

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

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

Defendants.

Civil No. 2:15-cv-00828-DN-EJF

**ORDER ON MOTION TO COMPEL
TODD ANDERSON TO PRODUCE
DOCUMENTS**

Judge David Nuffer
Magistrate Judge Evelyn J. Furse

Upon consideration of the United States' renewed motion to compel Todd Anderson to produce certain documents, submissions by counsel at the hearing held on June 23, 2017, and the parties' agreement, IT IS HEREBY ORDERED THAT the motion is GRANTED:

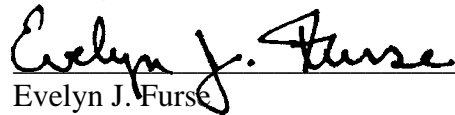
1. Defendants agreed at the hearing to waive any¹ attorney-client privilege with respect to the subject matter of the "Anderson letter"² and its contents. All documents on topics related to the Anderson letter and its contents are discoverable. All communications between any Defendant and Mr. Anderson on topics related to the Anderson letter and its contents are discoverable.
2. Defendants have not waived attorney-client privilege with respect to topics unrelated to the Anderson letter and its contents. The United States shall not take discovery on topics unrelated to the Anderson letter and its contents.

¹ Anderson contends that his only client in the matter was RaPower-3, LLC.

² Pl. Ex. 23.

3. No later than July 7, 2017, Defendants shall produce to the United States all documents identified in rows 21 through 32 (Bates numbers Anderson 135 through Anderson 222) and in rows 36 through 38 (Bates numbers Anderson 232 through Anderson 241) of the Supplemental Privilege Log.
4. For the portions of documents identified on the Supplemental Privilege Log in rows 21 (Anderson 135 through Anderson 141) and 36 (Anderson 232 through Anderson 235) as “partially” privileged: if any portion identified by Defendants as “partially” privileged is related to the Anderson letter and/or its contents, Plaintiff and Defendants stipulate that such privilege is waived and Defendants shall produce such portion. If portions of these documents are not related to the Anderson letter, Defendants may redact such portions.
5. The deposition of Mr. Anderson shall take place on August 4, 2017, beginning at 8:00 a.m., at a place to be determined by the United States; and
6. The parties shall call the Court during the deposition if an issue related to this order arises and cannot be resolved among the parties.³

DATED this July 6, 2017.


Evelyn J. Furse
United States Magistrate Judge

³ Docket no. 115 ¶ 10.