

1 Ryanair seeks “identifying information [LinkedIn] has for the use of the Air-Scoop profile,
2 and for the two individuals who list their names as Antoine Viollet.”² Antoine Viollet is relevant
3 because he is the “most viewed person on the Air Scoop profile”—suggesting a link between
4 himself and the company.³ Ryanair asserts that LinkedIn can provide the ISP addresses for
5 postings by users.⁴ “If the ISP address of one of the Antoine Viollet user profiles matches the ISP
6 information Ryanair has obtained on Air-Scoop,” then Ryanair can ensure that it is in pursuit of the
7 proper individual.⁵

8 I. LEGAL STANDARD

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10 “A district court may grant an application pursuant to 28 U.S.C. § 1782 where (1) the
11 person from whom the discovery is sought resides or is found in the district of the district court to
12 which the application is made, (2) the discovery is for use in a proceeding before a foreign tribunal,
13 and (3) the application is made by a foreign or internal tribunal or any interested person.”⁶
14 However, simply because a court has the authority under Section 1782 to grant an application does
15 not mean that it is required to do so.⁷ The Supreme Court has identified several factors that a court
16 should take into consideration in ruling on a Section 1782 request:

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18 (1) whether the material sought is within the foreign tribunal’s jurisdictional reach
19 and thus accessible absent Section 1782 aid; (2) the nature of the foreign tribunal,
20 the character of the proceedings underway abroad, and the receptivity of the foreign
21 government or the court or agency abroad to U.S. federal-court jurisdictional
22 assistance; (3) whether the Section 1782 request conceals an attempt to circumvent

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24 ² *Id.* at 4.

25 ³ *Id.* at 3.

26 ⁴ *See id.* at 4.

27 ⁵ *Id.*

28 ⁶ 28 U.S.C. § 1782(a); *see also In re Republic of Ecuador*, Case No. 3:10-80225-CRB-EMC,
2010 WL 3702427, at *2 (N.D. Cal. Sep. 15, 2010).

⁷ *See Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 264 (2004).

1 foreign proof-gathering restrictions or other policies of a foreign country or the
2 United States; and (4) whether the subpoena contains unduly intrusive or
burdensome requests.⁸

3 II. DISCUSSION

4 A. Authority to Issue Subpoena

5 The court has reviewed Ryanair's application and has preliminarily determined that the
6 statutory requirements have been satisfied. First, LinkedIn is located in Mountain View, which is
7 in this district. Second, Ryanair represents that the discovery sought is for enforcement of a
8 judgment issued by the Dublin Circuit Court in Ireland, which is undisputedly a "proceeding before
9 a foreign or international tribunal" under Section 1782(a).⁹ Finally, there can be no real dispute
10 that Ryanair qualifies as an interested person because it is the party in whose favor the Dublin
11 Circuit Court entered judgment.¹⁰

12 B. Discretionary Factors

13 1. Jurisdictional Reach of Foreign Tribunal

14 The Supreme Court has noted that,

15 [w]hen the person from whom discovery is sought is a participant in the foreign
16 proceeding . . . , the need for § 1782(a) aid generally is not as apparent as it
17 ordinarily is when evidence is sought from a nonparticipant in the matter arising
18 abroad. A foreign tribunal has jurisdiction over those appearing before it, and can
19 itself order them to produce evidence. In contrast, nonparticipants in the foreign
20 proceeding may be outside the foreign tribunal's jurisdictional reach; hence, their
21 evidence, available in the United States, may be unobtainable absent § 1782(a)
aid.¹¹

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23 ⁸ *In re Republic of Ecuador*, 2010 WL 3702427, at *2 (citing *Intel*, 542 U.S. at 264-65).

24 ⁹ See Docket No. 7 at 6; 28 U.S.C. § 1782(a).

25 ¹⁰ See *Intel*, 542 U.S. at 256 (stating that an interested person under Section 1782 "plainly reaches
26 beyond the universe of persons designated 'litigant,'" although there is no doubt that "litigants are
included among, and may be the most common example").

27 ¹¹ *Id.* at 264.

1 In the instant case, LinkedIn is not a party in the foreign proceeding. Further, LinkedIn is not a
2 company resident in Ireland and, the requested information therefore does not appear to be within
3 the immediate reach of the Dublin Circuit Court. This factor weighs in Ryanair’s favor.

4 **2. Nature and Receptivity of Foreign Tribunal**

5 Under the second discretionary *Intel* factor, district courts are encouraged to “take into
6 account the nature of the foreign tribunal, the character of the proceedings underway abroad, and
7 the receptivity of the foreign government or the court or agency abroad to U.S. federal-court
8 judicial assistance.”¹² Ryanair argues that there is no authority suggesting the Irish government
9 would be hostile to or otherwise reject discovery obtained through a Section 1782 subpoena.¹³
10 Ryanair further argues that the Dublin Court would be receptive to the evidence because of how
11 critical it is to enforce the court’s judgment against Global Wings.¹⁴ This factor also weighs in
12 Ryanair’s favor.

13 **3. Attempt to Circumvent Foreign Proof-Gathering Restrictions and Policies**

14 Although Section 1782 does not require the documents sought to be discoverable in the
15 foreign courts, a district court may consider whether an applicant seeks in bad faith “to circumvent
16 foreign proof-gathering restrictions or other policies of a foreign country or the United States.”¹⁵
17 Here, Ryanair represents that the subpoena application is “a good-faith effort to secure relevant
18 evidence that is beyond the jurisdiction of the Dublin Circuit Court.”¹⁶ The court finds this factor
19 to be neutral.
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¹² *Id.*

24 ¹³ *See* Docket No. 7 at 6.

25 ¹⁴ *See id.*

26 ¹⁵ *Intel*, 542 U.S. at 260-63, 265.

27 ¹⁶ *See* Docket No. 7 at 6.
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