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PARAMOUNT PICTURES
11 CORPORATION and CBS STUDIOS
INC.
12

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA
15

16 PARAMOUNT PICTURES
CORPORATION, a Delaware
17 corporation; and CBS STUDIOS INC.,
a Delaware corporation,
18

19 Plaintiffs,

20 v.

21 AXANAR PRODUCTIONS, INC., a
California corporation; ALEC PETERS,
an individual, and DOES 1-20,
22

23 Defendants.
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25
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27
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Case No.: 2:15-cv-09938-RGK-E

**DECLARATION OF DAVID
GROSSMAN IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

Date: December 19, 2016
Time: 9:00 a.m.
Dept.: 850

Discovery Cutoff: November 2, 2016
Pre-Trial Conference: January 9, 2017
Trial: January 31, 2017

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DECLARATION OF DAVID GROSSMAN

I, DAVID GROSSMAN, declare as follows:

1. I am an attorney licensed to practice law in the State of California and am an associate with the law firm of Loeb & Loeb LLP (“Loeb”), attorneys of record for Paramount Pictures Corporation (“Paramount”) and CBS Studios, Inc. (“CBS”) (collectively, “Plaintiffs”) in the above-captioned matter. The following is of my own personal knowledge, and if called as a witness, I could and would competently testify thereto.¹

2. Attached hereto as **Exhibit DDD** is a true and correct copy of CBS’ responses to Interrogatories 2 and 3. Attached hereto as **Exhibit EEE** is a true and correct copy of Paramount’s responses to Interrogatories 2 and 3.

3. **Exhibit A** (a confidential document filed under seal) is a true and correct copy of excerpts from the deposition transcripts of Alec Peters taken on October 19, 2016 and November 2, 2016 (referred to herein as “Peters tr.”).

4. **Exhibit B** (a confidential document filed under seal) is a true and correct copy of excerpts from the deposition transcript of Robert Meyer Burnett taken on October 11, 2016 (referred to herein as “Burnett tr.”).

5. Attached hereto as **Exhibit C** is a true and correct copy of excerpts from the deposition transcript of Christian Gossett taken on October 22, 2016 (referred to herein as “Gossett tr.”).

6. **Exhibit D** (a confidential document filed under seal) is a true and correct copy of excerpts from the deposition transcript of Diana Kingsbury taken on October 12, 2016 (referred to herein as “Kingsbury tr.”).

¹ With the exception of Exhibits DDD, EEE, FFF, GGG, HHH, III, JJJ, KKK, LLL, and some additional deposition testimony in Exhibits A, B, and C, all of the exhibits submitted with this declaration were also previously filed with the declaration of David Grossman in support of Plaintiffs’ Motion for Summary Judgment (originally filed as Dkt. No. 72-2, corrected version filed as Dkt. No. 85-2).

1 7. Attached hereto as **Exhibit E** is a true and correct copy of excerpts
2 from the deposition transcript of Terry McIntosh taken on October 28, 2016
3 (referred to herein as “McIntosh tr.”).

4 **A. Defendants’ Copying of Plaintiffs’ Works.**

5 8. Attached to this declaration are numerous emails and documents
6 showing the nature and extent of Defendants’ copying of the Star Trek Copyrighted
7 Works. Although most of these documents were authored, or received, by
8 Defendant Alec Peters, virtually none of these documents were turned over by Mr.
9 Peters. In response to Plaintiffs’ discovery requests, Mr. Peters produced a
10 smattering of emails, and he admittedly did not produce any social media postings
11 or other online postings/statements he made concerning the Axanar Works,
12 including statements and postings he made on his own website,
13 AxanarProductions.com. Defendants also did not produce thousands of pages of
14 emails between Mr. Peters and the director of *Prelude to Axanar* (Christian Gossett).
15 Mr. Peters’ extensive communications with Mr. Gossett regarding the creation of
16 the Axanar Works were only uncovered when Mr. Gossett produced them in
17 response to a third party subpoena. I reviewed the documents produced by Mr.
18 Peters as well as the documents turned over by Mr. Gossett that Mr. Peters did not
19 produce. Further, Mr. Peters did not produce [REDACTED]

20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]. **Exhibit A** (Peters tr. at 273:2-283:21)

24 (confidential document filed under seal) is a true and correct copy of an excerpt
25 from Mr. Peters’ deposition in which he testified that [REDACTED]
26 [REDACTED].

27 9. The documents that Plaintiffs were able to obtain show that Mr. Peters
28 engaged in extensive discussions regarding the creative details of the Axanar

1 project, including deciding which of Plaintiffs’ copyrighted materials were to be
2 used as source material to create the Axanar Works.

3 **1. Defendants Intentionally Replicated The Look And Feel of**
4 **Star Trek.**

5 10. On January 4, 2011, Mr. Peters sent an email to Christian Gossett with
6 the subject line “Must watch TOS [The Original Series].” Mr. Peters stated that he
7 and Christian were going to meet the following Friday to work on the Axanar
8 treatment, and in the meantime Mr. Gossett would get watch *The Original Series*
9 DVDs so that they could watch the key episodes again. Mr. Peters provided Mr.
10 Gossett with a list of *The Original Series* episodes to review. Attached hereto as
11 **Exhibit F** is a true and correct copy of the email from Mr. Peters. **Exhibit A** (Peters
12 tr. at 332:15-334:4) (a confidential document filed under seal) is a true and correct
13 copy of Mr. Peters’ relevant deposition testimony. Attached hereto as **Exhibit C**
14 (Gossett tr. at 30:7-31:13) is a true and correct copy of Mr. Gossett’s relevant
15 deposition testimony.

16 11. On Defendants’ website, Axanarproductions.com, Mr. Peters stated:
17 “While Axanar is more professional, and has raised more money than all other Star
18 Trek fan films combined, we use less Star Trek IP than almost all of them... Yes, we
19 use several characters from Star Trek and we are clearly set in that universe.”
20 Attached hereto as **Exhibit G** is a true and correct copy of a printout from
21 Axanarproductions.com. **Exhibit A** (Peters tr. at 170:22-171:3) (confidential
22 document filed under seal) is a true and correct copy of Mr. Peters’ relevant
23 deposition testimony.

24 12. Mr. Peters sent an email to Mr. Gossett on November 13, 2013
25 containing source material for *Prelude to Axanar*. Attached hereto as **Exhibit H** is a
26 true and correct copy of this email exchange. **Exhibit A** (Peters tr. at 359:18-
27 361:11) (confidential document filed under seal) is a true and correct copy of Mr.
28 Peters’ relevant deposition testimony. Attached hereto as **Exhibit C** (Gossett tr. at

1 32:7-34:16) is a true and correct copy of Mr. Gossett’s relevant deposition
2 testimony.

3 13. In Mr. Peters’ deposition, he testified that [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]

7 [REDACTED]. **Exhibit A** (Peters tr. at 38:22-41:17) (confidential document filed under
8 seal) is a true and correct copy of the relevant excerpt from the deposition transcript
9 of Alec Peters taken on October 19, 2016.

10 14. Mr. Peters and Mr. Gossett discussed using the *Star Trek: The Role*
11 *Playing Game* supplement “*The Four Years War*” as a “bible” for the creation of the
12 Axanar Works. Attached hereto as **Exhibit I** is a true and correct copy of that
13 email. Attached hereto as **Exhibit C** (Gossett tr. at 48:10-50:10) are true and correct
14 copies of the relevant excerpts from the deposition transcript of Christian Gossett
15 taken on October 22, 2016.

16 15. On March 28, 2014, Mr. Gossett sent an email to Mr. Peters and others
17 discussing how he was using *The Original Series* as source material, and he
18 appended various screen shots from *The Original Series*. Attached hereto as
19 **Exhibit J** is a true and correct copy of this email exchange. **Exhibit A** (Peters tr. at
20 371:13-372:9) (confidential document filed under seal) is a true and correct copy of
21 Mr. Peters’ relevant deposition testimony.

22 16. Mr. Peters testified [REDACTED]
23 [REDACTED]. **Exhibit A** (Peters tr. at
24 143:13-145:7) (confidential document filed under seal) are true and correct copies of
25 the relevant excerpts from the deposition transcript taken on October 19, 2016.

26 17. On October 11, 2016, I took the deposition of Robert Meyer Burnett.
27 Mr. Burnett is the director of the Vulcan Scene and of the full-length Axanar film.
28 Mr. Burnett was also the editor of *Prelude to Axanar* and is a creative collaborator

1 with Mr. Peters on the Axanar project. Mr. Burnett also testified [REDACTED]
2 [REDACTED]. **Exhibit B** (Burnett tr.
3 at 202:12-203:4) (confidential document filed under seal) is a true and correct copy
4 of the relevant excerpt from the transcript of Robert Meyer Burnett taken on
5 October 11, 2016.

6 18. **Exhibit A** (Peters tr. at 34:10-12; 34:5-9; 69:14-70:6) (confidential
7 document filed under seal) is a true and correct copy of the relevant excerpt from the
8 deposition transcript of Alec Peters taken on October 19, 2016 in which he confirms
9 that [REDACTED]

10 [REDACTED].
11 19. Defendants produced a document stating that [REDACTED]
12 [REDACTED]. **Exhibit K** (confidential document filed under
13 seal) is a true and correct copy of the document produced by Defendants.

14 According to YouTube, *Prelude to Axanar* was published on August 15, 2014.
15 Attached hereto as **Exhibit L** is a true and correct copy of a printout from
16 Youtube.com (https://www.youtube.com/watch?v=1W1_8IV8uhA). Mr. Gossett
17 testified that *Prelude to Axanar* premiered in July 2014 at a theater that used to be
18 called Horton Plaza in San Diego. **Exhibit C** (Gossett tr. at 72:2-24) is a true and
19 correct copy of the relevant excerpts from the deposition transcript of Christin
20 Gossett taken on October 22, 2016.

21 20. Attached hereto as **Exhibit M** is a true and correct copy of the
22 illustrated script of *Prelude to Axanar*. Although I requested its production from
23 Defendants, Defendants' counsel refused to produce the illustrated script and it was
24 therefore obtained from third party, Terry McIntosh, who was deposed in this
25 matter. The illustrated script includes storyboards and source materials juxtaposed
26 against the final script for *Prelude to Axanar*.

27 21. In response to a question from Defendants' counsel, Mr. Gossett, the
28 director of *Prelude to Axanar*, testified that the film infringes upon Plaintiffs'

1 copyrights. Attached hereto as **Exhibit C** (Gossett tr. at 185:25-186:8) is a true and
2 correct copy of the relevant excerpt from the deposition transcript of Christian
3 Gossett taken on October 22, 2016. (Q. **Do you think Prelude to Axanar is –**
4 **infringes upon the Star Trek intellectual property?** A. Yes. Q. **And in what**
5 **way?** A. **In that it is an unlicensed filmed entertainment that uses countless**
6 **elements of the Star Trek fictional world** without -- yeah, unlicensed. I said
7 that.”).

8 **2. Defendants Copied Plaintiffs’ Characters.**

9 22. Christian Gossett, the director of *Prelude To Axanar*, testified that he
10 and Mr. Peters incorporated the Federation and Klingons into the Axanar Works.
11 Mr. Gossett also testified that the Axanar Script features Plaintiffs’ character, Garth
12 of Izar. Attached hereto as **Exhibit C** (Gossett tr. at 112:14-113:8; 67:5-70:23) are
13 true and correct copies of the relevant excerpts from the deposition transcript of
14 Christian Gossett taken on October 22, 2016. **Exhibit N** (a confidential document
15 filed under seal) is a correct copy of a brochure for a screening of *Prelude to*
16 *Axanar*, which shows images of *Prelude to Axanar*.

17 23. Mr. Peters testified that [REDACTED]
18 [REDACTED]
19 [REDACTED] Mr. Peters also testified that [REDACTED]
20 [REDACTED]. Mr. Peters further stated that [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]. Mr. Peters further admitted that [REDACTED]
24 [REDACTED]
25 [REDACTED].

26 Finally, Mr. Peters stated [REDACTED]
27 [REDACTED]. **Exhibit**
28 **A** (Peters tr. at 57:1-58:25; 36:20-37:25; 46:18-48:1; 44:21-55:20; 36:20-37:16;

1 414:2-415:19) (confidential document filed under seal) are true and correct copies of
2 the relevant excerpts from the deposition transcript of Alec Peters taken on October
3 19, 2016 and November 2, 2016.

4 24. Mr. Burnett testified that [REDACTED]
5 [REDACTED]. **Exhibit B** (Burnett tr. at 191:17-192:25; 107:6-15) (confidential
6 document filed under seal) are true and correct copies of relevant excerpts from the
7 deposition transcript of Robert Meyer Burnett taken on October 11, 2016.

8 25. Defendants’ Answer to the First Amended Complaint denied copying
9 Klingons and Vulcans and asserted that Vulcan Ambassador Soval’s robe used in
10 *Prelude to Axanar* contains “Chinese lettering” and not Vulcan script. (See Dkt. No.
11 47 at ¶ 46 (8:11-9:3)) (“deny that Soval’s robe in *Prelude to Axanar* contains
12 ‘ancient Vulcan script’ (the robe contains Chinese letters).”). After Mr. Peters’ first
13 deposition was taken, Mr. Gossett produced an email in which Mr. Peters sent Mr.
14 Gossett an image for the Soval costume. In that email, Mr. Peters approved the
15 Vulcan robe for Soval and stated that the production team should add Vulcan glyphs
16 to the robe. At Mr. Peters’ second deposition, which was taken pursuant to Court
17 Order after the documents Mr. Peters had not produced were obtained from third
18 parties, Mr. Peters admitted [REDACTED]

19 [REDACTED]
20 [REDACTED]
21 [REDACTED]. **Exhibit A** (Peters tr. at 319:8-323:10) (confidential document filed
22 under seal) is a true and correct copy of Mr. Peters’ relevant deposition testimony.
23 Attached hereto as **Exhibit O** is a true and correct copy of this email exchange.

24 26. Mr. Peters admitted in his deposition that [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]

4 [REDACTED]. **Exhibit A** (Peters tr. at 82:6-85:12; 88:5-88:16)
5 (confidential document filed under seal) are true and correct copies of the relevant
6 excerpts from the deposition transcript of Alec Peters taken on October 19, 2016.

7 27. Mr. Peters and Mr. Gossett exchanged emails on November 25, 2012
8 regarding [REDACTED]. **Exhibit P** (a confidential
9 document filed under seal) is a true and correct copy of their email exchange.
10 **Exhibit A** (Peters tr. at 347:4-348:10) (confidential document filed under seal) is a
11 true and correct copy of Mr. Peters’ relevant deposition testimony.

12 28. On April 4, 2014, Mr. Peters and Mr. Gossett discussed makeup tests
13 for the character Kharn, and discuss how it looks “Klingon.” Attached hereto as
14 **Exhibit Q** is a true and correct copy of that email exchange, discussing what
15 changes to send to Kevin Haney of Makeup Effects. **Exhibit A** (Peters tr. at
16 376:16-377:11) (confidential document filed under seal) is a true and correct copy of
17 Mr. Peters’ relevant deposition testimony. Mr. Gossett testified that Mr. Haney was
18 an Oscar and Emmy award-winning makeup artist who worked on Star Trek.
19 **Exhibit C** is a true and correct copy of Mr. Gossett’s relevant deposition testimony
20 (Gossett tr. at 50:14-52:21).

21 29. In an email on March 24, 2013, a graphic designer named Sean
22 Tourangeau sent costume ideas to Mr. Gossett and Mr. Peters. Mr. Gossett testified
23 that Mr. Tourangeau was designing these costumes at Mr. Peters’ direction, and that
24 the costumes were being designed so that they looked to be very similar to those
25 worn in *The Original Series* because that was the time period in which the Axanar
26 Works were intended to be set. Attached hereto as **Exhibit R** is a true and correct
27 copy of Mr. Tourangeau’s email. Attached hereto as **Exhibit C** (Gossett tr. at
28

1 36:11-37:8) is a true and correct copy of Mr. Gossett’s relevant deposition
2 testimony.

3 30. Mr. Burnett testified that [REDACTED]
4 [REDACTED]. **Exhibit B** (Burnett tr. at 202:21-
5 203:25) (confidential document filed under seal) is a true and correct copy of the
6 relevant excerpts from the deposition transcript of Robert Meyer Burnett taken on
7 October 11, 2016.

8 31. Mr. Burnett testified that [REDACTED]
9 [REDACTED].
10 **Exhibit B** (Burnett tr. at 202:21-203:25; 215:4-216:9) (confidential document filed
11 under seal) is a true and correct copy of relevant excerpts from the deposition
12 transcript of Robert Meyer Burnett taken on October 11, 2016.

13 **3. Defendants Copied Costumes, Settings And Other Elements**
14 **From Plaintiffs’ Works.**

15 32. Mr. Gossett testified that Mr. Peters approved the costumes to be used
16 in the Axanar Works, and that Mr. Peters wanted to ensure that the costumes used
17 were consistent with Star Trek “canon.” Attached hereto as **Exhibit C** (Gossett tr.
18 at 47:22-48:6) is a true and correct copy of Mr. Gossett’s relevant deposition
19 testimony.

20 33. Attached hereto as **Exhibit S** is a true and correct copy of a July 8,
21 2014 email from Mr. Peters to Mr. Gossett and Rocio Everett, a principal at a
22 garment manufacturer, containing images of Starfleet costumes. Mr. Peters testified
23 that [REDACTED]
24 [REDACTED]. **Exhibit A** (Peters tr. at 414:2-
25 415:19) (confidential document filed under seal) is a true and correct copy of Mr.
26 Peters’ relevant deposition testimony.

27 34. Mr. Peters testified that [REDACTED]
28 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED] **Exhibit A**

6 (Peters tr. at 420:13-421:19; 471:25-475:1) (confidential document filed under seal)
7 are true and correct copies of the relevant excerpts from the deposition transcript of
8 Alec Peters taken on October 19, 2016 and November 2, 2016. Attached hereto as
9 **Exhibit T** is a true and correct copy of a July 15, 2014 email from Christian Gossett
10 to Mr. Peters that states “The best thing we can do to make us Canon Proof on the
11 maps is to indicate only the Points of Interest (POI) necessary to give context to the
12 audience.” Attached hereto as **Exhibit U** is a true and correct copy of an email
13 dated March 7, 2015 from Mr. Peters to Christian Gossett, which states “I am the
14 keeper of the faith with fans. They love that about us. Our faithfulness to the
15 universe.” Mr. Peters also testified that [REDACTED]
16 [REDACTED]. Attached hereto as **Exhibit GGG** is a true
17 and correct copy of an email chain from June 29, 2014 in which Peters discusses
18 making the colors of the Starfleet uniforms consistent with the Star Trek timeline.
19 **Exhibit A** (Peters tr. at 384:8-388:2) (confidential document filed under seal) is a
20 true and correct copy of Mr. Peters’ relevant deposition testimony.

21 35. Mr. Peters also testified that [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]

27 [REDACTED] **Exhibit A** (Peters
28 tr. at 143:13-145:7) (confidential document filed under seal) is a true and correct

1 copy of Mr. Peters’ relevant deposition testimony. **Exhibit V** (confidential
2 document filed under seal) is a true and correct copy of [REDACTED]
3 [REDACTED].

4 36. Mr. Peters testified that [REDACTED]
5 [REDACTED]. **Exhibit A** (Peters tr. at
6 145:12-:147:10) (confidential document filed under seal) are true and correct copies
7 of the relevant excerpts from the deposition transcript of Alec Peters taken on
8 October 19, 2016. **Exhibit W** (confidential document filed under seal) is a true and
9 correct copy of [REDACTED].

10 37. In an email exchange in April 2014, Mr. Peters discussed location ideas
11 with Mr. Gossett and others. They discussed filming at Tillman Japanese Gardens.
12 Mr. Peters testified that multiple Star Trek television series used this location to
13 depict “Starfleet headquarters” and Defendants intended to shoot at that same
14 location in order to depict the exterior for Starfleet headquarters in their Axanar
15 works. Attached hereto as **Exhibit X** is a true and correct copy of this email
16 exchange. **Exhibit A** (Peters tr. at 373:10-375:16) (confidential document filed
17 under seal) is a true and correct copy of Mr. Peters’ relevant deposition testimony.

18 38. In an email exchange between Mr. Peters, Tobias Richter, and Mr.
19 Gossett, Mr. Richter, the visual effects supervisor for *Prelude to Axanar*, the
20 production team discussed using a screenshot of Eminiar City for the Axanar
21 Works. Mr. Peters testified [REDACTED]
22 [REDACTED]
23 [REDACTED]. Attached hereto as **Exhibit Y** is a true and
24 correct copy of this email exchange. **Exhibit A** (Peters tr. at 377:17-378:13)
25 (confidential document filed under seal) is a true and correct copy of Mr. Peters’
26 relevant deposition testimony. Attached hereto as **Exhibit C** (Gossett tr. at 92:14-
27 93:13) is a true and correct copy of Mr. Gossett’s relevant deposition testimony.
28

1 39. Mr. Burnett testified that [REDACTED]
2 [REDACTED]
3 [REDACTED]. **Exhibit B**
4 (Burnett tr. at 55:4-14; 58:10-22; 59:11-22) (confidential document filed under seal)
5 is a true and correct copy of an excerpt from the deposition transcript of Robert
6 Meyer Burnett taken on October 11, 2016.

7 **4. Defendants’ Vulcan Scene and Axanar Script Also Copied**
8 **Plaintiffs’ Works.**

9 40. On August 15, 2015, in a post on Facebook, Mr. Peters announced that
10 he had completed the “fully revised and locked script” which he referred to as “the
11 best Star Trek movie script ever!” Attached hereto as **Exhibit Z** is a true and
12 correct copy of Peters’ Facebook post.

13 41. Mr. Peters testified that [REDACTED]
14 [REDACTED]. **Exhibit A** (Peters tr. at 77:5-9)
15 (confidential document filed under seal) is a true and correct copy of the relevant
16 excerpt from the deposition transcript of Alec Peters taken on October 19, 2016.

17 42. **Exhibit AA** (confidential document filed under seal) is a true and
18 correct copy of version 7.7 of the Axanar Script, dated November 26, 2015. This is

19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED].

26 43. Mr. Peters testified that [REDACTED]
27 [REDACTED]
28 [REDACTED]

1 [REDACTED]
2 [REDACTED]. **Exhibit A** (Peters tr. at 79:11-17; 425:11-426:3; 77:5-9;
3 82:2-85:12) (confidential document filed under seal) are true and correct copy of
4 relevant excerpts from the deposition transcript of Alec Peters taken on October 19,
5 2016 and November 2, 2016.

6 44. Mr. Burnett testified that [REDACTED]
7 [REDACTED]
8 [REDACTED]. **Exhibit B**
9 [REDACTED] (Burnett tr. at 103:13-18; 106:11-17) (confidential document filed under seal) are
10 true and correct copies of relevant excerpts from the deposition transcript of Robert
11 Meyer Burnett taken on October 11, 2016.

12 45. Mr. Peters testified that [REDACTED]
13 [REDACTED]
14 [REDACTED]. **Exhibit A** (Peters tr. at 362:9-363:13;
15 44:21-55:20) (confidential document filed under seal) are true and correct copy of
16 relevant excerpts from the deposition transcript of Alec Peters taken on October 19,
17 2016 and November 2, 2016.

18 46. Mr. Burnett also testified that [REDACTED]
19 [REDACTED] (both characters from licensed Star Trek works).
20 **Exhibit B** (Burnett tr. at 194:9-195:16; 195:18-23) (confidential document filed
21 under seal) is a true and correct copy of the relevant excerpts from the deposition
22 transcript of Robert Meyer Burnett taken on October 11, 2016.

23 47. In an email on October 27, 2014, Mr. Peters explained that he wanted
24 pistol designs for Axanar to look more like the weapons from *The Original Series*.
25 Attached hereto as **Exhibit BB** is a true and correct copy of this email exchange.
26 **Exhibit A** (Peters tr. at 456:24-458:18) (confidential document filed under seal) is a
27 true and correct copy of Mr. Peters' relevant deposition testimony.
28

1 **B. Defendants Created A “Professional” Work, Using Professional**
2 **Cast and Crew Members.**

3 48. Although Mr. Peters did not turn over documents evidencing his
4 fundraising activities on the Indiegogo.com platform, Plaintiffs located these
5 documents independently. Mr. Peters made the following statement on the
6 Indiegogo website for Axanar:

7 “**Axanar** is the first fully-professional, independent Star
8 Trek film. While some may call it a ‘fan film’ as we are
9 not licensed by CBS, Axanar has professionals working in
10 front and behind the camera, with a fully-professional
crew—many of whom have worked on Star Trek itself—
who ensure Axanar will be the quality of Star Trek that all
fans want to see.”

11 **Exhibit A** (Peters tr. at 92:19-94:1) (confidential document filed under seal)
12 is a true and correct copy of the relevant excerpts from the deposition transcript of
13 Alec Peters taken on October 19, 2016. Attached hereto as **Exhibit CC** is a true and
14 correct copy of the Indiegogo fundraising page.

15 49. Mr. Peters also made the following statement on Indiegogo: “Axanar
16 has professionals working in front and behind the camera, with a fully-professional
17 crew—many of whom have worked on Star Trek itself—who ensure Axanar will be
18 the quality of Star Trek that all fans want to see. ... But Axanar is not just an
19 independent Star Trek film; it is the beginning of a whole new way that fans can get
20 the content they want, by funding it themselves. Why dump hundreds or thousands
21 of dollars a year on 400 cable channels, when what you really want is a few good
22 sci-fi shows.” **Exhibit A** (Peters tr. at 99:10-101:10) (confidential document filed
23 under seal) is a true and correct copy of the relevant excerpt from the deposition
24 transcript of Alec Peters taken on October 19, 2016. Attached hereto as **Exhibit DD**
25 is a true and correct copy of the Indiegogo fundraising page.

26 50. Social media posts by Defendants that were not produced by
27 Defendants, but were located and produced by Plaintiffs, also reflect Defendants’
28 emphasis that the Axanar Works are not a “fan film” and that they are

1 “professional” productions. Mr. Peters made the following Facebook post on
2 Creation Entertainment’s Official Star Trek Convention page: “My name is Alec
3 Peters and I am the producer of Star Trek: Axanar, an independent Star Trek feature
4 that will be released on the web. We don’t call it a ‘fan film’ because we have so
5 many pros involved and plan to make a ground breaking film. Our DP is a 3x
6 Emmy Winner, and the film is directed by Christian Gossett, the guy behind The
7 Red Star.” Attached hereto as **Exhibit EE** is a true and correct copy of a Facebook
8 post by Alec Peters. **Exhibit A** (Peters tr. at 108:6-109:12) (confidential document
9 filed under seal) are true and correct copies of relevant excerpts from the deposition
10 transcript of Alec Peters taken on October 19, 2016.

11 51. Attached hereto as **Exhibit FF** is a true and correct copy of a post on
12 Mr. Peters’ Axanar Facebook page that states “Axanar is the first independent Star
13 Trek film. While some may call it a ‘fan film’ as we are not licensed by CBS,
14 Axanar has professionals working in front of and behind the camera. A fully
15 professional crew, many of whom have worked on Star Trek itself ensure Axanar
16 will be the quality of Star Trek that all fans want to see.” **Exhibit A** (Peters tr. at
17 109:16-110:2) (confidential document filed under seal) are true and correct copies of
18 relevant excerpts from the deposition transcript of Alec Peters taken on October 19,
19 2016.

20 52. Attached hereto as **Exhibit GG** is a true and correct copy of a
21 statement made by Mr. Peters in an interview in which he is asked the question:
22 “You have used the word ‘professional,’ so does that mean that everyone who works
23 on the project in production and post-production will be paid? And will they be paid
24 union wages?” Mr. Peters states: “Everyone will be paid, but we can’t afford union
25 wages...” Mr. Peters also states in the interview that *Prelude to Axanar* was made
26 with “all professionals.” **Exhibit A** (Peters tr. at 91:11-92:7) (confidential document
27 filed under seal) are true and correct copies of relevant excerpts from the deposition
28 transcript of Alec Peters taken on October 19, 2016. Attached hereto as **Exhibit III**

1 is a true and correct copy of an email exchange containing [REDACTED]
2 [REDACTED]
3 [REDACTED]. **Exhibit A** (Peters tr.
4 at 114:6-116:19) (confidential document filed under seal) is a true and correct copy
5 of relevant excerpts from the deposition testimony of Alec Peters.

6 53. Mr. Peters has participated in approximately forty podcasts, with
7 various guests, discussing *Prelude to Axanar*, the Axanar feature film, and other
8 subjects. **Exhibit A** (Peters tr. at 133:16-18) (confidential document filed under
9 seal) is a true and correct copy of relevant excerpts from the deposition transcript of
10 Alec Peters. These recordings are distributed as podcasts over the internet at
11 <http://trek.fm/axp/>. **Exhibit ZZ** is a transcript of excerpts from those recordings. At
12 his deposition, Mr. Peters [REDACTED]
13 [REDACTED]. See **Exhibit A** (Peters tr. at 133:16-143:5) (confidential document filed
14 under seal). In the first recording, Mr. Peters states that *Prelude to Axanar*, “was a
15 fan film at twenty thousand [dollars] now it’s a full independent production.” See
16 **Exhibit A** (Peters tr. at 135:11-13) (confidential document filed under seal). In the
17 second recording, Mr. Peters states, in reference to *Prelude to Axanar*, “what people
18 will see when we premier this at San Diego Comic-Con on July 26 is not a fan film.
19 They are going to see a fully professional production that’s going to change the way
20 people view Star Trek.” See **Exhibit A** (Peters tr. at 137:13-19) (confidential
21 document filed under seal). In the third recording, Mr. Peters states that *Prelude to*
22 *Axanar* is “not like other fan projects which are true labors of love by fans. This is a
23 labor of love, but we have the means and the wherewithal to bring in professionals
24 at every position.” See **Exhibit A** (Peters tr. at 139:11-16) (confidential document
25 filed under seal). In the same recording, Mr. Peters further stated that, “it’s very
26 heartwarming and rewarding for us when people are just blown away and they say
27 this is like a real movie. Yeah, it is, that was our goal and we’re happy people think
28 so, so it’s very reassuring.” See **Exhibit A** (Peters tr. at 139:19-25) (confidential

1 document filed under seal). In the fourth recording, Mr. Peters discusses the Axanar
2 feature, saying “But it also went from a fan film to a professional production. And
3 it’s kind of the same here. We thought we could do Axanar for 300 grand, but that
4 was probably much closer to a fan film. Now we want to make it very professional.”
5 *See Exhibit A* (Peters tr. at 140:19-141:3) (confidential document filed under seal).
6 In the fifth recording, after discussing the roles of certain crew members slated to
7 work on the Axanar feature, Mr. Peters stated, “these are positions you find on
8 professional productions. And we pride ourselves on being that, and not being a fan
9 film.” *See Exhibit A* (Peters tr. at 142:10-14) (confidential document filed under
10 seal).

11 54. Attached hereto as **Exhibit HH** is a true and correct copy of a
12 screenshot from Defendants’ Kickstarter fundraising page, which states: “The
13 Axanar Team is determined to make the first true independent Star Trek film.”
14 Attached hereto as **Exhibit A** (Peters tr. at 97:14-98:22) (confidential document
15 filed under seal) is a true and correct copy of the relevant excerpt from the
16 deposition transcript of Alec Peters taken on October 19, 2016. Attached hereto as
17 **Exhibit HHH** is a true and correct copy of Defendants’ Kickstarter fundraising page
18 for Axanar, which states: “**Axanar** is the independent Star Trek film which proves
19 that a feature-quality Star Trek film can be made on a small budget...**Axanar** takes
20 place 21 years before the events of “Where no Man Has Gone Before”. It tells the
21 story of Garth of Izar, the legendary Starfleet captain who is Captain Kirk’s hero
22 and the role model for a generation of Starfleet officers. Garth charted more planets
23 than any other Captain and was the hero of the Battle of Axanar. His exploits are
24 required reading at Starfleet Academy. This is the story of Garth and his crew
25 during the Four Years War, the war with the Klingon Empire that almost tore the
26 Federation apart...” The Kickstarter page also states “This is Star Trek.”

27 55. Mr. Peters tweeted to a Web Series twitter account stating: “We would
28 LOVE you to cover Star Trek: Axanar, the first independent Star Trek film.” Mr.

1 Peters testified [REDACTED]
2 [REDACTED]
3 [REDACTED]. **Exhibit A** (Peters tr. at 106:6-107:7) (confidential document filed under
4 seal) are true and correct copies of Mr. Peters’ relevant deposition testimony.
5 Attached hereto as **Exhibit II** is a true and correct copy of the tweet.

6 56. A press kit for Axanar states: [REDACTED]
7 [REDACTED]
8 [REDACTED] Attached hereto as
9 **Exhibit JJ** (confidential document filed under seal) is a true and correct copy of the
10 press kit. Mr. Peters testified that [REDACTED]. **Exhibit**
11 **A** (Peters tr. at 124:8-127:15) (confidential document filed under seal) are true and
12 correct copies of Mr. Peters’ relevant deposition testimony.

13 57. In an email from Mr. Peters to Doug Drexler on February 11, 2013, Mr.
14 Peters stated [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED] **Exhibit KK** (a confidential document filed under
19 seal) is a true and correct copy of this email. **Exhibit A** (Peters tr. at 349:18-24)
20 (confidential document filed under seal) is a true and correct copy of Mr. Peters’
21 relevant deposition testimony.

22 **C. Defendants’ Commercial Activities.**

23 **1. Axanar Was Intended To Compete With Licensed Star Trek**
24 **Works.**

25 58. Mr. Peters testified that [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]. **Exhibit A** (Peters tr. at 442:21-449:9) (confidential document

1 filed under seal) is a true and correct copy of Mr. Peters' relevant deposition
2 testimony. Attached hereto as **Exhibit LL** is a true and correct copy of a Facebook
3 message exchange between Terry McIntosh and Alec Peters, in which Mr. Peters
4 states that he thinks that they can trademark Axanar, and discusses a meeting with
5 Netflix.

6 59. The deposition of Terry McIntosh, Chief Technical Officer for Axanar
7 Productions, was taken on October 28, 2016. At his deposition, Mr. McIntosh
8 testified that there were discussions at Axanar Productions regarding trademarking
9 Axanar. Attached hereto as **Exhibit E** (McIntosh tr. at 20:23-22:15) is a true and
10 correct copy of Mr. McIntosh's relevant deposition testimony.

11 60. Mr. Gossett testified that Mr. Peters told him that he had meetings with
12 both Netflix and Amazon, in the hopes of using *Prelude to Axanar* as an entree into
13 the possibility of becoming a producer for Netflix or Amazon. Attached hereto as
14 **Exhibit C** (Gossett tr. at 126:10-128:14) is a true and correct copy of Mr. Gossett's
15 relevant deposition testimony. Attached hereto as **Exhibit MM** is a true and correct
16 copy of the relevant email exchange between Mr. Peters and Mr. Gossett, in which
17 Mr. Peters says [REDACTED]

18 61. Mr. Burnett testified [REDACTED]
19 [REDACTED].

20 **Exhibit B** (Burnett tr.at 61:24-62:11; 62:12-18; 93:23-25; 140:21-141:3)
21 (confidential document filed under seal) are true and correct copies of relevant
22 excerpts from the deposition transcript of Robert Meyer Burnett taken on October
23 11, 2016.

24 62. Mr. Gossett testified that Mr. Peters' company, Propworx, has its
25 offices in the Axanar Productions studio, and that it houses its props and costumes
26 there. Attached hereto as **Exhibit C** (Gossett tr. at 35:11-36:7) are true and correct
27 copies of excerpts from the deposition transcript of Christian Gossett taken on
28 October 22, 2016.

1 63. Mr. Peters testified that [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]. **Exhibit A** (Peters tr. at 353:8-13; 487:21-488:8;
 5 225:12-227:20) (confidential document filed under seal) are true and correct copies
 6 of relevant excerpts from the deposition transcript of Alec Peters taken on October
 7 19, 2016 and November 2, 2016. **Exhibit NN** (confidential document filed under
 8 seal) is a true and correct copy of the lease.

9 64. Mr. Burnett testified that [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]. **Exhibit B** (Burnett tr. at 142:14-:148:8) (confidential document filed under
 14 seal) are true and correct copies of relevant excerpts from the deposition transcript
 15 of Robert Meyer Burnett taken on October 11, 2016.

16 65. Mr. Peters testified that [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED]. **Exhibit A**
 20 (Peters tr. at 234:11-25) (confidential document filed under seal) are true and correct
 21 copies of relevant excerpts from the deposition transcript of Alec Peters taken on
 22 October 19, 2016.

23 66. Mr. Burnett also testified that [REDACTED]
 24 [REDACTED]
 25 [REDACTED]. **Exhibit B** (Burnett tr. at 151:2-
 26 153:12) (confidential document filed under seal) are true and correct copies of
 27 relevant excerpts from the deposition transcript of Robert Meyer Burnett taken on
 28 October 11, 2016.

1 67. Defendants created a marketing plan that stated: [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED] It also states that [REDACTED]

5 [REDACTED]

6 [REDACTED] **Exhibit**

7 **PP** (confidential document filed under seal) is a true and correct copy of that

8 document.

9 68. In a post on Axanarproductions.com, Defendants stated: “The Axanar

10 team is happy to announce that we have signed a lease on 16,000sf warehouse in

11 Valencia, CA. The new home of Axanar Productions will be called ‘Ares

12 Studios’We intend to turn this warehouse and office space into a fully functional

13 sound stage. This will allow us to not only make ‘Axanar’ but other Star Trek

14 projects after Axanar and other Sci-Fi projects. (Robert Burnett and I have already

15 acquired the rights to a fantastic book series by David Gerrold.)” Attached hereto as

16 **Exhibit QQ** is a true and correct copy of a printout from Axanarproductions.com.

17 69. Diana Kingsbury was the Director of Fulfillment of Axanar

18 Productions. I took her deposition on October 12, 2016. Ms. Kingsbury testified

19 that [REDACTED]

20 [REDACTED]. **Exhibit D** (Kingsbury tr. at 114:16-24) (confidential

21 document filed under seal) are true and correct copies of excerpts from the

22 deposition transcript of Diana Kingsbury taken on October 12, 2016.

23 **2. Defendants Profited From The Axanar Works and Intended**

24 **To Generate Additional Profits Going Forward.**

25 70. Ms. Kingsbury testified that [REDACTED]

26 [REDACTED]. **Exhibit D** (Kingsbury tr. at 39:22-41:9)

27 (confidential document filed under seal) are true and correct copies of excerpts from

28 the deposition transcript of Diana Kingsbury taken on October 12, 2016.

1 71. Diana Kingsbury was Mr. Peters' girlfriend. Mr. Peters testified that
2 [REDACTED]. **Exhibit A** (Peters
3 tr.at 197:12-15) (confidential document filed under seal) are true and correct copies
4 of relevant excerpts from the deposition transcript of Alec Peters taken on October
5 19, 2016.

6 72. Ms. Kingsbury testified that [REDACTED]
7 [REDACTED]. **Exhibit D** (Kingsbury tr.at 15:21-24; 18:7-11;
8 141:4-15) (confidential document filed under seal) are true and correct copies of
9 excerpts from the deposition transcript of Diana Kingsbury taken on October 12,
10 2016.

11 73. Mr. Peters testified that [REDACTED]
12 [REDACTED]. **Exhibit A** (Peters tr.
13 at 70:24-71:4; 190:19-191:24) (confidential document filed under seal) are true and
14 correct copies of relevant excerpts from the deposition transcript of Mr. Peters taken
15 on October 19, 2016. [REDACTED]
16 [REDACTED]. **Exhibit A** (Peters tr. at 192:3-193:21) (confidential
17 document filed under seal) are true and correct copies of relevant excerpts from the
18 deposition transcript of Mr. Peters.

19 74. Mr. Peters used donor funds [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]. **Exhibit A** (Peters tr. at 189:2-23; 122:21-25; 65:7-18; 193:22-194:18;
5 209:15-212:22; 195:21-198:1; 213:5-10; 201:6-204:7; 204:11-16; 205:3-16; 203:25-
6 204:1; 217:6-15; 205:14-16; 205:20-207:9; 207:10-12; 208:2-16) (confidential
7 document filed under seal) are true and correct copies of relevant excerpts from the
8 deposition transcript of Alec Peters taken on October 19, 2016. Defendants
9 produced a financial summary that includes line items for these expenditures.

10 **Exhibit SS** (confidential document filed under seal) is a true and correct copy of the
11 financial summary document produced by Defendants.

12 75. After his first deposition, wherein he was examined regarding [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]. **Exhibit**

16 **A** (Peters tr. at 394:20-396:7; 398:24-399:10; 401:7-403:5) (confidential document
17 filed under seal) is a true and correct copy of relevant excerpts from the deposition
18 transcript of Alec Peters taken on November 2, 2016.

19 76. [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED].

24 77. Mr. Burnett testified that [REDACTED]

25 [REDACTED]

26 [REDACTED] **Exhibit B** (Burnett tr. at 217:22-218:7) (confidential document filed under
27 seal) is a true and correct copy of relevant excerpts from the deposition transcript of
28 Robert Meyer Burnett taken on October 11, 2016.

1 78. Mr. Gossett similarly testified that Mr. Peters told him that he hoped
2 that, after creating Axanar, CBS would hire Mr. Peters in some capacity. Attached
3 hereto as **Exhibit C** (Gossett tr. at 19:15-22:20) are true and correct copies of
4 excerpts from the deposition transcript of Christian Gossett taken on October 22,
5 2016.

6 79. Mr. Peters testified that [REDACTED]
7 [REDACTED]. **Exhibit A**
8 (Peters tr. at 455:24-456:16) (confidential document filed under seal) is a true and
9 correct copy of excerpts from the deposition transcript of Alec Peters. Attached
10 hereto as **Exhibit OO** is a true and correct copy of a Facebook communication
11 between Mr. Peters and Terry McIntosh, which was produced by Mr. McIntosh,
12 discussing Mr. Peters’ desire to work for CBS.

13 80. Mr. Burnett, like Mr. Peters, did not produce his social media postings,
14 his online postings, any text messages, or any substantive emails regarding the
15 Axanar project. However, Plaintiffs were able to locate some of those documents.
16 In Mr. Burnett’s deposition, he was asked [REDACTED]

17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED].

21 81. Mr. Burnett testified: [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]. **Exhibit B** (Burnett tr. at 32:6-33:1; emphasis added)
26 (confidential document filed under seal) are true and correct copies of relevant
27 excerpts from the deposition transcript of Robert Meyer Burnett taken on October
28 11, 2016.

1 82. Mr. Burnett was then presented with a lengthy statement that he wrote
2 in 2015, which he did not turn over, but which provides: “For me personally, I want
3 to illustrate to the greater industry I can direct a 100 million dollar space epic for
4 one percent of that budget, proving my filmmaking worth and **hopefully get hired**
5 **for similar jobs. It's my spec commercial, just done on a larger scale.”** Mr.
6 Burnett’s online statement went on to state that: “People ask ‘Why not just go create
7 your own original material?’ Throughout my career, I've done that, but in this day
8 and age, one must use all avenues to increase awareness of one's abilities.
9 AXANAR allows us to use an underserved built in audience to show off those
10 abilities and garner attention, and **will hopefully lead to that work attracting**
11 **private and studio equity so we can finance our own original IP.”** Attached
12 hereto as **Exhibit RR** is Mr. Burnett’s public statement. **Exhibit B** (Burnett tr. at
13 31:21-:36:20; emphasis added) (confidential document filed under seal) is a true and
14 correct copy of relevant excerpts from the deposition testimony of Mr. Burnett.

15 **D. Mr. Peters’ Control Over Axanar Productions.**

16 83. Mr. Peters testified that [REDACTED]
17 [REDACTED]
18 [REDACTED]. **Exhibit A** (Peters tr. at 182:1-2; 60:6-61:2) (confidential
19 document filed under seal) is a true and correct copy of relevant excerpts from the
20 deposition transcript of Alec Peters taken on October 19, 2016.

21 84. Mr. Peters testified that [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]. **Exhibit A** (Peters tr. at 55:21-58:9; 78:9-80:10)
25 (confidential document filed under seal) is a true and correct copy of relevant
26 excerpts from the deposition transcript of Alec Peters taken on October 19, 2016. In
27 an email on November 2, 2015, Mr. Peters told Mr. Burnett and Mr. Hunt: [REDACTED]
28 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED] **Exhibit FFF** (emphasis added)
4 (confidential document filed under seal) is a true and correct copy of this email
5 exchange. **Exhibit B** (Burnett tr. at 94:16-95:4) (confidential document filed under
6 seal) is a true and correct copy of relevant excerpts from the deposition transcript of
7 Robert Meyer Burnett.

8 85. Mr. Burnett testified that [REDACTED]
9 [REDACTED] **Exhibit B**
10 (Burnett tr. at 201:19-202:11) (confidential document filed under seal) is a true and
11 correct copy of an excerpt from the deposition transcript of Robert Meyer Burnett
12 taken on October 11, 2016.

13 86. A number of the emails produced by Mr. Gossett involve the creative
14 decisions made by Mr. Gossett and Mr. Peters in connection with copying specific
15 elements from the Star Trek universe. In his deposition, Mr. Gossett testified
16 regarding these documents and confirmed that Mr. Peters had approval over the
17 production, including the designs for the uniforms and costumes worn by the cast,
18 the designs of the ships portrayed, and the sets that were created. Mr. Gossett also
19 testified that the creative input that he provided to Mr. Peters was “always subject to
20 [Peters’] approval,” including details such as hair and makeup. Attached hereto as
21 **Exhibit C** (Gossett tr. at 38:6-16; 161:14-23; 162:9-163:14) are true and correct
22 copies of excerpts from the deposition transcript of Christian Gossett taken on
23 October 22, 2016.

24 87. Mr. McIntosh testified that Mr. Peters was exclusively responsible for
25 deciding who would be paid and how much they would be paid. Attached hereto as
26 **Exhibit E** (McIntosh tr. at 52:12-20) is a true and correct copy of Mr. McIntosh’s
27 relevant deposition testimony.
28

1 88. Mr. Peters testified [REDACTED]
2 [REDACTED]
3 [REDACTED]. **Exhibit A** (Peters tr. at 9:21-23; 21:18-25) (confidential document filed under
4 seal) is a true and correct copy of relevant excerpts from the deposition transcript of
5 Alec Peters taken on October 19, 2016.

6 89. Prior to this lawsuit, Mr. Peters repeatedly communicated with CBS
7 regarding his belief that other fan films and third parties were engaging in conduct
8 that infringed on CBS' intellectual property. Attached hereto as **Exhibit TT** are true
9 and correct copies of examples of such emails.

10 90. Attached hereto as **Exhibit UU** are copies of copyright registrations for
11 *The Original Series* (1966-1969), *Star Trek: The Next Generation* (1987-1994), *Star*
12 *Trek: Deep Space Nine* (1993-1999), *Star Trek: Voyager* (1995-2001), and *Star*
13 *Trek: Enterprise* (2001-2005) (collectively, the "Star Trek Television Series").

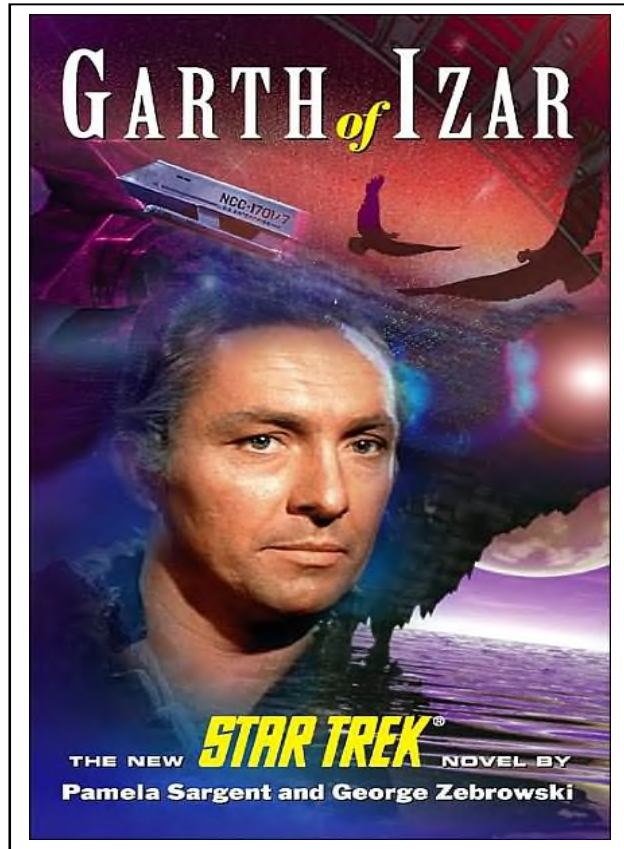
14 91. Attached hereto as **Exhibit VV** are copies of copyright registrations for
15 *Star Trek – The Motion Picture* (1979), *Star Trek II – The Wrath of Khan* (1982),
16 *Star Trek III The Search for Spock* (1984), *Star Trek IV: The Voyage Home* (1986),
17 *Star Trek V: The Final Frontier* (1989), *Star Trek VI – The Undiscovered Country*
18 (1991), *Star Trek Generations* (1994), *Star Trek: First Contact* (1996), *Star Trek:*
19 *Insurrection* (1998), *Star Trek Nemesis* (2002), *Star Trek* (2009), *Star Trek Into*
20 *Darkness* (2013), *Star Trek Beyond* (2016) (collectively, the "Star Trek Motion
21 Pictures").

22 92. True and correct copies of selected DVDs of the Star Trek Television
23 Series were lodged with the Court. See Dkt. 72-63 (Notice of Lodging), **Exhibits 1**
24 **through 5**.

25 93. True and correct copies of DVDs of the Star Trek Motion Pictures are
26 being concurrently lodged with the Court. See Dkt. 72-63 (Notice of Lodging),
27 **Exhibits 6 through 18**.

28

1 94. Attached hereto as **Exhibit WW** is a true and correct copy of the
2 copyright registration for *Garth of Izar*. A true and correct copy of the novel is
3 being lodged with the Court. See Notice of Lodging, **Exhibit 21**. Below is an
4 image of the front cover of Plaintiffs’ *Garth of Izar* novel.



19 95. Attached hereto as **Exhibit XX** is a true and correct copy of the
20 copyright registration for *Strangers from the Sky*.

21 96. Attached hereto as **Exhibit YY** is a true and correct copy of the
22 copyright registration for *Infinity’s Prism*.

23 97. **Exhibit CCC** (confidential document filed under seal) is the deposition
24 testimony of John Van Citters on behalf of CBS and Dan O’Rourke on behalf of
25 Paramount testified regarding [REDACTED]
26 [REDACTED].

27 98. On February 27, 2016, at Condor-Con in San Diego, Mr. Peters held a
28 presentation called “A Brief History of Axanar.” At that presentation, Mr. Peters

1 stated that Defendants had completed one-third of the visual effects, in a visual
2 effects “reel” for Axanar. Defendants did not produce these visual effects to
3 Plaintiffs.

4 99. On June 21, 2016, I met and conferred with counsel for Defendants,
5 Erin Ranahan. At the meeting, Ms. Ranahan and I agreed that the parties did not
6 need to produce the Star Trek Copyrighted Works to one another, but that
7 Defendants would produce the source documents that he used to create the Axanar
8 Works *other than* the Star Trek films and episodes. Ms. Ranahan told me that Mr.
9 Peters had all of the Star Trek Copyrighted Works in his possession. At his
10 deposition, Mr. Peters testified that [REDACTED]. **Exhibit A**
11 (Peters tr. at 40:10-15) (confidential document) is a true and correct copy of an
12 excerpt from Mr. Peters’ deposition. Defendants did not turn over any source
13 documents that they purportedly used and, consistent with the parties’ agreement,
14 and Mr. Peters’ testimony, Defendants did not request copies of the Star Trek works
15 from Plaintiffs.

16 100. Defendants emailed their expert reports on the evening of November 2,
17 2016, the deadline for serving expert reports. On November 14, 2016, Plaintiffs
18 served subpoenas for Defendants’ experts, Henry Jenkins and Christian Tregillis,
19 noticing the depositions for Monday, November 21 and Tuesday, November 22. On
20 November 15, 2016, Ms. Ranahan stated in an email to me that she was accepting
21 service of the subpoenas, but “wholly objected” to the depositions of Defendants’
22 purported experts. Ms. Ranahan claimed that she would not produce Defendants
23 experts because (fact) discovery was closed. In an email on November 15, 2016, I
24 requested that Ms. Ranahan reconsider her position, and explained that her argument
25 that expert depositions had to be completed prior to Defendants providing expert
26 reports to Plaintiffs was untenable. I also noted that the Federal Rules provide that a
27 retained expert’s deposition may only be taken after an expert report is provided.
28 FRCP 26(b)(4). Defendants’ expert reports were not provided until the evening of

1 November 2, 2016 and yet Ms. Ranahan took the position that all expert depositions
2 must have been completed prior to November 2, 2016. Finally, I pointed out that
3 the Court had previously ruled on this precise issue, and has held that the discovery
4 cutoff in the pre-trial scheduling order does not apply to preclude expert depositions,
5 which may be taken following the service of expert reports. *See Skidmore v.*
6 *Zeppelin et al.*, Case No. 2:15-cv-03462-RGK-AGR, Dkt. No. 216. Nevertheless,
7 Ms. Ranahan still refused to make Defendants' experts available to be deposed prior
8 to the filing of this Opposition brief. **Exhibit JJJ** is a true and correct copy of this
9 email exchange.

10 101. J.J. Abrams testified that [REDACTED]
11 [REDACTED]. Mr. Abrams further stated that [REDACTED]
12 [REDACTED]
13 [REDACTED]. Mr.
14 Lin testified that [REDACTED] **Exhibit KKK** (Abrams tr. at
15 15:17-21; 39:19-40:12)(confidential document filed under seal) is a true and correct
16 copy of relevant excerpts from Mr. Abram's deposition testimony. **Exhibit LLL**
17 (Lin tr. at 13:22-25)(confidential document filed under seal) is a true and correct
18 copy of relevant excerpts from Mr. Lin's deposition testimony.

19
20 I declare under penalty of perjury under the laws of the United States of
21 America that the foregoing is true and correct.

22 Executed this 28th day of November, 2016, at Los Angeles, California.

23
24 /s/David Grossman
25 David Grossman
26
27
28