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14 UNITED STATES DISTRICT COURT  
 15 NORTHERN DISTRICT OF CALIFORNIA  
 16

17 hiQ Labs, Inc.,  
 18 Plaintiff,  
 19 vs.  
 20 LinkedIn, Corp.,  
 21 Defendant.  
 22

Case No. 3:17-cv-03301

**DECLARATION OF DEEPAK GUPTA IN  
 SUPPORT OF hiQ'S MOTION FOR  
 TEMPORARY RESTRAINING ORDER**

23 I, Deepak Gupta, declare as follows:

24 1. I am a partner at Farella Braun + Martel LLP ("Farella"). I am a member in good  
 25 standing of the California State Bar. I make this declaration based on personal knowledge and, if  
 26 called upon to do so, could testify competently to its contents.

27 2. I was retained as counsel by hiQ on May 24, 2017 to represent it in its dispute  
 28 against LinkedIn.

1           3.       On May 30, 2017 I spoke with Abhishek Bajoria, counsel for LinkedIn regarding  
2 LinkedIn's May 23 cease-and-desist letter to hiQ. *See* Ex. J attached to hiQ's Motion for  
3 Temporary Restraining Order ("Motion").

4           4.       During this conversation, I explained to LinkedIn's counsel hiQ's belief that it had  
5 a right to access public profiles available on LinkedIn's site, that its business is synergistic to  
6 LinkedIn, that the effect of LinkedIn's cease-and-desist letter would devastate hiQ, and to  
7 understand whether LinkedIn believed it was being harmed in any way.

8           5.       LinkedIn's counsel was unable to point to any interference or impairment with  
9 LinkedIn's servers from hiQ's accessing the LinkedIn site. LinkedIn also admitted that numerous  
10 other commercial enterprises, including Google and Yahoo! are permitted to use automated  
11 software to access the LinkedIn site.

12          6.       I also asked LinkedIn's counsel if LinkedIn is building products to compete with  
13 hiQ's Keeper and Skill Mapper services. Counsel for LinkedIn stated that he did not know the  
14 answer to that question.

15          7.       On May 31, 2017, I sent a letter to LinkedIn asking that hiQ be permitted to access  
16 the public profile portion of the LinkedIn website, at least in the interim while the parties  
17 discussed the possibility of a mutually amicable resolution, and explaining what I believe to be  
18 errors of thinking in the May 24 letter. A true and correct copy of this letter is attached as Exhibit  
19 K to the Motion.

20          8.       As of this date, LinkedIn has not responded to my letter.

21          9.       Attached as Exhibit A to hiQ's Motion is a true and correct copy of LinkedIn's  
22 "About Us" webpage, accessed on June 7, 2017.

23          10.       Attached as Exhibit B to hiQ's Motion is a true and correct copy of LinkedIn's  
24 User Agreement, accessed on May 26, 2017.

25          11.       Attached as Exhibit C to hiQ's Motion is a true and correct copy of a screenshot  
26 my LinkedIn profile.

27          12.       Attached as Exhibit D to hiQ's Motion is a true and correct copy of the "Public &  
28 Private Profiles | LinkedIn Help" webpage, accessed on May 24, 2017.

1 13. Attached as Exhibit E to hiQ's Motion is a true and correct copy of a screenshot of  
2 my LinkedIn profile, taken when my computer mouse was hovering over the "i" icon next to the  
3 "Public" radio button in the "Customize Your Public Profile" section of the webpage.

4 14. Attached as Exhibit F to hiQ's Motion is a true and correct copy of the "Finding  
5 Your LinkedIn Public Profile URL | LinkedIn Help" webpage, accessed on May 26, 2017.

6 15. Attached as Exhibit G is a true and correct copy of the 12-month Financial  
7 Statements for LinkedIn Corp. as reported by Google Finance, accessed on June 7, 2017.

8 16. Attached as Exhibit H is a true and correct copy of the 3-month Financial  
9 Statements for LinkedIn Corp. as reported by Google Finance, accessed on June 7, 2017.

10 17. Attached as Exhibit I to hiQ's Motion is a true and correct copy of the article  
11 "MICROSOFT BUYS LINKEDIN FOR \$26.2 BILLION" from the Business Insider website,  
12 accessed on June 7, 2017.

13 18. Attached as Exhibit L to hiQ's Motion is a true and correct copy of the transcript of  
14 LinkedIn's Q4 2014 Quarterly Results earnings call.

15 19. Attached as Exhibit M to hiQ's Motion is a true and correct copy of the "Data |  
16 LinkedIn Engineering" webpage, accessed on June 7, 2017.

17 20. Attached as Exhibit N to hiQ's Motion is a true and correct copy of LinkedIn's  
18 "Manage Your Own Brand" webpage, accessed on May 31, 2017.

19 21. Attached as Exhibit O to hiQ's Motion is a true and correct copy of the "Printing a  
20 Profile | LinkedIn Help" webpage, accessed on May 31, 2017.

21 22. Attached as Exhibit P to hiQ's Motion is a true and correct copy of the  
22 "Introducing Two Connections by Sharing a Profile | LinkedIn Help" webpage, accessed on May  
23 31, 2017.

24 23. On June 7, 2017 I provided notice via email to Abhishek Bajoria, Senior Litigation  
25 Counsel for LinkedIn and the author of LinkedIn's May 23 cease-and-desist letter, of hiQ's  
26 intention to see a Temporary Restraining Order against LinkedIn pursuant to Federal Rule of Civil  
27 Procedure 65 and Local Rule 65-1. I wrote that we would request a hearing as soon as possible,  
28 and that we would be seeking the relief set forth in the proposed order filed herewith. Attached as

1 Exhibit 1 to this Declaration is a true and correct copy of the email I sent to Mr. Bajoria on June 7,  
2 2017.

3 I declare under penalty of perjury under the laws of the United States that the foregoing is  
4 true and correct. Executed June 7, 2017, at San Francisco, California.

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6 /s/ Deepak Gupta

Deepak Gupta

7 Attorney for Plaintiff hiQ Labs, Inc.  
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