

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

UNIVERSITY OF MASSACHUSETTS	)	
MEDICAL SCHOOL and CARMEL	)	
LABORATORIES, LLC,	)	
	)	
Plaintiffs,	)	
	)	C.A. No. 17-868-JFB-SRF
v.	)	
	)	
L'ORÉAL S.A. and L'ORÉAL USA, INC.,	)	
	)	
Defendants.	)	

**DECLARATION OF KATHERINE F. MURRAY  
IN SUPPORT OF DEFENDANT L'ORÉAL USA, INC.'S  
MOTION TO DISMISS PLAINTIFFS' FIRST AMENDED COMPLAINT**

I, Katherine F. Murray, declare as follows:

1. I am an attorney at Paul Hastings LLP (“Paul Hastings”) representing Defendants L’Oréal USA, Inc. (“L’Oréal USA”) and L’Oréal S.A. in this case. I offer this declaration in support of L’Oréal USA’s Opening Brief in Support of L’Oréal USA’s Motion to Dismiss.

2. On June 30, 2017, Plaintiffs University of Massachusetts Medical School (“UMass”) and Carmel Laboratories, LLC (“Carmel Labs”) (collectively “Plaintiffs”) filed a complaint (the “Complaint”) against L’Oréal USA and L’Oréal S.A. alleging infringement of U.S. Patent No. 6,423,327 (the “’327 patent”) and U.S. Patent No. 6,645,513 (the “’513 patent”).

3. On July 7, 2017, my colleague, Naveen Modi, sent a letter to Carmel Labs’ counsel, Matthew B. Lowrie, notifying him of L’Oréal USA’s concerns regarding certain pleading deficiencies in Plaintiffs’ Complaint in view of Fed. R. Civ. P. (“Rule”) 8(a)(2) and 11. Mr. Modi’s letter also explained that in response to pre-complaint correspondence—in which

Plaintiffs previously alleged infringement of the '327 and '513 patents—Plaintiffs were repeatedly asked to provide a basis for their allegations. Plaintiffs, however, never responded to these requests. In view of these issues, L'Oréal USA requested that Plaintiffs immediately provide an adequate basis for their Complaint or dismiss their Complaint.

4. On July 10, 2017 Plaintiffs' counsel, Justin Nelson, responded to Mr. Modi's letter. Instead of addressing L'Oréal USA's request, dismissing the Complaint, or agreeing to further discussions, Plaintiffs' counsel challenged L'Oréal USA, stating "if . . . you believe in good faith that we have not adequately pleaded something, then make your motion."


5. Attached hereto as Exhibit "A" is a true and correct copy of the July 7, 2017 letter from Naveen Modi, counsel for L'Oréal USA, to Matthew D. Lowrie, counsel for Carmel Labs, wherein L'Oréal USA explains deficiencies in Plaintiffs' Complaint under Rules 8 and 11, describes past correspondence, and requests that Plaintiffs provide a basis for their Complaint or dismiss their Complaint.

6. Attached hereto as Exhibit "B" is a true and correct copy of the July 10, 2017 email from Justin Nelson, counsel for Plaintiffs, to Naveen Modi counsel for L'Oréal USA responding to L'Oréal USA's letter and challenging L'Oréal USA to "make your motion."

7. Attached hereto as Exhibit "C" is a true and correct copy of Abella, M. L., *Evaluation of Anti-Wrinkle Efficacy of Adenosine-Containing Products Using the FOITS Technique*, International Journal of Cosmetic Science 28, 447-51 (2006), that is referenced in Plaintiffs' Complaint (D.I. 1, ¶¶ 26-27) and cited in an exhibit thereto (D.I. 1-6 at 5).

8. Attached hereto as Exhibit "D" is a Redline Comparison of Plaintiffs' June 30, 2017 Complaint, D.I. 1, and Plaintiffs' August 18, 2017 First Amended Complaint, D.I. 13.

I declare under penalty of perjury that the foregoing is true and correct.



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Katherine F. Murray (*Pro Hac*)

Dated: August 23, 2017