EXHIBIT A

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July 7, 2017

Matthew B. Lowrie
Foley & Lardner LLP
111 Huntington Avenue
Suite 2600
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Re: *Univ. of Mass. Med. School and Carmel Labs., LLC v. L'Oréal S.A. and L'Oréal USA, Inc., 1:17-cv-08868-UNA (D. Del.)*

Dear Matt:

We have been engaged by L'Oréal USA, Inc. for the above-referenced matter. We have reviewed the Complaint filed in this matter, alleging infringement of U.S. Patent Nos. 6,423,327 (the "'327 patent") and 6,645,513 (the "'513 patent"). We have some serious concerns regarding the propriety of the Complaint.

As you are aware, Rule 8 requires "a short and plain statement of [each] claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). This standard "demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Complaints must allege sufficient facts to "raise a right to relief above the speculative level . . . ." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Plaintiffs have not met their pleading burden.

For example, as set forth at ¶12, the Complaint admits that claim 1 of both of the '327 and '513 patents requires that the "adenosine concentration applied to the dermal cells is 10^{-4} M to 10^{-7} M," and "10^{-3} M to 10^{-7} M," respectively. As an initial matter, although the Complaint identified numerous brands "with products containing adenosine," only one product (L'Oréal Paris' RevitaLift Triple Power Deep-Acting Moisturizer) is identified as an "Accused Adenosine Product." Complaint, ¶¶31, 34. However, nowhere in the Complaint do Plaintiffs even attempt to allege that this sole Accused Adenosine Product meets the adenosine concentration claim requirement for either the '327 or '513 patents. Indeed, there is no assertion regarding the amount of adenosine in the sole Accused Adenosine Product, or any product of the identified brands. As such, the Complaint fails, on its face, to meet the proper pleading standard of Rule 8.

You are aware that the pre-suit investigation mandated by Rule 11 requires a review of all relevant materials, including the prosecution history of the asserted patents. *See, e.g., Vehicle Operation Techs. LLC v. Am. Honda Motor Co.*, 67 F. Supp. 3d 637 (D. Del. Sept. 12, 2014). In order to overcome a prior art rejection during prosecution of the '327 patent (to which the '513 patent also claims priority), Applicants distinguished over a composition containing an adenosine concentration of 0.033% (*i.e.*, one third of 0.1%). *See, e.g.*, Amendment mailed February 11, 2002 ("Amendment"), and accompanying Declaration Under 37 C.F.R. § 1.132 ("Declaration") in U.S. Patent Application No. 09/672,348. As such, Plaintiffs cannot now try to cover any method using a composition containing an adenosine concentration greater than required by the claims of the '327 and '513 patents. In this regard, we presume that the only Accused Adenosine Product identified in the Complaint, L'Oréal Paris' RevitaLift Triple Power Deep-Acting Moisturizer, was appropriately analyzed in Plaintiffs' pre-suit investigation required by Rule 11. Such testing would have shown that the amount of adenosine present in this lone Accused Adenosine Product falls outside the claimed range of both the '327 or the '513 patents. Thus, Plaintiff's identification

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of L'Oréal Paris' RevitaLift Triple Power Deep-Acting Moisturizer as the single Accused Adenosine Product fails to satisfy Plaintiffs' burden under either Rules 8 or 11.

We understand that, over the past two years, Plaintiffs have been repeatedly asked for identification of allegedly infringing products and the basis for any possible claim of infringement (*e.g.*, testing results demonstrating that use of any product falls within the scope of the claims). Because this information was not provided despite repeated requests, and is notably absent from the Complaint, we are left to conclude that there is no reasonable basis for the accusation of infringement in the Complaint.

In view of the foregoing, we ask that Plaintiffs immediately provide an adequate basis for the Complaint or dismiss their Complaint. If Plaintiffs fail to do so by July 14, 2017, we reserve the right to seek appropriate relief from the Court, including but not limited to a request for dismissal with prejudice, attorney fees, and costs.

Sincerely,

Naveen Modi
Global Vice Chair of IP

cc: Brian E. Farnan
Michael J. Farnan
William Christopher Carmody
Tamar E. Lusztig
Justin A. Nelson
Matthew A. Ambros