

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 25-3549

In re: Application of Vestolit GmbH and Celanese Europe B.V. to Obtain
Discovery for Use in a Foreign Proceeding Pursuant to 28 U.S.C. Section 1782

VESTOLIT GMBH; CELANESE EUROPE B.V.,
Appellants

v.

SHELL CHEMICAL LP

On Appeal from the U.S. District Court, D. Del.
Judge Colm F. Connolly, No. 1:24-cv-01401

Before: CHAGARES, *Chief Judge*, MATEY and BOVE, *Circuit Judges*
Submitted: Sept. 18, 2026; Filed: Sept. 23, 2026

NONPRECEDENTIAL OPINION*

BOVE, *Circuit Judge*. Appellants Vestolit GmbH and Celanese Europe B.V. appeal the denial of their request for discovery from Shell Chemical LP, pursuant to 28 U.S.C. § 1782, to support their defense of a Dutch price-fixing case brought by a European affiliate of Shell. We will affirm.

I.

We assume the parties' familiarity with the underlying facts, procedural history, and issues on appeal. The District Court had jurisdiction under 28 U.S.C. §§ 1331 and 1782. We have jurisdiction under 28 U.S.C. § 1291. Although Appellants contend that our review

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

is plenary, the abuse-of-discretion standard governs. *SPS Corp I v. GM Co.*, 110 F.4th 586, 590 (3d Cir. 2024).¹

II.

Contrary to Appellants’ broad argument, it is clear from the District Court’s careful opinion that the District Court did not place “dispositive” weight on the Dutch Court’s denial of similar discovery requests in 2025. *E.g.*, Appellants’ Br. 3. The District Court was free to consider that ruling from the foreign proceeding and presciently anticipated the possibility of “future” rulings. A15. We have taken judicial notice of the Dutch Court’s more recent judgments, issued after the District Court denied Appellants’ § 1782 request, Dkt. 40, and they do not meaningfully undermine the points that the District Court found salient.

Relying heavily on non-precedential opinions and decisions from trial courts and other Circuits, Appellants present an unconvincing attack on the District Court’s discretionary balancing of the four factors described in *Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241 (2004). The first *Intel* factor concerns whether the materials sought “may be unobtainable absent § 1782(a) aid.” *Id.* at 264. The relevant facts here are not as clear-cut as in *SPS Corp I*, where the material sought was within the jurisdiction of the foreign court. 110 F.4th at 592. Similar to that case, however, Appellants wrongly ask us to “focus narrowly” on Shell’s nonparty status in the Dutch proceedings. *Id.* The District Court did not abuse its discretion by relying on documentary evidence and sworn representations

¹ Unless otherwise indicated, case quotations omit all internal citations, quotation marks, footnotes, alterations, and subsequent history.

indicating that Shell's affiliate, i.e., Appellants' adversary abroad, would produce documents in Shell's custody if ordered to do so by the Dutch Court. Based on that fact finding, the District Court did not err by holding that the first *Intel* factor favored Shell.

The District Court reasoned that the second *Intel* factor "slightly" favored Shell. A15. This is one of the places where the District Court took note of the Dutch Court's 2025 discovery decision. Specifically, the District Court observed that the Dutch tribunal had characterized similar discovery requests as a "fishing expedition," which suggested, "at the least," "*some* lack of receptivity" from the foreign court. A15. Appellants cite no authority that calls into question that measured reasoning, which is entirely consistent with common-sense as well as precedent regarding the relevance of a foreign decision that "rebuffed" efforts to obtain "substantially the same discovery" as that being sought pursuant to § 1782. *SPS Corp I*, 110 F.4th at 594.

Appellants' arguments regarding the third *Intel* factor are similarly meritless. There is no indication that the District Court misapprehended the scope of the phrase "proof-gathering restrictions" from *Intel*, 542 U.S. at 265. Rather, the District Court followed governing precedent by focusing on the particulars of the procedural history and the foreign proceedings. *See SPS Corp I*, 10 F.4th 594-95. The details mattered to the District Court, including that Appellants declined earlier opportunities to pursue similar discovery in the Dutch proceedings and did not disclose the § 1782 motion to the Dutch Court. It was not an abuse of discretion to take those details into consideration.

Finally, Appellants quibble with the District Court's conclusion under the fourth *Intel* factor that the discovery requests were overly broad and unduly burdensome. But they do

not challenge this sentence from the District Court’s decision: “[Appellants] seek ‘all documents relating to’ thirty broad categories and a deposition of a Shell Chemical representative on twenty-two topics that span fifteen years and involve other Shell affiliates and geographies.” A18. Under the circumstances presented, those observations were adequate to sustain the District Court’s application of the fourth *Intel* factor. And, because of the substantial overlap between Appellants’ document demands and the topics identified for the deposition being sought, the District Court’s denial of the deposition request was not an abuse of discretion either.

We have considered Appellants’ remaining arguments, which we conclude are without merit. Accordingly, we will affirm.