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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>REPLY TO LTB1'S RESPONSE TO UNITED STATES' MOTION TO COMPEL LTB1 TO SIGN AND SUPPLEMENT ITS RESPONSES TO PLAINTIFF'S FIRST INTERROGATORIES</b>  Judge David Nuffer Magistrate Judge Brooke C. Wells
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On July 14, 2016, LTB1, LLC (LTB) filed its response to the United States' Motion to Compel LTB to sign and Supplement its Responses to Plaintiff's First Interrogatories. (Doc. No. 64.)

I. LTB's objections are invalid, and therefore waived.

On July 14, 2016, LTB provided a signed, supplemental response to the interrogatories directed to it, including several objections. (Exhibit D.) LTB's supplemental response is inadequate for the reasons described below and LTB should be compelled to supplement its responses.

- A. In response to each interrogatory, LTB makes boilerplate objections that generally fail to specify the basis for the objection. A party resisting discovery must show specifically why the discovery request is objectionable. *Flying J Inc. v. TA Operating Corp.*, 2007 WL 2220584, at \*2 (D. Utah 2007) (enforcement later denied with respect to unavailable documents, 2008 WL 5449714 (D. Utah Dec. 31, 2008)). Boilerplate objections are ineffective and result in waiver. *Cartel Asset Mgmt. v. Ocwen Fin. Corp.*, 2010 WL 502721, at \*8 (D. Colo. 2010). Many of LTB's objections do not even correspond with the interrogatory that is being answered. (Interrogatory Nos. 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 15, 16, 17, 18.) LTB's objections should be stricken and a response compelled.
- B. Aside from the boilerplate objections, LTB's primary objection to answering the interrogatories in full at this time is that the protective order issue is yet unsettled. The United States' objection to the Standard Protective Order is set for hearing on July 27, 2016. (Doc. Nos. 39 & 50.) While the Standard Protective Order remains in effect unless, and until, the Court rules on the United States' motion, LTB's reliance on the Standard Protective Order is misplaced.

The Standard Protective Order covers proprietary technical, scientific, financial, business, health, or medical information. (DUCivR 26-2 Standard Protective Order, ¶ 2(a).) Parties are required to avoid designating any documents or information as protected information that is not entitled to such designation or which is generally available to the public.

(DUCivR 26-2 Standard Protective Order, ¶ 4(g)). The intent of the standard protective order is to avoid blanket designations. See DUCivR 26-2 Standard Protective Order, ¶ 4(g) (“The parties shall designate *only that part of a document or deposition* that is [confidential] . . . .” (emphasis added)).

The United States’ First Interrogatories seek information related to LTB’s officers (Interrogatory No. 1); entities LTB owns (Interrogatory No. 2), debts (Interrogatory No. 3), the product that LTB purportedly produces (Interrogatory No. 10) and quantity and dates that lenses were placed in service (Interrogatory No. 11).

LTB’s co-defendant, RaPower-3, maintains a website states on which it purportedly sells lenses “for a variety of industrial and commercial applications” including the generation of electricity generation and desalinizing water and the tax benefits purportedly available to its customer (which are contingent on the lenses being placed “in service”) (see <http://www.rapower3.com/#!overview/c1t03>). RaPower has made a great deal of information related to its product very public, not confidential, and actively promotes the product to the public. LTB’s invocation of the Standard Protective Order to avoid disclosing such information is inconsistent with the terms of the Standard Protective Order itself.

II. Even when LTB does not offer invalid objections, its answers are inadequate.

LTB still fails to substantively answer interrogatories and claims it needs more time. *See* Interrogatory Nos. 15 (bank accounts) & 18 (attorneys and tax advisors relied upon). Notably, LTB claims reliance on an attorney as an affirmative defense, Doc. No. 22, Sixth Defense, yet it cannot identify these attorneys over three months after a discovery request. LTB has had adequate time to answer these relatively simple questions and it should be compelled to respond.

The United States requests that LTB be compelled to fully answer each of the United States interrogatories.

Dated: July 19, 2016

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 19, 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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