



Paris Local Division

UPC_CFI_530/2025
Procedural order
of the Court of First Instance of the Unified Patent Court,
issued on 19/12/2025
Concerning security for costs of a party (R.158 RoP)

APPLICANT

KEEEX SAS

(Parties to the main proceedings - Claimant) - 5
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Represented by Thibaud Lelong

DEFENDANTS

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 L.P

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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.
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92101 - San Diego - US

Represented by Benjamin May

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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

PATENT IN SUIT

<i>Patent number</i>	<i>Owner(s)</i>
EP2949070	KEEEX SAS

JUDGE RULING

Judge-Rapporteur **Camille Lignieres**

LANGUAGE OF PROCEEDINGS: French

ORDER

In the context of an infringement action brought by KEEEX before this division of the UPC against the defendants as mentioned at the head of this order, the Judge-Rapporteur has been seised by defendants 1, 2, 4, 5, 6, 7 and 8 of the requests for guarantees provided for by R. 158 RoP:

-Application of 13 November 2025 by d'ADOBE (DEF1 and 2) seeking :

- ORDER the provision by KEEEX of security to cover legal costs and other expenses incurred or expenses incurred or to be incurred by defendants 1) and 2) in the proceedings within fifteen (15) days from the notification of the decision, or alternatively within a period to be specified by the Court, and, in any event, within the time limits before the oral proceedings;
- FIX the security to be lodged at the maximum amount authorised for costs and other recoverable expenses (€5,000,000, or failing that 50% of this maximum authorised amount (€2,500,000 - or failing that 30% of this maximum authorised amount (€1,500,000);
- ORDER that this sum be remitted in the form of a cash deposit or, failing that, by means of a bank guarantee.

Application dated 17 November 2025 by Defendants 7 and 8 for :

- the Court order the Claimant to provide a guarantee, to cover legal costs and other expenses incurred or to be incurred by Defendants 7) and 8), in the sum of €5 million or such amount as the Court may consider appropriate in the present case at this stage.
- the court orders that this security be provided, either in the form of a deposit of funds with the court, or in the form of a bank guarantee, to defendants 7) and 8), within two weeks of the notification of the decision to intervene.

Application of 19 November 2025 by OPENAI (Defendants 4 and 5) for :

- order the Claimant to provide, within such period as the Court may determine, appropriate security in the amount of 5,000,000 euros, or, failing that, such other amount as the Court may deem appropriate, in respect of the legal costs and other expenses incurred or to be incurred by the Defendants 4) and 5) which may be incurred by the Claimant.
- In the event that the security is not posted within the time limit set, to rule by default in accordance with Rule 355 of the Rules of Procedure.

TRUEPIC's request of 19 November 2025 (Defendant 6): the terms of this request are identical to those of the request submitted by ADOBE.
ADOBE's request.

The essential arguments in support of the requests based on R.158 RoP are as follows:

- The defendant has legitimate reasons to fear that any order for reimbursement of costs will not be recoverable or that there is a legitimate risk that such an order cannot be enforced or that its enforcement will be excessively_ difficult (cf. for example the order of the LD Paris of 21 May 2024, UPC_CFI_495/2023).
- According to the information provided by the applicant in its application and the attachments, the applicant has only a limited turnover and its annual turnover over the last three years was less than half a million euros.
- The claimant even requested a reduction in legal costs. In its reply of 10 December 2025, KEEEX asks the Court to: Primarily:
 - REJECT all the Defendants' requests for security for costs; In the alternative:

- DECLARE the amount of the security for costs requested by the defendants excessive and disproportionate;
- ORDER security for costs in a total amount not exceeding EUR 50,000;
- GRANT the claimant the opportunity to provide security in the form of a bank deposit or in the form of a bank guarantee provided by a bank authorised in the EU (and placed under the direct supervision of the European Central Bank), at the claimant's option;
- GRANT the plaintiff a period of six weeks from the date of service of the order of the order.

In substance, KEEEX puts forward the following arguments:

- the provision of security may restrict the plaintiff's right to an effective remedy and to a fair trial, as guaranteed by European Union law, in particular Article 47 of the Charter of Fundamental Rights of the European Union and the Directive on the enforcement of intellectual property rights. Accordingly, the defendants' interest in the constitution of a ga-rantia on the one hand, and the plaintiff's interest in the effective defence of its patent rights on the other, must always be weighed against each other,
- the guarantee requested by the defendants would be unjustified, disproportionate and contrary to the right of access to justice and the right to a fair trial.

REASONS

The Judge-Rapporteur has decided to refer the present applications to the Panel for a ruling in accordance with R. 331.2 RoP.

The legal framework

Art. 69-4 UPCA- Court costs :

"At the request of the defendant, the Jurisdiction may order the claimant to provide appropriate security for the legal costs and other expenses incurred by the defendant which may fall to the claimant, in particular in the cases referred to in Articles 59 to 62."

R. 158.1 RoP - Security for a party's costs :

"At any time during the proceedings, following a reasoned request by a party, the Court may order the other party to provide, within a specified period of time, appropriate security for the legal costs and other expenses incurred or to be incurred by the requesting party which may be incurred by the other party. Where the Court decides to order such security, it shall decide whether it is appropriate to order the security in the form of a deposit of funds or a bank guarantee."

The need for a guarantee in this case

In order to decide whether a guarantee under rule 158 RoP is necessary, it is necessary to refer to the established case law of the UPC according to which: *"The Court, when exercising its discretion under*

discretion under Art. 69(4) UPCA and R.158 RoP, must determine, in the light of the facts and arguments brought forward by the parties, whether the financial position of the claimant gives rise to a legitimate and real concern that a possible order for costs may not be recoverable and/or the likelihood that a possible order for costs by the Court may not, or in an unduly burdensome way, be enforceable." (UPC_CoA_218/2024 /2024, Audi AG v. Network System Technologies, 17 Sep-2024)

In the present case, the plaintiff states that it employs only six people and has an annual turnover of approximately 350,000 euros (excluding tax). The value of the share was stated by the plaintiff when it filed its action to be 6,622,802,000.00 euros. The defendants also claim that KEEEX sought damages of more than 6 billion euros in its statement of claim. However, it should be pointed out that, at the end of the first meeting organised by the Judge-Rapporteur to deal with the case, KEEEX waived its claim for damages in the present proceedings and reserved any claim for damages after the decision on the merits for separate proceedings. The amount of the value of the share proposed by the plaintiff as mentioned in the CMS is therefore only indicative at this stage of the proceedings, and is therefore liable to change downwards.

It is nonetheless true that the plaintiff has involved eight defendants in its action, some of whom belong to the same group of companies and are represented by the same representative, which implies representation costs for four separate representatives. In addition, even if KEEEX reserves the right to fix a definitive amount of damages for separate proceedings, it is already alleging multiple acts of infringement over a very wide territory (within and outside UPC), which implies a very high amount of alleged damages against the defendants.

It is not disputed that the plaintiff's financial situation is very modest, and the plaintiff applied for and obtained a 60% reduction in the payment of legal costs, which is provided for small businesses.

In this context, there is a risk that the plaintiff will not be able to bear the legal costs that the defendants would be entitled to have reimbursed if KEEEX were to be unsuccessful in its claims. In the present case, therefore, the need for security for legal costs as provided for by R. 158 RoP is justified.

Assessment of the amount of the guarantee

When assessing the amount of the security, the principles of proportionality and also the principle of fairness (preamble RoP point 2) must be taken into account in order to ensure effective access to justice of the UPC for a small company such as KEEEX. (cf LD Munich, UPC_CFI_244/2024 and UPC_CFI_786/2024, decision of 21 January 2025- headnotes 2: "*When calculating the amount of the security, any grounds of equity that become relevant for the subsequent determination of costs must be taken into account. This is because the assessment of the security deposit must be based on the costs to be determined in accordance with Art. 69 UPCA; according to Art. 69 UPCA, reasons of equity may preclude the bearing of costs in whole or in part.*")

In the present case, on the one hand, the claimant paid legal costs of 201,600 euros to file his infringement action, which, in view of his economic situation, is a very substantial amount, and demonstrates his determination in the action he is taking to exercise his rights as the owner of the patent in question.

On the other hand, the financial risk to companies such as the defendants of not being able to fully recover the legal costs advanced is nonetheless limited, given their very solid financial capacity. Furthermore, the panel is not convinced that the total amount of their legal costs to be reimbursed by the plaintiff is as high as the amounts mentioned in their claims (i.e. several million euros). Representation costs are only recoverable if they are "reasonable and proportionate" in accordance with article 69 UPCA and rule 152 RoP. It is the judge-rapporteur who will decide in the costs procedure what is reasonable and proportionate in this case. Even if the case involves complex technology and there are multiple defendants, most of the defences (apart from the question of the respective liability of each of the defendants in the commission of the alleged infringement) are common and do not require the costs to be multiplied by the number of defendants involved in the action.

It follows that it is proportionate and fair to set the guarantee at 50,000 euros for each representative, i.e. 4x50,000 euros (200,000 euros) to be produced in the form of a bank guarantee provided by a bank authorised in the EU.

For these reasons, the panel

-Orders KEEEX to provide a guarantee for the defendants' legal costs as provided for in R. 158 RoP in the form of a bank guarantee provided by a bank authorised in the EU, within 4 weeks of this order.

-Declares that this order is subject to appeal pursuant to R. 220.1 RoP.

Issued on 19 December 2025.

Camille Lignieres, Judge-Rapporteur

 Date: 2025.12.19
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DETAILS OF THE ORDER

UPC n° : UPC_CFI_530/2025

Type of action: Infringement action

Type of claim: warranty claim (R.158 RoP)

Date of order: 19/12/2025