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1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF UTAH, CENTRAL DIVISION
 3
 4 UNITED STATES OF)
 AMERICA,) Deposition of:
)
 5 Plaintiff,) NELDON JOHNSON
)
 6 vs.)
)
 7 RAPOWER3, LLC,) Case No. 2:15-cv-00828 DN
 INTERNATIONAL)
 8 AUTOMATED SYSTEMS,) Judge David Nuffer
 9 INC., LTB1, LLC, R.)
 10 GREGORY SHEPARD,)
 11 NELDON JOHNSON and)
 12 ROGER FREEBORN,)
 13)
 14 Defendant.)
 15
 16
 17
 18 October 3, 2017 * 9:10 a.m.
 19
 20 Location: United States Attorney's Office
 21 111 South Main Street, Suite 1800
 22 Salt Lake City, Utah
 23
 24 Reporter: Dawn M. Perry, CSR
 25 Notary Public in and for the State of Utah

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 18
 19
 20
 21
 22
 23
 24
 25

**Plaintiff
 Exhibit**

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1 I N D E X
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 14 Exhibit 645 Photographs 200
 15 Exhibit 646 Checks 202
 16 Exhibit 647 Check to NP Johnson Family Limited 203
 17 Partnership for \$3,933.47
 18 Exhibit 648 Checks 204
 19 Exhibit 649 Check to Howard County Tax Office 207
 20 for \$2,227.57
 21 Exhibit 650 Check to Randy Johnson for \$30,000 214
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 25

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1 P R O C E E D I N G S
 2
 3 N E L D O N J O H N S O N ,
 4
 5 called as a witness, being first sworn,
 6 was examined and testified as follows:
 7
 8 E X A M I N A T I O N
 9 BY MS. HEALY GALLAGHER:
 10 Q. All right. We're on the record in the
 11 case of United States versus RaPower3 on October 3rd
 12 about 10 after 9:00 a.m.
 13 My name is Erin Healy Gallagher of the
 14 U.S. Department of Justice Tax Division, appearing on
 15 behalf the United States.
 16 Counsel, please make your appearance.
 17 MR. SNUFFER: Yeah. Denver Snuffer here
 18 on behalf of Neldon Johnson in his capacity as a
 19 expert witness.
 20 MS. HEALY GALLAGHER: And, Mr. Snuffer,
 21 you also now represent all of the defendants in this
 22 case; is that right?
 23 MR. SNUFFER: I believe that I haven't yet
 24 entered an appearance, but people from my office have
 25 entered an appearance also on behalf of Shepard and

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1 the other fellow, but I don't know that -- that I've
 2 entered an appearance just yet.
 3 MS. HEALY GALLAGHER: Okay.
 4 MR. SNUFFER: All right.
 5 MR. MORAN: And I'm Christopher Moran
 6 appearing on behalf of the United States.
 7 And with us on the phone is Erin Hines,
 8 back in our office in Washington, D.C.
 9 MS. HEALY GALLAGHER: And also in the room
 10 is Ms. Glenda Johnson.
 11 Q. All right. This deposition will be
 12 governed by the Federal Rules of Civil Procedure and
 13 the local rules of the District of Utah.
 14 I believe for today all exhibits will be
 15 marked and kept by the court reporter.
 16 MR. MORAN: Yes.
 17 MS. HEALY GALLAGHER: Any other
 18 stipulations we will address as the need arises.
 19 Q. Mr. Johnson, we've met before. As I've
 20 just said, my name is Erin Healy Gallagher, and I
 21 will be taking your deposition today.
 22 You've given four depositions so far in
 23 this case, but I'm going to go over the ground rules
 24 again just so we're all on the same page.
 25 A. Okay.

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1 Q. So in this deposition I will ask you
 2 questions. My questions and your answers will be
 3 recorded by the court reporter sitting here. So
 4 please speak loudly enough for her to hear you, and
 5 answer my questions verbally.
 6 Will you do those things?
 7 A. Yes.
 8 Q. She cannot record a nod or a shake of your
 9 head. And words like "uh-huh" are not clear on the
 10 transcript that will be created.
 11 A. Okay.
 12 Q. So if we have any of those situations, I
 13 will stop and make sure the record is clear. Okay?
 14 A. Fine. I almost said "uh-huh." I'm just
 15 kidding.
 16 Q. Also, we have a tendency in casual
 17 conversation to sometimes speak over one another, to
 18 answer a question before it's finished being asked.
 19 Here, please wait until I am finished asking my
 20 question before you start your answer, because the
 21 court reporter cannot take down the words of more
 22 than one person talking at the same time.
 23 Do you understand?
 24 A. Okay. Yes.
 25 Q. When I do finish asking each question,

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1 your task for today is to give full and complete
 2 answers.
 3 Do you understand that obligation?
 4 A. Yes.
 5 Q. Now, it's my obligation to ask
 6 understandable questions to you. So if you don't
 7 understand a question for any reason, please let me
 8 know. Will you do that?
 9 A. Yes.
 10 Q. Sometimes it will happen that you will
 11 give an answer as completely as you can but then
 12 later in the deposition you may remember additional
 13 information or be able to clarify something about
 14 your previous answer. When that occurs, if it
 15 occurs, please tell me that there is something you
 16 would like to add or clarify about an earlier answer
 17 and we will take care of that right away.
 18 Will you do that?
 19 A. Yes. Thank you.
 20 Q. I'll try to take -- I'll try to remember
 21 to take a break every 90 minutes or so, but if you
 22 need a break at any time, please let me know.
 23 Will you do that?
 24 A. Yes.
 25 Q. If there is a question pending, though, I

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1 will ask that you complete your answer first and then
 2 we can take a break. Okay?
 3 A. Okay.
 4 Q. Similarly, if you want to talk to your
 5 attorney, Mr. Snuffer, that's fine; however, if there
 6 is a question pending or if you're in the middle of
 7 an answer, you will need to finish the answer or give
 8 it in the first place before -- you confer with him.
 9 Do you understand?
 10 A. Yes.
 11 Q. So we're here to get as accurate a record
 12 as we can of the facts of the case as you remember
 13 them. So I have to ask, is there anything that would
 14 prevent you from understanding and answering my
 15 questions with the full capacity of your
 16 recollection?
 17 A. No.
 18 Q. Are you taking medications or drugs of any
 19 kind that might interfere with your memory?
 20 A. No.
 21 Q. Have you had anything alcoholic to drink
 22 in the past eight hours?
 23 A. No.
 24 Q. Are you currently under a doctor's care
 25 for any illness that may interfere with recollection

<p style="text-align: right;">Page 41</p> <p>1 A. Both that and the -- the cabling. What do 2 they call that? Candlelight -- the laser light that 3 we use in communication today was the forerunner to 4 that.</p> <p>5 MR. SNUFFER: Fiber optics.</p> <p>6 THE WITNESS: Fiber optics. That's what 7 I'm looking -- the name is. I'm sorry. It's the 8 forerunner to fiber -- the fiber optics 9 communications. And the isolation circuits on solid 10 state, isolating circuits -- using light to isolate 11 high-voltage circuits from other circuits in order to 12 make those able to communicate back and forth without 13 damaging equipment.</p> <p>14 Q. (BY MS. HEALY GALLAGHER) Mr. Johnson, in 15 your three years at AT&T, imagine that as a whole pie 16 of 100 percent, about how much time of that pie did 17 you spend on anything to do with solar energy 18 technology?</p> <p>19 A. Other than what I just told you, I don't 20 know. It would be just a small alternative.</p> <p>21 Q. Ten percent?</p> <p>22 A. Less than -- probably less than ten 23 percent.</p> <p>24 Q. Five percent?</p> <p>25 A. Probably one or two percent.</p>	<p style="text-align: right;">Page 43</p> <p>1 working on the early distant warning system is 2 not relevant to the content of your report in 3 this case?")</p> <p>4 A. Well, I only felt like it was a 5 duplication of what I had done with AT&T so it -- 6 the -- the experience I had with AT&T indicated that 7 I had the ability to -- to cross various technologies 8 and understand various components. And it was a 9 similar -- a similar experience with the -- it wasn't 10 any more -- it was less in-depth doing this -- this 11 system up in Alaska than it was with AT&T. And AT&T 12 covered mainly the same -- the same material, the 13 same technologies.</p> <p>14 Q. What were your job tasks for the seven 15 years that you were working on the early distant 16 warning system in Alaska?</p> <p>17 A. I only -- I only worked -- I only worked 18 there for about seven months, eight months.</p> <p>19 Q. All right. Well, Mr. Johnson, I asked you 20 about the gap from 1968 to 1975 and you identified 21 the early distant warning system.</p> <p>22 A. Right. We only got started. That's...</p> <p>23 Q. Uh-huh. Okay. What else is in that gap 24 between 1968 and 1975?</p> <p>25 A. Well, mainly I was developing my own -- my</p>
<p style="text-align: right;">Page 42</p> <p>1 Q. One or two percent of three years?</p> <p>2 A. Right. Yeah.</p> <p>3 Q. Mr. Johnson, the next sentence in your 4 qualifications starts with 1975. So can you explain, 5 what were you doing between 1968 and 1975?</p> <p>6 A. Yeah. Yes. I -- I had an opportunity to 7 go to work with the early distant warning system that 8 was put up in Alaska along the Arctic Circle for 9 protection against nuclear attacks by Russia, 10 particularly.</p> <p>11 Q. Is there any reason you didn't include 12 that in your report?</p> <p>13 A. I didn't find it relevant.</p> <p>14 Q. So, Mr. Johnson, from your position, your 15 time working on the early distant warning system is 16 not relevant to the content of your report in this 17 case?</p> <p>18 A. It was mostly microwave rad --</p> <p>19 Q. Sir, that's not my question. Stop. 20 Object to the responsiveness.</p> <p>21 Please read back my question.</p> <p>22 A. Sorry. I didn't understand what you were 23 saying.</p> <p>24 (Record was read as follows: "So, 25 Mr. Johnson, from your position, your time</p>	<p style="text-align: right;">Page 44</p> <p>1 own businesses. Let's see. What did I do? I 2 attended some classes at Brigham Young University, I 3 believe in physics. There may have been some -- some 4 additional higher-level mathematics above calculus. 5 We had taken some calculus before that.</p> <p>6 And so that was -- and some mathematical 7 -- mathematics on Einstein's physics.</p> <p>8 Let's see. What other class did I take? 9 Just -- just mostly -- mostly classes in upper 10 division. I took some chemistry classes, I believe. 11 I took some -- mostly it was mathematics that I was 12 interested in at that time to develop my -- my -- to 13 expand my mathematical capabilities and -- and 14 Lanzoid [sic] physics. So that's probably the two 15 areas I spent most of my time in. And chemistry. I 16 enjoyed chemistry.</p> <p>17 Q. Anything else in the gap between 1968 and 18 1975?</p> <p>19 A. Oh, mainly I -- I developed, like I said, 20 several businesses that -- that we did, I think. And 21 then I think we was involved in the grocery store 22 business and something like that, so...</p> <p>23 Q. All right. Let's talk about -- you said 24 seven months at the Distant Early Warning system? 25 A. Correct, I believe about that.</p>

<p style="text-align: right;">Page 69</p> <p>1 Q. -- did anyone at Mr. Snuffer's office give 2 you facts or data to consider? 3 A. No. 4 Q. Did anyone at Mr. Snuffer's office give 5 you any assumptions to rely upon in drafting your 6 response to Dr. Mancini's report? 7 A. No. 8 Q. Okay. Let's return, please, to Utah 9 Technical College. 10 A. Okay. 11 Q. Did you attend Utah Technical College? 12 A. I did. 13 Q. At what time? 14 A. 19 -- May of 1964. 15 Q. For one month you attended Utah Technical 16 College? 17 A. No, it was -- no, it was longer than that, 18 but that's when I started. 19 Q. From May of 1964 to when? 20 A. I think it was January of -- the first of 21 '65, I think, right around that date. 22 Q. Did you get any degree from Utah Technical 23 College? 24 A. No, I did not. 25 Q. What -- is there such a thing as the</p>	<p style="text-align: right;">Page 71</p> <p>1 Q. You did a good job of listing out 2 different classes, and that's all I want to know. 3 A. Okay. I think -- I can't remember any 4 more. I didn't take any filler classes. I only 5 took -- I only took the engineering classes. 6 Q. And, Mr. Johnson, we have talked about, in 7 some of your background, the fact that electronics 8 cross over between what you've done in the past and 9 the solar energy technology that IAS purports to have 10 in this case. 11 A. Correct. 12 Q. So other than that crossover with these 13 courses, is there any direct link between the 14 purported solar energy technology that IAS has in 15 this case and the classes that you took at Utah 16 Technical College? 17 A. Well, the physics classes obviously were 18 in optics. We had a lot of optics classes in 19 physics. And, yes, I guess that is a direct 20 correlation between the optics that we developed for 21 those lenses. And so in physics we studied Fres -- 22 Fres -- Fresnel lenses and op -- various optics. And 23 so from that standpoint, yes. 24 Q. Okay. So the optics have specifically to 25 do with the lenses, correct?</p>
<p style="text-align: right;">Page 70</p> <p>1 electronics technology program at Utah Technical 2 College? 3 A. I don't know; that was a long time ago. 4 I'm not sure what they called it. It was either 5 electrical engineering or electronic engineering or 6 something like that. 7 Q. What classes did you take at Utah 8 Technical College? 9 A. I took all of the tube theories, all the 10 state theory, the mat -- electrical engineering 11 mathematics, the mathematics -- various mathematics 12 classes, various physics classes, various 13 technologies in -- in communication -- electrical 14 communicat -- RF communications. 15 They let -- the class were half over, okay 16 when, I started and so I talked them into letting me 17 come in and I could catch up -- 18 Q. Mr. Johnson -- 19 A. -- so -- 20 Q. -- I'm going to stop you there. 21 A. So the classes -- 22 Q. No, stop. 23 A. -- I'm trying to figure out -- 24 Q. Sir, stop. Stop. 25 A. Okay.</p>	<p style="text-align: right;">Page 72</p> <p>1 A. Correct, yes, ma'am. 2 Q. Did the optics classes have anything else 3 to do with the purported solar energy technology at 4 issue in this case? 5 A. No. 6 Q. All right. Other than the optics, was 7 there any other direct link from the classes that you 8 took at Utah Technical College to the purported solar 9 energy technology in this case? 10 A. Well, not as far as the optics go, no. 11 Q. I said other than the optics, sir. 12 A. Oh, yeah. Various -- various mathematical 13 courses in -- including some physics and mechanical 14 engineering courses that would have designed the 15 relationships to mechanical structures and the 16 mathematics that are required to build those. There 17 wasn't any direct connection that I know of. 18 Q. What, if anything, did you learn at Utah 19 Technical College regarding the engineering stages of 20 technology development? 21 A. The mathematics that designed the -- the 22 various optics, including -- and the various 23 mechanical structures that -- that are employed at 24 the site. 25 Q. Would you take a look, please, at</p>

<p style="text-align: right;">Page 81</p> <p>1 thing at Utah Technical school; I did a lot of hours. 2 So I did a lot of classes. But the classes were easy 3 for me. I didn't have to worry about it. I didn't 4 have to study. I never studied in my whole life. 5 Never had to. 6 Q. So other than what we've already talked 7 about with the electronics connection to the 8 purported solar energy technology, what, if any, 9 aspect of your courses at Brigham Young have a direct 10 impact on the purported solar energy technology that 11 IAS holds out in this case? 12 A. Well, mathematics, obviously, and some of 13 the optics classes and physics. Some of the 14 electronics classes and so all of the mechanical 15 engineering classes. So all the class that we took 16 had some bearing, and we draw from all of those to 17 develop a -- a new concept or a new invention. 18 Q. And, Mr. Johnson, you did not receive a 19 degree from Brigham Young, correct? 20 A. No. I didn't want one. Didn't care. 21 Wasn't interested in it. I could get one today. I 22 could probably go over there, and they would probably 23 give me one. I don't know. 24 Q. What on earth is your basis for that, 25 Mr. Johnson?</p>	<p style="text-align: right;">Page 83</p> <p>1 Q. All right, Mr. Johnson. We will turn to 2 the purported solar energy technology that IAS has 3 held out in just a moment, but I want to hear from 4 you. For all the background and experience and 5 qualifications that we've talked about so far, has 6 there ever been a time that you have worked 7 specifically with generating electricity from solar 8 radiation? 9 A. Other than my own company? 10 Q. Correct. 11 A. No, I haven't. No. 12 Q. Okay. So your only experience with that 13 is through IAS? 14 A. That is correct, yes. 15 Q. Other than your experience with IAS, have 16 you had any experience generating heat from solar 17 radiation? 18 A. Not for -- not for a commercial 19 application, no. 20 Q. For any other application? 21 A. Well, just for fun maybe. You know, we 22 were probably exploring some other things when I was 23 young -- 24 Q. Like what? 25 A. -- just for fun, you know.</p>
<p style="text-align: right;">Page 82</p> <p>1 A. I just give them \$50,000. Well, not that 2 organization, another one, and they offered me a 3 degree. So you can buy degrees if you want them. 4 MS. HEALY GALLAGHER: Off the record, 5 please. 6 (A break was taken from 11:04 a.m. to 7 11:14 a.m.) 8 Q. Mr. Johnson, we have just taken a brief 9 break. Did you speak with anyone about the facts of 10 this case on that break? 11 A. No. 12 Q. Are there any answers to my questions that 13 you would like to change or modify at this time? 14 A. Not -- no. 15 MR. SNUFFER: Do you need to leave? 16 MRS. JOHNSON: I just have a question. 17 The last time we were here we went to lunch at 11:30. 18 MR. SNUFFER: Oh, yeah. 19 MRS. JOHNSON: And I don't know if she 20 wants to do the same thing. 21 MR. SNUFFER: Yeah, we beat the noon rush. 22 MS. HEALY GALLAGHER: Off the record, 23 please. 24 (Discussion off the record.) 25 MS. HEALY GALLAGHER: Back on, please.</p>	<p style="text-align: right;">Page 84</p> <p>1 Well, I was on my own at 14 and so I -- I 2 was on the streets a lot, and there were times when I 3 thought that I could use a solar thing to create some 4 heat that would help out in my living -- living 5 spaces that I -- that I lived. So, you know, it's a 6 different experience; you probably wouldn't 7 understand that, but... 8 Q. What kinds of things did you experiment 9 with at that time, Mr. Johnson? 10 A. Oh, plastics and different things that I 11 could find in a junkyard, you know, just -- I 12 couldn't afford anything. I just lived in -- close 13 to a junkyard where I could get things and play with 14 them and do what I wanted with them. 15 Some of those were developed areas where 16 you could heat things and extend some growing seasons 17 and various applications and stuff, so -- that was 18 just to try to make my life a little easier, so... 19 Q. So around the time that you were 14 -- I 20 want to understand, like, what you were doing. So 21 were you using materials to amplify the sun's light 22 for warmth? 23 A. We were doing -- yeah, I did -- I did 24 various -- various experiments with ways to increase 25 the concentration of the sun in order to create an</p>