DECLARATION OF WENDY J. WINTMAN
PURSUANT TO 28 U.S.C. § 1746

I, Wendy J. Wintman, have personal knowledge of the facts and matters discussed in this declaration, and, if called as a witness, could and would testify as follows:

1. I am over the age of twenty-one (21) and am competent to give this testimony.

2. I am employed as Manager, Legal Services of Consumers Union of United States, Inc. ("Consumers Union").

3. Consumers Union is an independent non-profit organization with its headquarters located in Yonkers, New York. Since 1942, Consumers Union has published under the *Consumer Reports* trademark a magazine periodical that includes reviews and comparisons of consumer products and services.

4. Consumers Union currently administers several websites under domain names it has registered, which domain names include *consumerreports.org*, *consumerreports.org/health*, *consumerreportshealth.org* and *consumersunion.org*.

5. The *Consumer Reports* logo, pictured below, is a trademark that Consumers Union has registered with the United States Patent and Trademark Office (Serial Number: 75/838,392; Registration Number: 2,465,186; registered on July 3, 2001).

Consumer Reports®

Consumers Union is also the owner of a federal trademark registration for CONSUMER REPORTS (Serial Number: 72/043,817; Registration Number: 0672849; registered on January 20, 1959).

6. Websites such as *consumerproductsdaily.com* had used language "As seen on…" followed by the logos for *Consumer Reports* and other news outlets.

7. Consumers Union has no affiliation with *consumerproductsdaily.com* or with any other website using the *Consumer Reports* logo in a similar fashion.

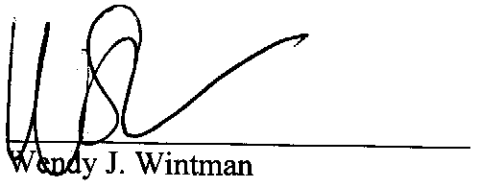
8. Consumers Union has never licensed or in any way authorized the use of the *Consumer Reports* trademark in connection with the website *consumerproductsdaily.com* or with any website employing a similar format.

9. While this format may imply to consumers that *Consumer Reports* has, along with the other news outlets whose logos are listed, published articles favorably reviewing the products featured on these websites, *Consumer Reports* has not published any articles reviewing the advertised products favorably. In fact, *Consumer Reports* published an article in its February 2010 issue of *Consumer Reports* warning consumers that websites using formats like those used in the websites listed above may be misleading. A true and correct copy of that article, available at *http://www.consumerreports.org/cro/magazine-archive/2010/february/money/beware-of-fake-news-online/overview/fakes-news-ov.htm*, is attached hereto.

10. Additionally, Consumers Union has received numerous complaints and inquiries from consumers regarding web sites with a format similar to *consumerproductsdaily.com*, including *consumerdigestweekly.com*, *weeklyhealthnow.com*, *healthnews10.com*, and *health9news.com*. Many of the complaints voiced concern that these web sites were infringing the *Consumer Reports* trademark, while other complaints questioned *Consumer Reports'* affiliation with these web sites. There were also inquiries about

Consumer Reports' actual reporting on acai berry by readers seeking to verify the claims in these web sites.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 14, 2011, within the United States.



Wendy J. Wintman