

JUSTIN D. HEIDEMAN (USB No. 8897)  
CHRISTIAN D. AUSTIN (USB No. 9121)  
**HEIDEMAN & ASSOCIATES**  
2696 North University Avenue, Suite 180  
Provo, Utah 84604  
Telephone: (801) 472-7742  
Fax: (801) 374-1724  
Email: jheideman@heidlaw.com  
*Attorneys for RaPower-3, LLC, International Automated Systems, Inc., LTB1, and Neldon Johnson*

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

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| UNITED STATES OF AMERICA,<br><br><i>Plaintiff,</i><br><br>vs.<br><br>RAPOWER-3, LLC, <i>et al</i> ,<br><br><i>Defendants.</i> | <b>NOTICE OF ERRATA: REPLY<br/>MEMORANDUM IN SUPPORT OF<br/>MOTION TO BIFURCATE</b><br><br>Case No. 2:15-CV-0828 DN<br><br>Judge: Honorable David Nuffer<br>Magistrate Judge Brooke Wells |
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Defendants RaPower-3, LLC; International Automated Systems, LLC; LTB1, LLC; and Neldon Johnson, (“Defendants”) by and through their counsel of record, Justin D. Heideman, of the law firm Heideman & Associates, hereby submit this *Notice of Errata: Reply Memorandum in Support of Motion to Bifurcate*.

Defendant filed the *Reply Memorandum in Support of Motion to Bifurcate* on October 17, 2016. On page seven (7) of the *Reply*, Defendant mistakenly argued as follows:

If the case is not bifurcated, the Plaintiff will likely approach a jury with the same type of degrading language and stereotyping that Plaintiff has approached this Court with. While the Court will likely not be swayed, such language will undoubtedly prejudice a jury against the Defendant.

In contrast, if the viability of the technology is determined in favor of the Defendants, the risk that Plaintiff will attempt to prejudice a jury is greatly reduced.

[ECF DOC. 100 AT 7; ECF DOC. 101].

Defendants' statement identified above, was an inadvertent err, and was not intended to mislead the Court. Defendant files this Notice to correct the record, and to properly inform the Court. The record of the case reflects that Defendants made a jury demand (ECF Doc. 30), however, the Court struck Defendant's jury demand (ECF Doc. 43). Therefore, there will be no jury at trial.

Nevertheless, Defendants maintain that the issues of this case will more fairly be decided on a more objective application of the tax code, if this case is bifurcated to determine whether the solar technology is viable.

SIGNED and DATED this 21st day of October, 2016.

**HEIDEMAN & ASSOCIATES**

/s/ Justin D. Heideman

JUSTIN D. HEIDEMAN

*Attorney for RAPower-3, LLC, International Automated Systems, Inc., LTBI, and Neldon Johnson*

**CERTIFICATE OF SERVICE**

On this 21st day of October, 2016, I hereby certify a true and correct copy of the forgoing **NOTICE OF ERRATA: REPLY MEMORANDUM IN SUPPORT OF MOTION TO BIFURCATE** was served on the following:

| <b>Party/Attorney</b>   | <b>Method</b>  |
|---|--|
| <p><i>Former Attorneys for Defendants</i></p> <p>James S. Judd<br/> Richard A. Van Wagoner<br/> Rodney R. Parker<br/> Samuel Alba<br/> Snow Christensen &amp; Martineau<br/> 10 Exchange Place 11<sup>th</sup> FL<br/> P.O. Box 45000<br/> Salt Lake City, Utah 84145<br/> Tele: (801) 521-9000<br/> Email: jsj@scmlaw.com<br/> rvanwagoner@scmlaw.com<br/> rparker@scmlaw.com<br/> sa@scmlaw.com</p> | <p>Hand Delivery<br/> U.S. Mail, postage prepaid<br/> Overnight Mail<br/> Fax Transmission<br/> <input checked="" type="checkbox"/> Electronic Filing Notice</p> |
| <p><i>Attorney for Defendants</i></p> <p>R. Gregory Shepard<br/> Roger Freeborn</p> <p>Donald S. Reay<br/> Reay Law PLLC<br/> 43 W 9000 S Ste B<br/> Sandy, Utah 84070<br/> Tele: (801) 999-8529<br/> Email: donald@reaylaw.com</p>   | <p>Hand Delivery<br/> U.S. Mail, postage prepaid<br/> Overnight Mail<br/> Fax Transmission<br/> <input checked="" type="checkbox"/> Electronic Filing Notice</p> |
| <p><i>Pro Hac Vice Attorney for Plaintiff</i></p> <p>Erin Healy Gallagher<br/> US Department of Justice (TAX)<br/> Tax Division<br/> P.O. Box 7238</p>  | <p>Hand Delivery<br/> U.S. Mail, postage prepaid<br/> Overnight Mail<br/> Fax Transmission</p>   |

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| Washington, DC 20044<br>Phone: (202) 353-2452<br>Email: erin.healygallagher@usdoj.gov   | <input checked="" type="checkbox"/> Electronic Filing Notice  |
| <i>Pro Hac Vice Attorney for Plaintiff</i><br><br>Erin R. Hines<br>US Department Justice<br>Central Civil Trial Section RM 8921<br>555 4 <sup>th</sup> St NW<br>Washington, DC 20001<br>Tele: (202) 514-6619<br>Email: erin.r.hines@usdoj.gov | Hand Delivery<br>U.S. Mail, postage prepaid<br>Overnight Mail<br>Fax Transmission<br><input checked="" type="checkbox"/> Electronic Filing Notice |
| <i>Attorney for Plaintiff</i><br><br>John K. Mangum<br>US Attorney's Office (UT)<br>Tele: (801) 325-3216<br>Email: john.mangum@usdoj.gov  | Hand Delivery<br>U.S. Mail, postage prepaid<br>Overnight Mail<br>Fax Transmission<br><input checked="" type="checkbox"/> Electronic Filing Notice |
| <i>Pro Hac Vice Attorney for Plaintiff</i><br><br>Christopher R. Moran<br>US Department of Justice (TAX)<br>Tax Division<br>PO Box 7238<br>Washington, DC 20044<br>Tele: (202) 307-0234<br>Email: christopher.r.moran@usdoj.gov               | Hand Delivery<br>U.S. Mail, postage prepaid<br>Overnight Mail<br>Fax Transmission<br><input checked="" type="checkbox"/> Electronic Filing Notice |

**HEIDEMAN & ASSOCIATES**

/s/ Wendy Poulsen

Wendy Poulsen  
Legal Assistant