

**EXHIBIT 3 TO LI-A-PING DECLARATION IN SUPPORT
OF DEFENDANTS' REPLY IN SUPPORT OF
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

**REDACTED VERSION OF DOCUMENT PROPOSED TO
BE FILED UNDER SEAL**

EXPERT REPORT OF CHRISTIAN TREGILLIS, CPA, ABV, CFF, CLP

IN THE MATTER OF:

**PARAMOUNT PICTURES CORPORATION and CBS STUDIOS INC.
adv.
AXANAR PRODUCTIONS, INC. and ALEC PETERS**

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CASE NO. 2:15-cv-09938-RGK-E**

NOVEMBER 2, 2016

CONFIDENTIAL – PURSUANT TO PROTECTIVE ORDER





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1. INTRODUCTION

1. As a Partner at Hemming Morse, LLP (“Hemming”), I have been engaged by Winston & Strawn LLP (“Winston” or “Counsel”) in its role as counsel to Axanar Productions, Inc. (“Axanar Productions”) and Alec Peters (collectively, “Defendants”) to analyze financial, economic and accounting issues related to claims by Paramount Pictures, Inc. (“Paramount”) and CBS Studios Inc. (“CBS”) (collectively, “Plaintiffs”) against Defendants for copyright infringement and related causes of action.¹ I understand that these claims generally relate to allegations that Defendants have infringed Plaintiff’s copyrighted elements of its *Star Trek* films and television shows by using them in Defendants’ films: *Star Trek: Prelude to Axanar* and *Star Trek: Axanar*, as well as a script/s for *Star Trek: Axanar* (collectively, the “Axanar Works”).² Plaintiffs’ claims for monetary remedies fall under the Copyright Act, title 17 United States Code (U.S.C.), subsection § 504, which addresses actual and statutory damages, as well as recovery of defendants’ profits attributable to the alleged infringement.³ For the purposes of my analysis, I have assumed liability – that Defendants are found to be liable under at least one of the alleged causes of action, as set forth in Plaintiffs’ Amended Complaint, filed March 11, 2016. I have not undertaken analysis specifically pertaining to non-monetary remedies that may be sought by Plaintiff, nor do I plan to express an opinion on liability.

2. My work on this matter and that of Hemming has been performed under professional standards promulgated by the AICPA, including the Statement on Standards for Consulting Services and the Code of Professional Conduct. Hemming is paid \$100 per hour for my work and \$100 per hour for the work of my support staff; Hemming’s compensation is not dependent on the outcome of this matter.

3. Section 2 of this report outlines my opinions with respect to monetary remedies, as well as the bases for my opinions. Appendix A contains a listing of the documents and information reviewed and/or relied upon to date in my analysis. Appendix B is a summary of my qualifications, including my publications and public teachings of the past 10 years. The matters in which I have testified as an expert within the past four years are included in Appendix C.

¹ Amended Complaint for: 1. Copyright Infringement, 2. Contributory Copyright Infringement, 3. Vicarious Copyright Infringement, and 4. Declaratory Judgment, March 11, 2016 (“Amended Complaint”), pp. 1-45.

² Amended Complaint, pp. 1-2.

³ Amended Complaint, pp. 38-44.



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4. My report is based on the information I have received to date; I may revise this report based on the receipt of additional documents or information. I also expect to look at and potentially rebut the report/opinions of Plaintiffs' expert(s) once those opinions are disclosed. In addition, I expect to consider any criticisms of my analysis offered by Plaintiffs, Plaintiffs' counsel, or any of Plaintiffs' experts.

5. If called to testify in this matter, I may at the request of counsel prepare demonstrative exhibits to reflect or summarize the information I describe in this report, as permitted by the Court's scheduling orders.

I may also refer to documents and information on which I have relied, as disclosed in Appendix A.

1.1 Summary of Opinions

- There are multiple indications that fan films generally benefit official studio releases and the film/story franchises, and that the *Axanar* Works have benefited Star Trek and Plaintiffs.
- I am not aware of information supporting the notion that monies donated to fund the making of *Axanar* and *Prelude to Axanar* have resulted in lost revenue or profits to Plaintiffs.
- I am not aware of any profits that Defendants have earned as a result of the alleged copyright infringement.

2. OPINIONS TO BE EXPRESSED AND BASES THEREOF

2.1 Background

2.1.1 Plaintiffs and the Star Trek Franchise

6. Star Trek is a science fiction-themed film and television show franchise, owned by Plaintiffs, that centers around a spaceship, the "Starship Enterprise,"⁴ and its crew, as they seek to "explore strange new worlds,"⁵ "seek out new life,"⁶ and "seek out new civilizations."⁷

7. Star Trek began as a television show, with 79 episodes airing from 1966 to 1969.⁸ Ranked by Hollywood Reporter as the 35th greatest television series of all time,⁹ it received 13 Primetime Emmy nominations during its tenure.¹⁰

⁴ <http://www.imdb.com/title/tt0060028/>.

⁵ <http://www.imdb.com/title/tt0060028/quotes>.

⁶ <http://www.imdb.com/title/tt0060028/quotes>.

⁷ <http://www.imdb.com/title/tt0060028/quotes>.

⁸ <http://www.imdb.com/title/tt0060028/>.

⁹ <http://www.hollywoodreporter.com/lists/best-tv-shows-ever-top-819499/item/twin-peaks-hollywoods-100-favorite-821405>.

¹⁰ http://www.imdb.com/title/tt0060028/?ref_=ttqt_qt_tt; <http://www.hulu.com/star-trek-the-original-series>.



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8. After the original series, the franchise lay dormant for a decade, before a feature film, *Star Trek – The Motion Picture*, was released in 1979.¹¹ Although it was over budget and released later than planned, the film was a success, generating \$139 million of box office receipts worldwide.¹²



9. During the 1980's, four more feature films and a new television show, *Star Trek: The Next Generation*, were released.¹³ The show, which has been ranked the 55th greatest television series of all time,¹⁴ would go on air for seven seasons (1987-1994), with 176 episodes.¹⁵ Four additional feature films and two other television series, *Star Trek: Deep Space Nine* (1993-1999)¹⁶ and *Star Trek: Voyager* (1995-

¹¹ http://www.imdb.com/title/tt0079945/?ref_=nv_sr_3.

¹² <http://www.the-numbers.com/movies/franchise/Star-Trek#tab=summary>; <https://subscene.com/subtitles/star-trek-the-motion-picture>.

¹³ <http://screenrant.com/star-trek-complete-movie-tv-guide/?view=all>.

¹⁴ <http://www.hollywoodreporter.com/lists/best-tv-shows-ever-top-819499/item/twin-peaks-hollywoods-100-favorite-821405>.

¹⁵ http://www.imdb.com/title/tt0092455/?ref_=ttep_ep_tt.

¹⁶ <http://screenrant.com/star-trek-complete-movie-tv-guide/?view=all>.



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2001), were released in the 1990s.¹⁷ Four new movies were released from 2000 to 2016,¹⁸ as well as a new television series, *Star Trek: Enterprise* (2000-2005).¹⁹

10. Star Trek's thirteen movies having generated worldwide box office receipts of nearly \$2.3 billion dollars.²⁰

Title	Release Date	Production Budget	Domestic Opening Weekend	Domestic Box Office	Worldwide Box Office
Star Trek: The Motion Picture	12/7/1979	\$35,000,000	\$11,926,421	\$82,258,456	\$139,000,000
Star Trek II: The Wrath of Khan	6/4/1982	\$12,000,000	\$14,347,221	\$78,912,963	\$95,800,000
Star Trek III: The Search for Spock	6/1/1984	\$18,000,000	\$16,673,229	\$76,471,046	\$87,000,000
Star Trek IV: The Voyage Home	11/26/1986	\$24,000,000	\$16,881,888	\$109,713,132	\$133,000,000
Star Trek V: The Final Frontier	6/9/1989	\$30,000,000	\$17,375,648	\$52,210,049	\$70,200,000
Star Trek VI: The Undiscovered Country	12/6/1991	\$27,000,000	\$18,162,837	\$74,888,996	\$96,900,000
Star Trek: Generations	11/18/1994	\$38,000,000	\$23,116,394	\$75,671,262	\$120,000,000
Star Trek: First Contact	11/22/1996	\$46,000,000	\$30,716,131	\$92,027,888	\$150,000,000
Star Trek: Insurrection	12/11/1998	\$70,000,000	\$22,052,836	\$70,187,658	\$117,800,000
Star Trek: Nemesis	12/13/2002	\$60,000,000	\$18,513,305	\$43,254,409	\$67,312,826
Star Trek	5/8/2009	\$140,000,000	\$79,204,289	\$257,730,019	\$385,680,446
Star Trek Into Darkness	5/15/2013	\$190,000,000	\$70,165,559	\$228,778,661	\$467,381,584
Star Trek Beyond	7/22/2016	\$185,000,000	\$59,253,211	\$158,804,470	\$336,604,470
Total		\$875,000,000	\$398,388,969	\$1,400,909,009	\$2,266,679,326

11. The films have also had considerable success with the sale of DVDs and Blu-ray discs.²¹

Title	Release Date	Domestic DVD Sales	Domestic Blu-ray Sales	Total Domestic Video Sales
Star Trek	11/17/2009	\$115,365,982	\$83,544,421	\$198,910,403
Star Trek Into Darkness	9/10/2013	\$27,381,940	\$57,721,385	\$85,103,325
Total		\$142,747,922	\$141,265,806	\$284,013,728

12. The franchise's most recent film, *Star Trek Beyond*, was directed by Justin Lin and released in July of 2016, and Paramount recently announced that there is another Star Trek film planned to follow.²²

¹⁷ <http://screenrant.com/star-trek-complete-movie-tv-guide/?view=all>.

¹⁸ <http://screenrant.com/star-trek-complete-movie-tv-guide/?view=all>.

¹⁹ <http://screenrant.com/star-trek-complete-movie-tv-guide/?view=all>.

²⁰ <http://www.the-numbers.com/movies/franchise/Star-Trek#tab=summary>.

²¹ <http://www.the-numbers.com/movies/franchise/Star-Trek#tab=video>.

²² <http://www.imdb.com/title/tt2660888/>; <https://www.bustle.com/articles/173269-another-star-trek-movie-is-coming-its-going-to-be-a-kirk-family-reunion>.

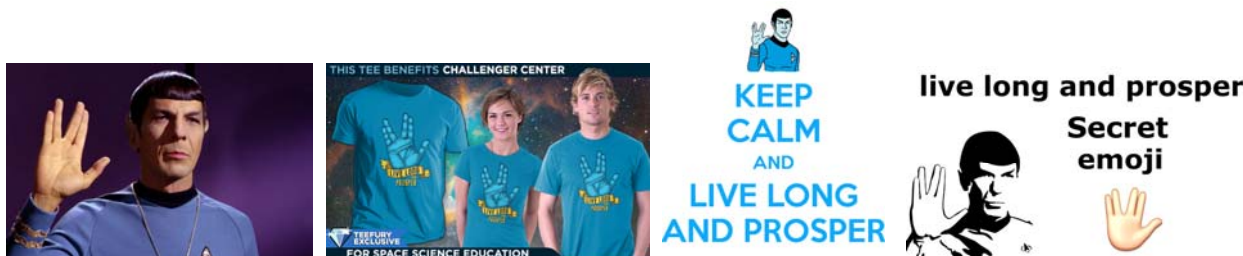


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2.1.1.1 Star Trek's Fan Base

13. Star Trek's success has fueled, and been fueled by, fans and culture. For example, the phrase "Live Long and Prosper" was commonly used by the Star Trek character Mr. Spock, often accompanied by the "Vulcan Salute," with the hand shown, palm out and fingers spread in a V symbol.²³ "Live Long and Prosper" is one of the most popular catchphrases in the history of television.²⁴ Below is a screen shot of Mr. Spock showing the Vulcan Salute (from the original series), as well as examples of popular culture's use of the phrase and salute.²⁵



²³ Mr. Spock was a Vulcan. <http://www.phrases.org.uk/meanings/live-long-and-prosper.html>.

²⁴ <http://www.tvguide.com/news/tvs-60-greatest-catchphrases-1070102/>.

²⁵ <http://www.treknews.net/2015/03/06/best-spock-leonard-nimoy-star-trek-episodes/>; <http://www.geekalerts.com/live-long-and-prosper-t-shirt/>; <http://www.keepcalm-o-matic.co.uk/p/keep-calm-and-live-long-and-prosper-3/>; <https://www.youtube.com/watch?v=e23oPXMctE0>.



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14. The Star Trek franchise continues to thrive 50 years after the airing of the original series. Recently, the History Channel produced a 50-year anniversary special to honor and commemorate the franchise.²⁶

15. Star Trek, like any long-running franchise, owes its success not only its creators, but also to its fans, who have supported it both financially and emotionally over the years, even after the death of Star Trek's creator, Gene Roddenberry, in 1991. Fans of the franchise have been so dedicated that they have garnered their own nickname, "Trekkies." Trekkies exist in such great numbers that the word has been recognized by the Oxford University Press.²⁷

16. A database of Star Trek information has been created by CBS Entertainment to allow anyone who is interested to learn about the Star Trek universe.²⁸ This fan interest has led to interest in and sales of costumes/clothing, action figures, and memorabilia.²⁹

²⁶ <http://www.history.com/specials/50-years-of-star-trek>.

²⁷ <http://www.oxfordreference.com/view/10.1093/acref/9780195305678.001.0001/acref-9780195305678-e-805>.

²⁸ <http://www.startrek.com/database>.

²⁹ The image below is a screen shot of a Google search for "Star Trek memorabilia," as of October 30, 2016.



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<p>Legends Never Die Star Trek Next Generation Ship Framed Memorabilia \$64.99 from 4 stores</p>	<p>STAR TREK Star Trek: Voyage Home FilmCells™ Framed Wall Art \$19.99 from 4 stores</p>	<p>Legends Never Die Star Trek Arena Framed Memorabilia \$64.99 from 3 stores</p>	<p>Metal Earth 3D Laser Cut Model Star Trek U.S.S. Enterprise NCC ... \$18.99 from 25+ stores ★★★★★ (1)</p>	<p>Metal Earth 3D Laser Cut Model Star Trek U.S.S. Enterprise NCC ... \$18.99 from 50+ stores ★★★★★ (6)</p>	<p>Star Trek TNG Replica Foam Bat'leth \$39.99 from 10+ stores</p>
<p>Star Trek TNG Transporter Shower Curtain \$24.99 from 10+ stores</p>	<p>Star Trek Coin & Currency Collection \$19.95 from The Patriotic Mint</p>	<p>STAR TREK: THE ORIGINAL SERIES. KIRK & SPOCK \$99.95 from The Patriotic Mint</p>	<p>Star Trek Retro Original Series Playset \$59.99 from 5+ stores</p>	<p>Star Trek Tos Uniform Adult Classic Shirt Original Series Costume \$29.89 from 5+ stores ★★★★★ (16)</p>	<p>Quantum Mechanix Star Trek 50th Anniversary Magnetic Badge, Multi \$14.90 from 5+ stores ★★★★★ (4)</p>
<p>Limited Edition Autographed Star Trek Original Crew Series Signed \$1,499.99 used from eBay - vintageamerica101</p>	<p>zully Star Trek Original Series Phaser Monitor Mate Bobble \$9.49 from 5+ stores</p>	<p>Star Trek 50Th Anniversary Crew Sublimated Tee \$39.95 from What On Earth</p>	<p>Vandor Star Trek Ceramic Shot Glass \$22.99 from 10+ stores</p>	<p>Star Trek Poem Infant Bodysuit \$14.95 from CafePress.com</p>	<p>Star Trek Beyond (2016) \$230.00 from GoAutographs</p>

17. Trekkie dedication is also evidenced by the annual Star Trek convention³⁰ and comic-based conventions such as Comic-con. Pictures of Trekkies at Comic-con and the Star Trek convention can be seen below.³¹



³⁰ http://www.creationent.com/cal/st_lasvegas.html.

³¹ <http://www.treknews.net/2014/07/29/stlv-2014-survival-guide/>; <http://www.treksinscifi.com/trekdaily/?p=3473>.



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18. The ability of Trekkies to create their own Star Trek content and publish it on social media has allowed the number of Star Trek fans to grow further, with easier access to community and others with similar interests. The more that social media has provided Trekkies and other enthusiasts access to Star Trek-related content and each other, this has fed the fire and grown greater interest in the Star Trek franchise.

19. For example, the character Garth of Izar, first seen in the original series, has a page on Memory Alpha, a Star Trek database/encyclopedia, which has over 40,000 pages dedicated to Star Trek knowledge and sharing of information.³²

The screenshot shows the Memory Alpha wiki page for Garth of Izar. The page has a dark theme with a red header bar. The title 'Garth of Izar' is prominently displayed. Below the title is a quote: "I am master of the universe, and I must claim my domain." - Garth of Izar, 2268 ("Whom Gods Destroy"). The biography section, titled "Starfleet's fallen hero", describes Garth's role as a decorated officer in the Federation Starfleet, who rose to the rank of fleet captain. It mentions his career ending in a dramatic descent into madness and his commitment to the Elba II asylum. The sidebar on the right contains character details: Gender: Male, Species: Human, Affiliation: Federation Starfleet, Rank: Fleet Captain (former), Occupation: Starfleet Officer, Status: Insane; committed to Elba II asylum (2268), and Played by: Steve Ihnat, William Shatner, Leonard Nimoy, Keye Luke. There are also sections for "Related Articles" and "Trending Fandom Articles".

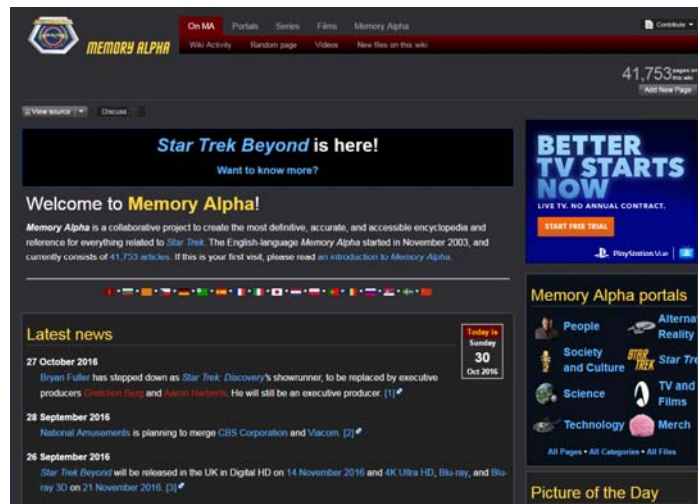
20. As seen above, the Garth of Izar page on Memory Alpha has links to many of the Memory Alpha pages, and includes a link to allow users to create/contribute their own pages.³³

³² http://memory-alpha.wikia.com/wiki/Garth_of_Izar.

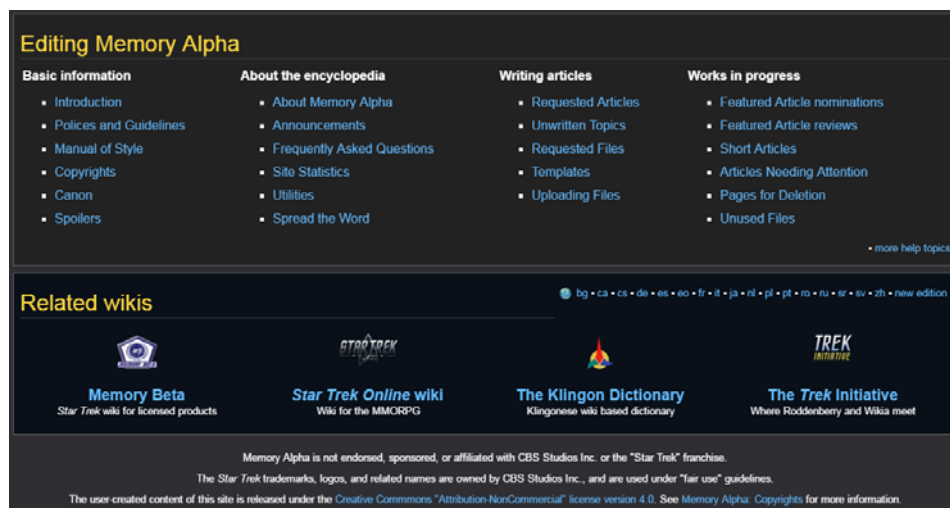
³³ <http://memory-alpha.wikia.com/wiki/Portal:Main>.



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21. Memory Alpha also provides links to other Star Trek encyclopedias, with the intention to use Star Trek intellectual property under fair use.³⁴



22. CBS has an official Facebook page for Star Trek.³⁵

³⁴ <http://memory-alpha.wikia.com/wiki/Portal:Main>.

³⁵ <https://www.facebook.com/StarTrek/about/>.



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23. With a fourth movie in the Star Trek reboot movies planned to come in the next few years³⁶ and a new Star Trek TV show, *Star Trek Discovery*, set to be released by CBS Entertainment in 2017, there are multiple indications that interest remains high in Star Trek-related entertainment and the Star Trek universe.

2.1.2 The Axanar Works, Defendants, and Star Trek Fan Films

24. The passion and exuberance shown by Trekkies has not been limited to purchases at the box office or electronics retailers, as Trekkies have gone on to produce a number of films and online series/episodes, some of which have significant viewership. These fan-made films (“fan films”) and series have benefited from social media websites and mobile applications such as Facebook, YouTube, Instagram, and Twitter, which provide Star Trek-related information to people interested in the Star Trek universe, as well as a platform to see these productions.

³⁶ <http://variety.com/2016/film/news/paramount-fourth-star-trek-chris-pine-chris-hemsworth-1201816258/>.

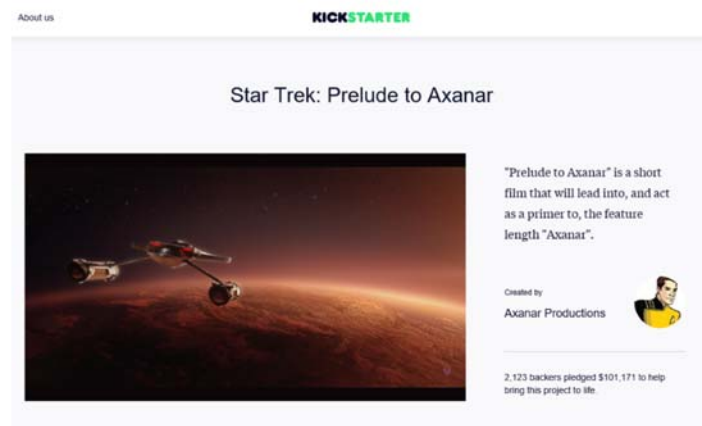


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25. *Star Trek: Prelude to Axanar*, a twenty-one-minute fan film, was released in 2014 by Axanar Productions and is based on a story written by Mr. Peters.³⁷ The film has gained interest and notoriety, with nearly 2.7 million views on YouTube.³⁸

26. The film was financed using crowdfunding, which is “the practice of soliciting financial contributions from a large number of people, especially from the online community.”³⁹ Crowdfunding has allowed individuals to contribute or invest in ventures, projects, and causes that they want to support, which opportunities likely would not have been available to them otherwise.

27. For *Star Trek: Prelude to Axanar*, Axanar Productions created a Kickstarter page seeking to raise \$10,000 dollars, to create the “first true independent Star Trek film.”⁴⁰ Mr. Peters both wrote and played a role in the film.⁴¹ The film was presented as a film to “lead into, and act as a primer to, the feature length”⁴² film (*Star Trek: Axanar*). The crowdfunding for *Star Trek: Prelude to Axanar* was a success, ultimately raising over \$100,000 dollars from 2,123 donors, with an average donation of just under \$50.⁴³



28. Prior to *Star Trek: Prelude to Axanar*, Mr. Peters had built an internet blog, <http://startrekauction.blogspot.com/>, which claimed to be “the internet’s premier source for information on

³⁷ <http://www.imdb.com/title/tt3572740/>.

³⁸ https://www.youtube.com/watch?v=1W1_8IV8uhA, as of October 30, 2016.

³⁹ <http://www.merriam-webster.com/dictionary/crowdfunding>.

⁴⁰ <https://www.kickstarter.com/projects/194429923/star-trek-prelude-to-axanar>.

⁴¹ <http://www.imdb.com/title/tt3572740/>.

⁴² <https://www.kickstarter.com/projects/194429923/star-trek-prelude-to-axanar>.

⁴³ <https://www.kickstarter.com/projects/194429923/star-trek-prelude-to-axanar>.



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collecting Star Trek Props and costumes.” Mr. Peters also worked from in 2011 and 2012 for CBS as its archivist for Star Trek.⁴⁴

29. Mr. Peters has started five companies⁴⁵ and won an Entrepreneur Award of the Year from the international accounting firm Ernst and Young.⁴⁶

Alec Peters



Auctionworks, Inc.

2004 Realizing Business Potential Award Winner Southeast (Alabama, Carolinas, Georgia, Tennessee) Region
Auctionworks Inc., is an online auction management service company based in Georgia.

30. After releasing *Star Trek: Prelude to Axanar*, Mr. Peters and Axanar Productions sought to build on the enthusiasm and excitement around *Star Trek: Prelude to Axanar* for *Star Trek: Axanar*. Using two crowdfunding websites, Axanar Productions raised over \$1.21 million dollars, with nearly \$640,000⁴⁷ raised using Kickstarter and nearly \$575,000⁴⁸ from Indiegogo. The financial support was from approximately 16,208 backers, or an average pledge of approximately \$75. Fundraising efforts were helped by the support of the Original Series cast-member, George Takei.⁴⁹

⁴⁴ http://memory-alpha.wikia.com/wiki/Alec_Peters.

⁴⁵ <http://www.axanarproductions.com/about/team/>.

⁴⁶ <http://eoyhof.ey.com/>.

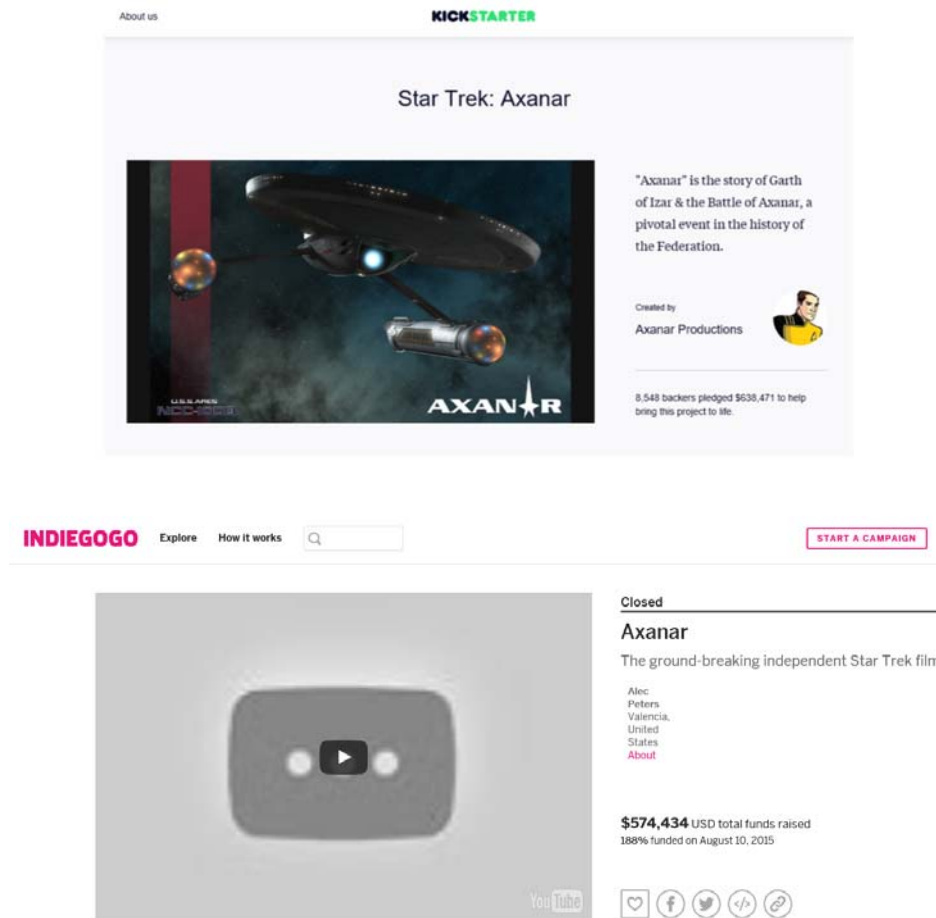
⁴⁷ <https://www.kickstarter.com/projects/194429923/star-trek-axanar>.

⁴⁸ <https://www.indiegogo.com/projects/axanar#/>.

⁴⁹ <http://www.axanarproductions.com/takei-endorses-axanar/>.



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31. Trekkies and fans have released several fan films and series, some of which are summarized below.



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Star Trek Fan Films and Series⁵⁰

Title	Release Year	Youtube.com Views
USS Angeles: The Price of Duty	2000	30,336
Star Trek New Voyages: Blood and Fire	2008	449,585
Star Trek: Of Gods and Men	2012	2,347,392
Star Trek: Prelude to Axanar	2014	2,663,532
Star Trek: Renegades	2015	2,086,498
Star Trek: Horizon	2016	3,576,766
Starship Farragut : The Crossing	2016	115,782
Total		11,269,891

Select Fan Made Episode Series	Number of Episodes in Series	Youtube.com Views	Average View per Episode
Starship Exeter	2	369,528	184,764
Star Trek New Voyages	11	2,412,572	219,325
Star Trek : The Helena Chronicles	6	161,597	26,933
Star Trek: Odyssey	9	1,473,590	163,732
Totals	28	4,417,287	157,760

32.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

.⁵¹

⁵⁰ <http://www.imdb.com>; <http://www.youtube.com>.

⁵¹ AX035571-737 at -571.



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Axanar Master 2014-2016 Oct. REVISED

Date Range:	Custom Dates (1/1/2014 – 10/31/2016)
Accounts:	Axanar Alec 0993, Axanar Cash, and 13 more
Categories:	1099, 1099 Alec Peters, 1099:Alec Peters, and 117 more
Tags:	Any of Axanar, Corporate, Feature, Prelude to Axanar
Type:	Custom
<input checked="" type="checkbox"/> Show Memo/Notes	
▼ Money In	\$1,428,902.43
Income - Axanar Donations	\$1,233,752.39
Income - Axanar Store Donations	\$81,317.26
Income - Prelude to Axanar Kickstarter	\$113,832.78
▼ Money Out	-\$1,433,003.67

2.1.3 Social Media, Fan Films, and Other Tools in the Promotion of Studio Films and Series

33. In 2016, movie attendance at the cinema is shrinking. According to Business Insider, movie theater attendance has dropped 3.5% in 2016 and is expected to finish at 513 million attendees⁵² for the year. This has caused box office receipts to remain flat at approximately \$4.5 billion.⁵³ As a result, “[n]early all major film studios, including Warner Bros., Sony, Universal, 20th Century Fox, and Paramount, were reduced to negative profits in Q2 2016.”⁵⁴ The causes are many, including the “dwindling relevance of movie theatres,” “substandard, uniform movie offerings,” and the “cannibalization of content.”⁵⁵

34. As movie theatres are becoming less relevant, they are no longer viewed as a “site for gathering and social regalement.”⁵⁶ The theatres are being pushed out for “newer multimedia outlets, like the desktop computer and, more importantly, the mobile phone.”⁵⁷ In a poll done by the Harris Poll, of 2,311 adults, it showed that 66% of adults are going to the movies less often than in the past, and 57% of adults prefer to

⁵² <http://www.businessinsider.com/movie-theater-attendance-is-declining-as-cord-cutting-becomes-more-popular-2016-9>.

⁵³ <http://www.businessinsider.com/movie-theater-attendance-is-declining-as-cord-cutting-becomes-more-popular-2016-9>.

⁵⁴ <http://www.businessinsider.com/movie-theater-attendance-is-declining-as-cord-cutting-becomes-more-popular-2016-9>.

⁵⁵ <http://www.businessinsider.com/movie-theater-attendance-is-declining-as-cord-cutting-becomes-more-popular-2016-9>.

⁵⁶ <http://www.businessinsider.com/movie-theater-attendance-is-declining-as-cord-cutting-becomes-more-popular-2016-9>.

⁵⁷ <http://www.businessinsider.com/movie-theater-attendance-is-declining-as-cord-cutting-becomes-more-popular-2016-9>.



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watch a movie from the comfort of home.⁵⁸ The study found that a variety of factors are causing this shift, including concession prices and rude moviegoers.⁵⁹ The increased availability of home entertainment has also impacted theatre attendance. Users can stream movies and television shows using their internet connection, and watch them on their televisions, computers, tablets, and other mobile devices.

35. Seeking to capitalize on this trend and offset the effect of declining movie ticket sales, studios have been seeking to put classics on DVDs and Blu-ray for re-release. The benefits in doing this are twofold. First, a “successful Blu-ray rerelease can sell between 100,000 and 200,000 copies.”⁶⁰ At a sale price of approximately \$15 per unit, this would equate to \$1.5 million to \$3.0 million in revenue, with a small or zero cost of creating new content. According to the Wall Street Journal, “studios now are stepping up the pace and variety of the releases, in part through box sets, anniversary additions and other splashy marketing.”⁶¹

36. The second major benefit to re-releasing classic entertainment content is using it as a reminder of an upcoming film or product release, creating interest in the franchise and the upcoming new release. Consumers may feel nostalgic when reminded of the prior releases, which could lead to the purchase of that re-release and attendance of an upcoming new release.

37. For example, *Star Wars: The Force Awakens* was the highest grossing film in 2015.⁶² Prior to this release, it had been ten years since the previous release of a Star Wars movie, *Star Wars: Episode III – Revenge of the Sith*.⁶³ Knowing that interest in Star Wars would be high with the release of *Star Wars: The Force Awakens* in December 2015, 20th Century Fox released a Blu-ray set of the entire Star Wars saga (episodes 1-6) on October 13, 2015.⁶⁴

⁵⁸ http://www.theharrispoll.com/health-and-life/The_Silver_Screen_Slump_Americans_Say_They_re_Going_to_the_Movies_Less_Often.html.

⁵⁹ http://www.theharrispoll.com/health-and-life/The_Silver_Screen_Slump_Americans_Say_They_re_Going_to_the_Movies_Less_Often.html.

⁶⁰ <http://www.wsj.com/articles/SB10001424127887324763404578431152207740838>.

⁶¹ <http://www.wsj.com/articles/SB10001424127887324763404578431152207740838>.

⁶² <http://www.the-numbers.com/market/2015/top-grossing-movies>.

⁶³ <http://www.the-numbers.com/market/2015/top-grossing-movies>.

⁶⁴ https://www.amazon.com/Star-Wars-Complete-Episodes-Blu-ray/dp/B015AJOKFG/ref=tmm_blu_swatc_0?_encoding=UTF8&qid=&sr=.



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38. The Star Trek franchise has used a similar strategy in recent times. *Star Trek Beyond*, which was released on July 22, 2016,⁶⁵ was preceded in February 2016 by the release of all the prior Star Trek and Star Trek Next Generation films on DVD and Blu-ray sets.⁶⁶ In addition, the original Star Trek motion picture trilogy was re-released on DVD in May of 2009, within days of the theatrical release of the first of the recent Star Trek reboots, *Star Trek*.⁶⁷

39. Movie studios are using analytics and big data to find out what the online community is interested in watching. Marc Maley, CEO of Fuel Intelligence,⁶⁸ a company who seeks to “power campaign reporting for the entire entertainment industry,”⁶⁹ has written on the subject. Fuel Intelligence counts 20th Century Fox, Warner Brothers, and Universal Studios in its list of clients.⁷⁰ Facebook, Mr. Maley says, is the largest source of big data for film studios.⁷¹

With 1.55 billion monthly active users, Facebook is the largest source of public opinion data on Earth. With anonymized and aggregated Facebook topic data, film studios can suddenly see what people are sharing and engaging around with their networks of friends and family – at huge volumes. As Facebook is a closed community, people also interact more honestly rather than just following the herd, as is often the case on other social networks.

40. Social media is being used not only for analysis, but for marketing. In the case of Star Trek, this is evidenced by its Instagram page⁷² for the franchise as a whole, but for specific movies, such as the most recent move, *Star Trek Beyond*.⁷³ The franchise also utilizes Twitter, with separate handles for the

⁶⁵ <http://www.imdb.com/title/tt2660888/>.

⁶⁶ 1. http://shop.startrek.com/star-trek-original-motion-picture-collection-repackage-dvd/detail.php?p=954968&v=startrek_shop-by-category_media 2. http://shop.startrek.com/star-trek-the-next-generation-motion-picture-collection-repackage-dvd/detail.php?p=954903&v=startrek_shop-by-category_media 3. http://shop.startrek.com/star-trek-original-motion-picture-collection-repackage-blu-ray/detail.php?p=954983&v=startrek_shop-by-category_media 4. http://shop.startrek.com/star-trek-the-next-generation-motion-picture-collection-repackage-blu-ray/detail.php?p=954883&v=startrek_shop-by-category_media.

⁶⁷ <http://www.imdb.com/title/tt0796366/>; <http://shop.startrek.com/star-trek-motion-picture-trilogy-dvd/detail.php?p=319513>.

⁶⁸ <http://www.martechadvisor.com/author/marc-maley/>.

⁶⁹ <http://www.fuelintelligence.com/>.

⁷⁰ <http://www.fuelintelligence.com/#clients>.

⁷¹ <http://blog.datasift.com/2015/12/10/film-studios-you-cant-afford-to-not-know-what-youre-audience-is-engaging-with-on-facebook/>.

⁷² <https://www.instagram.com/Startrek/>.

⁷³ <https://www.instagram.com/startrekmovie/?hl=en>.



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franchise,⁷⁴ movies,⁷⁵ and even the writers for the upcoming television show.⁷⁶ The franchise also has similar pages set up on Facebook (as referenced above).⁷⁷

41. Earlier this year, PricewaterhouseCoopers (PwC) issued a perspective on the entertainment and media (“E&M”) sector, saying that “to survive the rapid transition to a direct-to-consumer future, companies across the E&M sector need an effective fan-centric strategy - or risk decline and irrelevance.”⁷⁸ PwC explained the need to connect and engage with the audience, to create fans, and the advantages of doing so.⁷⁹

If you are an executive in E&M, your formula for success is already shifting radically. No longer is it enough to develop content solely to attract eyeballs, seeking the largest audiences possible for advertising and subscription revenue. Now, you must create fans: active users united by shared ideas, interests, and experiences, who will return every day to your brands and properties. As a fan-centric business, buoyed by the loyalty of passionate users, you will command substantial strategic advantages. You will know more about who your users are, what they want, and how to deliver what they want. This will enable you to monetize your products and experiences more effectively and more broadly. Current fans recruit new fans. Best of all, fans spend more per capita and are less likely to churn.

42. David M. Kirby, a screenwriter, editor, and columnist, said “Social networks are an excellent location to build awareness and promote a film. Social media was what made it possible for *Star Wars: The Force Awakens* trailer to garner over 1 million views in the first 23 minutes.”⁸⁰ Mr. Kirby went on to explain that reaching the fan base for film franchises like *Star Wars* has changed. “The internet is filled with clearly defined groups and fandoms that frequently overlap. 20 years ago, marketing a brand new sci-fi film could take significant market research to determine where and when to market it. Social media groups, categories, and hashtags allow you to specifically target a particular demographic with similar interests. The process is the same - connect to your audience and provide compelling content for them to share.”⁸¹ He believes that fan engagement with the process is vital, saying it “can build excitement and trust in your

⁷⁴ https://twitter.com/StarTrek?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor.

⁷⁵ <https://twitter.com/StarTrekMovie> , <https://twitter.com/startrekbeyond>.

⁷⁶ <https://twitter.com/startrekroom>.

⁷⁷ <https://www.facebook.com/StarTrek/> , <https://www.facebook.com/StarTrekMovie/>,
<https://www.facebook.com/StarTrekCBS/>.

⁷⁸ <http://www.strategyand.pwc.com/perspectives/2016-entertainment-media-industry-trends>.

⁷⁹ <http://www.strategyand.pwc.com/perspectives/2016-entertainment-media-industry-trends>.

⁸⁰ http://www.huffingtonpost.com/david-m-kirby/the-role-of-social-media-_b_10571026.html.

⁸¹ http://www.huffingtonpost.com/david-m-kirby/the-role-of-social-media-_b_10571026.html.

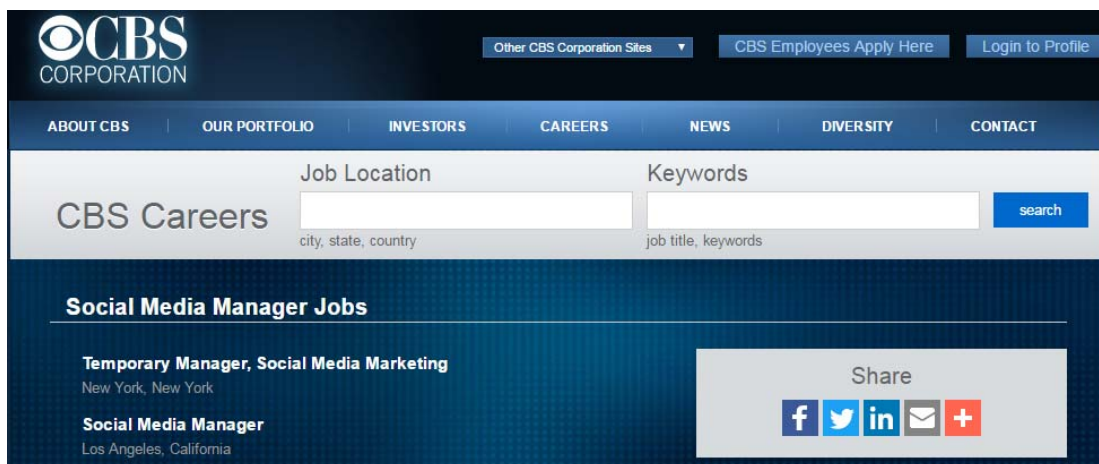


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projects by making them feel like they are part of the process. With a smart strategy and an open mind, social media can catapult your project into the spotlight.”⁸²

43. Older methods of promoting films have also become obsolete and cost-ineffective. Dana Loberg, co-founder of Silicon Valley-based social network and movie marketing startup, MovieLaLa, said “In the past, movie marketing was primarily a buy to get an advertisement on page 6 of the newspaper, and running commercials on Thursday night to bring awareness to people about the opening weekend of a film. Everything was based on traditional marketing methods (posters, billboards, commercials, etc.).”⁸³

44. But now companies like CBS and Paramount use social media to promote their films and productions. For example, CBS is currently looking for Social Media Managers.⁸⁴



45. Paramount is also looking for assistance with social media and digital content.⁸⁵

⁸² http://www.huffingtonpost.com/david-m-kirby/the-role-of-social-media-_b_10571026.html

⁸³ <http://www.forbes.com/forbes/welcome/?toURL=http://www.forbes.com/sites/steveolenski/2015/09/26/marketing-a-movie-aint-what-it-used-to-be/&refURL=&referrer=#24856c744b0f>.

⁸⁴ <http://cbscorporation.jobs/social-media-manager/jobs-in/>, as of October 30, 2016.

⁸⁵ <https://paramount-viacom.icims.com/jobs/search?ss=1&searchKeyword=social+media>, as of October 30, 2016.



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Executive Director, ITM - Digital Content & Social Media	US-CA-Hollywood
Manager Digital Content	US-CA-Hollywood
Supervisor Guest Relations	US-CA-Hollywood
Coordinator	US-NY-New York
Senior Manager Digital Content	US-CA-Hollywood
Manager Digital Distribution- LATAM	BR

46. In addition to social media, there is an entire space of social networking websites specific to the film industry, which further awareness of franchises even more. Sites such as Telfie,⁸⁶ icheckMovies,⁸⁷ Letterboxd,⁸⁸ Mubi,⁸⁹ and seenthat⁹⁰ are some of the sites in this space. Ultimately, these investments are made with the goal of increased coverage yielding increased awareness of entertainment brands and franchises, and more dollars being spent on entertainment. IBM⁹¹ commented on this new phenomenon in their sponsored article, “Big Data and Hollywood: A Love Story.”⁹²

Newly emerging tools are empowering big studios to convert massive quantities of movie-goer reactions into meaningful, actionable insights into what works and what doesn't. With big data analytics, movie executives are keeping one ear to the audience and the other to the crafty in a way that is dramatically altering how movies get made, marketed, and distributed.⁹³

47. *Star Trek: Prelude to Axanar* was even present on one of these sites, Letterboxd,⁹⁴ where the film could be watched. The film can be seen on Youtube⁹⁵ or Letterboxd, learned about on IMDb,⁹⁶ and talked

⁸⁶ <http://telfie.com/>.

⁸⁷ <https://www.icheckmovies.com/>.

⁸⁸ <https://letterboxd.com/>.

⁸⁹ <https://mubi.com/>.

⁹⁰ <http://seenthat.com/>.

⁹¹ <http://www.ibm.com/us-en/>.

⁹² <http://www.theatlantic.com/sponsored/ibm-transformation-of-business/big-data-and-hollywood-a-love-story/277/>.

⁹³ <http://www.theatlantic.com/sponsored/ibm-transformation-of-business/big-data-and-hollywood-a-love-story/277/>.

⁹⁴ <https://letterboxd.com/film/prelude-to-axanar/>.

⁹⁵ https://www.youtube.com/watch?v=1W1_8IV8uhA.

⁹⁶ <http://www.imdb.com/title/tt3572740/>.



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about on social media and social networking sites. In this way, Mr. Peters and Axanar Productions have contributed to and increased awareness of Star Trek, with no financial expenditure by the Star Trek franchise, CBS, or Paramount Pictures.

48. Elizabeth Kalodner, CBS's Executive Vice President and General Manager of its Consumer Products group, who is in charge of generating revenue from intellectual property owned by CBS (other than television shows, dedicated mobile, and DVDs), is responsible for licensing relationships with several hundred licensees.⁹⁷ According to Ms. Kalodner, CBS's chief goal in licensing is to generate revenue, and her department relies largely on social media and StarTrek.com to achieve that goal.⁹⁸ CBS's online marketing for Star Trek is primarily Facebook pages, a Twitter account, and an Instagram account.⁹⁹ When CBS is gearing up for a new Star Trek show or movie release, CBS increases activity in the "Star Trek universe," with the hopes of creating interest in the new release.¹⁰⁰

49. Consistent with these phenomena, in an effort to create additional interest in the Star Wars franchise, LucasFilm Ltd., LLC/The Walt Disney Company recently created a fan film contest in support of the upcoming Star Wars film, *Rogue One: A Star Wars Story*.¹⁰¹

⁹⁷ Deposition of Elizabeth Kalodner, October 13, 2016, pp. 14-15.

⁹⁸ Deposition of Elizabeth Kalodner, October 13, 2016, pp. 18-19.

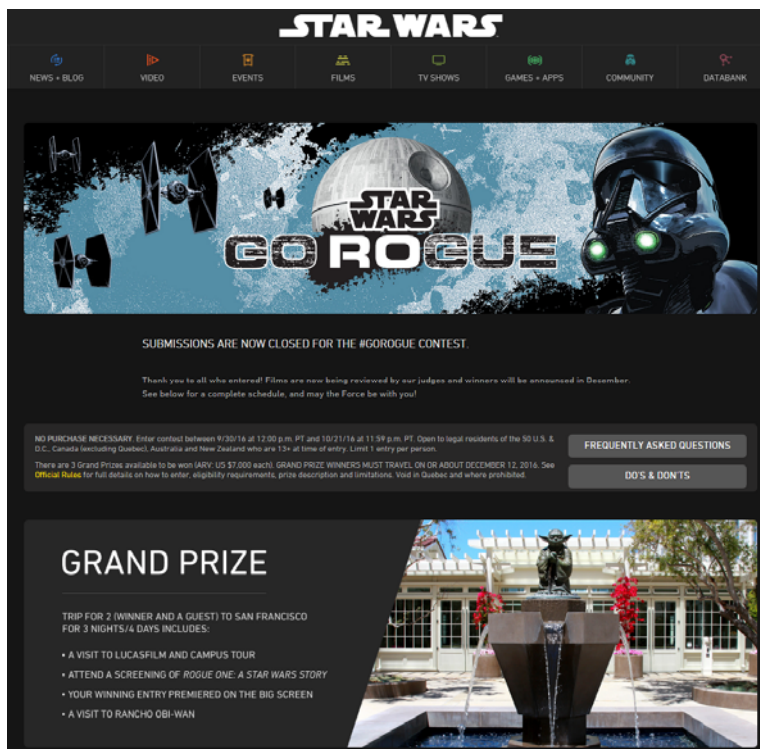
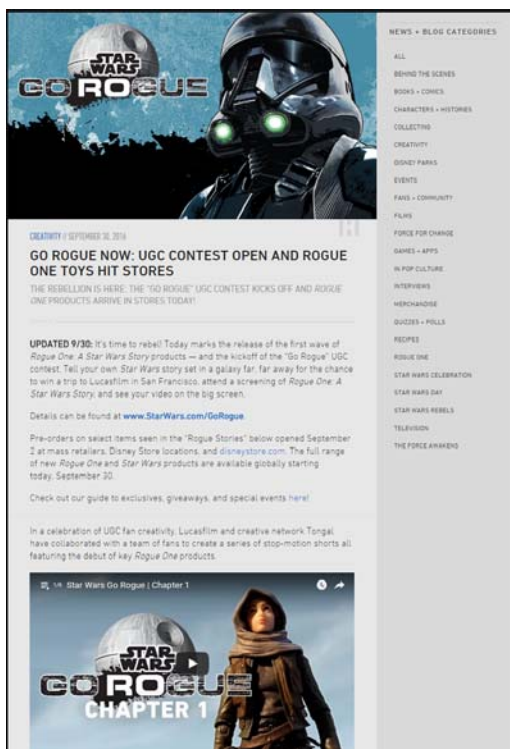
⁹⁹ Deposition of Elizabeth Kalodner, October 13, 2016, pp. 19-20.

¹⁰⁰ Deposition of Elizabeth Kalodner, October 13, 2016, p. 21.

¹⁰¹ <http://www.starwars.com/go-rogue-contest>; <http://www.starwars.com/news/go-rogue-and-tell-your-star-wars-story-in-upcoming-contest>.



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50. Below is an excerpt of rules of the Go Rogue fan film contest, including a link to a toolbox to assist fans in making their fan films to promote the film and generate interest.¹⁰²

GO ROGUE CONTEST FAQ

Q. Who can enter?

A. The Contest is open to the residents of:

- Australia/New Zealand (ANZ) (13+)
- US and Canada (not Quebec) (North America) (13+)

See Section IV, #1 "Eligibility" in the [Official Rules](#) for more details.

Q. What is the deadline to submit my video?

A. You may submit your videos between the 30th of September 2016 and the 21st of October 2016. See Section IV, #2 "Contest Schedule" in the [Official Rules](#) for more details.

Q. How long can my video be?

A. Your Video must not exceed 2 minutes in length. See Section IV, # 3 "Submit Your Video" in the [Official Rules](#) for more details.

Q. What should my video include?

A. You should create an original story, an original parody or documentary pertaining to Rogue One: A Star Wars Story. See Section III, #1 "Submission Phase" in the [Official Rules](#) for more details.

Q: What resources are there for fans who want to enter?

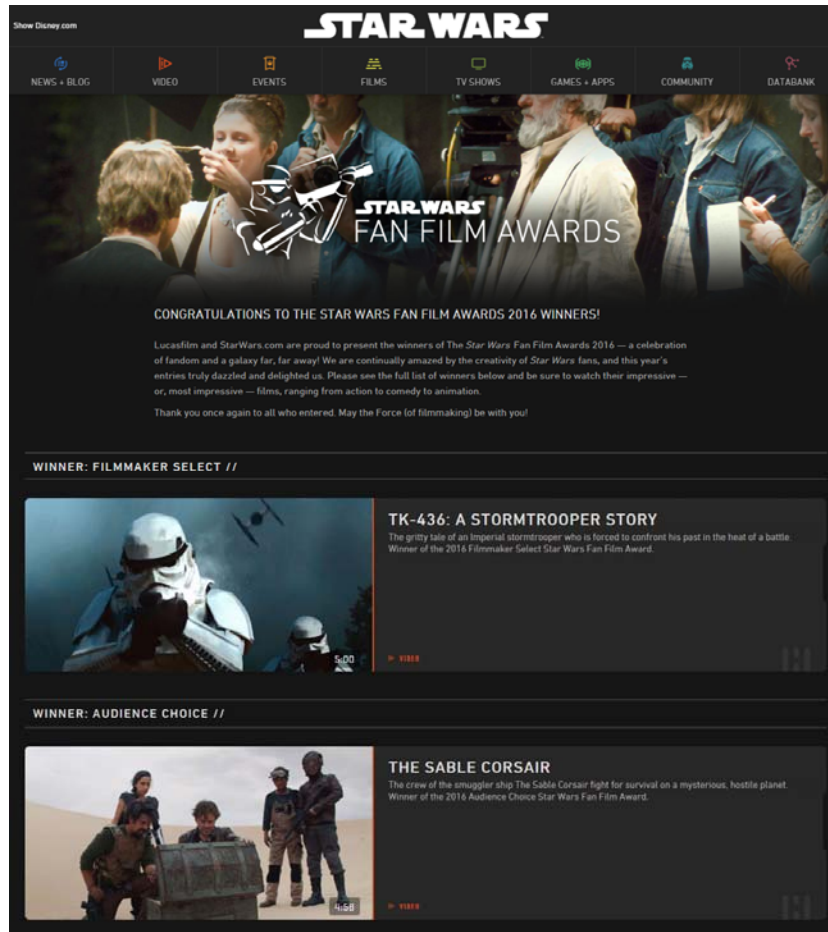
A: A tool kit with music and visual backdrops is available [here](#).

¹⁰² http://cdnvideo.dolimg.com/cdn_assets/e82154028103695f1f0b17719aa2e245bca94086.pdf.



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51. Results of LucasFilm's/Disney's Star Wars Fan Film Awards were just released, with winners in seven categories (two of which are shown below).



52. Treklanta, a group unaffiliated with Plaintiffs, has hosted an awards competition for Star Trek fan films and series, with judges such as Diana Botsford, a screenwriter on *Star Trek: The Next Generation*.¹⁰³

¹⁰³ <http://www.trektrax.org/fanfilmawards.htm>; <http://dianabotsford.com/about/>.



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53. Treklanta wrote that Star Trek fan films have grown from the interest of eager fans, now with tools available to make high-quality films out of the fans' make-believe adventures, and to share with like-minded fans.¹⁰⁴

Forty-five years ago, when the original Star Trek television series ended its primetime run and went into syndication around the world, it found a new audience numbering in the millions. Many of those fans eagerly wrote stories, painted artwork, created costumes and played "make-believe" with their friends as a way of celebrating—and claiming a small piece for themselves—the extraordinary universe created by Gene Roddenberry.

Thirty years later, the next generation of fans had the drive, ambition, skills and tools they needed to take their make-believe adventures off the printed page and out of the back yard and create their own live-action videos that they could share with other like-minded fans around the world on the Internet. These independent Star Trek fan films have grown from low-budget, low-tech videos to spectacular productions on par with Hollywood's best.

54. Fan films considered in the Treklanta competition included the following (with *Star Trek: Prelude to Axanar* among them).¹⁰⁵

¹⁰⁴ <http://www.trektrax.org/fanfilmawards.htm>.

¹⁰⁵ <http://www.trektrax.org/fanfilmawards.htm>.



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Release Date & IMDb Link	Series Name & Web Site Link	Episode Title & Online Video Link	Run Time
1/8/2014	Star Trek Continues	"Lolani"	0:50:54
1/13/2014	Project: Potemkin	"The Night the Stars Fell from the Sky"	0:54:46
1/14/2014	Star Trek: Rendezvous	"The Inquiry"	0:16:25
4/5/2014	Star Trek: Secret Voyage	"Rise of the Gongdea"	0:35:09
5/1/2014	Starship Exeter	"The Tressaurian Intersection"	0:51:46
5/28/2014	Star Trek: Reliant	"Supply and Demand"	0:22:23
6/15/2014	Star Trek Continues	"Fairest of Them All"	0:40:33
6/22/2014	Star Trek Natures Hunger	"Star Trek Encounters Silence of the Lambs"	0:09:45
6/27/2014	Starship Valiant	"Legacy"	0:19:47
7/14/2014	Project: Potemkin	"Command Decision"	0:06:14
7/26/2014	Star Trek: Axanar	"Prelude to Axanar"	0:21:09
8/4/2014	Starship Farragut	"Conspiracy of Innocence"	0:37:19
9/29/2014	Star Trek: Reliant	"Stalemate"	0:06:17
10/31/2014	Star Trek Natures Hunger	"Dorothy's Awesome Shuttlecraft Adventure"	0:22:26
11/11/2014	Project: Potemkin	"Holding Pattern"	0:12:14
12/1/2014	Star Trek New Voyages: Phase II	"Mind-Sifter"	1:17:38

55. Following the success of fan films such as *Star Trek: Prelude to Axanar*, CBS has instituted requirements/guidelines regarding fan films. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

56. JJ Abrams, producer/director of *Star Trek* (the 2009 film) and *Star Trek Into Darkness*, and producer of *Star Trek Beyond*, described his and director Justin Lin's perspective about *Star Trek: Prelude to Axanar* and the role of fans in the *Star Trek* universe.¹⁰⁷

I gotta say just one thing that Justin did. A few months back, there was a fan movie, Axanar, that was getting made, and there was this, like, lawsuit that happened between the studio and these fans. And Justin ... was sort of outraged by this, as a longtime fan. We started talking about it and realized that this was not an appropriate way to deal with the fans. The fans should be celebrating this thing, like you're saying right now. We all, fans of *Star Trek*, are part of this world.

57. Damon Lindelof, also a producer of *Star Trek* and *Star Trek Into Darkness*, recently offered his perspective on *Star Trek: Axanar* and its effect on the *Star Trek* franchise.¹⁰⁸

¹⁰⁶ [REDACTED]

¹⁰⁷ https://www.buzzfeed.com/adambvary/star-trek-fandom?utm_term=.dyMnV2b7a#.en756Xk09.

¹⁰⁸ https://www.buzzfeed.com/adambvary/star-trek-fandom?utm_term=.dyMnV2b7a#.en756Xk09.



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If Axanar turns out to be a complete and total pile of shit, it's not going to hurt Star Trek. And if Axanar turns out to be amazing, it's going to help Star Trek, because it fires up the fans. ... Any fan fiction, at whatever budget level it's produced, as long as it's not generating money, as long as it's free, people should leave it alone.

2.2 Overview of Monetary Remedies and Plaintiffs' Claims

58. I understand that monetary remedies available to a copyright owner when infringement has occurred fall within three areas:

- actual damages (typically measured as lost profits),
- defendants' profits (to the extent not already included in actual damages), and
- statutory damages.¹⁰⁹

59. At this time, it is unclear which measure(s) of damages or other remedies Plaintiffs are pursuing, but in Paramount's Responses to Requests for Admission, Paramount indicated that it is not aware of any revenue Paramount has lost as a result of the alleged copyright infringement.¹¹⁰

¹⁰⁹ 17 U.S.C. § 504(a) – § 504(c). Costs and fees are another category of monetary remedy, but I have not analyzed that issue and do not intend at this time to offer an expert opinion on that topic.

¹¹⁰ Paramount Pictures Corporation's Responses to Requests for Admission, Set Two, pp. 3-5.



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19 REQUEST NO. 72:
20 Admit that You are unaware of revenues associated with Star Trek Motion
21 Pictures lost as a result of the Axanar Works.
22 RESPONSE TO REQUEST NO. 72:
23 Paramount incorporates the General Objections as though fully set forth
24 herein. Subject to and without waiving the foregoing objections or General
25 Objections, Paramount responds as follows:
26 Paramount admits that it is not aware of a specific dollar amount of revenue
27 associated with Star Trek Motion Pictures lost as a result of the Axanar Works, and

1 admits that it has not been able to quantify such amounts, but denies that no market
2 harm has resulted from the public display of the Axanar Works.
3 REQUEST NO. 73:
4 Admit that You are unaware of revenues associated with Star Trek
5 Copyrighted Works lost as a result of the Axanar Works.
6 RESPONSE TO REQUEST NO. 73:
7 Paramount incorporates the General Objections as though fully set forth
8 herein. Paramount further objects to this Request as irrelevant. Paramount further
9 objects to this Request as premature in light of the fact that discovery in this case is
10 ongoing. Subject to and without waiving the foregoing objections or General
11 Objections, Paramount responds as follows:
12 Paramount admits that it is not aware of a specific dollar amount of revenue
13 associated with Star Trek Copyrighted Works lost as a result of the Axanar Works,
14 and admits that it has not been able to quantify such amounts, but denies that no
15 market harm has resulted from the public display of the Axanar Works.

60. However, Paramount has denied that the *Axanar* Works have no impact on the market value or new or potential markets for the Star Trek Copyrighted Works. CBS has replied with essentially the same language (indicating that CBS is not aware of any revenue CBS has lost as a result of the alleged copyright infringement, but denying that the *Axanar* Works have had no impact on the market value or or new or potential markets for the Star Trek Copyrighted Works).¹¹¹

61. Paramount's response to an interrogatory requesting that Paramount describe the harm it has suffered as a result of the alleged unlawful conduct describes one damages theory.¹¹²

¹¹¹ CBS Studio Inc.'s Responses to Requests for Admission, Set Two, pp. 4-5.

¹¹² Paramount Pictures Corporation's Amended Responses to Interrogatories, Set One (Nos. 4, 5, 8 and 9), p. 6. CBS has used identical language in its amended responses to these same interrogatories. CBS Studio Inc.'s Amended Responses to Interrogatories, Set One (Nos. 4, 5, 8 and 9), p. 6.



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20 These funds, which Alec Peters personally profited from, were raised from
21 consumers of Plaintiffs’ intellectual property. Instead of purchasing licensed Star
22 Trek products, these consumers donated to Mr. Peters’ “independent Star Trek film”
23 project. Any dollar that a donor spends on Axanar is a dollar that they do not have
24 for authorized Star Trek merchandise or products.

62. [REDACTED]

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2.3 There are multiple indications that fan films generally benefit official studio releases and the film/story franchises, and that the *Axanar* Works have benefited Star Trek and Plaintiffs.

63. As described above, there are multiple indications that fan films generally benefit official studio releases and film/story franchises, and that the *Axanar* Works have benefited Star Trek and Plaintiffs.

These include:

- Studios including Plaintiffs have used/released/re-released other films in a franchise to spur interest in the franchise, with the understand that more interest in the franchise translates into better performance of a new film of the franchise.
- Studios, including CBS, have viewed fan films and the fans associated with them as important to the vitality of film franchises. These opinions have been expressed by individuals involved in the productions of Plaintiffs (e.g., JJ Abrams, Damon Lindelhof, and George Takei).
- How films are promoted and marketed today has changed, including by Plaintiffs, with an emphasis on engagement with potential customers and fans, with social media playing a large role in this engagement, and more and deeper connection with fans being highly valuable and strategically advantageous.
- The *Axanar* Works have received critical acclaim and been popular, with donors contributing over \$1 million toward *Star Trek: Axanar* after the release of *Star Trek: Prelude to Axanar*.

2.4 I am not aware of information supporting the notion that monies donated to fund the making of *Star Trek: Prelude to Axanar* and *Star Trek: Axanar* have resulted in lost revenue or profits to Plaintiffs.

64. I am aware of no information that supports the idea that there is a finite and limited budget of monies that potential viewers or consumers have available for purchase of Star Trek-related merchandise or products (e.g., tickets to the cinema or DVDs). [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED].¹¹⁴ In addition, it would not make sense, for example, if a studio thought that its moviegoers had insufficient funds to be able to buy a DVD *and* see a movie in a theatre, to release an older film from a franchise just before a new release, given that the DVD purchase would render the moviegoer incapable of paying to go to the cinema to see the new release. In fact, the information I have cited and described above suggests exactly the opposite. For example, Trekkies appear to be able to attend a Star trek convention and afford a Star Trek costume. CBS personnel credit fans who make fan films with being an important part of the Star Trek universe, even though the fans have spent monies making their own films – which suggests this has not left them penniless.

65. As Mr. Lindelof expressed it, the *Axanar* Works will either not hurt the Star Trek franchise, or benefit it.

2.5 I am not aware of any profits that Defendants have earned as a result of the alleged copyright infringement.

66. As described above, [REDACTED]

[REDACTED]

[REDACTED].¹¹⁵ Further, I understand that neither of these films has been sold or charged viewers to watch the films, and in fact *Star Trek: Axanar* has not been released or even substantially filmed.

67. [REDACTED]

[REDACTED]

¹¹⁴ [REDACTED]

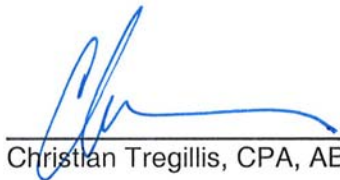
¹¹⁵ 17 U.S.C. § 504(b). This provision is consistent with the provision for an award of defendants' profits in the Lanham Act.



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I declare, under penalty of perjury, that this report and its appendices contain an accurate description of my opinions, the bases for them, my qualifications, my publications and public teachings of the past 10 years, the rate at which my firm is compensated for my work on this matter, and my testimony history covering the past four years.

Submitted this 5th day of December, 2016, in Los Angeles, California.



Christian Tregillis, CPA, ABV, CFF, CLP



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APPENDIX A. DOCUMENTS AND INFORMATION CONSIDERED

The following information was reviewed and/or considered in the preparation of my report.

Documents with Bates Numbers

- AX035571-737
- 17 U.S.C. § 504
- Deposition of Elizabeth Kalodner, October 13, 2016
- Deposition of John Van Citters, September 28, 2016

Pleadings

- Amended Complaint for: 1. Copyright Infringement, 2. Contributory Copyright Infringement, 3. Vicarious Copyright Infringement, and 4. Declaratory Judgment, March 11, 2016
- CBS Studio Inc.'s Amended Responses to Interrogatories, Set One (Nos. 4, 5, 8 and 9), p. 6
- CBS Studio Inc.'s Responses to Requests for Admission, Set Two
- Paramount Pictures Corporation's Amended Responses to Interrogatories, Set One (Nos. 4, 5, 8 and 9)
- Paramount Pictures Corporation's Responses to Requests for Admission, Set Two

Depositions

- Deposition of Dan O'Rourke, September 30, 2016
- Deposition of Elizabeth Kalodner, October 13, 2016
- Deposition of John Van Citters, September 28, 2016

Websites

- <http://blog.datasift.com/2015/12/10/film-studios-you-cant-afford-to-not-know-what-youre-audience-is-engaging-with-on-facebook/>
- <http://cbscorporation.jobs/social-media-manager/jobs-in/>, as of October 30, 2016
- http://cdnvideo.dolimg.com/cdn_assets/e82154028103695f1f0b17719aa2e245bca94086.pdf
- <http://eoyhof.ey.com/>
- http://memory-alpha.wikia.com/wiki/Alec_Peters
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- <http://telfie.com/>
- <http://variety.com/2016/film/news/paramount-fourth-star-trek-chris-pine-chris-hemsworth-1201816258/>
- <http://www.axanarproductions.com/about/team/>
- <http://www.axanarproductions.com/takei-endorses-axanar/>



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- http://www.creationent.com/cal/st_lasvegas.html
- <http://www.forbes.com/forbes/welcome/?toURL=http://www.forbes.com/sites/steveolenski/2015/09/26/marketing-a-movie-aint-what-it-used-to-be/>
- <http://www.fuelintelligence.com/>
- <http://www.fuelintelligence.com/#clients>
- <http://www.geekalerts.com/live-long-and-prosper-t-shirt/>
- <http://www.google.com>, search for “Star Trek memorabilia,” as of October 30, 2016
- <http://www.history.com/specials/50-years-of-star-trek>
- <http://www.hollywoodreporter.com/lists/best-tv-shows-ever-top-819499/item/twin-peaks-hollywoods-100-favorite-821405>
- http://www.huffingtonpost.com/david-m-kirby/the-role-of-social-media-_b_10571026.htm
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- <http://www.merriam-webster.com/dictionary/crowdfunding>
- <http://www.oxfordreference.com/view/10.1093/acref/9780195305678.001.0001/acref-9780195305678-e-805>
- <http://www.phrases.org.uk/meanings/live-long-and-prosper.html>
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- <http://www.starwars.com/go-rogue-contest>
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- <http://www.theatlantic.com/sponsored/ibm-transformation-of-business/big-data-and-hollywood-a-love-story/277/>
- http://www.theharrispoll.com/health-and-life/The_Silver_Screen_Slump__Americans_Say_They_re_Going_to_the_Movies_Less_Often.html
- <http://www.the-numbers.com/market/2015/top-grossing-movies>
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- https://twitter.com/StarTrek?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor
- <https://twitter.com/starttrekbeyond>
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- <https://www.bustle.com/articles/173269-another-star-trek-movie-is-coming-its-going-to-be-a-kirk-family-reunion>
- https://www.buzzfeed.com/adambvary/star-trek-fandom?utm_term=.dyMnV2b7a#.en756Xk09
- <https://www.facebook.com/StarTrek/>
- <https://www.facebook.com/StarTrek/about/>
- <https://www.facebook.com/StarTrekCBS/>
- <https://www.facebook.com/StarTrekMovie/>
- <https://www.ichckmovies.com/>
- <https://www.indiegogo.com/projects/axanar#/>
- <https://www.instagram.com/Startrek/>
- <https://www.instagram.com/starttrekmovie/?hl=en>
- <https://www.kickstarter.com/projects/194429923/star-trek-axanar>
- <https://www.kickstarter.com/projects/194429923/star-trek-prelude-to-axanar>
- https://www.youtube.com/watch?v=1W1_8IV8uhA, as of October 30, 2016.
- <https://www.youtube.com/watch?v=e23oPXMctE0>



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APPENDIX B. QUALIFICATIONS OF CHRISTIAN TREGILLIS, CPA, ABV, CFF, CLP

Christian Tregillis is a partner in Hemming Morse's Los Angeles office. In this role he analyzes financial, accounting, economic, statistical, and market issues, primarily in regard to disputes and valuations, including the negotiation of license agreements covering intellectual property. He has participated in mediations and has testified in depositions, hearings, arbitrations, and at trial in both state and federal courts.

Mr. Tregillis has worked on over 400 matters in his 25 years of financial consulting and investigations, including 11 years at big four accounting firms. He was previously the leader of the Damages, Valuation & IP practice area globally for LECG. Prior to that he led the Forensic Accounting & Litigation Consulting practice in the Western U.S. for Kroll Inc. and was the national leader of Kroll's Intellectual Property Services practice. Before his work at Kroll he was a partner in the Financial Advisory Services practice at Deloitte & Touche, where he led the Los Angeles office's Intellectual Asset Management practice.

Mr. Tregillis is a past chair and current member of the Economic Damages Task Force and was formerly on the Forensic & Litigation Services Committee of the American Institute of Certified Public Accountants; he is also a past chair of the Economic Damages Section and serves on the Steering Committee of the Forensic Services Section of the California Society of Certified Public Accountants. From 2003 to 2007 he was on the Board of Trustees of the Center for Law in the Public Interest and was the Center's Chief Financial Officer. Early in his career he spent two years at First Interstate Bank, where he helped design a portfolio hedging system to manage interest rate exposure, valued acquisition targets and lines of business, statistically forecasted loan losses, and set reserve levels.

EDUCATION AND CERTIFICATIONS

- Occidental College, A.B. Economics with Distinction
- University of Chicago Graduate School of Business, M.B.A. Finance and Accounting
- Certified Public Accountant, Licensed in California and Certified in Illinois
- Accredited in Business Valuation, American Institute of Certified Public Accountants
- Certified in Financial Forensics, American Institute of Certified Public Accountants
- Certified Licensing Professional, Licensing Executives Society

SELECT ENGAGEMENTS

- **Media company v. social networking company.** Plaintiff, one of the largest media companies in the world, sued defendant, one of the most visited websites on the Internet, for contributory infringement pertaining to the unauthorized transmission of music and videos on the website. Mr. Tregillis analyzed factors to be evaluated in setting statutory damages, including the value that the content contributed to the social networking company, licenses for streaming and copying the music and videos, and profits earned. The matter settled before any testimony was given.
- **Website owner v. website owners.** Plaintiff, and owner of a popular adult website, claimed that defendants cybersquatted and infringed the trademarks of plaintiff by virtue of their confusingly similar websites. Mr. Tregillis evaluated damages and defendant's profits as available remedies in the trademark infringement (Lanham Act) suit, which included related causes of action.



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- **Music label v. law firm.** The label released and later recalled an album and single after it lost trademark and copyright infringement suits on the music and packaging. After the law firm filed a claim to recover its unpaid fees, the label countersued for malpractice related to the firm's handling of the matter. Mr. Tregillis calculated lost sales resulting from the recall, where the projection was a function of the unimpaired actual sales soon after the release and the expected level of sales over time as seen in other similar releases (e.g., genre) that did not have a recall. Mr. Tregillis provided deposition testimony on the matter, though it settled before trial.
- **Owner of graphic design v. apparel manufacturer and retailer.** Plaintiff alleged that defendants improperly used plaintiff's graphic design, which had small fruits in an array, at different angles, on shirts that were manufactured and sold by the defendants. Mr. Tregillis quantified copyright infringement remedies – particularly defendant's allegedly ill-gotten gains, in consideration of costs incurred and apportionment of profits to account for the value of the copyrighted design, as compared to other contributions to value in the sale.
- **Gentlemen's club franchisor v. franchisee.** Defendant was accused of infringing plaintiff's trade dress in its franchise locations. In a counterclaim, the franchisor was accused of failing to comply with terms of the franchise agreement between the parties. Mr. Tregillis performed an accounting of amounts due per the agreement, as well as analyzing damages to the franchisor from the alleged trade dress infringement.
- **Estate of photographer v. apparel retailers.** Plaintiff, a famous photographer of rock musicians, alleged that defendants improperly used plaintiff's photos in prints on the walls of defendants' apparel stores. Mr. Tregillis quantified copyright infringement damages, measured as a license on the copyrighted works, taking into account the types of use and licenses for comparable images.
- **Adult entertainment products company v. adult entertainment products company.** The parties entered into an exclusive licensing agreement that covered international distribution of plaintiff's products by defendant. However, defendant later chose to develop and sell its own line of competing products. Mr. Tregillis wrote an expert report on damages related to the alleged breach of contract; the matter settled soon after the Nevada District Court ruled that Mr. Tregillis's analysis was admissible under FRE Rule 702.
- **Author of software code v. web hosting and communications company.** Plaintiff, who had been a contractor writing code for defendant, alleged that he was entitled to a license on the revenue from defendant's conference calling program, given that his code had been used in the development of the software. Mr. Tregillis quantified copyright infringement damages, measured as the value of the portion of the source code written by plaintiff.
- **Golf course owner v. website owner/manager.** After plaintiff refused to agree to a 200% increase in fees to defendant for referrals of customers to plaintiff's golf courses, defendant began posting defamatory articles and messages on defendant's websites. Mr. Tregillis calculated the financial impact of the postings on plaintiff's business, including reputational harm. After Mr. Tregillis testified in Nevada District Court, the court adopted his calculations in its ruling.
- **Financier v. founder/owner of restaurant chain and hotel/casino.** Defendant opened a chain of restaurants and a successful hotel/casino, and later sold all of these interests.



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Plaintiff claimed that pursuant to his assisting in financing the initial restaurants twenty-five years previous, he was entitled to a portion of the sales price of the hotel/casino - the value of the hotel/casino trademark. Mr. Tregillis provided expert analysis of the value of the hotel/casino and different components of the \$770m transaction, including the value of the trademark rights as a part of the purchase price allocation for financial statement reporting purposes. He was deposed and testified at trial in the matter.

- ***Beverage company founder v. financier.*** After signing an agreement to take plaintiff's new beverage product to market, defendant failed to fund the operation as called for in the agreement, which resulted in plaintiff reaching an agreement with another financier on inferior terms, with a lesser percentage maintained by the founder. The financier counterclaimed that he owned the trademarks, which he alleged were therefore infringed. Mr. Tregillis quantified damages, measured as lost profits and lost value of the business and IP, and testified at trial in federal court.
- ***Estate of musician v. former counsel for estate.*** The dispute related to the sale by plaintiff of rights to the music of his son – one of the most commercially successful and influential guitarists of his era. Defendant acted as counsel to plaintiff in the sale, even though defendant also indirectly owned the company which purchased the rights. Mr. Tregillis managed the forensic accounting to trace the flow and quantification of funds after the transaction, in addition to the valuation of the rights as of the date of sale in the early 1970s.
- ***Athlete v. business advisor.*** A well-known and successful athlete and his business advisor parted ways after two decades of working together. As part of the dissolution of their partnership and a dispute between the parties, Mr. Tregillis analyzed transactions and the operations of the dozens of businesses the parties had started, purchased, licensed, and in some cases sold, including a charitable foundation, partial ownership in a casino, a night club, and a talent agency. Mr. Tregillis evaluated accounting improprieties and the value of the entities for purposes of the dissolution and related litigation.
- ***Media company adv. individuals.*** The media company entered into a joint venture to promote Latin American concerts and other events in the U.S., with the individuals selling their ownership rights in the company, but agreeing to continue in an exclusive managerial role. The media company terminated the individuals after discovering that they had engaged in allegedly competitive acts. Mr. Tregillis testified in deposition and at an arbitration as to the damages from the alleged breach, alter-ego issues as to the individuals and their new companies, and the implications of the perceived lack of internal controls at the company surrounding the Co-Presidents regarding their handling of concerts, cash management and self-dealing.



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PROFESSIONAL ACTIVITIES, GROUPS & AFFILIATIONS

- California Society of Certified Public Accountants
 - Member, Steering Committee for Forensic Services
 - Past Chair, Economic Damages Section
- American Institute of Certified Public Accountants
 - Co-Chair and Past Chair, Economic Damages Task Force
 - Past Member, Forensic & Litigation Services Committee
- Intellectual Property Owners Association
 - Past Member, Licensing Committee
- Certified Licensing Professionals
 - Co-Chair, Exam Development and Maintenance Committee

PUBLICATIONS, PRESENTATIONS & SPEAKING

- *Income Statement Analysis*. Practicing Law Institute, *Basics of Accounting and Finance* (September, 1998).
- *The Use of Outside Accountants*. Practicing Law Institute course *Basics of Accounting and Finance* (September, 1998) – instructor and chapter author, “Overview of Services Provided by CPAs.”
- *Evaluating IP Lost Profits: From Panduit to Grain Processing*. California Society of CPAs publication, *The Witness Chair* (Summer, 2001).
- *The Valuation of Trademarks*. American Intellectual Property Lawyers Association Annual Meeting (October, 2001).
- *The Valuation of Intellectual Property*. San Diego Institute of Intellectual Property Lawyers Association Meeting (April, 2002).
- *Issues to Consider in Evaluating a Reasonable Royalty*. American Institute of CPAs publication, *CPA Expert* (Summer, 2002).
- *IP Through the Life of Your Business*. The Phelps Group: IP Summit (July, 2002).
- *The Use of Multiple Regression in Commercial Litigation*. California Society of CPAs, Economic Damages Section Meeting (October, 2002).
- Review of *Valuation for Financial Reporting: Intangible Assets, Goodwill, and Impairment Analysis, SFAS 141 & 142* (by Michael J. Mard, et al.). American Institute of CPAs publication, *CPA Expert* (Winter 2003).
- *The Use of Surveys and Statistics in Litigation*. California Society of CPAs, California Society of CPAs, *Advanced Business Litigation Institute* (May, 2003).
- *Current Issues in IP Litigation Damages*. California Society of CPAs, California Society of CPAs, *Advanced Business Litigation Institute* (May, 2003).
- *The Role of the Financial Expert in Trade Secret Litigation*. California Society of CPAs, Economic Damages Section Meeting (July, 2003).



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- *Notes and Numbers: Does the Data on Declining Music Sales “Sing” In an Age of Music Downloading?* Los Angeles County Bar Assoc., Music Section Meeting (December, 2003).
- *Peer to Peer File Sharing Suits: What’s Next?* California Society of CPAs publication, *The Witness Chair* (Winter, 2004).
- *AICPA Statement on Standards for Business Valuation.* California Society of CPAs, Economic Damages Section Meeting (February, 2004).
- *Research on Current Issues in Economic Damages.* California Society of CPAs, Economic Damages Section Meeting (May, 2004).
- *Assessing and Proving Damages from Infringement, Program Moderator.* University of Southern California *Intellectual Property Institute* (May, 2004).
- *Daubert Case Law.* American Institute of CPAs, *Conference on Fraud and Litigation Services* (September, 2004).
- *Cost Shifting and Electronic Discovery: How Experts Can Help Clients Minimize Costs.* California Society of CPAs publication, *The Witness Chair*, with Rachel Laybourn (Fall 2004).
- *Valuation of Intellectual Property.* California State Bar Intellectual Property Law Section, *Intellectual Property Institute* (November, 2004).
- *From Qualifications to Unsupported Opinions: A Review of Motions to Exclude Financial Experts.* California Society of CPAs, Economic Damages Section Meeting (February, 2005).
- *Challenges for the Intellectual Property Damages Expert: Apportionment of Value, Multiple Patent Litigation, Price Erosion, and the Entire Market Value Rule.* California Society of CPAs, *Advanced Business Litigation Institute* (May, 2005).
- *You’ve Been Sued for Infringement – Now What?* University of Southern California Gould School of Law, *Intellectual Property Institute* (May, 2005).
- *Fraud Identification, Protection and Management.* Financial Executives International, Seattle Section meeting (September, 2005).
- *Spending Your IP Dollars Wisely in Foreign Markets.* AeA Oregon Section Meeting (December, 2005).
- *Differences Between Lost Profits and Diminution in Business Value as a Measure of Damages.* American Institute of CPAs publication, BV-FLS Section Update, with Michael Thompson (January, 2006).
- *Practice Aid on Damages in Intellectual Property Disputes* (contributor/editor). American Institute of CPAs publication (February, 2006).
- *The Top 10 Things About IP Every Technology Manager Needs to Know.* Mentor Graphics User2User Conference (May, 2006).
- *Financing Issues in Managing Intellectual Property Risk.* Risk & Insurance Management Society, Los Angeles Chapter Meeting (June, 2006).
- *Awards for Future Damages in Patent Infringement Cases after eBay v. MercExchange.* American Bar Association, *IPL Newsletter* (Summer, 2006, Volume 24, Issue 4).
- *The Forensic Accountant’s Role in Claims of Alter-Ego, Successor Liability, and Fraudulent Transfers.* California Society of CPAs, Economic Damages Section Meeting (October, 2006).



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- *The Financial Expert Post-eBay: The Four-Factor Test and Future Royalties*. Law Seminars International, *Calculating and Proving Patent Damages* (February, 2007).
- *Econometric Analysis and Multiple Regression*. Chapter in *Litigation Services Handbook: The Role of the Financial Expert, (Fourth Edition)*, with Dr. Mohan Rao, edited by Peter Frank, Michael Wagner and Roman Weil (February, 2007); also in the supplement to the third edition.
- *Patent Rights in the Post-eBay Era: What You Need to Survive*. University of Southern California Gould School of Law, *Intellectual Property Institute* (March, 2007).
- *Current Issues in Patent Damages*. IQPC, *3rd Patent Strategies* (March, 2007).
- *Conducting Internal Corporate Investigations*. Association of Corporate Counsel of America, Southern California quarterly meeting (April, 2007).
- *Managing Digital Intellectual Property Risk*. Automotive News Webinar (April, 2007).
- *Protecting Your Intellectual Property: Essential Strategies to Building a Successful IP Protection Program*. Microsoft CSO Summit (April, 2007).
- *Top 10 Reasons Why Financial Experts Get Excluded and What to Do About It*. American Institute of Certified Public Accountants National Conference on Fraud and Litigation Services (September, 2007).
- *Forensic Accounting Investigations and Valuation Analysis in an XBRL World*. 16th XBRL International Conference (December, 2007).
- *The CPA's Handbook on Fraud and Commercial Crime Prevention*. American Institute of Certified Public Accountants publication (lead author – 2008 update) (May, 2008).
- *Forensic Investigation of Financial Statement Fraud: Case Studies*. Florida Institute of Certified Public Accountants, *Accounting and Business Expo* (May, 2008).
- *Discovery and Production Issues*. American Institute of Certified Public Accountants, *National Conference on Fraud and Litigation Services* (September, 2008).
- *Quanta, Exhaustion and Patent Damages*. IP360 (October, 2008).
- *Discount Rates and the Time Value of Money in Litigation*. California Society of CPAs, Economic Damages Section Meeting (May, 2009).
- *Understanding, Developing & Managing Forensic Engagements*. American Institute of Certified Public Accountants Webinar, "Creating a Niche Forensic Practice Series" (February, 2010).
- *Economic Damages: An Overview*. American Institute of Certified Public Accountants Webinar, "Creating a Niche Forensic Practice Series" (May, 2010).
- *Hot Issues in Reasonable Royalty Patent Damages* (topics led: *The Use of Surveys and Demand Curves*, and *The Use of Settlement Agreements*). University of Southern California Gould School of Law, *Intellectual Property Institute* (March, 2011).
- *Differences Between Lost Profits and Diminution in Business Value as a Measure of Damages*. American Institute of Certified Public Accountants, *FVS Consulting Digest* (Issue 1, January 2012).
- *Discount Rates, Risk, and Uncertainty in Economic Damages Calculations*. American Institute of Certified Public Accountants Practice Aid (April, 2012).
- *Discount Rates, Risk, and Uncertainty in Economic Damages Calculations*. American Institute of Certified Public Accountants Webinar (July, 2012).



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- *Discount Rates, Risk, and Uncertainty in Economic Damages Calculations; Attaining Reasonable Certainty in Economic Damages Calculations.* California Society of Certified Public Accountants Forensic Services Section Meeting (October, 2012).
- *Interpreting and Reconciling Recent Case Decisions: Raising the Bar on Lost Profits, Business Valuation and Intellectual Property Damages.* American Institute of Certified Public Accountants Forensic and Valuation Services Conference (November, 2013).
- *Reasonable Certainty Round 2: An Inside Look at the Findings of the Damages Task Force - Reasonable Certainty for New or Unestablished Businesses.* American Institute of Certified Public Accountants Forensic and Valuation Services Conference (November, 2013).
- Reasonable Certainty in Economic Damages Calculations. California Society of Certified Public Accountants Forensic Services Section Meeting (February, 2015).
- Patent Damages Roundtable. University of Southern California Gould School of Law, Intellectual Property Institute (March, 2015).
- Reasonable Certainty in Economic Damages Calculations. American Institute of Certified Public Accountants Practice Aid (August, 2015).
- Author of quarterly "*AICPA Update*" (2006-2009), and "*Economic Damages Section Update*" (2008-2010). California Society of CPAs publication, *The Witness Chair*.
- Research assistant in the publication of textbooks in Microeconomics, Macroeconomics and Econometrics.
- Instructor, the Conviser Duffy (Becker) CPA Review Course.



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APPENDIX C. TESTIMONY HISTORY

Testified for counsel for underlined party. ** indicates matters that involved counterclaims.

Plaintiff/Claimant	Defendant/Respondent	Venue	Deposition	Trial/ Arbitration	Hearing
<u>Post Advisory Group</u>	Lawrence Post, et al.	JAMS Arbitration	X		
<u>PNY Technologies, Inc.</u>	Miller, Kaplan & Arase, LLP	US District Court - Northern District of California	X	X	
<u>Michael Torgan</u>	Stephen Reissman, et al.	ADR Services Arbitration		X	
<u>Ahmad Alkayali</u>	Fatma Houkhari, et al.	California Superior Court – Riverside County	X	X	
Synopsys, Inc.	<u>ATopTech, Inc.</u>	US District Court - Northern District of California	X		
Ruth McClamma Stueve, et al.	Raymond Novell, <u>et al.</u>	California Superior Court – Orange County	X		
<u>Monica Barba, et al.</u>	Shire U.S., et al.	US District Court - Southern District of Florida	X		
<u>Taylorred Services Parent Co., Inc.</u>	Taylorred Acquisition Corporation, et al.	JAMS Arbitration	X	X	
<u>Tessera, Inc.</u>	UTAC (Taiwan) Corp.	US District Court - Northern District of California	X		
Yellow Pages Photos, Inc.	<u>SuperMedia, Inc.</u>	US Bankruptcy Court - District of Delaware	X		
SCA Promotions, Inc.	<u>Yahoo! Inc.</u> **	US District Court - Northern District of Texas	X		
<u>Omega Patents, LLC</u>	CalAmp Corporation	US District Court - Middle District of Florida	X	X	



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Plaintiff/Claimant	Defendant/Respondent	Venue	Deposition	Trial/ Arbitration	Hearing
Tullett Prebon Financial Services, LLC, et al.	<u>Suncica Reljic, et al. **</u>	Financial Industry National Regulatory Authority Arbitration		X	
<u>LendingTools.com, Inc.</u>	Bankers' Bank of Kansas, et al.	Kansas District Court - Sedgwick County	X	X	
Klauber Brothers, Inc.	<u>Target Corporation, et al.</u>	US District Court - Southern District of New York	X		
<u>Vopak Terminal Los Angeles Inc.</u>	Petro-Diamond Incorporated **	California Superior Court – Orange County	X	X	
<u>AAMP of Florida, Inc. d/b/a AAMP of America</u>	Automotive Data Solutions, Inc.	US District Court - Middle District of Florida	X		
<u>Emmett McDonough, et al.</u>	James Knell, et al.	California Superior Court – Santa Barbara County	X	X	
Samy Abdou, M.D.	<u>Alphatec Spine, Inc.</u>	US District Court - Central District of California	X		
<u>John Ibarra</u>	Jacob Christopher Ortiz, a/k/a Tito Ortiz, et al.	California Superior Court - Los Angeles County	X		
<u>Angel Aquiar</u>	Merisant Company, et al.	US District Court - Central District of California	X		
<u>Calista Enterprises Ltd.</u>	Tenza Trading Ltd. **	US District Court - District of Oregon	X		
<u>Tessera, Inc.</u>	Powertech Technology, Inc. and Macrotech Technology, Inc.	US District Court - Northern District of California	X		
<u>Nomadix Inc.</u>	iBAHN Corporation	US District Court - Central District of California	X		
Irvine Fuel, et al.	ConocoPhillips, <u>et al. **</u>	California Superior Court – Orange County	X		



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Plaintiff/Claimant	Defendant/Respondent	Venue	Deposition	Trial/ Arbitration	Hearing
Casino Marketing Alliance	<u>Pinnacle Entertainment</u>	ADR Arbitration	X	X	
<u>Tessera, Inc.</u>	Sony Corporation	US District Court - Northern District of California	X		
Jim Marshall Photography LLC	<u>John Varvatos Enterprises, Inc., et al. **</u>	US District Court - Northern District of California	X		
<u>iTradeNetwork, Inc.</u>	Emeric McDonald	California Superior Court – Santa Clara County	X		
<u>Nomadix Inc.</u>	Aruba Networks, Inc.	US District Court - Central District of California	X		
NurseGate, Inc., et al.	<u>Parkview Community Hospital Medical Center</u>	California Superior Court – Riverside County	X		
<u>Banning Lary, M.D., et al.</u>	Boston Scientific Corporation **	US District Court - Southern District of Florida	X		
SanDisk Corporation	<u>PNY Corporation **</u>	California Superior Court - Santa Clara County	X	X	
<u>Nomadix Inc.</u>	Wayport, Inc. and Superclick Networks Inc.	US District Court - Central District of California	X		
<u>Crestview Service, Inc.</u>	Brian Graver, Trustee of the Graver Family Trust	JAMS Arbitration	X	X	
<u>Nomadix Inc.</u>	Hewlett Packard Corporation **	US District Court - Central District of California	X		
<u>Alayne Batsakes</u>	Spiro Chaconas, et al.	California Superior Court – Riverside County	X		
<u>Signal Hill Service, Inc., et al.</u>	Macquarie Bank Limited	US District Court - Central District of California	X		



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Plaintiff/Claimant	Defendant/Respondent	Venue	Deposition	Trial/ Arbitration	Hearing
Steven Short	<u>Charles Ware</u> **	California Superior Court – Riverside County	X		X
Jeffrey Malone, et al.	Jerry Berger, <u>Montemar Homeowners Association</u> , et al.	California Superior Court – San Diego County	X		
John Woodford Hansen, et al.	<u>Tri-Valley Corporation, et al.</u>	California Superior Court – Ventura County	X		
ACN Digital Phone Service, LLC	<u>Universal Microelectronics Co., Ltd.</u> ** —	AAA Arbitration	X	X	
Compulink Management Center, Inc.	<u>SAP America Inc., et al.</u> ** —	US District Court - Central District of California	X		
<u>Barry Gustin, et al.</u>	HighPoint Capital Management, LLC, et al.	California Superior Court - Alameda County	X		
<u>Motorola Mobility, Inc.</u>	Microsoft Corporation **	US District Court - Southern District of Florida	X		
<u>Brandy Flores</u>	Chemi-Source, Inc.	California Superior Court - Orange County	X	X	
K&N Engineering, Inc.	<u>Spectre Performance, Inc.</u> **	US District Court - Central District of California	X	X	
Kathrein-Werke, KG	<u>Radiacion Y Microondas S.A., et al.</u>	US District Court - Northern District of Illinois	X		
Jivago Inc.	<u>Kleinberg & Lerner, LLP, et al.</u>	California Superior Court - Los Angeles County		X	
Worth Bargain Outlet, et al.	<u>AMCO Insurance Company, et al.</u>	US District Court - Central District of California	X		
Baker, Marquart, Crone & Hawxhurst, LLP	<u>Kevin Sullivan</u> **	AAA Arbitration		X	



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Plaintiff/Claimant	Defendant/Respondent	Venue	Deposition	Trial/ Arbitration	Hearing
<u>King Tuna, Inc.</u>	Anova Foods, Inc. **	US District Court - Central District of California	X	X	
<u>Sunrise Biotechnology, Inc.</u>	Orchid Way, Inc., et al.	California Superior Court - Los Angeles County		X	
Camp Scandinavia AB, et al.	<u>Trulife, Inc., et al.</u>	US District Court - Central District of California	X		
<u>Fun With Phonics, LLC</u>	Leapfrog, Inc.	US District Court - Central District of California	X		
Milton Okun	<u>Peter Morton</u>	California Superior Court - Los Angeles County	X	X	
Arista Records, LLC, et al.	<u>Myxer, Inc.</u>	US District Court - Central District of California	X		
<u>Advanced Thermal Systems Corporation</u>	Applied Materials, Inc. **	US District Court - Central District of California	X	X	
<u>Nicoleta Jacoby</u>	Bennett Jacoby	Family Court - State of Hawaii		X	
<u>Daniel Holzman, et al.</u>	Farmers Insurance Exchange, et al.	California Superior Court - Los Angeles County	X		
<u>Lora Vrastil</u>	Madison Marquette Realty Services LP, et al.	California Superior Court - Los Angeles County		X	
Vinetta Lough	<u>Richard Lough, et al.</u>	California Superior Court - Los Angeles County	X	X	X
<u>Walters Golf, et al.</u>	Travel Golf Media, Inc., et al.	District Court - Clark County, Nevada		X	
<u>Ann Becher Smead, et al.</u>	Michael Danzi	California Superior Court -Orange County	X	X	



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Plaintiff/Claimant	Defendant/Respondent	Venue	Deposition	Trial/ Arbitration	Hearing
<u>Jay Bharat Developers, Inc. et al.</u>	Jim Minidis, et al. **	California Superior Court - Los Angeles County		X	
<u>Kevin Sullivan</u>	Thomas Sullivan, et al.	AAA Arbitration	X	X	
McKesson Corporation	<u>Family Meds, Inc.</u>	US Bankruptcy Court - Northern District of California			X
<u>Blue Mako, Inc., et al.</u>	Jim Minidis, et al. **	US District Court - Central District of California	X		
City of St. Petersburg, et al.	<u>Canam Steel Corporation, et al.</u>	US District Court - Middle District of Florida	X		
DealerTrack, Inc.	<u>Finance Express LLC, et al. **</u>	US District Court - Central District of California	X		
<u>Sugar Association, et al.</u>	McNeil Nutritionals, LLC	US District Court - Central District of California	X		
<u>Troy Valdez</u>	Philip Neuman **	US District Court - Central District of California	X	X	
Phillips, Spallas & Angstadt LLP	<u>Shahab Fotouhi</u>	US Bankruptcy Court - Northern District of California		X	
<u>Lockheed Martin Corporation</u>	L-3 Communications Corporation, et al.	US District Court - Middle District of Florida	X		
Netalog, Inc.	<u>Belkin Corporation</u>	US District Court - Middle District of North Carolina	X		
Hub City Solid Waste Services, Inc.	<u>City of Compton **</u>	California Superior Court - Los Angeles County	X		
Dimension One Spas, Inc.	<u>Coverplay, Inc., et al.</u>	US District Court - Southern District of California	X		



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Plaintiff/Claimant	Defendant/Respondent	Venue	Deposition	Trial/ Arbitration	Hearing
<u>Huntleigh USA Corporation</u>	The United States	US District Court - Court of Federal Claims	X	X	
<u>Grupo Televisa, S.A., et al.</u>	Telemundo Communications Group, Inc., et al.	US District Court - Southern District of Florida	X		
<u>CCE-TV Music Promotions, Inc.</u>	Henry Cardenas, et al. **	AAA Arbitration	X	X	
<u>V.K. Enterprises, Inc.</u>	Vartan Markarian	California Superior Court - Los Angeles County	X	X	
<u>Sundance Spas, Inc.</u>	Clark Manufacturing, Inc., et al.	California Superior Court - Riverside County	X	X	
<u>NED Corporation</u>	Soff-Cut International, Inc.	US District Court - Central District of California	X		
TeeVee Toons, Inc.	<u>Thelen Reid & Priest LLP</u> ** —	California Superior Court - San Francisco County	X		
<u>ABC Imaging, LLC</u>	American Reprographics Company, LLC	California Superior Court - Los Angeles County	X		
<u>Southwestern Bell Corporation</u>	P&R Metals, Inc.	California Superior Court - Los Angeles County	X		
Mary Magner and Patrick Magner, et al.	<u>Sears Roebuck & Company</u>	California Superior Court - San Diego County	X		
Dalia Sharvit	<u>Michael Henschel, a.k.a. Mickey Henschel, et al.</u>	US Bankruptcy Court - Central District of California		X	
Stanley Mosler, et al.	<u>Hawthorne Savings and Loan Association, et al.</u>	California Superior Court - Los Angeles County		X	
Sun-Pro, Inc., et al.	<u>Deposition Technologies, Inc.</u> **	California Superior Court - San Diego County	X		X



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Plaintiff/Claimant	Defendant/Respondent	Venue	Deposition	Trial/ Arbitration	Hearing
<u>Coopers & Lybrand LLP **</u>	Karen Colin	JAMS Arbitration		X	