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IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,  Plaintiff,  vs.  RAPOWER-3, LLC, INTERNATIONAL AUTOMATED SYSTEMS, INC., LTB1, LLC, R. GREGORY SHEPARD, NELDON JOHNSON, and ROGER FREEBORN,  Defendants.	Civil No. 2:15-cv-00828 DN  <b>MOTION TO COMPEL RAPOWER-3 TO RESPOND TO PLAINTIFF'S FIRST INTERROGATORIES</b>  Judge David Nuffer
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The United States respectfully moves the Court for an order (1) compelling defendant RaPower-3, LLC (RaPower-3) to respond to the United States first interrogatories, propounded on April 8, 2016; and (2) finding that RaPower-3 has waived any objections it may have to the United States' first interrogatories.

The United States propounded its first interrogatories to RaPower-3 on April 8, 2016. A copy is attached as Exhibit A. RaPower-3's response was due on May 11, 2016. Fed. R. Civ. P. 6 & 33(b)(2). At RaPower-3's former counsel's request, the United States extended the response deadline to May 18, 2016. On May 18, RaPower-3 elected to change its counsel. In light of the change of counsel, the United States agreed to extend the deadline for RaPower-3's response to the United States' interrogatories to May 27, 2016. To date, RaPower-3 has not responded to the United States' first interrogatories.

Under Fed. R. Civ. P. 37(a)(3)(B)(iii), a party may move for an order compelling a party to answer interrogatories. Fed. R. Civ. P. 33(b) provides that a responding party must raise interrogatory objections within 30 days of being served with the interrogatories. RaPower-3 failed to respond to the United States' first interrogatories within 33 days of service, or within the agreed-upon extensions. RaPower-3 has waived any objections it may have had. *See Kelatron v. Marlyn Nutraceuticals*, 2013 WL 4498722, at \*3 (D. Utah 2013).

Accordingly, the United States respectfully requests that the Court:

- 1) Issue an Order Compelling RaPower-3 to answer the United States' first interrogatories within 7 days of the Court's order; and
- 2) Find that RaPower-3 has waived any objections to the United States' interrogatories and prohibit RaPower-3 from raising any objections in its answers to the United States' interrogatories.

**CERTIFICATION IN ACCORDANCE WITH FED. R. CIV. P. 37(a)(1) & COURT'S  
SHORT FORM DISCOVERY MOTION PROCEDURE (Doc. No. 40.):**

The United States made reasonable efforts to resolve RaPower-3's failure to answer the United States' first interrogatories. These efforts include:

- 1) On June 2, 2016, counsel for the United States sent Mr. Justin Heideman, counsel for RaPower-3, a letter noting that RaPower-3 failed to respond to the United States' interrogatories and requesting that Mr. Heideman meet and confer on the matter; and
- 2) On June 14, 2016, at approximately 1:00pm (Eastern Daylight Time) and 11:00pm (Mountain Daylight Time) counsel for the United States (Erin R. Hines & Christopher R. Moran) spoke with Mr. Heideman via telephone about several pending discovery matters, including RaPower-3's failure to answer the United States' first interrogatories. Mr. Heideman assured counsel for the United States that RaPower-3's response would be provided no later than June 17, 2016. To date, RaPower-3 has not provided any response to the United States' first interrogatories.

Dated: June 21, 2016

/s/ Christopher R. Moran  
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**ATTORNEYS FOR THE  
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**CERTIFICATE OF SERVICE**

I hereby certify that on June 21, 2016, The foregoing document was electronically filed with the Clerk of the Court through the CM/ECF system, which sent notice of the electronic filing to the following:

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