

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

U.S. GREEN BUILDING COUNCIL,

Plaintiff,

v.

EXCEL DRYER, INC.;

Civil Action No. _____

UL SOLUTIONS LLC;

SMART EPD LLC;

ANNA LASSO, individually;

SGS NORTH AMERICA, INC.,

Defendants.

COMPLAINT

JURY TRIAL DEMANDED

I. INTRODUCTION

A. The Test

1. The claims made in this case can be verified effortlessly by anyone in a few minutes. They can be experienced directly, without scientific equipment, without expert testimony, without specialized knowledge. Visit any public restroom equipped with an electric hand dryer claiming compliance with or certified by the NSF P335 or UL PCR standards. Wash your hands. Place them in the dryer for 15 seconds—the least stringent drying time standard among all claims made by the Defendants. We begin by giving them the benefit of the doubt. Observe three things: (1) Watch where the water goes as it leaves your hands. (2) Remove your hands at 15 seconds. They will be visibly and obviously wet. (3) Look at the walls and floor near the dryer's air outlet. Note the growing mold, dirt and water staining originating from that point.

B. The Hypothetical

2. All aspects of hand dryer performance can be understood if you remove it from the room. Does a dryer improve or degrade the room by being there?

C. The Stakes

3. This case arises at the heart of the American green building movement. Plaintiff is the nation's foremost authority on sustainable building practices, creator and administrator of the Leadership in Energy and Environmental Design (LEED) certification program—the world's most widely used green building rating system. Over 100,000 buildings worldwide bear LEED certification. Millions of purchasing decisions are made in reliance on LEED credits and the environmental data underlying them. When that data is false, the corruption propagates at scale.
4. Plaintiff's organizational mission is environmental sustainability. Plaintiff exists to transform how buildings are designed, constructed, and operated. Every product featured in Plaintiff's facilities, educational materials, and certification programs is held out as

evidence that sustainable building practices work. When Plaintiff endorses a product, that endorsement carries the weight of the entire green building movement.

4. Defendant Excel is a Silver-level member of Plaintiff's organization. Excel's XLERATOR hand dryers are installed at Plaintiff's headquarters. Excel's products are featured on Plaintiff's Material Wall—described by Plaintiff's staff as "a showcase for our vendors, basically, what's new in the market, what we're using to outfit our headquarters." Plaintiff co-developed with Excel a continuing education course promoting Excel's products. Excel has been an original Seed Sponsor of Plaintiff's Green Apple program since its inception. The relationship was deep, institutionally significant, and built entirely on false data.

D. The Product Excel Sold

5. Defendant Excel marketed its XLERATOR hand dryer to Plaintiff with specific, quantified claims: "Dries hands completely in 8 seconds" (or 10 seconds in Plaintiff's case study—Excel cannot maintain consistency in its own falsehoods). "80% less energy than conventional hand dryers." "95% cost savings compared to paper towels." "50-70% reduction in carbon footprint compared to paper towels." "A more hygienic restroom environment." These claims were false when made, remain false today, and were known or should have been known to be false by Excel at the time of sale.
6. Excel claims 8-second drying. Independent testing of 460 drying cycles established that zero percent achieve the NSF P335 specification of 0.1 grams residual moisture at 8 seconds. At 8 seconds, residual moisture averages 2.97 grams—2,870% above specification. The actual time required to approach certification thresholds is 70 to 90 seconds. Excel's drying time claim is false by 775 to 1,025 percent.
8. Excel claims energy savings of 80% and carbon footprint reductions of 50-70%. Because these calculations are predicated on the false 8-second drying time, they are

mathematically invalid. Energy consumption equals power multiplied by time. At actual drying times of 70-90 seconds, XLERATOR energy consumption is 7 to 10 times higher than claimed. The environmental advantage over paper towels disappears entirely at actual operating times. Products marketed as environmentally superior are environmentally equivalent or inferior to paper towels.

7. Excel claims "hygienic" hand drying. Independent testing of 136 hand dryers established that 100% amplify bacterial and fungal contamination compared to ambient air. The median amplification factor is 49.6 to 110 times ambient levels. The probability of 136 consecutive tests showing amplification under the null hypothesis is less than 10
8. Excel's own rulebook depicts the failure. The UL Product Category Rules for Hand Dryers, published July 2016, contains at Appendix II a worked example—Figure 2, captioned "Example dry time calculation"—whose illustrative values place residual moisture at 8 seconds at 0.456 grams: 82% above UL's own 0.25 gram certification threshold and 356% above NSF P335's 0.1 gram threshold. The figure is an instructional example, not test data. It appears in the rule Excel helped write, holding four of ten manufacturer seats on the committee. The committee's own published example depicts 8-second residual moisture at nearly twice the level the committee's own rule certifies—and Excel certifies 8 seconds under that rule.

E. The Reliance

9. Plaintiff purchased XLERATOR hand dryers for installation at Plaintiff's headquarters at 2101 L Street NW, Washington, DC. The specific model—XLERATOR Model XL-SB-1.1N stainless steel—was selected by Ken Wilson, Principal of Studio Luz Architects, the firm designing Plaintiff's headquarters. The selection was made based on Excel's environmental and performance claims.
10. Plaintiff featured Excel's products on Plaintiff's Material Wall at headquarters—a showcase for sustainable building products that Plaintiff holds out to the industry

as exemplifying best practices. Ana Ka'ahanui, Manager of USGBC Headquarters Education & Events, described this Material Wall as demonstrating "what we're using to outfit our headquarters."

11. Plaintiff co-developed with Excel an AIA/CSI/GBCI continuing education course titled "Next Generation Green Restroom Design," which promoted Excel's products based on the false energy and environmental data certified by Defendant certifiers. This course was taught to building professionals who then specified Excel products in their own projects based on Plaintiff's implicit endorsement.
12. Excel has been an original Seed Sponsor of Plaintiff's Green Apple program since its inception. Excel developed a Green Apple-branded hand dryer line, a portion of proceeds from which benefit Plaintiff's educational initiatives. Plaintiff's brand has been directly associated with Excel's products.
13. Excel published a case study titled "United States Green Building Council" featuring Plaintiff's endorsement. The case study quotes Plaintiff's staff praising Excel's products. Excel used Plaintiff's institutional credibility—the credibility of the nation's foremost green building authority—to market products to other purchasers.
14. Plaintiff's reliance was reasonable. When a manufacturer makes specific environmental claims supported by certifications from nationally recognized testing laboratories and Environmental Product Declarations, the nation's leading green building organization is entitled to trust those claims. When those claims are false, and those certifications are the product of captured standards and self-dealing, the manufacturer and certifiers bear responsibility for the resulting corruption of the green building movement.

F. The Enablers

15. Excel's false claims did not achieve credibility in isolation. They were enabled by a network of certification bodies that lent their institutional authority to representations they never verified. The certifications that induced Plaintiff's reliance were the product of an ecosystem designed to validate rather than verify.
16. Defendant UL Solutions created the Product Category Rules for Hand Dryers in July 2016. The committee that created this standard consisted of 10 manufacturer representatives and 2 UL employees. Zero environmental scientists. Zero consumer representatives. Zero independent researchers. Excel held four of ten manufacturer seats. William Gagnon of Excel chaired the committee. The standard-setters were the parties whose products would be measured against the standard.
17. The UL PCR established a 0.25 gram residual moisture threshold—2.5 times weaker than NSF P335's 0.1 gram threshold. This weaker standard was adopted after NSF rejected Excel's proposal to change NSF P335 from 0.1 grams to 0.2 grams. When Excel could not weaken one standard, it helped create a weaker one.
18. From 2017 to 2022, UL Environment certified Excel's XLERATOR at 8-second drying time and 3.68 Wh energy consumption—specifications at odds with the worked example UL published in its own rule: Figure 2's illustrative values place 8-second residual moisture at 0.456 grams, above the certification threshold UL itself set. UL certified claims its own published example contradicted. These certifications formed the basis for LEED credit calculations in thousands of buildings.
19. Defendant Anna Lasso worked at UL Environment from 2016 to 2022 as Product Manager of EPDs and PCR Project Manager. In this role, she worked directly with William Gagnon as he chaired the PCR committee. Her published article documents: "The PCR development process was initiated by William Gagnon, Excel Dryer's vice president of marketing and sales... William was asked to serve as

chairman of the PCR committee, working closely with me and other leading manufacturers."

20. In April 2022—the same month Hokwang received a UL EPD—Anna Lasso formed EPD USA LLC, later renamed Smart EPD LLC. In July 2022, Excel's UL certification expired and was not renewed. In June 2023, Anna Lasso's company certified Excel at the identical specifications UL had allowed to lapse: 8-second drying time, 3.68 Wh energy consumption.
21. On the SmartEPD certificate, Anna Lasso appears in three roles: Program Operator, Independent Critical Reviewer, and Independent External Verifier. ISO 14025 requires these functions to be independent. One person occupies all three roles on certificates she issues for products manufactured by companies she worked with while developing the underlying standard.
22. Defendant SGS tested Excel's products in 2012 using "a revised version of NSF Protocol P335"—a standard NSF had rejected. SGS tested at 12 and 15 seconds, not the 8 seconds Excel markets. SGS reported 0.186 grams residual moisture at 12 seconds; independent testing documents 2.5 to 3.0 grams at the same interval—a discrepancy of 1,350 to 1,600 percent.
23. The certification network functioned as designed: manufacturers controlled the standards, certifiers validated the claims, and organizations like Plaintiff relied on the apparent independence of the process. The independence was illusory. The certifications were worthless. The reliance was betrayed.

G. The Continuing Harm

24. The harm to Plaintiff is ongoing. SmartEPD Certificate No. SmartEPD-2023-002-0006-01 remains active through June 23, 2028. Excel continues to market false energy and environmental claims. Excel continues to use Plaintiff's name and

endorsement in marketing materials. Every day that false certifications remain active, building professionals make LEED credit calculations based on false data.

25. The corruption has propagated throughout the green building ecosystem. Excel's LEED v4.1 guidance instructs building professionals to "input 3.68 Wh per 8 second cycle use... for energy modelling purposes." Thousands of buildings have received LEED credits based on false energy data. Corporate sustainability reports cite hand dryer installations as environmental achievements. Procurement decisions across the economy have been made in reliance on false environmental claims that Plaintiff's endorsement helped legitimize.
26. Plaintiff continues to suffer reputational harm. Excel's case study featuring Plaintiff remains in circulation. Plaintiff's Material Wall continues to showcase products that do not deliver the environmental benefits claimed. Plaintiff's continuing education course continues to be cited. Plaintiff's Green Apple association continues to lend credibility to false claims. The nation's foremost green building authority has been made complicit in environmental fraud.
27. The defect is the design itself. No repair, no maintenance, no user technique can make these products deliver the environmental benefits claimed. The physics does not negotiate. At actual drying times, the products consume 7-10 times the claimed energy and provide no environmental advantage over paper towels. The only remedy is removal and replacement with equipment that actually delivers environmental benefits—or simply white paper towels, which achieve complete drying in 10-15 seconds, introduce no contamination, cause no mold colonization, and cost the same as hand dryers at actual operating times.

II. PARTIES

A. Plaintiff

28. Plaintiff U.S. Green Building Council ("USGBC" or "Plaintiff") is a non-profit organization incorporated in the District of Columbia with its principal place of business at 2101 L Street NW, Suite 500, Washington, DC 20037.

B. Defendant Excel Dryer, Inc.

29. Defendant Excel Dryer, Inc. ("Excel" or "Defendant Excel Dryer") is a corporation organized and existing under the laws of the Commonwealth of Massachusetts, with its principal place of business at 357 Chestnut Street, East Longmeadow, Massachusetts 01028.

C. Defendant UL Solutions LLC

30. Defendant UL Solutions LLC is a Delaware limited liability company with principal place of business at 333 Pfingsten Road, Northbrook, Illinois 60062.
31. UL created the Product Category Rules for Hand Dryers on July 13, 2016. The PCR establishes a 0.25 gram residual moisture threshold—2.5 times weaker than NSF P335. No scientific justification for this threshold appears anywhere in the 35-page document.
32. The UL PCR committee consisted of 10 manufacturer seats and 2 UL representatives. Excel Dryer held 4 of 10 manufacturer seats. William Gagnon, Excel's VP and COO, chaired the committee. World Dryer held 3 seats. Hokwang/FASTDRY held 3 seats. Zero public health officials, zero consumer

representatives, and zero independent researchers participated in creating standards that affect public health.

33. UL's CEO is Jennifer Scanlon.

43. From 2017 to 2022, UL Environment issued Environmental Product Declaration No. 4787137936.102.1 certifying Excel's XLERATOR Hand Dryer. Wade Stout served as external verifier. The certificate specified 8-second drying times and 3.68 Wh energy consumption—specifications at odds with the worked example in UL's own PCR, whose illustrative values place 8-second residual moisture at 0.456 grams, above UL's own 0.25 gram threshold. UL directly certified the false claims at issue in this complaint.

D. Defendant Smart EPD LLC

34. Defendant Smart EPD LLC is a Virginia limited liability company, entity ID 11379451, with registered office at 25320 Ripleys Field Dr, Chantilly, VA 20152.

35. Smart EPD LLC was formed on April 26, 2022, under the name "EPD USA LLC." On July 6, 2022, articles of amendment changed the company name to "Smart EPD LLC." Anna Lasso is listed as registered agent, with qualification stated as "Member or Manager of the Limited Liability Company."

36. Smart EPD's registered office address is a single-family residence. The mailing address listed on Smart EPD certificates and the company website—585 Grove St., Ste. 145, PMB 966, Herndon, VA 20170—is a commercial mail receiving facility operated by UPS Store.

37. Smart EPD certifies Environmental Product Declarations for hand dryer manufacturers, including Excel Dryer. Certificate numbers include SmartEPD-2023-002-0006-01, SmartEPD-2023-002-0007-01, and SmartEPD-2023-002-0008-01. Smart EPD uses UL PCR methodology—the same methodology that Anna Lasso helped develop while employed at UL Environment.

38. Smart EPD issued its first Excel Dryer EPD on June 23, 2023—eleven months after UL Environment's EPD for the same product expired without renewal. The SmartEPD certificate specifies identical performance claims to the expired UL certificate: 8-second drying time and 3.68 Wh energy consumption. Thomas P. Gloria of Industrial Ecology Consultants verified the lifecycle assessment for both the 2017 UL certificate and the 2023 SmartEPD certificate.

E. Defendant Anna Lasso

39. Defendant Anna Lasso is an individual. Virginia State Corporation Commission records list her address as 25320 Ripleys Field Dr, Chantilly, VA 20152—the same address as Smart EPD LLC's registered office.
40. From 2016 to 2022, Anna Lasso was employed by UL Environment as Product Manager of EPDs and PCR Project Manager. In this role, she worked directly with William Gagnon as he chaired the UL PCR committee that created the Product Category Rules for Hand Dryers. Her published article on Excel UK's website documents her role: "The PCR development process was initiated by William Gagnon, Excel Dryer's vice president of marketing and sales." She continues: "William was asked to serve as chairman of the PCR committee, working closely with me and other leading manufacturers." She concludes: "I'm proud to have played a part in producing the first ever published global PCR."
41. On April 26, 2022, while employed at UL Environment, Anna Lasso filed articles of organization with Virginia for "EPD USA LLC," listing herself as registered agent and member or manager.
42. On SmartEPD certificates, Anna Lasso appears in three roles: Program Operator, Independent Critical Reviewer, and Independent External Verifier. ISO 14025, which governs Environmental Product Declarations, requires these functions to be independent of one another. Section 6.2 states that verification "shall be conducted by an independent verifier." Section 8.1.3 requires that the program operator "shall

not be the declaration holder." Anna Lasso occupies all three roles on certificates she issues for products manufactured by companies she worked with while developing the underlying standard.

43. Anna Lasso is named individually because Smart EPD LLC, as a single-member LLC operating from a residential address, cannot meaningfully contribute to any judgment; because she personally participated in creating the UL PCR standards while employed at UL and personally certifies products under those standards through SmartEPD; because Smart EPD LLC is her alter ego with no meaningful separation between the entity and its sole operator; and because individual liability is appropriate given her direct role in both creating the certification standard and issuing certifications under it.

F. Defendant SGS North America, Inc.

44. Defendant SGS North America, Inc. is a Delaware corporation (File No. 888911) with principal place of business at 400 Broadacres Drive, Suite 200, Bloomfield, New Jersey 07003, and testing laboratory operations at 620 Old Peachtree Road NW, Suite 100, Suwanee, Georgia 30024.
45. SGS tested hand dryer products to UL PCR standards. SGS test reports were filed in federal court proceedings and are relied upon by manufacturers to substantiate performance claims. SGS testing was commissioned by Denis Gagnon, Excel's President and a UL PCR committee member. SGS tested at 12 to 15 seconds, not the 8 seconds manufacturers claim in marketing.
46. SGS North America, Inc. operates as an accredited testing laboratory under ISO/IEC 17025.

III. JURISDICTION AND VENUE

47. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because complete diversity of citizenship exists between the parties—Plaintiff is a citizen of the District of Columbia; Defendant Excel Dryer is a citizen of Massachusetts; Defendant UL Solutions LLC is a citizen of Delaware and Illinois; Defendant Smart EPD LLC is a citizen of Virginia; Defendant Anna Lasso is a citizen of Virginia; and Defendant SGS North America, Inc. is a citizen of Delaware and New Jersey—and the amount in controversy exceeds \$75,000, exclusive of interest and costs.
48. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1) because Defendant Excel Dryer resides in this District, and pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to the claims occurred in this District.
59. This Court has personal jurisdiction over all Defendants. Defendant Excel Dryer is incorporated in Massachusetts and maintains its principal place of business in Massachusetts. The remaining Defendants are subject to personal jurisdiction because they purposefully directed certification activities toward Massachusetts-based manufacturers, their certifications were used to market products in Massachusetts, and the acts giving rise to this Complaint occurred in substantial part in Massachusetts.

IV. FACTUAL ALLEGATIONS

A. Background and the Parties' Relationship

49. Plaintiff is the nation's foremost authority on sustainable building practices. Plaintiff developed and administers the LEED certification program, which has certified over 100,000 buildings worldwide and is recognized as the global standard for green building achievement.
50. Plaintiff's organizational mission requires that products featured in Plaintiff's facilities, educational materials, and certification programs actually deliver the environmental benefits claimed by their manufacturers.
51. Defendant Excel Dryer manufactures and sells commercial hand dryers under the XLERATOR brand name. Defendant Excel Dryer markets these products primarily on environmental claims: reduced energy consumption compared to conventional dryers, reduced carbon footprint compared to paper towels, and cost savings derived from these environmental efficiencies.
52. Plaintiff purchased XLERATOR hand dryers through authorized distributors in the facilities supply chain. Defendant Excel Dryer marketed its products directly to green building facilities including Plaintiff, provided marketing materials and representations directly to Plaintiff's decision-makers, and specifically targeted Plaintiff for use as a marketing case study. Defendant Excel Dryer's express representations regarding hygiene, drying time, and environmental benefits were directed to Plaintiff as the ultimate purchaser and end user, and were intended to induce Plaintiff's purchase decisions regardless of the distribution channel.
53. Defendant Excel Dryer is a Silver-level member of USGBC.
65. Plaintiff installed XLERATOR Model XL-SB-1.1N stainless steel hand dryers at Plaintiff's headquarters at 2101 L Street NW, Washington, DC. The specific model was selected by

Ken Wilson, Principal at Envision Design, based on Defendant Excel Dryer's representations regarding energy efficiency and environmental performance.

54. Plaintiff featured Defendant Excel Dryer's products on Plaintiff's Material Wall at USGBC headquarters. Ana Ka'ahanui, Manager of USGBC Headquarters Education & Events, described this Material Wall as "a corridor dedicated to showcasing each material or product used in the facility, its origin and utility" and stated: "This was an opportunity for us to create a living lab, where people can come and see the range of green building products that are available—and how to marry modern architecture with green design."
55. Plaintiff co-developed with Defendant Excel Dryer an AIA/CSI/GBCI continuing education course titled "Next Generation Green Restroom Design," which promoted Defendant Excel Dryer's products based on environmental claims that Plaintiff now knows to be false. According to William Gagnon, Defendant Excel Dryer's Vice President of Marketing and Key Accounts, "The course provides architects and specifiers with an overview of the newest technologies in high-efficiency plumbing products and fixtures for state-of-the-art green restroom design."
56. Defendant Excel Dryer published a case study titled "United States Green Building Council" featuring Plaintiff's endorsement of Defendant Excel Dryer's products. Exhibit A, attached hereto and incorporated by reference. The case study includes a quote from Ken Wilson stating: "XLERATOR continues to be the specified hand dryer choice at USGBC headquarters because it meets the aggressive energy and waste reduction objectives for designing state-of-the-art green restrooms."
57. Defendant Excel Dryer has been an original Seed Sponsor of Plaintiff's Green Apple program since its inception and developed a Green Apple-branded hand dryer line, a portion of the proceeds of which supports Plaintiff's Center for Green Schools initiatives.

58. Defendant Excel Dryer's corporate tagline is "TIME TO THROW IN THE TOWEL." As set forth below, independent scientific testing has established that paper towels are superior to Defendant Excel Dryer's products in every measurable performance dimension.

B. Defendant Excel Dryer's Marketing Claims

59. Defendant Excel Dryer made the following specific, quantified performance claims in marketing materials directed to Plaintiff and to the market generally:
- a. Drying time of 8 seconds (technical data sheets) or 10 seconds (Plaintiff case study);
 - b. Energy consumption of 1.7 watt-hours per use;
 - c. 95% cost savings compared to paper towels;
 - d. 80% less energy than conventional hand dryers;
 - e. 50-70% reduction in carbon footprint compared to paper towels;
 - f. "A more hygienic restroom environment";
 - g. "Completely dries hands 3 times faster" than conventional dryers;
 - h. HEPA filtration that "removes 99.999% of viruses" from the airstream.
60. These claims appeared in Defendant Excel Dryer's technical data sheets, website, Environmental Product Declarations, case studies, and marketing materials provided to Plaintiff, including Exhibit A.
61. Defendant Excel Dryer's Environmental Product Declaration (SmartEPD-2023-002-0006-01) states: "The XLERATOR dries hands completely in 8 seconds."
62. The same Environmental Product Declaration describes XLERATOR as a "touchless, hygienic way to dry hands."

63. The case study attached as Exhibit A states that XLERATOR "completely dries hands 3 times faster (in 10 seconds)*"—a different drying time than Defendant Excel Dryer's technical data sheets and Environmental Product Declaration, which claim 8 seconds. Defendant Excel Dryer cannot maintain consistency even in its own false claims.

76. Defendant Excel Dryer prominently displayed signage at point-of-sale installations stating: "THANK YOU for visiting our environmentally friendly restroom. High speed energy efficient hand dryers are now being used instead of paper towels. One ton of paper towels consumes 17 trees, 3 cubic yards of landfill space and pollutes 20,000 gallons of water."

64. These environmental claims were material to Plaintiff's purchasing decisions. Plaintiff's organizational mission is environmental sustainability. Plaintiff selected Defendant Excel Dryer's products specifically because of the claimed environmental benefits.

C. The Science: Independent Testing Establishes Universal Failure

65. Independent scientific research conducted between August 2023 and December 2025, comprising eleven published works—ten studies and one synthesis review—with over 1,500 individual measurements across more than 200 retail locations in five states and Washington D.C., has established that Defendants' performance claims are false in every material respect. These are not "studies that suggest" or "evidence that indicates." These are measured physical facts, documented and reproducible.

1. Drying Time Failure: 0% Compliance at Claimed Times

66. Independent testing of 409 drying cycles across three manufacturer models established that zero hand dryers achieved manufacturer-specified dryness thresholds at claimed drying times. Blouch, R.A., Systematic Performance Failure in Commercial Hand Dryers, DOI: 10.5281/zenodo.17858443 (2025).

67. At Defendant Excel Dryer's claimed 8-second drying time, mean residual moisture was approximately 3.5 to 4.0 grams—exceeding the NSF P335 hygiene threshold of 0.1 grams by 3,400% to 3,900%.
68. The first compliance with the 0.1-gram dryness specification occurred at 80 seconds, not 8 seconds. This represents a 10× discrepancy between claimed and actual performance. Statistical significance: $t(20) = 22.91$, $p < 0.001$, Cohen's $d = 5.00$. Blouch, R.A., Testing the Validity of Hand Dryer Drying Time Specifications, DOI: 10.5281/zenodo.15503698 (2025).
69. Independent testing of 197 Excel XLERATOR trials specifically showed 0% compliance at Defendant Excel Dryer's claimed drying times.

2. Microbial Amplification: 100% of Units, 49.6–110× Ambient Levels

70. Independent microbiological testing established that hand dryers amplify bacterial and fungal contamination rather than reduce it. Of 136 paired tests comparing hand dryer output to ambient room air, 136 showed amplification—a 100% amplification rate with zero reductions. The probability of this result under the null hypothesis is $p < 10^{-10}$.
71. Median amplification was 49.6 times ambient levels using LB agar growth media, and 110 times ambient levels using TSA broad-spectrum growth media. Mean colony-forming units in hand dryer output ranged from 88 to 200 CFU, compared to 1 to 2 CFU in ambient room air.
72. Testing of brand-new dryers in a pristine newly-constructed facility with zero detectable ambient contamination immediately produced 45 colony-forming units per dish, establishing that contamination is inherent to operation rather than attributable to age or maintenance.
73. Defendant Excel Dryer claims its HEPA filtration "removes 99.999% of viruses" from the airstream. Independent testing compared HEPA-filtered dryers to non-HEPA

dryers and found no statistically significant difference in contamination output ($p = 0.803$). Both produced equivalent amplification because contamination originates downstream of the filter—from dispersed user hand water and internal biofilm accumulation—not from intake air.

3. Water Dispersal: 7.3 Grams of Indeterminately Clean/Dirty Water Per Use

74. High-speed videography at 1,000 frames per second documented that hand dryers disperse water from users' hands onto walls, floors, fixtures, and the users themselves. Blouch, R.A., Visual Analysis of Water Dispersion Patterns During Hand Drying, DOI: 10.5281/zenodo.15503304 (2025).
75. Independent testing established that hands carry a mean of 7.3 grams of indeterminately clean or dirty water immediately after washing (95% CI: 6.70–7.00g). At manufacturer-claimed drying times, nearly all of this water is dispersed into the environment rather than removed from hands. Every use of Defendant Excel Dryer's products sprays 7.3 grams of indeterminately clean or dirty water onto walls, floors, fixtures, and users. Blouch, R.A., Baseline Water Mass on Freshly Washed Hands, DOI: 10.5281/zenodo.17858834 (2025).
76. Patrick et al. established that wet hands transfer up to 500 times more bacteria than dry hands. Defendant Excel Dryer's products leave hands wet at claimed drying times, creating the precise condition the research warns against—then amplify the contamination and disperse it throughout the room.
77. Defendant Excel Dryer's marketing and technical documentation contains zero statements addressing the destination of water after air jets strike it. The sole statement located in any manufacturer documentation was Excel Dryer's assertion that water "drips onto the floor, where it evaporates naturally." This is false. High-speed video documentation establishes that water is dispersed as a visible droplet cloud surrounding the user's hands, with substantial lateral dispersion, airborne

persistence of three or more seconds, and consistent accumulation on walls, floors, fixtures, and the user's clothing, face, and body.

4. Mold Colonization: 100% of Dispersal-Type Installations

91. A visual audit of 127 public restrooms across six states, with paired microbiological sampling and independent EPA-certified laboratory analysis, established that dispersal-type hand dryers—including all XLERATOR models—showed visible wall mold in 100% of installations (50 of 50 dispersal-type units). Blouch, R.A., *The Wandering Plume of Filth*, DOI: 10.5281/zenodo.17860971 (2025).

- 78. White paper towel dispensers showed visible mold in 12.8% of installations—an 8-fold difference. Chi-square analysis: $\chi^2 = 72.0$, $p < 0.001$.
- 79. Wall contamination plumes averaged 10 square feet in area, originating narrow at the device (median 1.0 foot) and fanning outward toward the floor (median 3.0 feet), consistent with aerosol dispersion physics.
- 80. Independent EPA-certified laboratory analysis (Hayes Microbial Consulting, EPA Laboratory ID: VA01419) confirmed fungal presence in 70% of wall plume samples, identifying *Aspergillus*, *Penicillium*, *Alternaria*, *Cladosporium*, and *Chaetomium* species—organisms documented to cause allergic reactions, hypersensitivity pneumonitis, and mycotoxin production.

5. Energy and Environmental Claims: Collapse When Actual Drying Times Are Used

- 81. Every energy and environmental claim made by Defendants rests on the assumption that hands reach specified dryness in 8 to 10 seconds. Energy consumption is power multiplied by time. If time increases 7–10×, energy increases 7–10×. Blouch, R.A., *An Empirical Refutation of Green Energy Claims for Dyson and Xlerator Hand Dryers*, DOI: 10.5281/zenodo.17859198 (2025).

82. Defendant Excel Dryer claims energy consumption of 1.7 watt-hours per use. At actual drying times of 70–90 seconds, actual energy consumption is 17 to 22 watt-hours per use—a 600–900% increase over claimed values.
83. Defendant Excel Dryer claims a 50–70% reduction in carbon footprint compared to paper towels. At actual drying times, this advantage collapses entirely. Under conservative analysis, the products are statistically equivalent; under expansive analysis, Defendant Excel Dryer's products produce 2–3 times more carbon emissions than paper towels.
84. All downstream calculations dependent on Defendants' energy claims—including LEED credit contributions, corporate sustainability reports, and procurement cost analyses—inherit this foundational error.

6. Paper Towel Superiority: The Evidence-Based Alternative

85. White paper towels eliminate all five problems identified above. White paper towels are frequently sterile (55.6% showed zero colonies), tested as statistically indistinguishable from ambient air ($p = 0.192$), achieve hand drying in 10 to 15 seconds through absorption rather than dispersal, cause no microbial amplification, create no water dispersal onto walls or floors, and produce no mold colonization (12.8% versus 100% for dispersal-type dryers). The solution is simpler than the problem. Blouch, R.A., Bacterial and Fungal Contamination Assessment of Paper Towel Types, DOI: 10.5281/zenodo.15504144 (2025).

D. The Bi-Modal Mechanism: Why All Dryers Fail Identically

86. Analysis of drying performance curves across three major manufacturers—Dyson, Excel Dryer (XLERATOR), and World Dryer—revealed correlation coefficients exceeding $r = 0.999$. Different manufacturers, different engineering approaches, different motor specifications—identical drying curves. This convergence indicates that performance limitations are physical constraints, not engineering variations.

Blouch, R.A., Catastrophic Time-To-Dry Failures by Dyson, Excel and World Dryer Hand Dryers via the Bi-Modal Loose Water and Bound Water Mechanism, DOI: 10.5281/zenodo.17869567 (2025).

87. Water on hands exists in two states with dramatically different resistance to removal:
 - a. Loose water—droplets, pooled water, surface films—is held weakly and strips rapidly under mechanical air shear. This is the dramatic visible spray, the water blown onto walls, floors, and clothing. It accounts for 70–80% of water removed in the first 15–20 seconds.
 - b. Bound water—trapped in skin texture, cuticles, finger creases, and hair follicles by capillary action and molecular adhesion—resists shear. It still disperses, but slowly. Each increment requires more time than the last.
88. Manufacturers measure loose water removal and call it "drying." Users need bound water removal, which requires 70–90 seconds regardless of engineering approach. The gap is 7–10×. Physics does not negotiate.
89. This mechanism was confirmed through a pre-registered prediction. On December 4, 2025, researchers formally documented the prediction that any third manufacturer tested would demonstrate the same performance convergence because bound water resistance cannot be engineered around. On December 5, 2025, World Dryer units were tested across three locations. The prediction was confirmed—World Dryer showed $r > 0.99$ correlation with both Dyson and XLERATOR curves. The joint probability of this convergence occurring by chance was $p < 0.000000001$.

E. Defendants' Knowledge: Regulatory Capture and Self-Certification

90. Defendant Excel Dryer held four of ten manufacturer seats on the committee that developed the UL Product Category Rules for Hand Dryers (William Gagnon, Denis

Gagnon, Tom Koetsch, Peter Panaratos). Defendant Excel Dryer wrote the rules it now cites as independent validation.

91. The same William Gagnon who served on the UL PCR committee is quoted in Exhibit A as Defendant Excel Dryer's Vice President of Marketing and Key Accounts, promoting the continuing education course that Defendant Excel Dryer co-developed with Plaintiff based on claims Defendant Excel Dryer knew or should have known were false.
92. The UL PCR committee created a 0.25-gram residual moisture threshold—2.5 times weaker than the NSF P335 hygiene standard of 0.1 grams. Defendant Excel Dryer tests its products to this weakened standard, then markets them as if they meet legitimate hygiene specifications.
93. Defendant Excel Dryer's Environmental Product Declarations are certified by Defendant SmartEPD, operated by Defendant Anna Lasso. Defendant Anna Lasso serves as program operator, independent reviewer, and independent verifier of the same certifications—violating the fundamental principle of independent verification required by ISO 14025. The same individual operates the certification program, reviews the data, and verifies her own certification.
94. Defendant UL Solutions directly certified XLERATOR from 2017 to 2022 (EPD No. 4787137936.102.1), specifying 8.355 seconds dry time. When that certification expired in July 2022, Defendant SmartEPD—operated by Defendant Anna Lasso, who had worked at UL Environment—issued replacement certifications with identical specifications. The certification chain is unbroken, and the underlying false data has never been corrected.

F. Unbinding Mixed Law

95. This case does not ask the Court to impose liability on certifiers for defective products. That question is settled. Certifiers do not manufacture products. When a

certified product fails due to manufacturing defect, the manufacturer is liable. That is not being contested.

96. Plaintiff invokes a different doctrine: certifiers bear independent liability for the certifications they issue. This is not derivative of manufacturer conduct. It is primary liability for the certifier's own representations. See Restatement (Second) of Torts § 552 (negligent misrepresentation); § 324A (voluntary undertaking).
97. Defendants authored the standards. Defendants designed the test methods. Defendants controlled the protocols. Defendants issued the certifications. Every element was within Defendants' exclusive control. There is no intervening party to whom fault can be allocated. Defendants bear sole responsibility for the accuracy of certifications bearing their marks.

G. The Science Is The Product

98. The science Defendants cite is not incidental to their business model. It is the foundation. Defendants market certifications based on scientific claims. Defendants charge fees based on those claims. Defendants' entire value proposition depends on the accuracy of the underlying science.
99. Hand dryers exist solely because of the 150-year scientific consensus that hand drying prevents disease transmission. No other purpose. No other market. If hand drying did not prevent disease, hand dryers would not exist. Every sale, every certification, every marketing claim rests on science that Defendants cite explicitly.
100. Semmelweis established the importance of hand hygiene in 1847. Patrick et al. established that wet hands transfer up to 1,000 times more bacteria than dry hands in 1997. Defendants cite this research in their own marketing. They use the science to sell the products. They are bound by the science when the products fail. They cannot claim ignorance of the science. That is the reason these products exist.

H. The Mark Is A Contract

1. UL Solutions, Inc.

101. Underwriters Laboratories has spent 130 years building one of the most recognized consumer safety brands in the world. The UL mark appears on 22 billion products annually. It is designed to be seen by consumers at the point of purchase and the point of use. It communicates a single message: this product has been tested and found safe.
102. UL did not build this brand by accident. UL built it through deliberate consumer-facing marketing. The UL mark functions identically to the Nike swoosh or the Good Housekeeping Seal—it is brand advertisement directed at the purchasing public designed to generate a buying impulse. Consumers do not read UL's testing protocols. Consumers do not review UL's certification documents. If UL was a manufacturer-facing company there would be no seal, only test results returned to the purchaser of the tests to be kept in a file. Consumers see the mark and trust it. That trust is the product UL sells.
103. UL receives the benefits of that trust, earned from honest implementation of its testing and standards creation over a century. Manufacturers pay premium prices for UL certification because certification increases consumer confidence and sales. Retailers stock certified products because certification reduces liability exposure because consumers are aware they have been tested. Facilities install listed and stamped equipment because certification represents due diligence, conveyed to the purchasers. The entire value proposition of UL certification depends on consumer reliance. Without consumer trust, the UL mark is worthless. UL knows it. UL cultivates it. UL profits from it.
104. The UL mark is not merely a representation—it is a contract. Every element of formation is present. Under Restatement (Second) of Contracts § 19, "The manifestation of assent may be made wholly or partly by written or spoken words or

by other acts." Under § 4, "A promise may be stated in words either oral or written, or may be inferred wholly or partly from conduct." UL's conduct for 130 years constitutes manifestation of assent to a binding relationship with consumers.

105. Offer. The mark communicates a specific promise: this product has been tested and meets published standards. The mark is designed for visibility at point of purchase and point of use. It is not an internal quality control notation—it is a consumer-facing representation intended to induce reliance and purchase. That is an offer.

106. Acceptance. Consumer purchase of a product bearing the mark constitutes acceptance. The mark influenced the decision. The transaction completed. The consumer manifested assent by conduct—the same mechanism by which UL manifested its offer.

107. Consideration. Certification fees are embedded in product pricing. Consumers pay those fees with every purchase. UL receives payment through manufacturers acting as conduits. The consideration flows from consumer to certifier—the manufacturer is merely the collection mechanism. UL's entire revenue model depends on this flow: manufacturers pay UL because certification increases sales; consumers pay manufacturers prices that include certification costs; UL receives the economic benefit of consumer purchasing decisions. The chain is unbroken.

108. Mutual Assent. 130 years of deliberate, consumer-facing brand development admits of no other interpretation. UL did not build 22 billion product marks annually for manufacturers to file in cabinets. UL built them for consumers to see and trust. UL's conduct—sustained, intentional, profit-driven—manifests assent to a relationship with consumers. That relationship has terms: the mark promises safety; the consumer relies on that promise; UL profits from that reliance.

109. UL then disclaims responsibility to the consumers whose trust it cultivates when certifications fail. See *Kikson v. Underwriters Laboratories, Inc.*, 501 F.3d 672, 675

(7th Cir. 2007) (UL contract disclaiming "no obligation or liability for damages... arising out of or in connection with the use of... information resulting from this investigation") and *Toman v. Underwriters Laboratories, Inc.*, 532 F. Supp. 1017, 1019 (D. Mass. 1982) ("UL can be held liable only for its own negligence, not vicariously for that of [the manufacturer]").

110. Courts have disagreed. *Hanberry v. Hearst Corp.*, 276 Cal. App. 2d 680, 685 (1969), held that one who endorses products for economic gain owes a duty of care to consumers who rely on that endorsement: "Having voluntarily involved itself into the marketing process, having in effect loaned its reputation to promote and induce the sale of a given product... public policy imposes upon it the duty to use ordinary care in the issuance of its seal and certification of quality so that members of the consuming public who rely on its endorsement are not unreasonably exposed to the risk of harm." *Hanberry* recognized the relationship. It imposed duty. The next step—recognizing that relationship as contractual—follows inevitably from the same facts.

111. UL is not liable for defective products. UL did not manufacture the hand dryers. UL did not design them. If a hand dryer explodes due to a manufacturing defect, UL bears no responsibility. That is a reasonable standard and is settled law. This Court should not disturb it. See *Toman v. Underwriters Laboratories, Inc.*, 532 F. Supp. 1017, 1019 (D. Mass. 1982) ("UL can be held liable only for its own negligence, not vicariously for that of [the manufacturer]").

112. UL has been given a special relationship with Federal Regulatory Agencies under 29 CFR § 1910.7—Definition and requirements for a nationally recognized testing laboratory. UL remains an OSHA-recognized NRTL, most recently renewed March 5, 2021 (86 FR 12710). OSHA permits employers to rely on UL certification to satisfy federal workplace safety requirements. The UL mark carries regulatory weight. UL cannot disclaim responsibility to consumers while holding quasi-regulatory authority over workplace safety.

113. UL is liable for defective standards and defective testing.

114. UL created the Product Category Rules for Hand Dryers. UL convened the committee. UL published the standard. UL specified the test methodology.

115. Plaintiff tested products against UL's certified specifications approximating UL's specific testing guidelines with great care. 451 trials. Zero compliance. The certified specifications are proven false.

116. These distinctions are critical and have not been squarely addressed in prior litigation:

Defective product, valid standard: Manufacturer liability. The certifier tested properly; the product failed in the field due to manufacturing variance or misuse. Certifier not liable. Settled law.

Defective standard: Certifier liability. The certifier created a standard that fails to protect public safety. Products "pass" certification but harm users. The certification itself is the defect.

Defective testing: Certifier liability. The certifier certified specifications that products do not meet. The testing process failed to detect non-compliance. The certification is false.

117. This case refers to all three but specifically involves the latter two. UL's standard is defective—it ignores water dispersal, ignores output air contamination, and was written by a committee composed of manufacturers that excluded public health officials.

2. NSF International

118. NSF International's position is equivalent, while also being more explicitly consumer-directed. NSF is an NRTL, Recognized December 10, 1998 (63 FR 68296) under 29 CFR § 1910.7.

119. NSF's website states: "Choosing a product certified by NSF lets you know the company complies with strict standards and procedures imposed by NSF." It promises "assurance that the product has been rigorously tested." NSF markets itself as "protecting public health" and positions its mark as consumer protection.
120. These are not implications to be inferred from conduct. These are explicit promises, in writing, directed at consumers. NSF does not merely allow consumer reliance—NSF solicits it. NSF advertises it. NSF built its business model on it.
121. If UL's contract with consumers must be inferred from 130 years of conduct, NSF's contract requires no such inference. NSF stated the terms. "Choosing a product certified by NSF lets you know the company complies with strict standards." That is an offer. "Assurance that the product has been rigorously tested." That is a promise. "Protecting public health." That is the consideration consumers believed they were receiving. NSF wrote the contract in plain English on its own website.
122. Consideration flows identically to UL: certification fees embedded in product pricing, paid by consumers, received by NSF through manufacturers as conduit. The P335 certification commands premium pricing precisely because consumers value "assurance." NSF captures that value. NSF is bound by the promise that created it.
123. NSF certified Dyson products under Protocol P335—titled "Hygienic Commercial Hand Dryers"—for over eleven years. Independent testing conducted 451 trials. Zero compliance with NSF's certified specification. Bacterial amplification of 50-110× in products NSF certified as "hygienic."
124. NSF created the standard. NSF certified the products. The certifications are proven false. NSF owns that failure.
125. This is why Hanberry imposes duty. The certifier has "loaned its reputation to promote and induce the sale" of products. The certifier profits from consumer reliance. But Hanberry addressed an implied endorsement relationship. NSF's relationship is not implied—it is advertised. The law does not permit certifiers to

make explicit promises to consumers and then disclaim responsibility when those promises prove false.

126. Defendants cannot take the benefits of consumer trust while disclaiming responsibility to consumers.

3. The Contract Defense and Its Failure

127. The traditional defense is predictable: UL and NSF contracted with manufacturers, not consumers. Consumers are incidental beneficiaries. There was no meeting of minds.

128. Courts have been reluctant to open this door—but that reluctance reflects policy preference, not contract law. The elements have always been present. The UL mark has never not been a contract. Offer, acceptance, consideration, mutual assent—all satisfied with every purchase of every marked product for over a century. Courts have simply declined to recognize what was always there, protecting an industry that built its entire revenue model on consumer reliance while disclaiming responsibility to the consumers it cultivated.

143. Defendants did not build consumer-facing marks by accident. They did not spend decades marketing trustworthiness to the purchasing public by oversight. They did not design marks for point-of-purchase visibility because they were indifferent to consumer perception. Every element of the certifier business model—the visible mark, the consumer-directed marketing, the promise of "protection," the cultivation of trust—was engineered to create consumer reliance. Defendants built the relationship. Defendants profited from the relationship. Defendants are bound by the relationship. Intent is inferred from conduct, and Defendants' conduct for over a century admits of no other interpretation.

129. The mark is the contract. The certification is the breach.

I. The Standard Is Indivisible

130. A drying standard for a product whose sole purpose is reducing microbe transmission is a hygiene standard. These two things cannot be separated. Hands must leave the device as clean or cleaner than when they entered. This is not controversial.
131. You cannot write a testing standard for a product that exists solely for the purpose of reducing microbe transmission without fully owning the entire microbe transmission properties of the entire product use cycle.
132. Defendants certified drying time. They clearly state what happens when drying fails—wet hands spread contamination.
133. Defendants have created no standard to measure the microbial content of the output jets of functioning dryers in situ. This failure provides for output air that amplifies ambient restroom air contamination 50-110×.
134. Defendants certified "hygienic" hand dryers. These dryers colonize the walls around them with mold in 100% of installations.
135. Defendants created standards addressing one part of the product cycle while ignoring the rest. NSF P335 Section 6.2 requires HEPA filtration to prevent contaminated air intake—while ignoring that contamination must be occurring downstream of the filter. NSF P335 Section 6.5 requires 99.9999% bacterial kill for water in capture-type dryers—while requiring nothing for dispersal-type dryers that spray contaminated water throughout the room. The UL PCR mentions hygiene once in 35 pages. Water dispersal—the primary mechanism by which these products affect public health—is not mentioned at all.
136. It is not reasonable to believe these omissions are oversights. They fit the model of liability engineering. Defendants wrote standards that address what manufacturers

wanted addressed and ignore what manufacturers wanted ignored rather than testing the claims manufacturers make for the entire device use cycle.

137. That is not safety certification. That is regulatory capture. Defendants wrote the standards. Defendants certified the products. Defendants own the outcomes.

J. Scientific Consensus Compels Judicial Action

138. Courts began addressing tobacco-related harms when the science became unequivocal. Decades of industry denial collapsed under the weight of unanimous research. Judicial intervention followed scientific consensus.

139. Hand hygiene science presents a far stronger case than even the best second hand smoke science:

Factor	Tobacco Litigation	Hand Hygiene
Scientific span	~40 years	180 years
Studies showing harm	Hundreds, contested	77 studies, uncontested
Industry contradictions	Many	Zero
Consensus timeline	Emerged over decades	Existed from inception

140. The science establishing that hand drying prevents disease transmission has never been contested. No credible study has ever suggested that dry hands do not reduce pathogen transmission. The consensus has existed since before the first hand dryer was manufactured.

141. This creates an unusual posture. Defendants cannot claim the science is disputed. Defendants cite the science themselves. Defendants market products based on the

science. Defendants' entire value proposition depends on the science being correct.

142. The science justified the product's invention. The science now condemns its failure.

K. The Liability Position

143. Defendants established residual moisture thresholds as safety standards. NSF set 0.1 grams. UL set 0.25 grams. These thresholds exist because Defendants determined that exceeding them was harmful. Leaving water on hands after drying was not permitted by their own self-selected standards.

144. If exceeding those thresholds causes harm, then Defendants certified products that exceed the thresholds by 1,000 to 2,770 percent, and every use of every certified product exposes users to conditions Defendants themselves defined as harmful.

145. If exceeding these thresholds does not cause harm, then Defendants' standards are arbitrary and meaningless, and Defendants collected certification fees and enabled premium pricing for compliance with standards that protect nothing. They allowed certified companies to use promises of dry hands in their marketing materials, amplifying prices to prospective and real purchasers.

146. Both positions establish liability.

147. If Defendants argue their standards were unachievable, they confirm that the thresholds define meaningful harm—harm their certified products inflicted with every use. If Defendants argue their standards were meaningless, they expose the certifications as fraud. Either position renders the certification fees unjustified and the resulting exposures compensable.

163. This is not a case about products that marginally underperform specifications. This is a case about a certification ecosystem that was systematically restructured—through committee capture, standard weakening, and revolving-door self-dealing—to certify

products that could not be certified under legitimate standards. The physics never changed. The standards did. And when the standards couldn't be changed enough, the certifiers changed too.

L. Defendants' Cited Claims with Analysis

1. Purpose

148. Defendant Anna Lasso as committee chair and verifier of the TrueNorth Collective Comparative Life Cycle Assessment of Hand Drying Systems: Excel Hand Dryers and Paper Towel Systems (May 2023) states on page 16, "The purpose of [Excel hand dryers] is to dry hands after washing in a public restroom."

149. Defendant UL Solutions states on page 9 of its UL Product Category Rules for Hand Dryers (2016), "The function of a hand dryer is to dry hands after washing in a public restroom."

150. NSF International in its Protocol P335: Hygienic Commercial Hand Dryers (April 2007), section 1.2 states, "Commercial hand dryers are commonly used in public or commercial hand washing stations to dry hands after hand washing."

151. Defendant SGS International states in Annex A of its Performance Test Report No. 2774929EFF-001 (Sept. 7, 2012), "The purpose of this test is to ensure that [...] the hand dryer is able to thoroughly dry hands during one 15-sec operating cycle."

152. The purpose of drying hands is to reduce the transmissibility of disease spreading organisms after washing hands to clean them. Hand washing and drying are supported by 150 years of unequivocal science proving that both together reduce disease individually and in populations.

2. Drying Time

153. Defendant Anna Lasso states in the SmartEPD Environmental Product Declaration: XLERATOR® Hand Dryer, Registration No. SmartEPD-2023-002-0006-01 (2023), "The

XLERATOR dries hands completely in 8 seconds." Also, "Tests were performed by SGS International on standard XLERATOR Hand Dryer with 0.8" nozzle to 0.25g or less of residual moisture, pursuant to the UL Environment Global Product Category Rules (PCR) for Hand Dryers."

154. Defendant SGS International states in its Performance Test, "The purpose of this test is to ensure... that the hand dryer is able to thoroughly dry hands during one 15-sec. (± 1 sec.) operating cycle... 'thoroughly dry' means that less than 0.1 grams of residual moisture per hand for a total of 0.2 grams or less is recovered when a user dries his or her hands on a paper towel after using the hand dryer."

155. NSF International in its P335, Section 4.3.3 states, "The unit must dry the user's hands to a satisfactory level (0.1 gram of residual moisture) within a period of one normal operating cycle or 15 seconds, whichever is lower."

156. Defendant UL Solutions provides a standardized method for establishing drying time and residual moisture levels in Appendix II of its PCR, stating elsewhere, "Dry Time: After washing the hands, the length of time required to dry one's hands to a dryness threshold equaling 0.25 grams residual moisture or less using a hand dryer."

157. The time-to-dry of a hand dryer determines several important factors in how the product works, or does not work. Long dry times decrease compliance with users leaving the room with wet hands. Long dry times increase unit energy use per dry. Long dry times increase the carbon footprint of the product. Long dry times expose the user to increased bacterial and fungal loads. Every commercial pressure for hand drying in a dryer is to claim fast times, not slow ones.

3. Hygiene

174. Defendant Anna Lasso states in the Smart EPD Excel EPD, "The XLERATOR Hand Dryer is a touchless, hygienic way to dry hands." She states in the TrueNorth LCA that, "hygiene is part of the protocol for commercial hand dryers." and then, oddly, in the same

document, states, "Although hygiene is another purpose for hand dryers that is of interest to the scientific community (Materials Systems Laboratory, 2011), hygiene is not considered in this study."

158. UL makes a single statement in the entire PCR regarding hygiene, "Hand dryers are electric devices used to provide a hygienic method to dry hands in public washrooms."

159. NSF states in the P335, "Additionally, if a hand dryer insufficiently dries the user's hands, the residual moisture remaining on the user's hands could facilitate transmission of transient microorganisms to and from other objects and people after leaving the machine." and, "Commercial hand dryers can promote distribution of potentially pathogenic bacteria and allergenic mold spores or recontaminate hands with bacteria and molds during drying."

160. Defendant SGS entirely fails to mention hygiene anywhere in its test report.

161. Hand dryers are the direct result of a lineage of continuous science extending for 150 years that, without exception, proves that washed and dried hands decrease death and disease. The scientific consensus on this subject far exceeds the science on second hand cigarette smoke, already well established in the courts as causal for disease even without proof of downstream harm. Hand dryer's sole purpose for existence is, uncontroversially, to increase sanitation for the user of a restroom. Drying hands after having washed them is the method. The Defendants, rather than building their standards around testing for functional sanitary performance barely mention it, and their testing results and processes are hidden, obfuscated and proprietary.

4. Water Dispersal

162. Defendant Anna Lasso fails to mention in the 51 pages of the Smart EPD Xlerator Certificate and the TrueNorth Collective LCA a single word about the dispersal of water into the room after the dryer air jets strike it.

163. In the 37 pages of its Product Category Rules, Defendant UL Solutions says nothing about the water that leaves hands after the dryer air-jets strike it. In Appendix 2, instructions for testing residual water, Defendant states, "Move hands slowly and evenly through the air stream in order to blow off large water droplets", acknowledging that there are water droplets involved in the process of using a hand dryer.
164. NSF International created specifications for water in capture-type hand dryers but does not mention anywhere in the 11 pages of its Protocol P335 what occurs, or should occur, to the water after the air-jets strike it in a dispersal-type dryer, leaving only an odd mention in its methods section 5.7 that "liquid containment... should be monitored during testing".
165. Defendant SGS International fails to mention anything about the destination of water struck by the air jets hand dryers it in its Performance Test Report.
166. In a product whose single purpose, its literal reason for existing, is to remove water from wet hands it is impossible to believe that the several certifying bodies writing the design, build, and testing standards for the products—and the manufacturers who make and sell them—completely fail to mention the destination and management of the water on hands after the dryer air strikes it. Water dispersal is the final stage of the product operational cycle and it has been entirely ignored. That is surreal.

5. Plume of Filth

167. Defendant Anna Lasso provides no standard in the 51 pages of the SmartEPD certificate and TrueNorth LCA for addressing the persistent mold growth found under 100% of public restroom hand dryers, failing to acknowledge the problem exists.

168. Defendant UL Solutions provides no standard in the 37 pages of its PCR for addressing the persistent mold growth found under 100% of public restroom hand dryers, failing to acknowledge the problem exists.
169. NSF provides no standard in the 11 pages of P335 for addressing the persistent mold growth found under 100% of public restroom hand dryers, failing to acknowledge the problem exists.
170. Defendant SGS provides no testing protocol for addressing the persistent mold growth found under 100% of public restroom hand dryers, failing to acknowledge the problem exists.
171. Independent testing documented visible mold colonization in 100% of ~200 tested installations. No defendant mentions the problem, much less providing any standard for preventing, measuring, or remediating it.

6. Energy and Environmental Claims

172. Defendant Anna Lasso claims in the TrueNorth LCA, "The comparative results indicate that the Excel dryers have between 80% to 97% fewer impacts than the paper towel baseline." and "The cradle-to-grave global warming potential of dryers can be 83% less than the cradle-to-grave global warming potential of paper towel baseline."
173. Defendant UL Solutions provides in its PCR the methodology for calculating environmental impacts, stating the purpose is to "support comparable, informed, and objective sustainable purchasing of hand dryers."
174. NSF Protocol P335 makes no direct environmental or energy claims. NSF P335 Section 2 incorporates "Dyson Test Method DTM 553, Evaluation of Hand Dryer Drying Times" as a normative reference. DTM 553 was created by Toby Saville, a Dyson microbiologist who served on the NSF Protocol Development Panel that wrote P335. In sworn testimony filed in *Excel Dryer, Inc. v. Dyson, Inc.*, Saville

reported that DTM 553 testing produced a mean dry time of 9.58 seconds to the 0.1g threshold NSF P335 establishes. That certified performance data—generated by a manufacturer's employee using a test method he created, incorporated into a standard he helped write—became the input for every subsequent life cycle assessment claiming environmental advantage. Those false certified values form the basis for all subsequent life cycle assessments.

175. Defendant SGS makes no energy claims but it is upon their false test results that all subsequent life cycle assessments are based.

176. The energy savings and environmental claims made by hand dryer manufacturers are a primary reason they are purchased and the most heavily marketed aspect of their performance. Energy savings are based on false dry times certified by the Defendants.

M. The Certification Network

177. NSF International created Protocol P335 in April 2007 establishing a 0.1 gram residual moisture threshold. Dyson Ltd. is the only major manufacturer certified under this standard. Dyson markets itself as "the only hand dryer certified by NSF International Protocol P335." Dyson products achieve zero percent compliance in all independent trials. Defendant Excel Dryer has never been NSF certified. Excel's single-outlet design cannot achieve NSF's 0.1 gram threshold in practice. Independent testing of 500+ trials recorded zero Excel units achieving below 0.15 grams.

178. Defendant UL Solutions created the Product Category Rules for Hand Dryers in 2016, establishing a 0.25 gram threshold—2.5 times weaker than NSF P335. The committee that wrote it consisted of 10 manufacturer representatives and 2 UL representatives. Excel Dryer held 4 of the 10 manufacturer seats. World Dryer held 3 seats: Dave Fisher, Susan Fan, and Dan Storto. Hokwang/FASTDRY held 3 seats. William Gagnon, Excel's VP and COO, chaired the committee. His father Denis

Gagnon purchased Excel Dryer in 1996, claiming to have invented the first high speed dryer. No public health officials participated. No consumer representatives participated. No independent researchers participated. UL published this standard and continues to certify hand dryers under it, including Hokwang EPDs valid through April 2027, at claimed drying times of 30-35 seconds.

196. The UL PCR Review Panel included Jon Dettling (Chair) and Jeremy Gregory. Jon Dettling authored the 2009 Quantis LCA commissioned by Excel Dryer. Jeremy Gregory co-authored the 2011 MIT LCA. Both reviewed a PCR that cited their own prior work as authority. They evaluated a standard built on research they themselves had produced. Critically, both Dettling and Gregory had signed the Quantis October 2012 joint letter, stating, "The estimated dry times for the Dyson Airblade from SGS and Dyson tests are essentially the same, whereas the estimated dry times for the XLERATOR were significantly different in the SGS and Dyson tests (the Dyson test result was nearly 50% higher than the SGS result)," acknowledging the products were "statistically indistinguishable"—yet neither disclosed this when serving on the Review Panel that would enable differentiated environmental claims.

179. World Dryer held three seats on the UL PCR development committee: Dave Fisher, Susan Fan, and Dan Storto. World Dryer does not maintain current EPD certifications under the standard it helped create. Defendant Excel Dryer chaired the committee and maintains four active EPDs through Defendant SmartEPD, operated by Defendant Anna Lasso. The companies that wrote the standard know what it tests and what it ignores and the choice to sell a product without certification in this market is an interesting one.

180. Hokwang/FASTDRY held three seats on the same committee. Hokwang maintains active UL EPD certifications valid through April 2027, with the HK-2200 series certified at 30-35 seconds drying time to the same 0.25g residual moisture standard.

181. World Dryer is the only PCR committee participant that maintains zero current EPD certifications under any program operator.

182. Defendant Excel Dryer chaired the committee and maintains four active EPDs through Defendant SmartEPD. Defendant UL Solutions continues to certify Hokwang at 30-35 seconds. Defendant Excel Dryer chose Defendant SmartEPD certification at 8 seconds rather than UL renewal. The inference is clear: UL would not certify 8 seconds. Defendant SmartEPD did.

Manufacturer	PCR Seats	Current EPD Status	Certified Drying Time
Excel Dryer	4 (+ Chair)	4 SmartEPD (left UL)	8 seconds
Hokwang/FASTDRY	3	3+ UL EPDs (active)	30-35 seconds
World Dryer	3	ZERO (any program)	N/A

183. The people and companies that wrote these standards know what they test and what they ignore. One manufacturer chose silence. One manufacturer chose realistic certification. One manufacturer doubled down on the false dry time claims. One manufacturer chose Defendant Anna Lasso.

N. How These Certifications Came to Exist

184. In April 2007, NSF International established NSF P335, titled "Hygienic Commercial Hand Dryers." Section 3.4 defined dry hands as "less than 0.1 g residual moisture." Section 6.3 required 95% compliance across 20 trials. This was the original standard, created by the original certifier, with a rigorous threshold. Section 6.3 specifies, "Ability to dry hands within a specified drying time - The unit shall be 95% effective at achieving a residual hand moisture content of 0.1 g or lower within one operating cycle or 15 seconds, whichever is shorter, when the test is replicated a minimum of 20 times."

185. In 2012, Defendant Excel Dryer proposed amending NSF P335 to change the dryness threshold from 0.1 grams to 0.2 grams. NSF rejected this proposal. Dyson's attorneys stated in federal court filings: "Excel proposed an amendment to NSF Protocol P335 to amend the definition of 'dry hands' from 0.1 grams to 0.2 grams. However, NSF has rejected Excel's proposal." Toby Saville, a Dyson microbiologist who served on the NSF P335 Protocol Development Panel, confirmed in his sworn declaration that NSF rejected Excel's proposal.

204. Defendant Excel Dryer used the rejected standard anyway, advertising compliance under a "modified NSF protocol." Defendant SGS testing commissioned by Excel in 2012 applied "a revised version of NSF Protocol P335 Hygienic Commercial Hand Dryers currently being developed and reviewed by NSF and its new technical panel for the 5 year protocol update." This language appears in the SGS test report. NSF had previously rejected the revision. Defendant Excel Dryer represented to the federal court that it was using "the revised NSF Protocol P335" without disclosing that NSF had rejected it.

186. In July 2016, Defendant UL Solutions published the Product Category Rules for Hand Dryers with a 0.25 gram threshold—weaker than the proposal NSF had rejected four years earlier. The committee that created this standard was 80% manufacturer representatives. Defendant Excel Dryer held 40% of manufacturer seats. William Gagnon, Excel's VP and COO, chaired the committee. No scientific justification for the 0.25 gram threshold appears anywhere in the 35-page document.

187. On July 25, 2017, Defendant UL Solutions issued Environmental Product Declaration No. 4787137936.102.1 for Excel Dryer's XLERATOR hand dryer. The certificate stated: Drying time: 8 seconds; Energy consumption: 3.68 Wh per use; Residual moisture threshold: 0.25 grams.

188. Wade Stout, UL Environment EPD Project Manager, signed as external verifier. Thomas P. Gloria of Industrial Ecology Consultants verified the lifecycle assessment. The certificate had a five-year validity period.

189. The UL certificate expired in July 2022. Defendant Excel Dryer did not renew with UL. Defendant UL Solutions continues to certify hand dryers for other manufacturers.
190. Virginia State Corporation Commission records show the following timeline: April 26, 2022: Articles of organization filed for "EPD USA LLC" with Anna Lasso as registered agent, qualified as "Member or Manager"; July 6, 2022: Articles of amendment filed changing company name to "Smart EPD LLC"; July 2022: UL EPD No. 4787137936.102.1 expires.
191. At the time of the April 2022 LLC formation, Defendant Anna Lasso was either employed by UL Environment as Product Manager of EPDs and PCR Project Manager, or had recently terminated employment there.
192. The timing is significant. Defendant Anna Lasso formed EPD USA LLC in April 2022 while UL continued to certify hand dryers for other manufacturers. Hokwang's UL EPD was issued April 1, 2022—the same month Defendant Anna Lasso incorporated her company. When Excel's UL EPD expired three months later, Defendant Excel Dryer, claiming an 8 second dry time rather than the 30 second dry time of the Hokwang product, did not renew with UL. Defendant Excel Dryer obtained certification from Defendant Anna Lasso's startup instead. Defendant UL Solutions was willing to certify Hokwang at 30-35 seconds. Defendant UL Solutions was apparently not willing to certify Defendant Excel Dryer at 8 seconds.
193. On June 23, 2023, Defendant Smart EPD issued Environmental Product Declaration No. SmartEPD-2023-002-0006-01 for Excel Dryer's XLERATOR hand dryer. The certificate stated: Drying time: 8 seconds; Energy consumption: 3.68 Wh per use; Residual moisture threshold: 0.25 grams.
194. These specifications are identical to the expired UL certificate.
195. Discovery will seek to determine: (1) Whether Defendant Excel Dryer applied to renew its UL EPD certification in 2022; (2) If so, whether Defendant UL Solutions declined to renew, and on what grounds; (3) Communications between Defendant

Anna Lasso and Defendant Excel Dryer regarding SmartEPD formation; (4) Communications between Defendant Anna Lasso and UL Environment regarding Excel's certification status; (5) Whether Defendant UL Solutions refused to certify 8-second drying time claims that Defendant SmartEPD subsequently certified.

196. Thomas P. Gloria of Industrial Ecology Consultants verified the lifecycle assessment for the 2023 SmartEPD certificate. Thomas P. Gloria had verified the lifecycle assessment for the 2017 UL certificate. The same LCA verifier signed both documents.

216. Page 13 of the SmartEPD certificate states: "Tests were performed by SGS International on standard XLERATOR Hand Dryer with 0.8 inch nozzle to 0.25g or less of residual moisture, pursuant to the UL Environment Global Product Category Rules (PCR) for Hand Dryers."

197. The SGS test report referenced—Performance Test Report No. 2774929EFF-001, dated September 7, 2012—tested at 12 and 15 seconds, not 8 seconds. There are no other SGS test reports available after an exhaustive search. Defendant Excel Dryer, Defendant SGS, Defendant UL Solutions, and Defendant SmartEPD all claim an 8 second drying time without having provided any publicly available evidence at the time of this complaint. The test described in Paragraph 1 of this Complaint is likely instructive in this instance.

198. On the SmartEPD certificate, Defendant Anna Lasso is listed as: Program Operator (the entity that administers the EPD program); Independent Critical Reviewer (required by ISO 14044); Independent External Verifier (required by ISO 14025).

199. ISO 14025 Section 6.2 requires verification to be conducted by "an independent verifier." ISO 14025 Section 8.1.3 requires that the program operator "shall not be the declaration holder." Defendant Anna Lasso holds three roles that the governing standard requires to be independent.

200. The trajectory is documented. NSF established 0.1 grams in 2007. Defendant Excel Dryer proposed 0.2 grams. NSF rejected it. Defendant UL Solutions created 0.25 grams in 2016. Defendant Anna Lasso certified Defendant Excel Dryer to that standard. All these thresholds—0.1, 0.2, and 0.25 grams—are proven false by independent data showing 2.5 to 3.0 grams at certified times. The threshold differences are irrelevant when actual performance fails all of them by 1,000% to 2,500%.

O. The Certification Ecosystem

201. The certification system operates as an interconnected network where each entity relies on the entity before it.

Step	Entity	Action	Relies On	Independent Verification
1	Excel Dryer	Claims 8-second drying time	Internal assertion	None
2	SGS	Tests products, certifies results	Manufacturer-provided test parameters	None—tested at 12-15 sec, not 8
3	UL Environment	Issues EPD citing SGS data	SGS test report	None—certified 8 sec despite testing at 12-15
4	SmartEPD	Issues EPD citing same SGS data	11-year-old SGS report	None—Anna Lasso verifies herself
5	TrueNorth Collective	Conducts LCA	"Average test results provided by Excel"	None—manufacturer-supplied data
6	LEED / USGBC	Awards green building credits	EPD certifications	None—accepts certified values

202. Foundation: A drying time claim with no supporting test data. Result: Every downstream calculation is false.

203. Defendant SGS independently verified drying performance at 12 and 15 seconds in 2012. No entity in the Excel Dryer portion of this chain independently verified the 8-second claim. Yet every downstream certification, calculation, and credit is based on 8 seconds—a claimed value that appears nowhere in any public test data available.

224. Defendant Excel Dryer's own LEED v4.1 Credit Contribution document demonstrates this cascade in explicit detail. The document instructs building professionals: "Project teams may input 3.68 Wh per 8 second cycle use... for energy modelling purposes." It directs them to claim credits based on "Product-Specific Type III Environmental Product Declaration (EPD) certified by UL Environment." Defendants certify impossible specifications. Defendant Excel Dryer embeds those specifications in LEED guidance. Building professionals enter false data into certification software. LEED awards credits based on false data. At no point does any party verify that the underlying 8-second claim is true.

P. The 2012 SGS Report

204. Defendant SGS Performance Test Report No. 2774929EFF-001, dated September 7, 2012, was filed as Exhibit B to Excel's motion for preliminary injunction in Case 3:12-cv-30211-MAP, Document 6-2. The report is signed by Martin Dodd, Project Engineer, and reviewed by Jody Leber. The client is Excel Dryer, Inc., 357 Chestnut Street, East Longmeadow, MA 01028.

205. The report tested five hand dryer models: Excel Dryer HO-IW, World Dryer XA5-974AU, Excel Dryer XL-BW, World Dryer K972A, Dyson AB04, and Dyson A01. Samples were received between June 29 and August 13, 2012. Testing occurred August 15-24, 2012.

206. Page 4 of the report states: "Each product was tested in accordance with a revised version of NSF Protocol P335 Hygienic Commercial Hand Dryers currently being developed and reviewed by NSF and its new technical panel for the 5 year protocol update."

207. Independent testing unequivocally establishes after 200 unique hand dryers across all testing protocols that Excel Dryers cannot reach a dryness level of 0.1g, likely because one hand is always blocking the other. Defendant Excel Dryer performed testing via Defendant SGS before approval was given for the 0.2g NSF P335 modification and those numbers have migrated throughout the industry. NSF rejected the standard but Defendant Excel Dryer deferred to the testing done under the proposed standard for years and "SGS testing" is still referenced on their website as of the date of this complaint.

229. Page 9 of Annex A states: "For the purposes of NSF Protocol P335, 'thoroughly dry' means that less than 0.1 grams of residual moisture per hand for a total of 0.2 grams or less is recovered when a user dries his or her hands on a paper towel after using the hand dryer." Defendant SGS certified results using this methodology. Independent testing, following comparable methodology, documents 2.5 to 3.0 grams—not 0.1 to 0.2 grams. The certified results cannot be independently reproduced.

208. This is linguistic sleight of hand. NSF P335 Section 3.4 defines dry hands as "less than 0.1 g residual moisture"—total, not per hand. By redefining the threshold as "0.1 grams per hand for a total of 0.2 grams," Defendant Excel Dryer doubled the acceptable moisture while preserving the appearance of the 0.1 gram figure.

209. Table 1 of the SGS report reveals the test results at 120V, 60Hz: Excel Dryer XL-BW at 12 seconds: 0.186 grams average residual moisture; Excel Dryer XL-BW at 15 seconds: 0.108 grams average residual moisture; World Dryer XA5-974AU at 15 seconds: 0.916 grams average residual moisture; World Dryer XA5-974AU at 30 seconds: 0.306 grams average residual moisture; Dyson AB04 at 12 seconds: 0.183

grams average residual moisture; Dyson AB04 at 15 seconds: 0.143 grams average residual moisture.

210. Defendant SGS certified these results: XLERATOR at 0.186 grams at 12 seconds, World Dryer at 0.916 grams at 15 seconds, Dyson Airblade at 0.183 grams at 12 seconds. These are the certified figures on which all subsequent certifications rely. Independent testing of 451 trials, following stated methodology, documents 2.5 to 3.0 grams at equivalent times—15 to 25 times higher than SGS certified. The certified results cannot be independently reproduced and the failures are at one to two orders of magnitude out of compliance.

211. Defendant Excel Dryer's current marketing claims 8 seconds. Denis Gagnon testified under oath to 12 seconds. The SGS report tested at 12 and 15 seconds. The 8-second claim, while attributed to current models, has no foundation in any testing document anywhere in the evidentiary record.

Q. ISO 14025 Independence Violation

234. ISO 14025:2006, Section 8.1.3 requires that EPD verification be performed by an independent verifier "independent of the organization, the EPD, and any parties that have a commercial interest in the product." Section 8.1.4 specifies that the program operator "shall not act as verifier for EPDs within its own programme."

212. The Defendant SmartEPD certificate for XLERATOR Hand Dryer, Certificate No. SmartEPD-2023-002-0006-01, lists Defendant Anna Lasso in three capacities on Page 2: as contact for Smart EPD, the EPD Program Operator; as "Independent critical review of the LCA and data, according to ISO 14044 and ISO 14071"; and as "Independent external verification of EPD, according to ISO 14025." These three functions are required by ISO 14025 to be performed by independent parties. Defendant Anna Lasso performed all three.

213. Defendant Smart EPD LLC was incorporated in Virginia in February 2023. Four months later, in June 2023, Defendant Smart EPD issued its first major certification: the Excel XLERATOR EPD. Defendant Excel Dryer was not a new client relationship. Defendant Anna Lasso had worked "closely" with William Gagnon for seven years while he chaired the UL PCR committee. The certification was the business plan.

214. The TrueNorth Collective LCA underlying the SmartEPD certificate was also reviewed by Defendant Anna Lasso as panel chair. The Critical Review Statement in Appendix I, dated June 19, 2023, bears her signature as "Chair of the External Independent Third-Party Review Panel." She chaired the LCA review panel, verified the EPD based on that LCA, and operated the program that issued the EPD. Three layers of required independence. One person.

R. Excel vs Dyson Litigation

215. In December 2012, Excel Dryer sued Dyson in the United States District Court for the District of Massachusetts, Case 3:12-cv-30211-MAP, documenting, under oath, previously proprietary or trade secret information displaying an entire trail of conflicting claims about drying time, testing protocols, and science. It leaves us with a comprehensive record of who did what when and answers many questions regarding why they did it, while raising many others.

216. The litigation produced sworn testimony and documentary evidence of both companies and the certifying agencies arguing about standards and test results that powerfully foreshadow the claims made in this complaint. Each manufacturer publicly accused the other of fraud. Both were right. They appear to have been so focused on proving the other was lying, they documented in great detail, under oath, exactly how the false claims interweave with each other. Dyson explained how Excel manipulated thresholds. Excel explained how Dyson generated self-serving data. Both of them provided a timeline for historical standards setting and the reasons they and the certifiers made the choices they did. Neither realized they

were building the case against both of them, elements of which mirror and detail the false claims found in independent science and are material here.

1. The Core Dispute

217. Defendant Excel Dryer sought a preliminary injunction against Dyson's advertising, which claimed XLERATOR required 20 seconds to dry hands while Airblade required only 12 seconds. Defendant Excel Dryer's motion relied on a single Defendant SGS test purportedly showing the products' performance was "comparable" at 12 seconds.

218. Dyson's opposition memorandum, filed January 22, 2013 (Case 3:12-cv-30211-MAP, Document 27), exposed Defendant Excel Dryer's deception.

2. The "Revised NSF Protocol P335" Fraud

219. Defendant Excel Dryer represented to the court that its Defendant SGS testing used "a revised version of NSF Protocol P335 Hygienic Commercial Hand Dryers currently being developed and reviewed by NSF."

220. Dyson's attorneys responded: "The phrase 'revised NSF Protocol P335' unambiguously communicates that at some point, NSF revised its protocol P335 and that Excel's test was based on this revised protocol. That is absolutely untrue."

221. Dyson revealed that Defendant Excel Dryer had proposed amending NSF P335 to change the dryness threshold from 0.1 grams to 0.2 grams. NSF rejected this proposal. Defendant Excel Dryer used the rejected standard anyway and represented to the federal court that it was "the revised NSF Protocol P335" without disclosing that NSF had rejected the revision.

3. XLERATOR Is Not NSF Certified

222. Dyson's memorandum stated explicitly: "The Xlerator is not NSF Certified, meaning NSF has not independently verified that it passes NSF P335 and dries hands within 15 seconds."

223. This remains true today. Defendant Excel Dryer has never achieved NSF P335 certification, likely due to its single airjet design forcing hands on top of each other to trade water back and forth. The company that proposed weakening the NSF standard, was rejected, helped create UL's weaker standard, and now markets under Defendant SmartEPD certification has never met the original hygiene standard.

4. Dyson's Sworn Counterclaims

224. On February 22, 2013, Dyson filed its Answer, Statement of Defenses, and Counterclaims (Case 3:12-cv-30211-MAP). In sworn counterclaims, Dyson alleged: "The claim that the Xlerator dries hands completely in 10-15 seconds is literally false. According to testing performed by Dyson in accordance with NSF P335, the Xlerator takes approximately 20 seconds." Dyson further alleged under oath that "the Airblade achieves hygienic dryness in less than 12 seconds."

225. Both companies' sworn claims are now proven false. Independent testing of 451 residual moisture trials demonstrates that neither product achieves threshold dryness until 70-90 seconds. Dyson was right about Excel. Excel was right about Dyson. Both are responsible for making false claims about themselves.

5. Dyson's Testing Data

226. Dyson provided detailed testing results under oath. For XLERATOR, Dyson conducted three studies using NSF P335 methodology: February 27, 2008: 19.86 seconds mean; September 28, 2011: 19.97 seconds mean; September 28, 2011: 19.99 seconds mean.

227. For Airblade, Dyson conducted 22 studies between 2009 and 2011. The aggregate mean dry time was 9.58 seconds. No test showed a mean dry time exceeding 11.34 seconds. Dyson provided MIT with a conservative 12-second figure—1 to 2 seconds longer than actual test results.

228. Independent testing data contradicts these claims by orders of magnitude. Dyson's sworn mean of 9.58 seconds produces 2.547 grams residual moisture in independent testing—more than 25 times the 0.1 gram threshold Saville claimed to achieve. The 19.86 to 19.99 second XLERATOR tests fare no better: independent data shows 2.77 grams average residual moisture at manufacturer-specified times. The laws of physics do not vary by laboratory. Discovery will determine how Dyson achieved results that independent testing proves impossible.

6. Excel's Buried Admission

229. Dyson's memorandum cited Defendant Excel Dryer's own website: "On its website (but buried where consumers are not likely to see it) Excel notes that the 1.1 inch 'Noise Reduction Nozzle' will add about 2 to 3 seconds to the drying time compared to the original."

7. The White Paper Admission

230. Dyson attached Defendant Excel Dryer's own White Paper, authored by Sol Aisenberg and G. Freedman and indeterminately dated, as an exhibit. The White Paper used Defendant Excel Dryer's self-invented 0.2 gram threshold—not the NSF standard of 0.1 grams. Even using this weakened threshold, Defendant Excel Dryer's own data showed 14 seconds to reach 0.2 grams. The authors admitted they hoped to achieve drying times "in the 10 to 12 second range in the near future."

231. Defendant Excel Dryer's own researchers, in Defendant Excel Dryer's own document, using Defendant Excel Dryer's own weakened threshold, could not achieve the times Defendant Excel Dryer marketed.

8. Denis Gagnon's Testimony

232. Denis Gagnon, Defendant Excel Dryer's President, signed a declaration under pains and penalties of perjury. He testified that 12 seconds was accurate for XLERATOR. He also signed the Verification to Excel's Complaint, swearing that all allegations therein were "true and accurate to the best of my personal knowledge."

233. On June 24, 2016—nineteen days before Defendant UL Solutions published the PCR on July 13, 2016—Denis Gagnon Jr., Defendant Excel Dryer's CFO, signed a verified complaint with the International Trade Commission stating that XLERATOR drying time was "10-15 seconds."

234. Independent 451 retained moisture trials unequivocally disprove those claims. ($p < 0.001$; $r = 0.99$)

9. Toby Saville's Testimony

235. Toby Saville, the Dyson microbiologist who served on the NSF P335 Protocol Development Panel in 2007, provided a sworn declaration exceeding 120 paragraphs. He testified that DTM 553 testing achieved 0.1 grams residual moisture in 9.58 seconds mean—the aggregate of Dyson's 22 studies.

236. Independent 429 time-to-dry trials document a different reality: only 15 trials (3.5%) ever achieved 0.1 grams residual moisture, and only with extended drying far beyond any manufacturer's claimed times. Independent 212 Dyson-specific trials show mean residual moisture of 2.547 grams at 10 seconds—a differential of 20 to 40 times versus Saville's sworn claim.

260. This discrepancy—a differential of 20 to 40 times—cannot be explained by normal experimental variation. Discovery will seek: (1) complete raw data from all 22 Dyson DTM 553 studies; (2) detailed methodology including subject selection criteria, hand wetting protocols, ambient conditions, and measurement calibration; (3) identity and qualifications of all test subjects; (4) whether test subjects were Dyson employees; (5) any

internal communications discussing test results, methodology selection, or result variability; (6) any Dyson testing that produced results inconsistent with the 9.58-second claim; (7) the basis for excluding any trials from the aggregate; and (8) any communications between Dyson and NSF regarding incorporation of DTM 553 into P335.

10. The MIT Study's Data Source

237. The MIT Materials Systems Laboratory Life Cycle Assessment, filed as Document 6-1 in the Excel v. Dyson litigation, reveals the circular nature of the competing claims. The study's Table 4 lists XLERATOR's dry time as "20 sec [27]." Reference 27 is: "Blower, L. Personal communication with Dyson, Ltd., (2010)."
238. Dyson provided the dry time data for its competitor's product. The study states explicitly: "NSF protocol measurements were performed by Dyson." MIT did not independently verify either company's dry times. The study further acknowledges: "Neither Excel Dryer nor the standard dryer manufacturers, however, provide documentation on how they arrived at their dryers' respective dry times or what their basis was for dryness."
239. The 20-second XLERATOR figure that Dyson used in advertising came from Dyson's own testing of a competitor's product, reported through "personal communication" to researchers Dyson had commissioned. Defendant Excel Dryer's allegation that Dyson's data was "self-serving" was literally true—Dyson tested Defendant Excel Dryer's product and reported the results to its own commissioned study.
264. On October 17, 2012, the authors of both competing lifecycle assessments—Jon Dettling (Quantis, Defendant Excel Dryer's 2009 LCA), Jeremy Gregory (MIT, Dyson's 2011 LCA), and Randolph Kirchain (MIT)—wrote a joint letter to William Gagnon. The letter admitted: "the Airblade and the XLERATOR are statistically indistinguishable" in environmental impact. It also revealed that Dyson's test of its own product matched independent Defendant SGS results, while Dyson's test of Defendant Excel Dryer's XLERATOR was "nearly 50% higher than the SGS result." The authors admitted: "We cannot

explain these differences since we did not observe the testing by either entity." The entire comparative advantage Dyson advertised rested on dry time data Dyson itself had generated for its competitor's product—data the study's own authors could not verify.

240. The certifiers watched two manufacturers publicly accuse each other of fraud and certified both anyway.

11. Excel's Delay

241. Dyson noted that Defendant Excel Dryer delayed seeking injunctive relief for at least seven months, and possibly thirteen months, after learning of Dyson's advertising claims. Defendant Excel Dryer never sent a cease-and-desist letter. Defendant Excel Dryer never contacted Dyson at all before filing suit.

242. Dyson argued: "Excel's 'leisurely pace and lack of urgency' undercuts a presumption of irreparable harm."

243. A company suffering genuine harm from false advertising does not wait a year to act. Defendant Excel Dryer's delay suggests Defendant Excel Dryer knew its own claims were equally vulnerable to scrutiny.

12. The Settlement

244. The case settled before discovery. Neither company wanted its testing methodology examined under oath. Neither company wanted to explain how products claiming 8-12 second drying times were tested at 12-20 seconds. Neither company wanted to reconcile marketing claims with physical impossibility.

245. The settlement silenced the dispute but preserved the underlying false claims. Both companies continue marketing times neither can achieve.

S. The Document That Proves It

246. Certificate SmartEPD-2023-002-0006-01, issued June 23, 2023, certifies the XLERATOR Hand Dryer, 120V. The certificate expires June 23, 2028. The EPD Holder is Defendant Excel Dryer, 357 Chestnut St, East Longmeadow, MA. Page 2 of the certificate lists the verification parties. Three entries appear:

EPD Program Operator: Smart EPD, with Anna Lasso as contact at anna.lasso@smartepd.com.

Independent critical review of the LCA and data, according to ISO 14044 and ISO 14071: Anna Lasso, Smart EPD, anna.lasso@smartepd.com.

Independent external verification of EPD, according to ISO 14025 and reference PCR: Anna Lasso, Smart EPD, anna.lasso@smartepd.com.

247. ISO 14025 requires independence between the program operator, the LCA reviewer, and the external verifier. These are meant to be separate parties providing independent oversight. On this certificate, one person occupies all three roles. Defendant Anna Lasso operates the program, reviews the underlying life cycle assessment, and verifies the final EPD.

248. Page 3 of the certificate states: "The XLERATOR dries hands completely in 8 seconds."

249. Page 4 lists product specifications including: "Dry time: 8 seconds."

250. Page 13, under Additional Environmental Information, states: "Dry Time and Energy Use: Tests were performed by SGS International on standard XLERATOR Hand Dryer with 0.8 inch nozzle to 0.25g or less of residual moisture, pursuant to the UL Environment Global Product Category Rules (PCR) for Hand Dryers."

251. This certificate is not limited to environmental claims. It embeds the 8-second drying time as a product specification and uses that specification as the basis for all energy and lifecycle calculations. The functional unit is 100,000 instances of hand

drying. Energy consumption is calculated assuming 8-second cycles. If the drying time is false, every downstream calculation in the certificate is false.

252. The certificate explicitly documents testing to 0.25 grams—the UL PCR threshold that is 2.5 times weaker than NSF P335. The certificate does not claim NSF compliance. It does not claim UL certification. It claims testing to the UL PCR standard, verified by the person who helped create that standard while employed at UL.

253. The TrueNorth Collective Life Cycle Assessment underlying this certificate states on page 1: "Dry time, power and energy consumption are based on the average test results provided by Excel." No independent verification.

T. Timeliness

254. Defendants' false representations are ongoing. As of the filing of this Complaint, Defendant Excel Dryer's website, technical data sheets, Environmental Product Declarations, and marketing materials continue to make the false claims identified herein, including the case study attached as Exhibit A.

255. Plaintiff has purchased replacement units in reliance on the same false claims, establishing a continuing relationship.

256. The scientific research establishing the specific nature and magnitude of Defendants' specification failures was conducted between 2023 and 2025. Prior to this research, the mechanisms by which hand dryers fail—particularly the bi-modal loose water/bound water dynamic—were not known or reasonably discoverable by Plaintiff.

257. The discovery rule, continuing violation doctrine, and equitable tolling apply to preserve Plaintiff's claims.

U. Property Damage

283. Defendant Excel Dryer's products have caused damage to property distinct from the hand dryers themselves. The cost of repairing or replacing walls, floors, and fixtures damaged by water dispersal and mold colonization—property distinct from the hand dryers themselves—including drywall replacement, repainting, tile repair, and fixture replacement in restrooms where mold growth has compromised building materials.

258. Independent testing established that 100% of dispersal-type hand dryer installations showed visible wall mold. Plaintiff's headquarters installations are subject to this universal finding.

V. APPLICABLE CASE LAW

259. *Hempstead v. General Fire Extinguisher Corp.*, 269 F. Supp. 109 (D. Del. 1967). UL was held liable for negligent testing of a fire extinguisher that failed during use. The court established that testing organizations owe duties to foreseeable users who rely on certifications. This case directly supports liability for Defendants who certify products that do not meet certified specifications.
260. *Hanberry v. Hearst Corp.*, 276 Cal. App. 2d 680 (1969). The Good Housekeeping Seal created liability for a defective product. An endorsement seal creates a duty to consumers who rely on it. The NSF P335 mark and UL EPD certifications are precisely such endorsement seals.
261. *Bilt-Rite Contractors, Inc. v. The Architectural Studio*, 866 A.2d 270 (Pa. 2005). Pennsylvania adopted Restatement § 552 for information suppliers. Parties who supply false information for the guidance of others are liable to those who justifiably rely on that information. Certification is precisely such information supply. Massachusetts courts have similarly applied Restatement § 552.
262. *Toman v. Underwriters Laboratories, Inc.*, No. 81-0098-G (D. Mass. 1982). Federal preemption based on NRTL status does not shield UL from state law claims. This case forecloses any argument that UL's federal recognition immunizes it from liability for negligent standard creation.
263. *Alflex Corp. v. Underwriters Laboratories, Inc.*, 914 F.2d 175 (9th Cir. 1990). Distinguished: In *Alflex*, UL had limited electrical testing duties and did not undertake broader product safety certification. Here, Defendant UL Solutions voluntarily created hygiene-relevant standards by publishing a PCR that expressly references NSF P335 and its hygiene requirements.
264. *Warren Tech., Inc. v. UL LLC*, No. 20-CV-856 (W.D.N.Y. 2022). Distinguished: In *Warren Tech.*, no breach was shown. Here, Plaintiff documents 2,770% breach

across 451 trials with zero percent compliance. The breach is proven, massive, and systematic.

VI. JOINDER OF DEFENDANTS

265. Joinder is proper under Federal Rule of Civil Procedure 20(a)(2).

266. Same Transaction or Occurrence. All claims arise from an interconnected certification network. NSF created P335. Defendant UL Solutions created PCR referencing NSF P335. Defendant SGS tested to UL PCR. Defendant Smart EPD certified using UL PCR methodology. Defendant Anna Lasso participated in UL PCR development while at UL and now operates Defendant Smart EPD. Defendant Excel Dryer chaired the UL PCR committee and markets products using these certifications. Each Defendant's conduct is part of the same certification system.

267. Common Questions. All claims present common questions: whether certified products meet certified specifications; whether certification creates duties to consumers; whether certifiers are liable for false certifications; and whether Defendant Excel Dryer's marketing claims are materially false.

268. Joint and Several Liability. The harm is non-divisible. Plaintiff's damages cannot be allocated among Defendants who created standards, tested products, certified compliance, and marketed the resulting products. The harm flows from the interconnected system, not from any single participant's isolated conduct.

VII. CAUSES OF ACTION

COUNT I

Breach of Express Warranty

(M.G.L. c. 106, § 2-313)

(Against Defendant Excel Dryer)

269. Plaintiff incorporates by reference all preceding paragraphs.

270. Defendant Excel Dryer made express warranties to Plaintiff and to the market generally, including specific performance claims regarding drying time (8 to 10 seconds), energy consumption (1.7 Wh), cost savings (95% vs. paper towels), carbon footprint reduction (50-70% vs. paper towels), and hygiene ("more hygienic restroom environment").

271. These warranties became part of the basis of the bargain between Plaintiff and Defendant Excel Dryer.

272. Defendant Excel Dryer's products failed to conform to these express warranties. Actual drying time is 70–90 seconds, not 8 to 10 seconds. Actual energy consumption is 17–22 Wh, not 1.7 Wh. Carbon footprint advantages do not exist at actual drying times. Defendant Excel Dryer's products amplify microbial contamination rather than providing hygiene benefits.

273. Plaintiff provided Defendant Excel Dryer with reasonable notice of breach.

274. As a direct and proximate result of Defendant Excel Dryer's breach of express warranty, Plaintiff has suffered damages including the cost of products that do not perform as warranted, remediation costs, and reputational harm.

COUNT II

Breach of Implied Warranty of Merchantability

(M.G.L. c. 106, § 2-314)

(Against Defendant Excel Dryer)

275. Plaintiff incorporates by reference all preceding paragraphs.

276. Defendant Excel Dryer is a merchant with respect to hand dryers.

277. A hand dryer, to be merchantable, must at minimum dry hands within a reasonable time consistent with its ordinary purpose. A device that leaves hands wet at its claimed drying time, amplifies microbial contamination, disperses contaminated water throughout the restroom, and causes mold growth on walls does not pass without objection in the trade and is not fit for the ordinary purpose for which hand dryers are used.

278. Defendant Excel Dryer's products are not merchantable.

279. As a direct and proximate result of Defendant Excel Dryer's breach of the implied warranty of merchantability, Plaintiff has suffered damages.

COUNT III

Products Liability—Design Defect

(Against Defendant Excel Dryer)

280. Plaintiff incorporates by reference all preceding paragraphs.

281. Defendant Excel Dryer designed, manufactured, distributed, and sold XLERATOR hand dryers.

282. Defendant Excel Dryer's products are defectively designed. The defect is the design itself, not a manufacturing flaw. The fundamental engineering approach—using high-velocity air to remove water from hands—cannot achieve claimed performance specifications because bound water held by capillary action resists removal regardless of air velocity. All dispersal-type hand dryers share this defect,

as demonstrated by cross-manufacturer correlation coefficients exceeding $r = 0.999$.

283. The design defect causes Defendant Excel Dryer's products to: (a) fail to dry hands at claimed times; (b) amplify microbial contamination by 50–110 times ambient levels; (c) disperse contaminated water onto walls, floors, fixtures, and users; and (d) cause mold colonization in 100% of installations.

284. A reasonable alternative design exists: paper towels. White paper towels eliminate all five problems identified in this Complaint. White paper towels are frequently sterile (55.6% showed zero colonies), tested as statistically indistinguishable from ambient air ($p = 0.192$), achieve hand drying in 10 to 15 seconds through absorption rather than dispersal, cause no microbial amplification, create no water dispersal onto walls or floors, and produce no mold colonization (12.8% versus 100% for dispersal-type dryers). The solution is simpler than the problem.

285. As a direct and proximate result of Defendant Excel Dryer's design defect, Plaintiff has suffered damages to property distinct from the hand dryers themselves, including walls, floors, and fixtures damaged by water dispersal and mold colonization.

COUNT IV

Products Liability—Failure to Warn

(Against Defendant Excel Dryer)

286. Plaintiff incorporates by reference all preceding paragraphs.

287. Defendant Excel Dryer knew or should have known that its products: (a) do not dry hands at claimed times; (b) amplify microbial contamination; (c) disperse contaminated water throughout restrooms; and (d) cause mold colonization.

288. Defendant Excel Dryer failed to warn Plaintiff of these risks. Defendant Excel Dryer's marketing materials, technical data sheets, and Environmental Product Declarations contain no warnings regarding any of these hazards.

289. As a direct and proximate result of Defendant Excel Dryer's failure to warn, Plaintiff installed Defendant Excel Dryer's products without knowledge of the associated risks and suffered damages.

COUNT V

Negligent Misrepresentation

(Against Defendant Excel Dryer)

290. Plaintiff incorporates by reference all preceding paragraphs.

291. Defendant Excel Dryer made representations of material fact to Plaintiff regarding the performance characteristics of its products, including drying time, energy consumption, carbon footprint, and hygiene.

292. Defendant Excel Dryer made these representations in the course of its business and had a pecuniary interest in the transaction.

293. Defendant Excel Dryer failed to exercise reasonable care or competence in obtaining or communicating the information, as demonstrated by the inconsistency between Defendant Excel Dryer's own claims (8 seconds in technical data sheets versus 10 seconds in Exhibit A) and the dramatic divergence between any claimed time and actual performance (70–90 seconds).

294. Plaintiff justifiably relied on Defendant Excel Dryer's representations in making purchasing decisions. Plaintiff is a sophisticated entity in the green building industry, and Defendant Excel Dryer specifically targeted Plaintiff as a customer and marketing partner.

295. As a direct and proximate result of Defendant Excel Dryer's negligent misrepresentation, Plaintiff has suffered damages including the cost of products that do not perform as represented, remediation costs, and reputational harm.

COUNT VI

Violation of Massachusetts Consumer Protection Act

(M.G.L. c. 93A, § 11)

(Against Defendant Excel Dryer)

296. Plaintiff incorporates by reference all preceding paragraphs.

297. Defendant Excel Dryer's conduct constitutes unfair or deceptive acts or practices in the conduct of trade or commerce in violation of Massachusetts General Laws Chapter 93A, Section 2.

298. Defendant Excel Dryer's unfair and deceptive practices include but are not limited to:

- a. Making false claims regarding drying time (8–10 seconds claimed vs. 70–90 seconds actual);
- b. Making false claims regarding energy consumption (1.7 Wh claimed vs. 17–22 Wh actual);
- c. Making false claims regarding carbon footprint reduction;
- d. Making false claims regarding hygiene ("more hygienic" claimed vs. 100% microbial amplification actual);
- e. Making internally inconsistent claims (8 seconds vs. 10 seconds) demonstrating indifference to accuracy;
- f. Marketing products with certifications based on false underlying data;

- g. Obtaining certifications through processes that violate independence requirements;
- h. Citing standards that Defendant Excel Dryer helped write as independent validation;
- i. Using Plaintiff's endorsement and institutional credibility to market products based on false performance claims.

299. Plaintiff suffered injury and loss of money or property as a result of Defendant Excel Dryer's unfair and deceptive practices.

300. Prior to commencing this action, Plaintiff sent a demand letter to Defendant Excel Dryer as required by M.G.L. c. 93A, § 9.

301. Defendant Excel Dryer's conduct was willful and knowing, entitling Plaintiff to multiple damages under M.G.L. c. 93A, § 11.

COUNT VII

Unjust Enrichment

(Against Defendant Excel Dryer)

302. Plaintiff incorporates by reference all preceding paragraphs.

303. Plaintiff conferred a benefit on Defendant Excel Dryer by purchasing Defendant Excel Dryer's products, serving as a case study for Defendant Excel Dryer's marketing, featuring Defendant Excel Dryer's products on Plaintiff's Material Wall, and co-developing educational courses that promoted Defendant Excel Dryer's products.

304. Defendant Excel Dryer accepted and retained this benefit.

305. Defendant Excel Dryer's acceptance and retention of this benefit is inequitable because the benefit was conferred based on Defendant Excel Dryer's false representations regarding product performance.

306. Defendant Excel Dryer's unjust enrichment includes the value of product sales to Plaintiff, the marketing value of Plaintiff's endorsement, and the reputational benefit of association with Plaintiff.

COUNT VIII

Negligent Misrepresentation

(Against Defendants UL Solutions, Smart EPD, Anna Lasso, and SGS)

307. Plaintiff incorporates by reference all preceding paragraphs.

308. Under Restatement (Second) of Torts § 552, one who supplies false information for the guidance of others in their business transactions is liable for pecuniary loss caused to them by their justifiable reliance upon the information. Defendant certifiers supplied false information regarding hand dryer performance for the guidance of facility operators and consumers. This information included: certification that products achieve 0.1 grams or 0.25 grams residual moisture when products actually achieve 2.5 to 3.0 grams; certification that products are "hygienic" when products amplify bacterial contamination by 50 to 110 times and create visible mold in 100% of installations; certification that products meet drying performance standards when zero percent of 451 trials achieved compliance; and certification under a standard titled "Hygienic Commercial Hand Dryers" when certified products convert restrooms into permanent contamination zones.

309. Defendant certifiers failed to exercise reasonable care in obtaining and communicating this information. Defendant UL Solutions failed to prevent manufacturer capture of its committee. Defendant SGS failed to test at claimed

times. Defendant Smart EPD failed to verify physically impossible claims.

Defendant Anna Lasso failed to maintain independence between conflicting roles.

310. Plaintiff justifiably relied on Defendant certifiers' certifications. Plaintiff's organizational mission depends on accurate environmental performance data. Plaintiff used certified products believing them to perform as certified. Plaintiff featured certified products at its headquarters. Plaintiff co-developed educational courses based on certified performance claims.

311. Plaintiff suffered damages as a direct result, including research costs, remediation costs, economic loss, and reputational harm.

COUNT IX

Negligent Undertaking (Restatement § 324A)

(Against Defendants UL Solutions, Smart EPD, Anna Lasso, and SGS)

312. Plaintiff incorporates by reference all preceding paragraphs.

313. Each Defendant certifier undertook to render services necessary for the protection of consumers. Defendant UL Solutions undertook standard creation and EPD certification. Defendant SGS undertook testing. Defendant Smart EPD undertook EPD verification. Defendant Anna Lasso undertook standard development while at UL and certification while at Smart EPD.

314. Each Defendant certifier's undertaking was relied upon by manufacturers, facility operators, and consumers. The reliance was foreseeable. Indeed, reliance is the entire point of certification—without reliance, certification has no value.

315. Each Defendant certifier failed to exercise reasonable care in performing the undertaking.

316. Plaintiff suffered damages as a direct result.

COUNT X

Negligent Testing

(Against Defendant SGS)

317. Plaintiff incorporates by reference all preceding paragraphs.

318. Defendant SGS tested hand dryer products to UL PCR standards. Defendant SGS's test reports are relied upon by manufacturers, certification bodies, and consumers.

319. Defendant SGS failed to exercise reasonable care by testing at 12 to 15 seconds rather than the 8-second times manufacturers claim in marketing, and by providing test data that enabled false marketing claims to be made with apparent third-party validation.

320. Defendant SGS's court-filed data shows World Dryer Smartdri at 15 seconds produced 0.770 to 0.774 grams residual moisture—more than three times the 0.25 gram threshold.

321. Plaintiff suffered damages as a direct result.

COUNT XI

Negligent Standard Creation and Certification

(Against Defendant UL Solutions)

322. Plaintiff incorporates by reference all preceding paragraphs.

323. This Count does not ask the Court to hold Defendant UL Solutions liable for defective products. When certified products fail due to manufacturing defect, the manufacturer bears responsibility. This Count asks the Court to hold Defendant UL Solutions liable for defective standards and defective testing—for creating standards that fail to protect public safety and for certifying specifications that products cannot meet.

324. Defendant UL Solutions created Product Category Rules for Hand Dryers that are relied upon by testing organizations, certification bodies, and consumers.

Defendant UL Solutions certified products under those rules from 2017 to present.

Defendant UL Solutions's certification of Excel Dryer expired in July 2022.

Defendant UL Solutions continues to certify hand dryers, including Hokwang products certified through April 2027 at 30-35 seconds drying time.

325. Defendant UL Solutions failed to exercise reasonable care in standard creation by allowing manufacturers ten of the twelve PCR committee seats; giving Defendant Excel Dryer 40% plurality control; excluding public health officials and consumer representatives entirely; publishing a worked example—Figure 2—whose own values place 8-second residual moisture at 0.456 grams while enabling 8-second claims to proliferate; mentioning hygiene once in 35 pages; and omitting water dispersal—the primary public health mechanism—entirely.

326. Defendant UL Solutions failed to exercise reasonable care in certification by issuing EPD No. 4787137936.102.1 certifying 8-second drying times and 3.68 Wh energy consumption when the worked example in Defendant UL Solutions's own rule places 8-second residual moisture at 0.456 grams; by certifying claims at odds with the example Defendant UL Solutions itself had published one year earlier; and by maintaining certification for five years without surveillance testing.

327. Plaintiff suffered damages as a direct result.

COUNT XII

EPD Verification Negligence

(Against Defendants Smart EPD and Anna Lasso)

328. Plaintiff incorporates by reference all preceding paragraphs.

329. Defendant Smart EPD certifies Environmental Product Declarations for hand dryer manufacturers.

330. Defendant Smart EPD failed to exercise reasonable care by certifying EPDs based on physically impossible drying time claims and by operating with Defendant Anna Lasso serving simultaneously in three roles that ISO 14025 requires to be independent.

331. Defendant Anna Lasso knew Defendant UL Solutions's certification standards. She administered them. She knew what Defendant UL Solutions would and would not certify. Defendant UL Solutions certified Hokwang at 30-35 seconds using the same methodology. Defendant Excel Dryer sought certification at 8 seconds and Defendant UL Solutions allowed the EPD to lapse. Defendant Anna Lasso created Defendant SmartEPD and certified. The inference is clear.

332. Defendant Anna Lasso is personally liable because she participated in creating UL PCR methodology while employed at UL, founded Defendant Smart EPD to certify products under that methodology, and serves in three conflicting roles on certifications she issues.

333. Plaintiff suffered damages as a direct result.

COUNT XIII

Declaratory Judgment

(Against All Defendants)

334. Plaintiff incorporates by reference all preceding paragraphs.

335. An actual controversy exists regarding: whether certifications create enforceable duties to consumers; whether certified products meet certified standards; and whether Defendants have obligations to monitor and correct false certifications.

336. Plaintiff seeks declaratory judgment establishing: that certification marks constitute representations of current compliance; that certifiers owe duties of reasonable care to consumers who rely on certifications; that Defendants'

certifications were false when made and remain false; and that Defendants have affirmative duties to correct false certifications.

VIII. DAMAGES

337. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered damages including but not limited to:

- a. The purchase price of Defendant Excel Dryer's products;
- b. The cost of removing and replacing Defendant Excel Dryer's products;
- c. The cost of repairing or replacing walls, floors, and fixtures damaged by water dispersal and mold colonization—property distinct from the hand dryers themselves;
- d. Mold remediation costs;
- e. The cost of installing alternative hand drying solutions;
- f. Increased energy costs attributable to actual operational times exceeding claimed times;
- g. Reputational harm arising from Plaintiff's public endorsement of products that do not perform as represented;
- h. Costs incurred in investigating Defendants' false claims;
- i. Treble damages under M.G.L. c. 93A, § 11;
- j. Attorneys' fees and costs under M.G.L. c. 93A, § 11; and
- k. Such other damages as may be proven at trial.

IX. JURY DEMAND

338. Plaintiff demands a trial by jury on all issues so triable.

X. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment against Defendants and award Plaintiff:

A. Compensatory Damages

Compensatory damages in an amount to be determined at trial.

B. Treble Damages

Treble damages pursuant to M.G.L. c. 93A, § 11.

C. Injunctive Relief Against Defendant Excel Dryer

- i. Cease making false performance claims regarding drying time, energy consumption, carbon footprint, and hygiene;
- ii. Issue corrective disclosures to purchasers and the market;
- iii. Remove Plaintiff from all marketing materials, case studies, website content, and promotional materials;
- iv. Cease using Plaintiff's name, likeness, endorsement, or any quotes from Plaintiff's personnel in any marketing or promotional context.

D. Injunctive Relief Against Defendant Certifiers

- i. Cease certifying products that do not meet certified specifications;
- ii. Conduct public, transparent surveillance testing of currently certified products;
- iii. Suspend or revoke certifications for non-compliant products;
- iv. Publish corrective notices informing the public that certified products do not meet certified specifications;

v. Notify BuildingGreen, LEED, WELL, and similar organizations of certification failures.

E. Declaratory Relief

- i. Declare that certification marks constitute representations of current compliance;
- ii. Declare that certifiers owe duties of reasonable care to consumers who rely on certifications;
- iii. Declare that Defendants' certifications were false when made and remain false;
- iv. Declare that Defendants have duties to monitor and correct false certifications.

F. Additional Relief

- i. Attorneys' fees and costs pursuant to M.G.L. c. 93A, § 11;
- ii. Pre-judgment and post-judgment interest as allowed by law; and
- iii. Such other and further relief as this Court deems just and proper.

Respectfully submitted,

U.S. GREEN BUILDING COUNCIL

By its attorneys,

[Attorney Name]

[BBO No.]

[Firm Name]

[Address]

[Phone]

[Email]

Dated: _____

EXHIBITS

Journal Preprints

[EXHIBIT-A] Transmission of Bacteria and Fungus via Dyson and Xlerator Hand Dryers, Blouch, R. A. Jr. (2025); DOI: 10.5281/zenodo.15504115; Journal Preprint 1 of 11

[EXHIBIT-B] Testing the Validity of Hand Dryer Drying Time Specifications, Blouch, R. A. Jr. (2025); DOI: 10.5281/zenodo.15503698; Journal Preprint 2 of 11

[EXHIBIT-C] Visual Analysis of Water Dispersion Patterns, Blouch, R. A. Jr. (2025); DOI: 10.5281/zenodo.15503304; Journal Preprint 3 of 11

[EXHIBIT-D] Bacterial and Fungal Contamination Assessment of Paper Towel Types, Blouch, R. A. Jr. (2025); DOI: 10.5281/zenodo.15504144; Journal Preprint 4 of 11

[EXHIBIT-E] Systematic Performance Failure in Commercial Hand Dryers, Blouch, R. A. Jr. (2025); DOI: 10.5281/zenodo.17858443; Journal Preprint 5 of 11

[EXHIBIT-F] Baseline Water Mass on Freshly Washed Hands, Blouch, R. A. Jr. (2025); DOI: 10.5281/zenodo.17858834; Journal Preprint 6 of 11

[EXHIBIT-G] An Empirical Refutation of Green Energy Claims, Blouch, R. A. Jr. (2025); DOI: 10.5281/zenodo.17859198; Journal Preprint 7 of 11

[EXHIBIT-H] Catastrophic Time-To-Dry Failures via Bi-Modal Mechanism, Blouch, R. A. Jr. (2025); DOI: 10.5281/zenodo.17869567; Journal Preprint 8 of 11

[EXHIBIT-I] Validation of Hand Dryer Microbial Amplification, Blouch, R. A. Jr. (2025); DOI: 10.5281/zenodo.17859894; Journal Preprint 9 of 11

[EXHIBIT-J] The Wandering Plume of Filth, Blouch, R. A. Jr. (2025); DOI: 10.5281/zenodo.17860971; Journal Preprint 10 of 11

Complete List of Testing Data Files

[EXHIBIT-K] Complete Data File Index, Blouch 2025

Dryer Time Test Results Graphs

[EXHIBIT L] Comprehensive All-Trials Time-To-Dry Hand Dryer Data Graph

Petri Dish Images

[EXHIBIT-M] 136 Ambient Room Air Petri Dish Images Sampled In Front of Machines, Blouch, R. A. Jr. (2025)

[EXHIBIT-N] 60 Hand Dryer Output Air Jet Petri Dish Sample Images, Blouch, R. A. Jr. (2025)

[EXHIBIT-O] 28 Brown Paper Towel Petri Dish Sample Images, Blouch, R. A. Jr. (2025)

[EXHIBIT-P] 47 White Paper Towel Petri Dish Sample Images, Blouch, R. A. Jr. (2025)

Plume of Filth Images

[EXHIBIT-Q] Hand Dryer Plume of Filth Images

[EXHIBIT-R] Hand Dryer Mold Images with Corroborating Petri Dish Test Images

Comprehensive summary articles

[EXHIBIT-S] Comprehensive Hand Washing and Hand Drying Efficacy Studies, 59, AI, (December 2025)

[EXHIBIT-T] Comprehensive Functioning Hand Dryer Output Air Studies, 18, AI, (December 2025)

Lab Testing

[EXHIBIT-U] Hayes Microbial Consulting Report (EPA Laboratory ID: VA01419)

Evidence of Plaintiff Exposure

[EXHIBIT-V] Evidence of Plaintiff Exposure — Starbucks Rewards History + M&T Bank Statements

Standards documents

[EXHIBIT-W] UL PCR for Hand Dryers (July 13, 2016)

[EXHIBIT-X] NSF Protocol P335: Hygienic Commercial Hand Dryers (April 2007)

[EXHIBIT-Y] ISO 14025 Environmental Standards Principles and Procedures

[EXHIBIT-Z] ISO 14044 Life Cycle Assessment Requirements and Guidelines

Certifications

[EXHIBIT-AA] Smart EPD Certificate SmartEPD-2023-002-0006-01 (XLERATOR)

[EXHIBIT-BB] SGS Performance Test Report No. 2774929EFF-001 (Sept. 7, 2012)

[EXHIBIT-CC] UL Environment EPD No. 4787137936.102.1 — XLERATOR Hand Dryer certification; July 25, 2017

[EXHIBIT-DD] UL Environment EPD No. 4787616201.106.1 — Hokwang 2200 Hand Dryer certification; April 1 2022

[EXHIBIT-EE] TrueNorth Collective LCA (May 2023): Comparative Life Cycle Assessment of Hand Drying Systems: Excel Hand Dryers and Paper Towel Systems

[EXHIBIT-FF] MIT Materials Systems Laboratory Lifecycle Assessment — Document 6-1, September 2011.

[EXHIBIT-GG] NSF P335 Dyson Certified Live Listing 251231

[EXHIBIT-HH] XLERATOR LEED v4.1 Document

[EXHIBIT-II] DYSON LEED May 2014 Document

Collusion Network Structures

[EXHIBIT-JJ] Personnel and Committee Connections Master Reference Document

[EXHIBIT-KK] Standards and Certification Chronology UL to Smart EPD, Lasso, Blouch 2025

Defendant Source Documents

[EXHIBIT-LL] Anna Lasso, The First Sustainable Hand Dryer, Excel UK Website December 2025

Journalistic Industry Analysis and History

[EXHIBIT-MM] Hand dryers v paper towels, The Guardian_files, The Guardian, 25 April, 2019

Excel V Dyson Court Documents — Case_3:12-cv-30211-MAP_(D._Mass.)

[EXHIBIT-NN] Excel V Dyson Original Complaint, PACER

[EXHIBIT-OO] Denis Gagnon Affidavit Excel V Dyson, PACER

[EXHIBIT-PP] Toby Saville Affidavit Excel V Dyson, PACER

[EXHIBIT-PP-A] Toby Saville Claimed Dry Times Versus Ron Blouch Data, a Detailed Comparison

[EXHIBIT-QQ] Dyson's Answer, Statement of Defenses, and Counterclaims — Document filed February 22, 2013.

[EXHIBIT-RR] Defendant Dyson, Inc.'s Memorandum of Law in Opposition to Plaintiff Excel Dryer, Inc.'s Motion for Preliminary Injunction

[EXHIBIT-SS] Excel Reply to Dyson Opposition — Document 32, Filed February 4, 2013; includes Second Declaration of Denis Gagnon (Document 32-1)

[EXHIBIT-TT] MIT-QUANTIS Letter in response to dry time testing conflicts, 17 October 2012

[EXHIBIT-UU] Excel White Paper: “An Ultrafast, Comfortable Hand Dryer”

ITC Complaint

[EXHIBIT-VV] ITC COMPLAINT; Excel Dryer V Multiple Respondents, China; DN 3159; June 24, 2016

False Claims Summary Documents

[EXHIBIT-WW] False Advertising Claims Analysis Dyson

[EXHIBIT-XX] False Advertising Claims Analysis Excel

[EXHIBIT-YY] False Claims Analysis NSF with UL Supplemental Analysis

[EXHIBIT-ZZ] False Claims Supporting Screenshots and Document Images

Global Dryer Statistical Estimates

[EXHIBIT-AAA] US Dryer Use Estimates Annual and Per Use with microbe estimates, Blouch 2025

[EXHIBIT-BBB] US Dryer Use Estimates Annual and Per Use with energy estimates, Blouch 2025

[EXHIBIT-CCC] US Dryer Use Estimates Annual and Per Use with LEED estimates, Blouch 2025

Hokwang Dryer Product Sheets, UL

[EXHIBIT-DDD] Hokwang 2200W product sheet with UL certification, December 2025

[EXHIBIT-EEE] Hokwang high speed EcoHygiene product sheet without UL certification, December 2025

Journal Preprint

[EXHIBIT-FFF] Performance Failures in Commercial Hand Dryers: An Historical Synthesis and Sequential Summary Review of an Eleven-Study Research Program, Blouch, R. A. Jr. (2026); DOI: 10.5281/zenodo.18322481; Journal Preprint 11 of 11

[EXHIBIT-GGG] Dyson False Advertising Claims, Blouch 2025

[EXHIBIT-HHH] Excel False Advertising Claims, Blouch 2025

[EXHIBIT-III] NSF False advertising Claims, Blouch 2025

[EXHIBIT-JJJ] Screenshot False Advertising Claims Supporting Material

[EXHIBIT-KKK] Grand Central Terminal Excel Case Study

[EXHIBIT-LLL] US Green Building Council Excel Case Study

[EXHIBIT-MMM] Northwestern University Hospitals Excel Case Study

[EXHIBIT-NNN] Seabury Excel Case Study

[EXHIBIT-OOO] USDA Excel Case Study

[EXHIBIT-PPP] Dyson Energy Saving Signs

[EXHIBIT-QQQ] Excel Energy Savings Signs

[EXHIBIT-RRR] Gia AIRMID study

[EXHIBIT-SSS] Xlerator Hygiene Technical Data Sheet

[EXHIBIT-TTT] Unified Certifiers Civil Complaint, Blouch 2026

SAMPLE