

JUSTIN D. HEIDEMAN (USB No. 8897)  
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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,

Plaintiff,

v.

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

Defendants.

**DEFENDANTS' RESPONSE TO UNITED  
STATES' REQUEST TO ENTER ONTO  
LAND FOR INSPECTION**

Civil No. 2:15-cv-00828 DN

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

DEFENDANTS' RaPower-3, LLC; International Automated Systems, LLC; LTB1, LLC; and Neldon Johnson, by and through counsel of record, Justin D. Heideman, of the Law Firm Heideman and Associates, hereby submit their response to Plaintiffs Rule 34 Request to Enter onto Land for Inspection.

Counsel for Defense has previously spoken with Chris Moran, Counsel for Plaintiff, and has indicated to him Defendants unequivocal willingness to allow the inspection. In fact, this Court will note that a similar request is made in Defendants motion to Bifurcate the case, which

was filed on 9-16-2016, (docket #90) and was submitted for decision on January 4, 2017 (Docket #118), and again on January 31, 2017 (Docket #122).

However, for the sake of specific formality, Defendant responds to each of the following numbered inspection requests as follows:

*1. All locations in Millard County, Utah where the defendants' Lenses, Systems, and Components are or have been manufactured, stored, constructed, and/or purportedly placed in service. See e.g., Johnson's response to Interrogatory No. 19. Within 10 days of this request, please identify in writing, by street address, the location(s) of the Lenses, Systems, or Components within Delta, Millard County, Utah.*

**RESPONSE:** Defendants will comply with this request and are thrilled to have the inspection conducted. Additionally Defendants note that recently this was inspected by the Internal Revenue Service who concluded that all deductions/credits were appropriate taken following their inspection.

*2. The premises located at 2800 W 4000 S, Delta, UT 84624, believed to be a "manufacturing facility." (See Pl.'s Ex. 6, US-001815.) If the facility at 2800 W 4000 S, Delta, UT 84624 is not the "manufacturing facility" where defendants manufacture the Lenses, Systems and Components referred to in responses to the United States' Interrogatory No. 19, please identify the location of the "manufacturing facility" by street address in writing within 10 days of this request.*

**RESPONSE:** Defendants will comply with this request and are thrilled to have the inspection conducted. Additionally Defendants note that recently this was inspected by the Internal Revenue Service who concluded that all deductions/credits were appropriate taken following their inspection.

3. *All Lenses being used to generate electricity, solar process heat, or any other product, including:*

- a. "Solar lenses" (See Pl. 's Ex. 4, US-001742); and*
- b. "Solar lens Bracing" (See Pl. 's Ex. 4, US-001742).*

**RESPONSE:** Defendants will comply with this request and are thrilled to have the inspection conducted. Additionally Defendants note that recently this was inspected by the Internal Revenue Service who concluded that all deductions/credits were appropriate taken following their inspection.

4. All Systems being used to generate electricity, solar process heat, or any other product.

**RESPONSE:** Defendants will comply with this request and are thrilled to have the inspection conducted. Additionally Defendants note that recently this was inspected by

the Internal Revenue Service who concluded that all deductions/credits were appropriate taken following their inspection.

5. *The following Components being used to generate electricity, solar process heat, or any other product:*

- a. "Solar concentrator and heat collectors" (See Pl. 's Ex. 4, US-001743);*
- b. "Heat concentrator" (See Pl. 's Ex. 1, US-001719);*
- c. "Dual Axis Tracking System" following the sun horizontally and vertically (See Pl. 's Ex. 1, US-001719; Pl. 's Ex. 4, US-001744);*
- d. "Dynamic Voltage Controller" (See Pl. 's Ex. 1, US-001719);*
- e. "Heat Exchanger" (Pl. 's Ex. 4, US-001745);*
- f. "Jet propulsion turbine" (Pl. 's Ex. 4, US-001745);*
- g. Circulation of "low temp" and "high temp" molten salt (see Pl's Ex. 379, Shepard\_Greg-00336; Pl. 's Ex. 380, Ra3 008104 – Ra3 008109);*
- h. "Biomass burner" (see Pl. 's Ex. 1, US-001719);*
- i. Biomass Energy System (see Pl. 's Ex. 215-A, Ra3 006426);*
- j. IAUS desalination plant (see Pl. 's Ex. 16, US-001846).*

**RESPONSE:** Defendants will comply with this request and are thrilled to have the inspection conducted. Additionally Defendants note that recently this was inspected by the Internal

Revenue Service who concluded that all deductions/credits were appropriate taken following their inspection.

*6. One or more Lens as it is or has been placed in service or “put into service,” as that phrase has been used by defendants in various letters to customers. See e.g., Pl.’s Ex. 57, Letter from IAS to Brian Zeleznik, signed by Johnson; Pl.’s Ex. 125, Letter from RaPower-3 to Preston Olsen, signed by Shepard.*

**RESPONSE:** Defendants will comply with this request and are thrilled to have the inspection conducted. Additionally Defendants note that recently this was inspected by the Internal Revenue Service who concluded that all deductions/credits were appropriate taken following their inspection.

*7. Any site where any Lens, System, or Component is connected to power lines or other infrastructure not owned by any Defendant for the purpose of transmitting the electricity to an end-user.*

**RESPONSE:** Defendants will comply with this request and are thrilled to have the inspection conducted. Additionally Defendants note that recently this was inspected by the Internal Revenue Service who concluded that all deductions/credits were appropriate taken following their inspection.

8. *Any site where electricity generated by a Lens, System, or Component is transferred to power lines or other infrastructure not owned by any Defendant for the purpose of transmitting the electricity to an end-user.*

**RESPONSE:** Defendants will comply with this request and are thrilled to have the inspection conducted. Additionally Defendants note that recently this was inspected by the Internal Revenue Service who concluded that all deductions/credits were appropriate taken following their inspection.

9. *Any site where electricity generated by a Lens, System, or Component is used for any other purpose.*

**RESPONSE:** Defendants will comply with this request and are thrilled to have the inspection conducted. Additionally Defendants note that recently this was inspected by the Internal Revenue Service who concluded that all deductions/credits were appropriate taken following their inspection.

10. *Any site where a Lens, System, or Component is used to heat or cool a structure.*

**RESPONSE:** Defendants will comply with this request and are thrilled to have the inspection conducted. Additionally Defendants note that recently this was inspected by the

Internal Revenue Service who concluded that all deductions/credits were appropriate taken following their inspection.

*11. Any site where a Lens, System, or Component is used to generate solar process heat.*

**RESPONSE:** Defendants will comply with this request and are thrilled to have the inspection conducted. Additionally Defendants note that recently this was inspected by the Internal Revenue Service who concluded that all deductions/credits were appropriate taken following their inspection.

RESPECTFULLY SUBMITTED this 28<sup>th</sup> day of March, 2017.

**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**

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 28<sup>th</sup> day of March, 2017.

Lilly Alvidrez