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

**DECLARATION OF DAVID  
GROSSMAN IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
PARTIAL 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

**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. Pursuant to Local Rule 7-3, I met and conferred with counsel for Defendants in person with respect to this Motion for Partial Summary Judgment on multiple occasions, including November 2 and November 7, 2016.

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.”).

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

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

8. Attached to this declaration are numerous emails and documents showing the nature and extent of Defendants’ copying of the Star Trek Copyrighted

1 Works. Although most of these documents were authored, or received, by  
2 Defendant Alec Peters, virtually none of these documents were turned over by Mr.  
3 Peters. In response to Plaintiffs’ discovery requests, Mr. Peters produced a  
4 smattering of emails, and he admittedly did not produce any social media postings  
5 or other online postings/statements he made concerning the Axanar Works,  
6 including statements and postings he made on his own website,  
7 AxanarProductions.com. Defendants also did not produce thousands of pages of  
8 emails between Mr. Peters and the director of *Prelude to Axanar* (Christian Gossett).  
9 Mr. Peters’ extensive communications with Mr. Gossett regarding the creation of  
10 the Axanar Works were only uncovered when Mr. Gossett produced them in  
11 response to a third party subpoena. I reviewed the documents produced by Mr.  
12 Peters as well as the documents turned over by Mr. Gossett that Mr. Peters did not  
13 produce. Further, Mr. Peters did not produce

[REDACTED]

**Exhibit A** (Peters tr. at 273:2-283:21)

(confidential document filed under seal) is a true and correct copy of an excerpt  
19 from Mr. Peters’ deposition in which he testified that he

[REDACTED]

21 9. The documents that Plaintiffs were able to obtain show that Mr. Peters  
22 engaged in extensive discussions regarding the creative details of the Axanar  
23 project, including deciding which of Plaintiffs’ copyrighted materials were to be  
24 used as source material to create the Axanar Works.

25 **1. Defendants Intentionally Replicated The Look And Feel of**  
26 **Star Trek.**

27 10. On January 4, 2011, Mr. Peters sent an email to Christian Gossett with  
28 the subject line “Must watch TOS [The Original Series].” Mr. Peters stated that he

1 and Christian were going to meet the following Friday to work on the Axanar  
2 treatment, and in the meantime Mr. Gossett would get watch *The Original Series*  
3 DVDs so that they could watch the key episodes again. Mr. Peters provided Mr.  
4 Gossett with a list of *The Original Series* episodes to review. Attached hereto as  
5 **Exhibit F** is a true and correct copy of the email from Mr. Peters. **Exhibit A** (Peters  
6 tr. at 332:15-334:4) (a confidential document filed under seal) is a true and correct  
7 copy of Mr. Peters’ relevant deposition testimony. Attached hereto as **Exhibit C**  
8 (Gossett tr. at 30:7-31:13) is a true and correct copy of Mr. Gossett’s relevant  
9 deposition testimony.

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

18 12. Mr. Peters sent an email to Mr. Gossett on November 13, 2013  
19 containing source material for *Prelude to Axanar*. Attached hereto as **Exhibit H** is a  
20 true and correct copy of this email exchange. **Exhibit A** (Peters tr. at 359:18-  
21 361:11) (confidential document filed under seal) is a true and correct copy of Mr.  
22 Peters’ relevant deposition testimony. Attached hereto as **Exhibit C** (Gossett tr. at  
23 32:7-34:16) is a true and correct copy of Mr. Gossett’s relevant deposition  
24 testimony.

25 13. In Mr. Peters’ deposition, he testified that

[REDACTED]

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

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

10 15. On March 28, 2014, Mr. Gossett sent an email to Mr. Peters and others  
11 discussing how he was using *The Original Series* as source material, and he  
12 appended various screen shots from *The Original Series*. Attached hereto as  
13 **Exhibit J** is a true and correct copy of this email exchange. **Exhibit A** (Peters tr. at  
14 371:13-372:9) (confidential document filed under seal) is a true and correct copy of  
15 Mr. Peters’ relevant deposition testimony.

16 16. Mr. Peters testified that [REDACTED]  
17 [REDACTED]. **Exhibit A** (Peters tr. at  
18 143:13-145:7) (confidential document filed under seal) are true and correct copies of  
19 the relevant excerpts from the deposition transcript taken on October 19, 2016.

20 17. On October 11, 2016, I took the deposition of Robert Meyer Burnett.  
21 Mr. Burnett is the director of the Vulcan Scene and of the full-length Axanar film.  
22 Mr. Burnett was also the editor of *Prelude to Axanar* and is a creative collaborator  
23 with Mr. Peters on the Axanar project. Mr. Burnett also testified that [REDACTED]  
24 [REDACTED]. **Exhibit B** (Burnett tr.  
25 at 202:12-203:4) (confidential document filed under seal) is a true and correct copy  
26 of the relevant excerpt from the transcript of Robert Meyer Burnett taken on  
27 October 11, 2016.  
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1           18.   **Exhibit A** (Peters tr. at 34:10-12; 34:5-9; 69:14-70:6) (confidential  
2 document filed under seal) is a true and correct copy of the relevant excerpt from the  
3 deposition transcript of Alec Peters taken on October 19, 2016 in which he confirms  
4 that [REDACTED]  
5 [REDACTED].

6           19.   Defendants produced a document stating that [REDACTED]  
7 [REDACTED]. **Exhibit K** (confidential document filed under  
8 seal) is a true and correct copy of the document produced by Defendants.  
9 According to YouTube, *Prelude to Axanar* was published on August 15, 2014.  
10 Attached hereto as **Exhibit L** is a true and correct copy of a printout from  
11 Youtube.com ([https://www.youtube.com/watch?v=1W1\\_8IV8uhA](https://www.youtube.com/watch?v=1W1_8IV8uhA)).

12           20.   Attached hereto as **Exhibit M** is a true and correct copy of the  
13 illustrated script of *Prelude to Axanar*. Although I requested its production from  
14 Defendants, Defendants’ counsel refused to produce the illustrated script and it was  
15 therefore obtained from third party, Terry McIntosh, who was deposed in this  
16 matter. The illustrated script includes storyboards and source materials juxtaposed  
17 against the final script for *Prelude to Axanar*.

18           21.   In response to a question from Defendants’ counsel, Mr. Gossett, the  
19 director of *Prelude to Axanar*, testified that the film infringes upon Plaintiffs’  
20 copyrights. Attached hereto as **Exhibit C** (Gossett tr. at 185:25-186:8) is a true and  
21 correct copy of the relevant excerpt from the deposition transcript of Christian  
22 Gossett taken on October 22, 2016. (Q. **Do you think Prelude to Axanar is –**  
23 **infringes upon the Star Trek intellectual property?** A. Yes. Q. **And in what**  
24 **way?** A. **In that it is an unlicensed filmed entertainment that uses countless**  
25 **elements of the Star Trek fictional world** without -- yeah, unlicensed. I said  
26 that.”).

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

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

23. Mr. Peters testified that

[REDACTED]

Mr. Peters also testified that

. Mr. Peters further stated that

. Mr. Peters further admitted that

**Exhibit A** (Peters tr. at 57:1-58:25; 36:20-37:25;46:18-48:1; 44:21-55:20; 36:20-37:16; 414:2-415:19) (confidential document filed under seal) are true and correct copies of the relevant excerpts from the deposition transcript of Alec Peters taken on October 19, 2016 and November 2, 2016.

24. Mr. Burnett testified that

[REDACTED]

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

25. Defendants’ Answer to the First Amended Complaint denied copying Klingons and Vulcans and asserted that Vulcan Ambassador Soval’s robe used in



1 *Prelude to Axanar* contains “Chinese lettering” and not Vulcan script. (*See* Dkt. No.  
2 47 at ¶ 46 (8:11-9:3)) (“deny that Soval’s robe in *Prelude to Axanar* contains  
3 ‘ancient Vulcan script’ (the robe contains Chinese letters).”). After Mr. Peters’ first  
4 deposition was taken, Mr. Gossett produced an email in which Mr. Peters sent Mr.  
5 Gossett an image for the Soval costume. In that email, Mr. Peters approved the  
6 Vulcan robe for Soval and stated that the production team should add Vulcan glyphs  
7 to the robe. At Mr. Peters’ second deposition, which was taken pursuant to Court  
8 Order after the documents Mr. Peters had not produced were obtained from third  
9 parties, Mr. Peters admitted that [REDACTED]

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

15 26. Mr. Peters admitted in his deposition that [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

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

26 27. Mr. Peters and Mr. Gossett exchanged emails on November 25, 2012  
27 regarding [REDACTED]. **Exhibit P** (a confidential  
28 document filed under seal) is a true and correct copy of their email exchange.



1 **Exhibit A** (Peters tr. at 347:4-348:10) (confidential document filed under seal) is a  
2 true and correct copy of Mr. Peters’ relevant deposition testimony.

3 28. On April 4, 2014, Mr. Peters and Mr. Gossett discussed makeup tests  
4 for the character Kharn, and discuss how it looks “Klingon.” Attached hereto as  
5 **Exhibit Q** is a true and correct copy of that email exchange. **Exhibit A** (Peters tr. at  
6 376:16-377:11)(confidential document filed under seal) is a true and correct copy of  
7 Mr. Peters’ relevant deposition testimony.

8 29. In an email on March 24, 2013, a graphic designer named Sean  
9 Tourangeau sent costume ideas to Mr. Gossett and Mr. Peters. Mr. Gossett testified  
10 that Mr. Tourangeau was designing these costumes at Mr. Peters’ direction, and that  
11 the costumes were being designed so that they looked to be very similar to those  
12 worn in *The Original Series* because that was the time period in which the Axanar  
13 Works were intended to be set. Attached hereto as **Exhibit R** is a true and correct  
14 copy of Mr. Tourangeau’s email. Attached hereto as **Exhibit C** (Gossett tr. at  
15 36:11-37:8) is a true and correct copy of Mr. Gossett’s relevant deposition  
16 testimony.

17 30. Mr. Burnett testified that [REDACTED]  
18 [REDACTED]. **Exhibit B** (Burnett tr. at 202:21-  
19 203:25) (confidential document filed under seal) is a true and correct copy of the  
20 relevant excerpts from the deposition transcript of Robert Meyer Burnett taken on  
21 October 11, 2016.

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

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**3. Defendants Copied Costumes, Settings And Other Elements From Plaintiffs' Works.**

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

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

34. Mr. Peters testified that [REDACTED]. **Exhibit A** (Peters tr. at 420:13-421:19; 471:25-475:1)(confidential document filed under seal) are true and correct copies of the relevant excerpts from the deposition transcript of Alec Peters taken on October 19, 2016 and November 2, 2016. Attached hereto as **Exhibit T** is a true and correct copy of a July 15, 2014 email from Christian Gossett to Mr. Peters that states "The best thing we can do to make us Canon Proof on the maps is to indicate only the Points of Interest (POI) necessary to give context to the audience." Attached hereto as **Exhibit U** is a true and correct copy of an email

1 dated March 7, 2015 from Mr. Peters to Christian Gossett, which states “I am the  
2 keeper of the faith with fans. They love that about us. Our faithfulness to the  
3 universe.”

4 35. Mr. Peters also testified that [REDACTED]

5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]. **Exhibit A** (Peters

11 tr. at 143:13-145:7 ) (confidential document filed under seal) is a true and correct  
12 copy of Mr. Peters’ relevant deposition testimony. **Exhibit V** (confidential  
13 document filed under seal) is a true and correct copy of [REDACTED]

14 [REDACTED]  
15 36. Mr. Peters testified that [REDACTED]

16 [REDACTED]. **Exhibit A** (Peters tr. at  
17 145:12-:147:10) (confidential document filed under seal) are true and correct copies  
18 of the relevant excerpts from the deposition transcript of Alec Peters taken on  
19 October 19, 2016. **Exhibit W** (confidential document filed under seal) is a true  
20 and correct copy of [REDACTED].

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

1           38. In an email exchange between Mr. Peters, Tobias Richter, and Mr.  
2 Gossett, Mr. Richter, the visual effects supervisor for *Prelude to Axanar*, the  
3 production team discussed using a screenshot of Eminiar City for the Axanar  
4 Works. Mr. Peters testified that [REDACTED]  
5 [REDACTED]  
6 [REDACTED]. Attached hereto as **Exhibit Y** is a true and  
7 correct copy of this email exchange. **Exhibit A** (Peters tr. at 377:17-378:13)  
8 (confidential document filed under seal) is a true and correct copy of Mr. Peters’  
9 relevant deposition testimony. Attached hereto as **Exhibit C** (Gossett tr. at 92:14-  
10 93:13) is a true and correct copy of Mr. Gossett’s relevant deposition testimony.

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

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18           **4. Defendants’ Vulcan Scene and Axanar Script Also Copied**  
19           **Plaintiffs’ Works.**

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

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

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

3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED].

10 43. Mr. Peters testified that, [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]

14 **Exhibit A** (Peters tr. at 79:11-17; 425:11-426:3; 77:5-9;  
15 82:2-85:12) (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 44. Mr. Burnett testified that [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]. **Exhibit B**

22 (Burnett tr. at 103:13 -18;106:11-17) (confidential document filed under seal) are  
23 true and correct copies of relevant excerpts from the deposition transcript of Robert  
24 Meyer Burnett taken on October 11, 2016.

25 45. Mr. Peters testified that [REDACTED]  
26 [REDACTED]

27 **Exhibit A** (Peters tr. at 362:9-363:13;  
28 44:21-55:20) (confidential document filed under seal) are true and correct copy of

1 relevant excerpts from the deposition transcript of Alec Peters taken on October 19,  
2 2016 and November 2, 2016.

3 46. Mr. Burnett also testified that the Axanar Script features the Klingon  
4 character Chang and Robert April (both characters from licensed Star Trek works).  
5 **Exhibit B** (Burnett tr. at 194:9-195:16; 195:18-23) (confidential document filed  
6 under seal) is a true and correct copy of the relevant excerpts from the deposition  
7 transcript of Robert Meyer Burnett taken on October 11, 2016.

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

13 **B. Defendants Created A "Professional" Work, Using Professional**  
14 **Cast and Crew Members.**

15 48. Although Mr. Peters did not turn over documents evidencing his  
16 fundraising activities on the Indiegogo.com platform, Plaintiffs located these  
17 documents independently. Mr. Peters made the following statement on the  
18 Indiegogo website for Axanar:

19 "Axanar is the first fully-professional, independent Star  
20 Trek film. While some may call it a 'fan film' as we are  
21 not licensed by CBS, Axanar has professionals working in  
22 front and behind the camera, with a fully-professional  
23 crew—many of whom have worked on Star Trek itself—  
24 who ensure Axanar will be the quality of Star Trek that all  
25 fans want to see."

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

30 49. Mr. Peters also made the following statement on Indiegogo: "Axanar  
31 has professionals working in front and behind the camera, with a fully-professional

1 crew—many of whom have worked on Star Trek itself—who ensure Axanar will be  
2 the quality of Star Trek that all fans want to see. But Axanar is not just an  
3 independent Star Trek film; it is the beginning of a whole new way that fans can get  
4 the content they want, by funding it themselves. Why dump hundreds or thousands  
5 of dollars a year on 400 cable channels, when what you really want is a few good  
6 sci-fi shows?” **Exhibit A** (Peters tr. at 99:10-101:10) (confidential document filed  
7 under seal) is a true and correct copy of the relevant excerpt from the deposition  
8 transcript of Alec Peters taken on October 19, 2016. Attached hereto as **Exhibit DD**  
9 is a true and correct copy of the Indiegogo fundraising page.

10 50. Social media posts by Defendants that were not produced by  
11 Defendants, but were located and produced by Plaintiffs, also reflect Defendants’  
12 emphasis that the Axanar Works are not a “fan film” and that they are  
13 “professional” productions. Mr. Peters made the following Facebook post on  
14 Creation Entertainment’s Official Star Trek Convention page: “My name is Alec  
15 Peters and I am the producer of Star Trek: Axanar, an independent Star Trek feature  
16 that will be released on the web. We don’t call it a ‘fan film’ because we have so  
17 many pros involved and plan to make a ground breaking film. Our DP is a 3x  
18 Emmy Winner, and the film is directed by Christian Gossett, the guy behind The  
19 Red Star.” Attached hereto as **Exhibit EE** is a true and correct copy of a Facebook  
20 post by Alec Peters. **Exhibit A** (Peters tr. at 108:6-109:12) (confidential document  
21 filed under seal) are true and correct copies of relevant excerpts from the deposition  
22 transcript of Alec Peters taken on October 19, 2016.

23 51. Attached hereto as **Exhibit FF** is a true and correct copy of a post on  
24 Mr. Peters’ Axanar Facebook page that states “Axanar is the first independent Star  
25 Trek film. While some may call it a ‘fan film’ as we are not licensed by CBS,  
26 Axanar has professionals working in front of and behind the camera. A fully  
27 professional crew, many of whom have worked on Star Trek itself ensure Axanar  
28 will be the quality of Star Trek that all fans want to see.” **Exhibit A** (Peters tr. at



1 109:16-110:2) (confidential document filed under seal) are true and correct copies of  
2 relevant excerpts from the deposition transcript of Alec Peters taken on October 19,  
3 2016.

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

13 53. Mr. Peters has participated in approximately forty podcasts, with  
14 various guests, discussing *Prelude to Axanar*, the Axanar feature film, and other  
15 subjects. **Exhibit A** (Peters tr. at 133:16-18) (confidential document filed under  
16 seal) is a true and correct copy of relevant excerpts from the deposition transcript of  
17 Alec Peters. **Exhibit ZZ**. These recordings are distributed as podcasts over the  
18 internet at <http://trek.fm/axp/>. At his deposition, Mr. Peters [REDACTED]  
19 [REDACTED]. See **Exhibit A** (Peters tr. at  
20 133:143:5) (confidential document filed under seal). In the first recording, Mr.  
21 Peters states that *Prelude to Axanar*, “was a fan film at twenty thousand [dollars]  
22 now it’s a full independent production.” See **Exhibit A** (Peters tr. at 135:11-13)  
23 (confidential document filed under seal). In the second recording, Mr. Peters states,  
24 in reference to *Prelude to Axanar*, “what people will see when we premier this at  
25 San Diego Comic-Con on July 26 is not a fan film. They are going to see a fully  
26 professional production that’s going to change the way people view Star Trek.” See  
27 **Exhibit A** (Peters tr. at 137:13-19) (confidential document filed under seal). In the  
28 third recording, Mr. Peters states that *Prelude to Axanar* is “not like other fan

1 projects which are true labors of love by fans. This is a labor of love, but we have  
2 the means and the wherewithal to bring in professionals at every position.” See  
3 **Exhibit A** (Peters tr. at 139:11-16) (confidential document filed under seal). In the  
4 same recording, Mr. Peters further stated that, “it’s very heartwarming and  
5 rewarding for us when people are just blown away and they say this is like a real  
6 movie. Yeah, it is, that was our goal and we’re happy people think so, so it’s very  
7 reassuring.” See **Exhibit A** (Peters tr. at 139:19-25) (confidential document filed  
8 under seal). In the fourth recording, Mr. Peters discusses the Axanar feature, saying  
9 “just like with Prelude [to Axanar], which we thought we could do for twenty,  
10 wound up costing eighty. But it also went from a fan film to a professional  
11 production. And it’s kind of the same here. We thought we could do Axanar for 300  
12 grand, but that was probably much closer to a fan film. Now we want to make it  
13 very professional.” See **Exhibit A** (Peters tr. at 140:19-141:3) (confidential  
14 document filed under seal). In the fifth recording, after discussing the roles of  
15 certain crew members slated to work on the Axanar feature, Mr. Peters stated, “these  
16 are positions you find on professional productions. And we pride ourselves on being  
17 that, and not being a fan film.” See **Exhibit A** (Peters tr. at 142:10-14) (confidential  
18 document filed under seal).

19 54. Attached hereto as **Exhibit HH** is a true and correct copy of a  
20 screenshot from Defendants’ Kickstarter fundraising page, which states: “The  
21 Axanar Team is determined to make the first true independent Star Trek film.”  
22 Attached hereto as **Exhibit A** (Peters tr. at 97:14-98:22) (confidential document  
23 filed under seal) is a true and correct copy of the relevant excerpt from the  
24 deposition transcript of Alec Peters taken on October 19, 2016

25 55. Mr. Peters tweeted to a Web Series twitter account stating: “We would  
26 love you to cover Star Trek: Axanar, the first independent Star Trek film.” Mr.  
27 Peters testified that he did not tweet that it was a “fan film” because he was avoiding  
28 the term as much as possible in order to differentiate the quality of film that he was

1 making. **Exhibit A** (Peters tr. at 106:6-107:7) (confidential document filed under  
2 seal) are true and correct copies of Mr. Peters' relevant deposition testimony.

3 Attached hereto as **Exhibit II** is a true and correct copy of the tweet.

4 56. A press kit for Axanar states: [REDACTED]

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

11 57. In an email from Mr. Peters to Doug Drexler on February 11, 2013, Mr.  
12 Peters stated [REDACTED]

13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED] **Exhibit KK** (a confidential document filed under  
17 seal) is a true and correct copy of this email. **Exhibit A** (Peters tr. at 349:18-24)  
18 (confidential document filed under seal) is a true and correct copy of Mr. Peters'  
19 relevant deposition testimony.

20 **C. Defendants' Commercial Activities.**

21 **1. Axanar Was Intended To Compete With Licensed Star Trek**  
22 **Works.**

23 58. Mr. Peters testified that [REDACTED]

24 [REDACTED]  
25 [REDACTED]  
26 [REDACTED] **Exhibit A** (Peters tr. at 442:21-449:9) (confidential document  
27 filed under seal) is a true and correct copy of Mr. Peters' relevant deposition  
28 testimony. Attached hereto as **Exhibit LL** is a true and correct copy of a Facebook

1 message exchange between Terry McIntosh and Alec Peters, in which Mr. Peters  
2 states that he thinks that they can trademark Axanar, and discusses a meeting with  
3 Netflix.

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

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

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

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

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

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[REDACTED]

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

64. Mr. Burnett testified that

[REDACTED]

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

65. Mr. Peters testified that

[REDACTED]. **Exhibit A**

(Peters tr. at 234:11-25) (confidential document filed under seal) are true and correct copies of relevant excerpts from the deposition transcript of Alec Peters taken on October 19, 2016.

66. Mr. Burnett also testified that

[REDACTED]

[REDACTED]. **Exhibit B** (Burnett tr. at 151:2-153:12) (confidential document filed under seal) are true and correct copies of relevant excerpts from the deposition transcript of Robert Meyer Burnett taken on October 11, 2016.

67. Defendants created a marketing plan that stated:

[REDACTED]

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[REDACTED] **Exhibit PP** (confidential document

filed under seal) is a true and correct copy of that document.

68. In a post on Axanarproductions.com, Defendants stated: “The Axanar team is happy to announce that we have signed a lease on 16,000sf warehouse in Valencia, CA. The new home of Axanar Productions will be called “Ares Studios....We intend to turn this warehouse and office space into a fully functional sound stage. This will allow us to not only make ‘Axanar’ but other Star Trek projects after Axanar and other Sci-Fi projects. (Robert Burnett and I have already acquired the rights to a fantastic book series by David Gerrold.)” Attached hereto as **Exhibit QQ** is a true and correct copy of a printout from Axanarproductions.com.

69. Diana Kingsbury was the Director of Fulfillment of Axanar Productions. I took her deposition on October 12, 2016. Ms. Kingsbury testified that [REDACTED]

[REDACTED]. **Exhibit D** (Kingsbury tr. at 114:16-25) (confidential document filed under seal) are true and correct copies of excerpts from the deposition transcript of Diana Kingsbury taken on October 12, 2016.

**2. Defendants Profited From The Axanar Works and Intended To Generate Additional Profits Going Forward.**

70. Ms. Kingsbury testified that [REDACTED] **Exhibit D** (Kingsbury tr. at 39:22-41:9) (confidential document filed under seal) are true and correct copies of excerpts from the deposition transcript of Diana Kingsbury taken on October 12, 2016.

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

1 72. Ms. Kingsbury testified that [REDACTED]  
2 [REDACTED] **Exhibit D** (Kingsbury tr.at 15:21-24; 18:7-11;  
3 141:4-15) (confidential document filed under seal) are true and correct copies of  
4 excerpts from the deposition transcript of Diana Kingsbury taken on October 12,  
5 2016.

6 73. Mr. Peters testified that [REDACTED]  
7 [REDACTED]. **Exhibit A** (Peters tr.  
8 at 70:24-71:4; 190:19-191:24) (confidential document filed under seal) are true and  
9 correct copies of relevant excerpts from the deposition transcript of Mr. Peters taken  
10 on October 19, 2016.

11 74. Mr. Peters used donor funds [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 **Exhibit A** (Peters tr. at 189:2-23; 122:21-25; 65:7-18; 193:22-194:18;  
25 209:15-212:22; 195:21-198:1; 213:5-10; 201:6-204:7; 204:11-16; 205:3-16; 203:25-  
26 204:1; 217:6-15; 205:14-16; 205:20-207:9; 207:10-12; 208:2-16) (confidential  
27 document filed under seal) are true and correct copies of relevant excerpts from the  
28 deposition transcript of Alec Peters taken on October 19, 2016. Defendants



1 produced a financial summary that includes line items for these expenditures.

2 **Exhibit SS** (confidential document filed under seal) is a true and correct copy of the  
3 financial summary document produced by Defendants in this case.

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

5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED] **Exhibit**

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

11 76. [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED].

16 77. Mr. Burnett testified that [REDACTED]  
17 [REDACTED]

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

21 78. Mr. Gossett similarly testified that [REDACTED]  
22 [REDACTED]. Attached  
23 hereto as **Exhibit C** (Gossett tr. at 19:15-22:20) are true and correct copies of  
24 excerpts from the deposition transcript of Christian Gossett taken on October 22,  
25 2016.

26 79. Mr. Peters testified that [REDACTED]  
27 [REDACTED] **Exhibit A**

28 (Peters tr. at 455:24-456:16) (confidential document filed under seal) is a true and

1 correct copy of excerpts from the deposition transcript of Alec Peters. Attached  
2 hereto as **Exhibit OO** is a true and correct copy of a Facebook communication  
3 between Mr. Peters and Terry McIntosh, which was produced by Mr. McIntosh,  
4 discussing Mr. Peters' desire to work for CBS.

5 80. Mr. Burnett, like Mr. Peters, did not produce his social media postings,  
6 his online postings, any text messages, or any substantive emails regarding the  
7 Axanar project. However, Plaintiffs were able to locate some of those documents.

8 In Mr. Burnett's deposition, he was asked

9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]

13 81. Mr. Burnett testified:

14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]

17 [REDACTED]. **Exhibit B** (Burnett tr. at 32:6-33:1) (confidential  
18 document filed under seal) are true and correct copies of relevant excerpts from the  
19 deposition transcript of Robert Meyer Burnett taken on October 11, 2016.

20 82. Mr. Burnett was then presented with a lengthy statement that he wrote  
21 in 2015, which he did not turn over, but which provides: "For me personally, I want  
22 to illustrate to the greater industry I can direct a 100 million dollar space epic for  
23 one percent of that budget, proving my filmmaking worth and **hopefully get hired**  
24 **for similar jobs. It's my spec commercial, just done on a larger scale.**" Mr.  
25 Burnett's online statement went on to state that: "People ask 'Why not just go create  
26 your own original material?' Throughout my career, I've done that, but in this day  
27 and age, one must use all avenues to increase awareness of one's abilities.  
28 AXANAR allows us to use an underserved built in audience to show off those

1 abilities and garner attention, and **will hopefully lead to that work attracting**  
2 **private and studio equity so we can finance our own original IP.”** Attached  
3 hereto as **Exhibit RR** is Mr. Burnett’s public statement. **Exhibit B** (Burnett tr. at  
4 31:21-:36:20) (confidential document filed under seal) is a true and correct copy of  
5 relevant excerpts from the deposition testimony of Robert Meyer Burnett.

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

7 83. Mr. Peters testified that [REDACTED]

8 [REDACTED]  
9 [REDACTED]. **Exhibit A** (Peters tr. at 182:1-2; 60:6-61:2)

10 (confidential document filed under seal) is a true and correct copy of relevant  
11 excerpts from the deposition transcript of Alec Peters taken on October 19, 2016.

12 84. Mr. Peters testified that [REDACTED]

13 [REDACTED]  
14 [REDACTED]. **Exhibit A** (Peters tr. at 55:21-58:9; 78:9-80:10)

15 (confidential document filed under seal) is a true and correct copy of relevant  
16 excerpts from the deposition transcript of Alec Peters taken on October 19, 2016.

17 85. Mr. Burnett testified that [REDACTED]

18 [REDACTED] **Exhibit B**

19 (Burnett tr. at 201:19-202:11) (confidential document filed under seal) is a true and  
20 correct copy of an excerpt from the deposition transcript of Robert Meyer Burnett  
21 taken on October 11, 2016.

22 86. A number of the emails produced by Mr. Gossett involve the creative  
23 decisions made by Mr. Gossett and Mr. Peters in connection with copying specific  
24 elements from the Star Trek universe. In his deposition, Mr. Gossett testified  
25 regarding these documents and confirmed that Mr. Peters had approval over the  
26 production, including the designs for the uniforms and costumes worn by the cast,  
27 the designs of the ships portrayed, and the sets that were created. Mr. Gossett also  
28

1 testified that the creative input that he provided to Mr. Peters was “always subject to  
2 [Peters’] approval,” including details such as hair and makeup. Attached hereto as  
3 **Exhibit C** (Gossett tr. at 38:6-16; 161:14-23; 162:9-163:14) are true and correct  
4 copies of excerpts from the deposition transcript of Christian Gossett taken on  
5 October 22, 2016.

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

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

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

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

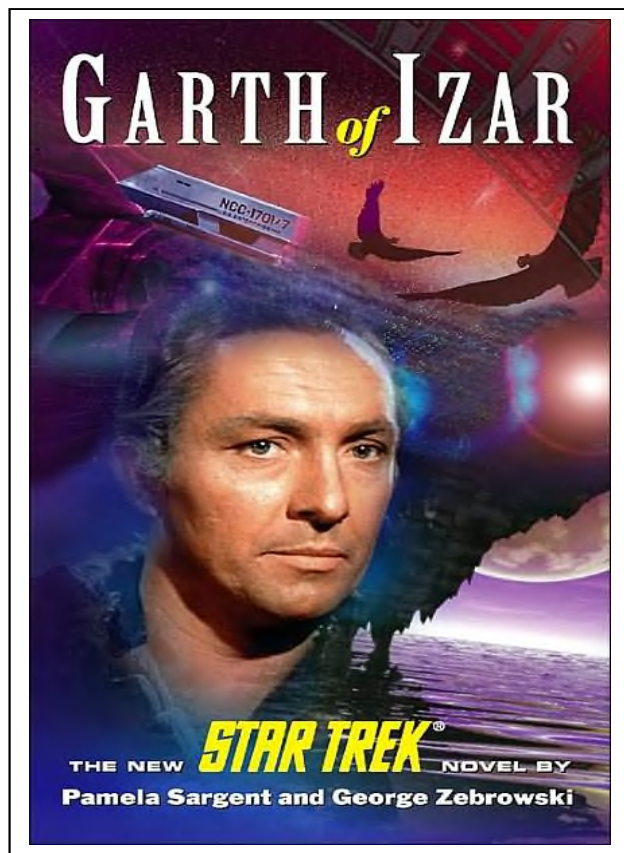
23 91. Attached hereto as **Exhibit VV** are copies of copyright registrations for  
24 *Star Trek – The Motion Picture* (1979), *Star Trek II – The Wrath of Khan* (1982),  
25 *Star Trek III The Search for Spock* (1984), *Star Trek IV: The Voyage Home* (1986),  
26 *Star Trek V: The Final Frontier* (1989), *Star Trek VI – The Undiscovered Country*  
27 (1991), *Star Trek Generations* (1994), *Star Trek: First Contact* (1996), *Star Trek:*  
28 *Insurrection* (1998), *Star Trek Nemesis* (2002), *Star Trek* (2009), *Star Trek Into*

1 *Darkness* (2013), *Star Trek Beyond* (2016) (collectively, the “Star Trek Motion  
2 Pictures”).

3 92. True and correct copies of selected DVDs of the Star Trek Television  
4 Series are being concurrently lodged with the Court. See Notice of Lodging,  
5 **Exhibits 1 through 5.**

6 93. True and correct copies of DVDs of the Star Trek Motion Pictures are  
7 being concurrently lodged with the Court. See Notice of Lodging, **Exhibits 6**  
8 **through 18.**

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



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

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

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

6 [REDACTED].

7           I declare under penalty of perjury under the laws of the United States of  
8 America that the foregoing is true and correct.

9           Executed this 16<sup>th</sup> day of November, 2016, at Los Angeles, California.

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/s/David Grossman  
David Grossman