

# EXHIBIT “A”

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

UNIVERSITY OF MASSACHUSETTS and  
CARMEL LABORATORIES, LLC,

Plaintiffs,

v.

L'ORÉAL USA, INC.,

Defendant.

Case No. 17-cv-868-CFC-SRF

**PLAINTIFFS' SUPPLEMENTAL OBJECTIONS AND RESPONSES TO  
DEFENDANT L'ORÉAL USA, INC.'S FIRST SET OF REQUESTS FOR THE  
PRODUCTION OF DOCUMENTS AND THINGS TO PLAINTIFFS  
(NOS. 1-131)**

Pursuant to Federal Rule of Civil Procedure 34 and the Local Rules of this Court, Plaintiffs University of Massachusetts (“UMass”) and Carmel Laboratories, LLC (“Carmel Labs” and, together, “Plaintiffs”) submit supplemental objections and responses to certain of the First Set of Requests for Production (“Requests”) of Defendant L’Oréal USA, Inc., dated September 11, 2019.

**PRELIMINARY STATEMENT**

1. These answers are made solely for the purpose of this action. Each answer is subject to all objections, as to competence, relevance, materiality, propriety, and admissibility, and to any and all other objections on any grounds that would require the exclusion of any statements contained herein if such interrogatory were asked of, or statements contained herein were made by a witness present and testifying in Court, all of which objections and grounds are expressly reserved and may be interposed at the time of trial.

2. Plaintiffs’ responses are based upon information presently available to and located

by Plaintiffs. Plaintiffs have not completed investigation of the facts relating to this case, discovery in this action, or preparation for trial. The responses are given without prejudice to Plaintiffs' right to produce evidence of any additional facts. As such, these responses are subject to supplementation and amendment as discovery in this case progresses, should future investigation or discovery indicate that supplementation or amendment is necessary. Plaintiffs reserve the right to make any use of, or introduce at any hearing or trial, information or documents that are responsive to these Requests, but discovered subsequent to Plaintiffs' service of these responses, including, but not limited to, any information or documents obtained in discovery herein.

3. No incidental or implied admissions are intended by the responses herein. The fact that Plaintiffs have responded to any Request should not be taken as an admission that Plaintiffs accept or admit the existence of any "fact" set forth or assumed by such Request. That Plaintiffs have answered all or part of any Request is not intended to be, and shall not be construed to be, a waiver by Plaintiffs of any objection to any Request or any portion of any Request.

### **GENERAL OBJECTIONS**

Plaintiffs make the following numbered general objections to the requests, instructions, and definitions set forth in Defendant's Requests, which objections are incorporated by reference into each and every request response that follows:

1. Plaintiffs object to each Request and the Definitions and Instructions to the extent they seek to impose any obligation or duty upon Plaintiffs greater or different than those required by the Federal Rules of Civil Procedure, the Local Rules for the United States District Court for the District of Delaware, any other applicable local rules, or any order entered in this case.

2. Plaintiffs object to each Request to the extent it seeks documents, or things (a) not maintained in the ordinary course of business, and/or (b) the collection of which would

require an unreasonable amount of time and resources.

3. Plaintiffs object to each Request as unduly burdensome to the extent it seeks information, documents, or things that (a) are not in Plaintiffs' possession, custody, or control as those terms are defined in Federal Rule of Civil Procedure 34, or (b) are as easily available to Defendant.

4. Plaintiffs object to each Request to the extent it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the joint defense or common-interest privilege, or any other privilege or immunity under federal or state statutory, constitutional or common law. The inadvertent production of any information or documents that contain information that is privileged, were prepared in anticipation of litigation or for trial, or that are otherwise protected from discovery, shall not constitute a waiver of any privilege or of any ground for objection to discovery with respect to such document, or the subject matter thereof, or of the right of Plaintiffs to object to the use of any such document or information during any subsequent proceeding, hearing, or trial. Plaintiffs will produce a privilege log of any responsive, privileged documents withheld from production, subject to the reservation that work product and attorney-client privileged documents generated after the filing date of the instant action need not be identified on the privilege log.

5. Plaintiffs object to the extent that each Request fails to specify a reasonable time period for which information is sought, or is not limited by a reasonable or relevant time period, and consequently is overbroad, unduly burdensome, and/or not relevant to a claim or defense of a party and not reasonably calculated to lead to the discovery of admissible evidence.

6. Identification or production of documents or information responsive to any request should not be construed as:

a) an admission or stipulation that the documents or their content or subject

matter are relevant;

b) a waiver by Plaintiffs of their General Objections or of the specific objections asserted in response to a specific request; or

c) an agreement that requests for similar information will be treated in a similar manner.

7. Plaintiffs object to each Request to the extent it seeks “all” subject matter as overbroad and unduly burdensome. “All” shall be understood to mean the information, documents, or things that Plaintiffs are able to locate using reasonable diligence and judgment concerning the whereabouts of responsive information, documents, or things. Such phraseology should not be construed as a representation that each and every piece of information, documents, or things in the possession of Plaintiffs has been examined in connection with these responses or any production pursuant thereto.

8. Plaintiffs object to each Request to the extent it calls for production of electronically stored information (ESI) beyond the requirements of this District’s default ESI order.

9. Plaintiffs object to each Request to the extent it calls for the production of information, documents, or things that are publicly available or within Defendant’s custody or control. Plaintiffs will not produce information, documents, or things that are publicly available or within Defendant’s custody or control.

10. Plaintiffs object to each Request to the extent it calls for the production of information, documents, or things that are within the custody or control of the patent inventors, who are third parties. Plaintiffs will endeavor to collect and produce responsive, relevant documents in the possession of the third-party inventors as a courtesy, not an obligation.

11. Plaintiffs object to the definitions of “You,” “Your,” “UMass,” “Carmel Labs,”

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