

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

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
vs. ) Case 2:15-cv-00828-DN-EJP  
 )  
RAPOWER-3, LLC, INTERNATIONAL, ) Judge DAVID NUFFER  
AUTOMATED SYSTEMS, INC., LTB1, )  
LLC, R. GREGORY SHEPARD, )  
NELDON JOHNSON, and ROGER )  
FREEBORN, )  
 )  
Defendants. )  
\_\_\_\_\_ )

30(b)(6) DEPOSITION OF RAPOWER-3, LLC (NELDON JOHNSON)

JUNE 30, 2017

SALT LAKE CITY, UTAH



Deposition of NELDON JOHNSON, produced  
as a witness at the request of Plaintiff,  
taken on June 30, 2017, at 8:57 a.m., at the  
Law Offices of The U.S. Attorney, before  
Amanda Richards, certified shorthand reporter  
in and for the State of Utah, pursuant to  
Notice.

APPEARANCES OF COUNSEL:

FOR PLAINTIFF:

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ALSO PRESENT:

Glenda Johnson

\* \* \* \* \*

1 SALT LAKE CITY, UTAH, FRIDAY, JUNE 30, 2017, 8:57 A.M.

2 \* \* \* \* \*

3 NELDON JOHNSON,

4 called as a witness herein, having been first duly sworn,

5 was examined and testified as follows:

6 MS. GALLAGHER: We're on the record. We are on the  
7 record in the case of United States vs. RaPower3, et al., on  
8 June 30th, 2017, at just about 9:00 a.m. My name is Erin  
9 Healy Gallagher of the U.S. Department of Justice in the Tax  
10 Division appearing on behalf of United States.

11 Counsel, please state their appearances.

12 MR. SNUFFER: Denver Snuffer here on behalf of the  
13 Defendants RaPower, LTB, IAS and Neldon Johnson. And with  
14 me from my office is Mr. Steve Paul.

15 MS. HINES: Erin Hines on behalf of the United States.

16 MS. GALLAGHER: And not present today are Don Reay who  
17 represents R. Gregory Shepard and Roger Freeborn, and Chris  
18 Moran who represents the United States. Also today we have  
19 in the room Mrs. Glenda Johnson.

20 MR. SNUFFER: Yeah.

21 MS. GALLAGHER: All right. This deposition will be  
22 governed by the Federal Rules of Civil Procedure and the  
23 local rules of the District of Utah. All exhibits that we  
24 use today will be marked and kept here until they go with  
25 the court reporter at the end of the week. Any other

1 goes into the computer program, how do sales come in?

2 A. Usually through a computer program that's on the  
3 website.

4 Q. Which website?

5 A. I think it's Rapower.net or RaPower3.com. I  
6 don't -- I'm not sure which one.

7 Q. Who is it that programmed Rapower.net to bring in  
8 sales?

9 A. It was done at my direction and -- and most of  
10 the -- most of the layout of the program was done by me.  
11 Then I have people that will code -- code the program as I  
12 have directed them to do.

13 Q. Who are those coders?

14 A. The first one was Chris Taylor and the next one is  
15 Aaron Jones.

16 Q. Anyone else?

17 A. Not besides myself.

18 Q. The equipment purchase agreement that RaPower3  
19 provides to customers is available online; correct?

20 A. That's correct.

21 Q. And you directed that that contract be made  
22 available online?

23 A. That's correct.

24 Q. Plaintiff's Exhibit 511, Mr. Johnson, which we  
25 looked at earlier, is an example of that equipment purchase

1 agreement; right?

2 A. That's correct, yes.

3 Q. Did you get this -- we can go off the record.

4 (Discussion held off the record.)

5 Q. (BY MS. GALLAGHER) Mr. Johnson, where does  
6 RaPower3 store the contracts it has with any customer?

7 A. In filing cabinets at our premise in, I believe in  
8 Delta, Utah.

9 Q. Does RaPower3 have in those filing cabinets all of  
10 the contracts it has entered with customers since 2010?

11 A. I believe it does.

12 Q. Mr. Johnson, I'll represent to you that we  
13 received from your attorneys some equipment purchase  
14 agreements from RaPower3, but we have not received any that  
15 were signed in 2015 or 2016. Did RaPower3 contract with  
16 customers during 2015 and 2016?

17 A. I'm sure they did.

18 Q. How about in 2017?

19 A. I'm sure they did, yes.

20 Q. So we will likely follow up with your attorney  
21 after this deposition to see if we can figure out a way to  
22 get those.

23 A. Okay.

24 Q. Okay. So we talked about the first structure for  
25 commission through RaPower3, and you said that last year the

1 corner; correct?

2 A. That's correct, yes.

3 Q. And if we look up at the top left-hand corner, the  
4 header says Power To The People. Did I read that correctly?

5 A. Right. Uh-huh.

6 Q. And underneath that it says "The solar lenses used  
7 in RaPower3 solar projects are all independently owned by  
8 individuals or small businesses."

9 Did I read that correctly?

10 A. That's correct.

11 Q. And is that an accurate statement of your  
12 understanding of the ownership for RaPower3 lenses?

13 A. That's correct.

14 Q. You can put that aside.

15 A. Okay.

16 (Exhibit 545 marked.)

17 Q. (BY MS. GALLAGHER) Okay, Mr. Johnson. Please take  
18 a look at what's been handed to you marked Plaintiff's  
19 Exhibit 545.

20 A. Okay.

21 Q. Bates numbers Ra3-15863 through 85.

22 A. Okay.

23 Q. Do you recognize Plaintiff's Exhibit 545?

24 A. I do not.

25 Q. If you want to take a look at the names, does this

1 appear to be a list of RaPower3 customers?

2 A. It appears that. But like I said, I've never seen  
3 it before, so.

4 Q. Does this look like something that would have been  
5 produced from the computer program we talked about earlier?

6 A. Yes, uh-huh.

7 Q. And, in fact, the top header says "RaPower3;"  
8 right?

9 A. Right.

10 Q. And then on the upper left-hand side under the  
11 headers it says "10% Program," correct, on the first page?

12 A. Uh-huh.

13 Q. "Yes?"

14 A. Yes.

15 Q. And that sounds like the 10 percent commission  
16 program we talked about earlier; right?

17 A. No.

18 Q. "No?"

19 A. No.

20 Q. What's -- what does that 10 percent mean?

21 A. That means if they put 10 percent down of their  
22 down payment.

23 Q. Oh. Okay. Okay. So this list of customers -- we  
24 talked about earlier that if the full price of a lens is  
25 \$3,500, a person may make a down payment, an immediate down