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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RACKLEY BILT TRAILER SALES,	)	Case No. 2:09-CV-01382 JAM-EFB
	)	
Plaintiff-	)	
Counterclaim	)	
Defendant,	)	<u>ORDER DENYING RACKLEY'S MOTION</u>
	)	<u>FOR ATTORNEYS' FEES</u>
v.	)	
	)	
HARLEY MURRAY, Inc.,	)	
	)	
Defendant-	)	
Counterclaim	)	
Plaintiff.	)	

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This matter comes before the Court on Plaintiff-Counterclaim Defendant Rackley Bilt Trailer Sales' ("Rackley") Motion For Attorneys' Fees (Doc. 49). Rackley requests attorneys' fees pursuant to 15 U.S.C. § 117(a) after prevailing in trial against Defendant-Counterclaim Plaintiff Harley Murray, Inc. ("Murray"). Murray opposes the motion.<sup>1</sup>

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<sup>1</sup>This motion was determined to be suitable for decision without oral argument. E.D.Cal. L.R. 230(g). It was scheduled for a hearing on November 17, 2010.

1 I. FACTUAL BACKGROUND

2 Rackley filed a lawsuit in this Court seeking declaratory  
3 relief in this trademark and trade dress case. In response to  
4 the lawsuit, Murray filed counterclaims against Rackley claiming  
5 trademark and trade dress infringement and unfair trade  
6 practices. After a bench trial, the Court entered judgment in  
7 favor of Rackley on each counterclaim brought by Murray and it  
8 granted Rackley's request for declaratory judgment. As the  
9 prevailing party, Rackley now seeks an award of attorneys' fees.

10 II. OPINION

11 A. Legal Standard

12 The Lanham Act allows for an award of attorneys' fees in  
13 "exceptional cases." 15 U.S.C. § 1117(a). The Lanham Act does  
14 not define what makes a case exceptional. In the Ninth Circuit,  
15 a case is exceptional when the case is "either groundless,  
16 unreasonable, vexatious, or pursued in bad faith." Cairns v.  
17 Franklin Mint Co., 292 F.3d 1139, 1156 (9th Cir. 2002) (internal  
18 citations omitted).

19 B. Claims for Fees

20 Rackley argues that it is entitled to fees because Murray's  
21 claims were groundless and unreasonable, the pursuit of those  
22 claims was vexatious, and the claims were pursued in bad faith.  
23 Murray counters that Rackley is not entitled to fees because Murray  
24 did no more than to make a good faith claim of infringement through  
25 a cease and desist letter, the issues were novel, and the case  
26 presented questions that the Court described as close.

27 Though Rackley prevailed in this lawsuit, the Court finds that  
28 this is not an "exceptional case" which would entitle Rackley to

1 fees. See e.g. Love v. Associated Newspapers, Ltd., 611 F.3d 601,  
2 615-16 (9th Cir. 2010) (upholding the district court's fee award  
3 because the plaintiff did not present any evidence except for a  
4 misleading and deceptive declaration and the plaintiff did not cite  
5 any cases of persuasive value or that were not easily  
6 distinguishable); Matrix Motor Co., Inc. v. Toyota Motor Sales,  
7 U.S.A., Inc., 120 Fed. Appx. 30, 32 (9th Cir. 2005) (upholding  
8 attorneys' fees because the district court found that the plaintiff  
9 grossly exaggerated its claims, had no competent evidence to  
10 support those claims, and its misconduct during discovery made it  
11 very costly and difficult for the defendant to defend against the  
12 claims); Cairns, 292 F.3d at 1156 (upholding fee award because the  
13 district court found that the dilution of trademark claim was  
14 groundless and unreasonable because it had no legal basis since it  
15 was based on absurd and almost frivolous contentions).

16 Murray's counterclaims were not groundless, unreasonable, or  
17 vexatious. Murray raised colorable legal and factual issues.  
18 Although Murray did not prove a likelihood of confusion, its claims  
19 were not objectively unreasonable or coercive. Furthermore, Murray  
20 did not pursue the case in bad faith. Nothing in the record  
21 persuades the Court that Murray's purpose was other than to protect  
22 its trade mark and trade dress. The Court's findings of fact and  
23 conclusions of law reflect that this was a hard fought and closely  
24 contested case. Murray's claims against Rackley were not frivolous  
25 and raised debatable issues of law and fact. See Boney, Inc. v.  
26 Boney Services, Inc., 127 F.3d 821, 827 (9th Cir. 1997).

27 Accordingly, the Court finds that as a matter of law this is not an  
28 exceptional case within the meaning of Lanham Act Section 35(a)

1 and, therefore, will not award attorneys' fees to Rackley.

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III. ORDER

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For the reasons set forth above, Rackley's motion for  
5 attorneys' fees is DENIED.

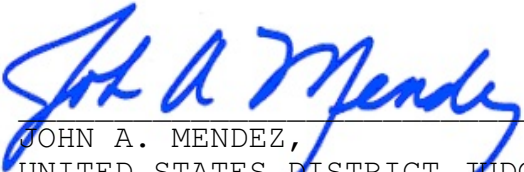
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IT IS SO ORDERED.

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Dated: November 22, 2010

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JOHN A. MENDEZ,  
UNITED STATES DISTRICT JUDGE

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