

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Robert E. Blackburn**

Civil Action No. 10-cv-02083-REB-MJW

PEIKER ACUSTIC, INC., and  
PEIKER ACUSTIC GMBH & CO. KG,

Plaintiffs/Counterclaim Defendants,

v.

PATRICK KENNEDY,

Defendant/Counterclaimant.

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**ORDER DENYING PLAINTIFF'S MOTION FOR SUMMARY  
JUDGMENT ON DEFENDANT'S COUNTERCLAIMS**

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**Blackburn, J.**

The matter before me is **Plaintiff's Motion for Summary Judgment on Defendant's Counterclaims** [#74]<sup>1</sup> filed July 15, 2011. I have jurisdiction over this matter pursuant to 28 U.S.C. § 1332 (diversity of citizenship). Having reviewed the motion, defendant's response, and the attendant reply, as well as the apposite arguments, authorities, and evidence presented by the parties, it is apparent that there exist genuine issues of material fact that are not appropriate for summary resolution.<sup>2</sup>

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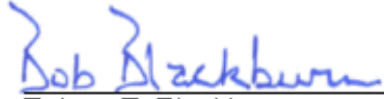
<sup>1</sup> "[#74]" is an example of the convention I use to identify the docket number assigned to a specific paper by the court's electronic case filing and management system (CM/ECF). I use this convention throughout this order.

<sup>2</sup> The issues raised by and inherent to the motion for summary judgment are fully briefed, obviating the necessity for evidentiary hearing or oral argument. Thus, the motion stands submitted on the briefs. Cf. **FED. R. CIV. P. 56(c)** and **(d)**. *Gear v. Boulder Cmty. Hosp.*, 844 F.2d 764, 766 (10th Cir.1988) (holding that hearing requirement for summary judgment motions is satisfied by court's review of documents submitted by parties).

**THEREFORE, IT IS ORDERED** that **Plaintiff's Motion for Summary Judgment**  
on **Defendant's Counterclaims** [#74], filed July 15, 2011, is **DENIED**.

Dated February 24, 2012, at Denver, Colorado.

**BY THE COURT:**



Robert E. Blackburn  
United States District Judge