

28 USC § 1782

(a little help to our friends)



28 USC § 1782 authorizes parties in actions outside the U.S. to obtain discovery from non-parties in the U.S. to support its claims/defenses. Show that

1. the target of discovery resides or “is found” in the district where the petition has been filed;
2. the discovery sought is for use in a proceeding before a foreign or international tribunal; and
3. the applicant is an “interested person.”

Intel Corp. v. Advanced Micro Devices, Inc., 542 U.S. 241, 249, 254-56 (2004).

Nonparty Discovery to Help in Foreign Litigation

- **Section 1782** allows parties in actions outside the U.S. to seek:
 1. Documents
 2. Witness testimony by deposition
 3. Discovery in the manner of a federal US case
- Filed in district court, *ex parte*
- Discretionary

Circuits Are Split On Whether Section 1782 Applies To Arbitration

The **Fifth and Second Circuits** have ruled that Section 1782 **does not** apply to foreign arbitration proceedings

The **Eleventh Circuit** has ruled that Section 1782 **does** apply to foreign arbitration proceedings

