 for a one-terabyte plan, so I think it was 9.99 a
10 month, plus whatever the taxes were. And what was
11 used on it, 250 gigabytes, so like a quarter-ish of
12 the total available space.
13 **Q. You mentioned that Tobias Richter**
14 **continues to upload materials. Is Axanar still using**
15 **your personal Google Drive account?**
16 A. Let me rephrase. Continued. I
17 terminated that access several weeks after I left. So
18 if I left on May 15th, it was about first, second week
19 in June, where I told them, "I'm shutting it off. If
20 you don't have everything you need, I'm" -- "bye."
21 And it's to my understanding that no one
22 there had the foresight to download everything, so I
23 nuked it.
24 **Q. When you say "nuked," do you mean**
25 **disabled access to people at Axanar or do you mean**

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1 **deleted the files or something else?**
2 A. All of the above. I degraded the plan to
3 a 250- or 200-gigabyte plan, whatever the next step
4 down was, so it wasn't costing me \$10 a month any
5 longer, and moved the files that were there onto a
6 separate hard drive that had the Prelude to Axanar --
7 all the bits that made up that film, so all the raw
8 camera footage and audio and all those other bits that
9 went on there, and then I just completely wiped the
10 drive so I could start using it for myself exclusively
11 again.
12 **Q. By "wiped the drive," do you mean wiped**
13 **the Google Drive?**
14 A. Correct.
15 **Q. Do you still have a copy of the files**
16 **that were in the Google Drive before you deleted them?**
17 A. The vast majority, yes. And those are
18 now in the hands of counsel.
19 **Q. Did you ever return copies of those files**
20 **to Alec or anyone else at Axanar?**
21 A. After the fact I was contacted by Lee
22 Quessenberry, I believe is how you pronounce his last
23 name. He is -- at the time an artist that was working
24 on art for the film, and he had asked if he could have
25 access -- or Alec had asked him, so I'm told, if they

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1 could have access to some of the stuff that used to be
2 on that drive. And I told him, "Yeah, for you, Lee,
3 I'll go and dig it out and repost it."
4 So after finding the stuff, reuploading
5 it, which took several days, Lee was able to -- to my
6 knowledge, pull that down, and he confirmed that he
7 was able to and then provide that to Alec.
8 Keeping in mind at that time that I had
9 blocked Alec on my phone and all social media so we
10 wouldn't -- it just wasn't a good idea that we had the
11 ability to contact each other.
12 **Q. Did you delete anything else?**
13 A. I didn't have access to anything else.
14 **Q. Did you take anything else with you,**
15 **copies of information, anything else?**
16 A. If it wasn't in those Google drives, then
17 no.
18 **Q. Were you ever aware of a litigation hold**
19 **arising from this lawsuit?**
20 MS. JASON: Objection. Vague.
21 **Q. BY MR. MORNIN: Did anybody ever**
22 **mention -- did anybody ever mention a litigation hold**
23 **at any --**
24 A. When Winston & Strawn was brought on, a
25 message went out to everybody saying, "Don't delete

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1 any e-mails," from a junior -- or someone who was
2 under Erin Ranahan. They had made a -- it was a
3 gentleman -- I don't remember his specific name -- had
4 said, "Don't delete any e-mails, don't change
5 any" -- you know, "Don't mess with your e-mail
6 accounts" was essentially the gist of it.
7 And to my knowledge no one did.
8 **Q. Did you delete anything, e-mails or**
9 **otherwise, after receiving that message?**
10 A. I didn't touch my e-mail other than
11 standard sending and receiving after that, no.
12 **Q. Did you delete the Google Drive after the**
13 **litigation hold or before it?**
14 A. Oh, that was well after, yeah.
15 **Q. Okay.**
16 **Did you ever -- did you take any hardware**
17 **with you when you left?**
18 A. The -- I had in my possession the hard
19 drive that was provided to store the Prelude to Axanar
20 backups, and that was the drive that the backup of the
21 Google Drive coexisted on for some time.
22 **Q. Just one hard drive?**
23 A. Correct.
24 **Q. What happened to the monitors that were**
25 **used in the bridge scene?**

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1 A. The 14-inch screen that I brought down
 2 with me went back to my friend Larry, and the 17-inch
 3 screen that I brought down with me, I think that also
 4 went back to Larry.
 5 MR. MORNIN: I'd like to introduce this
 6 as 194, please.
 7 (Deposition Exhibit 194 was marked
 8 for identification.)
 9 THE REPORTER: Exhibit 194.
 10 **Q. BY MR. MORNIN: Do you recognize this --**
 11 A. Absolutely.
 12 **Q. Do you know what Mr. or Ms. -- I'm not**
 13 **sure -- Augustin M. Busschaert meant when this person**
 14 **said, "I would be inclined to hand back the drives**
 15 **immediately"?**
 16 A. Based only on this, it seems like that
 17 if --
 18 To put it in context, if I remember
 19 correctly, Alec was on the Internet --
 20 MS. JASON: Sorry. I'm going to object.
 21 That calls for speculation, for him to speculate what
 22 someone else is saying and what they mean.
 23 **Q. BY MR. MORNIN: What did you mean when**
 24 **you wrote, "Already sold it to help cover the**
 25 **out-of-pocket expenses that Alec agreed to reimburse"?**

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1 A. So that hard drive that I spoke of, that
 2 Alec had sent up with a with copy of the Prelude to
 3 Axanar bits and whatnot, has been sold. And how it's
 4 been sold is I have over \$2,000 of out-of-pocket
 5 expenses that Alec had agreed to reimburse me for upon
 6 my exit to Axanar. He has since reneged on repaying
 7 me for those authorized out-of-pocket expenses because
 8 we couldn't reach a deal on transfer of ownership of
 9 Ares Digital from me to him. He wanted me to take
 10 stock in a for-profit company that at the time didn't
 11 even exist legally on paper. I came to find out that
 12 Industry Studios wasn't incorporated until sometime
 13 later. I wanted cash.
 14 And when he and I couldn't come to an
 15 arrangement, he said, "Then we have no further
 16 business to discuss," and I said something to the
 17 effect of, "Be well," and everybody was blocked.
 18 And to this day I'm still owed a rather
 19 significant amount of that. So there -- he still has
 20 a bill that I could send to collections, and I think
 21 rightly so.
 22 **Q. How much do you think you're owed?**
 23 A. So we have a year and a half of Comcast
 24 Internet fees for hosting the websites at a hundred
 25 dollars a month, we have \$10 a month of Google Drive

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1 fees for approximately the same amount of time,
 2 roughly, so a hundred -- let's say -- let's call it 18
 3 months, and I'm just pulling this out of my backside.
 4 So we have a hundred a month times 18; then we have
 5 \$10 a month times 18. We're coming up on \$2,000.
 6 And selling the hard drive at fair market
 7 value on eBay was about 300 and change, so significant
 8 amount.
 9 **Q. Big hard drive?**
 10 A. Physically big.
 11 **Q. What was the disc capacity of the hard**
 12 **drive?**
 13 A. It was eight terabytes.
 14 **Q. So I want to talk a little bit about**
 15 **social media and Axanar, and specifically Facebook**
 16 **groups. So let's start with how many Facebook groups**
 17 **are you aware of that relate to Axanar in any way?**
 18 A. That are within Axanar's control?
 19 **Q. No, that just have to do -- that are**
 20 **oriented towards Axanar.**
 21 A. Are we speaking public groups or groups
 22 that exist even in secret?
 23 **Q. Let's start with public.**
 24 A. So we got the Axanar Donor Group, the
 25 Axanar Fan Group. Those are two that are in direct

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1 control of Axanar. Then there's the Axanar production
 2 page on Facebook, which is the page that you would
 3 like rather than join. So if you like Cheez Whiz, you
 4 could like someone's page, that kind of thing. So
 5 there's three.
 6 There is the -- there's a couple Axanar
 7 groups that people have set up for people who have
 8 played the Star Trek Online game, so probably two or
 9 three there. Those, to my knowledge, aren't under
 10 Axanar's control; they're strictly created by fans.
 11 There's one that I know of that is
 12 created by persons unknown that is mocking Axanar,
 13 also called Star Trek: Axanar.
 14 So that's, what, probably seven.
 15 Then there's one I think called the
 16 Axanar Collective, which is run by some fan who's just
 17 a total wackadoodle, in my opinion. And that's more
 18 of a general sci-fi action art kind of thing. That's
 19 not under Axanar's control.
 20 So on Facebook that's roughly all that
 21 I'm aware of.
 22 **Q. Okay.**
 23 A. There's probably more by now.
 24 **Q. How about the private or secret groups?**
 25 A. Axanar has a group called the Federation

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1 Council, which Alec created. It's a secret group that
 2 anyone searching on Facebook for that name wouldn't be
 3 able to find. Even if you had the link to it and
 4 entered it in your web browser, you couldn't get into
 5 it unless you were actually invited into it. And that
 6 group --
 7 Oh. Back on the other -- the other
 8 topic. There is the CBS vs. Paramount -- or CBS and
 9 Paramount vs. Axanar Group, which is the group that
 10 Alec labels as the hater group. So that should be
 11 added to the public groups.
 12 The mirror of that is the Federation
 13 Council group, which Alec started, which is a private
 14 place for them to hate on the haters, essentially. So
 15 if the hater group is posting memes of Alec's face
 16 superimposed over Mrs. Doubtfire in a little poo
 17 emoji, then they would be the opposite of that. They
 18 take the person who is criticizing, puts their face in
 19 place of Alec in the meme, and then they make fun
 20 of -- just childish banter on both sides, in my
 21 opinion.
 22 **Q. Do you still participate in any of these**
 23 **groups?**
 24 A. I participate in the CBS/Paramount
 25 vs. Axanar Group from time to time.

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1 **Q. Any of the private or secret groups?**
 2 A. I'm not participating in any Axanar
 3 groups. And there aren't any hater private groups --
 4 or secret groups that I'm aware of, or at least that
 5 I'm a member of.
 6 **Q. Do you still have access to any Axanar**
 7 **online accounts, social media, anything?**
 8 A. Not that I'm aware of.
 9 **Q. Did you ever have access to any of them?**
 10 A. Oh, all of them, yeah.
 11 **Q. But --**
 12 A. To my knowledge, I had access to --
 13 **Q. Have you logged into any of them since**
 14 **you departed from Axanar?**
 15 A. Not that I'm aware of, no.
 16 **Q. When was the last time you participated**
 17 **in any Facebook groups relating to Axanar?**
 18 A. The -- be more specific.
 19 **Q. When was the last time you posted in a**
 20 **comment thread in -- other than the main CBS/Paramount**
 21 **vs. Axanar Group, when was the last time you posted --**
 22 A. So you mean the Axanar groups proper?
 23 **Q. Any of the ones you listed.**
 24 A. I think I posted in the CBS/Paramount
 25 group about 45 minutes ago.

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1 **Q. But in any of the other groups?**
 2 A. So I'm -- I can't access the Axanar Fan
 3 Group or the Donor Group or the Federation Council
 4 group, which are Axanar's proper groups. They're
 5 either closed groups or the Federation Council group
 6 is secret. So those three I don't have access to even
 7 if I wanted to go there.
 8 There's the CBS/Paramount group, which
 9 I -- CBS/Paramount vs. Axanar Group, which I
 10 participate in from time to time.
 11 Other than that --
 12 Oh, someone added me to some meme group
 13 that they started by -- one of the CBS/Paramount
 14 vs. Axanar folks had created a group where they're
 15 pitching memes back and forth, and they had dropped me
 16 into it.
 17 One of the things on Facebook is you can
 18 drop people into groups without their knowledge, so I
 19 found out that a few days ago I was dropped into this
 20 meme group. I participated once in there. Fairly
 21 lowbrow.
 22 **Q. Are you still a member or have you**
 23 **departed?**
 24 A. I'm still in there, I'm sure, yeah.
 25 MR. MORNIN: I'd like to introduce three

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1 exhibits as 195, 196 and 197.
 2 (Discussion off the record.)
 3 (Deposition Exhibits 195 through
 4 197 were marked for
 5 identification.)
 6 THE WITNESS: Yup, I remember this one.
 7 **Q. BY MR. MORNIN: Do you recognize these?**
 8 A. Oh, absolutely.
 9 **Q. Do you remember where you posted them?**
 10 A. So these two -- so 195 and 196 were
 11 originally posted in the Axanar Fan Group, then in the
 12 Federation Council group when I was still a member in
 13 it. And then after I departed Axanar, I thought I
 14 would post them in the CBS/Paramount group, just as
 15 a -- looking back on times when I was with the
 16 production as examples of wacky things that would
 17 randomly come into my mailbox or my private message
 18 folder from Axanar donors or fans or haters or
 19 whatever the case happened to be.
 20 **Q. I want to talk a little bit about YouTube**
 21 **ad revenue.**
 22 A. Are we done with these now?
 23 **Q. We're done with these.**
 24 A. Okay.
 25 **Q. So you mentioned that you raised about**

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1 **\$1,200 from running ads on videos on the Axanar**
2 **YouTube channel, correct?**
3 A. Could you be more careful with your
4 words? I did not raise it, Axanar did.
5 **Q. \$1,200 were raised through that account?**
6 A. Ish, yeah.
7 **Q. What happened to that \$1,200?**
8 A. No idea. I'm sure it's still there.
9 If you'd like to check, get the
10 credentials for --
11 MS. JASON: Objection. There's no
12 question pending.
13 THE WITNESS: Oh. I'm sorry.
14 **Q. BY MR. MORNIN: Did Alec ever tell you to**
15 **stop running ads on the YouTube Axanar channel?**
16 A. I do recall that conversation happening
17 for the Prelude to Axanar video, and especially once
18 it was discovered on the vulcan scene video. Once
19 that was posted by Rob. Rob had uploaded it, and a
20 point in time came where one of us -- I believe it was
21 me -- discovered that an ad was running ahead of it,
22 so you'd go to the video page, you'd press play, and
23 like a Sketchers video or dog food or whatever it
24 happened to be would play before the actual Axanar
25 video.

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1 And we went in there and clicked the
2 little tick box to unmonetize that, but the other
3 videos -- so the Axanar production logs, ones where
4 Alec and Rob would typically get in front of the
5 camera and quack about this is this week's news or
6 whatever it happened to be, those were overtly
7 monetized, at the direction of Alec.
8 **Q. You mentioned that you were involved with**
9 **some copyright issues. Did you ever send --**
10 MS. JASON: Objection. Misstates the
11 testimony.
12 **Q. BY MR. MORNIN: Did you ever send DMCA**
13 **takedown notices?**
14 A. Yes.
15 **Q. How many did you send?**
16 A. Seven, perhaps. In that -- in that
17 range. In the high double digits but below 10.
18 Typically regarding either Prelude to
19 Axanar being reposted by another party. Alec
20 specifically wanted it to remain in control of the
21 production rather than other parties posting it on
22 their YouTube accounts.
23 The thought process behind that at the
24 time was they might be able to monetize it and get us
25 in trouble, "us" meaning Axanar.

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1 And then the same with the vulcan scene.
2 Although the Vulcan scene primarily -- when those were
3 taken down was because people were using it to stick a
4 knife in and give it a little twist, going, Hey, look
5 at all the mistakes in the vulcan scene kind of thing.
6 So a few takedowns, whether it was on
7 Facebook or YouTube, were submitted. A few folks
8 challenged it.
9 Apparently when you file a DMCA request
10 as a content creator, there's something called a
11 counter notification that the party who is getting
12 spanked can throw back at your face and say, Well, sue
13 me or shut up kind of thing.
14 A point in time came where
15 Winston & Strawn was brought on board and a
16 conversation took place in a -- I believe it was a
17 Facebook -- multiperson Facebook private chat. As you
18 can do with one person, you can also add several
19 people onto it. And I believe Erin Ranahan's thought
20 process in that conversation was we shouldn't actually
21 sue people while we're being sued ourselves for
22 copyright infringement. So those -- no challenges to
23 the counter notifications were processed, and those
24 videos in probably two or three instances were allowed
25 to reappear because of that.

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1 **Q. So you sent DMCA takedown notices on**
2 **YouTube and Facebook; is that correct?**
3 A. Correct. Primarily on YouTube, but a few
4 on Facebook.
5 **Q. Any other platforms?**
6 A. I think I might have put one in on one of
7 the -- earlier we had discussed the spammer/scammer
8 folks who do fake videos and call it the Axanar full
9 film or something to that effect, to try to lure
10 people in to sign up for their scam service. I
11 believe on one instance I actually tried a DMCA
12 takedown to get it pulled from YouTube and it wasn't
13 successful. That's about the only other one that I
14 can remember.
15 **Q. Did you send the DMCA takedown notices on**
16 **your own initiative or did somebody tell you to do**
17 **that?**
18 A. Originally I had proposed to Alec that we
19 could use the DMCA to have those videos pulled down.
20 Alec gave his blessing and said, "When you find them,
21 sic 'em." So that's how it happened.
22 I didn't seek permission on every
23 instance; however, in most cases I did inform him that
24 one was in process, usually through Facebook
25 Messenger, and give him a link to the original

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1 offending video so he could have context for it.
 2 **Q. Did you or anyone else at Axanar ever**
 3 **allow Axanar works to be distributed online or**
 4 **reproduced online?**
 5 A. On many occasions.
 6 **Q. On those occasions did the people doing**
 7 **the distribution or the reproduction -- did they seek**
 8 **your permission before doing it or did you just sort**
 9 **of let it happen?**
 10 A. All of the above. In some instances
 11 folks would go to the Axanar website, say the gallery
 12 section, where various art has been prepared to
 13 advertise the production. Whether it's hero shots of
 14 the Ares ship or head shots of the actors in costume
 15 from Prelude to Axanar, things of that nature.
 16 Whether it was a -- like a Star Trek fan club or
 17 whether it was someone doing a article, like a blog or
 18 io9 or Digital Bits or someone who was going to do a
 19 more legitimate news story. They could just go and
 20 pilfer those and use them at will.
 21 Unless it was highly critical, Alec
 22 wouldn't have a problem with it. Alec typically only
 23 had a problem with it if, A, it was going to be
 24 monetized and it could look bad for Axanar, or, B,
 25 they were highly critical of Axanar, and he hates

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1 critics. So he'd tell me to sic 'em, or he'd have
 2 Mike Bawden, who is the PR person and has been for
 3 about a year, to do that. It's my understanding that
 4 Mike is now doing the DMCA's for Axanar, and more power
 5 to him. They're not difficult.
 6 **Q. Are you involved with any copyright**
 7 **disputes other than this case?**
 8 A. Filed disputes? Not filed disputes?
 9 MS. JASON: Objection. Vague.
 10 **Q. BY MR. MORNIN: Let's start with not**
 11 **filed disputes.**
 12 A. Not filed disputes?
 13 Yes. I fully intend to litigate against
 14 your clients over the matter of Ares Digital at a time
 15 of my choosing.
 16 **Q. Anything else?**
 17 A. No.
 18 **Q. Any filed disputes?**
 19 A. No.
 20 **Q. Have you ever been involved with**
 21 **copyright litigation before?**
 22 A. No.
 23 **Q. Do you know Christian Gossett?**
 24 A. Absolutely.
 25 **Q. Could you describe your relationship?**

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1 A. I met him --
 2 MS. JASON: Objection. Vague.
 3 THE WITNESS: Sorry.
 4 **Q. BY MR. MORNIN: When did you meet?**
 5 A. We --
 6 I'm screwing this up, I guess.
 7 We met on the set -- actually, no, we met
 8 two days before the filming of Prelude to Axanar.
 9 There was a meet and greet at the Marriott Hotel in
 10 Burbank, the one that's right across from the Bob Hope
 11 Airport, where the Bent-Con was later. And I met him
 12 for the first time there.
 13 First time working with him -- I mean,
 14 actually working on Axanar was the first day of the
 15 Prelude to Axanar shoot. So I met essentially he and
 16 Alec and all the other players for Axanar at that meet
 17 and greet, including many of the actors.
 18 **Q. Do you know Carlos Pedraza?**
 19 A. I know of him now, yes.
 20 **Q. Have you ever met him?**
 21 A. Once.
 22 **Q. In person?**
 23 A. Yes.
 24 **Q. Can you describe that meeting? Let's**
 25 **start with when did it happen?**

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1 A. Two months ago, ish. I believe it was in
 2 August. At a bar in Renton, Washington, which is
 3 south of here, when Christian was in town for whatever
 4 reason. I think he was just up here seeing his
 5 brother, who lives up here. And Christian was going
 6 to be meeting with Carlos Pedraza for whatever reason
 7 and asked if I wanted to pop down, and I'm like,
 8 "Sure. Why not?"
 9 I never turn down a beer.
 10 **Q. So Christian was at this meeting as well?**
 11 A. Yes.
 12 **Q. Could you explain a bit what you talked**
 13 **about?**
 14 A. Basically commiserating over Axanar, what
 15 could have been, what was intended, and what it
 16 ultimately turned out to be, and continues to be.
 17 **Q. Did you discuss this litigation?**
 18 A. That it was occurring, absolutely.
 19 **Q. Anything else?**
 20 A. I'm sure we did. My recollection of it
 21 is fairly cloudy. At that point several pitchers had
 22 been consumed, so I'm sure there were a wide range of
 23 topics that were discussed, but unfortunately I don't
 24 remember a lot of specifics.
 25 **Q. Understood.**

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