



PARIS LOCAL DIVISION
UPC_CFI_684/2025
& UPC CFI 2279/2025

UPC_CFI_684/2025
Procedural Order
of the Court of First Instance of the Unified Patent Court
delivered on 05/06/2026
(R.9.2 RoP Application to disregard arguments)

CLAIMANT:

Align Technology, Inc.

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85288, Arizona, US

Represented by John BRUNNER
CARPMAELS & RANDFORD and other
representatives from that Law firm

RESPONDENTS – DEFENDANTS

1-Angelalign Technology Inc.

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Grand Cayman, KY

2-Angelalign France Technology SASU¹⁴⁷

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3-Europe Angelalign Technology B.V.

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4-Angelalign Technology (Germany) GmbH

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5-Italy Angelalign Technology S.R.L.

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Represented by Tim SMENTKOWSKI
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PATENT AT ISSUE

Patent no.

EP2237738

DECIDING JUDGE

Judge-rapporteur

Carine Gillet

LANGUAGE OF PROCEEDINGS: English

ORDER

On 18 August 2025, Align Technology Inc. (hereafter "Align" or "the Claimant") brought an infringement action, before the Paris Local Division, against Angel Align Entities.

The Statement of Defence along with a counterclaim of revocation, has been filed by the Defendants on 02 January 2026 .

Align submitted its reply on 16 March 2026, and Angel Align its rejoinder on 18 May 2026.

On 22 May 2026, Align filed an application to disregard Defendants' late-filed non-infringement arguments, based on R. 9.2 Rules of Proceedings of the Unified Patent Court (RoP), asking the Court to :

1. declare inadmissible and disregard the Defendants' new non-infringement arguments (paragraphs 49-57 of the Rejoinder) and newly-filed Exhibits AR 12 and AR 13; and

2. order that the Defendants' new non-infringement arguments and the newly-filed Exhibit AR 12 and AR 13 shall not be relied upon by the Defendants at the oral hearing or any subsequent stages of these proceedings.

Alternatively, Align requests that :

3. the Claimant be given an opportunity to reply in writing to the Defendants' new non-infringement arguments brought forward for the first time in its Rejoinder.

On 29 May 2026, Angel Align asks the Court :

-to dismiss the requests 1. And 2

-to be given an opportunity to reply in writing to paragraphs 49-57 of the Rejoinder and exhibits AR12 and AR13.

GROUNDINGS FOR THE DECISION

Parties' arguments

The Claimant requests that the new non-infringement arguments and corresponding exhibits, filed by the defendants in their rejoinder to the reply (dated 18 May 2026), be declared inadmissible and be disregarded. Alternatively, Align requests to be given the opportunity to respond to these arguments in writing, with regard to the principles of fairness and equity.

In support of its application, the claimant states that the defendants initially raised non-infringement arguments only with regard to feature 1.3.1. of Claim 1 (and corresponding feature 7.5.1 of Claim 7) in their Statement of Defence and counterclaim for revocation (02 January 2026) but have now brought forward new arguments against features 1.3 and 1.3.4, in their further submissions (18 May 2026). However, these additional arguments are not in response to a change in the claimant's arguments in its reply to SoD (on 16 March 2026). These arguments are late-filed, contrary to the front-loaded nature of the proceedings and should have been submitted with the SoD on 2 January 2026. Furthermore, there is no other information explaining or justifying the late filing.

At last, the defendants have followed the same proceedings strategy of late-filing in a parallel case, before the Düsseldorf Local Division .

In response, Angel Align states that paras. 49-57 of its pleadings and related Exhibits AR12 and AR13, are admissible and that the Claimant should be able to respond to, so that an exhaustive judicial decision can be handed down on the merits, particularly as the timetable for the proceedings allows for this.

Angel Align affirms that the claimant has clarified its position and re-considered non infringement in view of the clarified position submitted by the Claimant in its understanding of features 1.3.2 (and particularly the role in creating lingual root torque, with the lingual surface and the ridge on the buccal side, working together), and feature 1.3.4 (exclusion series of dimples or bump-like protrusions, from the scope of the claim).

Angel Align contends that contrary to the claimant, it could not prepare their case in advance and need to be able to react to further substantiations by claimant.

Finally, Angel Align adds that it is erroneous to affirm that the LD Dusseldorf 's order rejecting non infringement arguments in the parallel case, has been upheld by the Court of Appeal, because the CoA did not assess the previous order on the merits, and rejected Angel Align's request, because the oral hearing was imminent.

Response to the arguments

In line with the objectives of flexibility, procedural efficiency, fairness and equity, and celerity, set out in the RoP's preamble, the rules establish a strict timetable to address different issues sequentially, as part of a front-loaded procedure.

According to Rule 9.2 RoP, the judge-rapporteur may disregard any step, fact, evidence or argument that a party has not taken or submitted in accordance with a time limit set by the Court or the RoP.

In accordance with R24 (e) to (g) RoP, the defence statement in an infringement case, shall contain, an indication of the facts relied upon, including any challenge to the facts relied upon by the claimant; the evidence relied upon and the reasons why the action shall fail.

In infringement proceedings, the rejoinder of the defendant is the last written submission, and the Claimant does not have the opportunity to respond to it, except in special circumstances.

In the case at hand, Angel Align raised arguments in its defence statement (on 02 January 2026), challenging the existence of infringement in relation to feature 1.3.1 (and the corresponding feature 7.5.1 of claim 7), but made no mention of features 1.3 and 1.3.4.

While Angel Align does not contest, having raised new grounds for non-infringement, in its Rejoinder to Reply, regarding features 1.3 and 1.3.4, it affirms that these new arguments are admissible in response to the new arguments developed in the Reply to Statement of defense, filed by the claimant (on 16 march 2026).

Angel Align contends that the claimant made no reference to the structure of the cavity in the SoC regarding feature 1.3, let alone any relation to the ridge on the buccal side or the need for the lingual surface and buccal ridge to 'work together'.

However, the claimant has already mentioned the combined action of the ridge-shaped protrusion of feature 1.3.1 and the lingual surface of feature 1.3.2 in the SoC to apply lingual root torque within the tooth-receiving cavity.

In consequence, the claimant's interpretation of the cavity and lingual root torque in its reply is not new.

Angel Align adds that the claimant provides a further explanation of its understanding of feature 1.3.4 and of what would constitute a 'single continuous ridge-shaped protrusion'.

The interpretation given in the Reply to SoD , however, is in line with that given in the SoC, where it is stated that the protrusion must be continuous and configured to contact a tooth surface along an uninterrupted length.

In addition, the defendants cannot seriously argue that they cannot anticipate everything, given that, from the moment the Statement of Case was filed, they had all the information they needed to construct their defence and raise the relevant arguments and they also have a four-month period, rather than the three-month period provided for in the rules of procedure.

Ultimately, it is true that in the parallel proceedings involving the same parties, the Court of Appeal dismissed the appeal on the grounds that an oral hearing was imminent. Nevertheless, in those other proceedings, the defendants did indeed raise arguments belatedly in their reply, without putting forward any argument of non-infringement in their statement of defence.

Therefore, contrary to the defendants' assertions, the additional arguments of new grounds of non-infringement, put forward by Angel Align for the first time in the Rejoinder, are not in response of alleged new grounds raised by the Claimant in its previous written. The claimant's interpretation of the patent in its Reply to SoD, is exactly in line with that developed in the SoC.

In consequence, there are no grounds to justify the late submission of the arguments put forward by the defendants. These additional arguments pleadings and should have been submitted in the Statement of Defence.

Thus the defendants' new non-infringement arguments (paras 49-57 of the Rejoinder and the corresponding Exhibits AR12 and 13, must be declared inadmissible and disregarded.

The alternative request to give the opportunity to the Claimant to reply in writing is devoid of purpose.

For all these reasons,

The Judge-rapporteur, after hearing the parties, orders that :

-the Defendants' new non-infringement arguments (paras. 49-57 of the Rejoinder) and Exhibits AR 12 and AR 13 are inadmissible and will be disregarded,

-the Defendants' new non-infringement arguments and Exhibit AR 12 and AR 13 shall not be relied upon by the Defendants at the oral hearing or any subsequent stages of these proceedings,

-the alternative request to give an opportunity to reply in writing to the Defendants' new non-infringement arguments is devoid of purpose.

Issued in Paris on 05 June 2026

C.Gillet, Judge-rapporteur.

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This order may be reviewed pursuant to R.333 RoP.

ORDER DETAILS

UPC number: UPC_CFI_684/2025

Related proceedings : UPC_CFI_ 2279/2025

Application Type: R9.2 RoP

Date of issue: 05/06/2026