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IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF UTAH

UNITED STATES OF AMERICA,  Plaintiff,  vs.  RAPOWER-3, LLC, INTERNATIONAL AUTOMATED SYSTEMS, INC., LTB1, LLC, R. GREGORY SHEPARD, NELDON JOHNSON, and ROGER FREEBORN,  Defendants.	<b>UNITED STATES' FIRST INTERROGATORIES TO RAPOWER-3, LLC</b>  Civil No. 2:15-cv-00828-DN-BCW  Judge David Nuffer Magistrate Judge Brooke C. Wells
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Plaintiff, United States of America, pursuant to Rule 33 of the Federal Rules of Civil Procedure, submits the following interrogatories to RaPower-3, LLC. Each interrogatory is to be answered fully and under oath or under the penalty of perjury, with such answers served on the undersigned counsel at the address listed below on or before May 11, 2016 [33 days from service, *see* Rules 33(b)(2), 6(d)].

**Exhibit**  
A

### **INSTRUCTIONS**

1. The answers to these interrogatories shall be made by mailing them to the undersigned trial attorney at the following address: Erin R. Hines, Trial Attorney, Tax Division, U.S. Department of Justice, P.O. Box 7238, Washington, D.C. 20044, or by overnight mail to undersigned counsel at 555 4th Street, N.W., Room 8912, Washington, D.C. 20001, or by email to [erin.r.hines@usdoj.gov](mailto:erin.r.hines@usdoj.gov).

2. Supplementation. Pursuant to Fed. R. Civ. P. 26(e)(1)(A), you are required to supplement or correct any initial answer/response to these interrogatories “in a timely manner” if you “learn[] that in some material respect” your response was “incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to [the United States] during the discovery process or in writing.”

3. Business records. Pursuant to Fed. R. Civ. P. 33(d), if the answer to an interrogatory may be determined through your business records, including electronically stored information, you may answer the interrogatory by (1) specifying the records that must be reviewed, in sufficient detail to enable the United States to locate and identify them as readily as you could; and (2) giving the United States a reasonable opportunity to examine and audit the records and to make copies, compilations, abstracts, or summaries.

### **Definitions of Terms Used in This Request**

1. The terms “you,” “yourself,” and “your” refers to the person or entity answering this discovery request, and to any of your employees or agents.
2. “Shepard” refers to Defendant R. Gregory Shepard, and to any of his employees or agents, unless otherwise stated.

3. “Johnson” refers to Defendant Neldon Johnson, and to any of his employees or agents, unless otherwise stated.
4. “Freeborn” refers to Defendant Roger Freeborn, and to any of his employees or agents, unless otherwise stated.
5. “RaPower-3” refers to Defendant RaPower-3, LLC, and to any of its employees or agents, unless otherwise stated.
6. “IAS” refers to Defendant International Automated Systems, Inc., and to any of its employees or agents, unless otherwise stated.
7. “LTB” refers to Defendant LTB1, LLC, and to any of its employees or agents, unless otherwise stated.
8. The term “IRS” refers to the Internal Revenue Service.
9. The term “Lens” means any equipment that any Defendant refers to as a “solar thermal lens,” “solar lens,” “Fresnel lens,” and/or “lens” in public statements like the statements made in: (1) the March 2, 2015 version of the “Frequently Asked Questions” site on [www.rapower3.com](http://www.rapower3.com), a copy of which is labeled with Bates numbers US001716 through US001721 and attached as Pl.’s Ex. 1; and (2) the March 3, 2015 version of the “Solar Panels” site on [www.iaus.com](http://www.iaus.com), a copy of which is labeled with Bates numbers US002856 through US002857 and attached as Pl.’s Ex. 2.

10. The term “System” refers to any technical, scientific, or engineering system that uses or purports to use a Lens in any way, including the purported “solar power technology” described in Pl.’s Ex. 2; the March 3, 2015 version of the “SOLAR” site on [www.iaus.com](http://www.iaus.com), a copy of which is labeled with Bates numbers US002858 through US002859 and attached as Pl.’s Ex. 3; and the “combined technologies” referred to in Pl.’s Ex. 1.
11. The term “Component” refers to any piece of equipment in a System that is not a Lens.
12. The term “Customer” refers to any person or entity who has paid money for a Lens.
13. The term “Sponsor” means the “sponsor” that RaPower-3 refers to in Pl.’s Ex. 1.
14. The term “Distributor” means any person or entity, other than a Sponsor, who sells any product or service related to any System, Lens, and/or Component.
15. The term “downline” is the “downline” that RaPower-3 refers to in Pl.’s Ex. 19 (US001793) and Pl.’s Ex. 34 (US001672) through which Sponsors may receive commissions.
16. Unless otherwise specified, this Request covers documents created or used on or since January 1, 2005 through the present date.

#### **INTERROGATORIES**

1. Identify all of your officers, directors, principals, owners, employees and registered agents.

#### **RESPONSE:**

2. Identify all entities in which you have an ownership interest, including the name of the entity, the ownership percentage, the address of the entity and the business in which the entity is engaged.

**RESPONSE:**

3. Identify all debts that you owe any person or entity for any activity related to a Lens, System or Component and any debts owed to you by any person or entity for any activity related to a Lens, System or Component. Include the dates of origination, terms of repayment, interest rate and amount currently owed.

**RESPONSE:**

4. Identify all Customers, including the number of Lenses purchased, the date of each purchase, and the Customer's payment history.

**RESPONSE:**

5. Identify all Distributors, the date on which they became a Distributor, and the number of Lenses, Systems, or Components they sold and the dates on which the sales were made.

**RESPONSE:**

6. Identify all sponsors, the date on which they became a Sponsor, and which Customers they sponsored.

**RESPONSE:**

7. For each sponsor identified in response to Interrogatory No. 6, identify all customers in each sponsor's successive downlines.

**RESPONSE:**

8. Identify which customers have visited any System, Component or Lens and which customers have not visited any System, Component or Lens.

**RESPONSE:**

9. Identify by name, address, telephone number, and email address, any person or entity that hosts a website you have owned or operated since January 1, 2005.

**RESPONSE:**

10. Identify all websites (whether public or private), by URL address, web host and person(s) responsible for maintaining the website, that promote any System, Lens, or Component or any business activity involving a System, Lens, or Component, regardless of whether you maintain the website or it is owned or maintained on your behalf.

**RESPONSE:**

11. Identify all social media accounts, by username and any other information required to access such account (including, but not limited to, Facebook, Twitter, Instagram, Snapchat, Tumblr, YouTube, Periscope, Pinterest, Google Plus, Flipboard, LinkedIn etc.) and email addresses you controlled or operated since January 1, 2005.

**RESPONSE:**

12. Identify any electricity grid access agreements, interconnection agreement, or any other agreement in which you obtained the right to provide electricity to any entity. Your response should include the names of the entity or person you entered into the agreement with, the date and the terms of the agreement.

**RESPONSE:**

13. Identify what efforts, if any, you made to make any application to the United States Department of the Treasury under Section 1603 of the American Recovery & Reinvestment Act of 2009 with respect to any Lens, System or Component. Your response should include the date of any application and date of response from the Government.

**RESPONSE:**



14. Identify the product (i.e., electricity, heat, hot water, cooling, desalinization, solar process heat or any other product) that the Lens, Systems, and Components are intended to produce, either in the past, currently, or in the future. To the extent that any product has been produced or is being produced, identify when it was produced, in what form, in what measurable amount and the revenues received for such product.

**RESPONSE:**

15. Identify what, and how many Lenses, Systems and Components have been placed in service, as defined in 26 U.S.C. § 48(a)(1) and Treas. Reg. § 1.46-3(d). Your response should include the dates any Lens, System or Component was placed in service.

**RESPONSE:**

16. Identify the costs you incurred to produce each lens, including the cost of procuring materials and manufacturing the final product that you sold to customers.

**RESPONSE:**

17. Identify how you determined the price each customer must pay per lens, to include the amount of profit, amount of down payment, and the terms of repayment.

**RESPONSE:**

18. Describe how lenses are accounted for, including how you determine which lens(es) belong to which customer, recording when each lens was placed in service (as defined in 26 U.S.C. § 48(a)(1) and Treas. Reg. § 1.46-3(d)), whether or not each customer's down payment was paid, the outstanding principal remaining due for each lens, the revenue produced by each lens, and the amount of rental income due to each customer.

**RESPONSE:**

19. Identify by name, address and telephone number every domestic and foreign bank and/or financial institution in which you have an account or over which you have signatory authority or other such control, and provide the account number, and type of account. In addition, identify the record owner or title of each account.

**RESPONSE:**

20. Identify the gross income you have received in each year since 2005 from any source, by source, for any activity related to any System, Lens or other Component.

**RESPONSE:**

21. Identify each instance in which a customer complained that the customer was not receiving adequate rental income from their Lens or Lenses.

**RESPONSE:**

22. Identify all attorneys or other tax advisors you consulted or from whom you received tax advice regarding any Lens, System or Component, including the dates consulted, the dates any advice was received, and the form of the advice (*i.e.*, oral, email, memoranda, opinion letters, other written correspondence, etc.).

**RESPONSE:**

[Remainder of page left intentionally blank]

**VERIFICATION OF RESPONSES**

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing responses to the UNITED STATES' FIRST INTERROGATORIES TO RA-POWER3, LLC are true and correct.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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RA-POWER3, LLC

Dated: April 8, 2016

CAROLINE D. CIRAULO  
Acting Assistant Attorney General  
Tax Division

/s/ Erin R. Hines  
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*Attorneys for the United States*

**CERTIFICATE OF SERVICE**

I hereby certify that on April 8, 2016, I delivered the foregoing via email to:

SAMUEL ALBA  
RODNEY R. PARKER  
RICHARD A. VANWAGONER  
JAMES S. JUDD  
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**ATTORNEYS FOR RAPOWER-3, LLC,  
INTERNATIONAL AUTOMATED SYSTEMS, INC.,  
LTB1, LLC, and NELDON JOHNSON**

/s/ Erin R. Hines  
ERIN R. HINES, pro hac vice