

## Supreme Court Tees Up Ninth Circuit Review of Web Scraping in the *hiQ Labs/LinkedIn* Case

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Earlier this month, the United States Supreme Court decided *Van Buren v. United States*. In that decision, the Court took a narrow interpretation of the Computer Fraud and Abuse Act (CFAA), holding that the CFAA “does not cover those who . . . have improper motives for obtaining information that is otherwise available to them.” At the time, **we observed** that the Supreme Court’s decision is an encouraging step in providing more certainty around the legal risks surrounding the use of web-scraped data.

In a new development this week, the Supreme Court teed up a case that specifically will

address the application of *Van Buren* to web scraping. In 2019, **the Ninth Circuit held** in *hiQ Labs, Inc. v. LinkedIn Corp.* that it is not a violation of the CFAA for a data analytics company to use information that it scrapes from **public** LinkedIn profiles to provide its clients with insights on their workforces. On Monday, **the Supreme Court** vacated the Ninth Circuit’s decision and directed to the Ninth Circuit to further consider the case in light of *Van Buren*. When the Ninth Circuit re-decides *hiQ* on remand, it likely will provide more specific guidance on the permissibility and risks of collecting and using web-scraped data.

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