

EXHIBIT 5 TO OKI DECLARATION

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PARAMOUNT PICTURES CORPORATION, a)	
Delaware corporation; and CBS)	
STUDIOS INC., a Delaware)	
corporation,)	
)	CASE NO.
Plaintiffs,)	2:15-cv-09938-
)	RGK-E
v.)	
)	
AXANAR PRODUCTIONS, INC., a)	
California corporation; ALEC)	
PETERS, an individual, and DOES)	
1-20,)	
)	
Defendants.)	
)	

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VIDEOTAPED DEPOSITION OF ROBERT MEYER BURNETT

Date and Time:	Tuesday, October 11, 2016 10:13 a.m. - 3:57 p.m.
Location:	10100 Santa Monica Boulevard Suite 2200 Los Angeles, California
Reporter:	Christianne Lee Fong, CSR, CCRR Certificate No. 7559
Job No.	8117

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1 for the record to be clear, that we're talking about
2 "Prelude to Axanar," which we can all see and we can
3 all watch, and then we're talking about, with
4 respect to the feature film, something that's not
10:29 5 been made, with the exception of certain -- one
6 scene, the Vulcan scene, and some special effects.

7 BY MR. GROSSMAN:

8 Q Did Mr. Peters tell you anything else about
9 why he believed either "Prelude to Axanar" or the
10:29 10 full-length "Axanar" film constituted fair use or
11 was transformative?

12 A Because it had never been done before. No
13 one had ever made the kind of a short film in the
14 Star Trek realm, and it was based on materials and
10:29 15 ideas that came from other outside sources. The
16 inspiration to make "Prelude to Axanar" was not --
17 it did not come from Star Trek.

18 Q What do you mean by that?

19 A Well, as Alec has frequently said, the
10:30 20 inspiration to make this documentary came from a
21 "M*A*S*H" episode. There was a "M*A*S*H" episode in
22 the '70s where a group of reporters came to the
23 477th to interview the characters about the war.

24 And there were elements -- there was an
10:30 25 episode of "Babylon 5," for instance, where a group

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1 of reporters came to the station to interview the
2 characters.

3 And then of course, the "Band of Brothers,"
4 the HBO miniseries, there was a documentary about
10:30 5 the actual -- that company of soldiers that "Band of
6 Brothers" documented, or their exploits.

7 And all of that film, "Prelude to Axanar,"
8 was inspired by those things.

9 Q What about "Axanar," the full-length
10:30 10 feature film?

11 A Well, "Axanar," the full-length feature
12 film, was -- again, it was derived from -- it was
13 inspired by movies like "The Longest Day," "Patton."

14 I always saw it as -- I would tell people
10:31 15 quite often that I saw it as sort of "The Hunt for
16 Red October," how it was an ensemble film with
17 multiple points of view. It had never been done in
18 the Star Trek space before.

19 When I say "Star Trek space," I mean the
10:31 20 Star Trek universe, within the confines of the Star
21 Trek realm.

22 And we were trying to tell a story that had
23 never been told before.

24 Q When you say, "It had never been done
10:31 25 within the confines of the Star Trek realm," what do

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1 Q And those were covered by the Axanar
2 Productions?

3 A Yes. That's -- yes.

4 Q When was the last time that you were paid
12:04 5 for your services by Axanar Productions?

6 A It was earlier in 2016.

7 Q And what was that for? What work was that
8 for?

9 A The work that I was doing on the feature
12:05 10 film.

11 Q So what were you doing in 2016 on the
12 feature film?

13 A We continued work on the feature in the
14 hopes that we could make it. And it was agreed --
12:05 15 well, yes. I continued developing the script. I
16 continued working on the scripts. I continued
17 working on visual effects. I continued on -- but
18 none of it was ever finished.

19 Q Okay. So "Axanar," the feature film, when
12:05 20 did you start working in earnest on that?

21 A In October of 2015. When I had finished
22 the other -- throughout 2015, I'd been editing other
23 feature films and working on other projects that
24 were un- -- not related to Axanar. And I came on
12:06 25 board full time in October 2015.

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1 script every day.

2 Last two words all caps. (As read):

3 You've been sent drafts and

4 haven't commented on anything until

12:16 5 now. In the month of October, we

6 have refined the script, and I

7 finished my part on the optical VFX

8 shots with Tobias.

9 Do you see that?

12:16 10 A Yes.

11 Q When you say that you and Bill were working

12 on the script every day, is that what you were

13 referring to in your previous testimony?

14 A Yes. We talked about the script every day.

12:16 15 All the time.

16 Q At this point, in November of 2015, was the

17 script close to complete?

18 A Well, I would say a script is never

19 complete. As the old adage is, a movie is written

12:17 20 three times. It's written on the page; it's written

21 when you make the film; and then it's written

22 again -- rewritten in the edit bay.

23 No, I didn't think the script was complete.

24 But we were still months away from shooting, so it

12:17 25 didn't have to be.

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1 Q My question may have been inartful.

2 There was a full-length script that had
3 been drafted; is that right?

4 A There was, yes.

12:17 5 Q But you and Mr. Hunt were still making
6 revisions to the script at this point?

7 A Yes.

8 MR. GROSSMAN: We're going to have to take
9 a break. We'll go off the record.

12:17 10 THE VIDEOGRAPHER: The time is
11 approximately 12:17 p.m. This is the end of
12 Videotape No. 1. We're off the record.

13 (A discussion was held off the record.)

14 (Lunch recess taken from 12:18 p.m.

12:18 15 to 1:03 p.m.)

16 THE VIDEOGRAPHER: The time is
17 approximately 1:03 p.m. This is the beginning of
18 Videotape No. 2. We're back on the record.

19 BY MR. GROSSMAN:

01:03 20 Q Good afternoon, Mr. Burnett. Before the
21 break we were looking at Exhibit 44.

22 A Yes, sir.

23 Q Do you still have that in front of you?

24 A Yes, sir, I do.

01:04 25 Q And we were looking specifically at the

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1 going to shoot."

2 And so I was able to -- our donors could
3 see it and fans could see it, and then they could
4 see how the scene developed towards the finished
01:10 5 film.

6 I do that a lot. I can't draw. So I take
7 pictures using photographic reference materials,
8 which is easier for me, because then you get a sense
9 of what lenses you're going to use and that kind of
01:11 10 thing, and then people can look at it and see.

11 Q Do you recall any reference materials that
12 you used for that particular scene?

13 A No. I mean, it was -- the environment that
14 it was shot in, I made up. There was a question --
01:11 15 the whole idea of a sculpture garden, I came up with
16 this idea, that if there was a place where people
17 would go to meditate, like Vulcans would go to
18 meditate or whatever before they went in and had a
19 conference, what would it be? And I thought
01:11 20 wouldn't it be interesting if it was a sculpture
21 garden. And I said -- Tobias said, "What do you
22 mean, 'sculpture garden'? Like, what is it?"

23 And I said, "Well, I don't know. What if
24 it was sculptures of fractals or scientific
01:12 25 algorithms or something?"

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1 And he said, "But I don't know what that
2 looks like."

3 And I said, "I don't either." So I went
4 online and I Google-searched it, and, sure enough,
01:12 5 there was a gallery show in Spain, I think, and the
6 gallery show in Spain was literally that. It
7 literally had fractals.

8 And I said, "That's cool." I said, "Check
9 this out, Tobias. Can you do something like that,
01:12 10 and can we do that?"

11 He goes, "I guess. Like, I don't know. I
12 have to build those -- those."

13 And I said, "Okay, well, let's do that."
14 Because no one had ever seen that before. So it was
01:12 15 something that certainly hadn't appeared before in
16 Star Trek, and it was something I thought would be
17 cool.

18 Q Had the planet Vulcan been depicted before
19 in Star Trek canon?

01:12 20 A Yes, numerous times.

21 Q And when do you recall it being depicted?

22 A The first time it was ever seen was in the
23 second season -- the first episode of "Star Trek,"
24 the second season, called "Amok Time," where you see
01:13 25 Kirk battles -- famously battled Spock to the death.

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1 tried to make them fairly regularly. It was really
2 schedule dependent on whether people could come.

3 Q After the lawsuit was filed, did you
4 continue to have those meetings?

02:51 5 A No.

6 Q Why not?

7 A We halted all production on the film,
8 really, in terms of all the major production. So
9 there was really no reason, if we weren't going to
02:51 10 make the movie, to have those meetings.

11 (Exhibit 61 marked.)

12 BY MR. GROSSMAN:

13 Q I've had marked as Exhibit 61 an email from
14 Mr. Peters to you and a number of others dated
02:52 15 May 9, 2016, subject: Axanar staff meeting.

16 It says (as read):

17 Today at 4:30 we have our Axanar
18 staff meeting. Terry, Mike, Morey
19 and maybe Bing will join by
02:52 20 Skype/Google.

21 Who was Morey?

22 A Morey, he is one of our publicity guys. He
23 lives in Israel.

24 MS. RANAHAAN: Let me just object to the
02:52 25 extent that this was a legal meeting that I

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1 place in the Star Trek universe.

2 The other character was the character of
3 Garth of Izar. But he beared no resemblance to the
4 Garth of Izar we saw in the Star Trek episode "Whom
03:11 5 Gods Destroy," because he was a crazy, insane person
6 in that episode. He was The Joker incarcerated in
7 Arkham Asylum, essentially.

8 But the idea was --

9 Q But it was a later time period in his life.

03:12 10 A Yeah. It was a later time that he had gone
11 insane. We never saw Garth as a starship captain.
12 So he was a much different version, different
13 iteration of the character that Alec basically made
14 up. So -- because the character never -- you never
03:12 15 saw him that way before.

16 That area -- and the same was actually true
17 of Soval, because Soval -- the last time I saw him
18 was 80 years prior. So it was, like, what would
19 Soval be like 80 years from now? Would he be
03:12 20 different? Would he be nice? Would he be happy?
21 Would he be sad? Like, how would he be? There was
22 no way to tell.

23 So you kind of had to extrapolate what
24 would happen if a character lived 80 more years.
03:12 25 How would he be?

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1 over you?

2 A No. No, but I say that flippantly. With
3 all due respect, I would clear everything with Alec.
4 I mean, it was something that I wanted to do, and I
03:24 5 would show everything to Alec, and we made a joint
6 decision on whether or not it was good or not.
7 Because, after all, it was his project.

8 But the thing was, Alec and I were so much
9 of the same mind when it came to Star Trek. If I
03:24 10 had an idea, it was usually something he said, "Oh,
11 yeah, that's cool. Let's do that."

12 Q And because the setting of the "Axanar"
13 feature film was going to be just before the events
14 of the original series --

03:24 15 A Well, it's actually 20 years before the
16 original series -- 21 years before the original
17 series.

18 Q Right. I didn't mean to imply it was a
19 week before.

03:24 20 A Yeah, right.

21 Q Because it was going to be set in that time
22 period, is it correct to say that you as the
23 director intended to use the Star Trek races and
24 species that were portrayed in the original series?

03:25 25 A Well, that's an interesting question.

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1 Because the Klingons, as portrayed in the original
2 series, were not the Klingons that were later
3 portrayed in the motion pictures or the television
4 shows.

03:25 5 Q In terms of their visual representation.

6 A Right, in terms of their visual
7 representation. And there was a lot of talk about
8 that. And, unfortunately, it would be difficult to
9 go back and portray the Klingons the way they were
03:25 10 portrayed in the original series, because it would
11 seem strange that they were then changed.

12 Q Because of current perception?

13 A Because of current perception. So it's a
14 quandary. As a Star Trek fan, what do you do? And,
03:25 15 to be honest with you, those were ongoing
16 discussions.

17 We knew that we had our character Chang --
18 I mean Kharn, pardon me, the Richard Hatch character
19 who was portrayed as a movie era Klingon. And
03:26 20 however would we use -- or there was a virus that
21 caused that. It's Star Trek canon. But would we go
22 back and use people that didn't have makeup? It was
23 a discussion.

24 And we talked about doing both, doing none,
03:26 25 a mix and match of the two.

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DECLARATION

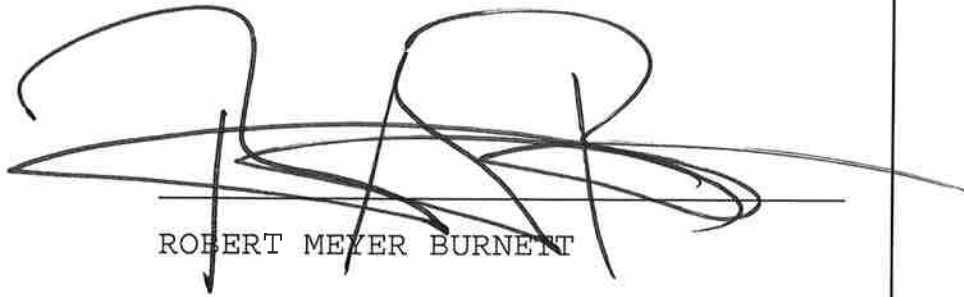
I, ROBERT MEYER BURNETT, say I have read the foregoing deposition and declare under penalty of perjury under the laws of the State of California:

That the foregoing is my deposition under oath;

That I have read same and have made the necessary corrections, additions, or changes to my answers that I deem necessary;

That my answers as indicated are true and correct.

Executed at Valencia,
California, this 1 day of NOVEMBER,
2016.



ROBERT MEYER BURNETT