



Boldly Going Where Studios Have Gone Before: Fan Fiction and the Ethics of Imitation



Axanar Productions / Screenshot from [Kickstarter](#) / Modified

was at the center of one of the most highly-debated court cases surrounding the ethical issues created when copyright protections clash with the freedom of speech and expression by fans.

Oscar Wilde's famous saying "Imitation is the sincerest form of flattery" is often invoked as a way to skitter away from accusations of plagiarism or copyright infringement. But when does imitation cease to be a mere compliment, and something that crosses an ethical line? This question arises in the case of *Axanar*, a fan-

This particular case began with the creation of *Prelude to Axanar*, a 21-minute long documentary-styled film. It is set in the *Star Trek* universe and recounts a clash, popularly known as the Battle of Axanar, between the Federation and the aggressive Klingons. Although it only began with a funding goal of \$10,000 through Kickstarter, as a result of fans' anticipation and interest, Axanar Productions was able to raise \$101,000 for the film's production ensuring a high-profile release at the San Diego Comic-Con in July 2014. Axanar Productions had to utilize Kickstarter donations because of the strict guidelines given by Paramount Studios prohibiting sales of tickets and merchandise in support of a completed fanworks. The *Prelude to Axanar* fan film was a success, generating over 3.4 million views on YouTube. This clearly showed fan interest in the production of the planned—but still unfilmed—fan-produced longer feature film, *Axanar*.

The popularity of *Prelude to Axanar* caught the attention of the executives of CBS Studios and Paramount Pictures. They filed a lawsuit in 2015 alleging copyright infringement in a federal court in California. Included in their list of infringed elements were characters such as "Garth of Izar," "Richard Robau," and "Soval." Also named were races and species such as "Klingons" and "Vulcans." Distinctive costumes were also claimed as protected. This came as a shock to Axanar Productions, as there had been previous fanworks inspired by *Star Trek* that did not attract copyright lawsuits. Peters, the head of Axanar Productions, claimed that "We violate CBS copyright less than any other fan film" (United States District Court, 2016). Axanar Productions further defended their use of *Star Trek* elements by stating on their website that "*Axanar* is an independent project that uses the intellectual property of CBS under the provision that *Axanar* is totally non-commercial. That means we can never charge for anything featuring their marks or intellectual property and we will never sell the movie, DVD/Blu-ray copies, T-shirts, or anything which uses CBS owned marks or intellectual property" (Geuss, March 15, 2016). In other words, Axanar was claiming that it did nothing to take anything of value from the owners of the copyrighted story and characters.



Fans of the original *Star Trek* franchise and of the fan film flooded the internet with their protest against the legal actions taken by Paramount studios and CBS. Those who support the prequel argued that some of the most popular movies and books of today can be began as fan productions. The successful and highly-commercialized film *Fifty Shades of Grey* began as a fanfiction inspired by *Twilight*, and the acclaimed musical *Wicked* can technically be called a fanmusical based upon *The Wizard of Oz*. Others argued that studios are using this case as a way to dissuade others from producing professional-quality fanworks. The lawsuit eventually ended with a settlement in 2017 allowing Axanar productions to film but under even stricter guidelines. The rules that Axanar and all future creators of *Star Trek* inspired fan productions must adhere to include the following strictures:

1. Any fan film has to be 15 minutes or less for a standalone film or up to two episodes or parts not exceeding a total of thirty minutes.
2. *Star Trek* cannot be part of the film title but “A STAR TREK FAN PRODUCTION” must be included in a plain typeface as a subtitle.
3. No imitations or bootleg version of merchandise can be used. They must be officially merchandise that are commercially available.
4. The cast cannot be professional actors or have been affiliated with the original *Star Trek* universe in any way. Neither can they be compensated for their work.
5. A maximum of \$50,000 can be raised through fundraising and the production must be non-commercial. The fan production must not generate revenue in any way. (CBS Entertainment, “Fan Films”)

These guidelines are just some of the new rules in place regulating fan productions. Those on both sides feel unsatisfied as they claim that the settlement does nothing to settle the ethical debate of what counts as imitation or plagiarism, and what counts as inspiration. Do these new guidelines uphold the values of freedom of expression and creativity or do they unduly stifle the imaginations of fans who just want to play a part in furthering their favorite works?

Discussion Questions:

1. Why is it ethically good that original creative works are protected by measures such as copyright?
2. What are the ethical values in conflict in cases of fan fiction based upon copyrighted works?
3. Do you believe that *Prelude to Axanar* crossed any ethical lines in how it used *Star Trek* elements? Why or why not?
4. What do you think about the rules enunciated for fan fiction? Are these unjustifiably containing of fan creativity?
5. What would be the best way to protect companies' and artists' interests in original works *and* allow for related fan-created works?



Further Information:

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October 31, 2018

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