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10 Attorneys for Plaintiffs
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 Plaintiffs,

19 v.

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

22 Defendants.
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Case No.: 2:15-cv-09938-RGK-E

**PARAMOUNT PICTURES
CORPORATION AND CBS
STUDIOS INC.'S ANSWER TO
COUNTERCLAIM OF AXANAR
PRODUCTIONS, INC. AND ALEC
PETERS**

Complaint Filed: 12/29/2015

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ANSWER TO COUNTERCLAIM

Plaintiffs and Counterdefendants Paramount Pictures Corporation and CBS Studios Inc. (collectively, “Counterdefendants”) answer the Counterclaim (“Counterclaim”) filed by Defendants and Counterclaimants (collectively, “Counterclaimants”) in this action as follows:

JURISDICTION AND PARTIES

1. The allegations in Paragraph 1 are legal conclusions and no response is required.
2. The allegations in Paragraph 2 are legal conclusions and no response is required.
3. The allegations in Paragraph 3 are legal conclusions and no response is required.
4. Counterdefendants lack knowledge or information sufficient to form a belief as to the truth of Counterclaimants’ allegations in Paragraph 4 and, on that basis, deny the allegations.
5. Counterdefendants admit that Paramount Pictures Corporation is a Delaware corporation with its principal place of business in Los Angeles, California. Counterdefendants admit that CBS Studios Inc. is a Delaware corporation with its principal place of business in New York, New York.

NATURE OF THE ACTION

Background

6. Counterdefendants admit that Star Trek debuted approximately fifty years ago. Counterdefendants lack knowledge or information sufficient to form a belief as to whether viewers believe that the fictional characters and stories in Star Trek “promote” any specific ideals.
7. Counterdefendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 7 and, on that basis, deny these allegations. Counterdefendants admit that the Foreword of the

1 1976 book *Star Trek: The New Voyages* was written by Gene Roddenberry, and that
2 the Foreword speaks for itself.

3 8. Counterdefendants admit the first sentence of Paragraph 8.
4 Counterdefendants admit that Star Trek has been celebrated through conventions,
5 books, movies, videos, art, short stories, and Fanzines. Counterdefendants lack
6 knowledge or information sufficient to form a belief as to whether the Star Trek
7 fandom has been celebrated through “thousands upon thousands of additional,
8 original, creative contributions by fans celebrating the universe they have so deeply
9 connected with.”

10 9. Counterdefendants admit that they have not sued with respect to all
11 uses of the Star Trek Copyrighted Works, but deny that they have not previously
12 sued to enforce their intellectual property rights in the Star Trek Copyrighted
13 Works.

14 10. Counterdefendants deny the allegations of Paragraph 10.

15 11. Counterdefendants lack knowledge or information sufficient to form a
16 belief as to the truth of Counterclaimants’ allegations in Paragraph 11 and, on that
17 basis, deny the allegations.

18 12. Counterdefendants lack knowledge or information sufficient to form a
19 belief as to the truth of Counterclaimants’ allegations in Paragraph 12 and, on that
20 basis, deny the allegations.

21 13. Counterdefendants lack knowledge or information sufficient to form a
22 belief as to the truth of Counterclaimants’ allegations in Paragraph 13 and, on that
23 basis, deny the allegations.

24 14. Counterdefendants admit that CBS Consumer Products Inc. worked in
25 the past in a limited capacity with a company with which Alec Peters was involved.
26 Counterdefendants lack knowledge or information sufficient to form a belief as to
27 the truth of Counterclaimants’ remaining allegations in Paragraph 14 and, on that
28 basis, deny the allegations.

1 15. Counterdefendants admit that Garth of Izar appeared in the Star Trek
2 Episode “Whom Gods Destroy” of *The Original Series*. Counterdefendants lack
3 knowledge or information sufficient to form a belief as to the truth of
4 Counterclaimants’ remaining allegations in Paragraph 15 and, on that basis, deny
5 the allegations.

6 16. Counterdefendants admit that Defendants raised money for their Star
7 Trek film using Kickstarter and that *Prelude to Axanar* is still being distributed on
8 Youtube.com. Counterdefendants lack knowledge or information sufficient to form
9 a belief as to the truth of Counterclaimants’ remaining allegations in Paragraph 16
10 and, on that basis, deny the allegations.

11 17. Counterdefendants lack knowledge or information sufficient to form a
12 belief as to the truth of Counterclaimants’ allegations in Paragraph 17 and, on that
13 basis, deny the allegations.

14 18. Counterdefendants deny that Defendant Alec Peters “reached out to
15 CBS” on multiple occasions, admit that Defendant Alec Peters spoke to Bill Burke
16 and to John Van Citters, but state that Mr. Peters was never given permission to use
17 Star Trek Copyrighted Works, nor was he provided with “guidelines” regarding
18 ways in which he could use Plaintiffs’ intellectual property for his Star Trek film
19 projects, for either commercial or non-commercial use, nor was he told that his use
20 of such Star Trek Copyrighted Works would be tolerated. Counterdefendants admit
21 that Peters met with Liz Kalodner on the Paramount Studios lot and spoke with Ken
22 Ross, who attended a portion of the *Prelude to Axanar* showing at the 2014 Comic-
23 Con. Counterdefendants lack knowledge or information sufficient to form a belief as
24 to the truth of Counterclaimants’ remaining allegations in Paragraph 18 and, on that
25 basis, deny the allegations.

26 19. Counterdefendants deny that they did not “express any concerns” to
27 Alec Peters prior to filing this lawsuit. Counterdefendants lack knowledge or
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1 information sufficient to form a belief as to the truth of Counterclaimants' remaining
2 allegations in Paragraph 19 and, on that basis, deny the allegations.

3 20. Counterdefendants admit that they entered into an agreement with Alec
4 Peters pursuant to which Mr. Peters would defer shooting of *Axanar* until
5 Counterclaimants responded to the original complaint, but state that this was in
6 response to Mr. Peters' request for additional time to respond to the original
7 complaint. Counterdefendants lack knowledge or information sufficient to form a
8 belief as to the truth of Counterclaimants' remaining allegations in Paragraph 20
9 and, on that basis, deny the allegations.

10 21. Counterdefendants admit that certain persons have made public
11 statements, and that these public statements speak for themselves. Otherwise,
12 Counterdefendants lack knowledge or information sufficient to form a belief as to
13 the truth of Counterclaimants' allegations in Paragraph 21 and, on that basis, deny
14 the allegations.

15 22. Counterdefendants admit that certain persons have made public
16 statements, and that these public statements speak for themselves. Otherwise
17 Counterdefendants lack knowledge or information sufficient to form a belief as to
18 the truth of Counterclaimants' allegations in Paragraph 22 and, on that basis, deny
19 the allegations.

20 23. Counterdefendants deny the allegations in Paragraph 23.

21 24. Counterdefendants admit that they have made certain public statements,
22 which statements speak for themselves,, otherwise Counterdefendants lack
23 knowledge or information sufficient to form a belief as to the truth of
24 Counterclaimants' allegations in Paragraph 24 and, on that basis, deny the
25 allegations.

26 25. Counterdefendants admit that their action remains pending.
27 Counterdefendants deny the remaining allegations in Paragraph 25.

28 **Defendants Are Protected By Fair Use**

1 belief as to the truth of Counterclaimants' remaining allegations in Paragraph 37
2 and, on that basis, deny the allegations.

3 38. Counterdefendants deny the allegations in Paragraph 38.

4 **GENERAL DENIAL**

5 Each numbered paragraph in this Answer responds to the identically
6 numbered paragraph in the Counterclaim. Counterdefendants deny all allegations,
7 declarations, claims or assertions in the Counterclaim that are not specifically
8 admitted in this Answer to Counterclaim.

9 **RESPONSE TO PRAYER**

10 Counterdefendants deny that Counterclaimants are entitled to any of the relief
11 requested in the Prayer contained in the Counterclaim and further deny that
12 Counterclaimants are entitled to any relief whatsoever.

13 **RESPONSE TO DEMAND FOR JURY TRIAL**

14 Counterclaimants' demand for a jury trial on page 27 of the Counterclaim is
15 not an allegation of fact for which a response is required.

16 **AFFIRMATIVE DEFENSES**

17 **First Affirmative Defense**

18 1. The Counterclaim, and the claims for relief alleged therein, fails to state
19 a claim upon which relief can be granted.

20 **Second Affirmative Defense**

21 2. The relief sought by Counterclaimants is barred by the equitable
22 doctrine of unclean hands.

23 **Third Affirmative Defense**

24 3. Counterdefendants have insufficient knowledge or information upon
25 which to form a belief as to whether they may have as yet unstated separate and
26 additional defenses available. Counterdefendants reserve the right to amend this
27 Answer to add, delete, or modify defenses based upon legal theories which may or
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1 will be divulged through clarification or amendment of Counterclaimants’
2 Counterclaim, through discovery, or through further legal analysis of the claims and
3 positions in this litigation.

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5 **PRAYER FOR RELIEF**

6 WHEREFORE, Counterdefendants pray for judgment against
7 Counterclaimants as follows:

- 8 1. That Counterclaimants recover nothing by their Counterclaim;
- 9 2. For costs and legal fees of the suit herein; and
- 10 3. For such other and further relief as the Court deems just and proper.

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13 Dated: June 15, 2016

LOEB & LOEB LLP
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DAVID GROSSMAN
JENNIFER JASON

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16 By: /s/ David Grossman
David Grossman
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