

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

| | | |
|---------------------------------|---|---------------------------|
| CENTILLION DATA SYSTEMS, LLC, |) | |
| Plaintiff |) | |
| |) | |
| vs. |) | |
| |) | 1:04-cv-0073-LJM-DKL |
| QWEST COMMUNICATIONS |) | |
| INTERNATIONAL, INC. and QWEST |) | |
| CORPORATION, |) | |
| Defendants. |) | |
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| QWEST CORPORATION and QWEST |) | |
| COMMUNICATIONS CORPORATION, |) | |
| Consolidated Plaintiffs, |) | |
| |) | 1:04-cv-2076 |
| vs. |) | (consolidated with above) |
| |) | |
| CENTILLION DATA SYSTEMS, LLC |) | |
| and CTI GROUP (HOLDINGS), INC., |) | |
| Consolidated Defendants. |) | |

ORDER

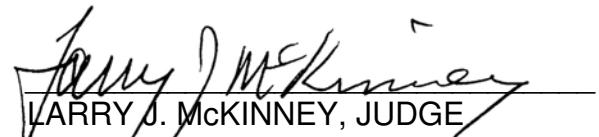
Defendants Qwest Corporation and Qwest Communications International, Inc. and Consolidated Plaintiff, Qwest Communications Corporation (collectively “Qwest”) have moved for an amendment of the Entry of Judgment entered in this cause on October 15, 2012, to add language to reserve to Qwest its invalidity defenses in case this cause returns to this Court for further consideration. The Court sees no just reason to deny this motion.

Further, Qwest also requests that the Court reconsider its Order denying Qwest its costs as set forth in its Bill of Costs filed November 17, 2009, Dkt. No. 830. See Dkt. No. 932. The Court concludes that it misapprehended the discretion allowed by Rule 54(d)(1) of the Federal Rules of Civil Procedure (“Rule 54(d)(1)”) as set forth in Seventh

Circuit precedent concluding that it is incumbent upon the unsuccessful party to show that the prevailing party should be penalized by a denial of costs. See e.g. *Congregation of the Passion, Holy Cross Province v. Touche, Ross & Co.*, 854 F.2d 219, 221-22 (7th Cir. 1988) (concluding that the district court's discretion in awarding costs is narrowly confined by misconduct of the prevailing party or an inability of the losing party to pay) (citing, *inter alia* *Popeil Bros., Inc. v. Schick Elec., Inc.*, 516 F.2d 772, 774-75 (7th Cir. 1975)). No such showing has been made by Plaintiff Centillion Data Systems, LLC.

Qwest's Motion to Amend Entry of Judgment dated October 15, 2012 (Dkt. No. 931), is **GRANTED**. In addition, Qwest's Motion to Reconsider (Dkt. No. 932) is also **GRANTED**. An amended Judgment shall be entered accordingly.

IT IS SO ORDERED this 30th day of October, 2012.



LARRY J. MCKINNEY, JUDGE
United States District Court
Southern District of Indiana

Distributed to all attorneys of record via CM/ECF.