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3 UNITED STATES DISTRICT COURT  
4 WESTERN DISTRICT OF WASHINGTON  
5 AT SEATTLE

6 WEDI CORP.,

7 Plaintiff,

8 v.

9 BRIAN WRIGHT; HYDRO-BLOK  
10 USA LLC; and HYDROBLOK  
11 INTERNATIONAL LTD.,

12 Defendants.

C15-671 TSZ

MINUTE ORDER

13 SOUND PRODUCT SALES L.L.C.,

14 Counterclaimant,

15 v.

16 WEDI CORP.,

17 Counter-Defendant.

18 The following Minute Order is made by direction of the Court, the Honorable  
19 Thomas S. Zilly, United States District Judge:

20 (1) The motion to amend judgment brought by wedi Corp. (“wedi”), docket  
21 no. 304, is DENIED. Contrary to wedi’s contention, the Partial Judgment entered on  
22 December 6, 2019, docket no. 296, is consistent with the terms of the parties’ settlement:

23 THE COURT: We’re going to dismiss all the claims other than what’s  
covered by those two orders. We’re going to enter a judgment that will  
start the clock ticking on the right to appeal the matters covered by the two  
orders, [docket nos.] 260 and 266, and then the prevailing party would have  
a right to at least seek attorney’s fees and costs in connection with what was  
decided by those two orders. . . . Is that kind of where we are?

MR. MCMAHON: Yes, Your Honor, I believe so. This is Brian McMahon.

1 MR. BECKA: Defendants are preserving their right [to] seek fees and costs  
2 for the claims that wedi is going to be appealing, is the agreement of the  
parties.

3 Tr. (Dec. 5, 2019) at 12:23-13:13 (docket no. 297). To the extent wedi argues that the  
4 Lanham Act and Washington’s Consumer Protection Act preclude Brian Wright, Sound  
Product Sales L.L.C., Hydro-Blok USA LLC, and Hydroblok International Ltd.  
5 (collectively, “Wright”) from being awarded costs because they were defendants as to  
such claims, its position lacks merit. *See Marx v. Gen. Revenue Corp.*, 568 U.S. 371  
6 (2013) (holding that the specific cost provision of the Fair Debt Collection Practices Act  
did not displace the “venerable presumption” of Rule 54(d)(1) that prevailing parties are  
7 entitled to costs); *see also Lochridge v. Lindsey Mgmt. Co.*, 824 F.3d 780 (8th Cir. 2016)  
(applying *Marx* in the context of the Fair Labor Standards Act, which expressly addresses  
8 awarding costs to prevailing plaintiffs, but is silent with respect to prevailing defendants).  
To be clear, the Partial Judgment merely indicates how costs may be sought, *i.e.*, in the  
9 manner set forth in Local Civil Rule 54(d); the Court has made no ruling concerning  
whether or the extent to which Wright might recover costs. *See Ass’n of Mexican-Am.*  
10 *Educators v. California*, 231 F.3d 572, 591-93 (9th Cir. 2000) (observing that Rule  
54(d)(1) vests the district court with discretion to refuse to tax costs).

11 (2) The referral of Wright’s motion for costs, docket no. 301, to Deputy Clerk  
In-Charge Joe Whiteley is VACATED, and such motion is RENOTED to March 20,  
12 2020.

13 (3) Wright’s motion for attorney’s fees, docket no. 298, is likewise RENOTED  
to March 20, 2020.

14 (4) The Clerk is directed to send a copy of this Minute Order to all counsel of  
15 record.

16 Dated this 13th day of February, 2020.

17 William M. McCool  
Clerk

18 s/Karen Dews  
19 Deputy Clerk