

**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.

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

MOTION TO RESOLVE DISCOVERY DISPUTE

The parties respectfully move this Court to address outstanding disputes regarding the following discovery matters during the April 24, 2020 teleconference:

Issues Raised During the March 26, 2020 Teleconference¹

- Plaintiffs' request for the production of further marketing, sales, and business documents from Defendant in response to Plaintiffs' Requests for Production No. 31, 40, 41, 42, 44, 45, 51, 62, 66, and 67;
- Plaintiffs' request for the production of further testing materials from Defendant in response to Requests for Production No. 25, 28, 32, 33, 34, 50, 59, and 60;
- Plaintiffs' request for the production of internal and external communications regarding the FTC investigation into the Accused Products (DOCKET NO. C-4489) in response to Plaintiffs' Request for Production No. 62;
- The parties' stipulation regarding the Teresian Carmelites;² and
- The case schedule.

¹ The Parties have resolved the dispute regarding Plaintiffs' Rule 30(b)(6) deposition of Defendant on noticed topics regarding Defendant's document collection and production. The deposition is scheduled to go forward using TSG remote reporting on April 23, 2020.

² The Parties have met and conferred about this draft stipulation and expect to resolve this dispute in advance of the scheduled April 24, 2020 teleconference.

Issues Not Raised During the March 26, 2020 Teleconference

- Plaintiffs' request for the production of further Accused Product development records from Defendant in response to Plaintiffs' Requests for Production No. 27, 32, 42, and 53;
- Plaintiffs' request for the production of further patent records from Defendant in response to Plaintiffs' Requests for Production No. 22 and 23;
- Defendant's request for relief with respect to documents underlying Plaintiffs' testing that formed the basis for their Infringement Contentions; and
- Plaintiffs' request for organizational charts from Defendant in response to Plaintiffs' Request for Production No. 35 and to assist Plaintiffs in identifying appropriate witnesses for 30(b)(6) depositions.³

The following attorneys, including at least one Delaware Counsel and at least one Lead Counsel per party, participated in a verbal meet-and-confer by telephone on the following date:
April 14, 2020.

Delaware Counsel for Plaintiffs:	Brian Farnan Farnan LLP
Lead Counsel for Plaintiffs:	Justin Nelson Tamar Lusztiq Beatrice Franklin Susman Godfrey LLP
Delaware Counsel for Defendant:	Kate Mowery Richards Layton & Finger PA
Lead Counsel for Defendant:	Isaac Ashkenazi Katherine F. Murray Serli Polatoglu Paul Hastings LLP

Briefing

Plaintiffs' Proposal: The Parties request to submit simultaneous briefing limited to 3 pages per side on all the above-listed issues raised on the March 26, 2020 teleconference by

³ Defendant contends the parties have not met and conferred on this issue.

April 21, and briefing in accordance with Magistrate Judge Fallon's Standing Order on Discovery Matters for the above-listed issues not raised on the March 26, 2020 teleconference consisting of either (1) three additional pages to be included in the simultaneous submissions above or (2) briefing pursuant to the Court's Order on Discovery Matters with opening letters submitted April 20 and answering letters submitted April 22.

Defendant's Proposal: The Parties request leave to submit briefing on all issues listed above in accordance with Magistrate Judge Fallon's Standing Order on Discovery Matters.

The Parties will continue to meet and confer in good faith and attempt to resolve these disputes in advance of the April 24, 2020 teleconference.

Dated: April 17, 2020

FARNAN LLP

/s/ Brian E. Farnan
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Respectfully submitted,

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