

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

UNITED STATES OF)	Deposition of:
AMERICA,)	
Plaintiff,)	PRESTON F. OLSEN
)	
vs.)	Time on record: 5
)	Hours, 12 Minutes
RaPower3, LLC,)	
INTERNATIONAL)	Case No. 2:15-cv-00828 DN
AUTOMATED SYSTEMS,)	
INC., LTB1, LLC, R.)	Judge David Nuffer
GREGORY SHEPARD, ELDON)	
JOHNSON and ROGER)	
FREEBORN,)	
Defendants.)	

August 10, 2016 * 9:06 a.m. to 4:06 p.m.

Location: United States Attorney's Office
185 South State Street -- Suite 300
Salt Lake City, Utah

Reporter: Denise M. Thomas, CRR/RPR

**Plaintiff
Exhibit**

D

A P P E A R A N C E S

FOR THE PLAINTIFF:

Christopher R. Moran
Erin Healy-Gallagher
Erin R. Hines (Telephonically)
UNITED STATES DEPARTMENT OF JUSTICE
Trial Attorneys, Tax Division
P. O. Box 7328
Washington, D. C. 20044
Telephone: 202.307.0834 (Moran)
202.353.2452 (Healy-Gallagher)
Fax: 202.514.6770
E-mail: christopher.r.moran@usdoj.gov
erin.healygallagher@usdoj.gov

FOR THE DEFENDANTS RAPOWER3, LLC, INTERNATIONAL
AUTOMATED SYSTEMS, INC., LTB1, LLC, AND NELDON
JOHNSON:

Christian D. Austin
HEIDEMAN & ASSOCIATES
Attorneys at Law
2696 No. University Avenue -- Suite 180
Provo, Utah 84604
Telephone: 801.472.7742
Fax: 801.374.1724
E-mail: caustin@heidlaw.com

FOR THE DEFENDANTS R. GREGORY SHEPHERD AND ROGER
FREEBORN:

Donald S. Reay
MILLER, REAY & ASSOCIATES
Attorneys at Law
43 West 9000 South -- Suite B
Sandy, Utah 84070
Telephone: 801.999.8529
Fax: 801.206.0211
E-mail: donald@reaylaw.com

A P P E A R A N C E S (Continued)

FOR THE WITNESS:

Paul W. Jones
STOEL RIVES, LLP
Attorneys at Law
4766 Holladay Boulevard
Salt Lake City, Utah 84117
Telephone: 801.930.5101
Fax: 801.208.8995
E-mail: pwjones@stoel.com

* * *

P R O C E E D I N G S

PRESTON F. OLSEN,

having been first duly sworn to tell the
truth, was examined and testified as follows:

MR. MORAN: Good morning, Mr. Olsen. My
name is Chris Moran. I represent the United States
in the case of United States v. RaPower3, et al. I'm
here representing the United States.

Could all the attorneys in the room please
place their appearances on the record, starting with
Mr. Reay?

MR. REAY: Donald Reay for Greg Shepard
and Roger Freeborn.

MR. AUSTIN: Christian Austin for
RaPower3.

MR. JONES: Paul Jones for Preston Olsen.

MR. MORAN: And I'm also joined by
Ms. Erin Healy-Gallagher representing the
United States.

MS. HEALY-GALLAGHER: And we may have
Erin Hines calling in for the United States in a
moment.

1 A. As far as I know, they're still working on
2 manufacturing components and testing those
3 components. I don't know what that means exactly.

4 Q. Do you know if testing is complete?

5 A. I do not know.

6 Q. You've just described your understanding
7 of how your solar lenses generate heat and also
8 electricity.

9 Do you recall that testimony?

10 A. Yes.

11 Q. How did you gain that understanding?

12 A. Either through the tours that I've been on
13 over the years or from e-mails that we receive
14 occasionally that describe the way the system works,
15 and the contract itself, if I remember, has some
16 discussion that it creates heat, but I don't
17 remember. Maybe it's on the leasing agreement.

18 Q. Let's back up a little bit.

19 You just mentioned tours.

20 A. Yes.

21 Q. When was the first time you went on a
22 tour?

23 A. I can't remember exactly, but it's been
24 several years.

25 Q. Do you think it was before or after 2010?

1 A. I think it was after.

2 Q. Do you think it was before or after 2011?

3 A. I don't remember exactly, but that sounds
4 around the time period.

5 Q. Who gave these tours?

6 A. Either, like I mentioned, Greg Shepard or
7 Neldon Johnson.

8 Q. Anyone else?

9 A. Those are the two people that I remember
10 being -- oh, there's an engineer that worked down
11 there. I don't remember his name. There were a few
12 other employees down there.

13 Q. Did the engineer give the tour?

14 A. Parts of it.

15 Q. Who led the tour?

16 A. Either Greg or Neldon.

17 Q. And where did this tour occur?

18 A. Down near Delta, Utah.

19 Q. Is this the same location where the test
20 towers you've described are?

21 A. Yes.

22 Q. Have you ever been on a tour of any other
23 site?

24 A. I think that's it as a tour, the sites.
25 That's all I remember.

1 Q. And previously you testified about a
2 warehouse?

3 A. Yes.

4 Q. Is the warehouse located at the same
5 site --

6 A. The same general area, yes.

7 Q. Let me ask that question again.

8 A. Yes. Sorry.

9 Q. Is the warehouse located at the same site
10 where you received the tour?

11 A. Yes.

12 Q. Have you ever been inside the warehouse?

13 A. I have.

14 Q. What's inside the warehouse?

15 A. The last time I went there, there were a
16 number of, I guess, equipment for manufacturing,
17 there was some office space and there was some piles
18 of components and the lenses. That's more or less.

19 Q. What do you know about the manufacturing
20 equipment?

21 A. Not a lot, other than -- I don't know what
22 all of it does, but on the tour they walk you through
23 and kind of point out the different manufacturing
24 equipment. At the time they probably explained what
25 it does.

1 Q. And who was "they"?

2 A. Greg Shepard or Neldon Johnson or the
3 engineer that I don't recall his name.

4 Q. Do you recall what exactly they told you
5 that manufacturing equipment did?

6 A. Manufactured different components of the
7 system.

8 Q. Do --

9 A. I mean over the -- yeah.

10 Q. Do you know what those components were
11 supposed to do?

12 A. They were all pieces of the system. I'm
13 not sure exactly. It's sort of a vague question, if
14 you could tell me.

15 Q. Could you describe the pieces to me? What
16 were they made out of?

17 A. Most of them were made out of metal. The
18 lenses were made out of some sort of plastic.

19 Q. You mentioned office spaces.

20 A. Yeah.

21 Q. Do you know whose offices those were?

22 A. I think there was one office space that
23 the engineer used. I think Neldon used it. They
24 also have, I think, someone there that's in charge of
25 like the website and IT kind of thing.

1 Q. Do you recall who that was?

2 A. Don't remember his name.

3 Q. Who told you who those people were?

4 A. Either Greg Shepard or Neldon Johnson.

5 Q. And you said you recall seeing lenses?

6 A. Yes.

7 Q. Can you describe for me how the lenses
8 were stored?

9 A. Some were stored still on a pallet inside
10 of like a plastic wrap. Some were out in I guess
11 more of a frame ready to be put on the towers. I
12 think that's how most of them were.

13 Q. Were the lenses still in -- were they in
14 boxes?

15 A. I didn't see any boxes. Some were still
16 on pallets with plastic wrap around them.

17 Q. When you say "plastic wrap," do you mean
18 like a cellophane-type wrap?

19 A. Yeah, kind of like a -- yeah, some sort of
20 a packaging kind of thing.

21 Q. Do you recall how many lenses there were?

22 A. I don't. It looked like a lot. I don't
23 know. I couldn't speculate the number.

24 Q. Do you recall if anyone's ever told you
25 how many lenses they have?

1 A. I don't recall if anyone's ever told me.
2 We receive e-mails occasionally, and maybe in those
3 e-mails it may have said, but I don't recall the
4 exact number.

5 MR. JONES: I'm going object to that
6 question as being vague.

7 Q. (By Mr. Moran) Do you recall how many
8 tours you've been on?

9 A. I don't. It's been several, but I don't
10 remember. Maybe two or three a year, or maybe less
11 over the last couple of years, several years.

12 Q. So you recall attending tours --

13 A. Yes.

14 Q. -- more than one time a year?

15 A. More than once, yes, more than one time a
16 year.

17 Q. How do you hear about the tours?

18 A. They are often on the RaPower3 website or
19 e-mails from Greg Shepard.

20 Q. And if you decide that you want to go on a
21 tour, what do you do?

22 A. I e-mail Greg Shepard.

23 Q. And you just tell Mr. Shepard that you --

24 A. I just tell him that I'd like to go on a
25 tour, yeah, on the date that they have set aside.

1 A. I heard about it from Greg Shepard and
2 Matt Shepard. I can't remember if it was talking
3 with them -- I've spoken with them about it, and I
4 think they may have sent an e-mail about it.

5 Q. Do you recall what they told you about it?

6 A. Not much, other than that law enforcement
7 had arrived and confiscated some things.

8 Q. Do you recall what they confiscated?

9 A. I don't know.

10 Q. All right. Previously I asked you how you
11 learned --

12 A. Yes.

13 Q. -- how the RaPower3 lenses -- how you
14 learned about how solar lenses worked.

15 A. Yes.

16 Q. You mentioned tours and you also mentioned
17 e-mails.

18 A. E-mails.

19 Q. Who did you receive e-mails from?

20 A. Typically they're from Greg Shepard. I've
21 received a few e-mails over the years from IAUS.

22 Q. How often do you receive these e-mails?

23 A. The e-mails from Greg Shepard seem to be
24 several times a month sometimes, sometimes less.
25 I've provided, obviously, an entire box of them.

1 Q. We'll get to that.

2 A. And then obviously they have a website
3 that has updates. There's some sort of a message
4 board where they sometimes post updates. I'm just
5 trying to think of all the different ways. Then I've
6 spoken with Greg and Matt over the years to get
7 updates on the property -- on the project. I've
8 spoken with Greg Shepard and Neldon Johnson over the
9 years. A few times they've had like some meetings
10 where they've invited people to learn more about the
11 technology, and then they have -- on their website
12 they have some information, documents you could read,
13 or they have quite a bit of information on the
14 website, IAUS website and the RaPower3 website.

15 Q. You mentioned a message board?

16 A. Yeah.

17 Q. Where is the message board?

18 A. I'm not exactly sure of the web address,
19 but there's a link to it on the RaPower3 website.

20 Q. And how do you go about accessing the
21 message board?

22 A. You just -- I think you just provide like
23 a login password -- an ID name and a password and you
24 log in.

25 Q. Do you have a login ID and a password?

1 A. I do.

2 Q. Do you ever post on the message board?

3 A. I have probably posted a handful of times.

4 Q. Do you recall if you produced anything

5 from the message board in response to the

6 United States' Subpoena?

7 A. I don't remember if I did print off

8 anything from the message board. I don't remember if

9 I -- I don't know if I did.

10 Q. If you didn't, would there be a reason

11 that you didn't?

12 A. If there was, it was just that I didn't

13 understand that was something that was being

14 requested.

15 Q. Have you ever been told that the contents

16 of the message board are confidential?

17 A. I don't think so.

18 Q. What's the usual topic of discussions on

19 the message board?

20 A. Typically just questions about the

21 progress, the technology, I guess.

22 Q. What do you mean by progress or the

23 technology?

24 A. I mean getting everything down there, all

25 of the components manufactured and I guess installing

1 withdrawn.

2 You also discussed meetings?

3 A. Yeah.

4 Q. Where did those meetings occur?

5 A. Let's see. The first meeting I attended
6 was -- there was one in -- I think it was in Lehi,
7 which is just south of -- north of Provo but south of
8 here. They had a conference room where they met and
9 talked about technology, and I believe there was one
10 in the library here in Salt Lake City.

11 I think they held a meeting once at
12 Greg Shepard's business. I think it's just west of
13 here, kind of in a -- I don't remember the city.
14 Those are some of the meetings I remember, and then
15 others held meetings down in the park down in Delta.
16 Those are the ones I remember right now.

17 Q. Who ran these meetings?

18 A. Greg Shepard and Neldon Johnson appeared
19 to be the people running the meetings.

20 Q. And you mentioned that one of the meetings
21 was in the Salt Lake City Library?

22 A. Yes.

23 Q. That's the public library?

24 A. Yes.

25 Q. Did they have a room that --

1 A. Like a conference room, yeah.

2 Q. How about in Lehi, what type of building
3 was it in?

4 A. Kind of like an office building, and it
5 had kind of a large conference room.

6 Q. You mentioned Greg Shepard's business?

7 A. Yes.

8 Q. What business is that?

9 A. I think he was in a business. It was
10 called Bigger Faster Stronger. It's some sort of a
11 training -- athletic training kind of thing. I'm not
12 a hundred percent sure, but something to do with
13 training athletes. I think it manufactured some
14 weight lifting equipment, I think. They had a big
15 conference room in there, too.

16 Q. So that meeting occurred in the conference
17 room at Bigger Faster Stronger?

18 A. Yes.

19 Q. Do you recall when that meeting was?

20 A. That one?

21 Q. (Counsel nodding head affirmatively.)

22 A. Not exactly. It's been several years, and
23 I don't remember.

24 Q. Do you recall if it was early in your
25 involvement?

1 Q. You just used the term "return on
2 investment."

3 Is this an investment for you?

4 A. No. I mean, I own the lenses, but I look
5 at it as, yeah, I've expended money to purchase
6 lenses. I'd like to make money on the lease
7 payments.

8 Q. And you expect you'll make money in the
9 future?

10 A. I expect so.

11 Q. You testified that you asked Greg Shepard
12 and Neldon Johnson when the lenses would be
13 installed.

14 Do you recall that testimony?

15 A. Yes.

16 Q. What lenses still need to be installed?

17 A. I think a lot of them need to still be
18 installed, and there's only the few towers up, and
19 they're not currently, to my knowledge, generating
20 electricity.

21 Q. You testified that there are only a few
22 towers up?

23 A. Yeah. That's all I've seen.

24 Q. When were the last time you were there?

25 A. I was there in, I believe, May of this

1 just a moment?

2 (Discussion held off the record.)

3 MR. MORAN: We'll go back on the record.

4 Q. (By Mr. Moran) Earlier in your deposition
5 you talked about your two business activities. You
6 said it was your law practice, and you have another
7 business related to solar lenses.

8 Do you recall that?

9 MR. JONES: Objection. Leading.

10 THE WITNESS: Yes.

11 Q. (By Mr. Moran) What do you consider your
12 solar business to be?

13 A. I consider it to be the purchasing of
14 lenses and then leasing them in accordance with the
15 terms of these documents, contracts.

16 Q. Do you have any past experience in
17 business?

18 A. I do not.

19 Q. Do you have a business plan?

20 MR. AUSTIN: Objection. Asked and
21 answered this morning.

22 THE WITNESS: I don't think I have a
23 formal business plan.

24 Q. (By Mr. Moran) You've never written
25 anything down?

1 A. I have written down some spreadsheets
2 trying to determine how many, if I should purchase
3 them in the future and what my revenue stream could
4 be depending on -- according to these contracts.

5 Q. And have you produced that to the
6 United States?

7 A. I don't think I did. I don't know if that
8 was asked for.

9 Q. Do you know where that is today?

10 A. Yes. It would be on my computer.

11 Q. Could I ask you to produce that through
12 your attorney to the United States?

13 MR. AUSTIN: Objection. It's an improper
14 discovery request. Go ahead. We're entitled to
15 notice before any documents are produced.

16 MR. JONES: You can answer the question.

17 THE WITNESS: I probably could. It's just
18 a spreadsheet that has, you know, like a number of
19 lenses multiplied by its potential revenues.

20 Q. (By Mr. Moran) And that's on your
21 computer at home?

22 A. I think it might be on my work PC or both.

23 Q. But that's the extent of your business
24 plan is a spreadsheet?

25 A. Yeah.

1 A. Yes.

2 Q. The To field says Bryan.

3 Is that Bryan Bolander?

4 A. I believe that's Bryan Bolander, yes.

5 Q. Let me clarify the previous question. The
6 From field says Bryan.

7 Is that Bryan Bolander?

8 A. I think so.

9 MR. MORAN: No further questions on
10 Exhibit 153.

11 Counsel, any --

12 MR. AUSTIN: No.

13 MR. REAY: No objection.

14 MR. MORAN: Let me just get it on the
15 record.

16 Can we stipulate to the authenticity of
17 Exhibit 153?

18 MR. JONES: Yes.

19 MR. AUSTIN: Yes.

20 MR. REAY: Yes.

21 MR. JONES: That was tough on the court
22 reporter. We all said that at the same time.

23 Q. (By Mr. Moran) Mr. Olsen, I've given you
24 a copy of what's been marked for identification as
25 Plaintiff's Exhibit 154, which has been labeled

1 Olsen_P&E-1924 through Olsen_P&E-01926.

2 Do you recognize Plaintiff's 154?

3 A. I do.

4 Q. What is it?

5 A. It looks like correspondence between
6 myself and Greg Shepard and a few other individuals,
7 Matt Shepard, Shane Luke, Fred Olsen and Ryan
8 Warburton.

9 Q. All right. Several of the individuals
10 you've just mentioned I see in the document, but I
11 don't see e-mail addresses.

12 Is it your understanding that these
13 individuals were either -- that these individuals
14 were included in this e-mail chain?

15 MR. AUSTIN: Objection. Foundation, calls
16 for speculation.

17 THE WITNESS: I'm not sure exactly. They
18 were included on the specific e-mails in here.

19 Q. (By Mr. Moran) Well, for example, if I
20 see a field with From and it says --

21 A. Yeah.

22 Q. -- from Preston Olsen, am I to understand
23 that that's an e-mail from you?

24 A. Yes. I just didn't understand. You said
25 included in this e-mail chain. They're on the

1 specific e-mails.

2 Q. Okay. So if there's a specific e-mail
3 segment and I see the individuals listed --

4 A. Yes.

5 Q. Let me finish that.

6 If I see an individual listed, am I to
7 understand that that individual was included in that
8 particular e-mail set?

9 A. Correct.

10 Q. Thank you. Who is Fred Olsen?

11 A. Fred Olsen is my father.

12 Q. And you said he's an attorney?

13 A. He is.

14 Q. Is he still practicing?

15 A. He's retired.

16 Q. When did he retire?

17 A. Last December.

18 Q. What kind of law did he practice?

19 A. Similar stuff to what I do, financial law,
20 public finance law.

21 Q. Transaction-type stuff?

22 A. Transactional.

23 Q. Where did he practice?

24 A. Ballard Spahr as well.

25 Q. Here in Salt Lake?

1 A. Yes.

2 Q. I also see an e-mail
3 warburton@ballardspahr.com.

4 A. Correct.

5 Q. Whose e-mail address is that?

6 A. That's another partner in Ballard Spahr.
7 His name is Ryan Warburton.

8 Q. Okay. Can you explain to me what you're
9 asking in the e-mail that appears on the second page,
10 which is labeled 1925?

11 A. Sorry. Repeat your question. About what
12 I'm trying to say here?

13 Q. Yes, and I'm referring to the e-mail at
14 the bottom of the page --

15 A. Yes.

16 Q. -- 1925, date January 23, 2015.

17 MR. JONES: Would you mind repeating the
18 last question, not what was just stated but the one
19 prior to that? I was a little distracted.

20 MR. MORAN: Fine.

21 THE COURT REPORTER: "Question: Okay.

22 Can you explain to me what you're asking
23 in the e-mail that appears on the second page,
24 which is labeled 1925?"

25 MR. JONES: And that question was later

1 clarified just now?

2 MR. MORAN: Yes. I think I explained it
3 before, but I'll clarify it for the record right now.

4 MR. JONES: If you don't mind.

5 MR. MORAN: I'm referring to the e-mail
6 that appears on the bottom of the second page, 1925,
7 and an e-mail that's time stamped Wednesday, January
8 2013, 17:23, GMT.

9 Q. (By Mr. Moran) Do you see that e-mail,
10 Mr. Olsen?

11 A. Yes.

12 Q. Can you explain to me -- I see you're
13 following up on a brief conversation.

14 A. Yes.

15 Q. What's going on in that e-mail?

16 A. I think, if I recall, I had spoken with
17 Ryan and Fred about once the -- you know, and it
18 looks like at this time the Kirton McConkie letter
19 had either recently been circulated or I had shown it
20 to them around this time period, and I think this is
21 saying that we had talked about that there might be
22 other partners who may be interested -- people that
23 we may have relationships with that might be
24 interested in doing a partnership with IAUS.

25 Q. And you were discussing that with

1 Mr. Warburton and your father?

2 A. Yes.

3 Q. All right. Did anything ever come of that
4 conversation?

5 A. I think this e-mail's about it.

6 Q. Do you remember what their response was?

7 A. I don't. I think we all just decided
8 there was no one that we knew that we could introduce
9 to IAUS at this time that would benefit us all.

10 Q. Do you know why that was?

11 A. I think it's just that we just didn't have
12 the contacts that we thought we had.

13 MR. MORAN: No further questions on
14 Exhibit 154.

15 Counsel, again, stipulate to the
16 authenticity of Exhibit 154?

17 MR. AUSTIN: Stipulate to the
18 authenticity.

19 MR. REAY: Yes.

20 Q. (By Mr. Moran) Mr. Olsen, I'm handing you
21 what's been marked for identification Plaintiff's
22 Exhibit 155. Exhibit 155 has been labeled
23 Olsen_P&E-02285 to Olsen_P&E-02286.

24 Do you recognize Exhibit 155?

25 A. I do.