



UPC_CFI_530/2025
Procedural Order
of the Court of First Instance of the Unified Patent Court, issued on July
29, 2026
Regarding a review pursuant to Rule 333 of the Rules of Procedure

PLAINTIFF

KEEEX SAS

5 rue de Lissandre 13013
- MARSEILLE - FR

Represented by Thibaud Lelong

RESPONDENT

S

ADOBE SYSTEMS SOFTWARE IRELAND LIMITED

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D24DCWO - Dublin 24 – IE

ADOBE INC.

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Represented by Thomas Cuche

OPEN AI OPCO LLC

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CA 94158 - San Francisco - US

OPEN AI IRELAND LTD

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Represented by David Por

TRUEPIC INC.

402 W. Broadway, Suite 400/PMB#5021 CA
92101 - San Diego - US

Represented by Benjamin May

JOINT DEVELOPMENT FOUNDATION PROJECTS LLC

548 Market Street, P.O. Box 57724
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**COALITION FOR CONTENT PROVENANCE AND
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3500 South Dupont Highway, Suite AA101,
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Represented by Philipp Cepl

DISPUTED PATENT

<i>Patent Number</i>	<i>Patreee(s)</i>
EP2949070	KEEEX SAS

JUDGE RENDERING THE DECISION

COMPOSITION OF THE CHAMBER – CHAMBER SITTING IN PLENARY SESSION

Presiding Judge and Reporting
Judge Judge with legal expertise
Judge with legal expertise
Judge with technical expertise

**Camille Lignieres Carine
Gillet
Peter Tochtermann
Alessandro Sanchini**

LANGUAGE OF THE PROCEEDINGS: French

ORDER

In the context of an infringement action based on its EP 070 patent, KEEEX filed an infringement action before this Division against the defendants named in the heading of this order.

An order was issued on June 25 of this year (“the contested order”) by the reporting judge on various motions filed by the defendants in the main action, based on Rules 9.2, 36, and 263 of the Rules of Procedure, and relating to KEEEX’s latest brief dated June 5, 2026.

In that order, the following was ruled:

- Denies KEEEX's motion for a further amendment to the patent at issue under Rule 30.2 of the Rules of Procedure,
- Holds that the addition of the "Truepic Lens" and "Script Truepic Display" products referred to in KEEEX's infringement claim constitutes a change in the claim within the meaning of Rule 263 of the Rules of Procedure, which is not admissible,
- Declares inadmissible as late and excludes from the proceedings, pursuant to Rule 9.2 of the Rules of Procedure, all elements and new exhibits contained in Sections V "Infringement" and VI "Remedies" of the brief dated June 5, 2026, with the exception of the following elements, which are admitted pursuant to Rule 36 of the Rules of Procedure:
 - the tables in Exhibits 43.1 through 43.22, along with their presentation on page 61 of the contested brief (Sections IV.2 and IV.3),
 - the response to an argument by OPENAI regarding the reproduction of "identification fingerprint" features in the context of claims amended pursuant to Rule 30.1 of the Rules of Procedure on pages 64–66 and 69–70 (sections IV.1.1 and IV.2.2) of the challenged brief,
 - pages 89 through 99 of the brief under review (sections V2.2.1 and 2.2.2) concerning KEEEX's comments on the economic reports produced by ADOBE and OPENAI.
- Denies the other motions for dismissal on grounds of inadmissibility, in particular the one targeting KEEEX's new Exhibit 37 and elements contained in sections other than IV and V of the brief dated June 5, 2026,
- Orders that, pursuant to Rule 36 of the Rules of Procedure, the defendants may respond, in a specific section of their next and final brief to be filed on July 6, 2026 (as provided for in Rule 32.3 at the end of the Rules of Procedure), to the following specific points:
 - the tables in Exhibits 43.1 through 43.22, along with their presentation on page 61 of the brief under review (sections IV.2 and IV.3),
 - the response to OPENAI's argument regarding the reproduction of "identification fingerprint" characteristics in the context of amended claims pursuant to Rule 30.1 of the RdP on pages 64–66 and 69–70 (sections IV.1.1 and IV.2.2) of the brief under review,
 - the arguments on pages 89 through 99 of the brief under review (sections V2.2.1 and 2.2.2) concerning KEEEX's comments on the economic reports produced by ADOBE and OPENAI,
 - KEEEX's new Exhibit 37 on the distinction between "fingerprint" and "signature" and its comment on page 30 of the brief under review.

In a motion dated July 9, 2026, filed pursuant to Rule 333 of the Rules of Procedure, KEEEX requests that the panel:

- partially revise the order dated June 25, 2026;
- declare admissible the arguments contained in the brief of June 5, 2026, which were erroneously dismissed;
- declare admissible the new request to amend the patent based on Rule 30.2 of the Rules of Procedure, or, in the alternative, at least allow it to be examined;

- rule that the addition of the “Truepic Lens” and “Script Truepic Display” products does not constitute an inadmissible amendment to the claims, or, in the alternative, to allow KEEEX to supplement its arguments on this point;
- and, in any event, to authorize a supplemental brief pursuant to Rule 36 of the Rules of Procedure to allow KEEEX to respond to all new elements introduced by the Defendants.
- hold that the uncontested provisions of the order remain unchanged. In support of its motion for reconsideration, KEEEX advances the following arguments: Regarding Rule 30.2 of the RdP:
 - the Defendants cited ten new prior art references in their briefs dated May 5 and challenged the admissibility of the amendments filed pursuant to Rule 30.1 of the RdP;
 - the sets of claims in the requests under Rule 30.2 are entirely contained within those of the requests under Rule 30.1 of the Rules of Procedure;
 - the request for amendment under Rule 30.2 RdP does not constitute a new element, but is intended to definitively put an end, with clarity and clarity, to the ambiguity maintained by the Defendants between the terms “signature” and “digital fingerprint” ” (see OPENAI’s interpretation of the statement by its own expert, first submitted on May 5, 2026, and challenged in Section IV.4.1.1 of the brief dated June 5, 2026).
 - The court rejected the proposed amendments pursuant to Rule 30(2). RdP solely on the grounds that the amendments now proposed “could have been submitted as early as March 5, 2026,” whereas the principles of proportionality, flexibility, justice, and equity (point 2 of the Preamble) should have been applied, as was done in response to a request under Rule 30(2). RdP in the Trumpf Laser v. IPG Laser decision of the Düsseldorf Local Division (Düsseldorf LD, September 12, 2025, TRUMPF Laser v. IPG Laser GmbH & Co. KG, UPC_CFI_733/2024), in order to ensure a high standard of quality in the decisions rendered,
 - the Plaintiff could not have anticipated the Defendants’ objections to the admissibility of the proposed principal amendments because those objections lack a legal basis,
 - the Respondents could have anticipated the main claim under Rule 30(2) of the Rules of Procedure, as its set of claims corresponds to that of the first auxiliary claim under Rule 30(1) of the Rules of Procedure.

Regarding the infringement claim concerning new TRUEPIC products:

It was only in its brief dated May 5, 2026, that TRUEPIC admitted, for the first time, that the file “truepic-20230212-camera.jpg” had been produced using the Truepic Lens software. It was therefore important for the Plaintiff to highlight this information and draw all the necessary conclusions from it without this constituting a change in the claim. According to KEEEX, this new element required further arguments on this point.

On admissibility under Rule 9.2 of the Rules of Procedure:

By ruling that Sections IV and V of the Brief dated June 5, 2026, should, for the most part, be dismissed as late on the grounds that they fell outside the scope of the applicable procedural framework, the reporting judge applied an overly narrow interpretation of the procedural necessity invoked by the Plaintiff for two reasons:

- 1) the Plaintiff did not introduce a new argument regarding infringement in an independent and disconnected manner. The disputed arguments were presented in direct response to new or reformulated claims raised by the Defendants in their Briefs dated May 5, 2026.
- 2) The order itself acknowledges that certain elements of the infringement claim were admissible, as a response to OpenAI's argument regarding the "identification fingerprint" feature, as well as for the comments on the adverse economic reports. This partial admission reveals that the relevant criterion was not mere inclusion in the "stream" of validity or amendment, but rather whether the pleadings were in fact responsive.

In its reply, in a brief filed on July 20, 2026:

ADOBE seeks confirmation of the order on the points criticized by KEEEX and requests that it be set aside insofar as it rejected the motion to dismiss and admitted to the proceedings, pursuant to Rule 9.2 of the Rules of Procedure, the tables corresponding to Exhibits 43.1 through 43.22, as well as their presentation on page 61 of the brief submitted for review (Sections IV.2 and IV.3).

OPENAI requests confirmation of the order of June 25, 2026, in its entirety.

TRUEPIC requests confirmation of the contested order and presents arguments in support thereof, particularly regarding the introduction of new TRUEPIC products cited in KEEEX's infringement action in its brief dated June 5.

JOINT DEVELOPMENT and C2PA also request that the contested order be upheld in its entirety.

REASONS

Regarding the refusal to authorize a subsequent amendment to the patent (Rule 30.2 of the Rules of Procedure)

The Panel finds that the grounds for the rejection by the Reporting Judge in the order of June 25, 2026, are merely a consistent application of the case law developed by the UPC in this matter. Indeed, the JUB has held (CoA, November 25, 2025, Meril v. Edwards, UPC_CoA_464/2024, 457/2024, 458/2024, 530/2024, 532/2024, 533/2024, 21/2025, 27/2025; Headnotes 2.) that the admissibility of a subsequent request is permitted only in exceptional circumstances, subject to two cumulative conditions:

- the amendment could not have been made with due diligence at an earlier stage,

and

- the amendment must not unreasonably hinder the other party in the conduct of the proceedings.

This framework, established by the JUB's case law for reviewing the conditions for authorization under R.30.2 of the Rules of Procedure, takes into account the key principles mentioned in the preamble to the Rules of Procedure: thus,

the principles of proportionality and flexibility are balanced against the principle of procedural efficiency.

To enable the court to rule, the party requesting the amendment under R. 30.2 RdP must provide a specific justification, explaining the reasons why it was decided to amend the initial request for patent amendment. In this case, KEEEX essentially argued that it could not have anticipated the defendants' defenses to its main claim because they had no basis in law or case law.

The panel notes that the reporting judge was correct in holding that: *"A subsequent request to amend the patent cannot be justified solely by the desire to respond to the defendants' criticisms of the initial request for amendment. On the contrary, granting such a request requires the existence of objective circumstances explaining why the applicant was unable to submit this amendment at an earlier stage."*

The panel notes that while KEEEX argues that it could not have foreseen the defenses raised by the defendants against its main amendment (Rule 30.1 of the Rules of Procedure), because those defenses are contrary to statutory provisions and case law, then it would have sufficed for KEEEX to point out the irrelevance of those defenses due to lack of a legal basis and that the amendment under Rule 30.2 of the Rules of Procedure was unnecessary.

In its motion for reconsideration, KEEEX alleges that the prior art cited by the defendants to challenge the main amendment under R. 30.1 RdP was filed late. However, it is logical that the defendant in a patent amendment proceeding should have the opportunity to challenge the validity of the amendment by asserting prior art relevant to this new form of the patent, and the panel notes that KEEEX had the opportunity to address this in its brief of June 5.

In light of these factors, the panel is not convinced by KEEEX's arguments for reversing the reporting judge's decision, which denied authorization for a subsequent revision of the patent pursuant to R. 30.2 RdP.

Regarding the infringement claim targeting new TRUEPIC products

KEEEX challenges the decision of the reporting judge, who did not allow the addition of new TRUEPIC products at this stage of the proceedings to the infringement claim on the grounds that this addition was late and constituted an impermissible amendment to the claim within the meaning of Rule 263.2 of the Rules of Procedure.

However, the panel also finds that the plaintiff had all the relevant information in the statement of findings (Exhibits KEEEX 7.4 and 7.6 of KEEEX's complaint) submitted with the complaint itself to draw conclusions regarding the infringement allegation against these products, and that TRUEPIC's briefs dated May 5, 2026 (notably on page 138), which merely state that the infringement claim does not target the Truepic Lens software, did not provide any new information on this point

On the inadmissibility of the evidence (Rule 9.2 of the Rules of Procedure)

-raised by KEEEX in its motion for reconsideration:

The panel considers, as the reporting judge noted in the contested order, that the brief filed by KEEEX on June 5, 2026, pursuant to Rule 29 (e) RdP, must be limited, with respect to the issue of the patent's validity, to a response to the questions raised in the reply brief of May 5, 2026, filed by the defendants in the main action regarding their counterclaim seeking invalidation of the patent at issue. Thus, as stated in the order of June 25, 2026:

"The rules of procedure do not provide, at this stage of the proceedings, for the presentation of arguments regarding infringement, as it is the defendant in the main action who must have the final say in the infringement action brought against him by the plaintiff."

The arguments put forward by KEEEX in its motion for reconsideration do not justify admitting to the proceedings any evidence other than that admitted by the reporting judge, for the reasons set forth in the contested order, which the panel adopts.

The motions to dismiss on the grounds of R.9.2 RdP were addressed by the reporting judge—not through a mere "automatic application of procedural rules," as KEEEX claims, but through an examination of each of the elements at issue, in light of the procedural rules justified by the efficiency of the proceedings, and also in light of the principle of respect for the adversarial process (or fair trial).

Thus, the motions to dismiss regarding KEEEX's June 5 brief on Sections V and VI—which address infringement and remedies—were legitimately granted, on which the defendant, in principle, has the final say, while granting exceptions for elements that, in light of the principle of adversarial proceedings, required a substantive response pursuant to Rule 36 of the Rules of Procedure in the defendants' brief filed on July 6.

-raised by ADOBE in its response of July 20:

The panel concurs with the position of the reporting judge, who held that the tables corresponding to Exhibits 43.1 through 43.22, as well as their presentation on page 61 of the brief submitted for review (Sections IV.2 and IV.3), should not be excluded from the proceedings on the grounds that they constituted merely a summary of the claimant's arguments already set forth, especially since the defendants had the opportunity to comment on them in their final brief of July 6, 2026, pursuant to Rule 36 of the Rules of Procedure.

For the reasons set forth in the contested order, the panel finds that the arguments advanced by ADOBE to review the decision on this point are not relevant.

Regarding KEEEX's motion under Rule 36 of the Rules of Procedure in any event

In light of this context and the reasons set forth below, KEEEX's request to be authorized to submit a supplemental brief under Rule 36 of the Rules of Procedure does not appear justified and will be denied.

FOR THESE REASONS, the Panel

-Rejects the motions for reconsideration filed by KEEEX and ADOBE against the order issued on June 25, 2026,

-Denies KEEEX's motion seeking authorization to submit a supplemental brief pursuant to Rule 36 of the Rules of Procedure.

Rendered in Paris on July 29, 2026.

Camille Lignieres, Chair and Reporting Judge

 Date:
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Carine Gillet, legally qualified judge

 July 28, 2026
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Peter Tochtermann, legally qualified judge

Peter Michael
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Alessandro Sanchini, technically qualified judge

ALESSANDRO
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INFORMATION ON APPEAL: This order is subject to appeal pursuant to Rule 220(2) of the Rules of Procedure.

DETAILS OF THE ORDER

UPC No.: UPC_CFI_530/2025

Type of Action: Infringement Action

Type of Request: Request for review under Rule 333 of
the Rules of Procedure Date of the Order: July 29, 2026