

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

UNIVERSITY OF MASSACHUSETTS
MEDICAL SCHOOL and CARMEL
LABORATORIES, LLC,

C.A. No. 17-868-CFC-SRF

Plaintiffs,

v.

L'ORÉAL S.A. and L'ORÉAL USA, INC.,

Defendants

**DEFENDANT L'ORÉAL S.A.'S RESPONSE TO PLAINTIFFS' OBJECTIONS TO
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

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I. INTRODUCTION

This Court should overrule Plaintiffs University of Massachusetts Medical School and Carmel Laboratories, LLC's (collectively, "Plaintiffs") Objections to the Report and Recommendation ("R&R") (D.I. 31) in their entirety. Plaintiffs' Objections are comprised solely of arguments that have already been thoughtfully considered, and rejected, by the Magistrate. Specifically, Plaintiffs do nothing more than reiterate their argument that L'Oréal S.A. is subject to specific personal jurisdiction in this forum under an agency theory, asserting that L'Oréal USA, Inc. ("L'Oréal USA") is L'Oréal S.A.'s agent. Plaintiffs fail to point to anything specifically from the underlying record that the R&R misconstrued in holding that the Court lacks personal jurisdiction over L'Oréal S.A. This alone provides sufficient grounds to overrule the Objections. *See VanDiver v. Martin*, 304 F. Supp. 2d 934, 937 (E.D. Mich. 2004) ("An 'objection' that does nothing more than state a disagreement with a magistrate's suggested resolution . . . is not an 'objection' . . .").

Putting this procedural infirmity aside, Plaintiffs' Objections also should be overruled because they are substantively deficient. Plaintiffs assert that, because the First Amended Complaint ("FAC") concludes that there exists an agency relationship between L'Oréal S.A. and L'Oréal USA, then the FAC is not amenable to a Rule 12(b)(2) challenge. (D.I. 32 at 2.) Plaintiffs are mistaken. First, while at the pleading stage the Court must accept facts alleged in a complaint as true, it need not — and should not — accept conclusions of law. *See Gibbs v. Coupe*, 192 F. Supp. 3d 503, 506 (D. Del. 2016) (noting that allegations that are no more than conclusions are not entitled to the assumption of truth); *Sieg v. Sears Roebuck & Co.*, 855 F. Supp. 2d 320, 327 n.3 (M.D. Pa. 2012) ("The court will not consider statements of legal conclusions in examining whether personal jurisdiction exists."). Moreover, Plaintiffs' position

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