

**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

NOTICE OF DEPOSITION PURSUANT TO RULE 30(b)(6)

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, on April 23, 2020, via remote deposition software, counsel for the University of Massachusetts and Carmel Laboratories, LLC, will take the videotaped deposition of the designated representative of L'Oréal USA, Inc., best able to testify as to the matters set forth in Exhibit 1. L'Oréal USA, Inc., has a duty to designate one or more officers, directors, managing agents, or other persons with sufficient knowledge to testify fully regarding the topics listed in Exhibit 1.

The deposition will be taken before a Notary Public or some other officer authorized by law to administer oaths, who will appear remotely, for use at trial. The above deposition will be recorded by stenographic means, audiotaped, videotaped, and/or transcribed using realtime interactive transcription (e.g., LiveNote). Further, given the deposition will be taken remotely, it may feature instant audio and visual display of each participant, include real-time electronic recording and capture of exhibits, and utilize paperless exhibit display. The deposition will continue from day to day until completed.

DATED: April 15, 2020

Respectfully submitted,

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EXHIBIT 1

Definitions

1. The terms “Defendant,” “You,” “Your,” or “L’Oréal” shall refer to defendant L’Oréal USA, Inc., and shall include L’Oréal S.A. as well as L’Oréal USA Inc.’s parent, subsidiaries, affiliates, divisions, successors or assignees, and their respective officers, directors, employees, consultants, representatives, and agents.
2. The term “Document” or “Documents” is used in the broadest sense permitted by the Federal Rules of Civil Procedure and means the original (or any copy when originals are not available) and any drafts or non-identical copies thereof.
3. The terms “Asserted Patents” and “Patents-in-Suit” shall mean United States Patents No. 6,423,327 and 6,645,513.
4. The term “Accused Products” refers to the products listed in Exhibit A to Plaintiffs’ Disclosure of Asserted Claims and Initial Infringement Contentions, served on October 10, 2019, subject to any subsequent supplement or amendment
5. The terms “all” and “each” shall be construed as “and,” “each,” and “and/or.”
6. The term “any” should be understood in either its most or least inclusive sense as will bring within the scope of the topic all responses that might otherwise be construed to be out of its scope.
7. The term “including” shall mean including but not limited to.
8. The terms “relate,” “relating,” or “related” mean in any way, directly or indirectly, in whole or part, relating to, concerning, referring to, discussing, mentioning, regarding, pertaining to, describing, reflecting, containing, analyzing, studying, reporting on, commenting on, evidencing, constituting, setting forth, considering, recommending, modifying, amending, confirming, endorsing, representing, supporting, qualifying, terminating, revoking, refuting, undermining, canceling, contradicting or negating.
9. The terms “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of these topics all information which might otherwise be construed to be outside their scope.
10. The terms “sale,” “sales,” “sell” or “sold” shall include sales, licenses, leases, loans, consignments, distribution to resellers or others (including, but not limited to, to Your related and affiliated entities) and all other methods of product distribution whether direct or indirect, and whether the product is distributed singly or in combination with or as part of another product, and whether or not revenue was or will be received therefrom.

Topics

- A. The identity, job function or title, and office location of each custodian whose documents were searched for responsive documents.
- B. What documents were searched for each custodian (for example, emails, folders on personal or shared drives, hard copy files).
- C. What documents were searched for each L'Oreal U.S.A. or L'Oreal S.A. employee identified in Plaintiffs' Initial Disclosures.
- D. The name, location, and general description of each shared drive, server, or other document repository that was searched for responsive documents.
- E. The search terms or other criteria (for example, folder names or file names) that were used to search for responsive documents.
- F. The location and general description of any hard copy files that were searched for responsive documents.
- G. Non-privileged, factual information regarding when a litigation hold for this matter was issued, to whom the hold was issued, the documents or other information that was subject to the hold, and how the hold was implemented.
- H. Where sales, cost, and profit information for each brand is kept; how long it is retained; how it was collected and produced for this litigation.
- I. Where officialization documents are kept; how long they are retained; how they were collected and produced for this litigation.
- J. Where product packaging is kept; how long it is retained; how it was collected and produced for this litigation.
- K. Whether and how a search was conducted for the documents that Plaintiffs have identified in written correspondence as documents Plaintiffs believe to be outstanding and responsive to Plaintiffs' Requests for Production.
- L. Where product samples are kept; how long they are retained; and whether and how a search was conducted for product samples for this litigation.
- M. Which L'Oreal S.A. files, servers, drives, or other document repositories were searched for responsive documents.
- N. Whether internal L'Oreal S.A. communications were searched for responsive documents.

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