

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

1           **A.           That's correct.**

2           Q.           Whose lenses were installed in the towers  
3 on the R&D site?

4           **A.           The people from -- that purchased lenses**  
5 **from RaPower or International Automated Systems at**  
6 **that time.**

7           Q.           Okay. So if the towers were built in '06  
8 or '07, were the lenses that were installed the lenses  
9 that people had bought before that date?

10          **A.           There were probably more lenses in --**  
11 **constructed than there were people that had bought,**  
12 **but -- but they hadn't paid. So they were already**  
13 **erected and paid for before people bought them.**

14          Q.           Okay. So that's my question.

15                        So -- well, actually, let me make sure  
16 we're tracking on the same page.

17                        So at least some people bought lenses  
18 from IAS before 2006 or 2007; correct?

19          **A.           I think it was right around 2007-2008 is**  
20 **when they purchased them from International Automated**  
21 **Systems. However, the towers were going up prior to**  
22 **anybody purchasing any of the product.**

23                        The -- everything out there has been paid  
24 for out of my personal money going into International  
25 Automated Systems. All of the inventory, all of the

1 **product that you see out there is paid for.**

2 Q. Sir, let me stop you there.

3 **A. Even for -- even beyond what has been**  
4 **sold.**

5 Q. So what I want to understand is who owned  
6 the lenses that were originally installed?

7 **A. Neldon Johnson.**

8 Q. Okay. So when, if ever, have lenses been  
9 installed that are not owned by Neldon Johnson?

10 **A. Well, as people purchase them, then we**  
11 **would designate.**

12 Q. Sir, not my question.

13 When, if ever -- actually, could you read  
14 it back.

15 (The record was read as follows:

16 "Q. So when, if ever, have lenses  
17 been installed that are not owned by  
18 Neldon Johnson?")

19 THE WITNESS: When the -- when the title  
20 was transferred from Neldon Johnson to those  
21 individuals.

22 Q. BY MS. HEALY-GALLAGHER: When -- when did  
23 that happen?

24 **A. When the purchase occurred.**

25 Q. I'm asking for a year.

1           A.        Would be 2000 -- between 2009 and 2017.

2           Q.        And did you say when the title  
3 transferred?

4           A.        Correct.

5           Q.        What do you mean by that?

6           A.        Well, it wasn't -- it wasn't like that we  
7 owned them for the particular reason. We -- they were  
8 owned as part of inventory that was to be sold  
9 and -- and marketed.

10                    It wasn't owned, nor was it to take a --  
11 any tax credits at that time. So they were -- they  
12 were -- they were being erected to be sold to other  
13 individuals.

14                    But at the time, the person that paid for  
15 them was Mr. Johnson. And -- or -- and so the  
16 inventory was held for a resell. It wasn't held for  
17 the purpose of tax or anything like that.

18                    Mr. Johnson never took any tax credits on  
19 those items.

20           Q.        Okay. And what I want to understand is  
21 when title to the lenses transferred, to whom did it  
22 transfer?

23           A.        Well, it wasn't like title like -- like a  
24 car title. I mean, it was like a -- it was like a can  
25 of beans. If you bought a can of beans, then you got,

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 the entire grocery store's inventory and location of  
2 all their inventory on the shelves, operated through  
3 1995 in the grocery stores.

4 That portion of the program that took  
5 care of the inventory of the grocery store was  
6 transferred, a portion of that, into the program that  
7 was used to market the products that we now sell.

8 Q. Okay. Let's talk about the warranty real  
9 quick.

10 A. The warranty is a -- I think a 15-year  
11 warranty.

12 Q. Hang on, sir. I'll ask some questions  
13 and we'll --

14 A. Sorry.

15 Q. -- slow it down a little bit.

16 So my understanding is that if a customer  
17 buys a lens and that lens is installed in a tower, if  
18 that lens breaks and falls out, the lens will be  
19 replaced at no cost to the customer?

20 A. That's correct.

21 Q. That's correct.

22 But the same customer who owned the lens  
23 that fell out will own the replacement lens?

24 A. That's correct.

25 Q. And that -- and the customer was not

1 required to pay for the replacement lens?

2 **A. That's correct.**

3 **Q. Okay.**

4 **A. It's a better warranty than you get on**  
5 **any other solar energy project, by the way. It gets**  
6 **replaced no matter what breaks it.**

7 **Q. Has any customer ever asked IAS to see**  
8 **their particular lens?**

9 **A. I'm sure there has.**

10 **Q. About how many times?**

11 **A. Not aware of any, but I'm sure there has**  
12 **been. I just don't know. I don't keep record of**  
13 **something like that.**

14 **Q. Okay. So you don't know --**

15 **A. I wouldn't know, no.**

16 **Q. Sorry, let me finish the question.**

17 **So you don't know if that's happened at**  
18 **all?**

19 **A. No, I do not.**

20 **Q. Mr. Johnson, IAS purchases the lenses**  
21 **from Plaskolite. Isn't that right?**

22 **A. Yes. Yes, it is.**

23 **MS. HEALY-GALLAGHER: Next, please.**

24 **(Exhibit 518 was marked for identification.)**

25 **THE WITNESS: There's just one correction**

1 Reporter's Certificate

2

3 State of Utah )

4 County of Salt Lake )

5

6 I, Vickie Larsen, Certified Shorthand  
7 Reporter and Registered Merit Reporter, in the State of  
8 Utah, do hereby certify:

9 THAT the foregoing proceedings were taken  
10 before me at the time and place set forth herein; that  
11 the witness was duly sworn to tell the truth, the whole  
12 truth, and nothing but the truth; and that the  
13 proceedings were taken down by me in shorthand and  
14 thereafter transcribed into typewriting under my  
15 direction and supervision;

16 THAT the foregoing pages contain a true  
17 and correct transcription of my said shorthand notes so  
18 taken.

19 IN WITNESS WHEREOF, I have subscribed my  
20 name this 10th day of July, 2017.

21

22

23

24

Vickie Larsen, CSR/RMR

25