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AXANAR PRODUCTIONS, INC.,
8 and ALEC PETERS

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11
12 PARAMOUNT PICTURES
CORPORATION, a Delaware
13 corporation; and CBS STUDIOS INC., a
Delaware corporation,

14 Plaintiffs,

15 vs.

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

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

Assigned to: Hon. R. Gary Klausner

**DECLARATION OF ALEC PETERS
IN SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT**

Date: 12/19/16
Time: 9:00 a.m.
Place: Courtroom 850, 8th Floor
255 East Temple Street
Los Angeles, CA 90012
Judge: Hon. R. Gary Klausner

Original Complaint Filed: 12/29/15
First Amended Complaint Filed: 3/11/16

DECLARATION OF ALEC PETERS

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I, Alec Peters, declare as follows:

1. I am the founder of Axanar Productions, Inc. (“Axanar Productions”). I have personal knowledge of the matters set forth herein, and if I were called as a witness, I could and would competently testify to the statements herein.

2. I have been a Star Trek fan since 1966, when I was six years old. I have read hundreds of Star Trek comic books and own every single Star Trek technical manual. I also own the first edition of every single original series Star Trek hardcover novel. I have seen every episode of Star Trek many times over, and have seen every Star Trek movie at least a dozen times, including the 2009 Star Trek reboot, which I saw in theatres four times.

3. In 2006, I attended the Paramount Star Trek 40th anniversary auction at Christie’s in New York and obtained my first two screen-used Star Trek costumes. Since that time, I have operated the internet blog, *The Star Trek Prop, Costume & Auction Blog* (<http://startrekauction.blogspot.com/>), which is devoted to providing information on collecting original, screen-used *Star Trek* costumes and props. I later founded my own auction company, Propworx, which held multiple auctions selling off production material from various science fiction franchises, including *Star Trek*, and I have spent well over \$200,000 on screen-used Star Trek props and costumes.

4. My expertise in this area led me to work as a volunteer *Star Trek* archivist for CBS. In this role, I cataloged hundreds of props and costumes to ensure that the relics of the Star Trek shows and movies would be properly preserved for prosperity. I also donated warehouse space to house many of the objects.

5. In 2010, I obtained the original screen-used costume of the character Garth of Izar from the third season Star Trek episode, “Whom Gods Destroy.” Garth of Izar has only ever appeared in one of the over 700 TV episodes, and in that episode, he appeared as a man who had gone mad after returning from war. However, Garth of

1 Izar was fascinating to me, and I was given the opportunity to portray Garth in an
2 episode of *Star Trek: New Voyages*, the longest running Star Trek fan film.

3 6. Like thousands of Star Trek fans over the last several decades, I have
4 honored and expressed my love for Star Trek through writing my own Star Trek
5 stories, which most prominently have centered around Garth of Izar. Over a four year
6 period starting in 2010, I began writing a script that centered around Garth of Izar, and
7 with a small group of Star Trek friends, undertook steps to make a modest fan film. I
8 launched a Kickstarter campaign in March 2014, asking for \$10,000 to assist with
9 production costs, and planned to further fund the film by selling some of my Star Trek
10 prop and costume collection.

11 7. To my surprise, and to the surprise of all involved, the Kickstarter raised
12 \$101,000.00. The total budget for *Prelude to Axanar* ended up being \$125,000.00.
13 This allowed the team at Axanar Productions, Inc. to work full time to get a short
14 “mockumentary” style film done. The short film, titled *Prelude to Axanar*, premiered
15 at San Diego Comic-Con in July 2014 and was distributed for free on YouTube in
16 August 2014, where it can still be seen today (available at
17 https://www.youtube.com/watch?v=1W1_8IV8uhA). Part of the reason we chose to
18 release *Prelude to Axanar* was to show potential backers that we had the bona fide
19 ability to create a high quality fan film. Since its release, it has won 47 independent
20 film festival awards all over the world. This is, in part, attributable to the unique
21 narrative “mockumentary” style, which is reminiscent of historical documentaries
22 regarding famous wars and their impacts. The mockumentary style of the film
23 allowed us to add critical commentary and analysis to the work in order to highlight a
24 comparison of concepts in the Star Trek universe to the present-day military industrial
25 complex, thus serving a different purpose than Plaintiffs’ Works, which I understand
26 to be solely entertainment-focused. Furthermore, in portraying Garth of Izar, I hoped
27 to examine issues of post-traumatic stress disorder and other psychological issues
28 associated with war. To this end, I drew inspiration from the performance of veterans

1 depicted in the HBO mini-series, “Band of Brothers.” *Prelude to Axanar*, as a
2 consequence, is both a commentary and satire, exposing the horrors of war in ways the
3 original *Star Trek* series did not. A true and correct copy of *Prelude to Axanar* is
4 attached hereto as **Exhibit 1**. This short film was produced by Defendants with Bates
5 Number AX031132.

6 8. Of the six total characters that appeared in *Prelude to Axanar*, four are
7 original: Marcus Ramirez, Sam Travis, Sonya Alexander, and Kharn.

8 9. With the success of and enthusiasm surrounding *Prelude to Axanar*,
9 Axanar Productions, Inc. hoped to continue with a feature length film, and set up a
10 Kickstarter to fund the project in March of 2014. This feature length film (“Potential
11 Fan Film”) was intended to continue the story established by *Prelude to Axanar*, and
12 drew on such war story inspirations as “The Longest Day,” “Patton,” and “The Hunt
13 For Red October.” Again, the Kickstarter campaign raised far more than initially
14 expected. One of the earlier scripts was created, and the team began to work on
15 concept art for the uniforms, build ships and create visual effects. In order to create
16 the production, we also rented a warehouse and turn it into a soundstage. There, we
17 were able to shoot an original, three-minute scene with original dialogue and posted it
18 for free on YouTube (available at <https://www.youtube.com/watch?v=zThnJgk-k1Q>).
19 Known as the *Vulcan Scene*, the short clip served as an indicator of what fans could
20 expect should the larger project come to fruition, and helped raise more donations to
21 cover production costs. The *Vulcan Scene* was a continuation of the critical analysis
22 seen in *Prelude to Axanar*. A true and correct copy of the *Vulcan Scene* is attached
23 hereto as **Exhibit 2**. This short scene was produced by Defendants with Bates
24 Number AX031131.

25 10. Of the two characters featured in the *Vulcan Scene*, one is original:
26 T’Lera.

27 11. From the inception, and until the lawsuit was filed, I always believed I
28 was operating within the tolerated realm of Star Trek fan fiction, and reached out to

1 CBS on multiple occasions in an effort to seek guidelines about the production. I
2 spoke with CBS Star Trek brand manager and licensing director John Van Citters,
3 who I knew from working as CBS's *Star Trek* archivist. I also met with CBS
4 Consumer Products Executive Vice President Liz Kalodner in 2012, and had
5 discussions with Van Citters and Consumer Products Vice President Bill Burke at the
6 Las Vegas Star Trek Convention in 2013. CBS Home Video Executive Vice
7 President Ken Ross, who attended the premier of *Prelude to Axanar* at the San Diego
8 Comic-Con, also spoke with me regarding the fan film. Though CBS would not
9 provide specific guidelines, I understood from these discussions that as long as my
10 work remained "non-commercial," it would be tolerated, and that CBS would let me
11 know if I had "gone too far."

12 12. Without any further warning, I learned reading a news article that CBS
13 and Paramount Studios sued me. Though it was initially alleged that I was infringing
14 on hundreds of Plaintiffs' works, roughly 51 works remain at issue. While I
15 understand that Plaintiffs do have copyright registrations to central Star Trek
16 characters like Spock and Captain Kirk, notably, Plaintiffs have *not* registered
17 copyrights to the characters Garth of Izar, or the other characters used in Defendants'
18 Works, most of whom are original creations of Axanar Productions.

19 13. It was further alleged by CBS and Paramount that a "fully revised and
20 locked" script existed for the Potential Fan Film. To the contrary, there were over 40
21 scripts produced in this case, including approximately 12 that were drafted following
22 the Facebook page post proclaiming there was a "fully revised and locked" script.
23 "Locked script" is a term of art that means that no new sets, scenes, or characters will
24 be added to a script, and is used to aid in budgeting purposes. Defendants are not
25 currently committed to following any of the existing scripts, and still remain
26 undecided on what format, length and substance the Potential Fan Film will take,
27 including how much inspiration we draw from the Star Trek universe. We hope to
28

1 obtain guidance based on what is decided regarding *Prelude to Axanar* and the *Vulcan*
2 *Scene* before deciding how to proceed with the Potential Fan Film.

3 14. A true and correct copy of the latest updated script, dated July 1, 2016, is
4 attached hereto as **Exhibit 3**. This script was produced to Plaintiffs in this litigation
5 as “CONFIDENTIAL” with Bates Numbers AX031943 – 032066. Indeed, many
6 revisions have occurred even without my knowledge. Because we are still working on
7 original material and do not want our scripts compromised, Defendants treat the script
8 itself as confidential. Although I was not aware of this script at the time of my
9 deposition, it was produced in connection with our writer, Bill Hunt’s deposition,
10 which he has continued to refine without my input. Again, at present, we are not fully
11 committed to proceeding on any of the existing scripts. We are considering a number
12 of options for moving forward with the Potential Fan Film, including making a
13 number of short “mockumentary” style episodes rather than a single feature-length
14 film.

15 15. Though the Potential Fan Film script continues to evolve, this July 1,
16 2016 version of the Potential Fan Film script included 50 original characters (of a total
17 57 characters): Kharn, Tanaka, Admiral Threl, Wagner, Alexander, Corax, K’rae,
18 Alexei Leonov, Mor’o, Arev, Sam Travis, T’Lera, Both, Cross, Caine, V’Nera,
19 Moron, Walker, Federation President, Near, Trask, Gates, Here, Erik, Grunt, Logan,
20 Carter, March, Jackson, Feng, Computer, Ajax Tactical Officer, Ajax Com Officer,
21 Andorian Tactical Officer, Tellerite Tactical Officer, D-6 Weapons Officer, Klingon
22 Delegate, Enterprise Tactical Officer, News Announcer, Andorian Com Officer,
23 Vulcan Tactical Officer, Intelligence Officer, Starfleet Officer #1, Starfleet Officer #2,
24 Klingon General #1, Klingon General #2, Klingon Officer, Klingon Helmsman, D-7
25 Officer, Klingon Hordes.

26 16. Nevertheless, neither *Prelude to Axanar*, nor the Potential Fan Film was
27 ever intended to compete with, or serve as a substitute for, Plaintiffs’ business.
28 Through various iterations, the unfinished scripts for the Potential Fan Film always

1 strived to tell a back story, indeed a “war story that had never been seen before,” about
2 Garth of Izar in an original manner. Without the inclusion of the minor Star Trek
3 elements we used in *Prelude to Axanar* and the *Vulcan Scene*, and that we planned to
4 use in the Potential Fan Film, we would be unable to honor the Star Trek canon and
5 the long-enduring tradition of Star Trek fan fiction. However, we were very cognizant
6 of maintaining the originality of our story.

7 17. Although disappointed and immensely hurt by Plaintiffs’ actions, I
8 remain a devoted Star Trek fan, and freely promoted Plaintiffs’ most recent feature
9 film, *Star Trek Beyond*, to *Prelude* supporters. On June 16, 2016, I wrote via Twitter:
10 “While the lawsuit may not be over, we appreciate JJ Abram’s and Justin Lin’s
11 support! And we all are looking forward to Star Trek Beyond!” A true and correct
12 copy of the statement is attached hereto as **Exhibit 4**.

13 18. After seeing *Star Trek Beyond*, I further encouraged *Prelude* supporters
14 to see Plaintiffs’ work. On July 21, 2016, I wrote via Facebook: “Go see Star Trek
15 Beyond! It is a great movie, real Star Trek and a whole lot of fun.” I further stated
16 that, “we prefer that we all share in the love of Star Trek and celebrate the 50th
17 anniversary of our beloved show.” A true and correct copy of the statement is
18 attached hereto as **Exhibit 5**.

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I declare under the penalty of perjury that the foregoing is true and correct.

Dated this 16th day of November, 2016 at Los Angeles, California.



Alec Peters

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