

JUSTIN D. HEIDEMAN (USB No. 8897)  
CHRISTIAN D. AUSTIN (USB No. 9121)  
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**IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

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| <p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>RAPOWER-3, LLC, INTERNATIONAL<br/>AUTOMATED SYSTEMS, INC.,<br/>LTB1, LLC, R. GREGORY SHEPARD,<br/>NELDON JOHNSON, and ROGER<br/>FREEBORN,</p> <p style="text-align: center;">Defendants.</p> | <p><b>DEFENDANTS' JOINT STATUS REPORT<br/>REGARDING PROTECTIVE ORDER</b></p> <p style="text-align: center;">Civil No. 2:15-cv-00828 DN</p> <p><b>Judge David Nuffer<br/>Magistrate Judge Brooke C. Wells</b></p> |
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DEFENDANTS' RaPower-3, LLC; International Automated Systems, LLC; LTB1, LLC;  
Neldon Johnson; Gregory Shepard; and Roger Freeborn hereby jointly submit this status report  
as follows:

On September 20, 2016, this Court granted the United States' motion for relief from the  
application of the Standard Protective Order in this case.<sup>1</sup> The order granting such relief also

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<sup>1</sup> ECF Doc. 92.

stayed this case “for forty-five days to allow the parties to negotiate a new protective order” and required the parties to file a status report on certain topics within thirty days.<sup>2</sup> The United States sent a proposed status report to the Defendants on October 19<sup>th</sup> at 3:20 pm. The Defendant’s attorney responded with tracked changes and some proposed language on October 19<sup>th</sup> at 5:15 pm. On October 20<sup>th</sup> the United States unilaterally filed their status report.<sup>3</sup> On October 24<sup>th</sup> this Court ordered the parties submit a stipulated protective order or their respective proposed protective orders if they could not agree, on or before November 3, 2016.<sup>4</sup> At this time the parties have been unable to reach an agreement regarding a few of the specific terms of the new protective order in this case; although the bulk of the proposed order is agreed to. Therefore, the Defendants’ are submitting a jointly proposed protective order.

On October 24, 2016, this Court also ordered that the parties submit a status report regarding the pending discovery motions on or before November 3.<sup>5</sup> Specifically, the Court directed the parties to “use their best efforts to resolve these motions and notify the [C]ourt of their resolution.”<sup>6</sup>

The parties were unable, despite their best efforts, to reach an agreement resolving the pending motions. Defendants acknowledge that once a protective order is actually in place their objections as outlined in the Motion’s to Quash, specifically ECF Docs. 62, 65, 70, 83, 84, and

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<sup>2</sup> *Id.* at p. 6.

<sup>3</sup> ECF Doc. 102.

<sup>4</sup> ECF Doc. 104.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

87, are largely moot. Notwithstanding and until the Court resolves the protective order issue in this case, the Defendants' request that the Court grant their Motions to Quash until the protections of a final protective order are available. Further, the Defendants jointly move this Court to deny the United States' motions to compel, specifically ECF Docs. 53 & 59, 55-57. Additionally, the Defendants jointly request the Court enter an order allowing the Defendants' an extension of twenty-eight (28) days' to respond to the discovery at issue in the above noted motions to quash and motions to compel, after the entry of the order by the Court addressing the pending protective order issues in this case.

RESPECTFULLY SUBMITTED this 3rd day of November, 2016.

**HEIDEMAN & ASSOCIATES**

/s/ Justin D. Heideman

JUSTIN D. HEIDEMAN

*Attorney for RAPower-3, LLC, International Automated Systems, Inc., LTB1, and Neldon Johnson*

/s/ Donald S. Reay

Donald S. Reay

*Attorney for Roger Freeborn and Gregory Shepard*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this document was electronically filed with the Clerk of the Court through the CM/ECF system, which sent notification of such filing to all attorneys to be noticed under this matter as follows:

**2:15-cv-00828-DN-BCW Notice has been electronically mailed to:**  
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DATED this 3rd day of November, 2016.

/s/ Wendy Poulsen  
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Legal Assistant