

# THE BATTLE

for

# AXAN★R

**FEATURING**



**ALEC PETERS**



**JONATHAN ZAVIN**



**ERIN RANAHAN**



# AN ILLUSTRATED GUIDE



PARAMOUNT PICTURES AND CBS STUDIOS SUE ALEC PETERS AND AXANAR PRODUCTIONS INC.  
FOR INFRINGING UPON THE STUDIOS' 'STAR TREK' COPYRIGHTS

PRESENTED BY

**AXAMONITOR**

STORY & LAYOUTS BY  
CARLOS PEDRAZA

BASED ON  
PLAINTIFFS' & DEFENDANTS'  
MEMORANDA OF CONTENTIONS OF  
FACTS AND LAW, 12/19/16

[AXAMONITOR.COM](http://AXAMONITOR.COM)

ART ELEMENTS

'INSIDE THE COURTROOM' BY  
LIVESAY & MYERS, P.C.

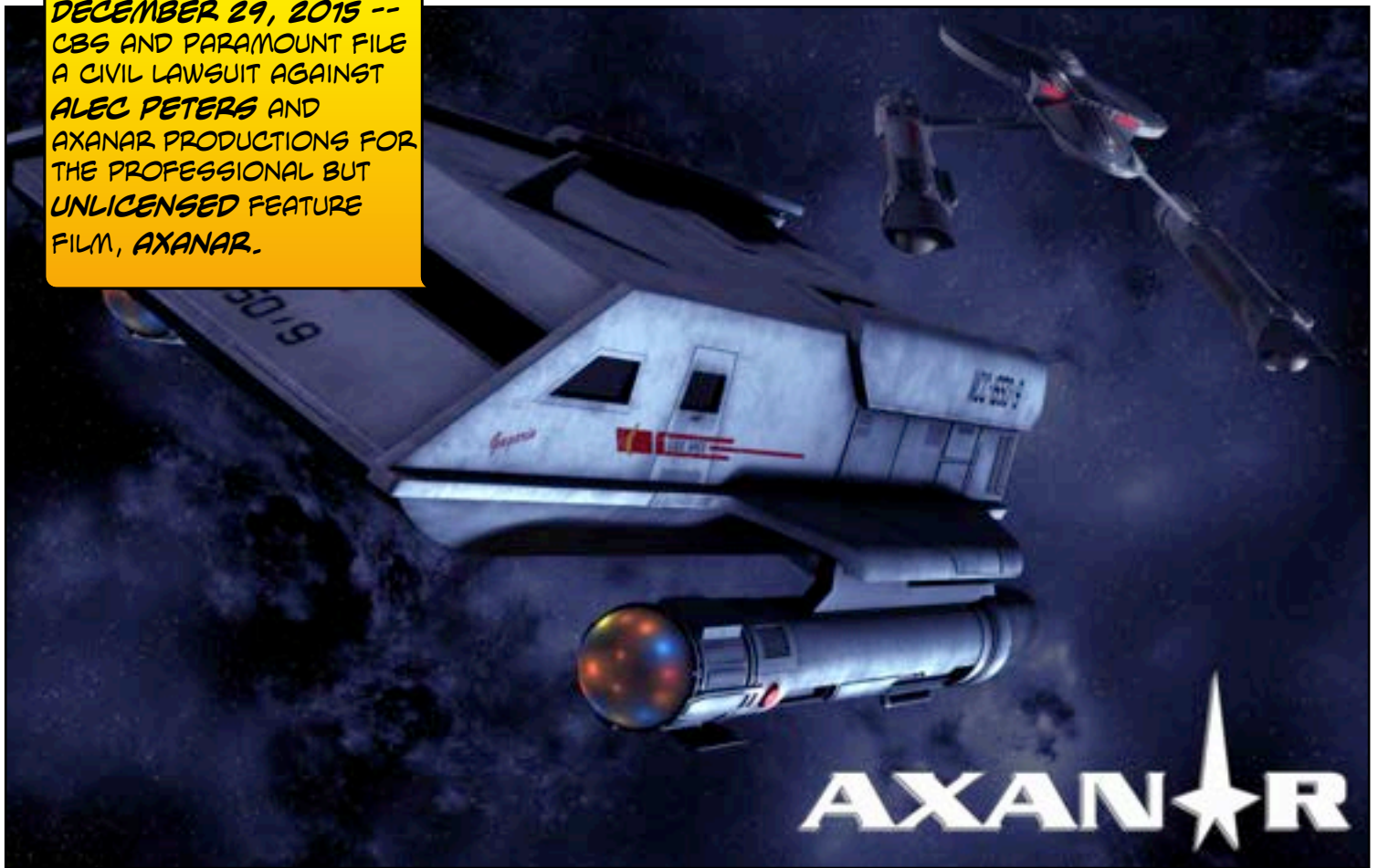
■  
AXANAR PRODUCTIONS GALLERY

■  
'BUSINESS SILHOUETTES'  
DESIGNED BY FREEPIK

■  
STAR TREK 50TH ANNIVERSARY  
POSTER BY DUSTY ABELL  
& LOVERN KINDZIERSKI



DECEMBER 29, 2015 -- CBS AND PARAMOUNT FILE A CIVIL LAWSUIT AGAINST ALEC PETERS AND AXANAR PRODUCTIONS FOR THE PROFESSIONAL BUT UNLICENSED FEATURE FILM, AXANAR.



IN AN EXCHANGE OF COURT DOCUMENTS SINCE THE SUIT WAS FILED, THE PLAINTIFFS OUTLINED THEIR COPYRIGHT INFRINGEMENT CASE AGAINST PETERS AND AXANAR --

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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Plaintiffs,

vs.

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

-- WHILE THE DEFENSE EXPLAINED HOW IT PLANNED TO RESPOND TO THE ALLEGATIONS AT TRIAL...

BOTH SIDES ARE REPRESENTED BY HIGH-POWERED, INTERNATIONAL INTELLECTUAL PROPERTY LAW FIRMS -- CBS AND PARAMOUNT BY LOEB & LOEB AND AXANAR BY WINSTON & STRAWN.

LOEB &  
LOEB<sub>LLP</sub>

VS.

WINSTON  
& STRAWN<sub>LLP</sub>

LOEB ATTORNEY  
JONATHAN  
ZAVIN LEADS  
THE PLAINTIFFS'  
TEAM --



WINSTON ATTORNEY  
ERIN RANAHAN  
LEADS THE  
DEFENSE TEAM --



DAVID GROSSMAN



JENNIFER JASON



KELLY OKI



BRIAN LI-A-PING

THE PLAINTIFFS' ALLEGATIONS  
AGAINST PETERS AND AXANAR --

ALEC PETERS  
AND HIS AXANAR  
PRODUCTIONS --

COPIED FROM  
OUR 'STAR TREK'  
COPYRIGHTED  
WORKS --

MR. PETERS  
INTENTIONALLY  
CONTRIBUTED TO THIS  
INFRINGEMENT --

HE  
SUPERVISED THIS  
INFRINGEMENT AND  
FINANCIALLY  
BENEFITTED  
FROM IT.

WE'D LIKE THE  
COURT TO DECLARE  
AXANAR INFRINGED  
OUR COPYRIGHTS --

AND ITS' CONTINUED  
PRODUCTION WOULD'VE  
RESULTED IN EVEN MORE  
INFRINGEMENT.

AND WHAT THEY'RE  
CALLED IN COURT --

1. COPYRIGHT INFRINGEMENT.

2. CONTRIBUTORY  
COPYRIGHT INFRINGEMENT.

3. VICARIOUS COPYRIGHT  
INFRINGEMENT.

4. DECLARATORY JUDGMENT.

THIS IS A CIVIL LAWSUIT, NOT A  
CRIMINAL CASE. THE JURY DOESN'T  
DECIDE GUILT -- IT DECIDES  
WHETHER THE DEFENDANTS ARE  
LIABLE FOR PAYING DAMAGES.



THE DEFENDANTS USED **COPYRIGHTED STAR TREK** ELEMENTS IN THEIR SHORT FILM, **PRELUDE TO AXANAR\*** --

WHICH THEY USED TO ULTIMATELY RAISE **\$7.4 MILLION** TOWARD THE **\$2 MILLION BUDGET** OF THEIR PLANNED FEATURE FILM, **AXANAR.**

\* **PRELUDE** COST **\$123,000** TO MAKE, MOSTLY RAISED USING THE CROWDFUNDING WEBSITE, **KICKSTARTER.**



THAT FILM WAS **NEVER MADE.** INSTEAD, THE DEFENDANTS BUILT THEIR OWN **COMMERCIAL STUDIO --** A REVENUE-GENERATING **BUSINESS.\***

\* THE STUDIO'S COMMERCIAL WEBSITE IS -- **WWW.INDUSTRYSTUDIOS.LA**



THAT WASN'T THE DEFENDANTS' **ONLY** COMMERCIAL **ENTERPRISE --**

THEY OPERATED THEIR OWN **ONLINE STORE,** SELLING **STAR TREK MERCHANDISE.†**

† AXANAR'S **DONOR STORE** OFFERED A FULL LINE OF **MERCHANDISE,** INCLUDING BOOKS, COFFEE, APPAREL, MODELS, POSTERS, PATCHES, BLU-RAYS AND DVDS.

U.S. DISTRICT COURT  
JUDGE R. GARY  
KLAUSNER PRESIDES  
OVER THE CASE --

AND WHAT WOULD  
YOU LIKE FROM  
THE COURT,  
PLAINTIFFS?

LAWYERS CALL  
THIS A "PRAYER  
FOR RELIEF" --

STATUTORY DAMAGES.

THE LAW SAYS  
WE'RE ENTITLED TO  
\$150,000 FOR EACH STAR  
TREK WORK FROM WHICH  
AXANAR COPIED.

WE MAY  
ALSO SEEK  
DAMAGES BASED ON  
ACTUAL ECONOMIC HARM  
INFLECTED ON US BY  
AXANAR'S COPYRIGHT  
INFRINGEMENT

ACTUAL DAMAGES.

AND WHAT ELSE  
DO THE PLAINTIFFS  
WANT -- ?

CBS AND PARAMOUNT WANT THE  
COURT TO KEEP ALEC PETERS AND  
AXANAR PRODUCTIONS -- AND ANYONE  
ASSOCIATED WITH THEM -- FROM MAKING  
THEIR FILM AND INFRINGING UPON STAR  
TREK EVER AGAIN, OR MAKING MONEY  
FROM ANY SUCH ACTIVITY.

PERMANENT INJUNCTION.

AT TRIAL, CBS AND PARAMOUNT'S  
LAWYERS PLAN TO PRESENT EVIDENCE --  
WITNESSES, EMAILS, TEXTS AND MANY  
DOCUMENTS -- TO PROVE EACH CLAIM TO  
A JURY BY A PREPONDERANCE OF  
EVIDENCE.\*

\* THAT'S A LOWER STANDARD  
THAN IN A CRIMINAL TRIAL,  
WHERE A JURY HAS TO DECIDE  
GUILT BEYOND A REASONABLE  
DOUBT.

THE DEFENDANTS' ANSWERS TO WHAT CBS AND PARAMOUNT ALLEGE ABOUT *PETERS* AND *AXANAR* --



*AXANAR* DID NOT INFRINGE UPON *STAR TREK*.

IT SIMPLY ISN'T ENOUGH LIKE *STAR TREK* FOR A JURY TO FIND *AXANAR* COPIED FROM THE COPYRIGHTED WORKS.

IN FACT, WHATEVER THINGS *AXANAR* MAY HAVE COPIED FROM *STAR TREK*, HAVE BEEN TRANSFORMED BY THE DEFENDANTS --

1. COPYRIGHT INFRINGEMENT.

OUR EXPERT WITNESS SAYS THAT ENTITLES *AXANAR* -- NOW MERELY A POTENTIAL FAN FILM -- TO FAIR USE OF *STAR TREK* UNDER U.S. COPYRIGHT LAW.

\* A **MOCKUMENTARY** IS A MOVIE OR TV SHOW DEPICTING FICTIONAL EVENTS BUT PRESENTED AS A DOCUMENTARY.

THE DEFENDANTS HAVE MADE, AND PLAN TO MAKE, FILMS IN A **MOCKUMENTARY\*** STYLE. IT CHANGES WHAT IS COMMONLY THOUGHT OF AS *STAR TREK*, GIVING IT NEW MEANING.

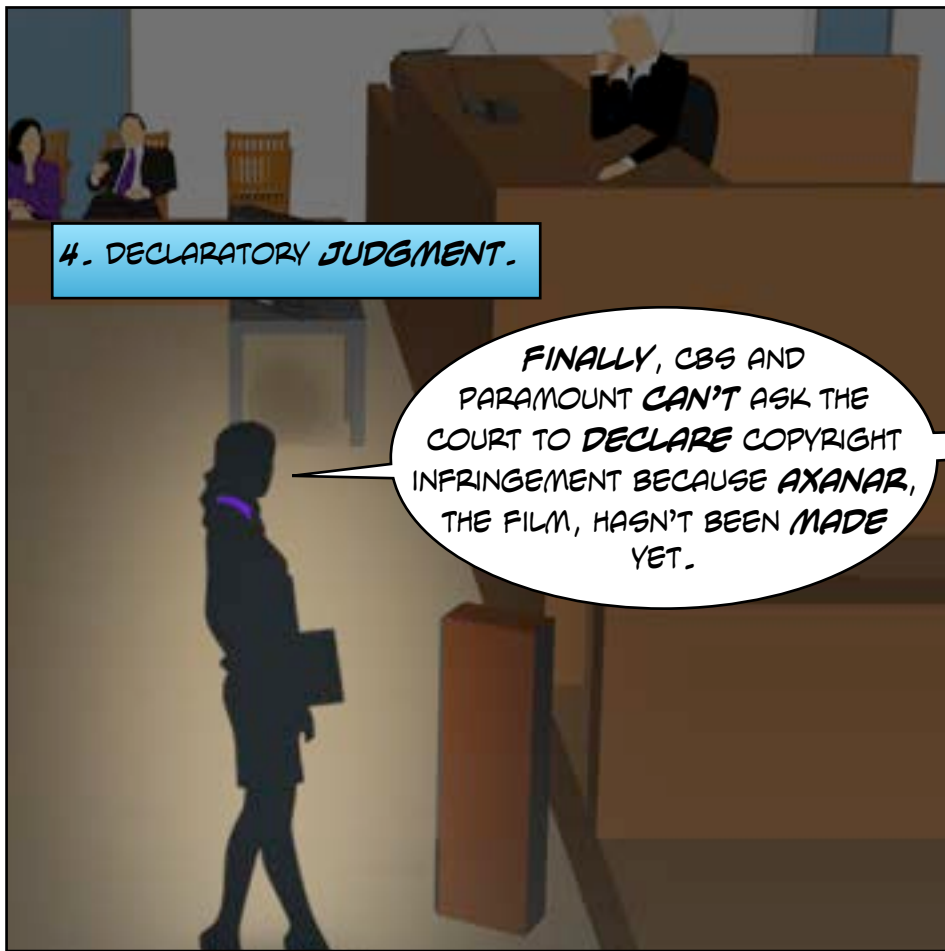
WE HAVE WITNESSES WHO WILL TESTIFY MR. PETERS DIDN'T KNOW ABOUT OR CONTRIBUTE TO ANY INFRINGEMENT OTHERS MAY HAVE

2. CONTRIBUTORY INFRINGEMENT.

SINCE WE BELIEVE NO COPYRIGHT INFRINGEMENT OCCURRED, THERE WAS NOTHING FOR HIM TO SUPERVISE, NOR FROM WHICH HE COULD PROFIT.

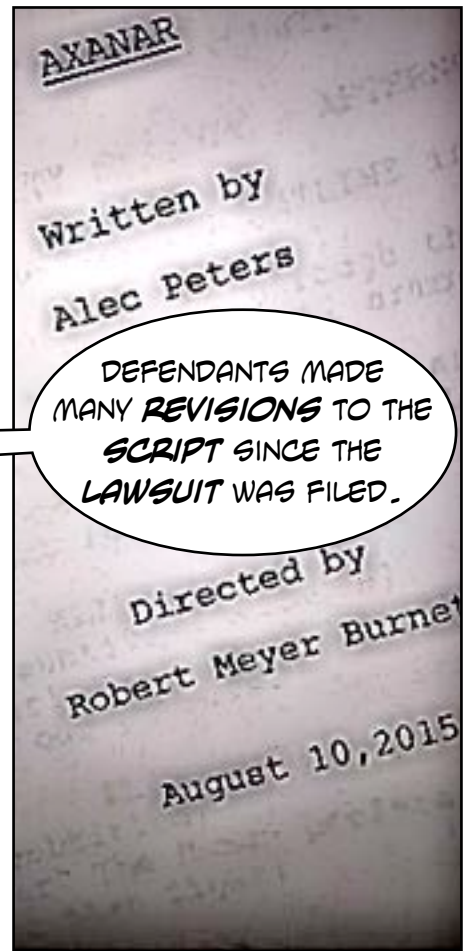
3. VICARIOUS INFRINGEMENT.





**4. DECLARATORY JUDGMENT.**

FINALLY, CBS AND PARAMOUNT **CAN'T** ASK THE COURT TO **DECLARE** COPYRIGHT INFRINGEMENT BECAUSE **AXANAR**, THE FILM, HASN'T BEEN **MADE** YET.



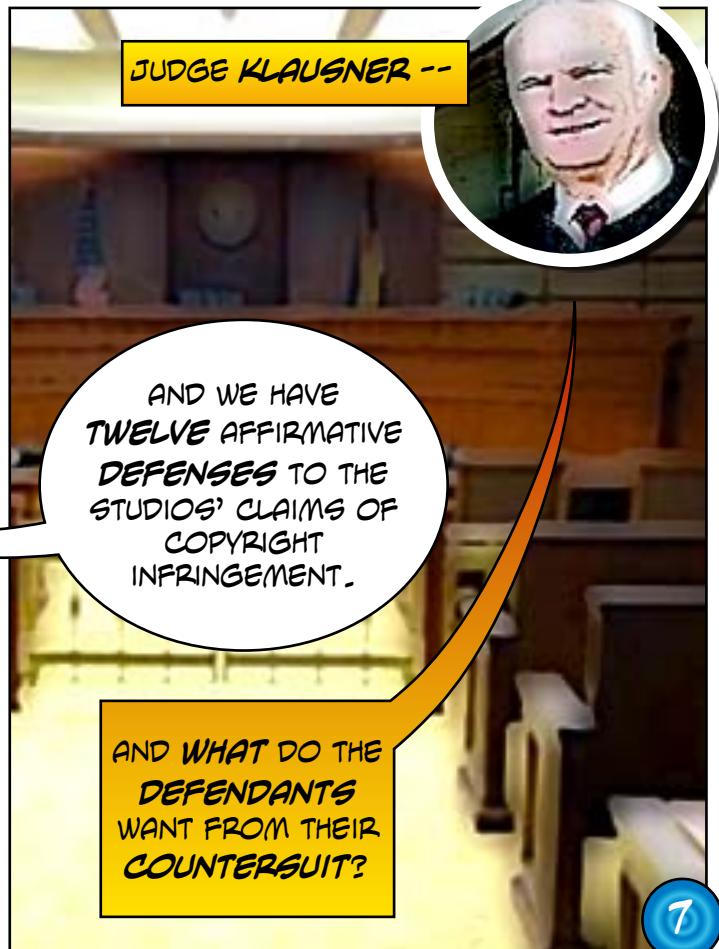
DEFENDANTS MADE MANY **REVISIONS** TO THE **SCRIPT** SINCE THE **LAWSUIT** WAS FILED.

Directed by  
Robert Meyer Burnett  
August 10, 2015



THERE'S **MORE** --

WE'RE **COUNTERSUING** CBS AND **PARAMOUNT** PICTURES --



**JUDGE KLAUSNER --**



AND WE HAVE **TWELVE** AFFIRMATIVE **DEFENSES** TO THE STUDIOS' CLAIMS OF COPYRIGHT INFRINGEMENT.

AND **WHAT** DO THE **DEFENDANTS** WANT FROM THEIR **COUNTERSUIT**?





WE WANT THE COURT TO **DECLARE AXANAR DIDN'T INFRINGE ON STAR TREK'S COPYRIGHTS** AND THAT **AXANAR ISN'T SIMILAR TO STAR TREK --**

**DECLARATORY JUDGMENT FOR THE DEFENDANTS.**

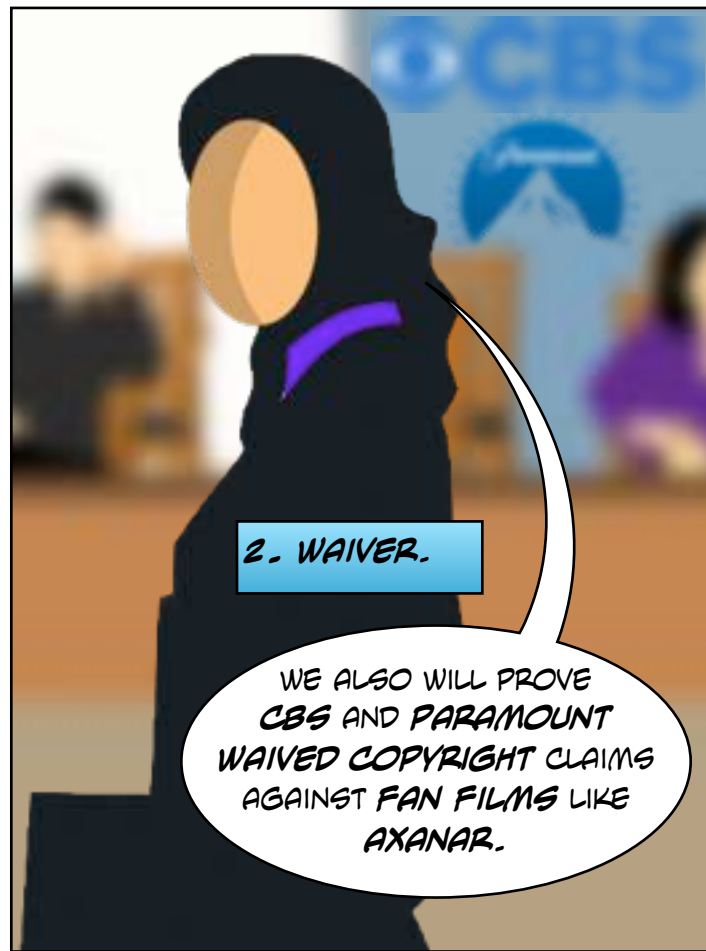


**MANY THINGS IN STAR TREK CANNOT BE PROTECTED BY COPYRIGHT --**

AND EVEN IF THE DEFENDANTS WERE INFRINGING, **AXANAR CHANGES STAR TREK ENOUGH TO QUALIFY FOR FAIR USE --**

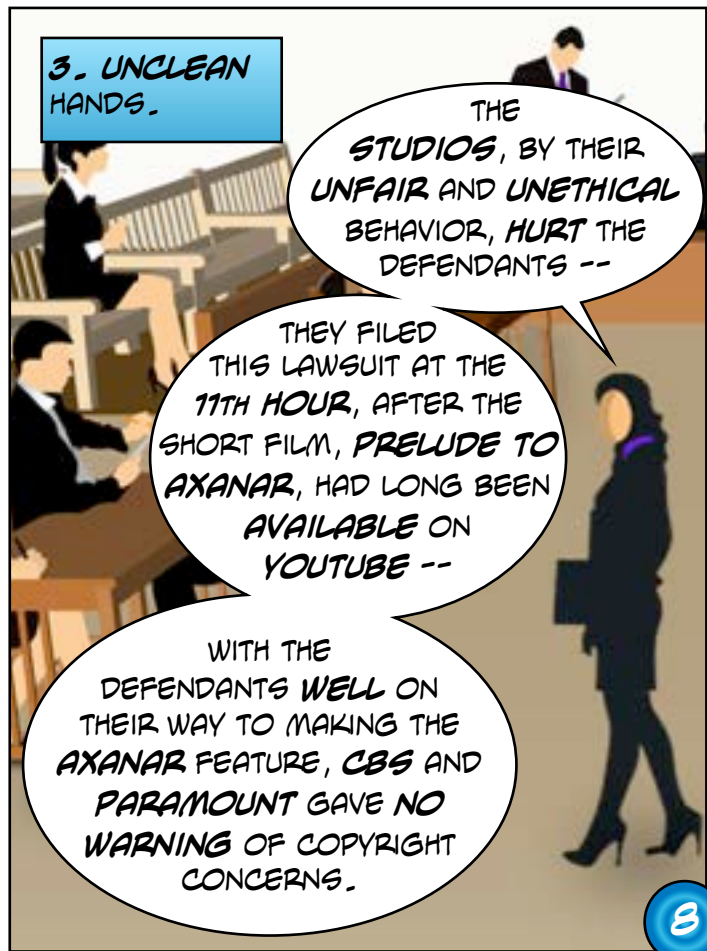
**AFFIRMATIVE DEFENSE --**  
**1. FAIR USE UNDER COPYRIGHT LAW.**

**AXANAR IS MEANT TO COMMENT, CRITICIZE OR PARODY STAR TREK, TO TRANSFORM IT.**



**2. WAIVER.**

WE ALSO WILL PROVE **CBS AND PARAMOUNT WAIVED COPYRIGHT CLAIMS AGAINST FAN FILMS LIKE AXANAR.**



**3. UNCLEAN HANDS.**

THE **STUDIOS, BY THEIR UNFAIR AND UNETHICAL BEHAVIOR, HURT THE DEFENDANTS --**

THEY FILED THIS LAWSUIT AT THE **11TH HOUR**, AFTER THE SHORT FILM, **PRELUDE TO AXANAR**, HAD LONG BEEN AVAILABLE ON **YOUTUBE --**

WITH THE DEFENDANTS **WELL ON THEIR WAY TO MAKING THE AXANAR FEATURE**, **CBS AND PARAMOUNT GAVE NO WARNING OF COPYRIGHT CONCERNS.**

**FUNDAMENTALLY, THE STUDIOS' CLAIMS, AND WHAT THEY WANT FROM THIS SUIT, GO AGAINST THE DEFENDANTS' RIGHT TO FREE SPEECH.**

**4. FIRST AMENDMENT.**

**IN RAISING MONEY TO PRODUCE PRELUDE AND AXANAR, THE DEFENDANTS RELIED ON THE STUDIOS' 50-YEAR HISTORY OF KEEPING THEIR HANDS OFF FAN FILMS.**

**THE STUDIOS' PAST TOLERANCE OF FAN FILMS LED MR. PETERS TO REASONABLY BELIEVE HIS PRODUCTION WOULD NOT BE TREATED ANY DIFFERENTLY.**

**5. ESTOPPEL.**


**6. FAILURE TO MITIGATE.**

**WHAT'S MORE, CBS AND PARAMOUNT FAILED TO TAKE ANY STEPS THAT COULD HAVE PREVENTED THIS SITUATION --**

**THEY LET AXANAR PROCEED WHEN THEY COULD'VE STOPPED THEM WELL BEFORE FILING SUIT.**

**THE STUDIOS FAILED TO REGISTER COPYRIGHTS THAT MIGHT'VE PROTECTED SPECIFIC STAR TREK CHARACTERS AND ELEMENTS.**

**7. FAILURE TO REGISTER.**



WHILE *CBS* AND *PARAMOUNT* MAY OWN *STAR TREK* THEY DO NOT OWN THE UNIVERSE IN WHICH IT TAKES PLACE -- THE IDEA OF *STAR TREK*. NO ONE DOES. NO ONE CAN.

**8. LACK OF STANDING.**

## KICKSTARTER

**9. CONSENT & ACQUIESCENCE.**

SIMPLY PUT, THE STUDIOS LET ALEC PETERS AND AXANAR PRODUCTIONS OPERATE FOR YEARS -- POSTING VIDEO AFTER VIDEO, RAISING MORE THAN \$1 MILLION -- AND DID NOTHING.

Garth of Izar & the

Axanar Productions

548 backers pledged \$63  
to bring this project to

## INDIEGOGO

DESPITE THEIR AWARENESS OF AXANAR'S ACTIVITIES, CBS AND PARAMOUNT DELIBERATELY DELAYED TAKING ACTION --

**10. AUTHORIZED USE.**

THEY ENCOURAGED AND TOOK ADVANTAGE OF THIS TYPE OF FAN PARTICIPATION TO PROMOTE *STAR TREK*.

Axanar

The ground-breaking independent Star Tr



Alec Peters  
Valencia, United States  
About

\$574,434 USD total  
188% funded on Aug



**11. MISUSE OF COPYRIGHT.**

**ERIN RANAHAN**

THIS **LAWSUIT** ASSERTS RIGHTS GOING FAR BEYOND WHAT THE **CONSTITUTION** ALLOWS --

**KEEPING** MY CLIENTS FROM ENGAGING IN **LAWFUL ACTIVITY**, AND **HARMING** THEM BY **PREVENTING** IT.

**FINALLY**, THE STUDIOS SEEK **DAMAGES** FAR BEYOND WHAT THE **CONSTITUTION** ALLOWS --

AND UTTERLY **DISPROPORTIONATE** TO ANY **ACTUAL HARM** **AXANAR** MAY HAVE INFLICTED ON THE STUDIOS.

**12. CONSTITUTIONALLY EXCESSIVE DAMAGES.**

OUR **EXPERT WITNESS** WILL SHOW THE STUDIOS **CAN'T** OFFER AN AMOUNT BACKED BY **REAL DATA**. THEY HAVEN'T BEEN **HARMED** AT ALL.

THE **PLAINTIFFS** AIMED TO **REFUTE** THE TWELVE DEFENSES, ASSERTING THE DEFENSE **LACKED EVIDENCE** TO BACK UP MANY OF THEM. **IN ADDITION --**

WHERE IS THE **EVIDENCE** THE PLAINTIFFS BEHAVED **UNETHICALLY** OR **MISUSED** COPYRIGHT?

THE STUDIOS **COMMUNICATED** THEIR CONCERNS TO **AXANAR** BUT **MR. PETERS** IGNORED THEM, BELIEVING THEY WOULD **NEVER SUE** A FAN LIKE HIM.

HE **RELIES** ON AN **INTERPRETATION** OF **FAIR USE** THAT SIMPLY **DOESN'T** EXIST IN LAW AND **DOESN'T** SURVIVE THE REQUIRED **LEGAL ANALYSIS**.

AND THE **LAW** DOESN'T REQUIRE **ACTUAL DAMAGES** TO FIND **MR. PETERS** COPIED **STAR TREK**. WE ONLY NEED TO SHOW ACTIVITIES LIKE **AXANAR'S** **INTERFERE** WITH THE STUDIOS' RIGHTS TO PRODUCE NEW **STAR TREK** PRODUCTS.

# FINAL MONTH BEFORE TRIAL...

IN THE WEEKS LEADING UP TO THE **JANUARY 31, 2017**, TRIAL BOTH SIDES TRIED TO GET **JUDGE KLAUSNER** TO THROW OUT AS MUCH OF THEIR OPPONENTS' CASE AS THEY COULD --

**CBS AND PARAMOUNT** ASK THE JUDGE TO RULE **AXANAR** COMMITTED **COPYRIGHT INFRINGEMENT** AND SEND THE CASE TO A JURY TO **ASSESS DAMAGES**.

THE **DEFENDANTS** ASK THE JUDGE TO **RULE** IN THEIR FAVOR BECAUSE THE **STUDIOS** ARE **SUING** OVER A **MOVIE** THAT WAS **NEVER MADE** --

**TESTIMONY, EMAILS** AND OTHER **DOCUMENTS** DEMONSTRATE **MR. PETERS** WAS **WELL AWARE** HIS FILMS WERE **INFRINGING** ON **STAR TREK'S** **COPYRIGHTS**.

OVER A **WORK** THAT **ISN'T** **SUBSTANTIALLY** **SIMILAR** TO **STAR TREK** --

AND ANY **INFRINGEMENT** THAT **MIGHT** HAVE OCCURRED WAS **NOT WILLFUL** --

AND IS **ENTITLED** BY **LAW** TO **FAIR USE** OF **WHATEVER STAR TREK** **ELEMENTS** **MAY** HAVE **APPEARED** --

THE **EVIDENCE** SHOWS **MR. PETERS** **FINANCIALLY** **BENEFITTED** FROM **VIOLATING** **COPYRIGHT** -- **BUILDING** A **COMMERCIAL** **STUDIO** AND **PAYING** HIS AND OTHERS' **PERSONAL** **EXPENSES**.

CONSEQUENTLY, ANY **POSSIBLE** **DAMAGES** WOULD HAVE TO BE **LIMITED** TO A **SMALL** **AMOUNT**.

WE BELIEVE **MOST** OF THAT SO-CALLED **EVIDENCE** IS **IRRELEVANT** AND **INADMISSIBLE**.

**SEE YOU IN COURT!**

END.