

**O/1202/25**

**TRADE MARKS ACT 1994**

**SUPPLEMENTARY DECISION ON COSTS**

**IN THE MATTER OF TRADE MARK APPLICATION NO. 3654091**

**BY FIFTH SEASON, LLC**

**AND**

**IN THE MATTER OF THE OPPOSITION THERETO**

**UNDER NO. 428206 BY**

**CANAL+ THEMATIQUES**

**AND**

**IN THE MATTER OF TRADE MARK NOS 901217546 & 901712876**

**IN THE NAME OF CANAL+ THEMATIQUES**

**AND**

**IN THE MATTER OF THE APPLICATIONS FOR THE REVOCATION THEREOF**

**UNDER NOS. 504551 & 504552 BY**

**FIFTH SEASON, LLC**

## BACKGROUND

1. On 13 November 2025, I issued a decision in these proceedings (BL O/1055/25).

At the end of the decision, I said:

“137. Both parties have enjoyed some success in these consolidated proceedings. The greater share in this success has gone to Fifth Season and therefore I am minded to make an award of costs in its favour, reflecting the relative success. At the hearing, I indicated that I considered that costs on the scale were appropriate in these proceedings. However, Ms Reid [Counsel for Fifth Season] asked at the hearing for costs off the scale in relation to the revocation application against the 876 mark, the defence of which was maintained until the skeleton argument. She maintained that the continued defence had been an act of bad faith. I said that I would seek separate submissions on costs.

138. Fifth Season therefore has 14 days from the date of the decision to file submissions on costs in relation to the revocation application against the 876 mark. Canal+ will then have 14 days from the receipt of those submissions to make its own submissions on costs. I will then issue a decision on the costs for the consolidated proceedings and set the appeal period.”

2. Fifth Season wrote to the Registry on 20 November 2025 to inform it that it had no further submissions to make on costs and requested that costs be awarded in accordance with the published scale.

3. Canal+'s response was dated 4 December 2025 and confirmed that it also had no further submissions to make.

4. Section 68(1) of the Trade Marks Act 1994 (“the Act”) is as follows:

“Provision may be made by rules empowering the registrar, in any proceedings before him under this Act-

(a) to award any party such costs as he may consider reasonable, and

(b) to direct how and by what parties they are to be paid.”

5. Rule 67 of the Trade Marks Rules 2008, SI 2008 No. 1797, states that:

“The registrar may, in any proceedings under the Act or these Rules, by order award to any such party such costs as the registrar may consider reasonable, and direct how and by what parties they are to be paid.”

## **DECISION**

6. Awards of costs made to represented parties are usually based on a scale, set out in a series of Tribunal Practice Notices (“TPNs”). This scale is periodically updated and the one applying to these proceedings can be found in TPN 2/2016.<sup>1</sup> They are intended to be a contribution to the costs incurred.

7. In the circumstances, and taking into account the relative share of success, I have calculated the award as follows:

*£700 for preparing statements and considering the other side’s statements;*

*£700 for preparing evidence and considering and commenting on the other side’s evidence;*

*£1,300 for preparing for and attending the main hearing;*

*£400 for official fees incurred in filing the revocation applications.*

***£3,100 in total***

8. In particular, I note that Fifth Season filed no evidence, although it did make written submissions on the evidence filed by Canal+. I have also reflected the length of the hearing in the award. Because of the procedural issues that are dealt with in my substantive decision, this lasted the whole day, rather than the half day originally scheduled.

9. I order Canal+ Thématiques to pay Fifth Season, LLC the sum of £3,100. This sum is to be paid within twenty-one days of the expiry of the appeal period, which I hereby

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<sup>1</sup> <https://www.gov.uk/government/publications/tribunal-practice-notice-22016/tribunal-practice-notice-22016-costs-in-proceedings-before-the-comptroller>

set to begin on the date of this supplementary decision, or within twenty-one days of the final determination of this case if any appeal against my decision is unsuccessful.

**Dated this 22<sup>nd</sup> day of December 2025**

**Clare Boucher**

**For the Registrar,**

**Comptroller-General**