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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,
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Plaintiffs,
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v.
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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

(DISCOVERY MATTER)

DECLARATION OF DAVID GROSSMAN IN SUPPORT OF EX PARTE APPLICATION FOR ORDER (A) THAT DEFENDANTS ARE TO PRODUCE DEFENDANT ALEC PETERS FOR FURTHER DEPOSITION AFTER HE COMPLETES PRODUCTION OF RELEVANT DOCUMENTS; (B) THAT FINANCIAL SUMMARY REGARDING DEFENDANTS' EXPENDITURES OF FAN FUNDS BE DE-DESIGNATED; (C) THAT DEFENDANTS PROVIDE A PRIVILEGE LOG

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 and CBS Studios, Inc. (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.

2. On April 26, 2016, Plaintiffs served requests for production on Defendants, which sought, among other things, communications relating to the Axanar Works and communications between Peters and other parties who worked on the Axanar Works.

3. On or about September 7, 2016, Defendants made their first production. Defendants’ document production included emails but many of those emails were communications from donors to Mr. Peters’ crowdfunding campaigns for the Axanar Works and Defendants’ production contained less than 200 emails that did not relate to donor communications. Very few emails related to the creative decisions that were made relating to the Axanar Works, the funds that were spent in connection with the Axanar Works, or the source materials that were being used in order to create Defendants’ “independent Star Trek film.”

4. In that production was a summary document that Defendants designated “Highly Confidential.” This document is a ledger showing how Mr. Peters spent the funds solicited from donors (on the crowd-funding websites Indiegogo and Kickstarter) for his full-length feature film production, *Star Trek: Axanar*. Plaintiffs are concurrently filing an Application For Leave To File Document Under Seal. A placeholder for this document is attached hereto as **Exhibit H**.

5. On September 26, 2016, counsel for Defendants, Erin Ranahan, declined to provide a privilege log for Mr. Peters and his company and sent an email

1 to me stating that “[w]e are not withholding anything from before the lawsuit was
2 filed as privileged.” Attached hereto as **Exhibit A** is a true and correct copy of that
3 email.

4 6. In August, Plaintiffs noticed the depositions of Robert Meyer Burnett
5 (the director of *Star Trek: Axanar*), Diana Kingsbury (Alec Peters’ former girlfriend
6 and a member of the Axanar production team) and Bill Hunt (the co-writer of *Star*
7 *Trek: Axanar*). At Defendants’ request, these depositions were re-scheduled to mid-
8 October.

9 7. Alec Peters’ deposition was scheduled for October 19, 2016 and
10 Christian Gossett, a third party, and the director of the twenty-minute film, *Star*
11 *Trek: Prelude to Axanar*, was scheduled for Saturday October 22, 2016 (due to his
12 work schedule).

13 8. On October 3, 2016, counsel for Plaintiffs sent a letter to Defendants’
14 counsel asking for various documents and emails that were missing from
15 Defendants’ production. Defendants’ counsel did not respond to that letter.
16 Attached hereto as **Exhibit B** is a true and correct copy of the letter.

17 9. Although CBS produced many communications between CBS
18 employees and Mr. Peters, Mr. Peters did not produce, in his document production,
19 those documents. Attached hereto as **Exhibit C** are true and correct copies of
20 emails between Mr. Peters and CBS that Mr. Peters failed to produce.

21 10. On October 19, Plaintiffs took the deposition of Peters. Mr. Peters
22 testified that he did not search for or produce any of his text messages or any of his
23 social media or internet postings. Mr. Peters also said that he did not delete any
24 substantive emails.

25 11. After the deposition of Mr. Peters, counsel for Plaintiffs again met and
26 conferred with Defendants’ counsel and noted that it was clear that Mr. Peters had
27 not produced his documents, including the emails between himself and CBS, and all
28

1 of the emails relating to the creation of the Axanar Works, even though Mr. Peters
2 had produced other email communications from that same time period.

3 12. At that time, Plaintiffs' counsel also met and conferred and requested,
4 again, that Mr. Peters de-designate the ledger showing the expenditures he made
5 from his crowd-funding campaigns for the full-length feature film he was writing
6 and producing, *Star Trek: Axanar*.

7 13. Notably, for Mr. Peters' first crowdfunding campaign, relating to the
8 twenty-minute film, *Star Trek: Prelude to Axanar*, Mr. Peters distributed an "annual
9 report" to donors in which he disclosed the expenditures relating to the
10 approximately \$100,000 that was raised for that film. This document, however, was
11 not provided in this litigation by Mr. Peters. Plaintiffs, instead, obtained it and
12 produced it to Defendants. In this report, relating to the funds spent by Mr. Peters
13 on his twenty-minute film, *Star Trek: Prelude to Axanar*, Mr. Peters stated that "The
14 Axanar Annual Report is the financial review document of Axanar Productions.
15 One thing we at Axanar pride ourselves on is being the most transparent and
16 accountable crowd-funded film out there." Attached hereto as **Exhibit D** is a true
17 and correct copy of the report.

18 14. Christian Gossett was the director of *Star Trek: Prelude to Axanar*.
19 Although he was subpoenaed in August, due to his work schedule, he was not
20 available for deposition during work hours and his deposition was taken on Saturday
21 October 22, 2016. The day prior to his deposition, Mr. Gossett produced thousands
22 of pages of documents, including hundreds of emails between himself and Mr.
23 Peters (as well as other source documents showing the material that was used to
24 create the Axanar Works). The majority of these documents were communications
25 between Mr. Gossett and Alec Peters. Virtually none of these documents were
26 produced by Mr. Peters.

27 15. Mr. Gossett testified regarding documents that he produced (and Mr.
28 Peters did not produce) showing that Mr. Peters had engaged counsel, and

1 demonstrating that Mr. Peters had instructed his counsel to prepare agreements and
2 legal documents relating to the Axanar Works. Attached hereto as **Exhibit E** is an
3 example of Mr. Peters' correspondence on this issue (produced by Mr. Gossett but
4 not by Mr. Peters).

5 16. On October 24, counsel for Plaintiffs again raised these issues with
6 counsel for Defendants. A true and correct copy of this email, as part of a larger
7 email chain, is attached hereto as **Exhibit F**.

8 17. On October 24, Ms. Ranahan responded by pointing out *one* email
9 between Mr. Peters and CBS that he had produced. Defendants' counsel, however,
10 failed to explain the lack of production of Mr. Peters' communications with Mr.
11 Gossett, and refused to produce Mr. Peters for a further deposition. However,
12 Defendants' counsel also stated that she had located over one hundred unproduced
13 emails from Mr. Peters, that those documents would be produced this week, but that
14 Mr. Peters would not agree to sit for a further deposition regarding these
15 productions. A true and correct copy of this email, as part of a larger email chain, is
16 attached hereto as **Exhibit F**.

17 18. On October 26, 2016, I sent an email to Ms. Ranahan in response to
18 her October 24 email. A true and correct copy of this email is attached hereto as
19 **Exhibit F**.

20 19. After continued demands from Plaintiffs, Defendants' counsel
21 eventually stated that Mr. Peters had located even more documents, and would be
22 producing them but that he would not agree to be deposed for any more than two
23 hours, and only with respect to the limited documents that were located after his
24 October 19 deposition. Mr. Peters' counsel did not agree to produce Mr. Peters' text
25 messages, social media postings, nor did counsel agree to certify that Mr. Peters'
26 emails had been searched for all responsive documents. Attached hereto as **Exhibit**
27 **G** is a true and correct copy of an email that I received at 3:20 a.m. from Ms.
28 Ranahan on October 27, 2016.

