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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 OPPOSITION TO PLAINTIFFS'  
MOTION FOR SUMMARY  
JUDGMENT**

Date: 12/19/16  
Time: 9:00 a.m.  
Place: Courtroom 850, 8<sup>th</sup> 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

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**DECLARATION OF ALEC PETERS**

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. In 2013, I collaborated with Christian Gossett in writing the screenplay for *Prelude to Axanar* (“*Prelude*”), a short (around 20 minutes), original mockumentary available on Youtube for free since 2014. Since then, I co-wrote various versions of the unmade potential fan film, *Axanar* with Bill Hunt.

**Prelude and Axanar Are Original, Creative Works**

3. As I understood at the time between 2014 and when I was sued in December 2015, I believed *Prelude* and our plans for *Axanar* fell within the tolerated realm of fan fiction that Plaintiffs had not previously taken issue with.

4. *Prelude* and *Axanar* take place in a time period previously unexplored by any official Star Trek episode, film or other work (21 years before the Original Series), with an original plot, and a large number of original characters. *Prelude* was set in a unique “mockumentary” style never before used by Plaintiffs. We also sought to create a first war-like documentary Star Trek project with *Prelude*, pulling source material from M\*A\*S\*H and Band of Brothers, and now potentially *Axanar*, pulling from various sources including *Midway*, *Patton*, *Saving Private Ryan*, *A Bridge Too Far*, and *Tora, Tora, Tora*.

5. My legal training and subsequent research into copyright issues furthered my understanding that using more obscure characters (as opposed to central Star Trek characters) and infusing originality (as opposed to replicating prior works), including through style and incorporating alternate sources, would weigh against infringement, and/or in favor of fair use.

6. Accordingly, we did not “take” main characters, sequence, themes, moods, or dialogue from any official Star Trek episode, film or other work. We did

1 not seek to recreate scenes like many other fan films. The mood and themes of  
2 *Prelude*, and that were intended by *Axanar*, have never been seen before in any  
3 official Star Trek episode, film or other work. Indeed, we promoted these projects,  
4 including through Kickstarter and various other promotional materials, as “Star Trek  
5 like you have never seen before.” For example, Defendants portrayed the character  
6 Garth of Izar in ways that explain what drove him mad and caused him to suffer what  
7 could now be described as post-traumatic stress disorder.

8 7. Additionally, none of the settings in *Prelude* were the same as any setting  
9 used in any official Star Trek episode, film or other work. For example, “Starfleet” is  
10 a generic term used in science fiction generally, and in Star Trek itself, to indicate  
11 space ships from different races. Further, our system of “stardates” is merely the year  
12 followed by a decimal point and a number to indicate the month. We do not know  
13 how Stardates were measured in any official Star Trek episode, film or other work, as  
14 Plaintiffs have never provided a formula.

15 8. The only Vulcan appearing in *Prelude*, Soval, is substantially different:  
16 his hair, age, and costume are different from any Vulcan seen in any official Star Trek  
17 episode, film or other work.

18 9. Furthermore, *Prelude* features only one Klingon, Kharn. The  
19 representation of Kharn is not substantially similar to the Klingons seen in any official  
20 Star Trek episode, film or other work. Klingons did not even have a consistent  
21 appearance across any official Star Trek episode, film or other work, appearing as  
22 little more than actors wearing brown make-up to darken their skin in *Star Trek: The*  
23 *Original Series*, and appearing as characters with large head ridges, and big, dog-like  
24 teeth in later television episodes and motion pictures.

25 10. Additionally, neither the U.S.S. Enterprise nor the Klingon starships of  
26 Star Trek are featured in *Prelude* or *Axanar*. Instead, the U.S.S. Enterprise and the  
27 Klingon D-7 Battlecruiser of *Star Trek: The Original Series* are each seen in one short  
28 shot lasting mere seconds. Other than these brief cameos, *Prelude* does not feature the

1 U.S.S. Enterprise and features different Klingon battlecruisers from those seen in any  
2 official Star Trek episode, film or other work. The battlecruisers featured in *Prelude*  
3 are original designs, created by Axanar VFX coordinator Tobias Richter.

4 **We Never Earned Or Intended To Earn Any Profit From *Prelude* Or *Axanar***

5 11. Both the production and promotion of *Prelude* and the unfinished *Axanar*  
6 were funded by donations on Kickstarter, Indiegogo, and through PayPal. In exchange  
7 for donations on *Prelude*, we provided donors with perks that included various  
8 merchandise. The merchandise did not include any Star Trek marks, but was instead  
9 “Axanar” branded, not Star Trek branded.

10 12. Defendants raised \$113,832.78 during their Kickstarter campaign  
11 for *Prelude*, which had a production budget of \$149,731.20. Defendants raised  
12 \$1,233,964.84 during their Kickstarter and Indiegogo campaigns for the Potential Fan  
13 Film, which has not been completed, but has already cost Defendants in excess of  
14 [REDACTED]. Defendants not earned any profits from Defendants’ Works, [REDACTED]

15 [REDACTED].

16 13. [REDACTED]

17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]

21 14. [REDACTED]

22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]  
26 [REDACTED]  
27 [REDACTED]  
28 [REDACTED]

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[REDACTED]

15. [REDACTED]

[REDACTED]

[REDACTED] No profit has been earned by anyone in connection with *Prelude* or *Axanar*, or through donor funds collected to create these works.

16. Though we hoped that our projects would lead to other work down the road, perhaps even leading to my dream of working on an official Star Trek project coming true, we made *Prelude* and *Axanar* because we love Star Trek, not for any profit, and never had any plans to commercialize the works in any way.

17. [REDACTED]

[REDACTED]

18. [REDACTED]

[REDACTED]

19. We entered a three-year lease to rent out a studio to produce *Axanar*, instead of using other fan film sets, after it was insisted upon by director Christian Gossett. [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED].

4 20. Despite my longstanding relationship with CBS, including producing the  
5 2010 Star Trek prop & costume auction under license, volunteering my time and  
6 facilities for the Star Trek Archive, and ongoing communications about our projects, I  
7 was shocked and disappointed when Plaintiffs sued me without even first sending a  
8 cease and desist letter, when I was previously told by CBS that they would let me  
9 know if we had “gone too far.” When the lawsuit was filed in December 2015, we  
10 halted production and were left with a lease, while also facing the uncertainty of  
11 potentially crippling liability.

12 21. [REDACTED], as this lawsuit has thus far  
13 delayed our production of *Axanar*. [REDACTED]

14 [REDACTED]

15 [REDACTED].

16 **The Departures of Christian Gossett and Terry McIntosh From Axanar**

17 22. Beginning in 2015, I had concerns and personal disagreements with both  
18 Christian Gossett and Terry McIntosh that caused them to disassociate with Axanar  
19 Productions and *Axanar*. Both Mr. Gossett and Mr. McIntosh strongly dislike me and  
20 would like to bring me and *Axanar* down, which has been demonstrated extensively  
21 through social media and other interviews.

22 23. On or around May 2015, Mr. Gossett left the production of *Axanar* to  
23 work on a feature film and other ventures. I was informed of his departure via a  
24 Facebook post. Without any evidence, and following several heated conversations, he  
25 then later falsely [REDACTED].

26 24. As for Mr. McIntosh, who dealt with intellectual property issues with  
27 respect to *Prelude*, he encouraged me to trademark “Axanar.” [REDACTED]  
28 [REDACTED]. In 2016, Mr. McIntosh subsequently left the

1 production of *Axanar*, blocked me on Facebook, and since that time, has continued to  
2 spread inaccuracies and hate about me through social media.

3 **Prelude and Axanar Are Fan Films**

4 25. Any distinction I made between “fan films” *Prelude* or *Axanar* as  
5 “professional” was made only to distinguish the quality of what we were trying to  
6 achieve from the majority of other projects within the fan film community.  
7 Accordingly, in the *Axanar* Annual Report, previously attached hereto as **Exhibit 1**,  
8 we stated that “after the success of *Prelude to Axanar*, it was clear that we had to do  
9 even better as our fans had now come to expect quite different from what they had  
10 seen in other fan films.”

11 26. With respect to *Prelude* and *Axanar*, there were many instances in which  
12 both we referred to our works as “fan films,” including:

- 13 a. A true and correct copy of an email I sent to Mallory Levitt  
14 seeking guidance from CBS in the area of fan films is attached  
15 hereto as **Exhibit 3**. This document was produced by Plaintiffs  
16 with Bates Range PL0013787-PL0013788.
- 17 b. A true and correct copy of a Facebook post I made mentioning the  
18 “Star Trek Fan Film Festival” at FedCon 2015, and the hope that  
19 the fan film festival would also be the European premiere of  
20 “Axanar,” is attached hereto as **Exhibit 4**. This document was  
21 produced by Plaintiffs with Bates Number PL0013517.
- 22 c. A true and correct copy of an email from Marian Cordry of  
23 Plaintiff CBS Studios Inc., to John Van Citters discussing my “Star  
24 Trek Fan Film Festival” Facebook post, and stating that “the Fan  
25 Film bandwagon just keeps rolling on,” is attached hereto as  
26 **Exhibit 5**. This document was produced by Plaintiffs with Bates  
27 Range PL0013502-PL0013503.

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- d. A true and correct copy of an Axanar Productions Press Release stating that “[t]wo major players in the universe of Star Trek fan films” planned to collaborate, and stressing that it was “important to work with other productions and share the spotlight with the entire fan film community,” is attached hereto as **Exhibit 6**. This document is publicly available on axanarproductions.com.
- e. A true and correct copy of a Facebook response made by Axanar stating that as long as *Axanar* “or any fan film production, adheres to [CBS’s] guidelines [regarding fan films] in good faith, then we have every hope that we’ll be allowed to continue,” is attached hereto as **Exhibit 7**. This document was produced by Plaintiffs with Bates Number PL0011822.
- f. A true and correct copy of a Facebook post made by Axanar stating that we “try and adhere strictly to [CBS’s] guidelines, specifically not making a profit, not selling merchandise with on it (Like “Star Trek” or the Enterprise of the insignia chevron) and only taking donations to fund productions” and that “Our move to eliminate “Star Trek” branding is simply going an extra mile to respect the entity which allows Axanar to be made and honor the Star Trek franchise we all hold so dear,” is attached hereto as **Exhibit 8**. This document, produced as “Confidential,” was produced by Plaintiffs with Bates Number PL0008222.
- g. A true and correct copy of a blog post from the Axanar Productions website stating, “Why do you think no other fan film does conventions like Axanar does?” is attached hereto as **Exhibit 9**. This document was produced by Plaintiffs with Bates Number PL005718.



- 1 h. A true and correct copy of a blog post from the Axanar  
2 Productions website stating that, “[w]hile Axanar is more  
3 professional, and has raised more money than all other Star Trek  
4 fan films combined, we use less Star Trek IP than almost most of  
5 them,” is attached hereto as **Exhibit 10**. This document was  
6 produced by Plaintiffs with Bates Range PL005973-PL005989.
- 7 i. A true and correct copy of a document created in conjunction with  
8 Comic Con describing “Star Trek Axanar” as a “Star Trek Fan  
9 Film” is attached hereto as **Exhibit 11**. This document was  
10 produced by Plaintiffs with Bates Range PL0000106-PL0000134.
- 11 j. A true and correct copy of an email I sent to Morgen Schneider  
12 stating that, “[m]y experience and a great team of people, is what  
13 has made Axanar the most successful and best Star Trek fan film  
14 project of all time,” is attached hereto as **Exhibit 12**. This  
15 document, marked as “Confidential,” was produced with Bates  
16 Number AX030370.

17 27. Because I reported infringing activity to CBS in the past, in response to  
18 which CBS took no action, this furthered by belief that I was acting within the realm  
19 of fan films tolerated by Plaintiffs. A true and correct copy of an Axanar Facebook  
20 post stating, “Think ‘Axanar’ was the first professional Star Trek fan film? Or was it  
21 ‘Renegades’? ‘Of Gods and Men’? Guess again. It was ‘Star Trek: New Voyages’  
22 way back as early as 2006,” is attached hereto as **Exhibit 13**. We produced this  
23 document with Bates Number AX035850. A true and correct copy of an Axanar  
24 Twitter post stating that subsequent to this lawsuit, “CBS shuts down another fan  
25 film,” is attached hereto as **Exhibit 14**. We produced this document with Bates  
26 Number AX035927.

27 28. Additionally, well after I contacted Plaintiff CBS for guidance on  
28 adhering to fan film guidelines, [REDACTED]

1 [REDACTED]  
2 [REDACTED] A true and correct copy of an email from Leslie Ryan of Plaintiff CBS Studios  
3 Inc. is attached hereto as **Exhibit 15**. This document, marked as “Confidential,” was  
4 produced by Plaintiffs with Bates Range PL0012814-PL0012816. [REDACTED]

5 [REDACTED] run  
6 [REDACTED] A true and correct copy of an email from Marian Cordry of Plaintiff CBS  
7 Studios Inc. is attached hereto as **Exhibit 16**. This document, marked as  
8 “Confidential,” was produced by Plaintiffs with Bates Number PL0008689.

9 29. Ultimately, we only intended *Prelude* and *Axanar* to be high quality  
10 additions to the fan film community. Given various delays and constantly-evolving  
11 plot changes, we still do not even have a “final shooting script” for *Axanar*. A true  
12 and correct copy of the script at issue, revision 7.7 of the script for the unmade  
13 *Axanar*, dated November 26, 2016, was attached to the Grossman Decl. (Dkt. 72-2),  
14 filed on November 16, 2016, as Exhibit M. Of the 57 characters that appear in the  
15 most recent script of the unmade *Axanar*, there are only seven characters that have  
16 appeared previously in any official Star Trek episode, film or other work. All seven  
17 of those characters played minor roles.

18 30. A true and correct copy of revision 10.0-NX, the most-recent revision to  
19 the script for the unmade *Axanar*, dated July 1, 2016, was attached to the Alec Peters  
20 Declaration, filed on November 16, 2016 (Dkt. 75-19) as **Exhibit 3**.

21 31. I do not know of any fans who have stated that they would choose not to  
22 watch any official Star Trek episode, film or other work, because they watched  
23 *Prelude* or the *Vulcan Scene*, or because they donated to *Axanar*.

1 I declare under the penalty of perjury that the foregoing is true and correct. Dated this  
2 28th day of NOVEMBER, 2016 at LOS ANGELES, CA.

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5 Alec Peters  
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