

21-518 ALIXPARTNERS, LLP V. FUND FOR PROTECTION OF INVESTORS' RIGHTS

DECISION BELOW: 5 F.4th 216

LOWER COURT CASE NUMBER: 20-2653

QUESTION PRESENTED:

Under 28 U.S.C. § 1782(a), district courts may authorize third-party discovery against U.S. persons where the evidence sought is for use in "a foreign or international tribunal." The lower courts are in acknowledged conflict regarding the meaning of the phrase "foreign or international tribunal" and, accordingly, whether Section 1782 reaches non--governmental arbitration proceedings occurring in a foreign country. This Court was set to resolve that conflict in *Servotronics, Inc. v. Rolls-Royce PLC*, No. 20-794, but that case was dismissed upon the parties' Rule 46 motion shortly before oral argument had been scheduled to occur. This petition likewise presents the Section 1782 dispute, and in an even more critical context. Whereas the arbitration in *Servotronics* was between two private parties, the arbitration here is between a private party and a foreign state - an application of Section 1782 upon which the United States has expressed "particular concern." The question presented is:

Whether an ad hoc arbitration to resolve a commercial dispute between two parties is a "foreign or international tribunal" under 28 U.S.C. § 1782(a) where the arbitral panel does not exercise any governmental or quasi-governmental authority.

CONSOLIDATED WITH 21-401 FOR ONE HOUR ORAL ARGUMENT.

CERT. GRANTED 12/10/2021