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PARAMOUNT PICTURES
11 CORPORATION and CBS STUDIOS
INC.
12

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA
15

16 PARAMOUNT PICTURES
CORPORATION, a Delaware
17 corporation; and CBS STUDIOS INC.,
a Delaware corporation,
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

**PLAINTIFFS' MOTION IN
LIMINE NO. 8 TO EXCLUDE
ALL TESTIMONY, DOCUMENTS
OR OTHER EVIDENCE MADE
OR CREATED AFTER THE
FILING OF THE ORIGINAL
COMPLAINT IN THIS
LITIGATION**

Discovery Cutoff: November 2, 2016
Pre-Trial Conference: January 9, 2017
Trial: January 31, 2017

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that, on January 31, 2017, at 9:00 a.m., or as soon
3 thereafter as counsel may be heard in the Courtroom of the Honorable R. Gary
4 Klausner, United States District Judge, Central District of California, located at 255
5 E. Temple Street, Los Angeles, California 90012, plaintiffs Paramount Pictures
6 Corporation and CBS Studios Inc. (“Plaintiffs”) will and hereby do move to exclude
7 all testimony and documents regarding events after the filing of the original
8 complaint in this litigation, including but not limited to, any reaction to this
9 litigation by fans or others, any comments on the litigation, any fan reaction to
10 guidelines, any statements by third parties such as J.J. Abrams or Justin Lin
11 regarding the litigation or fan films, any post-litigation scripts, and any financial
12 information prepared by Defendants after that date.

13 All testimony and documents relating to events after the filing of the
14 complaint in this action on December 29, 2015 have no bearing on Plaintiffs’ claims
15 for copyright infringement, including any reactions by fans or others to this
16 litigation or any fan reactions to guidelines. Moreover, as explained in Plaintiffs’
17 concurrently-filed motions in limine, there are other post-litigation events that are
18 entirely irrelevant to Plaintiffs’ claims, including Defendants’ altered financial
19 statement that was created after this litigation, versions of scripts prepared after this
20 litigation, and testimony by J.J. Abrams and Justin Lin about their views of this
21 lawsuit.

22 Plaintiffs discussed the reasons for the filing of this Motion with Defendants’
23 counsel. This Motion is based on this Notice, the accompanying Memorandum of
24 Points and Authorities, the Declaration of Jennifer Jason, all records in this action
25 and on such further argument, evidence and authority as may be offered at the time
26 of hearing.

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Dated: December 16, 2016

LOEB & LOEB LLP
JONATHAN ZAVIN
DAVID GROSSMAN
JENNIFER JASON

By: /s/ Jennifer Jason
Jennifer Jason
Attorneys for Plaintiffs
PARAMOUNT PICTURES
CORPORATION and CBS STUDIOS
INC.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Paramount Pictures Corporation and CBS Studios Inc. (collectively, “Plaintiffs”) filed this lawsuit on December 29, 2015, based on works created by Defendants Axanar Productions Inc. and Alec Peters (collectively, “Defendants”) that infringe or will infringe Plaintiffs’ copyrighted Star Trek works. Plaintiffs anticipate that Defendants will seek to introduce into evidence testimony and documents regarding events that occurred after the filing of the original complaint in this litigation, including but not limited to, reactions to this litigation by fans or others, comments on the litigation itself, fan reaction to post-lawsuit fan film guidelines, and statements by third parties regarding the litigation or fan films. Such documents and testimony are not relevant to the case and, as such, they should be excluded at trial.

II. DISCUSSION

A. Events After the Filing of the Lawsuit are Irrelevant and Should be Excluded.

Federal Rule of Evidence 401 defines “relevant evidence” as “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” See *United States v. Curtin*, 489 F.3d 935, 948 (9th Cir. 2007)(citation omitted). Evidence that is not within the scope of the complaint are irrelevant to the claims. *United States v. Calles*, 482 F.2d 1155, 1161 (5th Cir. 1973)(trial court properly excluded evidence regarding the defendant’s expenditures and income for a certain year that was outside of the scope of the complaint because it was irrelevant to the claims). In addition, evidence that does not relate to the defendant’s offered defense is also properly excluded as irrelevant. *United States v. Bennett*, 539 F.2d 45, 52-53 (10th Cir. 1976) (trial court properly excluded evidence

1 regarding defendant's state of mind when that evidence would not have related to
2 the defendant's defense)

3 This case was filed on December 29, 2015. Declaration of Jennifer Jason
4 ("Jason Decl."), ¶ 3. Events that took place after this litigation was filed are not
5 relevant to the issues in this case, including but not limited to any reaction to this
6 litigation by fans or others, any comments on the litigation, any fan reaction to fan
7 film guidelines, etc. *Id.*, ¶ 4, Exs. A, B. Plaintiffs filed suit regarding actions taken
8 by Defendants from December 29, 2015 and earlier, and Defendants' planned
9 creation of a film based on a script created before the filing of the lawsuit. *See*
10 *Curtin*, 489 F.3d at 943; Jason Decl., ¶ 3. Comments on, or reactions to, the
11 litigation itself are not relevant to the issues, and can only have a prejudicial effect.
12 As Plaintiffs have explained in their concurrently-filed motions in limine, there are
13 specific post-litigation events that are entirely irrelevant to Plaintiffs' claims,
14 including Defendants' altered financial statement, Defendants' revised script, and
15 testimony by J.J. Abrams and Justin Lin regarding their statements about this
16 litigation. *See* Plaintiffs' Motions in Limine Nos. 1, 2, and 3.

17 In addition to the specific items dealt with in Motions in Limine Nos. 1, 2 and
18 3, the Court should exclude any evidence and argument relating to events after the
19 filing of the original complaint in this litigation, including but not limited to, any
20 reaction to this litigation by fans or others, any comments on the litigation, any fan
21 reaction to fan film guidelines, and any statements by third parties regarding the
22 litigation or fan films. Nothing in this post-litigation purported evidence is related
23 to or relevant to any of the claims or defenses in this action, and can only serve to
24 try to prejudice the jury.

25 **III. CONCLUSION**

26 For the foregoing reasons, Plaintiffs request (in addition to the requests made
27 in Motions in Limine Nos. 1, 2 and 3), that all testimony, documents or other
28 evidence made or created after the filing of the original complaint in this litigation,

1 including but not limited to, any reaction to this litigation by fans or others, any
2 comments on the litigation, any fan reaction to fan film guidelines, and any
3 statements by third parties regarding the litigation or fan films be excluded from the
4 trial.

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6 Dated: December 16, 2016

LOEB & LOEB LLP
JONATHAN ZAVIN
DAVID GROSSMAN
JENNIFER JASON

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9 By: /s/ Jennifer Jason
10 Jennifer Jason
11 Attorneys for Plaintiffs
12 PARAMOUNT PICTURES
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14 INC.

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