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14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA

16 hiQ Labs, Inc.,  
17 Plaintiff,  
18 vs.  
19 LinkedIn Corp.,  
20 Defendant.

Case No.  
**COMPLAINT FOR DECLARATORY  
JUDGMENT UNDER 22 U.S.C. § 2201  
THAT PLAINTIFF HAS NOT  
VIOLATED: (1) THE COMPUTER  
FRAUD AND ABUSE ACT (18 U.S.C. §  
1030); (2) THE DIGITAL MILLENNIUM  
COPYRIGHT ACT (17 U.S.C. §1201);(3)  
COMMON LAW TRESPASS TO  
CHATTELS; OR (4) CAL. PENAL CODE  
§ 502(c);  
INJUNCTIVE RELIEF TO ENJOIN: (1)  
INTENTIONAL INTERFERENCE WITH  
CONTRACT AND PROSPECTIVE  
ECONOMIC ADVANTAGE; (2) UNFAIR  
COMPETITION (CAL. BUS. & PROF.  
CODE § 17200); (3) PROMISSORY  
ESTOPPEL; AND (4) VIOLATION OF  
CALIFORNIA FREE SPEECH LAW;  
AND RELATED MONETARY RELIEF**

28 Plaintiff hiQ Labs, Inc. (“hiQ”), by its undersigned counsel, hereby brings this action

1 against Defendant LinkedIn Corporation (“Defendant” or “LinkedIn”) and alleges as follows:

2 **INTRODUCTION**

3 1. This is an action for declaratory relief under the Declaratory Judgment Act, 28  
4 U.S.C. § 2201 and 2202, and for injunctive relief under California law. hiQ seeks a declaration  
5 from the Court that hiQ has not violated and will not violate federal or state law by accessing and  
6 copying wholly public information from LinkedIn’s website. hiQ further seeks injunctive relief  
7 preventing LinkedIn from misusing the law to destroy hiQ’s business, and give itself a competitive  
8 advantage through unlawful and unfair business practices and suppression of California  
9 Constitutional free speech fair guarantees. hiQ also seeks damages to the extent applicable.

10 2. hiQ is a tech startup which collects and analyzes public profile information on  
11 LinkedIn in order to provide its clients – mostly large companies – with insights about their  
12 employees, such as which employees are likely to be poached by a competitor or which skills its  
13 employees have. hiQ does not analyze the private sections of LinkedIn, such as profile  
14 information that is only visible when you are signed-in as a member, or member private data that  
15 is visible only when you are “connected” to a member. Rather, the information that is at issue  
16 here is wholly public information visible to anyone with an internet connection.

17 3. LinkedIn is the world’s largest professional network, with over 500 million  
18 members. LinkedIn has abruptly, unlawfully and without cause denied hiQ access to the portion  
19 of the LinkedIn website containing wholly public member profiles. hiQ relies on that public data,  
20 available nowhere but LinkedIn, for its data analytics business that serves clients including eBay,  
21 Capital One, and GoDaddy.

22 4. On May 23, 2017, LinkedIn sent hiQ a cease-and-desist letter ordering hiQ to stop  
23 accessing LinkedIn and stating that hiQ’s continued access to the website would violate the  
24 Computer Fraud and Abuse Act, Digital Millennium Copyright Act, and California Penal Code §  
25 502(c) and constitute common law trespass to chattels. This came as a shock to hiQ, as LinkedIn  
26 has been aware of hiQ’s activities for several years and never once objected to hiQ’s use of this  
27 public information.

28 5. LinkedIn asserts as pretext that it needs to protect LinkedIn member data even

1 though LinkedIn members have expressly made that information public and LinkedIn has  
2 identified no harm to itself or its members. LinkedIn publicly acknowledges on its own website  
3 that the public profile data belongs to LinkedIn members, not to LinkedIn, and that each member  
4 is free to choose the level of public disclosure allowed for his or her own information. LinkedIn  
5 members can choose to (1) keep their profile information private; (2) share only with their direct  
6 connections; (3) share with connections within three degrees of separation; (4) allow access only  
7 to other signed-in LinkedIn members, or (5) allow access to everyone, even members of the  
8 general public who may have no LinkedIn account and who can access the information without  
9 signing in or using any password. It is only this fifth category of information – wholly public  
10 profiles – that is at issue here: hiQ only accesses the profiles that LinkedIn members have made  
11 available to the general public.

12           6.       hiQ uses that information for data analytics that LinkedIn members' employers in  
13 turn use to retain employees and to create better career and internal mobility paths for such  
14 employees. Thus, far from harming LinkedIn members, hiQ's access promotes precisely the type  
15 of professional and employment opportunities that lead LinkedIn members to make their profiles  
16 public in the first place. Yet, LinkedIn is now threatening hiQ with legal action based on the  
17 above described theories if hiQ accesses this information which is otherwise publicly available to  
18 everyone else on the planet with an internet connection.

19           7.       The Court should enjoin LinkedIn from denying hiQ access to its website because  
20 LinkedIn's real motivation is obviously anticompetitive: to prevent anyone but LinkedIn from  
21 being able to use public information for data analytics. LinkedIn for years has known about hiQ  
22 and its business, has attended data analytics conferences at hiQ and has even accepted awards  
23 from hiQ at these conferences. But LinkedIn has now made some public statements about  
24 entering the data analytics business, and has abruptly (as of May 24, 2017) decided to terminate  
25 hiQ's access.

26           8.       LinkedIn's entire stated complaint is that hiQ "copies" the data its members have  
27 made public, but LinkedIn has asserted no copyright or other exclusive propriety interest in the  
28 data and it clearly has none. Moreover, hiQ does not collect all (or even a substantial proportion)

1 of the member profiles on LinkedIn, nor does it compete with LinkedIn by creating a substitute  
2 social network or job posting forum. Rather, hiQ pulls data for a limited subset of users – usually  
3 its client’s employees – and uses scientific methodology to analyze the information. hiQ then  
4 provides its clients with this new data that it produced in a form that is by necessity very different  
5 from the public profile pages on LinkedIn.

6 9. Because LinkedIn has no legitimate copyright claim, it has instead threatened to  
7 sue hiQ under federal and state laws pertaining to hacking and unauthorized computer and  
8 network access in order to intimidate hiQ and force it to stop accessing these public profiles. But  
9 LinkedIn cannot use those laws for an improper purpose to obtain exclusive proprietary control  
10 over wholly public data in which it otherwise has no exclusive interest and which hiQ, and anyone  
11 else, can freely access on the world wide web with no log-in credentials or password. Indeed,  
12 LinkedIn would not have that data on its website in the first place but for its promise to LinkedIn  
13 members that they can publicly disclose that information on LinkedIn for all the world to see and  
14 use.

### 15 **THE PARTIES**

16 10. Plaintiff hiQ is a Delaware corporation with its principal place of business in San  
17 Francisco, California.

18 11. On information and belief, Defendant LinkedIn is a Delaware corporation with its  
19 principal place of business in Sunnyvale, California.

### 20 **JURISDICTION AND VENUE**

21 12. The Court has subject matter jurisdiction over this action under 28 U.S.C. § 1331  
22 because Plaintiff’s first and second claims for relief seek a declaratory judgment under 28 U.S.C. §  
23 2201 and 2202 that Plaintiff has not violated the Computer Fraud and Abuse Act, 18 U.S.C. §  
24 1030, and the Digital Millennium Copyright Act, 17 U.S.C § 1201.

25 13. Under 28 U.S.C. § 1367, the Court has supplemental jurisdiction over Plaintiff’s  
26 third through eleventh claims for relief because they arise out of the same common set of facts and  
27 conduct as Plaintiff’s federal claims for relief.

28 14. This Court has personal jurisdiction over Defendant LinkedIn in this action

1 because, on information and belief, LinkedIn's corporate headquarters and principal place of  
2 business is within this judicial district, and LinkedIn has engaged in substantial business within  
3 this district.

4 15. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1) and (2) because  
5 Defendant LinkedIn conducts substantial business within this District and a substantial part of the  
6 acts or omissions giving rise to Plaintiff's claims occurred in this District. Venue is further proper  
7 in this District pursuant to 28 U.S.C. § 1400(a) because this action relates to copyrights and  
8 Defendant LinkedIn resides in this District.

#### 9 **INTRADISTRICT ASSIGNMENT**

10 16. Pursuant to N.D. Cal. Civil Local Rule 3-2(c), this case is an intellectual property  
11 action appropriate for assignment on a district-wide basis.

#### 12 **FACTUAL ALLEGATIONS**

##### 13 **About hiQ Labs and its Services**

14 17. hiQ was formed in July 2012 and has raised \$14.5 million in two rounds of  
15 funding. It presently has 24 employees, the majority of whom are in its San Francisco office, and  
16 11 of whom have advanced degrees, including several PhDs. hiQ sells Fortune 500 clients  
17 "people analytics" – i.e. insights to their workforce – that it deduces by performing computerized  
18 analyses of the public profile information available on LinkedIn. hiQ provides its customers two  
19 specific analytics services: (a) "Keeper," which tells employers which of their employees are at  
20 the greatest risk of being recruited away, and (b) "Skill Mapper," a summary of the breadth and  
21 depth of aggregate or individual skills possessed.

22 18. hiQ uses the public profile section of the LinkedIn website as raw data for its  
23 analysis and has historically used a variety of software and manual means to gather this  
24 information. hiQ does not analyze the private sections of LinkedIn, such as profile information  
25 that is only visible when you are signed-in as a member, or member private data that is visible  
26 only when you are "connected" to a member. hiQ does not republish the information it collects  
27 from LinkedIn, but instead applies analytics to create new business intelligence for its clients.  
28 hiQ's services thus do not impair or impede the value of the LinkedIn social network. Rather they

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