

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

UNITED STATES OF AMERICA, :
Plaintiff, : Civil No.
2:15-cv-00828-DN-EJF

-v- :

RAPOWER-3, LLC, INTERNATIONAL :
AUTOMATED SYSTEMS, INC., 30(b)(6) Deposition of:
LTB1, LLC, R. GREGORY : INTERNATIONAL AUTOMATED
SHEPARD, NELDON JOHNSON, and : SYSTEMS, INC.
ROGER FREEBORN, : (Neldon Johnson)

Defendants. :

Place: UNITED STATES
ATTORNEY'S OFFICE
111 South Main Street
Suite 1800
Salt Lake City, Utah 84111

Date: June 29, 2017
9:07 a.m.

Reporter: Vickie Larsen, CSR/RMR

Excerpts from
Plaintiff
Exhibit
574

A P P E A R A N C E S

For the Plaintiff:

Erin Healy-Gallagher
Erin Hines
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For the Defendants, RaPower-3, LLC, International
Automated Systems, Inc., LTB1, LLC, and Neldon
Johnson:

Denver C. Snuffer, Jr.
NELSON, SNUFFER, DAHLE & POULSEN
10885 South State Street
Sandy, Utah 84070
801.576.1400
Denversnuffer@gmail.com

Also Present:

Glenda Johnson

-oOo-

1 June 29, 2017

9:07 a.m.

2 P R O C E E D I N G S

3
4 NELDON JOHNSON,

5 called as a witness, having been duly sworn,

6 was examined and testified as follows:

7
8 MS. HEALY-GALLAGHER: Good morning,
9 Mr. Johnson.

10 We're on the record in the case of United
11 States v. RaPower-3 on June 29th at about 9:07 a.m.

12 We met yesterday. My name is Erin
13 Healy-Gallagher. I'm with the United States
14 Department of Justice Tax Division appearing on behalf
15 of the United States.

16 Mr. Snuffer.

17 MR. SNUFFER: Yeah, Denver Snuffer here
18 on behalf today of IAS, but on behalf of the
19 defendants Neldon Johnson, RaPower, LTB2 -- or LTB1 as
20 well.

21 MS. HINES: Erin R. Hines, also on behalf
22 of the United States.

23 MS. HEALY-GALLAGHER: Not with us today
24 are Chris Moran for the United States, and Donald Reay
25 for Greg Shepard and Roger Freeborn.

1 you know, you got your -- your product.

2 So whenever -- when anybody purchased
3 that product, then they owned that product.

4 Q. Okay. So how does anybody know if it's
5 their lens up in a tower, currently?

6 A. Well, they would have access to that
7 through -- through the records in the computer system.

8 Q. And you wrote that computer program;
9 correct?

10 A. I did.

11 Q. And if you wanted to export data from
12 that computer program, you'd be able to do that,
13 wouldn't you?

14 A. Yes, I would.

15 Q. Did IAS ever make any effort to connect a
16 particular lens with a particular owner so that an
17 owner could point to a lens and say that's mine?

18 A. If a person came down and asked where the
19 lens was at, they could -- we -- they could be -- that
20 particular lens could be accessed, yes.

21 Q. How would they know which lens was
22 theirs?

23 A. By the computer program.

24 Q. So the computer program would tell them
25 which lens?

1 A. It would tell whether the lens was
2 installed or whether the lens was still in -- or it
3 hadn't been installed.

4 Q. Okay. And if the computer program says
5 the lens has been installed, does it say where?

6 A. If -- if it -- if it was registered
7 properly it would have -- would have told them that.
8 If the person who did it didn't register it properly,
9 then it would not have been registered properly.

10 Q. What do you mean "registered properly"?

11 A. The person putting it into the lens would
12 then also have to register where that lens was placed.

13 Q. How would they know -- the whole reason
14 is to find out where the lens is. How would the
15 customer know where their lens is?

16 A. They would have to ask.

17 Q. And who would they ask?

18 A. They would ask me. They would ask
19 Mr. Johnson, who would be the -- at that time is the
20 manager of -- of RaPower-3. So you're asking a
21 question of the manager of RaPower-3.

22 Q. Okay. So I should ask -- I just want to
23 be clear -- so I should ask the manager of RaPower-3
24 how a customer is supposed to find out which lens is
25 theirs?

1 A. That's correct, yes.

2 Q. Has IAS ever placed a serial number on a
3 lens?

4 A. Yes, it has.

5 Q. When did it do that?

6 A. 2007.

7 Q. Where on the lens did IAS place serial
8 numbers?

9 A. Probably on the -- either the plastic or
10 the frame, depending on the individual that put it
11 there.

12 Q. It didn't have a systematic way of
13 applying serial numbers to lenses?

14 A. Either -- it either would have been
15 placed on the lens by the -- by the lens, or it would
16 have been placed on the lens itself.

17 Q. And how is it that IAS affixed serial
18 numbers to the lenses?

19 A. IAS wasn't involved in that. It would
20 have been RaPower.

21 Q. Sir, you just said that IAS affixed
22 serial numbers to lenses in 2007.

23 A. Yes. Okay, I'm sorry.

24 It would have -- it would have done it
25 with the -- a little plastic strip with a -- with a

1 number generated by a -- a -- a computer program onto
2 that strip.

3 Q. You said it would have done that. Did it
4 do that?

5 A. Yes, it did.

6 Q. Okay. And how well did those little
7 sticky pieces hold up in the desert?

8 A. Well, I don't know. Some -- some did,
9 some didn't.

10 Q. So some serial numbers may have fallen
11 off?

12 A. Could have done, yes.

13 Q. And, in fact, many of the lenses broke
14 and fell out of the frames too?

15 A. That's correct.

16 Q. So how did you know which lens had fallen
17 out of the frame and who it belonged to?

18 A. We would know. That's how we'd know -- I
19 would know.

20 Q. How would you know, sir?

21 A. I would have known where it was. We
22 bought it and then we replaced it.

23 Q. So would you search for a piece of
24 plastic with a serial number on the ground underneath
25 where the lens had fallen out?

1 A. No. No, we probably would have known
2 where it was at.

3 Q. How would you have known?

4 A. Probably with a computer program would
5 have told us.

6 Q. Okay. Are you willing to produce that
7 computer program to the United States?

8 A. I did before. They already have it.

9 Q. Okay. Well, if we haven't received it,
10 I'll work with your attorney on that.

11 A. Well, we'll -- we'll give you the same
12 data that it produces. I'm not going to give you the
13 program, but I will give you the data --

14 Q. That would work.

15 A. -- that it produces.

16 Q. That would work.

17 A. Okay.

18 Q. If IAS -- if a customer's lens has fallen
19 out of its frame, how, if at all, is that lens
20 replaced?

21 A. It's automatically replaced by the
22 warranty system that is involved.

23 This program that you're talking about,
24 by the way, that tracks, that was a program that was
25 written in -- back in 1980 that tracked the entire --

1 A. No.

2 Q. Has IAS ever paid anyone for the use of a
3 lens for advertising purposes?

4 A. No.

5 Q. Has IAS ever paid anyone for use of a
6 lens in research and development?

7 A. No.

8 Q. Mr. Johnson, how does IAS keep track of
9 who owns shares in it?

10 A. It's done by the stock exchange. So...

11 Q. What do you mean by that?

12 A. We don't do it. We have a -- there's a
13 company that is authorized to do that by the NASDAQ
14 stock exchange, and I don't know the name of the
15 company. But you should have it in your documents.

16 Q. You believe you produced what to the
17 United States?

18 A. All the documents that IAS has, including
19 the documents that would show that we pay money out to
20 have our -- our stockholders being registered and kept
21 on a NASDAQ file.

22 Q. But you say you don't know the name of
23 the company that keeps track of IAS's shareholders?

24 A. No. They just changed, I believe.

25 Q. What were they before?

1 A. I don't remember that either, but you
2 should have it in your records there. And I think
3 it's listed on our website, but I'm not positive even
4 about that. But it's in the -- in all the documents
5 that we produced, you should have that.

6 Q. And if we don't have it, are you willing
7 to produce it?

8 A. Oh, yeah, that's fine. I just need to
9 make a phone call.

10 Q. Mr. Johnson, to your recollection, have
11 you signed every 10-K that the IRS has submitted --

12 A. Yes.

13 Q. Let me take that back.

14 To your knowledge, have you signed every
15 10-K that IAS has submitted to the SEC?

16 A. Yes.

17 Q. So, Mr. Johnson, how does IAS sell its
18 stock?

19 A. It's just through the NASDAQ stock
20 exchange.

21 Q. Does IAS have any relationship with any
22 particular brokers?

23 A. No, they do not.

24 Q. To your knowledge, are people who buy
25 lenses, do they often buy stock?