

Case #7273 (04/26/2024)

Unilever United States, Inc.

Degree Advanced Antiperspirant

Challenger: *The Procter & Gamble Company*

Product Type: *Drugs / Health / Health Aids*

Issues: *Comparative Performance Claims; Disparagement Claims; Performance Claims; Product Demonstration/Testing*

Disposition: *Modified / Discontinued*

BBB NATIONAL PROGRAMS

NATIONAL ADVERTISING DIVISION

THE PROCTER & GAMBLE

COMPANY,

Challenger,

UNILEVER UNITED STATES, INC.,

Advertiser.

Case No. 7273

Closed (4/26/2024)

FINAL DECISION

- Product demonstrations must be narrowly tailored to fit the underlying studies and should be representative of the level of product efficacy that a reasonable consumer can expect to achieve.

I. Basis of Inquiry

The advertising industry established the National Advertising Division (“NAD”) and the National Advertising Review Board (“NARB”) in 1971 as an independent system of self-regulation designed to build consumer trust in advertising. NAD reviews national advertising in all media in response to third-party challenges or through inquiries opened on its own initiative. Its decisions set consistent standards for advertising truth and accuracy, delivering meaningful protection to consumers and leveling the playing field for business. Challenger The Procter & Gamble Company (“P&G” or “Challenger”) challenged express and implied claims made by Advertiser Unilever United States, Inc. (“Unilever” or “Advertiser”) for its Degree Advanced Antiperspirant. The following are representative of the claims that served as the basis for this inquiry:

A. *Express Claims*

- “Moving for hours. Still dry.”
- “No sweat marks.”
- “While your workout will leave your gray t-shirt soaked, Degree® will protect those pits at all costs.”
- I am sweating BUT nothing on my armpits!!”
- “Degree deodorant, 72-hour protection and you don’t even see [any] gray armpit stain.”

- “After a great workout, we have no sweat stains.”
- “Even when sweat builds up on your chest or back, DEGREE Advanced keeps your underarms dry and odor at bay.”

B. Implied Claims

- The full line of Degree Advanced antiperspirants (stick and spray) completely prevents underarm sweat and sweat marks at any point within 72 hours after application, including during intense exercise.
- The full line of Degree Advanced antiperspirants (stick and spray) completely prevents underarm sweat and sweat marks at any point within 72 hours after application, including during extended periods of intense exercise.
- Users of the full line of Old Spice (stick and spray) will experience significant sweat and significant visible underarm sweat marks even during brief periods of intense exercise.
- Users of the full line of Old Spice antiperspirants (stick and spray) will experience significant visible underarm sweat marks during intense exercise for a consumer-relevant time period before Degree Advanced users will experience any visible underarm sweat marks.
- The full line of Degree Advanced antiperspirants provides superior wetness prevention and reduction compared to the full line of Old Spice antiperspirants.

II. Evidence Presented

The Challenger provided the following evidence to substantiate its arguments:

- A press release and website explaining Degree’s Gray T-Shirt Challenge as well as instructions provided to influencers who were invited to participate in the challenge.
- The declaration of David Swaile, Ph.D. and Research Fellow for P&G.
- Correspondence between P&G and Unilever.

The Advertiser provided the following evidence in support of its arguments:

- An expansive listing of hot room tests that evaluated the proprietary active technology used in Unilever’s Degree Advanced antiperspirant line and its effectiveness at reducing sweat.
- A 72-hour and 96-hour hot room test of Degree Advanced dry spray.
- A 72-hour and 96-hour hot room test of Degree Advanced stick.
- A 72-hour hot room test comparing Degree Advanced antiperspirant dry spray and Old Spice antiperspirant dry spray.
- A SweatSENSE study comparing the performance of Degree Advanced antiperspirant stick and Secret Outlast antiperspirant stick, including SweatSENSE study images depicting results between the two products, and the activity protocol for the test.
- A SweatSENSE study comparing the performance of Degree Advanced antiperspirant dry spray and Old Spice Pure Sport Plus dry spray, including Images of SweatSENSE study images depicting results of the two products.
- A Unilever report assessing when most conventional antiperspirant products achieve complete washout.
- A publication-pending report detailing Unilever’s SweatSENSE sensor testing methodology.

- A slide of the key differences between Unilever’s microtechnology actives (Activated Aluminum Sesquichlorohydrate (“AASCH”)) compared to other traditional actives. Portions of this slide were redacted for the Challenger due to proprietary information.
- An in-vitro study applying various deodorant and antiperspirant products with SweatSENSE sensors applied in regular intervals, for the purpose of observing potential reactions with ingredients in competitor products.
- SweatSENSE study images depicting how SweatSENSE sensors photos are interpreted to calculate sweat coverage percentages, and how the pixels change color based on sweat distribution.
- The academic and professional achievements of Professor David Haddleton, Director of Polymer Characterization Research Technology Platform at the University of Warwick, who Unilever teamed up with to create SweatSENSE.
- A declaration from “Samuel” who appeared in the Samuel commercial featuring Degree Advanced 72-hour antiperspirant spray and Old Spice spray.
- A declaration from “Kamarah” who appeared in the Kamarah commercial featuring Degree Advanced 72-hour antiperspirant spray.
- A declaration from Andrew Jamieson, Unilever’s Sweat Management Platform Leader.
- A Meta-analysis across 8 studies titled *A comparison of females and males for antiperspirant efficacy and sweat output*, by Bowman et al., published in the January/February 2009 issue of the Journal of Cosmetic Science.
- A European Patent for the SweatSENSE sensor, European Patent Specification, EP 3 773 198 B1.
- An article titled *Eccrine Sweat Glands: Adaptations to Physical Training and Heat Acclimation* featured in the 1986 issue of Sports Medicine.

III. Decision

P&G and Unilever manufacture and market competing antiperspirant products. Antiperspirant products are formulated to reduce underarm perspiration through partially neutralized aluminum or zirconium salts that form a barrier to sweat from reaching the skin’s surface. Antiperspirants can also prevent the growth of bacteria and contain fragrance to mask any odor.

Many antiperspirant aerosols, including P&G’s Old Spice, contain Activated Aluminum Chlorohydrate (“AACH”) whose mechanism of action involves a temporary and superficial plugging of underarm eccrine sweat pores at the skin’s surface. Unilever developed a proprietary active technology used in its Degree Advanced antiperspirant line, which is a patented method of using microtechnology to shift the Activated Aluminum Sesquichlorohydrate (“AASCH”) size distribution towards finer more mobile molecules. It is not disputed that this innovative technology has an overall higher efficacy.

P&G challenged express and implied claims that Unilever’s videos and commercials depicting Gray T-Shirt Challenges convey the unsupported message that Degree Advanced antiperspirant products completely prevent underarm sweat and sweat marks throughout intense exercise. P&G does not dispute that Degree Advanced is “extra effective” at reducing sweat. Nor does P&G dispute that Degree Advanced dry spray is more effective at reducing sweat than Old Spice dry spray.

Additionally, P&G specifically challenges Unilever's claim made in the Samuel commercial that Degree Advanced antiperspirant products (stick and spray) provide superior wetness prevention and reduction than Old Spice's products (stick and spray) as well as claims that users of Old Spice will experience significant underarm sweat and sweat marks during intense exercise before Degree Advanced users will experience any sweat marks.

A. *Challenged Advertising*

The "Gray T-Shirt Challenge" marketing campaign was launched by Unilever to promote Degree Advanced antiperspirant products. In a series of social media posts and televised commercials, Unilever depicts individuals putting on Degree Advanced 72-hour antiperspirant spray and stick products, and a gray t-shirt, notorious for showing sweat. At the completion of "their sweatiest" workout the videos and commercials depict the user's completely dry underarms.

1. Gray T-Shirt Challenge Website

Unilever created a webpage touting the Gray T-Shirt Challenge inviting consumers to put Degree Advanced antiperspirants to the test. In large bold pink font, the webpage tells consumers "The Degree T-Shirt Challenge inspires you to move with confidence" and features a video of a wheelchair basketball athlete completing the Gray T-Shirt Challenge and lifting his underarms to show they are completely dry while the neck of his gray t-shirt is soaked with sweat. The webpage says, "It's time to free yourself from the fear of pit stains for good with Degree Advanced and the #DEGREETShirtChallenge." The webpage invites consumers to put their toughest workout to the test by using Degree Advanced spray or stick, putting on their favorite gray t-shirt and working out. The webpage then touts Degree's 72-hour protection and includes the challenged claim "Even when sweat builds up on your chest or back, DEGREE Advanced keeps your underarms dry and odor at bay." The webpage finishes by pointing consumers to Gray T-Shirt Challenge videos by Cody Rigsby, Thiago Silva, marathoners, and Paralympians.

2. Social Media Advertisements

The Gray T-Shirt Challenge videos posted to social media are sponsored by Degree Advanced and are accompanied by the hashtag #degreetshirtchallenge. Degree sent each of the influencers who participated in the campaign a miniature locker that contained Degree Advanced 72-hour spray and stick products to use, a gray t-shirt for them to wear during their video and body washes and soaps from the Degree Maximum Recovery line. Influencers were also given a briefing deck providing additional information about the challenge and directing them to use Degree Advanced antiperspirant for 10 days before starting the challenge. The instructions from Cody Rigsby, a popular figure in the fitness space, on the inside panel of the locker direct influencers to "Sweat with pride! We're talking hot yoga, an intense run, some gruesome Pilates, an interval cycling workout, heavy strength training, etc. - whatever helps you reach your maximum sweat goal! You do you, but only do what soaks that shirt and makes that sweat go drip drip."¹ The instructions guide influencers to post their workout selfie moment with #DegreeTShirtChallenge #NotDoneYet

¹ The written instructions end with the language, "Don't be average with this challenge, be savage! Push through your toughest workout without worrying about your underarms, because if you're not done, neither is Degree. New Degree Advanced Protection Antiperspirant is the brand's longest-lasting protection yet, featuring breakthrough technology that keeps you dry non-stop and pushes boundaries as you do. While your workout will leave your gray t-shirt soaked, Degree will protect those pits at all costs."

to show how well Degree Advanced Protection Antiperspirant holds up against the ultimate sweat tests.

The Gray T-Shirt Challenge was launched on social media with a video posted to TikTok by Cody Rigsby. The voiceover prompts viewers to apply Degree Advanced antiperspirant, grab their favorite gray t-shirt and “get to work - move that body, work up a sweat.” The video shows Rigsby doing a series of exercises such as lunges, sit-ups, and mountain climbers and during each separate exercise he raises his underarm to show the absence of sweat marks.

The other Gray T-Shirt Challenge videos posted to TikTok follow a similar script. Each influencer starts their video telling viewers they have been invited to try the Gray T-Shirt Challenge and shows them applying either the Degree Advanced antiperspirant spray or stick. Each video then shows the influencer playing their sport such as an intense game of basketball, running or doing intense exercise such as push-ups, sit-ups, squats, and lunges. Each athlete is shown visibly sweating after the vigorous workout with sweat marks on the front of their gray t-shirts. The videos end with the athlete lifting their arms to reveal dry underarms and no sweat marks on their gray t-shirts. Trey’s video states, “Degree deodorant, 72-hour protection and you don’t see the gray armpit stains.” Jayda’s post says, “I am sweating BUT nothing on my armpits!!;” while Jazmyin says, “after a great workout, we have no sweat stains.”

3. TV Commercials

Degree also launched a series of television commercials demonstrating the Gray T-Shirt Challenge. Both the “Joel” and “Kamarah” commercials begin with the voiceover “Can Degree Advanced pass the t-Shirt Challenge? Let’s see if Joel [or Kamarah] gets any sweat marks.” Each commercial depicts the athlete applying Degree Advanced 72-hour antiperspirant spray before playing their sport in a gray t-shirt. While the visuals depict athletes playing basketball and dancing the voiceover touts the “nonstop protection” of Degree Advanced even when it is “tested to the limit.” A super appears in smaller font that reads “Sweat protection vs 48H regular antiperspirants.” Each commercial shows the athlete completing their workout breathless, with visible sweat on their face and sweat covering the front of their shirt, yet when each athlete lifts their arms, their underarms are completely dry. Joel states “still dry and fresh;” while Kamarah says, “moving for hours, still dry, still fresh.” Each commercial concludes with a shot of the products and a voiceover saying “Degree Advanced - Instantly dry 72 hour non-stop protection”

B. Gray T-Shirt Challenge Claims

1. Message Conveyed

The Challenger argued that the express claims convey the message that Degree Advanced antiperspirant products completely prevent underarm sweat and sweat marks throughout intense exercise sessions. The Advertiser maintained that the challenged advertising truthfully conveys the message that Degree Advanced provides effective sweat reduction that can be demonstrated by the lack of visible sweat marks experienced by consumers during various workouts.

Advertiser's must provide a reasonable basis for all the messages reasonably conveyed by their claims, whether they intended those messages or not.² In evaluating the messages reasonably conveyed by an advertisement, NAD reviews the overall net impression created by the advertisement, not words or phrases standing alone.³ Neither party provided extrinsic evidence regarding the messages conveyed by the challenged advertising; therefore, the NAD stepped into the role of the reasonable consumer to determine what reasonable messages are conveyed by the net impression of the advertising.⁴

NAD determined that the Advertiser's social media videos and commercials in context each convey a message that Degree Advanced antiperspirant completely prevents underarm sweat marks throughout intense consumer exercise. Phrases such as "nothing on my armpits," "we have no sweat stains," "moving for hours, still dry" and "while your workout will leave your gray t-shirt soaked, Degree will protect those pits at all costs" go beyond claiming sweat reduction and convey a broad message that Degree Advanced completely prevents underarm sweat and sweat marks, including during intense exercise.

Visuals in the videos and commercials reinforce this message. For example, in videos Trey plays an intense session of basketball and Kamarah dances for hours with the front of their gray t-shirts soaked with sweat but their armpits remain dry reasonably conveys the message that consumers can count on Degree Advanced to protect their underarms from any sweat and sweat marks after intense exercise. Similarly, videos of influencers show sweat marks on other areas of their gray t-shirts, but the users' armpits remain dry, conveying the message that Degree Advanced users will not experience underarm sweat during intense workouts.

In addition, the website touting the Gray T-Shirt Challenge claims "when sweat builds up on your chest or back, Degree Advanced keeps your underarms dry and odor at bay" next to visuals of a Degree Advanced user playing wheelchair basketball with visible sweat stains on his chest but revealing that his underarms are free from sweat marks. NAD found this express claim communicates a message of complete prevention of underarm sweat and sweat marks.

The entire premise of Unilever's Gray T-Shirt Challenge is the absence of visible underarm sweat and sweat marks on Degree Advanced users throughout their intense workouts. For the foregoing reasons, NAD found that the advertising conveys a message that Degree Advanced completely prevents underarm sweat and sweat marks during intense exercise sessions.

2. Advertiser's Evidence

² *Guardian Technologies, LLC (GermGuardian and PureGuardian Air Purifiers and Replacement Filters)*, Report #6319, NAD/CARU Case Reports (November 2019).

³ *Cox Communications, Inc. (Gigablast Internet Service)*, Report #7122, NAD/CARU Case Reports (October 2022); *Philips Oral Healthcare LLC. (Sonicare Electric Toothbrushes)*, Report #6073, NAD/CARU Case Reports (April 2017).

⁴ *Dr. Squatch, LLC (Dr. Squatch Personal Care Products for Men)*, Report #7225, NAD/CARU Case Reports (November 2023); *Goose Creek Candles, LLC (Candles)*, Report #7237, NAD/CARU Case Reports (October 2023); *Phillips Oral Healthcare LLC (Sonicare Electric Toothbrushes)*, Report #6703, NAD/CARU Case Reports (April 2017).

To support the challenged claims the Advertiser submitted hot room studies as well as SweatSENSE studies.

a. Hot Room Studies

Unilever submitted a list of hundreds of hot room tests conducted on dry spray, stick and roll-on antiperspirants that include Degree Advance's active technology to demonstrate the effectiveness of its product. Hot room testing requires subjects to remain inactive in a controlled environment and is useful in establishing an antiperspirant's overall efficacy. Generally, hot room testing requires test subjects to observe a washout period where they forego using any antiperspirant, followed by a period in which they apply the antiperspirant being tested to one armpit and a placebo formulation to the other armpit. During the test, subjects are inactive and placed in a hot room which is a controlled environment with high temperatures. After the warm-up period, tests subjects have a pre-weighed absorbent pad placed under each armpit. At the end of this collection period the pads are weighed. The test is repeated on subsequent days for claims that a product can provide 48, 72 or 96 hours of protection. The Food & Drug Administration ("FDA") Guidelines for Effectiveness Testing of OTC Antiperspirants Drug Products require that an antiperspirant hot room tests show a 30% sweat reduction to demonstrate "**extra-effective**" antiperspirant efficacy.⁵

Unilever provided several hot room tests. One hot room test of dry spray antiperspirants featuring the active technology in Degree Advanced showed a sweat reduction beyond 30% at 72 hours. Another hot room test on Degree Advanced antiperspirant stick showed a sweat reduction beyond 30% at both 72 and 96 hours. Unilever also provided a hot room study that assessed the relative efficacy of Degree Advanced antiperspirant dry spray compared to Old Spice antiperspirant dry spray and found that Degree provides an over 30% sweat reduction compared to Old Spice at 72 hours. Unilever argued that these tests substantiate claims that Degree Advanced works continuously for 72 hours and that Degree Advanced dry spray is more effective than Old Spice at reducing sweat.

b. SweatSENSE Studies

Capacitance hygrometry, another method of sweat measurement, attempts to measure sweat during an individual's activity; however, subjects must be connected to machines throughout the testing, limiting the activities subjects may engage in during testing. As an alternative to capacitance hygrometry Unilever worked with a well-known professor and expert in polymer chemistry to create SweatSENSE, a way to map and measure sweat during intense physical activity. SweatSENSE is a paper sensor that turns from blue to red when it comes into contact with sweat but does not change color when exposed to pure water.⁶

Unilever then worked with Liverpool John Moores University to create a methodology for using SweatSENSE to measure an individual's sweat rate at various time points throughout physical activity. The testing methodology calls for measuring sweat rate by using a stamp like device that fits into the armpit and is outfitted with a SweatSENSE paper sensor.

⁵ See FDA Guidelines for Effectiveness Testing of OTC Antiperspirant OTC Drug Products.

⁶ Unilever's expert explained that the sensor takes about 5 seconds to produce results. The European Patent Office granted a patent for the SweatSENSE paper, and the application is still pending in the United States.

Unilever submitted a report from a SweatSENSE study conducted on 30 females between 21 and 39 years of age that compared the performance of Degree Advanced Antiperspirant stick and Secret Outlast antiperspirant stick. After a 10-day washout period subjects were given the test products to apply under both underarms for 6 days before the study.⁷ The study required subjects to engage in brisk walking, simulated housework, stairs, cycling, and rest over 5 hours. SweatSENSE measurements were taken at 39 time points throughout the course of the 5-hour study and results showed that the average relative difference in sweating was lower with Degree Advanced than Secret Outlast.⁸ Unilever also provided photos of the SweatSENSE measurements from each underarm of the 30 subjects at one timepoint about 4 hours into the test.⁹

The Advertiser also provided a report from a SweatSENSE study conducted on 28 men¹⁰ between the ages of 21 and 31, comparing Degree Advanced antiperspirant dry spray to Old Spice antiperspirant dry spray. Participants observed a 7-day washout period and were provided with the test products to apply for 4 days before the test day. On the test day, participants applied antiperspirant at least 2 hours before the trial began. The test began with a 5-minute treadmill walk. Subjects then did 5 rounds of a 5-minute circuit consisting of 4 exercises: (1) front lunges, (2) shoulder presses, (3) squats, and (4) high knees. There was a rest period after each circuit. After the fifth circuit subjects ran for 15 minutes on the treadmill. The subject's SweatSENSE, heart rate and Rate of Perceived Exertion ("RPE") measurements were taken every 2-minutes during the exercise, after each rest period, and at the end of the run.

Results showed that 24 out of the 28 participants had lower sweating with Degree Advanced than with Old Spice. When comparing Degree Advanced and Old Spice at each of the 21 SweatSENSE measurement time points the average relative difference in sweating was lower for Degree Advanced versus Old Spice. Unilever also provided photos of SweatSENSE measurements from each underarm taken during the last round of shoulder press exercises.

3. Analysis

It is well established that product demonstrations must be narrowly tailored to fit the underlying studies and should be representative of the level of product efficacy that a reasonable consumer can expect to achieve.¹¹

The Challenger argued that Unilever's studies are not a good fit for the claims because both the SweatSENSE and hot room studies show participants experience underarm sweat during their workouts and neither study tests for underarm sweat marks.

Unilever argued that the hot room data corroborates the SweatSENSE data and substantiates Degree Advanced's 72-hour protection claims. Unilever further argued that the SweatSENSE

⁷ The subjects were randomly assigned which antiperspirant would be applied to the left or right armpit.

⁸ Degree Advanced also provided superior protection at 28 of the measured time points.

⁹ The SweatSENSE study images show the blue SweatSENSE paper with areas of red that indicate where the sensor came in contact with sweat.

¹⁰ The study originally included 30 men, but two participants did not complete the study.

¹¹ *SharkNinja Operating, LLC (Shark Stratos Powered Lift-Away upright vacuum)*, Report #318, supra; *Advantice Health (Kerasal Fungal Nail Renewal)*, Report #6421, NAD/CAR U Case Reports (October 2020) *Maybelline, New York, Inc. (Instant Age Rewind Eraser Treatment Makeup)*, Report #5291, NAD/CARU Case Reports (October 2012).

data—having been specifically developed to assess sweat efficacy in ways that standard hot room testing cannot—demonstrates the product’s ability to reduce sweat and prevent visible sweat marks. Unilever contended that the SweatSENSE studies demonstrate that Degree Advanced is highly effective at reducing underarm sweat and that reduction can be demonstrated through the Gray T-Shirt Challenge. Additionally, Unilever maintained the SweatSENSE studies are validated by both hot room testing¹² and capacitance hygrometry testing¹³ qualifying them as valid tests to show a reduction in sweating with the active technology in Degree Advanced.

The hot room studies demonstrate the “extra effectiveness” of the active technology found in Degree Advanced antiperspirants and that Degree Advanced dry spray is more effective than Old Spice dry spray at reducing sweat. Such claims, however, are not disputed. The hot room studies are not a good fit to support the express and implied messages that Degree Advanced completely prevents underarm sweat and sweat marks. First, the hot room studies do not measure sweat during activity and the challenged advertising shows the product being used before intense workouts. Next, the hot room studies measured the amount of sweat gathered from a subject but did not test whether this amount of sweat would result in visible underarm sweat marks on a consumer’s t-shirt.

Although the SweatSENSE studies evaluate the relative efficacy of Degree Advanced and competitor antiperspirants during a workout, neither evaluated users underarm sweat marks on a gray t-shirt or any color t-shirt. For each study, the Advertiser submitted photos of the SweatSENSE paper sensors from one timepoint in the study. The sensor’s pixels turn from blue to red when sweat is detected. The photos show various blue and red images. The Advertiser argued the lack of red in the Degree Advanced photos illustrates that much of the sweat detected is not visible to the naked eye because the sweat coverage is diffuse, as opposed to areas where sweat has pooled, which creates a concentrated red that is more noticeable to the naked eye. There is nothing in the record that correlates the SweatSENSE sensor photos to visible sweat marks on a consumer’s gray t-shirt.

The Advertiser argued that differences between the degree of contact of the SweatSENSE sensor paper and a t-shirt with an individual’s armpit suggest that Degree Advanced could completely prevent visible sweat stains because while the sensor fits snugly into the armpit and is flush with the skin for 5 seconds, non-compression t-shirts are not pressed against a consumer’s underarm so not all underarm sweat will come into contact with the t-shirt. There is no evidence in the record, however, that correlates the amount of sweat detected on sensor paper to visible sweat marks. Additionally, although the SweatSENSE photos were taken at multiple timepoints throughout the physical activity, NAD did not find that the SweatSENSE photos which depict sweat at a single timepoint supported the broad challenged express and implied claims that consumers will experience no visible sweat marks on a t-shirt throughout their intense workouts.

¹² See Hand, Rachel et. al, “A simple approach to determining the efficacy of antiperspirants using paper based colorimetric paper sensors” where the performance of the SweatSENSE sensors was assessed using a “hot room” study involving 52 subjects where half were given a topically applied antiperspirant and half were given a control deodorant product.

¹³ SweatSENSE was validated with capacitance hygrometry through baseline testing using a panel of 30 females. The study collected data points from the panelists as they engaged in a range of exercises. These data points were compared with continuous capacitance hygrometry data and a correlation was found between SweatSENSE and capacitance hygrometry.

The Challenger also argued that the total sweat coverage data in both SweatSENSE studies showed significant total sweat coverage percentages for Degree Advanced users and therefore cannot support the claim that the typical consumer will not experience sweat or sweat marks throughout their workout. For example, the Secret SweatSENSE study at timepoint number 4 shows a total sweat coverage that is less for Degree Advanced stick than for Secret stick illustrating that consumers are sweating on their underarms.¹⁴

The Advertiser explained that due to differences in how eyes and computers perceive color, a SweatSENSE sensor may not appear to the naked eye to show sweat, but the processed image may still reveal a total sweat coverage of 25% for example.¹⁵ In other words, while the total sweat coverage percentage amounts may seem like they would produce visible sweat marks, the Advertiser argued that not all measured sweat is visible to a consumer's eye and the areas where sweat will be most noticeable is where it has pooled or concentrated. There is no evidence in the record, however, as to the amount of underarm sweat or at what point pooling of underarm sweat will result in a visible underarm sweat mark on a consumer's t-shirt.

Additionally, the Challenger argued that the SweatSENSE study data is not a good fit for the challenged claims because the exercise in the studies does not match the vigorousness of the exercise depicted in the commercials. It is well-established that consumer testing should correlate to conditions depicted in the advertising.¹⁶ The Degree Advanced versus Secret SweatSENSE study only represented low to moderate exercise as subjects were instructed to adjust the intensity of the exercises which included, brisk walking, simulated housework, stairs and cycling with long rests in between, "to ensure the activities are low moderate in nature to replicate daily life."¹⁷ None of the Gray T-Shirt Challenge videos or commercials demonstrate this type of low to moderate exercise, as videos show a dancer moving for hours, athletes playing intense basketball, and others exercises such as lunges, squats, and abdominal exercises, more intense activity than simulated housework, brisk walking and walking up and down stairs.

While the intermittent exercise protocol of the Degree Advanced versus Old Spice SweatSENSE study was more representative of the types of exercises depicted in the videos and commercials,¹⁸ it only tested antiperspirant dry sprays and not antiperspirant sticks. Accordingly, the study results do not support the claim that Degree Advanced completely prevents underarm sweat and underarm sweat marks during the depicted exercises as it related to all Degree Advanced antiperspirant products.

¹⁴ The Advertiser did not submit individual total sweat coverage at all timepoints in the Old Spice SweatSENSE study as it did in the Secret SweatSENSE study. The SweatSENSE data in the Old Spice study did show that 24 out of 28 participants displayed a superior response for Degree rather than Old Spice.

¹⁵ The SweatSENSE photos are scanned into an application, processed into black and white images and the white portions of those images are used to calculate the sweat coverage percentages.

¹⁶ *Unilever United States, Inc. (Degree Motion Sense and Degree Clinical Protection Antiperspirants)*, Report #5819, NAD/CARU Case Reports (March 2015).

¹⁷ The average RPE of participants remained below 12 for most exercises on a scale of 6-20 with 6 representing no exertion at all and 20 representing maximum exertion.

¹⁸ The subjects in the SweatSENSE study completed a warm-up and a circuit of forward lunges, shoulder presses, squats and high knees. This circuit was completed 5 times with a rest period in-between circuits. After completing the fifth circuit, subjects ran on a treadmill.

The Challenger also argued that the SweatSENSE studies are not a good fit for the challenged claims because the sensors themselves do not measure visible sweat marks on a t-shirt throughout an entire consumer workout.

While the Advertiser's expert acknowledges that SweatSENSE testing is designed to capture sweat in a moment in time during an extended workout to give an indication of the active sweat rate of an individual, the problem remains that nothing in the record connects the active sweat rate of the individual obtained from the SweatSENSE studies and the amount of sweat that will appear on a consumer's t-shirt.

NAD found that while the evidence in the record demonstrates Degree Advanced antiperspirant's effectiveness at reducing underarm sweat, the product demonstrations in the videos and commercials go beyond sweat reduction and show the absence of sweat marks on user's underarms. For the foregoing reasons, NAD found that the hot room and SweatSENSE studies are not a good fit to support the claims that Degree Advanced antiperspirants can completely prevent underarm sweat and sweat marks throughout intense workouts. NAD recommended that the Advertiser discontinue the express claims "moving for hours. Still dry," "no sweat marks," "while your workout will leave your gray t-shirt soaked, Degree will protect those pits at all costs," "I am sweating but nothing on my armpits," "Degree deodorant, 72-hour protection and you don't even see [any] gray armpit stain," "after a great workout, we have no sweat stains" and "even when sweat builds up on your chest or back, Degree Advanced keeps your underarms dry and odor at bay." NAD also recommended that the Advertiser modify its advertising to avoid conveying the unsupported message that the full line of Degree Advanced antiperspirants completely prevent underarm sweat and sweat marks during intense exercise. Nothing in this decision prevents the Advertiser from making other claims that are accurate and narrowly tailored to the results of Degree Advanced's hot room and SweatSENSE studies.

P&G also argued that the commercials convey an implied message that Degree Advanced antiperspirants completely prevent underarm sweat and sweat marks for 72 hours, including during intense exercise conducted at any time point during that 72-hour period. Since NAD concluded that the Advertiser could not support its claim that Degree Advanced completely prevents underarm sweat and sweat marks during intense exercise, it did not reach the issue of whether this implied claim is indeed conveyed or supported.

C. Samuel Commercial Claims

The Samuel commercial makes a direct comparison between Degree Advanced 72-hour antiperspirant and the Challenger's Old Spice antiperspirant. The commercial opens on a man identified as Samuel with on-screen text describing him as an "amateur calisthenics athlete." Samuel says "Today, I'm doing the Degree Gray T-shirt Challenge. Let's put Degree Advanced and Old Spice to the test and see if I get any sweat marks." As he applies Degree Advanced spray to his left armpit and Old Spice spray to his right armpit, a disclosure states "results representative of moderate sweaters under intense exercise." Samuel then begins to do a series of pullups outdoors while the voiceover states "with nonstop sweat protection, you're not done yet." When he finishes his pullups, Samuel has sweat on the front of his shirt, and he lifts his right arm to reveal sweat marks, and "Old Spice" appears on the screen under the right armpit. Then Samuel lifts his left arm, which has no sweat marks, and the Degree logo appears. The voiceover says, "the result - only one winner here" and Samuel says "no sweat marks." The screen transitions to a show the Degree Advanced 72-hour antiperspirant sprays and text appears that reads "72H NONSTOP

PROTECTION KEEPS WORKING WHEN OTHERS STOP.” In smaller letters it reads “It Won’t Let You Down.” There is a super at the bottom of the screen that reads “vs regular 48H antiperspirant dry spray.” At the same time, the voice over says, “Degree Advanced, keeps working when others stop.”

P&G argued that the Samuel commercial conveys the message that the full line of Degree Advanced antiperspirants provides superior wetness prevention and reduction compared to the full line of Old Spice antiperspirants. The Challenger also argued that the comparative product demonstration falsely disparages Old Spice and conveys an unsupported line claim that users of Old Spice antiperspirants (stick and spray) will experience significant and visible sweat marks during brief periods of intense exercise and for a consumer-relevant time period before Degree Advanced users will experience any visible underarm sweat marks.

Unilever argued that no line claim is communicated because the commercial clearly only shows the dry spray product throughout.

1. Message Conveyed

NAD first addressed whether the Samuel commercial conveys a message comparing the line of Degree Advanced antiperspirants to all Old Spice antiperspirants. In assessing whether a line claim is communicated, NAD looks at a variety of factors including whether there are general brand references in the advertisement, whether the copy effectively limits the applicability of the claim, whether only one variety of the product is shown, and whether there is a beauty shot of the all the products in the line, that may serve to reinforce the extended applicability of the claims.¹⁹ While not all of these elements must be present and none of these elements standing alone is dispositive, general brand references that fail to adequately limit a claim’s applicability to one product are more likely to convey a line claim.²⁰

The audio of the Samuel commercial only makes general brand references and never specifically refers to Degree Advanced dry spray. The commercial opens with Samuel saying, “Today, I’m doing the Degree Gray T-Shirt Challenge” and the visual onscreen states “Gray T-Shirt Challenge by Degree Advanced.” Samuel then goes on to say, “Let’s put Degree Advanced and Old Spice to the test and see if I get any sweat marks.” The voiceover continues “with nonstop sweat protection, you’re not done yet. The results, only one winner here.” Samuel then states, “no sweat marks” while lifting his arms to show sweat marks on one underarm with a general brand reference to “Old Spice” on screen and a dry underarm with a visual general brand reference to “Degree,” but not the specific dry spray product. While the commercial only visually shows the dry spray product being used and the dry spray product in the end-product shot, NAD found that these visuals did not limit the numerous general brand references in the audio and visual throughout the commercial.

¹⁹ *The Procter & Gamble Company (Olay Body Wash)*, Report #7013, NAD/CARU Case Reports (March 2022); *Unilever United States, Inc. (Degree Motion Sense and Degree Clinical Protection Antiperspirants)*, Report #5819, *supra*.

²⁰ *Id.*

NAD found the *Olay Body Wash*²¹ case, relied on by the Advertiser, distinguishable. In *Olay Body Wash* the print and digital ads challenged featured only the Olay Premium Body Washes and did not feature other products from the Olay Body product line. In addition, there were no competing elements featuring general brand references as there are in the Samuel commercial. Perhaps the most distinguishing element is that the challenged commercial in the *Olay Body Wash* case specifically referenced the individual product with retinol in the audio effectively limiting the claim to the specific products, while the audio in the Samuel commercial refers to the brand and never mentions the specific dry spray product.

Unilever also argued that the disclosure “*vs. regular 48H antiperspirant Dry Spray” qualifies the claim “Keeps working when others stop” and serves to limit the claim to dry sprays only. NAD found that the small disclosure that appears at the bottom of the screen for three seconds does not limit the multiple general brand references in the audio and visual elements throughout the Samuel commercial. Reasonable consumers are not likely to see the disclosure, nor will they understand that it is meant to limit all of the general brand references in the commercial to a comparison of Degree Advanced dry sprays.

For the foregoing reasons NAD found that the Samuel commercial communicates a comparison between the Degree Advanced line of antiperspirants and the Old Spice line of antiperspirants. Further, NAD found that the depiction of Samuel completing several rounds of pull-ups and then showing his results of a dry underarm with Degree Advanced and a wet underarm with Old Spice, conveyed the message that the full line of Old Spice antiperspirants will experience visible underarm sweat marks during intense exercise for a consumer relevant time period before Degree Advanced users will experience any visible underarm sweat marks.²²

Similarly phrases such as “nonstop sweat protection” with “no sweat marks” and the visual of the comparison of the underarm sweat marks convey the implied message that the full line of Degree Advanced antiperspirants provides superior wetness prevention and reduction compared to the full line of Old Spice antiperspirants.

2. Analysis

To support the implied line claims, the Advertiser relied on a hot room study that compared the relative efficacy of Degree Advanced 72 Hour antiperspirant dry spray to Old Spice Sweat Defense Pure Sport Plus dry spray. That study demonstrated that at the 72-hour mark Degree Advanced dry spray provided a statistically significant sweat reduction compared to Old Spice dry spray.

The Advertiser also relied on the SweatSENSE study that compared Degree Advanced and Old Spice dry sprays and demonstrated that the average relative difference in sweating was lower with Degree Advanced dry spray. Additionally, a comparison of the two products at each of the 21 SweatSENSE measurement time points demonstrated that the average relative difference in sweating was lower for Degree Advanced dry spray versus Old Spice dry spray.

²¹ *The Procter & Gamble Company (Olay Body Wash)*, Report #7013, *supra*.

²² P&G also argued that the commercial conveyed the message that Old Spice users will experience sweat and sweat marks even during brief periods of intense exercise because the Samuel commercial only shows Samuel doing pullups for 9 seconds. NAD found that reasonable consumers would understand that commercials are meant to depict a snippet of real-world demonstrations and would not reasonably take away a message that Samuel only exercised for 9 seconds.

When using a comparative demonstration to show differences in product performance the demonstration should not overstate the extent of any demonstrated superiority, should fairly and accurately reflect the results that consumers will typically experience, and should not materially distort the capacity of the competitor's product.²³

a. Superior wetness and sweat reduction implied claim

While the hot room study demonstrated superior sweat reduction with respect to dry sprays, there is no evidence in the record that establishes that users will experience less wetness or more sweat reduction when using Degree Advanced stick versus Old Spice stick.

The Advertiser also relied on the SweatSENSE study comparing Degree Advanced dry spray and Old Spice dry spray. While this study demonstrated that consumers experience less sweating with Degree Advanced dry spray than Old Spice dry spray, there is nothing in the record demonstrating the difference in sweating between Degree Advanced sticks and Old Spice sticks. NAD found that the implied claim that the full line of Degree Advanced antiperspirants provides superior wetness prevention and reduction compared to the full line of Old Spice antiperspirants is not substantiated by the evidence in the record. NAD recommended that the Advertiser modify the Samuel advertisement to avoid conveying the message that all Degree Advanced antiperspirant products provide superior wetness prevention and reduction compared to all Old Spice antiperspirant products.

b. Visible underarm sweat marks implied claim

Side-by-side comparisons are impactful claims for consumers. To support the superior performance claim depicted by the side-by-side comparison of Degree Advanced versus Old Spice, the Advertisers relied on the hot room and SweatSENSE studies.

For the reasons noted above the hot room study on Degree Advanced and Old Spice dry sprays and the SweatSENSE study on both dry sprays are not a good fit for claims regarding visible sweat marks on a t-shirt as nothing in the studies accurately measures how the sweat reduction measured correlates to visible sweat marks on a consumer's t-shirt. NAD found that the side-by-side demonstration overstates the extent of any demonstrated superiority of Degree Advanced dry spray in reducing sweat better than Old Spice dry spray. Accordingly, NAD recommended that Unilever discontinue the side-by-side demonstration of visible sweat marks on Old Spice underarms and the dry underarms of Degree Advanced users.

IV. Conclusion

NAD recommended that the Advertiser discontinue the express claims “moving for hours. Still dry,” “no sweat marks,” “while your workout will leave your gray t-shirt soaked, Degree will protect those pits at all costs,” “I am sweating but nothing on my armpits,” “Degree deodorant, 72-hour protection and you don't even see [any] gray armpit stain,” “after a great workout, we have no sweat stains” and “even when sweat builds up on your chest or back, Degree Advanced keeps your underarms dry and odor at bay.” NAD also recommended that the Advertiser modify its

²³ *SharkNinja Operating LLC (Shark HyperAir Hair Dryer)*, Report #7081, NAD/CARU Case Reports (June 2022); *LG Electronics USA, Inc. (Super UHD and OLED Televisions)*, Report #6163, NAD/CARU Case Reports (March 2018).

advertising to avoid conveying the unsupported message that the full line of Degree Advanced antiperspirants completely prevent underarm sweat and sweat marks during intense exercise. Nothing in this decision prevents the Advertiser from making other claims that are accurate and narrowly tailored to the results of Degree Advanced's hot room and SweatSENSE studies.

NAD recommended that the Advertiser modify the Samuel advertisement to avoid conveying the message that all Degree Advanced antiperspirant products provide superior wetness prevention and reduction compared to all Old Spice antiperspirant products.

NAD recommended that Unilever discontinue the side-by-side demonstration of visible sweat marks on Old Spice underarms and the dry underarms of Degree Advanced users.

V. Advertiser's Statement

Unilever will comply with NAD's recommendations and is pleased that NAD agreed that Unilever's patented SweatSENSE sensor testing, which was designed to measure an antiperspirant's performance during physical activity, confirms that Degree Advanced antiperspirant dry spray products are superior at reducing sweat compared to Old Spice dry spray. While Unilever respectfully disagrees with NAD's interpretation of the claims at issue, it will take NAD's recommendations into consideration in future advertising. (**#7273 JS, closed 04/26/2027**)