

**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/COUNTERCLAIM DEFENDANTS ANSWER AND DEFENSES
TO COUNTERCLAIMANT L'OREAL USA, LLC'S COUNTERCLAIMS**

Plaintiffs/Counterclaim Defendants University of Massachusetts and Carmel Laboratories, LLC ("Carmel Labs") (together, "Plaintiffs"), by and through their attorneys of record, submit this Answer to the Counterclaims of L'Oréal U.S.A., Inc. ("L'Oréal USA"). To the extent not specifically admitted herein, the Counterclaim allegations are denied.

ANSWER TO COUNTERCLAIMS

1. Plaintiffs admit that L'Oréal USA seeks a declaration of non-infringement and invalidity of the '327 and '513 patents. Plaintiffs deny the remaining allegations in this paragraph.

FIRST CLAIM FOR RELIEF

2. The prior paragraphs of Plaintiffs' answer are reincorporated.

3. Admitted that the University of Massachusetts is the assignee and Carmel Labs is the exclusive licensee of United States Patent Number 6,423,327. The other allegations in this paragraph contain legal conclusions to which no response is required.

4. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, denied.

5. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Plaintiffs admit there is a controversy concerning L'Oréal USA's infringement of the '327 patent. Plaintiffs deny the remaining allegations in this paragraph.

6. Plaintiffs admit L'Oréal USA seeks a declaration of non-infringement of the '327 patent. Plaintiffs deny the remaining allegations in this paragraph.

SECOND CLAIM FOR RELIEF

7. The prior paragraphs of Plaintiffs' answer are reincorporated.

8. Admitted that the University of Massachusetts is the assignee and Carmel Labs is the exclusive licensee of United States Patent Number 6,423,327. The other allegations in this paragraph contain legal conclusions to which no response is required.

9. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, denied.

10. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Plaintiffs admit there is a controversy between the parties concerning the validity of the '327 patent. Plaintiffs deny the remaining allegations in this paragraph.

11. Plaintiffs admit L'Oréal USA seeks a declaration of invalidity of the '327 patent. Plaintiffs deny the remaining allegations in this paragraph.

THIRD CLAIM FOR RELIEF

12. The prior paragraphs of Plaintiffs' answer are reincorporated.

13. Admitted that the University of Massachusetts is the assignee and Carmel Labs is the exclusive licensee of United States Patent Number 6,645,513. The other allegations in this paragraph contain legal conclusions to which no response is required.

14. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, denied.

15. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Plaintiffs admit there is a controversy concerning L'Oréal USA's infringement of the '513 patent. Plaintiffs deny the remaining allegations in this paragraph.

16. Plaintiffs admit L'Oréal USA seeks a declaration of non-infringement of the '513 patent. Plaintiffs deny the remaining allegations in this paragraph.

FOURTH CLAIM FOR RELIEF

17. The prior paragraphs of Plaintiffs' answer are reincorporated.

18. Admitted that the University of Massachusetts is the assignee and Carmel Labs is the exclusive licensee of United States Patent Number 6,645,513. The other allegations in this paragraph contain legal conclusions to which no response is required.

19. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, denied.

20. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Plaintiffs admit there is a controversy between the parties concerning the validity of the '513 patent. Plaintiffs deny the remaining allegations in this paragraph.

21. Plaintiffs admit L'Oréal USA seeks a declaration of invalidity of the '513 patent. Plaintiffs deny the remaining allegations in this paragraph.

PRAYER FOR RELIEF

- A. To the extent a response is required, denied.
- B. To the extent a response is required, denied.
- C. To the extent a response is required, denied.
- D. To the extent a response is required, denied.
- E. To the extent a response is required, denied.
- F. To the extent a response is required, denied.
- G. To the extent a response is required, denied.

AFFIRMATIVE DEFENSE

L'Oréal USA has failed to state a claim upon which relief can be granted.

WHEREFORE, Plaintiffs respectfully request that the Court dismiss L'Oréal USA's counterclaims, grant judgment in Plaintiffs' favor and against L'Oréal USA, award Plaintiffs their costs and attorneys' fees and grant such other relief as the Court deems just and proper.

DATED: July 3, 2019

Respectfully submitted,

FARNAN LLP

/s/ Brian E. Farnan

Brian E. Farnan (Bar No. 4089)
Michael J. Farnan (Bar No. 5165)
919 North Market Street, 12th Floor
Wilmington, DE 19801
Telephone: (302) 777-0300
Facsimile: (302) 777-0301
bfarnan@farnanlaw.com
mfarnan@farnanlaw.com

Of Counsel:
William Christopher Carmody
Tamar E. Lusztig

Beatrice C. Franklin
SUSMAN GODFREY L.L.P.
1301 Avenue of the Americas, 32nd Floor
New York, NY 10019
Telephone: (212) 336-8330
Facsimile: (212) 336-8340
bcarmody@susmangodfrey.com
tlusztig@susmangodfrey.com
bfranklin@susmangodfrey.com

Justin A. Nelson
SUSMAN GODFREY L.L.P.
1000 Louisiana Street, Suite 5100
Houston, Texas 77002
Telephone: (713) 651-9366
Facsimile: (713) 654-6666
jnelson@susmangodfrey.com

*Attorneys for University of Massachusetts
and Carmel Laboratories, LLC*

Matthew B. Lowrie
FOLEY & LARDNER LLP
111 Huntington Avenue, Suite 2600
Boston, MA 02199
Telephone: (617) 342-4000
Facsimile: (617) 342-4001
mlowrie@foley.com

Attorneys for Carmel Laboratories, LLC

COMMONWEALTH OF MASSACHUSETTS,

By its attorney,

MAURA HEALEY
ATTORNEY GENERAL

By: William Christopher Carmody
William Christopher Carmody
Special Assistant Attorney General
SUSMAN GODFREY L.L.P.
1301 Avenue of the Americas, 32nd Floor

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.