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*Attorney for Defendants RAPOWER-3, LLC, International Automated Systems, Inc., LTBI, LLC, and Neldon Johnson.*

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

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

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

Defendants.

**DEFENDANTS RAPOWER-3,  
LLC'S, INTERNATIONAL  
AUTOMATED SYSTEMS, INC.'S,  
LTBI, LLC'S, AND NELDON  
JOHNSON'S SUPPLEMENTED  
PRODUCTION OF DOCUMENTS**

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

Judge David Nuffer  
Magistrate Judge Brooke C. Wells

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Defendants, RAPOWER-3, LLC, INTERNATIONAL AUTOMATED SYSTEMS, INC., LTBI, LLC, and NELDON JOHNSON, by and through undersigned counsel, and pursuant to the Standard Protective Order, hereby provide this supplemented response to Plaintiff's request for production of documents.

Defendant reserves the right to supplement this (and every other) Response.

Without waiving any of the foregoing objections, Defendant responds as follows:

**RESPONSE:** See Documents Bate's stamped **Ra3 000001-018637**. These documents are provided as a whole in response to Plaintiff's Request for Production Nos. 1-40 and as kept in the usual course of business in lieu of organizing them to correspond to the categories of each individual request pursuant to Fed. R. Civ. P. 34(b)(2)(E)(i). No inferences should be attributed, drawn, or imputed to the produced documents from the specific wording of this individual request.

8. All documents that support your, or any defendant's statements about any System, Lens, or Component, including the statements made in the following:
  - a. The March 2, 2015 versions of the following sites on [www.rapower3.com](http://www.rapower3.com):
    - i. "Frequently Asked Questions,"
    - ii. "RaPower[-]3 Technology," a copy of which is labeled with Bates numbers US001742 through US001799
    - iii. "Opportunity Overview," a copy of which is labeled with Bates numbers US001798 through US001799.
    - iv. "RaPower[-]3 News," a copy of which is labeled with Bates numbers US001914 through US001817.
  - b. The March 3, 2015 version of the following sites on [www.iaus.com](http://www.iaus.com):
    - i. "SOLAR,"

- ii. “Solar Panels,”
- iii. “News,”
- c. “HISTORY of RAPOWER[-]3” by Shepard, a copy of which is labeled with Bates numbers US002870 through US002888.
- d. The April 7, 2014 letter from Shepard to “Department of the Treasury / Auditors and Appeals Officers,” a copy of which is labeled with Bates numbers US002866 through US002869.
- e. The March 20, 2015 letter from Shepard to “IRS Agents and Appeals Officers,” regarding “Audits of RaPower[-]3 Taxpayers,” a copy of which is labeled with Bates numbers US002672 through US002677.
- f. The March 30, 2015 letter from Shepard to “IRS Agents and Appeals Officers,” regarding “Audits of RaPower[-]3 Taxpayers and the addendum below,” a copy of which is labeled with Bates number US002854.
- g. The April 27, 2015 letter from Shepard to “IRS Agents and Appeals Officers,” regarding “Audits of RaPower[-]3 Taxpayers and the addendum below,”
- h. The September 22, 2015 version of “Holy Grail of Solar Energy,” also called “Open Letter to IRS,” site on [www.rapower3.com](http://www.rapower3.com),
- i. The December 2, 2015 version of “IAUS Response to Department of Justice’s Claims Against Its Technology” site on [www.iaus.com](http://www.iaus.com).

**Objections:** Defendant reiterates and restates each Objection from above.

While the scope of discovery is broad, it is, however, limited by the legitimate interests

of an opposing party and requires a balancing of the probative value of the information sought with the burden placed upon the Defendant. Defendant hereby objects to the Plaintiff's Discovery on the grounds that said Discovery is facially overbroad, vague, confusing, compound, ambiguous, unduly burdensome, requests irrelevant, immaterial or inadmissible information or information protected by privilege, and/or contains multipart questions in violation of law, rule or regulation.

This Request is so broad and unlimited as to time and scope as to be an unwarranted annoyance, embarrassment, and is oppressive. To comply with the request would be an undue burden and expense on the Defendant. The request is calculated to annoy and harass the Defendant.

This Request seeks discovery that is equally available to the propounding party as shall be produced in the Subpoena's of the Plaintiff to the Defendant's banks.

This Request invades the Defendant's right to privacy by asking for the requested accounts. This Request and the information sought is not relevant to the subject matter of the pending action, or if so, does not outweigh the prejudice to Defendant's constitutional right to privacy.

Defendant objects to this request because Plaintiff exceeds the number of Requests allowed by rule, including all discrete subparts.

Defendant reserves the right to supplement this (and every other) Response.

Without waiving any of the foregoing objections, Defendant responds as follows:

**RESPONSE:** See Documents Bate's stamped **Ra3 000001-018637**. These documents are

provided as a whole in response to Plaintiff's Request for Production Nos. 1-40 and as kept in the usual course of business in lieu of organizing them to correspond to the categories of each individual request pursuant to Fed. R. Civ. P. 34(b)(2)(E)(i). No inferences should be attributed, drawn, or imputed to the produced documents from the specific wording of this individual request.

9. All documents which support all patents used for or in any System, including all such patents identified on the March 2, 2015 version of the "Patents" site on [www.rapower3.com](http://www.rapower3.com).

**Objections:** Defendant reiterates and restates each Objection from above.

While the scope of discovery is broad, it is, however, limited by the legitimate interests of an opposing party and requires a balancing of the probative value of the information sought with the burden placed upon the Defendant. Defendant hereby objects to the Plaintiff's Discovery on the grounds that said Discovery is facially overbroad, vague, confusing, compound, ambiguous, unduly burdensome, requests irrelevant, immaterial or inadmissible information or information protected by privilege, and/or contains multipart questions in violation of law, rule or regulation.

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10. All documents which support the statement made in the document titled "New Solar Breakthrough May Compete with Gas" from [www.iaus.com](http://www.iaus.com).

**Objections:** Defendant reiterates and restates each Objection from above.

While the scope of discovery is broad, it is, however, limited by the legitimate interests

of an opposing party and requires a balancing of the probative value of the information sought with the burden placed upon the Defendant. Defendant hereby objects to the Plaintiff's Discovery on the grounds that said Discovery is facially overbroad, vague, confusing, compound, ambiguous, unduly burdensome, requests irrelevant, immaterial or inadmissible information or information protected by privilege, and/or contains multipart questions in violation of law, rule or regulation.

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11. All documents which support the statements made in the document titled "IAUS Technical Overview" from [www.iaus.com](http://www.iaus.com), a copy of which is labeled with Bates numbers US001851 through US001890.

**Objections:** Defendant reiterates and restates each Objection from above.

While the scope of discovery is broad, it is, however, limited by the legitimate interests of an opposing party and requires a balancing of the probative value of the information sought with the burden placed upon the Defendant. Defendant hereby objects to the Plaintiff's Discovery on the grounds that said Discovery is facially overbroad, vague, confusing, compound, ambiguous, unduly burdensome, requests irrelevant, immaterial or inadmissible information or information protected by privilege, and/or contains multipart questions in violation of law, rule or regulation.

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Defendant reserves the right to supplement this (and every other) Response.

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12. All schematics, engineering or manufacturing drawings, or specifications for any System, Lens, or Component.

**Objections:** Defendant reiterates and restates each Objection from above.

While the scope of discovery is broad, it is, however, limited by the legitimate interests

of an opposing party and requires a balancing of the probative value of the information sought with the burden placed upon the Defendant. Defendant hereby objects to the Plaintiff's Discovery on the grounds that said Discovery is facially overbroad, vague, confusing, compound, ambiguous, unduly burdensome, requests irrelevant, immaterial or inadmissible information or information protected by privilege, and/or contains multipart questions in violation of law, rule or regulation.

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Defendant objects to this request because Plaintiff exceeds the number of Requests allowed by rule, including all discrete subparts.

Defendant reserves the right to supplement this (and every other) Response.

Without waiving any of the foregoing objections, Defendant responds as follows:

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13. All documents relating to the expected or actual performance (whether in testing or in active operation) of any System, Lens, or Component, including data and documents for any testing that you have performed, or that you have had performed, on any System, Lens, or Component.

**Objections:** Defendant reiterates and restates each Objection from above.

While the scope of discovery is broad, it is, however, limited by the legitimate interests of an opposing party and requires a balancing of the probative value of the information sought with the burden placed upon the Defendant. Defendant hereby objects to the Plaintiff's Discovery on the grounds that said Discovery is facially overbroad, vague, confusing, compound, ambiguous, unduly burdensome, requests irrelevant, immaterial or inadmissible information or information protected by privilege, and/or contains multipart questions in violation of law, rule or regulation.

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14. All documents showing the manufacturer of all Lenses or Components, the model number (if any) for such Lenses or Components, the price you paid for such Lenses or Components.

kept in the usual course of business in lieu of organizing them to correspond to the categories of each individual request pursuant to Fed. R. Civ. P. 34(b)(2)(E)(i). No inferences should be attributed, drawn, or imputed to the produced documents from the specific wording of this individual request.

20. All documents that identify the past, current, or expected future product of any System (for example: electricity, heat, cooling, hot water, or solar process heat). Include documents that quantify the past, current, or expected future volume of product and any contracts, inquiries, or solicitations for the purchase or other use of the end product, including power purchase agreements.

**Objections:** Defendant reiterates and restates each Objection from above.

While the scope of discovery is broad, it is, however, limited by the legitimate interests of an opposing party and requires a balancing of the probative value of the information sought with the burden placed upon the Defendant. Defendant hereby objects to the Plaintiff's Discovery on the grounds that said Discovery is facially overbroad, vague, confusing, compound, ambiguous, unduly burdensome, requests irrelevant, immaterial or inadmissible information or information protected by privilege, and/or contains multipart questions in violation of law, rule or regulation.

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21. Documents sufficient to show all costs that you have, or any person or entity has, incurred or will incur to manufacture, build, test, or operate any System, Lens, or Component. Include all documents that show or explain the past or anticipated

annoyance, embarrassment, and is oppressive. To comply with the request would be an undue burden and expense on the Defendant. The request is calculated to annoy and harass the Defendant.

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**RESPONSE:** See Documents Bate's stamped **Ra3 000001-018637**. These documents are provided as a whole in response to Plaintiff's Request for Production Nos. 1-40 and as kept in the usual course of business in lieu of organizing them to correspond to the categories of each individual request pursuant to Fed. R. Civ. P. 34(b)(2)(E)(i). No inferences should be attributed, drawn, or imputed to the produced documents from the specific wording of this individual request.

30. All documents containing facts or law that support your, or any Defendant's

statements regarding the actual or potential federal tax consequences for a Customer upon paying money for a Lens, including the statements:

- a. on the March 2, 2015 versions of the following sites on www.rapower3.com:
  - i. “Turn Your Tax Liabilities Into Assets,” a copy of which is labeled with Bates numbers US001734 through US001735 and attached as Pl.’s Ex. 24;
  - i. “Satisfying the IRS Depreciation Conditions,” a copy of which is labeled with Bates numbers US001738 through US001739 and attached as Pl.’s Ex. 25;
  - iii. “RaPower[-]3 Basics,” a copy of which is labeled with Bates numbers US001740 through US001741 and attached as Pl.’s Ex. 26;
  - iv. “Tax Information,” a copy of which is labeled with Bates numbers US001747 through US001748 and attached as Pl.’s Ex. 27;
  - v. “Your Big and Quick Payout,” a copy of which is labeled with Bates numbers US001793 through US001795 and attached as Pl.’s Ex. 19;
  - vi. “Opportunity Overview,” attached as Pl.’s Ex. 5; and
- b. in the undated memorandum from Shepard entitled “Tax Benefits for Jim,” a copy of which is labeled with Bates number US002865 and attached as Pl.’s Ex. 28;
- c. in the email from Shepard sent February 2, 2011, regarding “Ra3 Questions Answered,” a copy of which is labeled with Bates number US001523 and attached as Pl.’s Ex. 29; Status,” a copy of which is labeled with Bates number US001116 and attached as Pl.’s Ex. 30, including the two documents identified as attachments to Pl.’s Ex. 30: “Ra3 Active’Passive



Rulesa.doc” and “Ra3 Active’Passive Rules.docx”;

e. in the email from Shepard sent November 7, 2013, regarding “Ra3 Vital Tax Info,” a copy of which is labeled with Bates numbers US001532 through US001535 and attached as Pl.’s Ex. 31;

f. in the email from Shepard sent November 11, 2013, regarding “Ra3 Audit/Appeal Great Info,” a copy of which is labeled with Bates number US001528 and attached as Pl.’s Ex. 32;

g. on the May 1, 2014 version of “Turn Your Tax Liabilities Into Assets” on www.rapower3.com, attached as Pl.’s Ex. 20;

h. in the undated memorandum “IRS AUDIT/APPEAL BASICS,” a copy of which is labeled with Bates numbers US001120 through US001122 and attached as Pl.’s Ex. 33;

i. in the March 20, 2015 letter from Shepard to “IRS Agents and Appeals Officers,” regarding “Audits of RaPower[-]3 Taxpayers,” attached as Pl.’s Ex. 10;

j. in the March 30, 2015 letter from Shepard to “IRS Agents and Appeals Officers,” regarding “Audits of RaPower[-]3 Taxpayers and the addendum below,” attached as Pl.’s Ex. 11;

k. in the April 27, 2015 letter from Shepard to “IRS Agents and Appeals Officers,” regarding “Audits of RaPower[-]3 Taxpayers and the addendum below,” attached as Pl.’s Ex. 12;

l. on the September 22, 2015 version of “Holy Grail of Solar Energy,” also called “Open Letter to IRS,” site on www.rapower3.com, attached as Pl.’s Ex. 13.

**Objections:** Defendant reiterates and restates each Objection from above.

While the scope of discovery is broad, it is, however, limited by the legitimate interests of an opposing party and requires a balancing of the probative value of the information sought with the burden placed upon the Defendant. Defendant hereby objects to the Plaintiff's Discovery on the grounds that said Discovery is facially overbroad, vague, confusing, compound, ambiguous, unduly burdensome, requests irrelevant, immaterial or inadmissible information or information protected by privilege, and/or contains multipart questions in violation of law, rule or regulation.

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Defendant objects to this request because Plaintiff exceeds the number of Requests allowed by rule, including all discrete subparts.

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Without waiving any of the foregoing objections, Defendant responds as follows:

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31. All documents reflecting correspondence from you, or any Defendant regarding the operation, or anticipated operation of any System, Component, or Lens to:
- a. any Defendant;
  - b. any Customer;
  - c. any potential Customer;
  - d. any Sponsor;
  - e. any Distributor;
  - f. any employee or agent of the IRS; and
  - g. any person who prepared a tax return for any Customer, represented a Customer before the IRS or provided tax advice to any Customer, including:
    - i. John Howell;
    - ii. Lori Gailey;
    - iii. Bryan Bolander;
    - iv. Kenneth Alexander;

inferences should be attributed, drawn, or imputed to the produced documents from the specific wording of this individual request.

DATED and SIGNED this 13th day of January, 2017.

**HEIDEMAN & ASSOCIATES**

/s/ Justin D. Heideman

JUSTIN D. HEIDEMAN,

*Attorney for IAS, LLC, RAPOWER-3, and LTBI,  
LLC*

JUSTIN D. HEIDEMAN (USB #8897)  
**HEIDEMAN & ASSOCIATES**  
2696 North University Avenue, Suite 180  
Provo, Utah 84604  
Telephone: (801) 472.7742  
Facsimile: (801) 374-1724  
Email: jheideman@heidlaw.com

*Attorney for Defendants RApower-3, LLC, International Automated Systems, Inc., LTBI, LLC, and Neldon Johnson.*

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

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UNITED STATES OF AMERICA,  
  
Plaintiff,

vs.

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

Defendants.

**NOTICE OF SERVICE OF  
DEFENDANTS RAPOWER-3,  
LLC’S, INTERNATIONAL  
AUTOMATED SYSTEMS, INC.’S,  
LTBI, LLC’S, AND NELDON  
JOHNSON’S SUPPLEMENTED  
PRODUCTION OF DOCUMENTS**

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

Judge David Nuffer  
Magistrate Judge Brooke C. Wells

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Defendants, RAPOWER-3, LLC, INTERNATIONAL AUTOMATED  
SYSTEMS, INC., LTBI, LLC, and NELDON JOHNSON, by and through undersigned counsel,  
hereby provide NOTICE of service *Defendants RaPower-3, LLC, International Automated  
Systems, Inc. ’s, and LTBI, LLC’s Supplemented Production of Documents* in response to

Plaintiff's First Requests for the Production of Documents, which was served on Plaintiff, together with this Notice, on this 13th day of January, 2017.

DATED and SIGNED this 13th day of January, 2017.

**HEIDEMAN & ASSOCIATES**

*/s/ Justin D. Heideman*

JUSTIN D. HEIDEMAN,

*Attorney for IAS, LLC, RAPOWER-3, and LTBI,  
LLC*

**CERTIFICATE OF SERVICE**

On this 13th day of January, 2017, I hereby certify a true and correct copy of the forgoing **NOTICE OF SERVICE OF DEFENDANTS RAPOWER-3, LLC'S, INTERNATIONAL AUTOMATED SYSTEMS, INC.'S, LTB1, LLC'S, AND NELDON JOHNSON'S SUPPLEMENTED PRODUCTION OF DOCUMENTS** was served on the following:

Party/Attorney	Method
<p><i>Former Attorneys for Defendants</i>  James S. Judd  Richard A. Van Wagoner  Rodney R. Parker  Samuel Alba  Snow Christensen &amp; Martineau  10 Exchange Place 11<sup>th</sup> FL  P.O. Box 45000  Salt Lake City, Utah 84145  Tele: (801) 521-9000  Email: <a href="mailto:jsj@scmlaw.com">jsj@scmlaw.com</a>  <a href="mailto:rwanwagoner@scmlaw.com">rwanwagoner@scmlaw.com</a>  <a href="mailto:rparker@scmlaw.com">rparker@scmlaw.com</a>  <a href="mailto:sa@scmlaw.com">sa@scmlaw.com</a></p>	<p>Hand Delivery  U.S. Mail, postage prepaid  Overnight Mail  Fax Transmission  <input checked="" type="checkbox"/> Electronic Filing Notice</p>
<p><i>Attorney for Defendants</i>  R. Gregory Shepard  Roger Freeborn  Donald S. Reay  Reay Law PLLC  43 W 9000 S Ste B  Sandy, Utah 84070  Tele: (801) 999-8529  Email: <a href="mailto:donald@reaylaw.com">donald@reaylaw.com</a></p>	<p>Hand Delivery  U.S. Mail, postage prepaid  Overnight Mail  Fax Transmission  <input checked="" type="checkbox"/> Electronic Filing Notice</p>
<p><i>Pro Hac Vice Attorney for Plaintiff</i>  Erin Healy Gallagher  US Department of Justice (TAX)  Tax Division  P.O. Box 7238  Washington, DC 20044  Phone: (202) 353-2452</p>	<p>Hand Delivery  U.S. Mail, postage prepaid  Overnight Mail  Fax Transmission  <input checked="" type="checkbox"/> Electronic Filing Notice</p>

Email: <a href="mailto:erin.healygallagher@usdoj.gov">erin.healygallagher@usdoj.gov</a>	
<i>Pro Hac Vice Attorney for Plaintiff</i> Erin R. Hines US Department Justice Central Civil Trial Section RM 8921 555 4 <sup>th</sup> St NW Washington, DC 20001 Tele: (202) 514-6619 Email: <a href="mailto:erin.r.hines@usdoj.gov">erin.r.hines@usdoj.gov</a>	Hand Delivery U.S. Mail, postage prepaid Overnight Mail Fax Transmission <input checked="" type="checkbox"/> Electronic Filing Notice
<i>Attorney for Plaintiff</i> John K. Mangum US Attorney's Office (UT) Tele: (801) 325-3216 Email: <a href="mailto:john.mangum@usdoj.gov">john.mangum@usdoj.gov</a>	Hand Delivery U.S. Mail, postage prepaid Overnight Mail Fax Transmission <input checked="" type="checkbox"/> Electronic Filing Notice
<i>Pro Hac Vice Attorney for Plaintiff</i> Christopher R. Moran US Department of Justice (TAX) Tax Division PO Box 7238 Washington, DC 20044 Tele: (202) 307-0234 Email: <a href="mailto:christopher.r.moran@usdoj.gov">christopher.r.moran@usdoj.gov</a>	Hand Delivery U.S. Mail, postage prepaid Overnight Mail Fax Transmission <input checked="" type="checkbox"/> Electronic Filing Notice

**HEIDEMAN & ASSOCIATES**

*/s/ Wendy Poulsen*

Wendy Poulsen Legal Assistant