

THE BATTLE

for

AXAN★R

FEATURING



ALEC PETERS



JONATHAN ZAVIN



ERIN RANAHAN



AN ILLUSTRATED GUIDE



THE AXANAR LAWSUIT

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

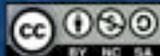
ART ELEMENTS

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

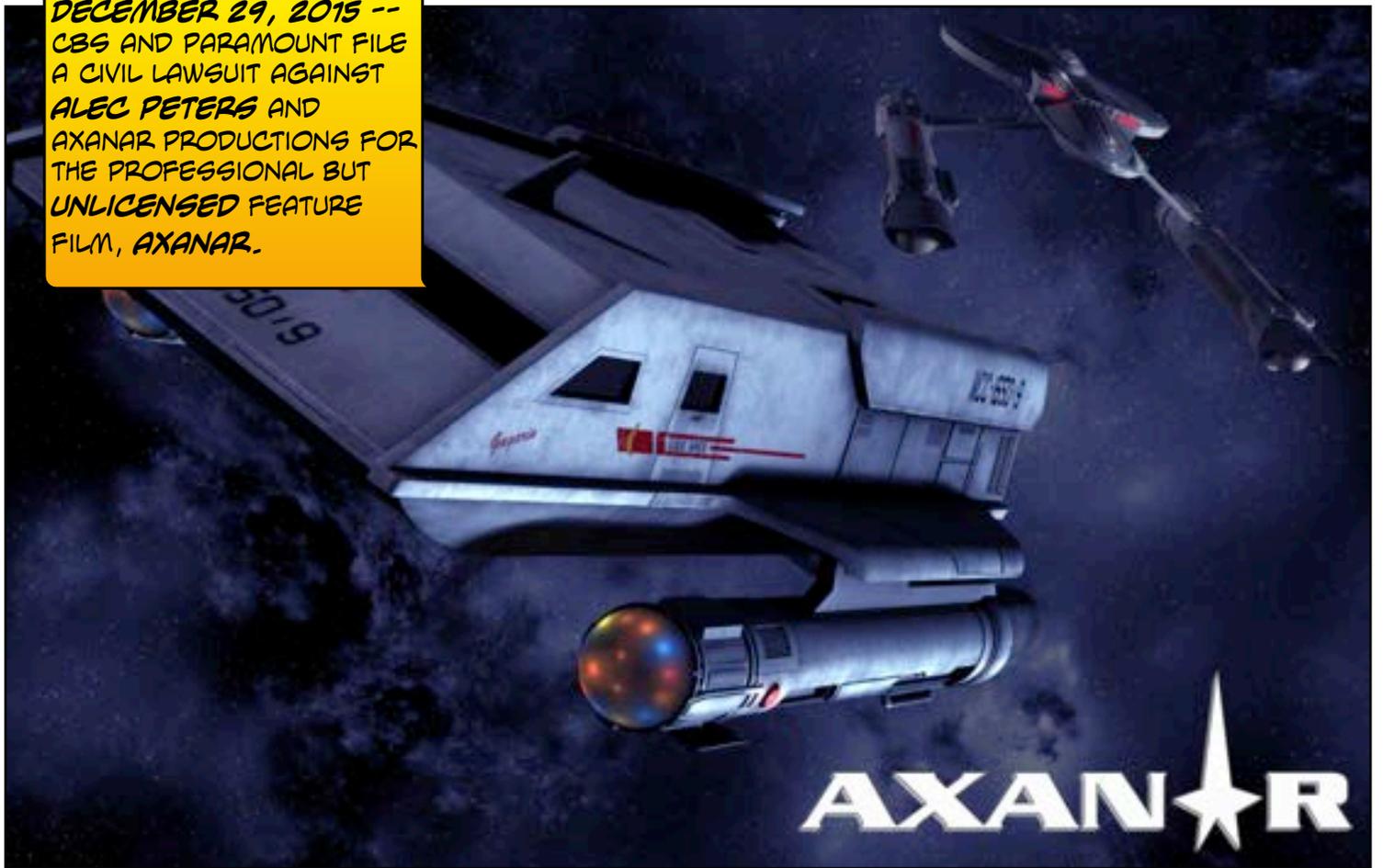
■
AXANAR PRODUCTIONS GALLERY

■
'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_{LLP}

VS.

WINSTON
& STRAWN
LLP

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 -- ?

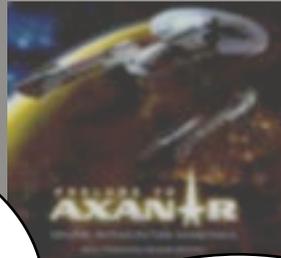
CBS AND PARAMOUNT WANT THE
COURT TO KEEP ALEC PETERS AND
AXANAR PRODUCTIONS -- AND ANYONE
ASSOCIATED WITH THEM -- FROM MAKING
THEIR FILM AND INFRINGING UPON STAR
TREK EVER AGAIN, OR MAKING MONEY
FROM ANY SUCH ACTIVITY.

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.

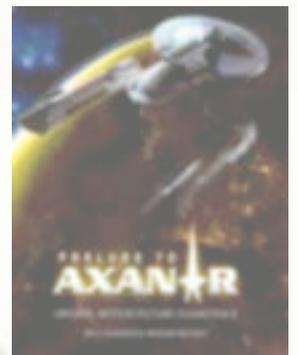
THE DEFENDANTS HAVE MADE, AND PLAN TO MAKE, FILMS IN A **MOCKUMENTARY*** STYLE. IT **CHANGES** WHAT IS COMMONLY THOUGHT OF AS **STAR TREK**, GIVING IT **NEW MEANING**.

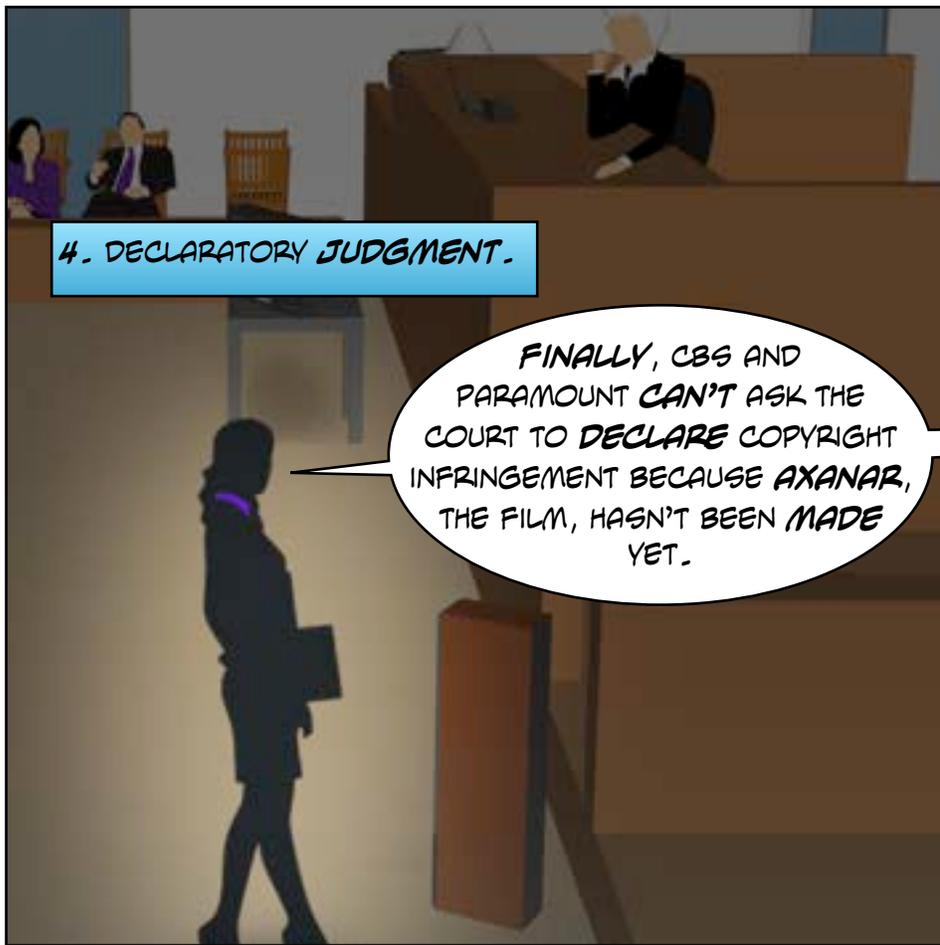
WE HAVE WITNESSES WHO WILL TESTIFY MR. PETERS DIDN'T KNOW ABOUT OR CONTRIBUTE TO ANY INFRINGEMENT OTHERS MAY HAVE

2. CONTRIBUTORY INFRINGEMENT.

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

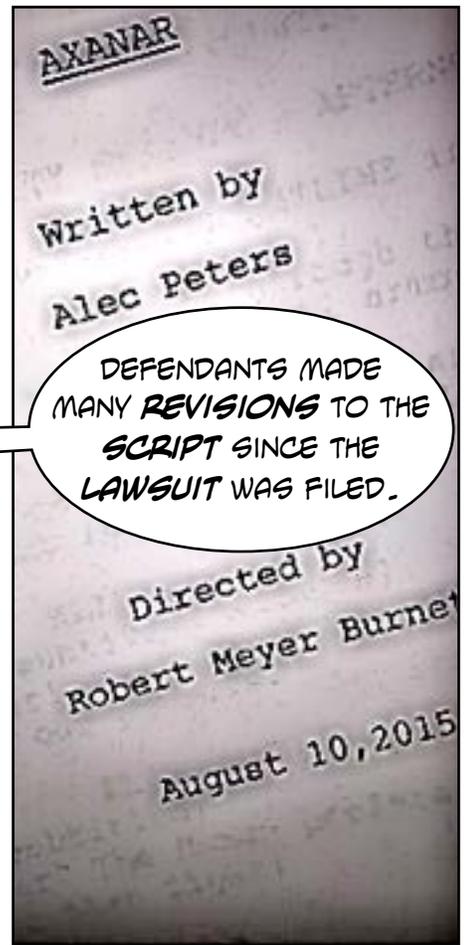
3. VICARIOUS INFRINGEMENT.





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.



Written by
Alec Peters

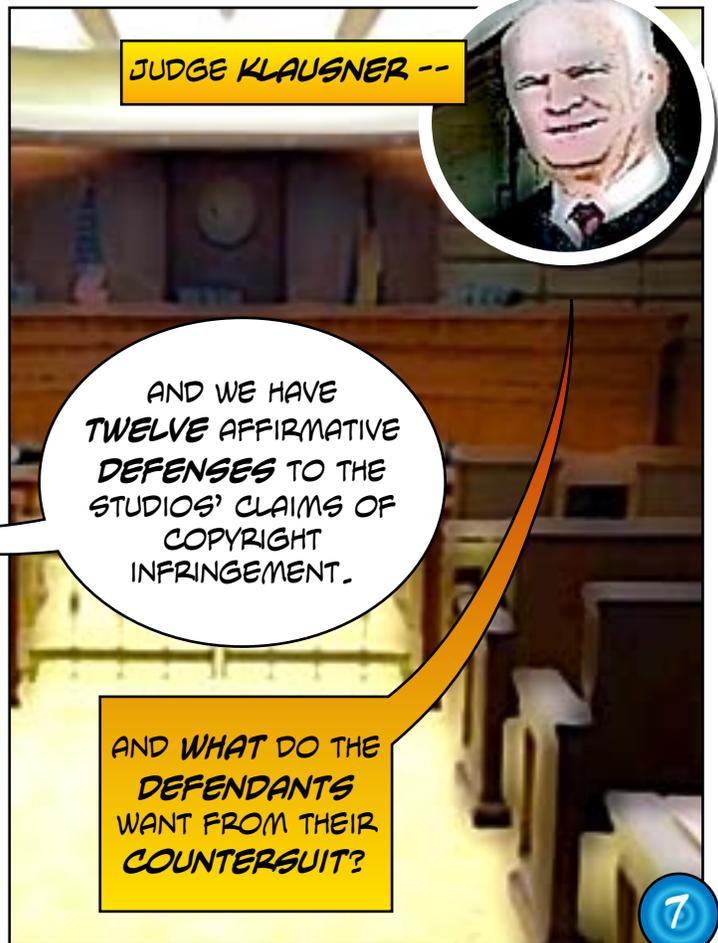
DEFENDANTS MADE MANY **REVISIONS** TO THE **SCRIPT** SINCE THE **LAWSUIT** WAS FILED.

Directed by
Robert Meyer Burnett
August 10, 2015

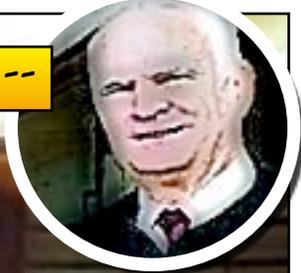


THERE'S **MORE** --

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 --

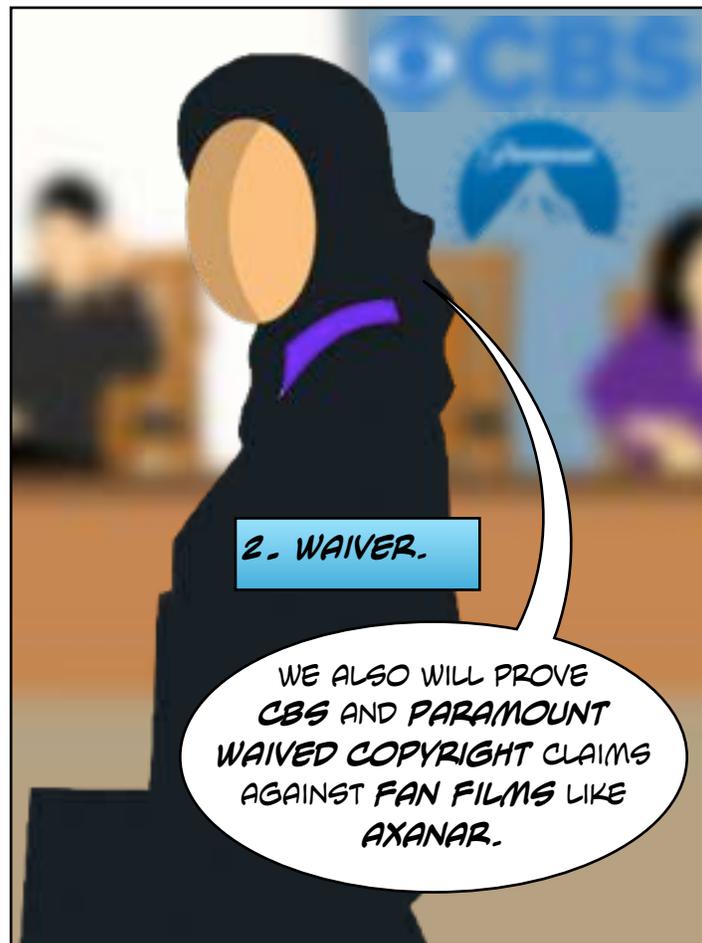
SOVAL IN — STAR TREK — ENTERPRISE

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

SOVAL IN AXANAR

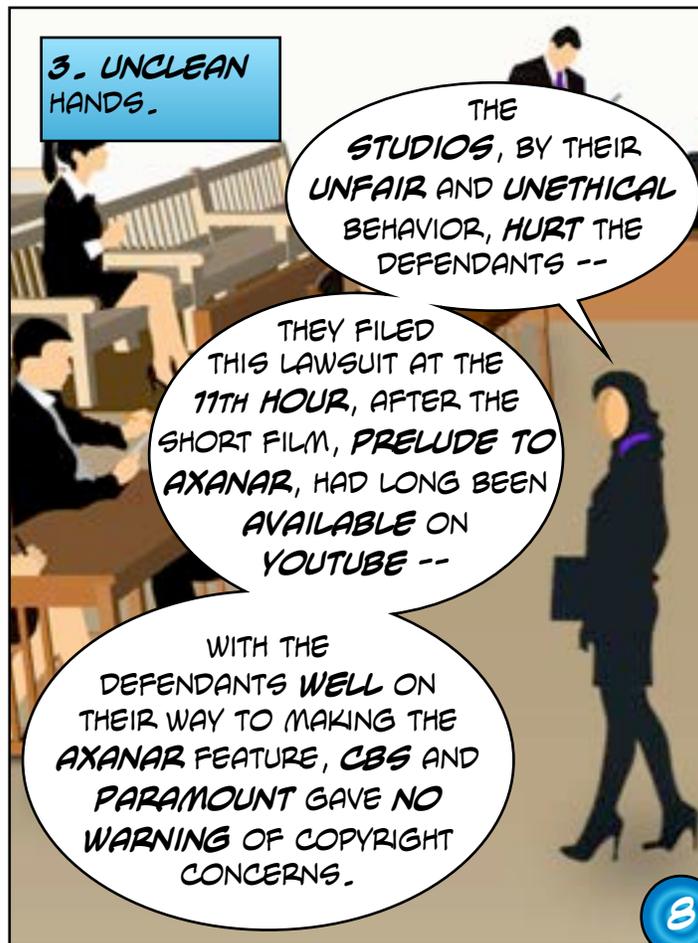
AFFIRMATIVE DEFENSE -- 1. FAIR USE UNDER COPYRIGHT LAW.

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.