

**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

**[PROPOSED] ORDER**

**THIS MATTER** having been brought before the Court on Motion by Plaintiffs University of Massachusetts and Carmel Laboratories, LLC, seeking relief regarding Defendant's document production deficiencies; and the Court having considered the parties' positions as set forth in the letters submitted on March 19 and 20, 2020, and during the March 26, 2020 hearing;

**IT IS** on this \_\_\_\_\_ day of March, 2020, hereby:

**ORDERED** that Plaintiffs' Motion is hereby GRANTED; and it is further

**ORDERED** that:

- (1) Defendant shall produce, on or before **March 30, 2020**, any outstanding marketing or testing materials related to the Accused Products or the use of adenosine in Defendant's products, including internal communications, market analyses, business plans, product development plans and/or timelines and/or product lifecycle documents, sales forecasts, documents regarding consumer demand; documents regarding its testing protocols, processes, or reasons for conducting such tests; and any internal documents related to its decision to include adenosine in its products;
- (2) Defendant shall provide, on or before **March 30, 2020**, certification under oath by lead counsel and by L'Oréal USA that L'Oréal USA has completely searched for and produced all relevant and non-privileged documents responsive to each of Plaintiffs' Requests for Production, the Court's February 18 Order, and all documents required to be

produced by Paragraph 6 of the Court's Scheduling Order, in its possession, custody, or control (including but not limited to documents created by L'Oréal, S.A., to the extent L'Oréal USA has access to them);

- (3) Defendant shall provide a single witness who can knowledgeably testify on the topics identified in Plaintiffs' February 21 deposition notice, for a deposition to take place on or before **April 3, 2020**;
- (4) Defendant shall produce documents responsive to Plaintiffs' Requests for Production No. 8, 25, 49, 50, and 65, including all documents related to any adenosine penetration testing of the Accused Products, reports and deposition testimony from their damages experts in the *Liqwd* case, and any documents produced to the FTC or another agency that refer or relate to the Accused Products; and
- (5) The parties shall appear for a telephonic conference on **April 5, 2020**, at \_\_\_\_\_ to discuss any remaining issues related to Defendant's document production or the deposition.

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The Honorable Sherry R. Fallon.