

**Paramount Pictures Corp. v. Axanar Prods., Inc.
No. 2:15-cv-09938-RGK-E (C.D. Cal. Jan. 3, 2017)**

Year	2017
Court	United States District Court for the Central District of California
Key Facts	Plaintiffs, Paramount Pictures Corp. and CBS Studios, own copyrights to the Star Trek movies and television shows, which they also license to third parties to create derivative works. In particular, plaintiffs own copyrighted works about Garth, “a former starship captain . . . famous . . . for his exploits in the Battle of Axanar,” including a television episode, a novel, and a game. Defendant, Axanar Productions, Inc., produced an unauthorized “twenty-one minute film[,] <i>Star Trek: Prelude to Axanar</i> ” and a script for a full-length film about “the Battle of Axanar and the exploits of Garth,” collectively, the “ <i>Axanar Works</i> .” <i>Prelude to Axanar</i> was made available for free online in order to raise money—over a million dollars in total—to produce the full-length film, which was intended to be “an authentic and independent Star Trek film that [stayed] true to Star Trek canon down to excruciating details,” including use of “many distinctive and widely recognized elements from the Star Trek universe.”
Issue	Whether it is a fair use to create new works, including movies and film scripts, which use numerous distinctive elements associated with a series of copyrighted fictional works, without authorization and to use such works as promotional tools to raise money.
Holding	On cross-motions for summary judgment, the district court held that the <i>Axanar Works</i> were objectively similar to plaintiff’s works, but left the question of subjective similarity for the jury to determine. The court also ruled against defendant’s fair use defense, finding all factors favored plaintiffs. As to the first factor, purpose and character of the use, the court found that the <i>Axanar Works</i> were not transformative because they “[did] not have ‘a further purpose or different character, altering the [Star Trek works] with new expression, meaning, or message’” and were not parodies because they did not “criticize the substance or style of the prior work[s].” Further, defendant’s free distribution of the <i>Axanar Works</i> was found to be commercial because it “profit[ed] from exploitation of [plaintiffs’] copyrighted material without paying the customary price” for a license and because the <i>Axanar Works</i> were used to raise money for future projects. The court held that the second factor, nature of the work, also weighed against fair use because “fictional stories and motion pictures tend to be creative works” that are given “broad copyright protections.” As to the third factor, the amount of work used, the court noted it was “difficult to quantify the amount of the portion used in relation to” plaintiff’s copyrighted works “since ‘the portion’ involves many recurring elements in the Star Trek universe.” Nonetheless, this factor weighed against fair use because elements of plaintiffs’ copyrighted works “pervade[d] the <i>Axanar Works</i> ” giving them a “Star Trek feel.” Lastly, noting that “the prequel depicted in the <i>Axanar Works</i> is the kind of potential derivate” that plaintiffs would license, the court had “little doubt that ‘unrestricted and widespread conduct [like defendant’s] would result in a substantially adverse impact’” on the market for the Star Trek works. Thus, the court held that the fourth factor, the effect of the use on the existing and potential market for the work, also weighed against fair use.
Tags	Ninth Circuit; Film/Audiovisual; Parody/Satire
Outcome	Fair use not found; Preliminary ruling

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