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Attorney for Defendants

R. Gregory Shepard and Roger Freeborn

**IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF UTAH**

UNITED STATES OF AMERICA,

Plaintiff,

v.

RAPOWER-3, LLC, INTERNATIONAL
AUTOMATED SYSTEMS, INC.,
LTB1,LLC, R. GREGORY SHEPARD,
NELDON JOHNSON, and ROGER
FREEBORN,

Defendants.

**SHEPARD'S RESPONSE TO
UNITED STATES' FIRST REQUESTS
FOR THE PRODUCTION OF
DOCUMENTS TO DEFENDANT
R. GREGORY SHEPARD**

Civil No. 2:15-cv-00828 DN

**Judge David Nuffer
Magistrate Judge Brooke C. Wells**

Defendant R. Gregory Shepard hereby responds to the United States' First Requests for the Production of Documents to R. Gregory Shepard by answering the numbered paragraphs of the requests and with supporting documentation as follows:

PRELIMINARY STATEMENT

1. Defendant's investigation into all facts and circumstances relating to this action is ongoing. These responses and objections are made without prejudice to, and are not a waiver of, Defendant's right to rely on other facts or documents at trial.

**Plaintiff
Exhibit**

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multiple times to account for changes in the tax code and it was ultimately removed because of the complexity of the changes and required programming to obtain accuracy. I no longer have the original files or programs of all the native format of the calculator but I will see if I can find someone that may.

27. **REQUEST:** Copies of documents sufficient to show the name, mailing address, email address, and telephone number of every person who has visited any System (whether as part of a group or private “Site Tour” like the ones described in the March 2, 2015 version of the “Site Tours” site on www.rapower3.com, a copy of which is labeled with Bates numbers US001722 through US001724 and attached as Pl.’s Ex. 21), and the date of each person’s visit.

OBJECTIONS: Defendant reiterates and restates each Objection from above.

This Request has, in substance, been previously propounded.

While the scope of discovery is broad, it is, however, limited by the legitimate interests of an opposing party and requires a balancing of the probative value of the information sought with the burden placed upon the Defendant. Defendant hereby objects to the Plaintiff’s Discovery on the grounds that said Discovery is facially overbroad, vague, confusing, compound, ambiguous, unduly burdensome, requests irrelevant, immaterial or inadmissible information or information protected by privilege, and/or contains multipart questions in violation of law, rule or regulation.

This Request is so broad and unlimited as to time and scope as to be an unwarranted annoyance, embarrassment, and is oppressive. To comply with the request would be an undue burden and expense on the Defendant. The request is calculated to annoy and harass the

Defendant.

The response to this Request can be derived or ascertained from the business records of a Defendant in this case or from an examination or inspection of such records, the burden of deriving or ascertaining the answer to this discovery request is substantially the same for the propounding party as it is for the Defendant.

This Request seeks discovery that is equally available to the propounding party.

Defendant requests the protective order matter be settled prior to allowing the Plaintiff any such access or information.

Defendant objects to this request because Plaintiff exceeds the number of Requests allowed by rule, including all discrete subparts.

Defendant reserves the right to supplement this (and every other) Response.

Without waiving any of the foregoing objections, Defendant responds as follows:

RESPONSE: I did not keep and I know of no such record that is kept of people who attended. Many were not shareholders or Rapower3 team members.

28. **REQUEST:** All documents that reflect any statements that you, or any Defendant made to any accounting, tax, or legal professional about any System, Lens, or Component, to inform or support that professional's opinion or analysis of actual or potential federal tax consequences to a Customer upon paying money for a Lens, including the statements made to:

a. Hansen, Barnett & Maxwell to support the information stated in the letter from Hansen, Barnett & Maxwell dated August 15, 2005, a copy of which is labeled with Bates

Defendant requests the protective order matter be settled prior to allowing the Plaintiff any such access or information.

Defendant objects to this request because Plaintiff exceeds the number of Requests allowed by rule, including all discrete subparts.

Defendant reserves the right to supplement this (and every other) Response.

Without waiving any of the foregoing objections, Defendant responds as follows:

RESPONSE: See Response to Request #5 submitted concurrently herewith.

33. **REQUEST:** All content that reflects or refers to any System, Lens, Component, or federal tax consequence relating to paying money for a Lens on the following:

- a. any website (public or private) that you maintain, or is maintained on your behalf, for any personal or business use, including www.iaus.boards.net and the “IAUS & RaPower3 Forum,” hosted by ProBoards; and
- b. social media websites (including Facebook, Twitter, Instagram, Snapchat, Tumblr, YouTube, Pinterest, Google Plus, Periscope, Flipboard etc.) that you maintain or that are maintained on your behalf for any personal or business use;

OBJECTIONS: Defendant reiterates and restates each Objection from above.

This Request has, in substance, been previously propounded.

While the scope of discovery is broad, it is, however, limited by the legitimate interests of an opposing party and requires a balancing of the probative value of the information sought with the burden placed upon the Defendant. Defendant hereby objects to the Plaintiff’s Discovery on

the grounds that said Discovery is facially overbroad, vague, confusing, compound, ambiguous, unduly burdensome, requests irrelevant, immaterial or inadmissible information or information protected by privilege, and/or contains multipart questions in violation of law, rule or regulation.

This Request is so broad and unlimited as to time and scope as to be an unwarranted annoyance, embarrassment, and is oppressive. To comply with the request would be an undue burden and expense on the Defendant. The request is calculated to annoy and harass the Defendant.

This Request, as phrased, is argumentative. It requires the adoption of an assumption, which is improper.

The response to this Request can be derived or ascertained from the business records of a Defendant in this case or from an examination or inspection of such records, the burden of deriving or ascertaining the answer to this discovery request is substantially the same for the propounding party as it is for the Defendant.

This Request seeks discovery that is equally available to the propounding party.

Defendant requests the protective order matter be settled prior to allowing the Plaintiff any such access or information.

Defendant objects to this request because Plaintiff exceeds the number of Requests allowed by rule, including all discrete subparts.

Defendant reserves the right to supplement this (and every other) Response.

Without waiving any of the foregoing objections, Defendant responds as follows:

RESPONSE: a. rapower3.com is hosted by wix.com. It is not possible to export or

embed files, pages or sites, created using the WIX editor, to another external destination or host. However, the social media websites used by rapower3.com are easily accessible by going to rapower3.com and click the social media of your choice located at the very top of the home page.

Social media sites used: facebook.com/rapower3llc, twitter.com/rapower3, Rapower3.tumblr.com, linkedin.com/company/rapower3llc, google.com/+rapower3llc, youtube.com/user/rapower3llc, pinterest.com/rapower3/

As far as the iaus.boards.net website, one can easily access by registering. Once in, you can easily access all messages or click “chief” for all Greg Shepard’s messages.

34. **REQUEST:** Documents reflecting all statements you made to any other person or entity (other than the attorney(s) representing you in this case) regarding this lawsuit or the United States’ claims against you or any other Defendant.

OBJECTIONS: Defendant reiterates and restates each Objection from above.

This Request seeks information subject to the attorney-client privilege. The attorney-client privilege is broadly construed, and extends to “factual information” and “legal advice.”

While the scope of discovery is broad, it is, however, limited by the legitimate interests of an opposing party and requires a balancing of the probative value of the information sought with the burden placed upon the Defendant. Defendant hereby objects to the Plaintiff’s Discovery on the grounds that said Discovery is facially overbroad, vague, confusing, compound, ambiguous, unduly burdensome, requests irrelevant, immaterial or inadmissible information or information protected by privilege, and/or contains multipart questions in violation of law, rule or regulation.

VERIFICATION

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that I have read the foregoing Responses, which are based on a diligent and reasonable effort by me to obtain information currently available. I reserve the right to make changes in or additions to any of these answers if it appears at any time that errors or omissions have been made or if more accurate or complete information becomes available. Subject to these limitations, these Responses are true to the best of my present knowledge, information, and belief.

Executed this 17th day of June 2016.

/s/ R. Gregory Shepard

R. Gregory Shepard signed electronically
with permission by Donald S. Reay