



**UPC\_CFI\_530/2025**  
**Procedural Order**  
**of the Court of First Instance of the Unified Patent Court,**  
**issued on 29 July 2026**  
**Concerning a review pursuant to Rule 333 of the Rules of Procedure**

APPLICANT

**KEEEX SAS**

5 rue de Lissandre 13013  
- MARSEILLE - FR

Represented by Thibaud Lelong

RESPONDENTS

**ADOBE SYSTEMS SOFTWARE IRELAND LIMITED**

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D24DCWO – Dublin 24 – IE

**ADOBE INC.**

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CA 95110-2704 - San Jose – US

Represented by Thomas Cuche

**OPEN AI OPCO LLC**

1455 3rd Street  
CA 94158 - San Francisco - US

**OPEN AI IRELAND LTD**

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1st Floor  
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Represented by David Por

**TRUEPIC INC.**

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92101 - San Diego - US

Represented by Benjamin May

**JOINT DEVELOPMENT FOUNDATION PROJECTS LLC**

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CA 94101-5401 – San Francisco – US

**COALITION FOR CONTENT PROVENANCE AND  
AUTHENTICITY (C2PA)**

3500 South Dupont Highway, Suite AA101,  
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Represented by Philipp Cepl

DISPUTED PATENT

| <i>Patent number</i> | <i>Patent holder(s)</i> |
|----------------------|-------------------------|
| <b>EP2949070</b>     | <b>KEEEX SAS</b>        |

JUDGE RULING

COMPOSITION OF THE CHAMBER – CHAMBER SITTING IN PLENARY SESSION

|                                |                            |
|--------------------------------|----------------------------|
| President and Judge rapporteur | <b>Camille Lignieres</b>   |
| Legally qualified judge        | <b>Carine Gillet</b>       |
| Legally qualified judge        | <b>Peter Tochtermann</b>   |
| Technically qualified judge    | <b>Alessandro Sanchini</b> |

LANGUAGE OF THE PROCEEDINGS: French

ORDER

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

An order was made on 25 June last ('the contested order') by the Reporting Judge in response to various applications brought by the main defendants, based on Rules 9.2, 36 and 263 of the Rules of Procedure, and relating to KEEEX's latest statement of 5 June 2026.

By that order, the following was ruled:

- Rejects KEEEX's application for a further amendment to the patent in question under Rule 30.2 of the Rules of Procedure,
- Holds that the addition of the products 'Truepic Lens' and 'Script Truepic Display', referred to in KEEEX's infringement claim, constitutes a change to the claim within the meaning of Rule 263 of the Rules of Procedure, which is not admissible,
- Declares inadmissible as out of time, and excludes from the proceedings in accordance with Rule 9.2 of the Rules of Procedure, all the elements and new exhibits contained in Sections V 'Infringement' and VI 'Measures' of the statement of 5 June 2026, with the exception of the following elements, which are admissible on the basis of Rule 36 of the Rules of Procedure:
  - the tables in Exhibits 43.1 to 43.22, together with their presentation on page 61 of the contested statement of case (sections IV.2 and IV.3),
  - the response to an argument put forward by OPENAI regarding the reproduction of 'identification fingerprint' features in the context of amended claims 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 contested statement of case,
  - pages 89 to 99 of the contested submission (sections V2.2.1 and 2.2.2) concerning KEEEX's comments on the economic reports produced by ADOBE and OPENAI.
- Rejects the other motions for inadmissibility, in particular the one concerning KEEEX's new Exhibit 37 and relating to elements contained in sections other than IV and V of the brief dated 5 June 2026,
- States that, pursuant to Rule 36 of the Rules of Procedure, the defendants may respond, in a specific section of their next and final statement of case to be filed on 6 July 2026 (as provided for in Rule 32.3 in fine of the Rules of Procedure), to the following specific points:
  - the tables in Exhibits 43.1 to 43.22, together with their presentation on page 61 of the contested statement of case (sections IV.2 and IV.3),
  - the response to an argument put forward by OPENAI 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 to 99 of the contested submission (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 contested submission.

By a request dated 9 July 2026, pursuant to Rule 333 of the Rules of Procedure, KEEEX requests the panel to:

- partially revise the order of 25 June 2026;
- declare admissible the arguments contained in the written submission of 5 June 2026 which were wrongly dismissed;
- declare admissible the new request for amendment of the patent based on Rule 30.2 of the RdP, or, in the alternative, at least allow it to be examined;

- to rule that the addition of the 'Truepic Lens' and 'Script Truepic Display' products does not constitute an inadmissible amendment to the claim, or, in the alternative, to authorise KEEEX to supplement its arguments on this point;
- and, in any event, to authorise a supplementary statement of case pursuant to Rule 36 of the Rules of Procedure to enable KEEEX to respond to all the new elements introduced by the Defendants.
- to rule that the uncontested grounds of the order remain unchanged.

In support of its application for review, KEEEX puts forward the following arguments:

*On Rule 30.2 of the Rules of Procedure:*

- the Defendants cited ten new prior art references in their pleadings of 5 May and criticised the admissibility of the amendments filed under Rule 30.1 of the RdP;
- the sets of claims in the applications under Rule 30.2 are entirely contained within those of the applications under Rule 30.1 of the Rules of Procedure;
- the request for amendment under Rule 30.2 of the Rules of Procedure does not constitute a new element, but is intended to put a definitive end, clearly and comprehensively, to the ambiguity maintained by the Defendants between the terms 'signature' and 'digital fingerprint' (see OPENAI's interpretation of the statement by their own expert, submitted for the first time on 5 May 2026 and challenged in section IV.4.1.1 of the statement of 5 June 2026).
- the court rejected the proposed amendments under Rule 30(2). RdP on the sole ground that the amendments now proposed 'could have been submitted as early as 5 March 2026', whereas the principles of proportionality, flexibility, justice and fairness (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, 12 September 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 handed down,
- the Claimant could not have anticipated the Defendants' objections regarding the admissibility of the proposed principal amendments, as these objections lack a legal basis,
- the Defendants could have anticipated the main claim under Rule 30(2) of the Rules of Procedure, as the set of claims therein corresponds to that of the first subsidiary claim under Rule 30(1) of the Rules of Procedure.

*Regarding the infringement claim relating to new TRUEPIC products:*

It was only in its statement of 5 May 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 Claimant to highlight this information and to draw all the necessary conclusions from it without this constituting an amendment to the claim. According to KEEEX, this new development required further arguments on this point.

*On admissibility under Rule 9.2 of the Rules of Procedure:*

In ruling that Sections IV and V of the Statement of 5 June 2026 should, for the most part, be set aside as out of time on the grounds that they fell outside the scope of the applicable procedural framework, the reporting judge adopted an overly narrow interpretation of the procedural necessity invoked by the Claimant for two reasons:

- 1) the Claimant did not introduce a new argument regarding infringement in an independent and disconnected manner. The contentious arguments were presented in direct response to new or reformulated pleas raised by the Defendants in their Pleadings of 5 May 2026.
- 2) the order itself acknowledges that certain elements of the infringement claim were admissible, in response to OpenAI's argument regarding the 'identification fingerprint' feature, as well as in relation to 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 whether the pleadings were in fact responsive.

In its reply, in submissions dated 20 July 2026:

ADOBE seeks confirmation of the order on the points criticised by KEEEX and requests that it be set aside in so far as it rejected the application for inadmissibility and declared admissible for consideration, pursuant to Rule 9.2 of the Rules of Procedure, the tables corresponding to exhibits 43.1 to 43.22, as well as their presentation on page 61 of the brief submitted for review (sections IV.2 and IV.3).

OPENAI requests that the order of 25 June 2026 be upheld in its entirety.

TRUEPIC seeks confirmation of the contested order and puts forward arguments to that effect, in particular regarding the introduction of new TRUEPIC products referred to in KEEEX's infringement claim in its statement of 5 June.

JOINT DEVELOPMENT and C2PA also seek confirmation of the contested order in its entirety.

## **GROUND**

### **On the refusal to authorise a subsequent amendment to the patent (Rule 30.2 of the Rules of Procedure)**

The panel considers that the grounds for the rejection by the reporting judge in the order of 25 June 2026 are merely the correct application of the case law developed by the JUB on this matter. Indeed, the JUB held (CoA, 25 November 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 application 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 case law of the JUB for assessing the conditions for authorisation under R.30.2 of the Rules of Procedure, takes into account the key principles set out in the preamble to the Rules of Procedure: thus,

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

In order to enable the court to rule, the applicant seeking an amendment under R. 30.2 of the RdP must provide a detailed justification, explaining the reasons why it was decided to amend the original application for patent amendment. In the present case, KEEEX essentially stated that it could not have anticipated the defence arguments regarding 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 criticisms raised by the defendants against the initial request for amendment. On the contrary, the granting of such a request presupposes the existence of objective circumstances explaining why the applicant was unable to submit this amendment at an earlier stage.'*

The panel notes that whilst KEEEX argues that it could not have foreseen the defences raised by the defendants against its main amendment (R.30.1 RdP), because these defences are contrary to the statutory provisions and case law, it would have been sufficient for KEEEX to highlight the irrelevance of these defences due to a lack of legal basis and that the amendment under Rule 30.2 of the Rules of Procedure was unnecessary.

In its application for review, KEEEX alleges that the prior art cited by the defendants to challenge the main amendment under Rule 30.1 of the RdP was filed out of time. However, it is logical that the defendant in proceedings for the amendment of a patent should have the opportunity to challenge its validity by citing prior art appropriate to this new form of the patent, and the panel notes that KEEEX had the opportunity to respond to this in its submission of 5 June.

In view of these factors, the panel is not convinced by KEEEX's arguments for revising the decision of the reporting judge, who did not grant authorisation for a subsequent revision of the patent on the basis of R 30.2 RdP.

#### **On the infringement claim relating to 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 inadmissible amendment to the claim within the meaning of Rule 263.2 of the Rules of Procedure.

However, the panel also considers that the claimant had all the relevant information in the statement of findings (Exhibits KEEEX 7.4 and 7.6 of KEEEX's statement of claim), submitted as part of the statement of claim, from which to draw conclusions regarding the allegation of infringement against these products, and that TRUEPIC's submissions of 5 May 2026 (notably on page 138), which merely state that the infringement claim does not relate to the Truepic Lens software, did not provide any new evidence on this point

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

***-raised by KEEEX in its application for review:***

The panel considers, as the reporting judge noted in the contested order, that the statement of 5 June 2026 filed by KEEEX, as provided for in Rule 29 (e) of the Rules of Procedure, must, with regard to the issue of the patent's validity, be limited to a response to the points raised in the reply of 5 May 2026 filed by the defendants in the main proceedings concerning their counterclaim for the invalidity of the patent in question. Thus, as stated in the order of 25 June 2026:

*'The rules of procedure do not provide, at this stage of the proceedings, for the development of arguments on infringement, as it is the defendant in the main action who must have the final say in the context of the infringement action brought by the claimant against him.'*

The arguments put forward by KEEEX in its application for review do not justify the admission to the proceedings of evidence other than that admitted by the reporting judge, for the reasons set out in the contested order, which the panel endorses.

The pleas of inadmissibility based on R.9.2 RdP were addressed by the reporting judge, not by a mere 'automatic application of the procedural flow', as KEEEX claims, but by examining each of the elements at issue, in the light of the procedural rules justified by the efficiency of the proceedings, and also in the light of the principle of respect for the adversarial process (or fair trial).

It was thus legitimately upheld that the motions to dismiss relating to KEEEX's submission of 5 June concerning Sections V and VI, which deal with infringement and measures, on which the defendant, in principle, has the final say, whilst granting exceptions for elements which, in accordance with the principle of adversarial proceedings, required a substantive response pursuant to Rule 36 of the Rules of Procedure in the defendants' statement of defence filed on 6 July.

***-raised by ADOBE in its reply of 20 July:***

The panel concurs with the position of the reporting judge, who considered that the tables corresponding to exhibits 43.1 to 43.22, as well as their presentation on page 61 of the statement 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 out, particularly as the defendants had the opportunity to comment on them in their latest statement of 6 July 2026 pursuant to Rule 36 of the Rules of Procedure.

For the reasons set out in the contested order, the panel considers that the arguments put forward by ADOBE to have the decision reviewed on this point are not relevant.

**On KEEEX's application under Rule 36 of the Rules of Procedure in any event**

In view of this context and the grounds set out below, KEEEX's request to be authorised to submit a supplementary submission under Rule 36 of the Rules of Procedure does not appear justified and will be rejected.

**ON THESE GROUNDS, the panel**

- Rejects the requests for review made by KEEEX and ADOBE against the order issued on 25 June 2026,

-Rejects KEEEX's application seeking authorisation to submit a supplementary submission under Rule 36 of the Rules of Procedure.

***Delivered in Paris, 29 July 2026.***

Camille Lignieres, Chair and Judge rapporteur

 Date: 29  
July 2026  
08:15:38 +02'00'

Carine Gillet, legally qualified judge

 28 July 2026  
19:27:53  
+02'00'

Peter Tochtermann, legally qualified judge

**Peter Michael  
Dr Tochtermann**  Digitally signed by Peter  
Michael Dr Tochtermann  
Date: 28 July 2026 16:38:49  
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Alessandro Sanchini, technically qualified judge

**ALESSANDRO  
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Date: 28 July 2026 21:11:52 +02'00'

**INFORMATION ON APPEAL:** this order is subject to appeal in accordance with Rule 220(2) of the Rules of Procedure.

DETAILS OF THE ORDER

UPC No.: UPC\_CFI\_530/2025

Type of proceedings: Infringement proceedings

Type of application: Application for review under Rule 333  
of the Rules of Procedure Date of the order: 29 July 2026