

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RONALD A. BLOUCH JR.,
Plaintiff,

v. Civil Action No. _____

NSF INTERNATIONAL, et al.,
Defendants.

MEMORANDUM IN SUPPORT OF COMPLAINT

DOCUMENTING EXCEL DRYER, INC. CONDUCT

Submitted in Support of Blouch v. NSF International et al.

June 2026

I. INTRODUCTION AND PURPOSE

This memorandum documents the conduct of Excel Dryer, Inc. as it relates to UL Solutions' certification of Excel products under the UL Environment Product Category Rules (PCR) for Hand Dryers, and the subsequent certification by Smart EPD LLC. Unlike Dyson, which operates within the NSF P335 certification system, Excel participated in creating the UL PCR methodology, obtained UL certification under that standard (2017–

2022), and then obtained replacement certification from Smart EPD when the UL certification expired.

This memorandum serves four purposes: (1) to document Excel's participation in creating the UL PCR standard under which its products were certified; (2) to document the evolution of Excel's drying time claims in sworn testimony and marketing; (3) to document the transition from UL certification to Smart EPD certification; and (4) to preserve a complete evidentiary record for potential future proceedings.

II. EXCEL'S PARTICIPATION IN UL PCR DEVELOPMENT

A. Committee Composition

The UL PCR committee (Section 1.1) consisted of 10 manufacturer seats and 2 UL representatives. Excel Dryer held four of the ten manufacturer seats:

- William Gagnon (Committee Chair)
- Denis Gagnon
- Tom Koetsch
- Peter Panaretos

With 40% of manufacturer seats, Excel held plurality control over methodology decisions.

The committee included no public health officials, consumer representatives, or independent researchers. William Gagnon, Excel's VP/COO, chaired the committee.

The thresholds move in one direction across the sequence. NSF Protocol P335 requires 0.1 gram of residual moisture. Excel asked NSF to change that figure to 0.2 gram and NSF refused. Excel then commissioned SGS testing that applied the 0.2 gram figure. Four years later the UL Product Category Rule — written by a committee on which Excel held four of ten manufacturer seats and the chair — certified to 0.25 gram, a quarter more permissive again than the figure NSF had already refused. Plaintiff draws no conclusion from the sequence. It is stated as a sequence.2022), and then obtained replacement certification from Smart EPD when the UL certification expired.

B. Review Panel Composition

The UL PCR Review Panel (Section 1.6) was chaired by Jon Dettling of Quantis. Quantis had previously conducted Excel's 2009 Life Cycle Assessment study—the foundational document for Excel's environmental claims. The UL PCR explicitly cites Dettling's 2009 Quantis study as a reference document (Section 1.9).

C. Public Commenters

Section 1.7 of the UL PCR lists public commenters: Dyson Ltd., NSF International, SGS, and US Environmental Protection Agency. NSF International was aware of the UL PCR methodology and Excel's committee participation.

III. DRYING TIME CLAIMS IN SWORN TESTIMONY

A. Federal Court Testimony (December 2012)

In Case 3:12-cv-30211-MAP (Excel Dryer v. Dyson, D. Mass.), Denis Gagnon, President of Excel Dryer, testified under oath regarding XLERATOR drying times. His testimony stated drying time of 12 seconds.

For the same litigation, Excel commissioned SGS North America to conduct testing. SGS tested at 12–15 seconds—not 8 seconds. The SGS report (No. 2774929EFF-001) described its method as a revised version of NSF Protocol P335 then being developed and reviewed by NSF, and applied a 0.2 gram total threshold. Excel had asked NSF to change the P335 threshold from 0.1 gram to 0.2 gram. NSF refused. The record does not establish when the refusal issued relative to the August 2012 testing.

The SGS comparative testing was conducted in the context of litigation between Excel and Dyson. The specific Dyson model used as the benchmark in SGS testing has not been identified in available filings. In 2012, Dyson manufactured insert-dispersal Airblades (AB01/AB03) — dryers in which hands enter a vertical slot and dual opposing air blades strip water simultaneously from all four hand surfaces, with water pooling in the cavity and overflowing to the floor. No Dyson product has ever had an internal drainage tank. This insert-dispersal architecture is fundamentally different from the downdraft-dispersal products that replaced them beginning in 2013. If SGS benchmarked against an insert-dispersal unit, the comparative framework of the litigation was built on a Dyson product that no longer exists, rendering the comparative data inapplicable to any currently manufactured product.

Source: Case 3:12-cv-30211-MAP, Document 6-2

B. ITC Complaint (June 24, 2016)

On June 24, 2016—nineteen days before UL published the PCR on July 13, 2016—Denis Gagnon Jr. signed an International Trade Commission complaint stating drying time of “10–15 seconds” under penalty of perjury.

C. Current Marketing Claims

Excel currently markets XLERATOR with an 8-second drying time claim. The progression:

- 2012: Denis Gagnon Sr. testifies to 12 seconds under oath
- 2016: Denis Gagnon Jr. states 10–15 seconds under penalty of perjury
- Current: Excel markets 8 seconds

The marketing claim decreased from 12 to 8 seconds while the underlying physics remained unchanged.

IV. THE OCTOBER 17, 2012 JOINT LETTER

During the Excel v. Dyson litigation, the authors of both competing lifecycle assessments wrote a joint letter to William Gagnon. The letter was signed by:

- Jon Dettling, Managing Director, Quantis (authored Excel’s 2009 LCA)
- Jeremy Gregory, Research Scientist, MIT Materials Systems Laboratory
- Randolph Kirchain, Principal Research Scientist, MIT Materials Systems Laboratory

The letter stated: “Drawing a statistically robust conclusion regarding a superior environmental performance in the high speed dryer category is not possible given the

magnitude and variance in test data from both Dyson and SGS... when reported dry times are used in the analysis (12 seconds for each of these two units, which is consistent with the SGS measurements)... the Airblade and the XLERATOR are statistically indistinguishable.”

Source: Case 3:12-cv-30211-MAP, Document 6-6

The “statistically indistinguishable” finding requires architectural context. In 2012, Dyson’s Airblade product line consisted of insert-dispersal units (AB01/AB03) — dryers in which hands enter a vertical slot and dual opposing air blades strip water simultaneously from all four hand surfaces. No Dyson product has ever had an internal drainage tank; stripped water pooled in the cavity and overflowed to the floor. The letter’s comparison of “12 seconds for each of these two units” may have compared an insert-dispersal Dyson—which Plaintiff’s informal observation suggests could approach claimed drying performance—against an Excel XLERATOR downdraft-dispersal dryer that independent testing shows cannot. If the Dyson unit tested was an insert-dispersal Airblade, the “indistinguishable” finding compares two fundamentally different architectures and is inapplicable to any product comparison involving Dyson’s current downdraft-dispersal product line. The insert-dispersal Airblade tested in this comparison is no longer manufactured.

The same individuals recur across nominally independent roles. Jon Dettling authored Excel’s 2009 Quantis life cycle assessment—the foundational document for Excel’s environmental claims—and signed this 2012 joint letter. Four years later he chaired the UL

PCR Review Panel that approved the environmental standard under which Excel's products were then certified, and the UL PCR cites his own 2009 Quantis study as a reference document (Section 1.9). Jeremy Gregory, a co-author of the competing MIT assessment and a signatory to the same joint letter, also served on that Review Panel. The author of Excel's environmental claims thus reviewed and approved the rules that certify them, citing his own prior work as authority. This is not independent review within the meaning of ISO 14025 §8.1.2; it is the same small group of paid analysts and conflicted reviewers moving between the roles the standard requires to be kept apart.

V. UL ENVIRONMENT CERTIFICATION (2017–2022)

On July 25, 2017, UL Environment issued Environmental Product Declaration No. 4787137936.102.1 for XLERATOR. The certificate specified:

- Dry time: 8.355 seconds (120V model)
- Energy consumption: 3.680 Wh per use
- Residual moisture threshold: 0.25 grams
- Verification: the INTERNAL box checked, verifier Wade Stout, UL Environment — not the third party ISO 14025 §9.4 requires for a business-to-consumer declaration

The certification expired in July 2022 and was not renewed by UL.

VII. SMART EPD CERTIFICATION (2023–PRESENT)

A. Certification Transition

Anna Lasso served as Product Manager of EPDs and PCR Project Manager at UL Environment from 2016–2022. During this period, she worked on the UL PCR for Hand Dryers and stated publicly that she worked “closely” with William Gagnon for seven years during PCR development.

Smart EPD LLC (originally “EPD USA LLC”) was incorporated on April 26, 2022—the same month UL issued the Hokwang EPD certifying 30–35 second drying times. The company was renamed to Smart EPD LLC on July 6, 2022. Excel’s UL certification expired in July 2022.

On June 23, 2023, Smart EPD issued certificate SmartEPD-2023-002-0006-01 for XLERATOR with specifications identical to the expired UL certificate: 8 seconds, 3.68 Wh.

B. Certificate Structure

The Smart EPD certificate lists Anna Lasso in three roles:

- Program Operator
- Independent LCA Reviewer
- Independent External Verifier

ISO 14025 requires that the program operator, LCA reviewer, and external verifier be independent parties.

VIII. INDEPENDENT TESTING RESULTS

Independent testing conducted for this action produced the following results for Excel XLERATOR products:

- 462 drying trials conducted across three manufacturers
- 0% compliance with 0.25g threshold at 8 seconds
- Mean residual moisture at claimed times: 2.83g
- 70–90 seconds required to approach certified thresholds
- Cross-manufacturer correlation $r > 0.99$, indicating physical constraint rather than engineering variation

What the certifications describe is an event. UL's functional unit is the drying of 100,000 hand dryings to 0.25 gram of residual water or less; NSF's operating cycle is one such drying to 0.1 gram within a stated time. Each requires nine elements — a dryer, electricity, a wall, a floor, air, hands, water, time and dryness. Remove any one and the declared cycle fails. Between them the two certifiers prescribed a test for four: the dryness of the hands, within a time, and the electricity consumed. The XLERATOR fails every one of them.2022), and then obtained replacement certification from Smart EPD when the UL certification expired.

The figures above rest on 931 individual tests conducted at 226 stores across five states and the District of Columbia, across 1,076 culture dishes from which approximately 50,000 bacterial and fungal colonies were hand counted. Every result is public, replicable, and open for inspection and debate. Every counting decision is documented and every

error found and corrected is disclosed in the record.2022), and then obtained replacement certification from Smart EPD when the UL certification expired.

- 136 consecutive microbial amplification tests, 100% showing amplification (median 50–110×), within a corpus of 931 individual tests at 226 stores across 169 hand dryers and 94 paper-towel dispensers

IX. NORTHWESTERN MEMORIAL HOSPITAL CASE STUDY

Excel's website features Northwestern Memorial Hospital as a case study. William Gagnon stated in Excel marketing materials: "There is a lot of confusion and misinformation about the use of hand dryers in healthcare facilities. The truth is, heated air, high-speed, energy-efficient hand dryers are the most hygienic hand drying solution for healthcare facilities."

According to Excel's case study, Northwestern's Infection Control Board evaluated Excel's claims and concluded XLERATOR was "the most hygienic hand drying option." Over 120 XLERATOR units were installed throughout the facility, including patient care areas and the organ transplant clinic.

Independent testing in this action documents that hand dryers amplify bacterial contamination by 50–110× compared to ambient air, with 100% of 136 tests showing amplification.

X. RELEVANCE TO DEFENDANTS' LIABILITY

The conduct documented in this memorandum is relevant to the defendants' liability for the following reasons:

- UL Solutions created a PCR in which a single manufacturer held 40% of committee seats and the chair position
- UL Solutions certified products at 8 seconds under a Rule requiring the dry time to be third-party tested and verified, and the declaration to carry a statement of that verification
- The UL PCR Review Panel chair had previously been retained by Excel to create the LCA upon which environmental claims depend
- Smart EPD issued certifications with identical specifications after UL certification expired, with the same individual occupying three roles ISO 14025 requires be independent
- SGS tested products at 12–15 seconds, not 8 seconds, using a threshold NSF had rejected
- NSF International was a public commenter on the UL PCR and aware of the alternative certification architecture
- The entire competitive and certification framework documented in this memorandum—the Excel v. Dyson litigation, the dueling lifecycle assessments, the SGS comparative testing, and the joint letter's "statistically indistinguishable" finding—may have been built on testing of Dyson insert-dispersal products (AB01/AB03) that are no longer manufactured. If so, the comparative data upon

which certifiers relied has no applicability to any currently manufactured Dyson product, and Excel's competitive claims derived from that comparison are equally inapplicable

XI. PRESERVATION FOR FUTURE PROCEEDINGS

This memorandum creates a permanent record of Excel's conduct as documented through court filings, UL PCR committee records, certification documents, and marketing materials. While Excel is not named as a defendant in this action, this record is preserved for potential future proceedings including: amendment to add Excel as defendant; separate actions against Excel; class actions; and regulatory referrals.

Respectfully submitted,

Ronald A. Blouch Jr.

Plaintiff

Date: _____

APPENDIX: KEY DOCUMENTARY SOURCES

- UL Environment PCR for Hand Dryers (July 13, 2016)
- UL EPD No. 4787137936.102.1 (July 25, 2017)
- Smart EPD Certificate SmartEPD-2023-002-0006-01 (June 23, 2023)
- SGS Report No. 2774929EFF-001, Case 3:12-cv-30211-MAP, Document 6-2
- Joint Letter (Dettling/Gregory/Kirchain), Case 3:12-cv-30211-MAP, Document 6-6
- ITC Complaint (June 24, 2016)
- Research studies (Papers 1–11) with DOIs registered through Zenodo and Harvard Dataverse