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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RAPOWER-3, LLC, INTERNATIONAL
AUTOMATED SYSTEMS, INC., LTB1,
LLC, R. GREGORY SHEPARD,
NELDON JOHNSON, and ROGER
FREEBORN,

Defendants.

Civil No. 2:15-cv-00828 DN

**UNITED STATES' MOTION TO
ENLARGE TIME TO SUBMIT DRAFT
OPINION AND ORDER**

Judge David Nuffer
Magistrate Judge Evelyn J. Furse

Pursuant to Fed. R. Civ. P. 6(b)(1), and for the following good cause, the United States respectfully moves for an enlargement of time to provide the draft opinion and order to counsel for Defendants and the Court.

On June 22, 2018, this Court ordered that the United States prepare a draft opinion and order resolving the claims in this case by July 13.¹ The also Court ordered that Defendants submit their objections to the draft opinion and order by July 27.²

On July 2, Defendants filed a Notice that RaPower-3, LLC, had declared bankruptcy on June 29.³ On July 3, the Court emailed its notes from trial and a base document for the opinion and order to all counsel so that the United States could integrate the information into a draft opinion and order. Then, on July 5, all counsel received an ECF Notice stating “Case Stayed per [424] Notice of Filing of Bankruptcy.”⁴

Upon receiving the July 5 ECF Notice, counsel for the United States was under the impression that this Court had stayed this case, including the submission of the draft opinion and order. Not wishing to violate such a stay, counsel for the United States did not plan to submit its opinion and order to counsel for Defendants or the Court by today, July 13. Instead, the United States filed a motion to vacate, in part, the July 5 order because many actions remaining in this case are excepted from the automatic stay that arose upon the filing of RaPower-3’s bankruptcy

¹ Tr. 2532:16-2533:13.

² Tr. 2532:16-2533:13.

³ [ECF No. 424](#).

⁴ Docket Entry, July 5, 2018 (no docket number).

petition.⁵ This Court ordered expedited briefing on that motion, and instructed that it had not ordered a stay; rather, the July 5 ECF Notice was a docket notation.⁶

In light of undersigned counsel's misimpression and the briefing ordered by this Court on the United States' motion to vacate, in part, the July 5 docket entry, we ask that the Court establish a new deadline for the United States to submit its draft opinion and order: 14 days after the date of the order on the motion to vacate.

Defendants will not be prejudiced by this delay. They have had the documents that will be integrated into the United States' draft opinion and order since July 3 and they will have the same amount of time to lodge objections as they had under the Court's June 22 instructions.⁷

The United States is attaching, and will email, a proposed order granting the relief we request.

⁵ ECF No. 429

⁶ [ECF No. 430](#).

⁷ *See* Tr. 2532:16-2533:13.

Dated: July 13, 2018

Respectfully submitted,

/s/ Erin Healy Gallagher

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***ATTORNEYS FOR THE
UNITED STATES***

CERTIFICATE OF SERVICE

I hereby certify that on July 13, 2018 the foregoing document was electronically filed with the Clerk of the Court through the CM/ECF system, which sent notice of the electronic filing to all counsel of record.

/s/ Erin Healy Gallagher _____
ERIN HEALY GALLAGHER
Trial Attorney