

Public

File No. CT-2015-010

COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34, as amended;

AND IN THE MATTER OF an Application by Audatex Canada, ULC for an Order pursuant to section 103.1 granting leave to make application under section 75 of the *Competition Act*.

BETWEEN:

COMPETITION TRIBUNAL TRIBUNAL DE LA CONCURRENCE	
FILED / PRODUIT	
December 22, 2015 CT-2015-010	
Jos LaRose for / pour REGISTRAR / REGISTRAIRE	
OTTAWA, ONT	# 76

AUDATEX CANADA, ULC

Applicant

- and -

CARPROOF CORPORATION, TRADER CORPORATION,
and eBAY CANADA LIMITED

Respondents

AFFIDAVIT OF SCOTT NEIL

I, SCOTT NEIL, of the City of Berlin, in the country of Germany, MAKE OATH AND SAY:

1. I am the Director, Commercial Business with eBay GmbH. Between October 2013 and August 2015, I was employed by eBay Canada Limited ("eBay Canada") as the Managing Director, Verticals for Kijiji.ca. From March 2011 to September 2013, I was employed by eBay Canada as the Head of Verticals for Kijiji.ca. In those roles, I provided marketing and support services to Marktplaats B.V. ("Marktplaats") in respect of the Kijiji.ca website. As such, I have personal knowledge of the facts and matters referred to in this Affidavit, except where stated to be on information and belief in which cases I verily believe such information to be true.

Marktplaats and Kijiji.ca

2. Marktplaats is a Dutch company with its headquarters in Amsterdam, The Netherlands. Marktplaats operates the Kijiji.ca website ("Kijiji") and is the owner of the Confidential and Proprietary Listing Data (as defined and discussed below).

Public

3. Kijiji is a local classified ads website that enables Canadians to buy, sell and trade goods and services in a variety of categories, including used cars and trucks. First launched in Montreal and Quebec City in February 2005, Kijiji is now available in over 100 cities across Canada.

Cars & Vehicles Ads on Kijiji

4. Local ads for used cars and trucks have been available on Kijiji under the product category "cars & vehicles" since July 2005. As a result of enormous effort and expense over more than a decade, Kijiji has become one of Canada's largest databases of used car and truck ads. Currently, during any given month, there are approximately [REDACTED] classified ads for used cars and trucks (together, "Vehicles") on Kijiji.

5. Vehicle owners and dealers (collectively, "Kijiji Sellers") wishing to sell Vehicles through Kijiji are directed to submit a specific complement of information to Marktplaats, including price, make, model and year, kilometers, body type, location (*i.e.*, city or area), sub area (where a Kijiji Seller is located in one of the "areas" listed under "location", such as the Greater Toronto Area), address and email. Optional information that may be submitted by Kijiji Sellers includes the vehicle identification number ("VIN"), trim, transmission, drivetrain, colour and fuel type.

6. [REDACTED]

7. Vehicle ads (and the data they contain) are live on Kijiji and publicly-available for only a limited time. Ads posted by Vehicle owners stay on Kijiji for 60 days, while dealer ads last 31 days (unless, in either case, they are reposted). Further, while they are live, Vehicle ads are available only on the appropriate local Kijiji webpage (*e.g.*, Belleville, Ontario; Gander, Newfoundland; Nipawin, Saskatchewan). Further, consistent with Kijiji's *raison d'être* as a site where people can connect with others in their own community, users can only search Vehicle

Public

ads by city or area. It is therefore not possible to search or view the Vehicle ads on a national basis, across the entire site, except by separately accessing each of the more than 100 dedicated, local Kijiji webpages. As a result, the vast majority of the Vehicle ads on Kijiji are not readily or practically accessible or available to the public at large without substantial effort.

8. Further, absent unauthorized scraping or other unauthorized harvesting of data from the Kijiji site with the aid of a computer script (which, as discussed below, is expressly forbidden by the Kijiji Terms of Use), it is practically impossible and commercially infeasible for a third party to (manually) amass in usable form the data displayed in the Vehicle ads across the entire site.

The Confidential and Proprietary Listing Data

9.



10. The Confidential and Proprietary Listing Data is the result of enormous expense, effort, skill and judgment. This collection of information does not exist elsewhere. It has been extracted and mined over a long period of time and from a range of potentially available information to serve specific commercial purposes.

11. As a confidential compilation of information that does not exist elsewhere, the Confidential and Proprietary Listing Data is unique, and a valuable asset of Marktplaats's

Public

business that provides an opportunity to obtain advantage over those who do not have access to it.

12. Marktplaats takes measures to ensure that the secrecy of the Confidential and Proprietary Listing Data remains intact. [REDACTED]

13. Only a small number of authorized persons have access to the Confidential and Proprietary Listing Data. These individuals are obligated to keep the Confidential and Proprietary Listing Data (and all other confidential and proprietary data and information of Marktplaats), in the strictest confidence.

14. Further, the Kijiji Terms of Use expressly prohibit the scraping of any data displayed on the site [REDACTED] without Marktplaats's express written authorization. In particular, users and/or those who access the site agree "not to copy, modify, or distribute Kijiji Services, our copyrights or trademarks" and not to:

- copy, modify, or distribute any other person's content;
- use any robot, spider, scraper or other automated means to access Kijiji and collect content for any purpose without [Marktplaats's] express written permission;
- harvest or otherwise collect information about others, including email addresses, without their consent; [and]
- bypass measures used to prevent or restrict access to Kijiji.

Attached to my Affidavit and marked as Exhibit "A" is a copy of the Kijiji Terms of Use.

Public

15. Marktplaats defends its Confidential and Proprietary Listing Data from unauthorized use or disclosure, including scraping.

Data Licensing Agreement with CarProof

16. In or about September 2012, CarProof raised the possibility of entering into a data licensing agreement in respect of Marktplaats's Confidential and Proprietary Listing Data.

17. [Redacted]

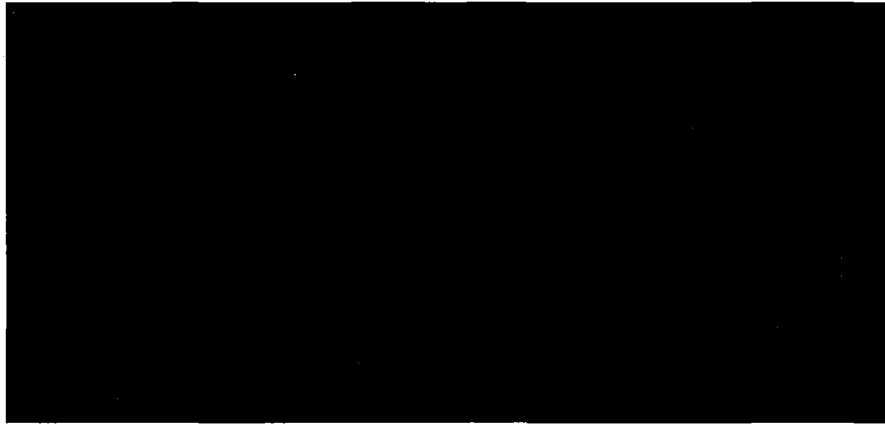
18. [Redacted]

19. [Redacted]

20. [Redacted]

(a) [Redacted]

Public



(b)



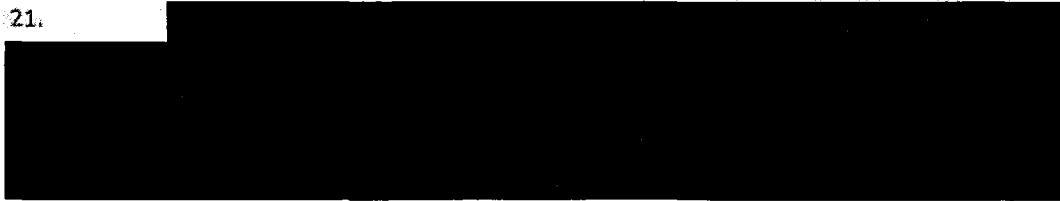
(c)



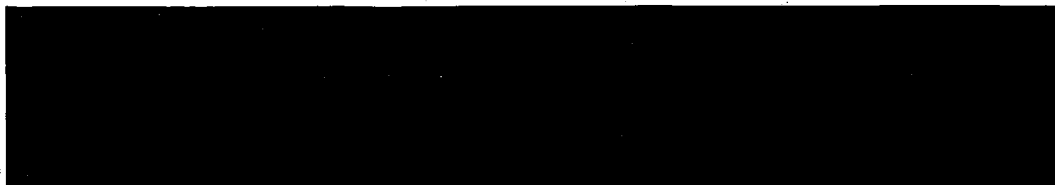
(d)



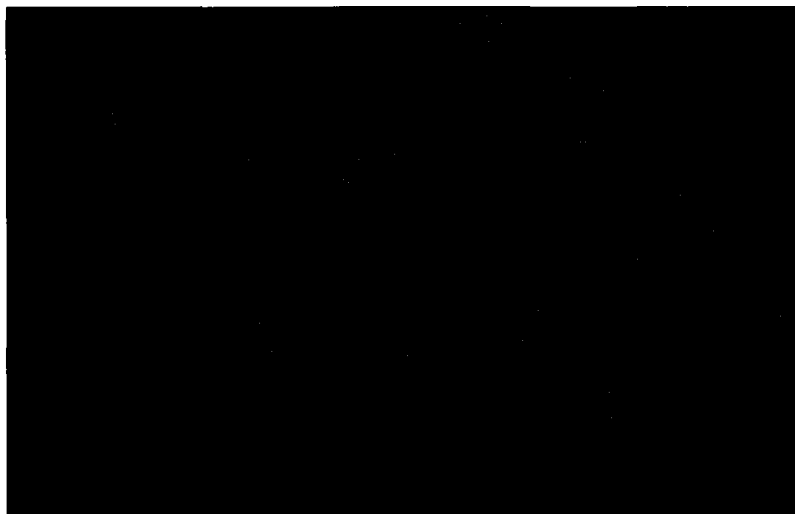
21.



Public



22.



Public

23.

[REDACTED]

Audatex Has Not Previously Been a "Customer" of Marktplaats

24.

In late November 2014,

[REDACTED]

[REDACTED] (and more than two years after CarProof first proposed a licensing agreement), Audatex raised the possibility of entering into a licensing agreement in respect of Marktplaats's Confidential and Proprietary Listing Data. In response, I advised that, [REDACTED] Marktplaats was unable to license the Confidential and Proprietary Listing Data to Audatex for total loss calculations or vehicle valuations for insurance purposes. This was reiterated by me to Audatex in a subsequent conversation in the late November timeframe. During that conversation, I also confirmed [REDACTED]

[REDACTED]

25.

There was no further communication regarding the license sought by Audatex

until July 2015. In the interim, however, Audatex began using,

[REDACTED]

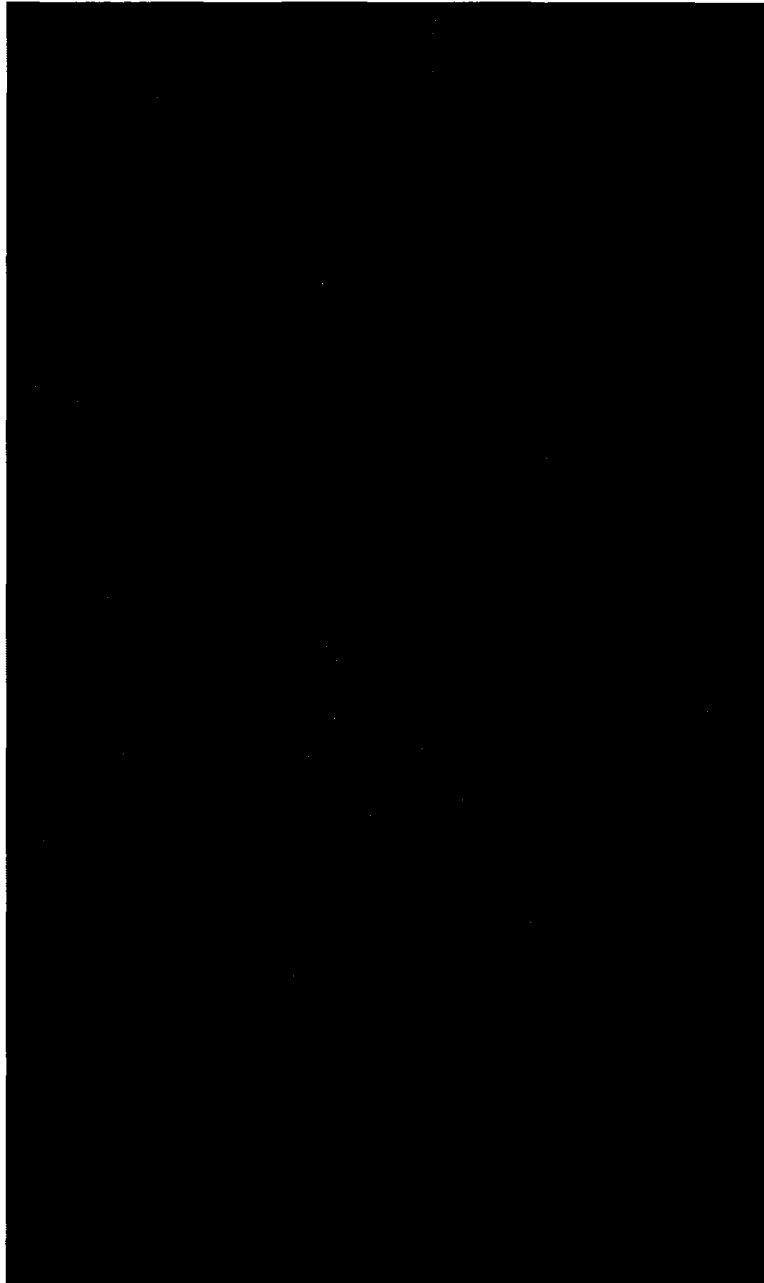
[REDACTED] to secretly scrape [REDACTED]

[REDACTED] from the Kijiji website. As noted above, such scraping is directly contrary to the express terms of the Kijiji Terms of Use which state, in relevant part, that those who access and/or use the site shall not "use any robot, spider, scraper or other automated means to access Kijiji and collect content for any purpose without [Marktplaats's] express written permission".

Public

26. On or about July 1, 2015, it was determined that Audatex was scraping the Kijiji site and reproducing Kijiji ads within its Autosource reports.

27. By email dated July 6, 2015, I requested that Audatex immediately cease and desist. In relevant part, my email stated as follows:



Public

[REDACTED]

28. Audatex ceased scraping the Kijiji site and, by email dated July 15, 2015, advised that it "remain[ed] very interested in pursuing a formal data license agreement with Kijiji". [emphasis added]

29. In response, by email dated August 12, 2015, I again advised that Marktplaats was "unable to consider that possibility at this time". Quite apart from Marktplaats's ongoing obligations under the Data Provision Agreement, Audatex's disregard for Marktplaats's intellectual property rights and its violation of the Kijiji Terms of Use gave rise to significant concerns – which persist today – that Audatex would not comply with the terms of a data licensing agreement with Marktplaats. A copy of the correspondence related to the data licensing agreement requested by Audatex and the unauthorized scraping by Audatex of the Kijiji site is attached at Exhibits 8 and 9 to the Toth Affidavit. As can be seen from the chronology set out above, paragraph 18 of the Toth Affidavit, which states that "[u]ntil recently, Audatex [REDACTED] Canadian automobile listings, which is no longer available to it. In short, CarProof has entered into exclusive contracts with [...] eBay and other companies, which have, despite Audatex's efforts, prevented it from negotiating access to such data going forward", is inaccurate and misleading. Those statements are inaccurate and misleading insofar as they purport to suggest that Marktplaats (or another eBay entity) had previously licensed the Confidential and Proprietary Listing Data to Audatex but (recently) ceased doing so due to an exclusive data licensing agreement with CarProof, when in fact Audatex has never had authorized access to Marktplaats's Confidential and Proprietary Listing Data and has never been a "customer" of Marktplaats.

32. Further, it was Audatex's failure to approach Marktplaats on a timely basis about the possibility of negotiating a formal data licensing agreement, not the Data Provision Agreement with CarProof, that prevented it from negotiating access to the Confidential and Proprietary Listing Data.

Public

33. There was no response by Audatex to my email of August 12, 2015, and there was no further communication from Audatex in respect of the licensing of Marktplaats's Confidential and Proprietary Listing Data (or otherwise) until October 6, 2015, when eBay Canada was served with Audatex's redacted application for leave to apply for an order under section 75 of the *Competition Act*.

Confidential Information

34. Information regarding Marktplaats's Confidential and Proprietary Listing Data, business, contractual relations and terms of trade (collectively, the "Confidential Information") included in this Affidavit is highly confidential to Marktplaats. Such information is kept in strict confidence, and is not in the normal course disclosed by Marktplaats to third parties.

35. Disclosure of the Confidential Information would result in specific, direct harm to Marktplaats because this information is confidential and commercially and competitively sensitive. Access to the Confidential Information would allow Marktplaats's competitors and others to obtain competitive advantages in the marketplace and to harm Marktplaats's competitive position.

SWORN before me
at the City of Berlin
in the Country of Germany
this 5th day of November, 2015

A Commissioner, etc.

)
)
)
)
)

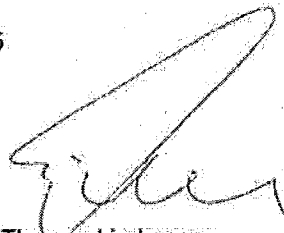
SCOTT NEIL

I, the undersigned notary Dr. Thomas Lindemann, Berlin, Germany hereby certify that

Mr. Scott Neil, born on 13.05.1970, with business address at Albert-Einstein-Ring 1, 14532 Kleinmachnow/Germany, of Canadian nationality, identified by his valid official passport, today signed the foregoing document in my presence. I hereby certify the identity and the authenticity of the signature of the person mentioned above.

The question of a prior involvement of the notary public within the meaning of Sect. 3 para. 1 no. 7 Notarisation Act was answered in the negative by the person signing the foregoing document.

Berlin, on this 5th day of November, 2015



Dr. Thomas Lindemann
Notary Public

This is Exhibit "A" referred to in the Affidavit
of Scott Neil sworn before me this 5th day
of November, 2015

A Commissioner, etc.

kijiji (<http://www.kijiji.ca/>)

Help Desk

Q	Search	GO ▶
---	--------	------

Choose an article:

General Policies ▼

Kijiji Terms of Use (/helpdesk/policies/kijiji-terms-of-use)

Kijiji Privacy Policy (/helpdesk/policies/kijiji-privacy-policy)

Kijiji Cookie Policy (/helpdesk/policies/kijiji-cookie-policy)

Ad Reply Code of Conduct (/helpdesk/policies/ad-reply-code-of-conduct)

Kijiji Age Restrictions (/helpdesk/policies/kijiji-age-restrictions)

Kijiji Pre-Authorized Credit Card Payments (/helpdesk/policies/kijiji-pre-authorized-credit-card-payments)

Kijiji Terms of Use

Welcome to www.kijiji.ca (<http://www.kijiji.ca>) ("Kijiji"). Thanks for stopping by. These Terms of Use, the Privacy Policy, the Mobile Devices Terms and all policies posted on our site set out the terms on which we offer you access to and use of our site, services, applications and tools (collectively "Services"). You can find an overview of our policies here (/helpdesk/policies/posting-policies). All policies, the Mobile Devices Terms, and the Privacy Policy are incorporated into these Terms of Use. You agree to comply with all the above when accessing or using our Services.

By accessing Kijiji you are agreeing to the following terms, which are designed to make sure that Kijiji works for everyone. Kijiji is provided to you by Marktplaats BV, Wibautstraat 224-2, 1097 DN Amsterdam, The Netherlands. This policy is effective January 1, 2009.

Your Account. In order to access and use some or a portion of the Services, you may be required to register with us and set up an account with your email address and a password (your "Account"). The email address you provide will be your email address, and you are solely responsible for maintaining the confidentiality of your password. You are solely responsible for all activities that occur under your Account. Therefore, you should protect your password and make your password difficult for others to guess.

You may connect to the Services with a third-party service (e.g., Facebook) and you give us permission to access, store, and use your information from that service as permitted by that service and as may be described in our Privacy Policy.

If you believe your Account may have been compromised or misused, contact us immediately at Kijiji Customer Support.

Using Kijiji Services. You will post in the appropriate category or area and will not do any of the following bad things:

- violate any laws or our Prohibited Content Policy (/helpdesk/policies/prohibited-content);
- be false or misleading;
- infringe any third-party right;
- distribute or contain spam, chain letters, or pyramid schemes;
- distribute viruses or any other technologies that may harm Kijiji or the interests or property of Kijiji users;
- impose an unreasonable load on our infrastructure or interfere with the proper working of the Kijiji;
- copy, modify, or distribute any other person's content;
- use any robot, spider, scraper or other automated means to access Kijiji and collect content for any purpose without our express written permission;
- harvest or otherwise collect information about others, including email addresses, without their consent;
- bypass measures used to prevent or restrict access to Kijiji.

Abusing Kijiji Services. Please use the flagging system to tell us about any problems or offensive content so that together we can keep the Services site working properly. We may limit or terminate our Services, remove hosted content and take technical and legal steps to keep users off Kijiji if we think that they are creating problems or acting inconsistently with the letter or spirit of our policies. However, whether we decide to take any of these steps, remove hosted content or keep a user off Kijiji or not, we do not accept any liability for monitoring Kijiji or for unauthorized or unlawful content on Kijiji or use of Kijiji by users.

Global Marketplace. Some of Kijiji's features may display your ad on other sites that are part of the global eBay community, like on eBay or our classifieds sites in other countries. By using Kijiji Services, you agree that your ads can be displayed on these other sites. The terms for our other sites are similar to these terms, but you may be subject to additional laws or other restrictions in the countries where your ad is posted. When you choose to post your ad to another site, you may be responsible for ensuring that it does not violate our other site policies. We may remove your ad if it is flagged on any of our sites, or if we believe it causes problems or violates any law or policy.

Fees and Services. Using Kijiji Services is generally free. We may charge fees for certain Services. If the service you use charges a fee, you will be able to review and accept that charge. Our fees are quoted in Canadian Dollars, and we may change them from time to time. We will notify you of changes to our fee policy by posting such changes on the site. We may choose to temporarily change our fees for promotional events or new services; these changes are effective when we announce the promotional event or new service. Our fees are non-refundable, and you are responsible for paying them when they're due. If you don't, we may limit your ability to use the Services. If your payment method fails or your account is past due, we may collect fees owed using other collection mechanisms (for accounts over 180 days past due, we may deduct the amount owed from your PayPal account balance).

Content. Kijiji Services contains stuff from us, you, and other users. You agree not to copy, modify, or distribute Kijiji Services, our copyrights or trademarks. When you give us content, you are granting us a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, sub-licensable right to exercise the copyright, publicity, and database rights to that content. If you believe that your rights have been violated, please notify our designated copyright agent at Kijiji Customer Support (/helpdesk/email-us/) and we will investigate the matter. We reserve the right to remove content where we have grounds for suspecting the violation of these terms or the rights of any other party.

Reporting Intellectual Property Infringements (Verified Rights Owners - VeRO). Do not post content that infringes the rights of third parties. This includes, but is not limited to, content that infringes on intellectual property rights such as copyright and trademark (e.g. offering counterfeit items for sale). We reserve the right to remove content where we have grounds for suspecting the violation of these terms, our policies or of any party's rights. The following steps are for reporting a listing to Kijiji that you believe to be infringing on your intellectual property rights. Only the intellectual property rights owner can report of potentially infringing items or listings through Kijiji's VeRO Program. If you have a good faith belief that a listing on any of the Kijiji Services infringes your copyright, trademark, or other intellectual property rights, all you need to do is download our Notice of Claimed Infringement (NOCI) (<http://info.kijiji.ca/vero/noci-english.pdf>) form, fill it out, and fax it to Kijiji. After we receive your first NOCI, Kijiji will confirm your enrolment in our program and send you the instructions on how to submit future reports electronically. We reserve the right to share, in accordance with applicable law, the completed NOCI form with the third party that originally posted the potentially infringing listing.

Disclaimers and Limitations of Liability. The Kijiji Services are provided "as is" and "as available". You agree not to hold us responsible for things other users post or do. As most of the stuff on the Kijiji Services comes from other users, we do not guarantee the accuracy of postings or user communications or the quality, safety, or legality of what is offered. We also cannot guarantee continuous or secure access to our Services. Notification functionality in our Services may not occur in real time. Such functionality is subject to delays beyond our control, including without limitation, delays or latency due to your physical location or your wireless data service provider's network. Accordingly, to the extent legally permitted we expressly disclaim all warranties, representations and conditions, express or implied, including those of quality, merchantability, merchantable quality, durability, fitness for a particular purpose and those arising by statute. We are not liable for any loss, whether of money (including profit), goodwill, or reputation, or any special, indirect, or consequential damages arising out of your use of Kijiji, even if you advise us or we could reasonably foresee the possibility of any such damage occurring. Some jurisdictions do not allow the disclaimer of warranties or exclusion of damages, so such disclaimers and exclusions may not apply to you.

Despite the previous paragraph, if we are found to be liable, our liability to you or any third party (whether in contract, tort, negligence, strict liability in tort, by statute or otherwise) is limited to the greater of (a) the total fees you pay to us in the 12 months prior to the action giving rise to liability, and (b) 100 Canadian Dollars.

Indemnification. You will indemnify and hold harmless Kijiji and its affiliates and our and their

respective officers, directors, agents and employees (each an "Indemnified Party"), from any claim made by any third party, together with any amounts payable to the third party whether in settlement or as may otherwise be awarded, and reasonable legal costs incurred by any of the Indemnified Parties, arising from or relating to your use of the Kijiji Services, any alleged violation by you of the applicable terms, and any alleged violation by you of any applicable law or regulation. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter subject to indemnification by you, but doing so will not excuse your indemnity obligations.

Personal Information. By using Kijiji Services, you agree to the collection, transfer, storage and use of your personal information by Marktplaats BV (the "data controller") on servers located in the United States and in the European Union as further described in our privacy policy (/helpdesk/policies/kijiji-privacy-policy).

General. These terms and the other policies posted on Kijiji Services constitute the entire agreement between Marktplaats BV and you, superseding any prior agreements. This agreement is governed by the laws of the Netherlands. We both submit to the non-exclusive jurisdiction of the courts of Amsterdam, The Netherlands. This will not affect your statutory rights if you are a consumer and applicable consumer law requires application of another law (such as the law of your country of residence) for certain topics. If we don't enforce any particular provision, we are not waiving our right to do so later. If a court strikes down any of these terms, the remaining terms will survive. We may automatically assign this agreement in our sole discretion in accordance with the notice provision below. Except for notices relating to illegal or infringing content, your notices to us must be sent by registered mail to:

Marktplaats BV
Wibautstraat 224-2
1097 DN Amsterdam
The Netherlands
Re: Kijiji Canada : User Inquiries

We will send notices to you via the email address you provide, or by registered mail. Notices sent by registered mail will be deemed received five days following the date of mailing. We may update this agreement at any time, with updates taking effect when you next use the site or after 30 days, whichever is sooner. No other amendment to this agreement will be effective unless made in writing, signed by users and by us. Send questions, comments or complaints to Kijiji Customer Support. (/helpdesk/email-us/)

Mobile Devices Terms

If you're accessing Kijiji Services from a mobile device using a Kijiji Mobile Application (the "Application"), the following terms and conditions ("Terms of Use") apply to you in addition to the applicable Mobile Privacy and Legal Notice or End User License Agreement, as the case may be. Your use of the Application confirms your agreement to these Terms of Use.

Application Use. Kijiji grants you the right to use the Application only for your personal use. You must comply with all applicable laws and third party terms of agreement when using the Application

(e.g. your wireless data service agreement). The Application may not contain the same functionality available on the www.kijiji.com website. You download and use of the Application is at your own discretion and risk, and you are solely responsible for any damages to your hardware device(s) or loss of data that results from the download or use of the Application.

Intellectual Property – Applications. Kijiji owns, or is the licensee to, all right, title, and interest in and to its Applications, including all rights under patent, copyright, trade secret, trademark, and any and all other proprietary rights, including all applications, renewals, extensions, and restorations thereof. You will not modify, adapt, translate, prepare derivative works from, decompile, reverse-engineer, disassemble, or otherwise attempt to derive source code from any Application and you will not remove, obscure, or alter Kijiji's copyright notice, trademarks or other proprietary rights notices affixed to, contained within, or accessed in conjunction with or by any Kijiji Application.

Prohibited Countries Policy and Foreign Trade Regulation - Applications. Kijiji Applications or their underlying technology may not be downloaded to or exported or re-exported: (a) into (or to a resident or national of) Burma (Myanmar), Cuba, Iraq, Iran, Libya, North Korea, Sudan, Syria, or any other country subject to United States embargo; (b) to anyone on the US Treasury Department's list of Specially Designated Nationals or on the US Commerce Department's Denied Party or Entity List; and (c) to any prohibited country, person, end-user, or entity specified by US Export Laws. When using an Kijiji Application, you are responsible for complying with trade regulations and both foreign and domestic laws (e.g., you are not located in a country that is subject to a US Government embargo, or that has been designated by the US Government as a "terrorist supporting" country, and you are not listed on any US Government list of prohibited or restricted parties).

Additional Terms. Additional terms and conditions that apply to you based on the mobile device the Application is installed on:

iOS – Apple

1. These Terms of Use are an agreement between you and Kijiji, and not with Apple. Apple is not responsible for the Application and the content thereof.
2. Kijiji grants you the right to use the Application only on an iOS product that you own or control and as permitted by the Usage Rules set forth in the App Store Terms of Service.
3. Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Application.
4. Apple is not responsible for the investigation, defense, settlement, and discharge of any third party intellectual property infringement claim.
5. Apple is not responsible for addressing any claims by you or any third party relating to the Application or your possession and/or use of the Application, including but not limited to: (a) product liability claims; (b) any claim that the Application fails to conform to any applicable legal or regulatory requirement; and (c) claims arising under consumer protection or similar legislation.
6. In the event of any failure of the Application to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price, if applicable, for the Application to you; and

to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Application.

7. Apple and Apple's subsidiaries are third party beneficiaries of these Terms of Use, and, upon your acceptance, Apple as a third party beneficiary thereof will have the right (and will be deemed to have accepted the right) to enforce these Terms of Use against you.

Windows - Microsoft

1. These Terms of Use are an agreement between you and Kijiji, not Microsoft. The terms of use and privacy policies of Microsoft and, where applicable, the network operators that provide billing services for the Windows Phone Marketplace do not apply to your use of the Application.

2. You may install and use one (1) copy of the Application on up to five (5) devices you personally own or control and which are affiliated with the Windows Live ID associated with your Windows Marketplace account. You may not install or use a copy of the Application on a device you do not own or control.

3. Microsoft, your device manufacturer, and (if applicable) your wireless carrier are not responsible for providing support services for the Application.

4. Microsoft, the wireless carriers over whose network the Application is distributed (if applicable), and each of their respective affiliates and suppliers (collectively, "Disclaiming Distributors") give no express warranty, guarantee, or conditions under or in relation to the Application. To the extent permitted under your local laws, the Disclaiming Distributors exclude any implied warranties or conditions, including those of merchantability, fitness for a particular purpose, and non-infringement.

5. You, and not the Disclaiming Distributors, bear the risk of using the Application (even if the Disclaiming Distributors have been advised of the possibility of damages to you). You may have additional consumer rights under your local laws which these Terms of Use cannot change.

6. To the extent not prohibited by law, you will not seek to recover any consequential, lost profit, special, indirect, or incidental damages from any Disclaiming Distributor.

Last Modified: April 2, 2015

© 2014-2015 eBay International AG

Related Articles

- [Kijiji Privacy Policy \(/helpdesk/policies/kijiji-privacy-policy\)](/helpdesk/policies/kijiji-privacy-policy)
- [Kijiji Cookie Policy \(/helpdesk/policies/kijiji-cookie-policy\)](/helpdesk/policies/kijiji-cookie-policy)
- [Ad Reply Code of Conduct \(/helpdesk/policies/ad-reply-code-of-conduct\)](/helpdesk/policies/ad-reply-code-of-conduct)
- [Kijiji Age Restrictions \(/helpdesk/policies/kijiji-age-restrictions\)](/helpdesk/policies/kijiji-age-restrictions)

[See more ▼](#)

Top FAQ

- [Top Ad Feature \(/helpdesk/policies/top-ad-feature\)](/helpdesk/policies/top-ad-feature)
- [Safety at Kijiji \(/helpdesk/policies/safety-at-kijiji\)](/helpdesk/policies/safety-at-kijiji)
- [How to Post an Ad \(/helpdesk/policies/how-to-post-an-ad\)](/helpdesk/policies/how-to-post-an-ad)
- [I Can't See My Ad in the Top Ads Section \(/helpdesk/policies/i-can-t-see-my-ad-in-the-top-ads-section\)](/helpdesk/policies/i-can-t-see-my-ad-in-the-top-ads-section)

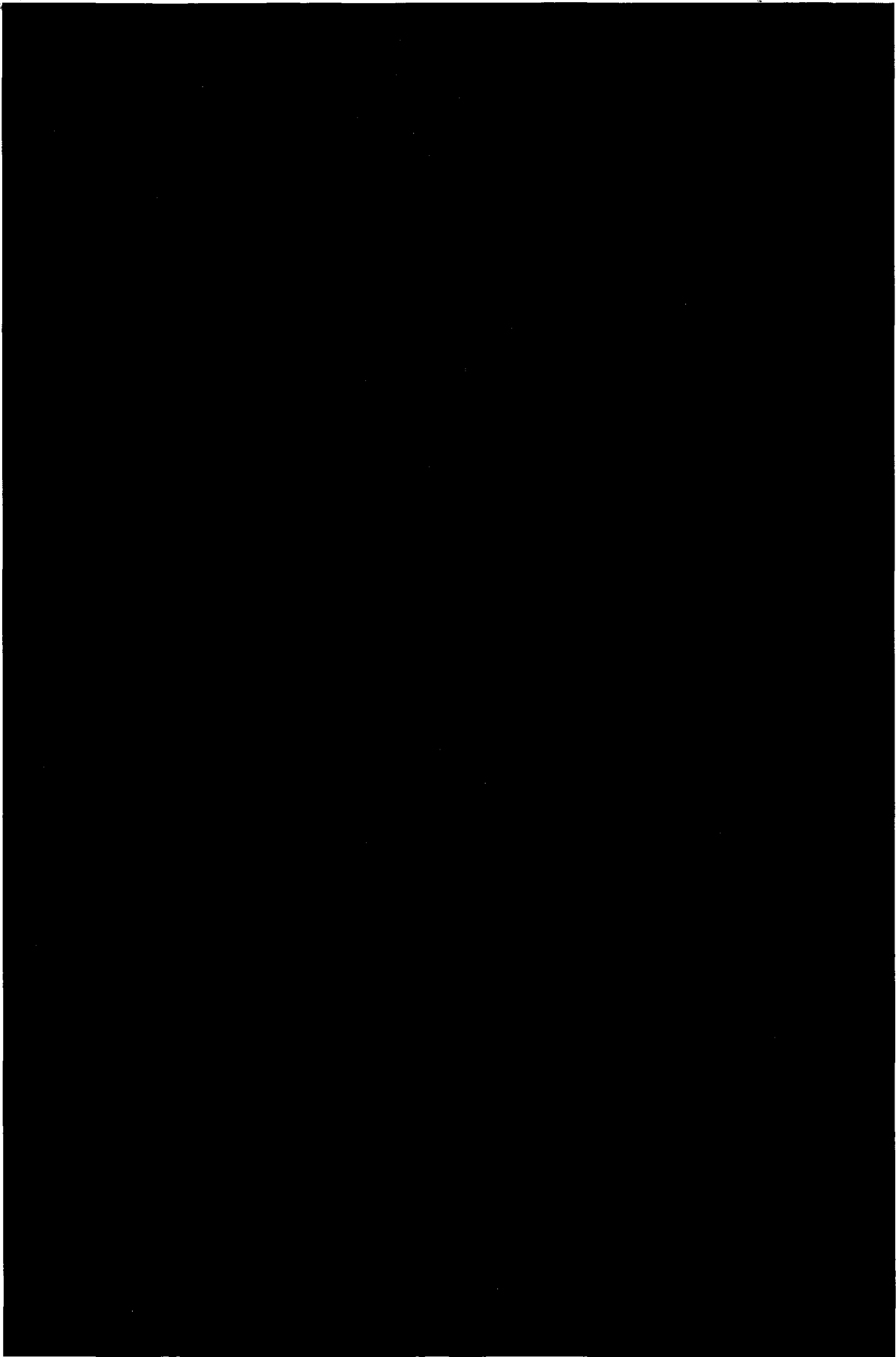
[See more ▾](#)

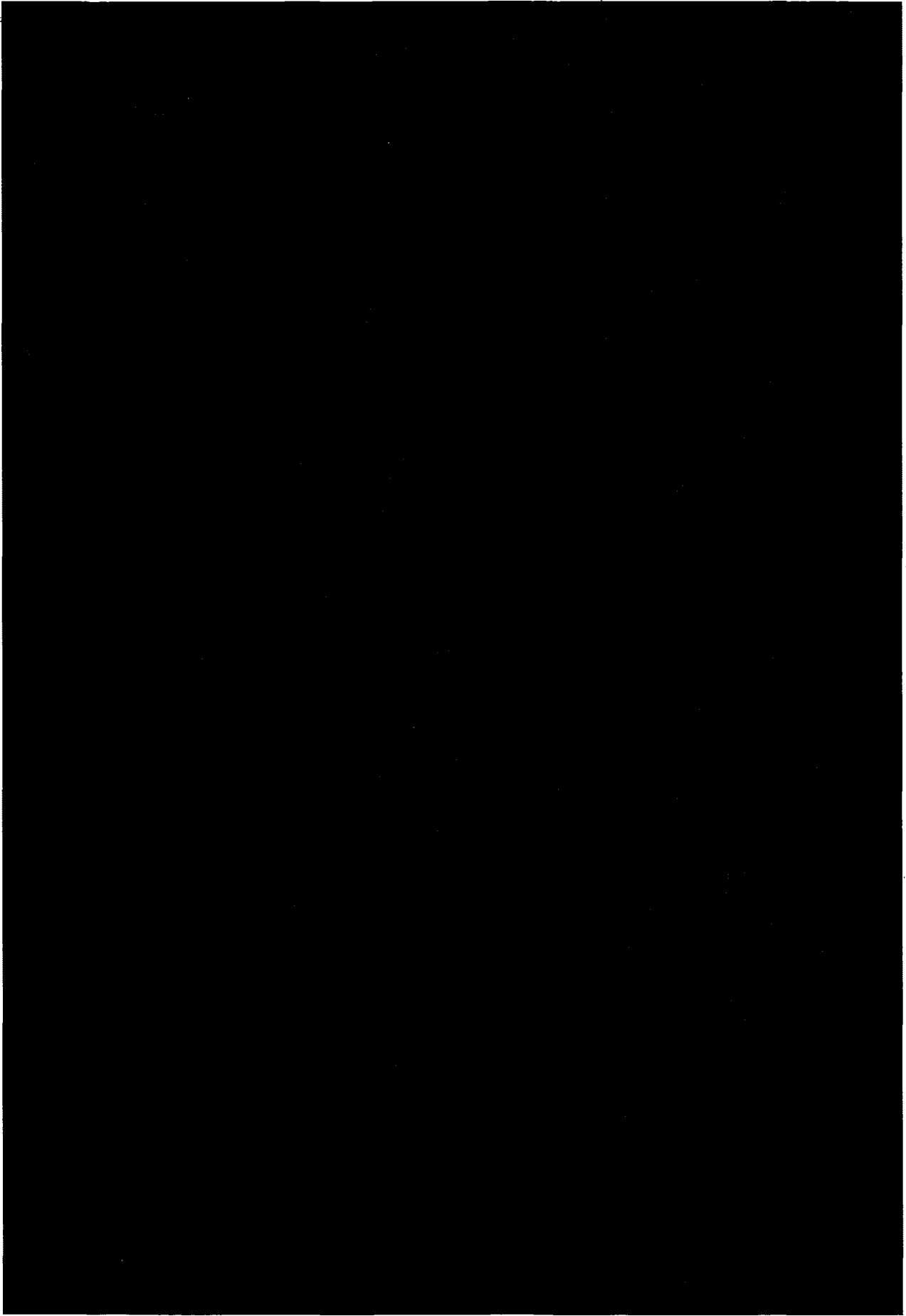
[Kijiji.ca \(http://www.kijiji.ca\)](http://www.kijiji.ca) [Help Centre \(/helpdesk/\)](/helpdesk/) [Terms of Use \(/helpdesk/policies/kijiji-terms-of-use\)](/helpdesk/policies/kijiji-terms-of-use) [Privacy Policy \(/helpdesk/policies/kijiji-privacy-policy\)](/helpdesk/policies/kijiji-privacy-policy) [Français \(http://aide.kijiji.ca\)](http://aide.kijiji.ca)

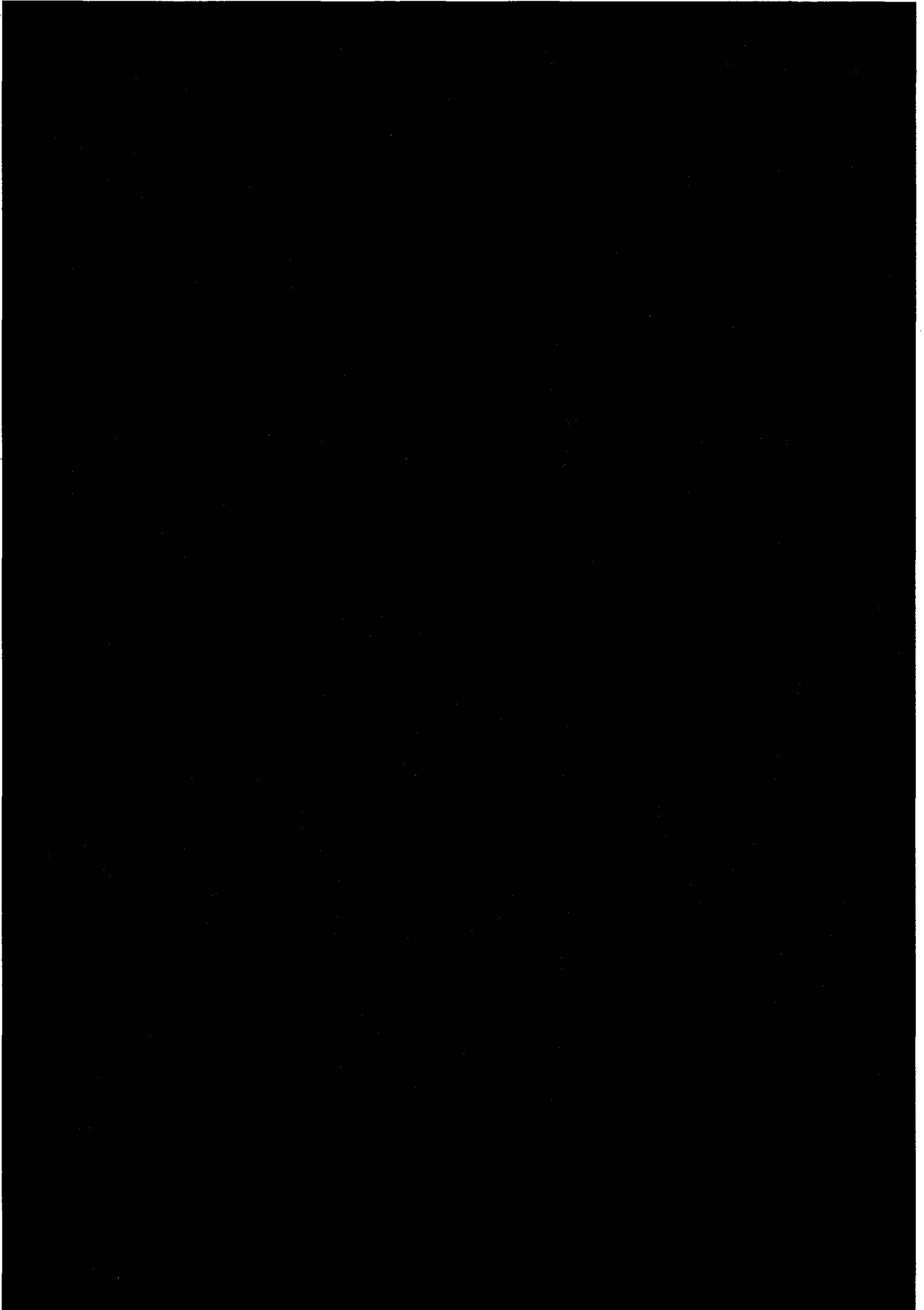
Copyright © 2015 eBay International AG.

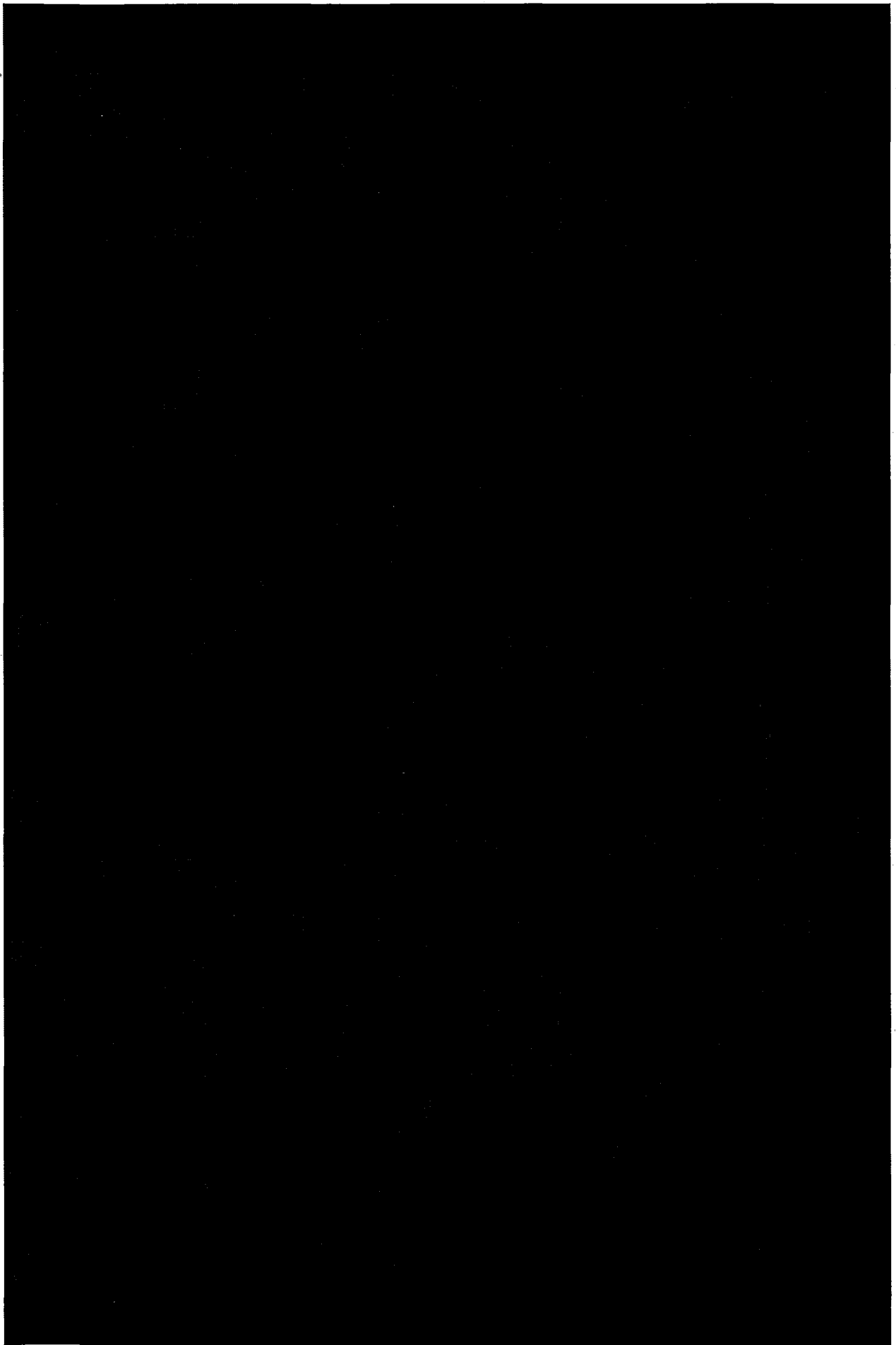
This is Exhibit "B" referred to in the Affidavit
of Scott Neil sworn before me this 5th day
of November, 2015.

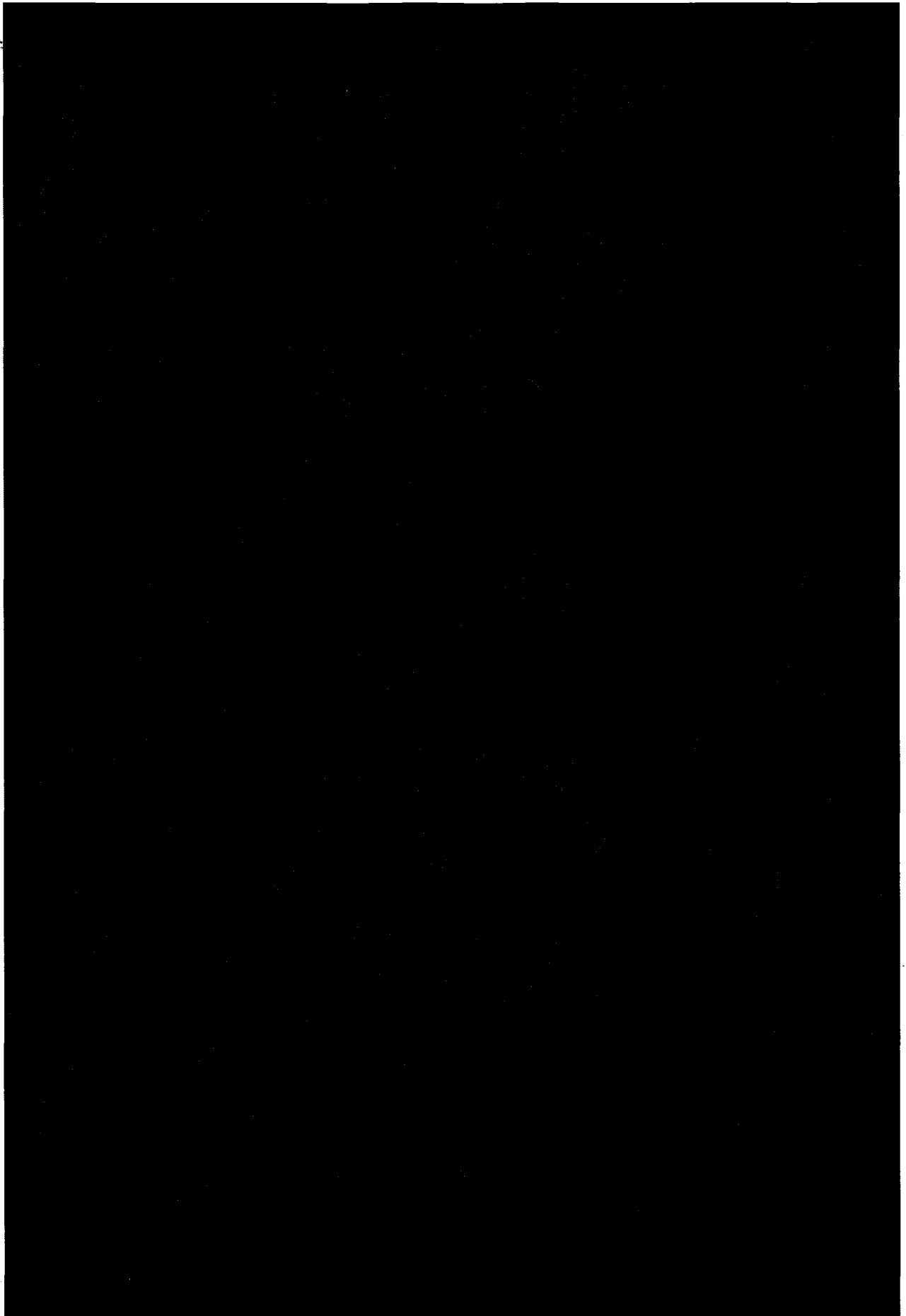
A Commissioner, etc.

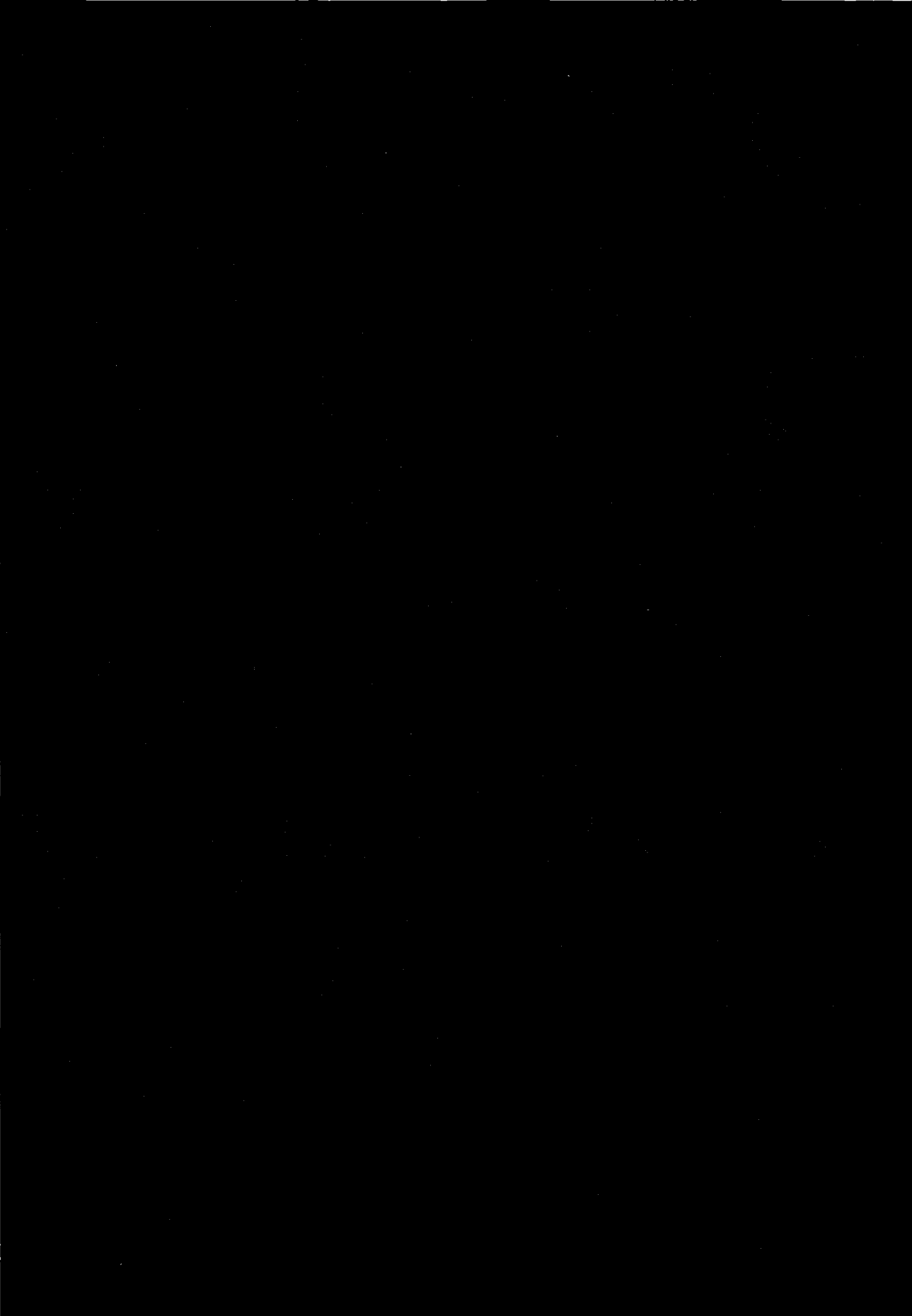


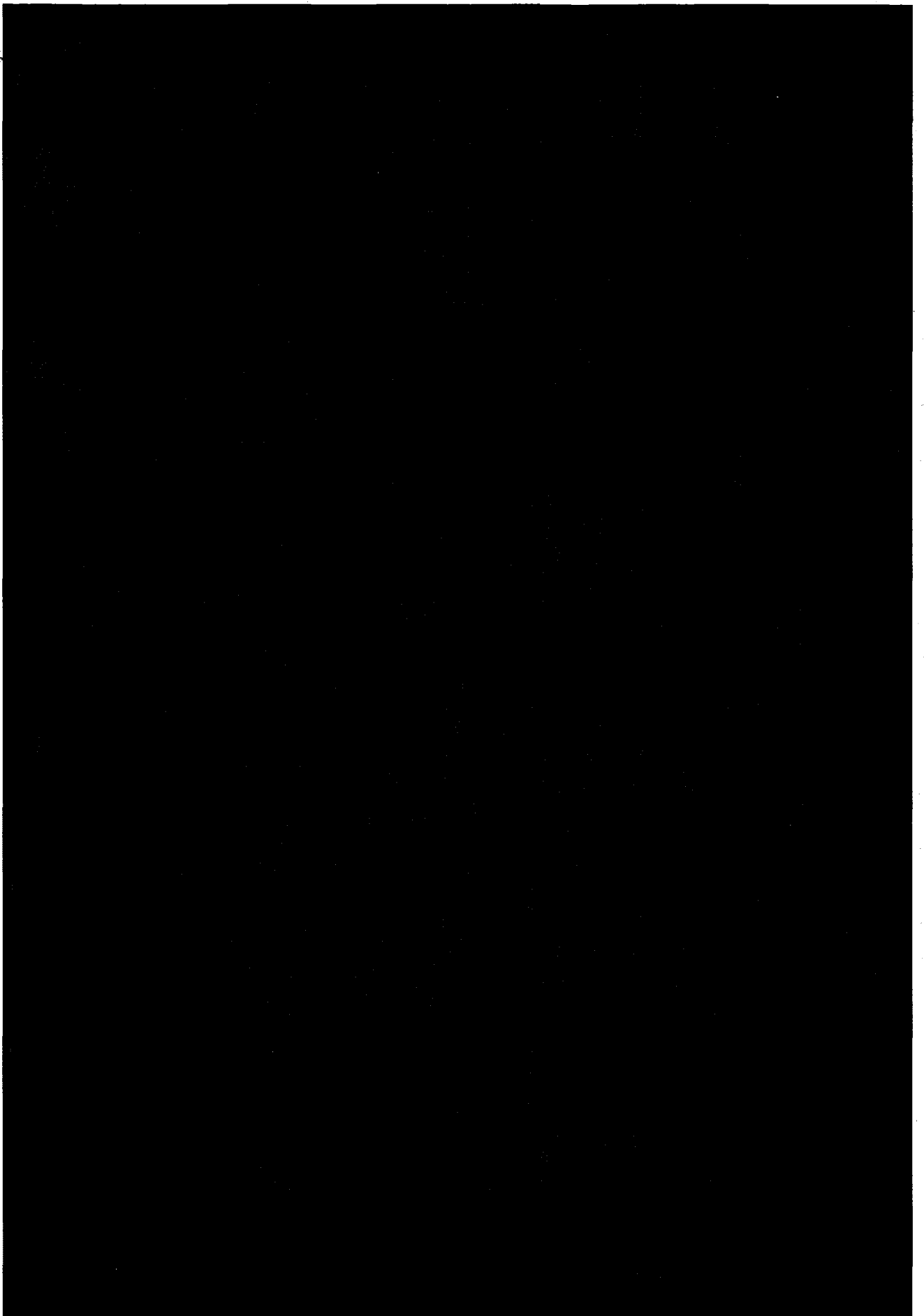


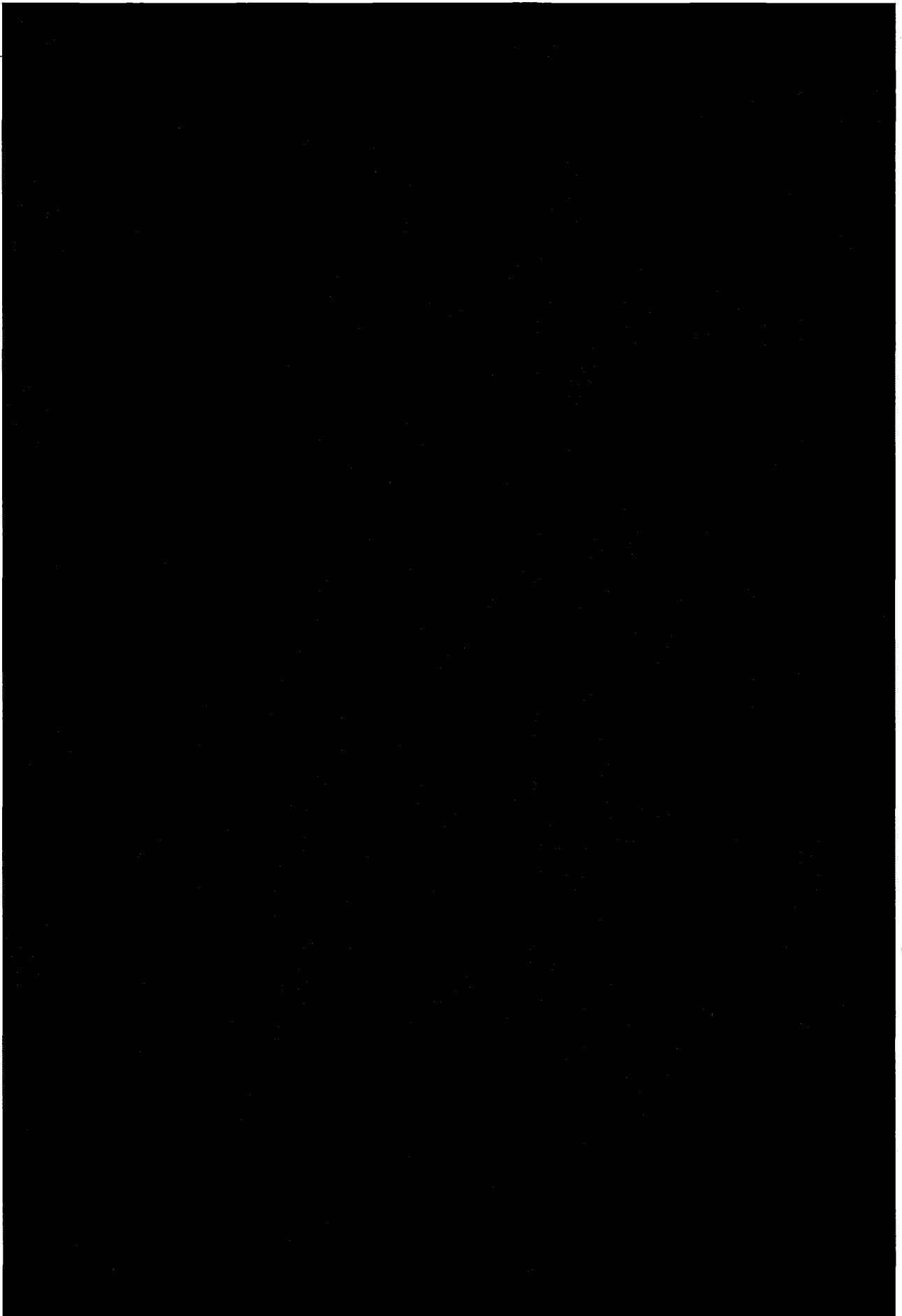


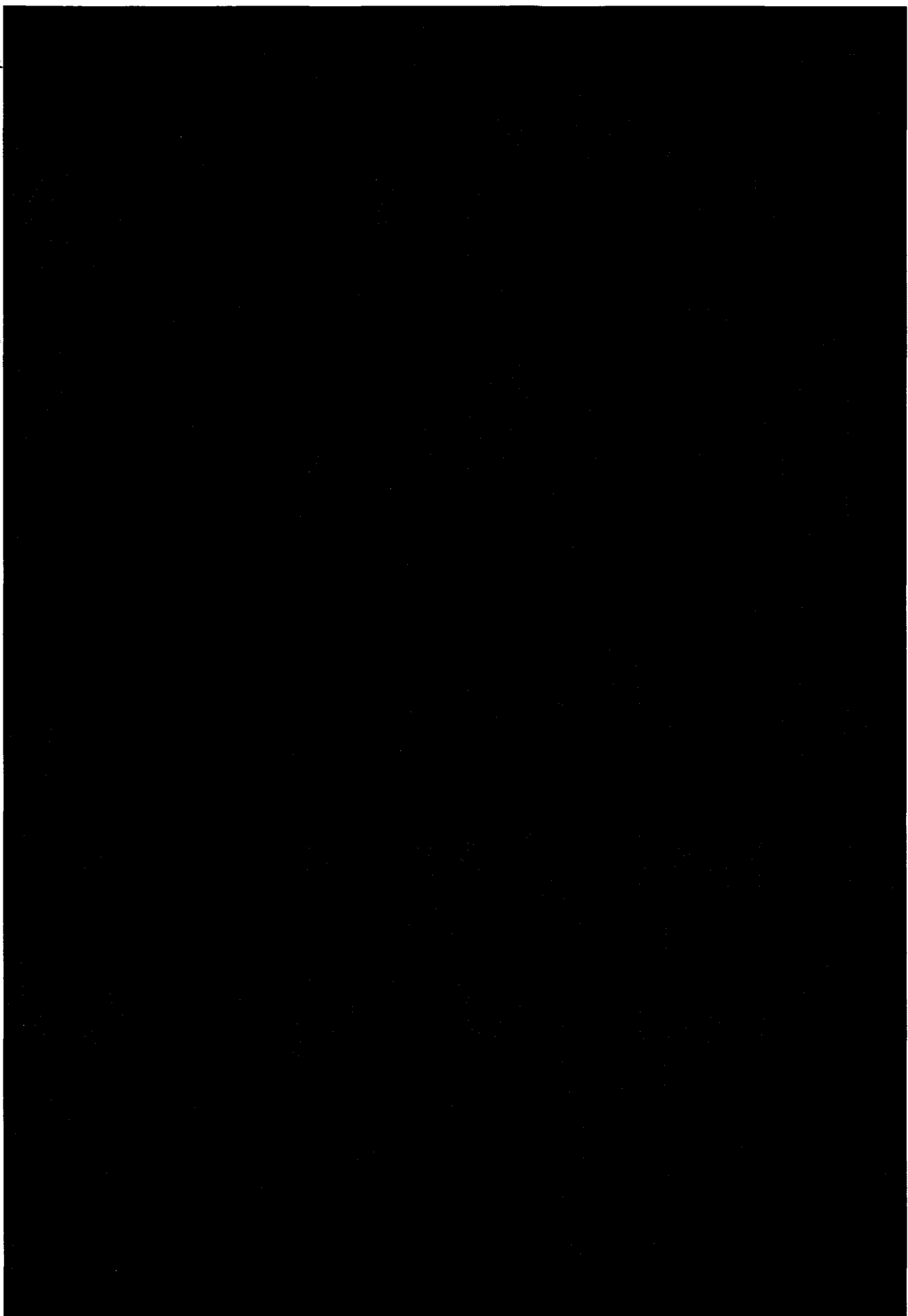


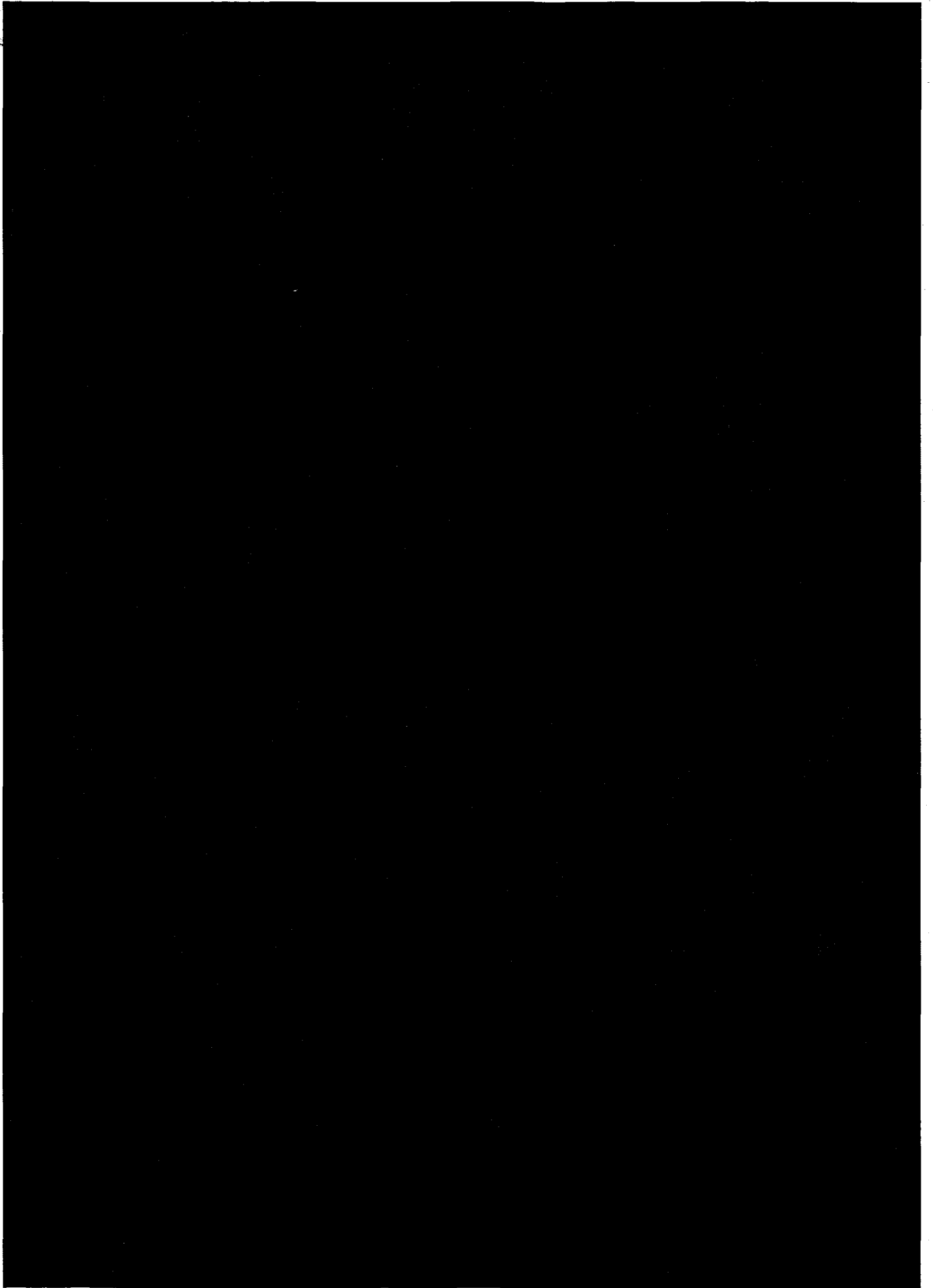


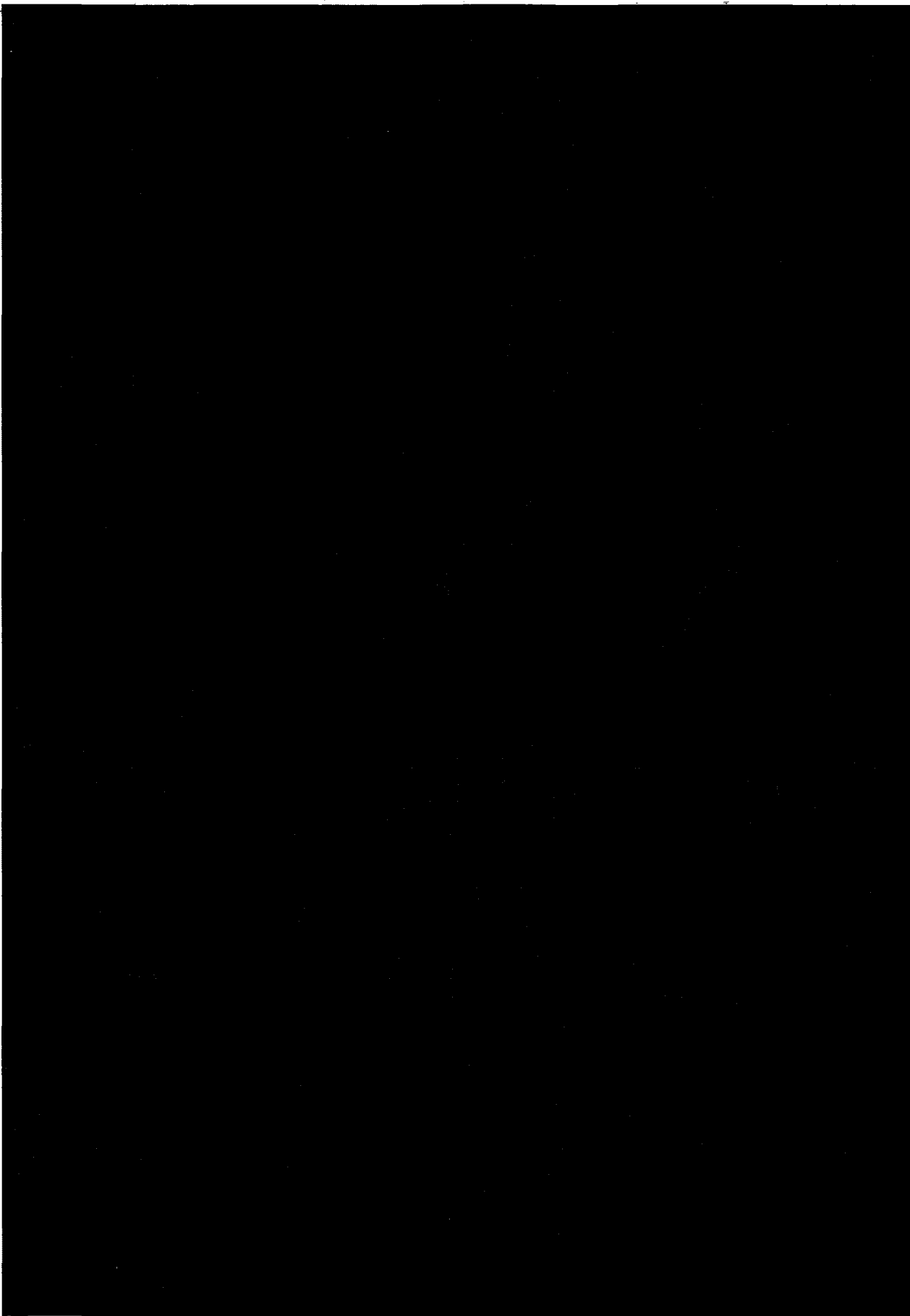


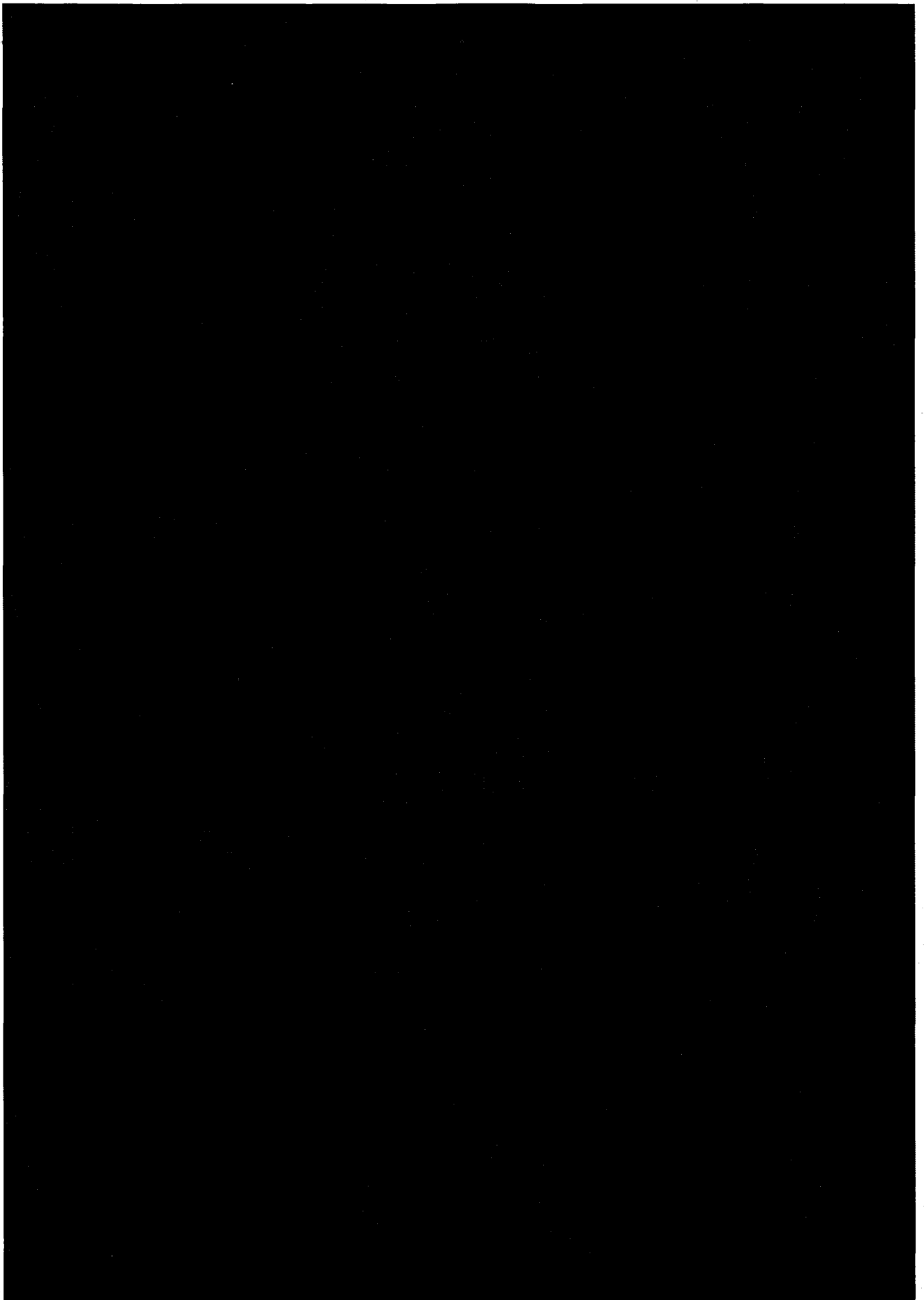


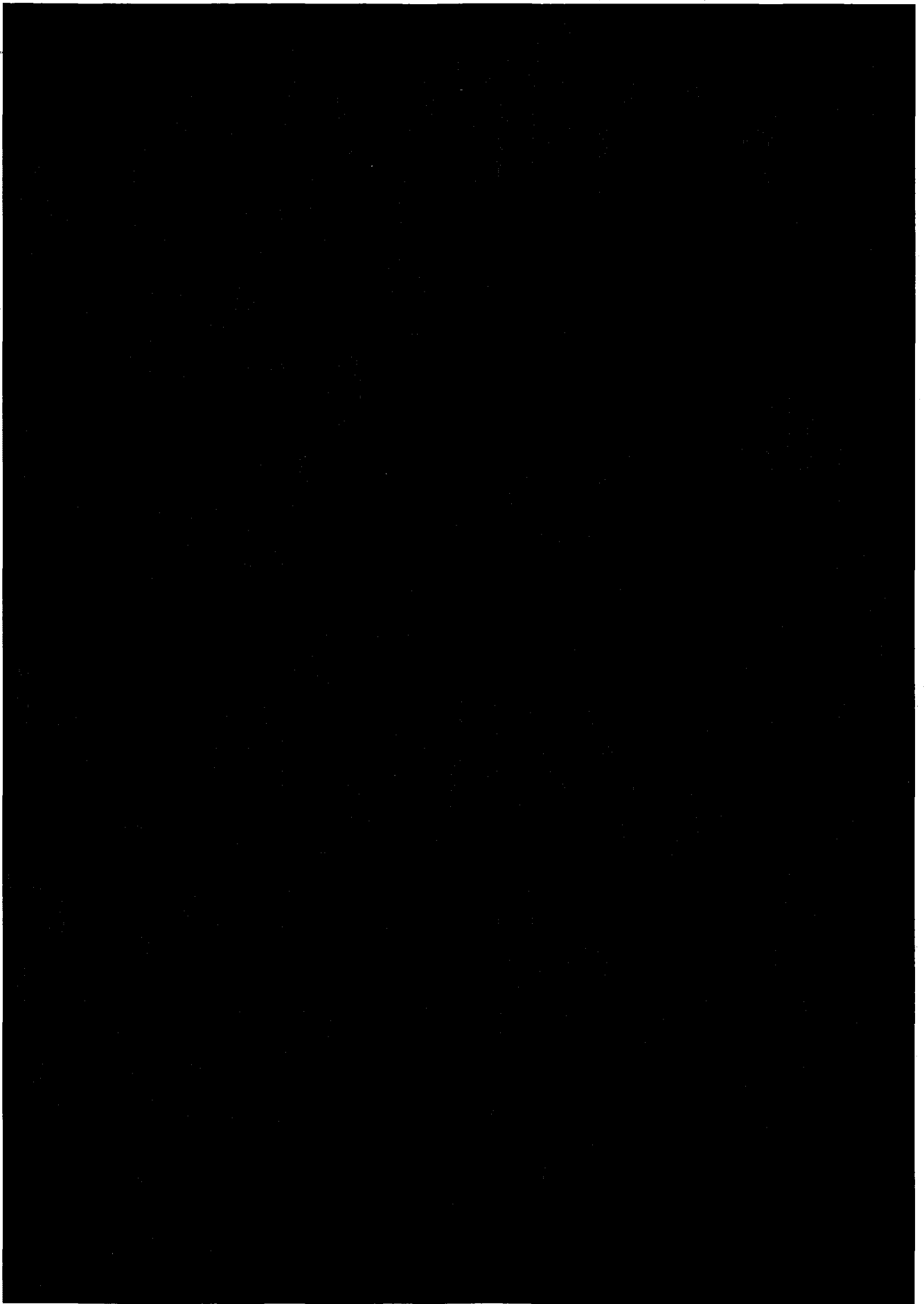


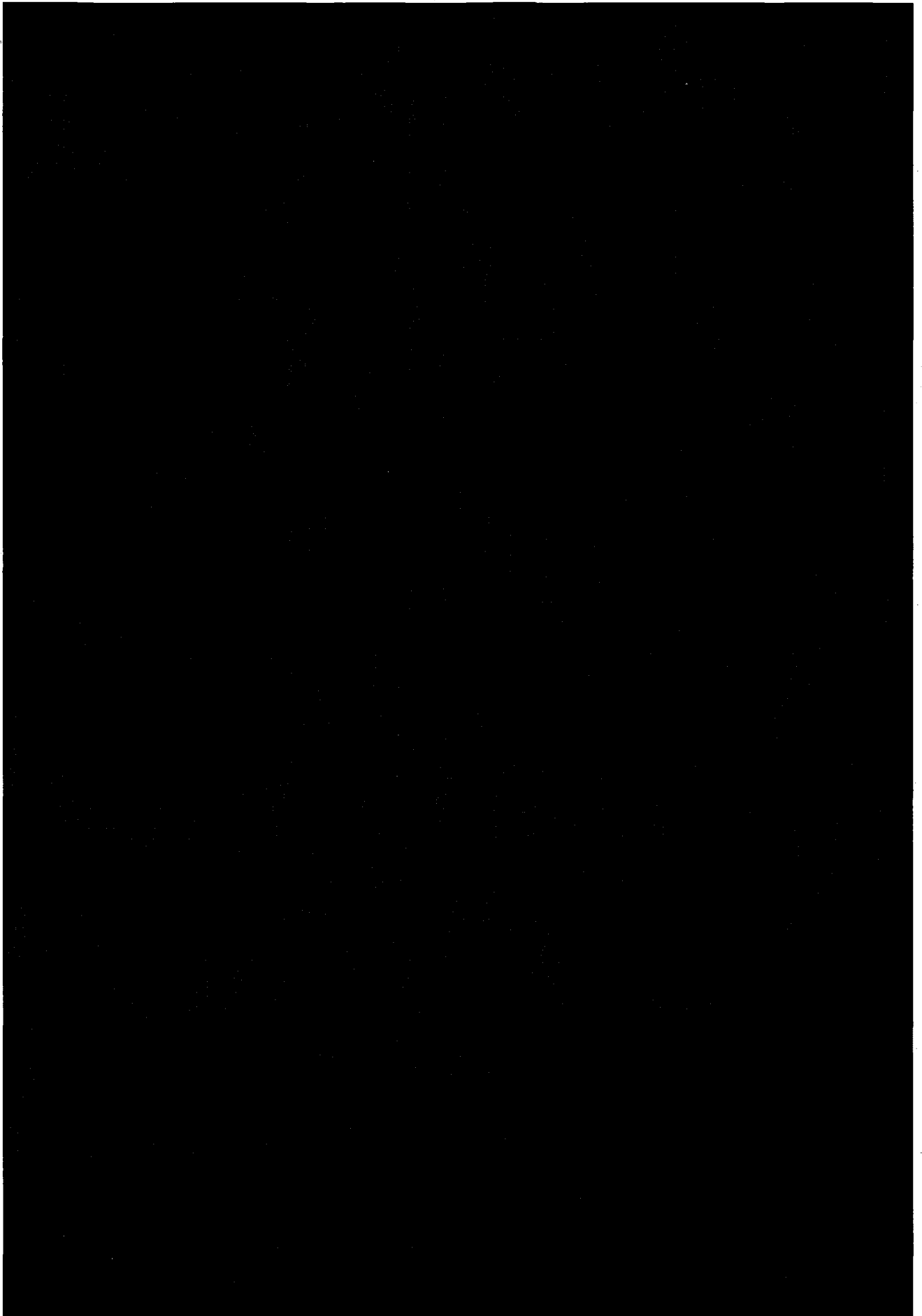


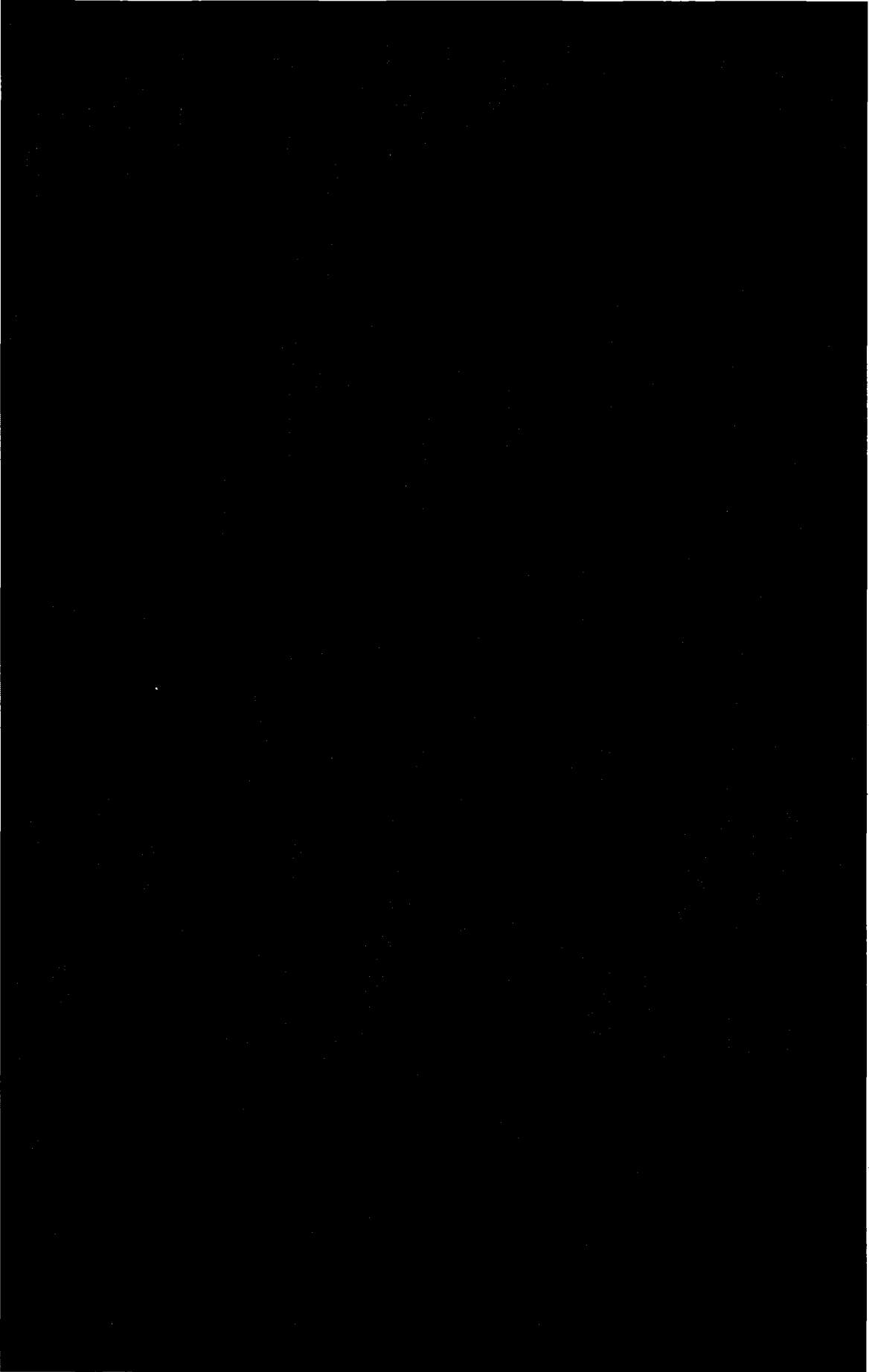












Public

File No. CT-2015-010

COMPETITION TRIBUNAL

IN THE MATTER of the *Competition Act*, R.S.C. 1985, c. C-34, as amended.

AND IN THE MATTER of an Application by Audatex Canada, ULC for an Order pursuant to section 103.1 granting leave to make application under section 75 of the *Competition Act*.

BETWEEN:

AUDATEX CANADA, ULC

Applicant

– and –

**CARPROOF CORPORATION, TRADER CORPORATION
and eBAY CANADA LIMITED**

Respondents

AFFIDAVIT OF SCOTT NEIL

GOWLING LAFLEUR HENDERSON LLP
Suite 1600, 1 First Canadian Place
Toronto, ON M5X 1G5

Davit D. Akman LSUC No. 44274R

Tel. (416) 369-4611

Fax (416) 862-7661

davit.akman@gowlings.com

Lawyers for Marktplaats B.V.