

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 14-cv-24009-JLK

CRAIG DUNN, PAM KOEHLER,
ZULMARIE RIVERA, TRU VALUE
AUTO MALLS LLC, ANNA MARIE
BRECHTELL FLATTMANN,
TASHA R. SEVERIO, KENNETH G.
DECIE, GREGORY MCCARTHY,
NICOLE PEASLEE, KAREN SWITKOWSKI,
ANTHONY D. DARK, LEMON AUTO SALES,
INC., NATHAN BORDEWICH, KATHLEEN
WILKINSON, HAYDEE MASISNI, AND
NANCY BARNETT
on Behalf of Themselves and All Those Similarly
Situated,

Plaintiff,

v.

TAKATA CORPORATION, TK HOLDINGS, INC.,
HIGHLAND INDUSTRIES, INC.,
HONDA MOTOR CO., LTD., AMERICAN
HONDA MOTOR CO., INC., BAYERISCHE
MOTOREN WERKE AG, BMW OF NORTH
AMERICA, LLC, BMW MANUFACTURING
CO., LLC, FORD MOTOR COMPANY,
TOYOTA MOTOR CORPORATION, TOYOTA
MOTOR SALES, U.S.A., INC., AND
TOYOTA MOTOR ENGINEERING &
MANUFACTURING NORTH AMERICA, INC.,

Defendants.

PLAINTIFFS' MOTION TO EXPEDITE DISCOVERY

Plaintiffs Craig Dunn, Pam Koehler, Zulmarie Rivera, Tru Value Auto Malls
LLC, Anna Marie Brechtell Flattmann, Tasha R. Severio, Kenneth G. Decie, Gregory
McCarthy, Nicole Peaslee, Karen Switkowski, Anthony D. Dark, Lemon Auto Sales,

Inc., Nathan Bordewich, Kathleen Wilkinson, Haydee Masisni, and Nancy Barnett (collectively, "Plaintiffs") hereby move for an order granting Plaintiffs' request for expedited discovery. Plaintiffs' Motion is based on the Memorandum provided below and the Declaration of Roland Tellis in Support of Plaintiffs' Motion to Expedite Discovery. A proposed Order is attached.

I. INTRODUCTION

Every day, more than 100 drivers and passengers of motor vehicles are injured or killed in car accidents. When people operate a motor vehicle or ride in one as a passenger, they trust and rely on the manufacturers of those motor vehicles to make those vehicles safe. And one of the central safety features of any motor vehicle is the airbag. Remarkably, Defendants Takata Corporation, TK Holdings, Inc. and Highland Industries, Inc. (collectively, "Takata") designed, manufactured, tested, and marketed millions of defective airbags which were distributed and sold to Defendants Honda Motor Co., Ltd., American Honda Motor Co., Inc., Bayerische Motoren Werke AG, ("BMW AG"), BMW of North America, LLC, BMW Manufacturing Co., LLC, Ford Motor Company, Toyota Motor Corporation, Toyota Motor Sales, U.S.A., Inc., and Toyota Motor Engineering & Manufacturing North America, Inc. (collectively referred to as the "Vehicle Manufacturer Defendants"). As alleged in Plaintiffs' Complaint, Takata and the Vehicle Manufacturer Defendants (collectively, "Defendants") concealed their knowledge of the nature and extent of the defects in the Takata airbags from the public, in blatant disregard of public welfare and safety.

Accordingly, Plaintiffs hereby seek expedited discovery to confirm whether Defendants have taken sufficient steps to protect public welfare and safety, whether Defendants' vehicles containing the Takata airbags are safe to drive, and whether to ask this Court to impose certain

requirements upon Defendants, in the form of an injunction, that may include requiring Defendants to provide additional public disclosures about its automobiles, requiring Defendants to initiate expanded recalls, requiring the Vehicle Manufacturer Defendants to make rental cars available until adequate repairs can be made, or requiring Defendants to remove any vehicle with a defective airbag from the road.

The following vehicles have been identified as being equipped with defective Takata airbags: 2001 - 2007 Honda Accord; 2001 -2005 Honda Civic; 2002 – 2006 Honda CR-V; 2003 – 2011 Honda Element; 2002 – 2004 Honda Odyssey; 2003 – 2007 Honda Pilot; 2006 Honda Ridgeline; 2003 – 2006 Acura MDX; 2002 – 2003 Acura TL/CL; 2005 Acura RL; 2000 – 2005 BMW 3 Series Sedan; 2000 – 2006 BMW 3 Series Coupe; 2000 – 2005 BMW 3 Series Sports Wagon; 2000 – 2006 BMW 3 Series Convertible; 2001 – 2006 BMW M3 Coupe; 2001 – 2006 BMW M3 Convertible; 2004 Ford Ranger; 2005 – 2006 Ford GT; 2005 – 2007 Ford Mustang; 2003 – 2005 Pontiac Vibe; 2005 Saab 9-2x; 2003 – 2007 Mazda 6; 2006 – 2007 Mazda Speed 6; 2004 – 2008 Mazda RX-8; 2004 – 2005 Mazda MPV; 2004 Mazda B-Series Truck; 2004 – 2005 Mitsubishi Lancer; 2006 – 2007 Mitsubishi Raider; 2001 – 2003 Nissan Maxima; 2001 – 2004 Nissan Pathfinder; 2002 – 2004 Nissan Sentra; 2001 – 2004 Infiniti I30/I35; 2002 – 2003 Infiniti QX4; 2003 – 2005 Infiniti FX35/FX45; 2003 – 2005 Subaru Baja; 2003 – 2005 Subaru Outback; 2003 – 2005 Subaru Legacy; 2004 – 2005 Subaru Impreza; 2002 – 2004 Lexus SC; 2002 – 2005 Toyota Corolla; 2003 – 2005 Toyota Corolla Matrix; 2002 – 2005 Toyota Sequoia; and 2003 – 2005 Toyota Tundra.. (the “Defective Vehicles”) (*See* Dkt. No. 1, Complaint (“Compl.”) at ¶¶ 2-3.).

As early as April 2000, certain Takata airbags were identified as having manufacturing defects. In 2001, a recall was issued as to certain Isuzu vehicles due to exploding Takata

airbags. Defendants knew or should have known that continuing to equip vehicles with Takata airbags would leave motor vehicle occupants vulnerable to serious injury or even death. Even with this information, many questions still remain unanswered, including:

- The names and positions of each individual who knew that Takata airbags were potentially defective;
- The timeframe in which each Defendant learned or should have learned that Takata airbags were potentially defective;
- The scope of the defects and Defendants' failure to identify and disclose which automobiles are equipped with potentially defective Takata airbags; and
- The extent of Defendants' actions and the specific steps Defendants have taken to possibly conceal their knowledge of the nature and extent of the airbag defects from their customers, government regulators, and the public.

Discovery is needed to provide timely answers to these questions. Indeed, expedited discovery into these areas will help answer an even more fundamental question that requires an immediate answer: whether Defendants should be required to provide additional public disclosures about their automobiles, initiate expanded recalls or remove the Defective Vehicles from the road.

Expedited discovery also is needed to allow Plaintiffs to determine whether to seek early injunctive relief. In order to assess the scope of the defects, whether the public should be notified that the Defective Vehicles are not safe to drive under all conditions, and other actions may need to be taken to protect public safety, Plaintiffs should be allowed to take expedited discovery. Depending on what the discovery reveals regarding the precise nature of the threat to public welfare and safety, Plaintiffs will seek an injunction requiring Defendants to provide additional public disclosures about their automobiles, expand the scope of the affected vehicles, provide rental cars to consumers until adequate repairs can be made, or remove the Defective Vehicles from the road entirely.

In this case, expedited discovery is also particularly appropriate because there is little if any burden to Defendants associated with the requested discovery, and it does not accelerate Defendants' discovery efforts. The discovery Plaintiffs seek, as set forth with more particularity below, is appropriately narrow. Even though courts *have* compelled depositions on an expedited basis in advance of a Rule 26(f) conference, Plaintiffs do not seek to compel deposition testimony at this time. Nor do they seek interrogatory responses.

Rather, Plaintiffs are limiting their requests for expedited discovery to documents, and most of the documents Plaintiffs seek: (1) have been gathered, or are being gathered, by Defendants for internal investigations; or (2) have already been, or will be, produced to the National Highway Traffic Safety Administration ("NHTSA"). As Defendants also continue to review and produce documents to NHTSA on a rolling basis, simultaneous, rolling production of these documents to Plaintiffs does not impose any additional burden on Defendants. Given the minimal burden associated with this discovery and Plaintiffs' need for information to ensure the safety of everyone operating vehicles equipped with Takata airbags, and those who share the road with those vehicles, the need for this discovery on an expedited basis outweighs any purported prejudice Defendants may claim.

II. CHRONOLOGY AND RELEVANT BACKGROUND

Takata is the world's second largest manufacturer of automotive safety devices, such as airbags. The airbags at issue in this case were developed by Takata in the late 1990s in an effort to make airbags more compact and to reduce the toxic fumes that earlier airbag models emitted when deployed. The airbags are inflated by an explosive device which is encased in a metal canister. Upon explosion, the airbags are prone to produce excessive internal pressure, which can cause metal fragments and shrapnel to

seriously injure or even kill vehicle occupants. These same airbags have been installed in millions of vehicles manufactured by up to ten different automakers. Defendants have been aware of these issues for years, but rather than disclosing their knowledge to the public, they concealed their knowledge of the scope and nature of the defects.

For example, Honda first learned that Takata airbag inflators were potentially defective as early as 2004 when an airbag in a Honda Accord exploded in Alabama, shooting out metal fragments and severely injuring the car's driver. However, it was not until November 11, 2008, that Honda notified NHTSA and recall 08V-593 was initiated. (Tellis Decl., Ex. 1, at 1 (November 11, 2008 letter from William R. Willen, Managing Counsel for the Product Regulatory Office of Honda to Mr. Daniel C. Smith, Associate Administrator for Enforcement of the Recall Management Division of the National Highway Traffic Safety Administration)). In its November 11, 2008 notice, Honda informed NHTSA that only 3,940 vehicles were equipped with potentially defective Takata airbags. *Id.* at 2. Honda stated, "In certain vehicles, the driver's airbag inflator could produce excessive internal pressure. If an effected (sic) airbag deploys, the increased internal pressure may cause the inflator to rupture. Metal fragments could pass through the airbag cushion material possibly causing injury to vehicle occupants." *Id.* Honda also laid out a chronology of events leading up to its determination that certain Takata airbags were defective. According to its chronology, Honda had received its "first claim" relating to the airbag inflator ruptures in June 2007. *Id.* This claim was "closed" in September 2007. *Id.* In January 2008, Honda began collecting parts from "suspect propellant lots" and began to analyze them. *Id.* On September 11, 2008, Honda inspected a second vehicle which also had an issue related to the airbag inflator ruptures.

Id. Finally, on November 4, 2008, Honda concluded its internal investigation and determined that a potential safety defect existed in the Takata airbags. *Id.* at 3.

In 2009, Takata informed Honda that issues related to propellant production appeared to have caused the defect contained within the Takata airbag inflator. Honda had also received additional complaints relating to airbag inflator ruptures, including one which resulted in a death.¹ On June 30, 2009, Honda notified NHTSA that it had determined the VIN Range for recall 08V-593 needed to be expanded, initiating recall 09V-259. (Tellis Decl., Ex. 3, at 1 (June 30, 2009 letter from William R. Willen, Managing Counsel for the Product Regulatory Office of Honda to Mr. Daniel C. Smith, Associate Administrator for Enforcement of the Recall Management Division of the National Highway Traffic Safety Administration). At that time, Honda did not know how many more vehicles were potentially affected. *Id.* at 2.

It was not until July 29, 2009, that Honda informed NHTSA that there were up to 440,000 additional vehicles which could be affected by the dangerous Takata airbags. (Tellis Decl., Ex. 4, at 2 (July 29, 2009 letter from William R. Willen, Managing Counsel for the Product Regulatory Office of Honda to Mr. Daniel C. Smith, Associate Administrator for Enforcement of the Recall Management Division of the National Highway Traffic Safety Administration). On August 19, 2009, NHTSA contacted Honda, demanding an explanation on why these 440,000 vehicles were not included in

¹ In May 2009, 18-year-old Ashley Parham was killed while driving a 2001 Honda Accord when her Takata airbag exploded after her car bumped into another car in a parking lot. The metal shrapnel that shot out of the airbag into her neck, causing her death. (Tellis Decl., Ex. 2, (Associated Press, *Senator Bill Nelson calls on automakers to replace parts or pay for rental car amid air bag recall*, October 27, 2014, Associated Press, available at <http://www.abcactionnews.com/news/national/senator-bill-nelson-calls-on-automakers-to-replace-parts-or-pay-for-rental-car-amid-air-bag-recall>).

recall 08V-593 along with a request for a breakdown of complaints, warranty claims, field reports and lawsuits relating to recalls 08V-593 and 09V-259. (Tellis Decl., Ex. 5, at 1-2 (August 19, 2009 letter from Mr. George Person, Chief of the Recall Management Division of the National Highway Traffic Safety Administration to William R. Willen, Managing Counsel for the Product Regulatory Office of Honda). In its September 16, 2009 response, Honda disclosed to NHTSA, amongst other information, that it had received three customer complaints (first one being on February 15, 2007) related to the defect identified in recall 08V-593 and that it had also been sued on July 6, 2007. Tellis Decl., Ex. 6, at 2-3 (September 16, 2009 letter from William R. Willen, Managing Counsel for the Product Regulatory Office of Honda to Mr. George Person, Chief of the Recall Management Division of the National Highway Traffic Safety Administration). Honda also disclosed that it had received five customer complaints (first one being on April 29, 2009) related to the same defect identified in recall 09V-259. *Id.* It was in this correspondence that Honda finally admitted to receiving a complaint in 2004 relating to the “unusual deployment” of a Takata airbag. *Id.* at 2. According to Honda, the information relating to the May 2004 incident was only shared with Takata around that time. *Id.* Plaintiffs believe that this disclosure was the *first* time Honda informed NHTSA of the May 2004 complaint.

On November 20, 2009, NHTSA demanded from Takata information relating to the airbags equipped in vehicles that were part of recalls 08V-593 and 09V-259. Tellis Decl., Ex. 7, at 1 (November 20, 2009 letter from Mr. George Person, Chief of the Recall Management Division of the National Highway Traffic Safety Administration to Kazou Higuchi, Senior Vice President of Takata). Takata submitted a partial response on

December 23, 2009 and then a subsequent response on February 19, 2010. In both responses, Takata asserted that there were no substantive design differences between the inflators in the airbags at issue in the two recalls. Tellis Decl., Ex. 8, at 2-3 (December 23, 2009 letter from Kazou Higuchi, Senior Vice President of Takata to Mr. George Person, Chief of the Recall Management Division of the National Highway Traffic Safety Administration.); Tellis Decl., Ex. 9, at 2 (February 19, 2010 letter from Kazou Higuchi, Senior Vice President of Takata to Mr. George Person, Chief of the Recall Management Division of the National Highway Traffic Safety Administration). Instead, Takata asserts that that the defects only existed in specific lots manufactured between certain dates. *See* Tellis Decl. Ex. 8 at 7-8; *See* Tellis Decl. Ex. 9 at 15. Takata also stated that it had “. . . not provided any airbag inflators that are the same or substantially similar to the inflators in vehicles covered by the recalls in 2008 and 2009 to any customers other than Honda. The physical characteristics of the inflator housing used in the Honda vehicles subject to these recalls are unique to Honda.” *See* Tellis Decl. Ex. 8 at 2; *See* Tellis Decl. Ex. 9 at 2. This of course has now been discovered to be untrue. Since recall 09V-259, NHTSA has initiated four more recalls increasing the total of potentially affected Honda vehicles to more than five (5) million.²

As discussed above, the defects in Takata airbags date back to at least 2000. However, it was not until April 11, 2013 that Takata finally disclosed to NHTSA that certain airbags manufactured between April 13, 2000 through September 11, 2002 at the Takata plant in Moses Lake, Washington and airbags manufactured on October 4, 2001

² Recall 10V-041 (2010) – 379,000 potentially affected vehicles; Recall 11V-260 (2011) – 1,709,477 affected vehicles; Recall 13V-132 (2013) – 561,422 affected vehicles; Recall 14V-351 (2014) – 2,803,214 potentially affected vehicles.

through October 31, 2002 at its Monclova, Mexico plant were defective. (Tellis Decl., Ex. 10, at 2 (April 11, 2013 letter from Kazuo Higuchi, Senior Vice President of Takata to Ms. Nancy L. Lewis, Associate Administrator of Enforcement of the Recall Management Division of the National Highway Traffic Safety Administration.)). In that same correspondence, Takata admitted to NHTSA that these airbags were equipped in vehicles manufactured by Toyota Motor Corporation, Honda Motor Co., Ltd., Nissan Motor Co., Ltd., Mazda Motor Corporation, BMW, and General Motors. *Id.* at 2-3.

Immediately following the April 2013 disclosure, NHTSA recalled 3.6 million vehicles manufactured by Nissan, Mazda, BMW, Pontiac, and Honda. Soon thereafter, Chrysler and Ford announced limited regional NHTSA recalls for vehicles sold or currently registered in Florida, Puerto Rico, Hawaii, or the U.S. Virgin Islands. On October 22, 2014, NHTSA expanded the list of vehicles affected by the recall of Takata components to cover ten automakers and numerous car models, totaling nearly 8 million vehicles. Those automakers are BMW (627,615 potentially affected vehicles), Chrysler (371,309 potentially affected vehicles), Ford (58,669 potentially affected vehicles), General Motors (undetermined number of potentially affected vehicles), Honda (5,051,364 potentially affected vehicles), Mazda (64,872 potentially affected vehicles), Mitsubishi (11,985 potentially affected vehicles), Nissan (694,626 potentially affected vehicles), Subaru (17,516 potentially affected vehicles) and Toyota (877,000 potentially affected vehicles).

In light of recalls and investigations that have been conducted and the complaints lodged by vehicle owners, Defendants knew or should have known that airbags being manufactured and sold to Plaintiffs were defective and unsafe. Nevertheless, to the

detriment of the public, they concealed their knowledge of the nature and extent of the defects.

III. LEGAL STANDARD

Under Federal Rule of Civil Procedure 26(d), Plaintiffs must obtain leave of Court to “seek discovery from any source” prior to the conference required by Rule 26(f), which must take place at least 21 days before the initial Case Management Conference. Fed. R. Civ. P. 26(d), (f). The Court has “broad discretion” when it comes to scheduling discovery. *TracFone Wireless, Inc. v. Holden Prop. Servs., LLC*, 299 F.R.D. 692, 694 (S.D. Fla. 2014) (citing *Johnson v. Bd. Of Regents*, 263 F.3d 1234, 1269 (11th Cir. 2001)). “Control of discovery is committed to the sound discretion of the trial court and its discovery rulings will be reversed only where they are arbitrary or clearly unreasonable.” *Id.* (citing *Williamson v. U.S. Dep’t. of Ag.*, 815 F.2d 368, 373 (5th Cir. 1987)).

Courts within the Eleventh Circuit use the “good cause” standard to determine whether to permit discovery prior to a Rule 26(f) conference. *See, e.g., Malibu Media v. Doe*, No. 2:14-cv-511-FtM-38CM, 2014 U.S. Dist. LEXIS 137273 (M.D. Fla. Sept. 27, 2014); *Platinum Mfg. Intern., Inc. v. UniNet Imaging, Inc.*, No. 8:08-cv-310-T-27MAP, 2008 WL 927558 at *1 (M.D. Fla. Apr. 4, 2008) (citing *Nassau Terminals, Inc. v. M/V Bering Sea*, No. 99-104-CIV-J-20C, 1999 U.S. Dist. LEXIS 23782, 1999 WL 1293476 (M.D. Fla. July 1, 1999)). “Good cause may be found where the need for expedited discovery, in consideration of the administration of justice, outweighs the prejudice to the responding party.” *TracFone*, 299 F.R.D. at 694 (citing *Semitool, Inc. v. Tokyo Electron Am., Inc.*, 208 F.R.D. 273, 276 (N.D. Cal. 2002)).

Here, the need for expedited discovery to further investigate the significant danger associated with all vehicles equipped with Takata airbags overwhelmingly outweighs any prejudice that Defendants may claim.

IV. ARGUMENT

A. **Plaintiffs' Requests Are Appropriately Narrow, Do Not Create Undue Burden for Defendants, and, as a Practical Matter, Do Not Accelerate Defendants' Discovery Efforts**

The expedited discovery requested by Plaintiffs is highly focused, limited in nature, and will not burden Defendants in any manner. In fact, Plaintiffs only seek for the Court to require Defendants to turn over:

- Any and all documents *already* produced in any government investigations relating to Takata airbags;
- Any and all documents that may be produced in response to any government investigation on a going-forward basis in connection with Takata airbags;
- Any and all documents concerning the specifications of Takata airbags;
- Any and all documents or reports concerning any identified issues relating to Takata airbags;
- Any and all documents concerning any testing of Takata airbags where Defendants learned that the Takata airbag inflator had the ability to rupture and potentially injure or kill vehicle occupants;
- Any and all documents from any internal investigation conducted by or on behalf of Defendants relating to Takata airbags;
- Any and all documents and communications referring to, relating to, or concerning Defendants' obligation to alert NHTSA about Takata airbags;
- Any and all customer complaints relating to Takata airbags; and
- Any and all documents discussing, referring to, or relating to any tests conducted by Defendants to determine whether it is safe to drive any vehicle equipped with Takata airbags, including, but not limited to, documents that indicate the number of test drives that have been

conducted; all raw data and results of these tests; the methodology underlying the tests; and all analyses of the results of these tests.

It is not uncommon for courts to compel defendants in litigation like this action to produce all documents that have been produced in concurrent investigations by Congress or governmental agencies. For example, in *Miller v. E.I. du Pont Nemours & Co.*, No. 11-1517 (N.D. Ohio), a case that presents similar circumstances to the present matter, the plaintiffs had alleged a public safety concern from the application of DuPont's toxic turf herbicide called Imprelis that was found to be killing trees upon normal application. Tellis Decl. Ex. 11 (*Miller*, Sept. 1, 2011 Order at 2). Defendant E.I. du Pont Nemours and Co. had admitted that it submitted documents concerning use of the chemical to the U.S. Environmental Protection Agency ("EPA"). *Id.* at 1-2. The plaintiffs alleged -- and DuPont disputed -- that the application of Imprelis continued to destroy property as it spreads from its initial application points. (*Id.* at 2). In that case, the court agreed with the plaintiffs' contention that expedited discovery regarding the use and effects of Imprelis was warranted to aid the plaintiffs in a determination of whether injunctive relief was necessary to halt and alleviate the spread of damage from Imprelis. Accordingly, the court ordered the defendant to produce *all* documents regarding Imprelis that the defendant had produced to the EPA, specifically noting that "[s]ince *this information has already been compiled and produced to the EPA by Defendant, its release to the Plaintiff should not be difficult.*" *Id.* (emphasis added). Production is equally easy in this case, and there is no basis for Defendants to withhold any documents they have produced to NHTSA or will produce to NHTSA (or Congress or any other governmental agency or entity at some future date).

Plaintiffs respectfully request that the Court require Defendants to agree to an expedited production schedule for the purpose of their production of the documents requested by Plaintiffs. Similarly, all non-privileged documents reviewed by or on behalf of Defendants in connection with any internal investigation should also be produced.

B. Expedited Discovery on the Safety of the Recalled Vehicles Is Necessary to Determine the Propriety of Injunctive Relief and Ward Off Irreparable Harm

In addition to being easy to produce, it is necessary to produce the requested documents on an expedited basis to allow Plaintiffs to determine the propriety of injunctive relief here. As discussed above, the Court has broad discretion when scheduling discovery when it is considers the request of a party to expedite discovery. Some federal courts have recognized that “expedited discovery may be justified to allow a plaintiff to determine whether to *seek* an early injunction.” *See e.g. Apple Inc., v. Samsung Elec. Co.*, No. 11-01846-LKH, 2011 WL 1938154, at *1 (N.D. Cal. May 18, 2011) (authorizing expedited discovery in large part to allow plaintiff to determine whether to seek injunctive relief) (emphasis added); *see also Interserve, Inc. v. Fusion Garage PTE, Ltd.*, No. 09-05812 JW (PVT), 2010 WL 143665, at *2 (N.D. Cal. Jan. 7, 2010) (holding that “[e]xpedited discovery [would] allow plaintiff to determine whether to seek an early injunction” and authorizing expedited discovery so that plaintiff could obtain an early injunction imposing a constructive trust on revenues generated by a competitor *if* the discovery suggested the competitor had infringed its intellectual property). Moreover, where, as here, “one party has an effective monopoly on the relevant information,” the need for discovery is especially acute. *See Ray v. Turner*, 587 F.2d 1187, 1218 (D.C. Cir.1987).

Expedited discovery is also particularly appropriate, where, as here, discovery is needed to determine whether conduct should be enjoined to protect public health and safety.

See Tellis Decl. Ex. 11 at 2 (where the court, in *Imprelis*, ordered expedited discovery from DuPont because of the pressing need to determine promptly whether Imprelis was continuing to destroy property as credibly alleged by plaintiffs). Here, the public safety concerns are even graver. Human lives are at risk to the extent that any vehicle equipped with Takata airbags cannot be repaired immediately. Plaintiffs should also be entitled to the categories of documents identified above, as discovery of the information is necessary to identify the current risk to the public that is created by the sale and use of the Defective Vehicles.

V. CONCLUSION

The expedited discovery that Plaintiffs request is needed to determine the propriety of injunctive relief. The injunctive relief Plaintiffs may seek is particularly significant. The discovery is designed to answer whether the public should be notified that any Defective Vehicle equipped with Takata airbags is in fact, unsafe. Moreover, none of the discovery sought is unduly burdensome, and compliance does not accelerate Defendants' discovery efforts in light of the pending government investigation and internal investigations that have been or will be conducted by Defendants. For these reasons, the need to expedite the requested discovery far outweighs any prejudice to Defendants and is necessary to ensure that justice is done. Plaintiffs thus respectfully request that the Court grants Plaintiffs' Motion for Expedited Discovery.

Local Rule 7.1(a)(3) Certification

Due to the urgent public safety concerns raised in this action, Plaintiffs have filed this motion concurrently with the complaint. As such, it is not yet possible for Plaintiffs' counsel to confer with counsel for Defendants regarding the relief sought in this motion, since counsel for Defendants have not yet appeared. As a matter of expediency, however, Plaintiffs' counsel will

serve Defendants with this motion, along with the complaint, and will endeavor to meet and confer with their retained counsel when they identify themselves.

Respectfully submitted,

PODHURST ORSECK, P.A.

/s/ Peter Prieto

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**IN THE UNITED STATES DISTRICT COURT
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TAKATA CORPORATION, TK HOLDINGS, INC.,
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HONDA MOTOR CO., INC., BAYERISCHE
MOTOREN WERKE AG, BMW OF NORTH
AMERICA, LLC, BMW MANUFACTURING
CO., LLC, FORD MOTOR COMPANY,
TOYOTA MOTOR CORPORATION, TOYOTA
MOTOR SALES, U.S.A., INC., AND TOYOTA
MOTOR ENGINEERING & MANUFACTURING
NORTH AMERICA, INC.,

Defendants.

**DECLARATION OF ROLAND TELLIS IN SUPPORT OF
PLAINTIFFS' MOTION TO EXPEDITE DISCOVERY**

I ROLAND TELLIS, of full age, declare as follows:

1. I am a shareholder of the firm Baron & Budd, P.C., 15910 Ventura Blvd., Suite 1600, Encino, California 91436. Together with Podhurst Orseck P.A. and Labaton Sucharow

LLP, we represent the Plaintiffs Craig Dunn, Pam Koehler, Zulmarie Rivera, Tru Value Auto Malls LLC, Anna Marie Brechtell Flattmann, Tasha R. Severio, Kenneth G. Decie, Gregory McCarthy, Nicole Peaslee, Karen Switkowski, Anthony D. Dark, Lemon Auto Sales, Inc., Nathan Bordewich, Kathleen Wilkinson, Haydee Masisni, and Nancy Barnettand (collectively, "Plaintiffs") in the putative class *Dunn et al. v. Takata Corporation, et al.*, Case No. 14-cv-24009 (S.D. Fla., filed Oct. 27, 2014) (the "*Dunn Action*"). I submit this declaration in support of Plaintiffs' Motion to Expedite Discovery.

2. Attached as **Exhibit 1** is a true and correct copy of a letter, dated November 11, 2008, from William R. Willen, Managing Counsel for the Product Regulatory Office of Honda to Mr. Daniel C. Smith, Associate Administrator for Enforcement of the Recall Management Division of the National Highway Traffic Safety Administration. This copy of the letter was printed on October 24, 2014 from NHTSA's website, located at the following URL: <http://www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/ACM10641506/RCDNN-08V593-1511.pdf>

3. Attached as **Exhibit 2** is a true and correct copy of the article *Senator Bill Nelson calls on automakers to replace parts or pay for rental car amid air bag recall*, published by the Associated Press on October 27, 2014, at 11:05 a.m.. The article may be obtained at the following URL:
<http://www.abcactionnews.com/news/national/senator-bill-nelson-calls-on-automakers-to-replace-parts-or-pay-for-rental-car-amid-air-bag-recall>.

4. Attached as **Exhibit 3** is a true and correct copy of a letter, dated June 30, 2009, from William R. Willen, Managing Counsel for the Product Regulatory Office of Honda to Mr. Daniel C. Smith, Associate Administrator for Enforcement of the Recall Management Division of the National Highway Traffic Safety Administration. This copy of the letter was printed on October 24, 2014 from NHTSA's website, located at the following URL: <http://www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/ACM11924447/RCDNN-09V259-4409.pdf>

5. Attached as **Exhibit 4** is a true and correct copy of a letter, dated July 29, 2009, from William R. Willen, Managing Counsel for the Product Regulatory Office of Honda to Mr.

Daniel C. Smith, Associate Administrator for Enforcement of the Recall Management Division of the National Highway Traffic Safety Administration. This copy of the letter was printed on October 24, 2014 from NHTSA's website, located at the following URL: <http://www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/ACM12254242/RCDNN-09V259-6845.pdf>

6. Attached as **Exhibit 5** is a true and correct copy of a letter, dated August 19, 2009, from Mr. George Person, Chief of the Recall Management Division of the National Highway Traffic Safety Administration to William R. Willen, Managing Counsel for the Product Regulatory Office of Honda. This copy of the letter was printed on October 24, 2014 from NHTSA's website, located at the following URL:

<http://www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/ACM12173915/RCNOC-09V259-2862.pdf>

7. Attached as **Exhibit 6** is a true and correct copy of a letter, dated September 16, 2009 from William R. Willen, Managing Counsel for the Product Regulatory Office of Honda to Mr. George Person, Chief of the Recall Management Division of the National Highway Traffic Safety Administration. This copy of the letter was printed on October 24, 2014 from NHTSA's website, located at the following URL:

<http://www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/ACM12339484/RCMR-09V259-4253.pdf>

8. Attached as **Exhibit 7** is a true and correct copy of a letter, dated November 20, 2009 letter from Mr. George Person, Chief of the Recall Management Division of the National Highway Traffic Safety Administration to Kazou Higuchi, Senior Vice President of Takata. This copy of the letter was printed on Z from NHTSA's website, located at the following URL:

<http://www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/ACM12765194/INIM-RQ09004-37562.pdf>

9. Attached as **Exhibit 8** is a true and correct copy of a letter, dated December 23, 2009 letter from Kazou Higuchi, Senior Vice President of Takata to Mr. George Person, Chief of the Recall Management Division of the National Highway Traffic Safety Administration. This

copy of the letter was printed on Z from NHTSA's website, located at the following URL:
<http://www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/ACM12980965/INRL-RQ09004-37860.pdf>

10. Attached as **Exhibit 9** is a true and correct copy of a letter, dated February 19, 2010 letter from Kazou Higuchi, Senior Vice President of Takata to Mr. George Person, Chief of the Recall Management Division of the National Highway Traffic Safety Administration. This copy of the letter was printed on Z from NHTSA's website, located at the following URL:
<http://www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/ACM13395661/INRL-RQ09004-39140P.pdf>

11. Attached as **Exhibit 10** is a true and correct copy of a letter, dated April 11, 2013, from Kazuo Higuchi, Senior Vice President of Takata to Ms. Nancy L. Lewis, Associate Administrator of Enforcement of the Recall Management Division of the National Highway Traffic Safety Administration. This copy of the letter was printed on October 26, 2014 from NHTSA's website, located at the following URL:
<http://www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/UCM436445/RCDNN-13E017-5589.pdf>

12. Attached as **Exhibit 11** is a true and correct copy of an Order authorizing expedited discovery in *Miller v. E.I. du Pont Nemours and Co.*, Case No. 11-1517 (N.D. Ohio Sept. 1, 2011) (Dkt. No. 21). The Order may be obtained via Pacer Weblinks at the following URL: <http://www.pacer.gov/psco/cgi-bin/links.pl>

13. I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Declaration was executed this 27th day of October, 2014, at Encino, California.

Dated: October 27, 2014

/s/ Roland Tellis
Roland Tellis

EXHIBIT 1

08V-593
(3 pages)

HONDA

American Honda Motor Co., Inc.
1919 Torrance Boulevard
Torrance, CA 90501-2746
Phone (310) 783-2000

November 11, 2008

Mr. Daniel C. Smith
Associate Administrator for Enforcement
NATIONAL HIGHWAY TRAFFIC SAFETY
ADMINISTRATION
Attn: Recall Management Division (NVS-215)
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Mr. Smith:

On November 4, 2008, Honda Motor Co., Ltd. (HMC) determined that a potential defect relating to motor vehicle safety exists in the driver airbag of certain 2001 model year Honda Accord and Civic automobiles, and is furnishing notification to the National Highway Traffic Safety Administration in accordance with 49 CFR Part 573 Defect and Noncompliance Reports.

573.6(c)(1)

Name of manufacturer: Honda of America Manufacturing, Inc. (HAM)
Honda Canada Manufacturing, Inc. (HCM)
Honda de Mexico (HDM)

Manufacturer's agent: William R. Willen
American Honda Motor Co., Inc. (AHM)
1919 Torrance Blvd.
Torrance, CA 90501-2746

573.6(c)(2)

Identification of potentially affected vehicles:

<u>Make/Model</u>	<u>Description</u>	<u>VIN Range/Dates of Manufacture</u>
Honda Civic	Certain 2001 model year	1HGEM21921L006340 ~ 1HGEM21931L047205 11/1/2000 ~ 2/2/2001
		1HGEN26451L000073 11/29/2000
		1HGES15551L035127 ~ 1HGES16591L040457 11/3/2000 ~ 1/6/2001
		1HGES26761L035935 ~ 1HGES26701L043979 11/6/2000 ~ 2/1/2001
		2HGES16591H519507 ~ 2HGES16531H553684 11/8/2000 ~ 2/8/2001
		2HGES26771H519559 ~ 2HGES267X1H553415 11/9/2000 ~ 2/8/2001

Mr. Daniel Smith
 November 11, 2008
 Page 2

Honda Accord	Certain 2001 model year	1HGCF86601A030716 ~ 1HGCF86621A071333 11/7/00 ~ 2/8/01
		1HGCG16571A017330 ~ 1HGCG165X1A057529 10/25/00 ~ 3/30/01
		1HGCG22541A006409 ~ 1HGCG22501A017164 10/25/2000 ~ 2/13/2001
		1HGCG32581A007276 ~ 1HGCG32701A013574 11/7/2000 ~ 1/31/2001
		1HGCG56601A024295 ~ 1HGCG56681A072241 10/27/2000 ~ 2/12/2001
		1HGCG66811A026919 ~ 1HGCG66521A100516 10/31/2000 ~ 4/12/2001
		3HGCG66541G701363 11/29/2000

Description of the basis for the determination of the recall population:

The recall population was based on manufacturing records. The VIN ranges reflect possible vehicles that could potentially experience the problem.

573.6(c)(3)

Total number of potentially affected vehicles: 3,940

573.6(c)(4)

Percentage of affected vehicles that contain the defect: Unknown

573.6(c)(5)

Defect description:

In certain vehicles, the driver's airbag inflator could produce excessive internal pressure. If an affected airbag deploys, the increased internal pressure may cause the inflator to rupture. Metal fragments could pass through the airbag cushion material possibly causing injury to vehicle occupants.

573.6(c)(6)

Chronology:

- June 2007 AHM received first claim information along with photographs and forwarded them to HAM. HAM initiated an investigation.
- Sept. 2007 The first claim was closed. AHM received parts and provided them to HAM.
- Jan. 2008 A program was started to collect parts from suspect propellant lots and analyze them.
- Sep. 11, 2008 A vehicle was inspected which had another unusual driver airbag deployment.

Mr. Daniel Smith
November 11, 2008
Page 3

Nov. 4, 2008 HAM completed the investigation and HMC determined that a safety-related defect exists.

573.6(c)(8)(i)

Program for remedying the defect:

The owners of all affected vehicles will be contacted by mail and asked to take their vehicle to a Honda automobile dealer. The dealer will replace the airbag inflator free of charge.

573.6(c)(8)(ii)

The estimated date to e-mail preliminary notification to dealers: Nov. 7, 2008

The estimated date to provide service bulletin to dealers: Dec. 17, 2008

The estimated date to begin sending notifications to owners: Dec. 22, 2008

The estimated date of completion of the notification: Dec. 22, 2008

573.6(c)(9)

Representative copies of all notices, bulletins and other communications:

A copy of the dealer service bulletin and text of the final customer notification letter will be submitted to your office as soon as possible.

573.6(c)(10)

Proposed owner notification letter submission:

A draft of the owner notification letter will be submitted to your office as soon as possible.

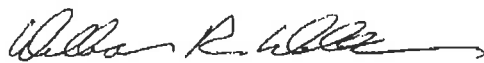
573.6(c)(11)

Manufacturer's campaign number:

Q96

Sincerely,

AMERICAN HONDA MOTOR CO., INC.



William R. Willen
Managing Counsel
Product Regulatory Office

WRW:nis

EXHIBIT 2

Senator Bill Nelson calls on automakers to replace parts or pay for rental car amid air bag recall

BY: Associated Press, [WFTS Webteam \(mailto:webteam@wfts.com\)](mailto:webteam@wfts.com)

POSTED: 11:05 AM, Oct 27, 2014

UPDATED: 3 hours ago

U.S. Sen. Bill Nelson is calling on major automakers to immediately take action for consumers with vehicles affected by a massive air bag recall.

Sen. Nelson wants automakers to replace the millions of defective airbags, or provide consumers with a rental car or rental reimbursement while they wait for the repairs.

The National Highway Transportation Safety Administration recalled over 7.8 million vehicles amid concern that a defect in the devices can possibly kill or injure the driver or passengers.

The inflator mechanisms in the air bags can rupture, causing metal fragments to fly out when the bags are deployed in crashes. Safety advocates say at least four people have died from the problem and there have been multiple injuries.

[SEE THE FULL LIST OF VEHICLES AFFECTED BY THE AIR BAG RECALL \(http://www.abcactionnews.com/news/national/full-list-government-expands-air-bag-recall-now-warns-drivers-of-61-million-vehicles-problems\)](http://www.abcactionnews.com/news/national/full-list-government-expands-air-bag-recall-now-warns-drivers-of-61-million-vehicles-problems)

Multiple automakers have recalled vehicles in the U.S. over the past two years to repair air bag inflators made by Takata Corp., a Tokyo-based supplier of seat belts, air bags, steering wheels and other auto parts. In a statement Monday, the National Highway Traffic and Safety Administration warned owners of those cars to act right away.

The agency has been investigating the problem since June, and has cited reports of six inflators rupturing, causing three injuries.

Worldwide, automakers have recalled about 12 million vehicles because of the problem.

The warning covers cars made by Toyota, Honda, Mazda, BMW, Nissan, General Motors and Ford. Passenger or driver air bags or both could have the faulty inflators. Safety advocates say the problem could affect more than 20 million vehicles in the U.S.

The rare action by federal regulators comes three weeks after a Sept. 29 crash near Orlando, Florida, that claimed the life of a 51-year-old woman. In that crash, Hien Thi Tran suffered severe neck wounds that could have been caused by metal fragments flying out of the air bag on her 2001 Honda Accord. Her Accord was among the models being recalled.

One police agency concluded that the air bags caused her wounds, while another is still investigating. NHTSA is seeking information in the case.

Toyota on Monday issued a recall covering passenger air bags in 247,000 older model vehicles including the Lexus SC, Corolla, Matrix, Sequoia and Tundra. Like many earlier recalls, Toyota's covers vehicles in South Florida, along the Gulf Coast, in

Puerto Rico, Hawaii, the U.S. Virgin Islands, Guam, Saipan and American Samoa — all areas that have high absolute humidity.

Toyota said it's working with Takata to pinpoint the cause of the rupture and to gauge the influence of high absolute humidity, which is a measurement of water vapor in the air.

Toyota could expand the recall to more areas pending further testing, according to spokesman John Hanson. Toyota says it knows of no crashes or injuries in the recalled cars.

NHTSA urged people to check if their car has been recalled by going to <https://vinrcl.safercar.gov/vin/> and typing in their vehicle identification number.

Clarence Ditlow, executive director of the nonprofit Center for Auto Safety, estimated there are 20 million to 25 million cars in the U.S. alone that are equipped with the faulty air bags.

In the Florida case, Tran turned left in front of another vehicle and the front ends collided. Her air bag inflated. The original report on the death said the seat belt could not have cut the right side of her neck. Also, there was no broken glass and no other apparent cause of the neck wounds.

Initially the case was turned over to the Orange County Sheriff's Office, whose homicide investigators determined that the air bag caused Tran's neck injuries, the Orlando Sentinel reported. Because the death appears to be traffic-related, the matter was sent back to the Florida Highway Patrol, which has not finished its investigation.

The Highway Patrol will call in an air bag expert to help make the determination, said Sgt. Kim Montes. The car's steering wheel and spokes were not damaged and appeared to be a normal air bag deployment, she said. Investigators also will look for

Senator Bill Nelson calls on automakers to replace parts or pay for rental car amid air bag ... Page 4 of 5

evidence of metal fragments in the car and try to determine what caused Tran's neck wounds, Montes said.

Two U.S. senators have questioned why the safety agency is limiting the recall to certain regions.

They cited the May 27, 2009, death of 18-year-old Ashley Parham of Oklahoma City as proof the problem can occur in areas where humidity isn't so prevalent. Parham was driving a 2001 Honda Accord across a high school parking lot in Midwest City, Oklahoma, when it hit another car. The air bag inflated and sent shards of metal into her neck, causing her death.

Takata said it supports Toyota's recall decision and will continue to support NHTSA and its customers with replacement parts and technical analysis.

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ANOTHER STORY OF INTEREST SPONSORED BY **TYLENOL**

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<http://c.jsrdn.com/i/1.gif?>

[r=e45f&k=ZA11cy1IYXN0LTFICWgJaS1iZDgzZTc1Mwl1CTA5ZTcyNTQwLWU3YTAtNDg4](http://c.jsrdn.com/i/1.gif?r=e45f&k=ZA11cy1IYXN0LTFICWgJaS1iZDgzZTc1Mwl1CTA5ZTcyNTQwLWU3YTAtNDg4)

Senator Bill Nelson calls on automakers to replace parts or pay for rental car amid air bag ... Page 5 of 5

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2FN8340.132665.VISIBLEMEASURESCORP%2FB7975276.110210283%
3Bdc_trk_aid%3D283399413%3Bdc_trk_cid%3D58709806).

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LOCALE=EN&UTM_SOURCE=FM&UTM_MEDIUM=FM_1941&UTM_TERM=MORE&UTM_CAMPAIGN=WISHABI_1_0)

EXHIBIT 3

HONDA

American Honda Motor Co., Inc.
1919 Torrance Boulevard
Torrance, CA 90501-2746
Phone (310) 783-2000

June 30, 2009

09V-259
(3 Pages)

Mr. Daniel C. Smith
Associate Administrator for Enforcement
NATIONAL HIGHWAY TRAFFIC SAFETY
ADMINISTRATION
Attn: Recall Management Division (NVS-215)
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Mr. Smith:

On November 4, 2008, Honda Motor Co., Ltd. (HMC) determined that a potential defect relating to motor vehicle safety exists in the driver airbag of certain 2001 model year Honda Accord and Civic automobiles, and is furnishing notification to the National Highway Traffic Safety Administration in accordance with 49 CFR Part 573 Defect and Noncompliance Reports.

On June 23, 2009, HMC determined that that VIN range for recall 08V-593 should be expanded for 2001 model year Accord and Civic automobiles and is furnishing notification to the National Highway Traffic Safety Administration in accordance with 49 CFR Part 573 Defect and Noncompliance Reports.

573.6(c)(1)

Name of manufacturer: Honda Motor Co., Ltd. (HMC)
Honda of American Manufacturing, Inc. (HAM)
Honda Canada Manufacturing, Inc. (HCM)
Honda de Mexico (HDM)

Manufacturer's agent: William R. Willen
American Honda Motor Co., Inc. (AHM)
1919 Torrance Blvd.
Torrance, CA 90501-2746

573.6(c)(2)

Identification of potentially affected vehicles:

<u>Make/Model</u>	<u>Description</u>	<u>VIN Range/Dates of Manufacture</u>
Honda Civic	Certain 2001 model year	TBD
Honda Accord	Certain 2001 model year	TBD

Mr. Daniel Smith
June 30, 2009
Page 2

Description of the basis for the determination of the recall population:

The recall population was based on manufacturing records. The VIN range reflects all possible vehicles that could potentially experience the problem.

573.6(c)(3)

Total number of potentially affected vehicles: TBD

573.6(c)(4)

Percentage of affected vehicles that contain the defect: Unknown

573.6(c)(5)

Defect description:

In certain vehicles, the driver's airbag inflator could produce excessive internal pressure. If an affected airbag deploys, the increased internal pressure may cause the inflator to rupture. Metal fragments could pass through the airbag cushion material possibly causing injury to vehicle occupants

573.6(c)(6)

Chronology:

Nov. 11, 2008	AHM submitted 573 report to NHTSA (08V-593). HAM continued the investigation for returned Inflators of the recall.
May 28, 2009	AHM notified of unusual driver airbag deployment.
June 9, 2009	AHM notified of second unusual driver airbag deployment.
June 23, 2009	HAM completed the investigation and HMC determined that recall 08V-593 should be expanded.

573.6(c)(8)(i)

Program for remedying the defect:

The owners of all affected vehicles will be contacted by mail and asked to take their vehicle to a Honda automobile dealer. The dealer will replace the airbag inflator free of charge.

573.6(c)(8)(ii)

The estimated date to e-mail preliminary notification to dealers: TBD

The estimated date to provide service bulletin to dealers: TBD

The estimated date to begin sending notifications to owners: TBD

The estimated date of completion of the notification: TBD

Mr. Daniel Smith
June 30, 2009
Page 3

573.6(c)(9)

Representative copies of all notices, bulletins and other communications:

A copy of the dealer service bulletin and text of the final customer notification letter will be submitted to your office as soon as possible.

573.6(c)(10)

Proposed owner notification letter submission:

A draft of the owner notification letter will be submitted to your office as soon as possible.


573.6(c)(11)

Manufacturer's campaign number:

TBD

Sincerely,

AMERICAN HONDA MOTOR CO., INC.



William R. Willen
Managing Counsel
Product Regulatory Office

WRW:nls

EXHIBIT 4

09V-259
(5 pages)
Amended

HONDA

American Honda Motor Co., Inc.
1919 Torrance Boulevard
Torrance, CA 90501-2746
Phone (310) 783-2000

July 29, 2009

Mr. Daniel C. Smith
Associate Administrator for Enforcement
NATIONAL HIGHWAY TRAFFIC SAFETY
ADMINISTRATION
Attn: Recall Management Division (NVS-215)
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Mr. Smith:

On November 4, 2008, Honda Motor Co., Ltd. (HMC) determined that a potential defect relating to motor vehicle safety exists in the driver airbag of certain 2001 model year Honda Accord and Civic automobiles, and is furnishing notification to the National Highway Traffic Safety Administration in accordance with 49 CFR Part 573 Defect and Noncompliance Reports.

On June 23, 2009, HMC determined that the VIN range for recall 08V-593 should be expanded for 2001 model year Accord and Civic automobiles and we furnished notification to the National Highway Traffic Safety Administration on June 30, 2009 in accordance with 49 CFR Part 573 Defect and Noncompliance Reports.

Today, we are providing you with the expanded VIN range for recall 08V-593 and are also including partial VIN ranges for 2002 model year Accord and Acura 3.2TL vehicles.

573.6(c)(1)

Name of manufacturer: Honda Motor Co., Ltd. (HMC)
Honda of American Manufacturing, Inc. (HAM)
Honda Canada Manufacturing, Inc. (HCM)
Honda de Mexico (HDM)

Manufacturer's agent: William R. Willen
American Honda Motor Co., Inc. (AHM)
1919 Torrance Blvd.
Torrance, CA 90501-2746

573.6(c)(2)

Identification of potentially affected vehicles:

Make/Model Description VIN Range/Dates of Manufacture

See Attached list

Mr. Daniel Smith
July 29, 2009
Page 2

Description of the basis for the determination of the recall population:

The recall population was based on manufacturing records. The VIN range reflects all possible vehicles that could potentially experience the problem.

573.6(c)(3)

Total number of potentially affected vehicles: Approximately 440,000

573.6(c)(4)

Percentage of affected vehicles that contain the defect: Unknown

573.6(c)(5)

Defect description:

In certain vehicles, the driver's airbag inflator could produce excessive internal pressure. If an affected airbag deploys, the increased internal pressure may cause the inflator to rupture. Metal fragments could pass through the airbag cushion material possibly causing injury to vehicle occupants

573.6(c)(6)

Chronology:

Nov. 11, 2008	AHM submitted 573 report to NHTSA (08V-593). HAM continued the investigation for returned inflators of the recall.
May 28, 2009	AHM notified of unusual driver airbag deployment.
June 9, 2009	AHM notified of second unusual driver airbag deployment.
June 23, 2009	HAM completed the investigation and HMC determined that recall 08V-593 should be expanded.

573.6(c)(8)(i)

Program for remedying the defect:

The owners of all affected vehicles will be contacted by mail and asked to take their vehicle to a Honda automobile dealer. The dealer will replace the airbag inflator free of charge.

573.6(c)(8)(ii)

The date to e-mail preliminary notification to dealers: July 21, 2009 (Honda)
July 23, 2009 (Acura)

The date to provide service bulletin to dealers: July 22, 2009 (Honda)
July 24, 2009 (Acura)

Mr. Daniel Smith
July 29, 2009
Page 3

The estimated date to begin sending notifications to owners: Aug. 6, 2009 (Honda)
Aug. 3, 2009 (Acura)

The estimated date of completion of the notification: TBD

573.6(c)(9)

Representative copies of all notices, bulletins and other communications:

A copy of the dealer service bulletin and text of the final customer notification letter is included.

573.6(c)(10)

Proposed owner notification letter submission:

A draft of the owner notification letter was submitted and approved by your office.

573.6(c)(11)

Manufacturer's campaign number:

Q96 Honda Accord & Civic
R13 Acura 3.2 TL

Sincerely,

AMERICAN HONDA MOTOR CO., INC.



William R. Willen
Managing Counsel
Product Regulatory Office

WRW:nis

Mr. Daniel Smith
 July 29, 2009
 Page 4

Identification of potentially affected vehicles

Make/Model	Description	VIN Range/Dates of Manufacture
Honda Civic 2-door	Certain 2001 model year	1HGEM22971L000001 ~ 1HGEM229X1L124960 9/19/2000 ~ 9/10/2001
Honda Civic 4-door	Certain 2001 model year	1HGES15511L000052 ~ 1HGES16551L078249 7/18/2000 ~ 8/27/2001
		2HGES165X1H500108 ~ 2HGES16571H576787 8/29/2000 ~ 4/16/2001
		JHMES152X1S000012 ~ JHMES16551S001089 6/28/2000 ~ 9/4/2000
		1HGES26701L000002 ~ 1HGES267X1L078061 7/25/2000 ~ 8/27/2001
		2HGES267X1H500049 ~ 2HGES25741H576724 8/28/2000 ~ 4/16/2001
		JHMES267X1S000009 ~ JHMES26721S005303 7/12/2000 ~ 5/18/2001
Honda Accord 2-door	Certain 2001 model year	1HGCG22561A000014 ~ 1HGCG22471A035443 7/18/2000 ~ 8/3/2001
		1HGCG32571A000013 ~ 1HGCG325X1A032650 7/18/2000 ~ 7/30/2001
Honda Accord 4-door	Certain 2001 model year	1HGCF85461A000202 ~ 1HGCF86601A146921 8/21/2000 ~ 7/20/2001
		JHMC85471C000002 ~ JHMC86421C000813 7/7/2000 ~ 6/26/2001
		1HGCG16411A000014 ~ 1HGCG16511A087275 7/20/2000 ~ 7/31/2001
		1HGCG56661A000017 ~ 1HGCG56621A148794 7/20/2000 ~ 7/27/2001
		3HGCG56471G700001 ~ 3HGCG56461G700720 7/02/2001 ~ 8/9/2002
		JHMC856421C000015 ~ JHMC86631C033252 1/13/2001 ~ 7/3/01
		1HGCG66521A000142 ~ 1HGCG665X1A148250 8/21/2000 ~ 7/26/2001

Mr. Daniel Smith
 July 29, 2009
 Page 5

Honda Accord 4-door (con't)	Certain 2001 model year (con't)	3HGCG66571G700367 ~ 3HGCG66501G703840 10/9/2000 ~ 3/9/01
		JHMCG65561C000003 ~ JHMCG66001C027751 7/4/2000 ~ 7/3/01
Honda Accord 2-door	Certain 2002 model year	1HGCG22542A001082 ~ 1HGCG22562A010432 8/23/2001 ~ 11/14/2001
		1HGCG32022A001110 ~ 1HGCG32502A008343 8/22/2001 ~ 11/16/2001
Honda Accord 4-door	Certain 2002 model year	1HGCF86662A001089 ~ 1HGCF86662A054018 8/1/01 ~ 12/4/01
		JHMCF85402C000005 ~ JHMCF86462X000086 7/26/01 ~ 8/1/01
		1HGCG16522A000985 ~ 1HGCG16542A037889 8/2/01 ~ 12/4/01
		1HGCG56722A000607 ~ 1HGCG56442A056165 7/31/2001 ~ 12/7/2001
		3HGCG56452G700001 ~ 3HGCG564X2G703704 8/17/2001 ~ 2/26/2002
		JHMCG56782C000001 ~ JHMCG56772C033281 6/11/2001 ~ 4/16/2002
		3HGCG66572G7000001 ~ 3HGCG66532G703705 8/13/01 ~ 2/08/2002
Acura 3.2TL	Certain 2002 model year	JHMCG66542C000145 ~ JHMCG66032C028832 7/5/01 ~ 5/13/2002
		19UUA56932A000011 ~ 19UUA56992A046846 10/24/2000 ~ 11/2/2001

EXHIBIT 5



U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

1100 New Jersey Avenue SE,
Washington, DC 20590

AUG 19 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. William R. Willen
Managing Counsel
American Honda Motor Co.
1919 Torrance Blvd.
Torrance, CA 90501-2746

NVS-215/jtt
09V-259

Re: Additional Information Required on Safety Recall 09V-259

Dear Mr. Willen:

This serves as a request for further information concerning safety recall 09V-259. The recall concerns certain 2001 model year Honda Accord and Civic vehicles that Honda Motor Co., Ltd. (HMC) decided have a safety-related defect. As explained in HMC's defect information report, this safety recall is an expansion of safety recall 08V-593 which involved the same model and model year vehicles.

As with its defect information report filed in safety recall 08V-593, HMC explained that the driver's airbag inflator may produce excessive internal pressure that, in the event of airbag deployment, could cause the inflator to rupture. This rupture could cause metal fragments to pass into the vehicle compartment possibly causing injury to vehicle occupants.

Upon further review of the defect information report, the Recall Management Division (RMD) requires additional information to understand why HMC did not include the current population in safety recall 08V-593, and to evaluate the timeliness of HMC's recent defect decision. Please answer the following, repeating before each response the question asked. Please also produce copies of any documentation supporting your answers.

1. How did HMC determine which vehicles to include in the 08V-593 recall population? Explain the difference between the driver's airbag inflators in those vehicles from the inflators in the 09V-259 vehicles and explain how this distinction, or any other between



the two sets of vehicles, convinced HMC at the time that it did not need to include the latter set in the 08V-593 recall population.

2. How is HMC determining which vehicles to include in the 09V-259 recall population?

3. Is HMC certain that it has identified and made a defect decision as to all of its U.S. vehicle products that could contain the defect identified in 08V-593 and 09V-259? If so, on what basis is HMC certain? If not, why has HMC not made a safety defect decision as to those other vehicles?

4. Separately, for each category listed, state the number and dates of receipt for all of the following in relation to the safety defect identified and the vehicles in 08V-593:

- a. Complaints
- b. Warranty claims (paid or unpaid)
- c. Field reports
- d. Lawsuits

5. Separately, for each category listed, state the number and dates of receipt for all of the following in relation to the safety defect identified and the vehicles in 09V-259:

- a. Complaints
- b. Warranty claims (paid or unpaid)
- c. Field reports
- d. Lawsuits

6. With respect to the chronology in HMC's defect information report in 09V-259, please describe the unusual driver airbag deployments referenced and explain why HMC considers them unusual.

7. Please clarify to what investigation HMC is referring when it says that on June 23, 2009, it completed "the investigation" and determined that 08V-593 should be expanded. RMD is confused by HMC's terminology because earlier HMC indicated the investigation was for returned inflators of the 08V-593 recall, RMD does not understand the correlation between an investigation conducted on inflators not used on the 09V-239 recall population, and HMC's decision to recall the 09V-239 vehicles.

8. Identify and describe all information, including testing, complaints, claims, inspections, and reports that any Honda company considered in evaluating whether the safety defect was present in vehicle outside the 08V-593 recall population. For each item of information, and to the extent not previously provided in response to another question, identify which Honda company received or conducted it and when, and then identify which Honda company evaluated or considered it and when.

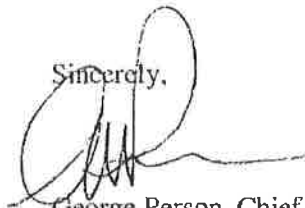
Please provide the requested information no later than September 16, 2009. Please also update and amend the company's information report such that it includes any information required to be provided under 49 CFR 573.6, and that was not provided in the original, June 2009, report. We note that items such as the VIN ranges for the recalled vehicles, and the estimated dates for mailing owner notifications and providing notice to dealers about the defect and recall, have yet to be provided.

This letter is issued pursuant to 49 U.S.C. § 30166 which authorizes the NHTSA to request any information that it deems necessary in administering and enforcing the Motor Vehicle Safety Act of 1969, as amended, 49 U.S.C. 30101, et seq. Failure to respond promptly, truthfully, and completely to this letter and the inquiries made herein could subject HMC to significant civil penalties and/or a claim for injunctive relief.

If HMC claims that any of the information or documents provided in response to this information request constitute confidential commercial material within the meaning of 5 U.S.C. § 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. § 1905, the company must submit supporting information together with the materials that are the subject of the confidentiality request, to the Office of Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Ave., SE, Washington, D.C. 20590. Please see 49 CFR Part 512 for further instructions as to what is required to properly file a request for confidential treatment.

Please direct your response to Jennifer Timian of my staff, and note conspicuously on your response the safety recall number assigned to this matter (e.g., 09V-259). Should you have any questions or concerns, please contact Ms. Timian on (202) 366-0209 or by email at jennifer.timian@dot.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Person", with a large, looping flourish above the name.

George Person, Chief
Recall Management Division

EXHIBIT 6

HONDA

American Honda Motor Co., Inc.
1919 Torrance Boulevard
Torrance, CA 90501-2746
Phone (310) 783-2000

September 16, 2009

NVS-215/jtt
09V-259

Mr. George Person, Chief
Recall Management Division
Office of Defects Investigation
U.S. DEPARTMENT OF TRANSPORTATION
National Highway Traffic Safety Administration
1200 New Jersey Ave., SE
Washington, DC 20590

Dear Mr. Person:

In reply to your letter dated August 19, 2009, we are submitting our response to additional information requested concerning safety recall 09V-259.

1. **How did HMC determine which vehicles to include in the 08V-593 recall population? Explain the difference between the driver's airbag inflators in those vehicles from the inflators in the 09V-259 vehicles and explain how this distinction, or any other between the two sets of vehicles, convinced HMC at the time that it did not need to include the latter set in the 08V-593 recall population.**

The determination of the vehicle population for the 08V-593 campaign was based on information provided by TK Holdings, Inc., on the causal factors and production history of airbag inflators. At the time the 08V-593 campaign was initiated we understood the causal factors to be related to airbag propellant due to handling of the propellant during airbag inflator module assembly.

Basically, there are no design or other differences between the airbag inflators involved in the original campaign or the expanded campaign. We (Honda and TK Holdings, Inc.) believe that any differences between those two vehicle populations, as well as differences between vehicles included in the expanded campaign and those excluded from the campaign are related to production of the airbag propellant prior to assembly of the inflators.

Based on additional deployments similar to those that led Honda to initiate the 08V-593 campaign but outside of the range of the recall population for that campaign, we now believe the causal factors to be related to a specific production process at a TK Holdings, Inc. facility that manufactured and formed the propellant. Using manufacturing records and our current understanding of the cause of the excessive pressure in the inflator modules, the 09V-259 campaign is expected to capture all affected vehicles.

Specifically, based on information from TK Holdings, Inc., we believe the cause to be related to the process of pressing the propellant into wafers that were later installed into the inflator modules. The affected units seem to exhibit properties that are limited to one production process involving one of several high-precision compression presses that were used to form the propellant into wafers.

2. **How is HMC determining which vehicles to include in the 09V-259 recall population?**

Comparing the incidents that have occurred to date, production records and measurable characteristics of the wafers, such as density and crush strength, we believe we have correctly identified the affected propellant wafer production.

Once the characteristics of the suspect wafers were identified by TK Holdings, Inc., the propellant lot production history was compared against inflator assembly production records, which includes serial

Mr. George Person
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September 16, 2009
Page 2

numbers for each inflator. From this information the Honda factory that installed the airbag modules into vehicles matched the airbag inflator module serial number to the VIN of the vehicle in which it was installed. This is the method of determining the recall population.

3. **Is HMC certain that it has identified and made a defect decision as to all of its U.S. vehicle products that could contain the defect identified in 09V-593 and 09V-249? If so, on what basis is HMC certain? If not, why has HMC not made a safety defect decision as to those other vehicles?**

Based on our current understanding of the causal factors and the characteristics of suspect inflators as determined by TK Holdings, Inc., we believe that we have included all vehicles that could be affected by this defect.

4. **Separately, for each category listed, state the number and dates of receipt for all of the following in relation to the safety defect identified and the vehicles in 08V-593:**

a. Complaints

Honda has received 3 customer relations complaints related to the safety defect identified in campaign 08V-593 to date, filed on the following dates:

February 15, 2007

June 4, 2007

July 25, 2008

b. Warranty claims (paid or unpaid)

Honda has received no (0) warranty claims related to the safety defect identified in campaign 08V-593 to date.

c. Field reports

Honda has no (0) field reports related to campaign 08V-593 to date.

d. Lawsuits

Honda has had one lawsuit related to the safety defect identified in campaign 08V-593, filed on the following date:

July 6, 2007

Please note that we recently learned of an earlier unusual deployment that occurred in May, 2004. This event was reported to Honda in 2004, and the information was shared with TK Holdings, Inc. at that time. We only recently were reminded of this incident, and are now studying it again to determine if this deployment was due to the same causal factors as the events that led to campaign 08V-593. Until re-discovering this earlier event in the past month, we had not associated it with the 08V-593 campaign.

5. **Separately, for each category listed, state the number and dates of receipt for all of the following in relation to the safety defect identified and the vehicles in 09V-259:**

a. Complaints

Honda has received 5 customer relations complaints related to the safety defect identified in campaign 09V-259 to date, filed on the following dates:

April 29, 2009

Mr. George Person
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September 16, 2009
Page 3

*May 29, 2009
July 27, 2009
July 31, 2009
August 31, 2009*

- b. **Warranty claims (paid or unpaid)**
Honda has received no (0) warranty claims related to the safety defect identified in campaign 09V-259 to date.
- c. **Field reports**
Honda has no (0) field reports related to campaign 09V-259 to date.
- d. **Lawsuits**
Honda has had no (0) lawsuits related to the safety defect identified in campaign 09V-259.

6. **With respect to the chronology in HMC's defect information report in 09V-259, please describe the unusual driver airbag deployments referenced and explain why HMC considers them unusual.**

Each of the incidents identified in the chronology for both the 08V-593 and 09V-259 campaigns exhibited similar characteristics. Each of the incidents included some form of separation of the metal airbag inflator shell, resulting in metal fragments of the shell being propelled through the airbag fabric. In most cases the metal fragments were relatively small, though in one instance it appears that the second stage of the two-stage inflator became separated from the inflator module and was propelled toward the driver. Each of these incidents appears to share a common thread of being the result of overpressurization of the airbag inflator module.

Because the design of the airbag inflator module specifies that the pressure of the inflator gas open the vent covers when filling the airbag, we consider any deviation from that design intent to be an unusual deployment.

7. **Please clarify to what investigation HMC is referring when it says that on June 23, 2009, it completed "the investigation" and determined that 08V-593 should be expanded. RMD is confused by HMC's terminology because earlier HMC indicated the investigation was for returned inflators of the 08V-593 recall. RMD does not understand the correlation between an investigation conducted on inflators not used on the 09V-239 [sic] recall population, and HMC's decision to recall the 09V-239 [sic] vehicles.**

"The investigation" completed on June 23, 2009 is a reference to the analysis of airbag inflators returned in response to the 08V-593 campaign. This is the same investigation referenced in the November 11, 2008 entry in the chronology of the 09V-259 recall notification letter to NHTSA.

8. **Identify and describe all information, including testing, complaints, claims, inspections, and reports that any Honda company considered in evaluating whether the safety defect was present in vehicle outside the 08V-593 recall population. For each item of information, and to the extent not previously provided in response to another question, identify which Honda company received or conducted it and when, and then identify which Honda company evaluated or considered it and when.**

Please find attached the presentation titled "Presentation to Honda American Manufacturing" which was prepared by TK Holdings, Inc. for presentation to Honda on October 2, 2008. This document includes all of the analysis and testing relative to campaign 08V-593 and was the basis for the determination to conduct a recall on the driver's airbag inflators. Please note that some of the information included in this document was later found to contain incorrect assumptions. The

Mr. George Person
NVS-215/jtt / 09V-259
September 16, 2009
Page 4

presentation, except for the title page contains confidential information and is being submitted to the Chief Counsel's office as a Request for Confidentiality. The redacted version is attached as part of our response.

With respect to claims and inspections the attached table identifies each of the nine claims received by Honda to date, which Honda company received the claim and whether the claim was included in the population of the original 08V-593 campaign or the expanded 09V-259 campaign. The earlier claim referenced in response to Q4 is labeled as Case 0 as we attempt to determine if this was due to the same cause as the incidents that prompted campaign 08V-593.

Sincerely,

AMERICAN HONDA MOTOR CO., INC.



William R. Willen
Managing Counsel
Product Regulatory Office

WRW:nis

Attachments

09V-259
Additional Information
Sept. 16, 2009

Attachment Q8



Presentation to Honda American Manufacturing



October 2, 2008

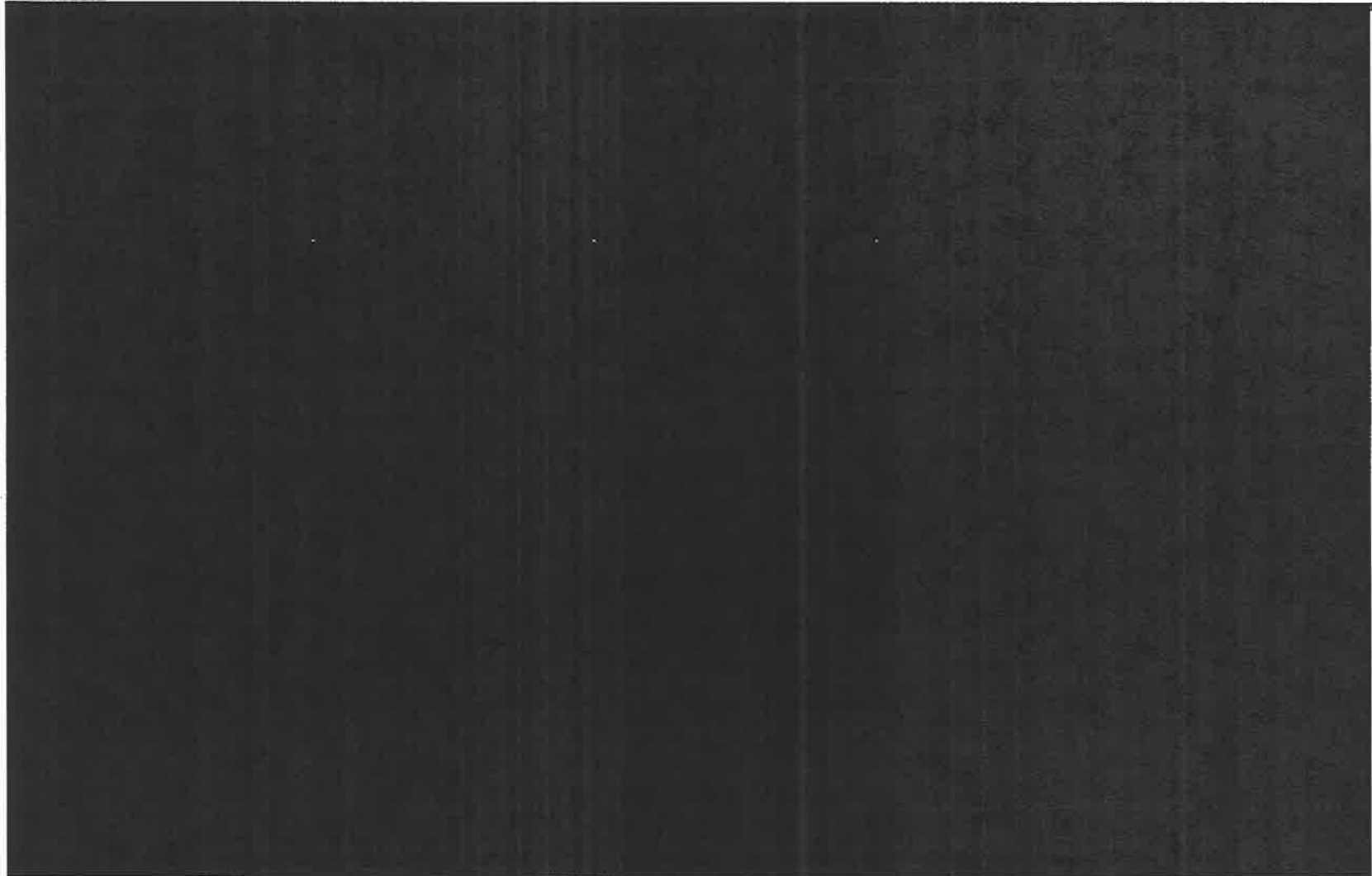
TK Holdings Inc.



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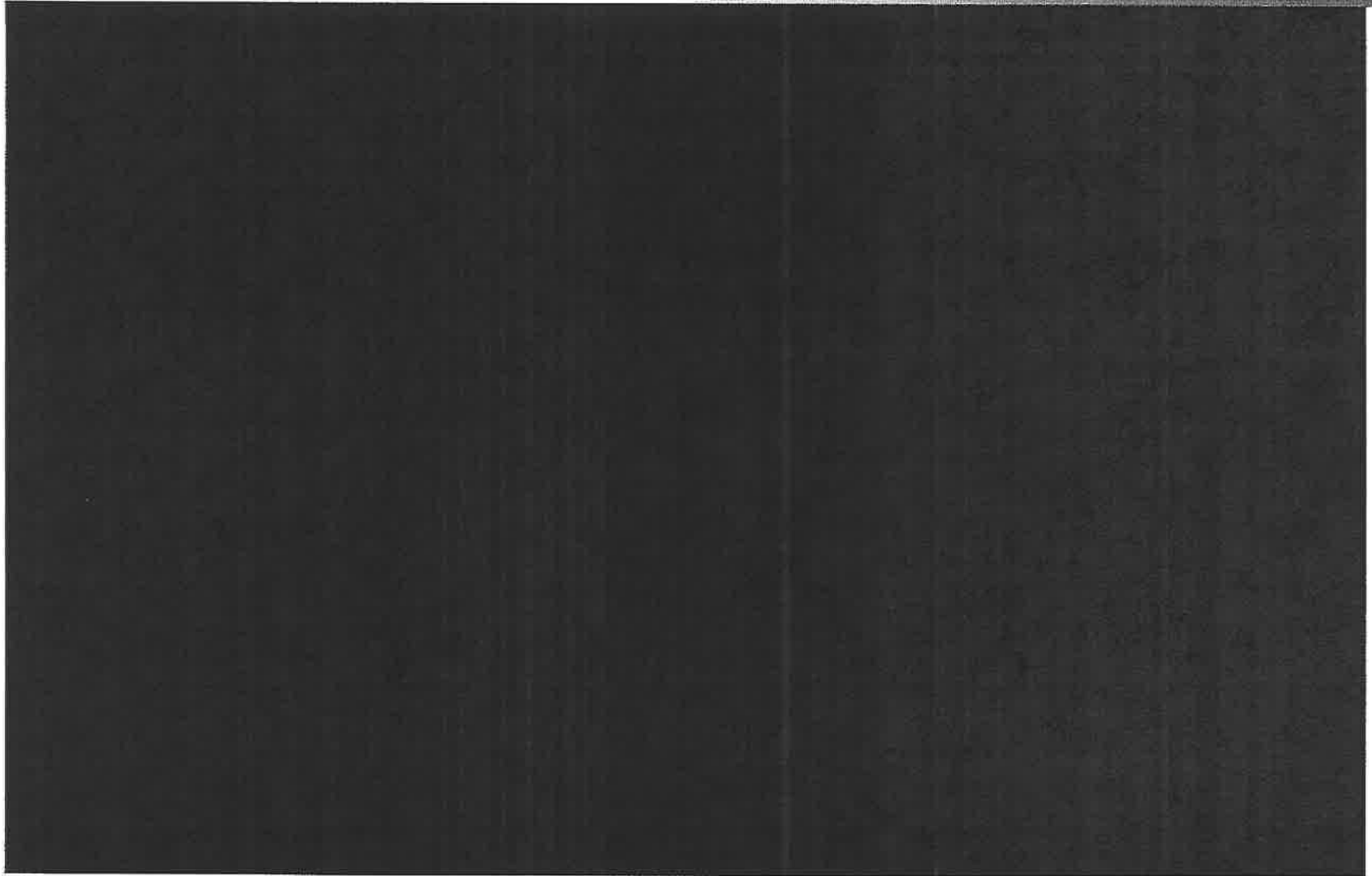


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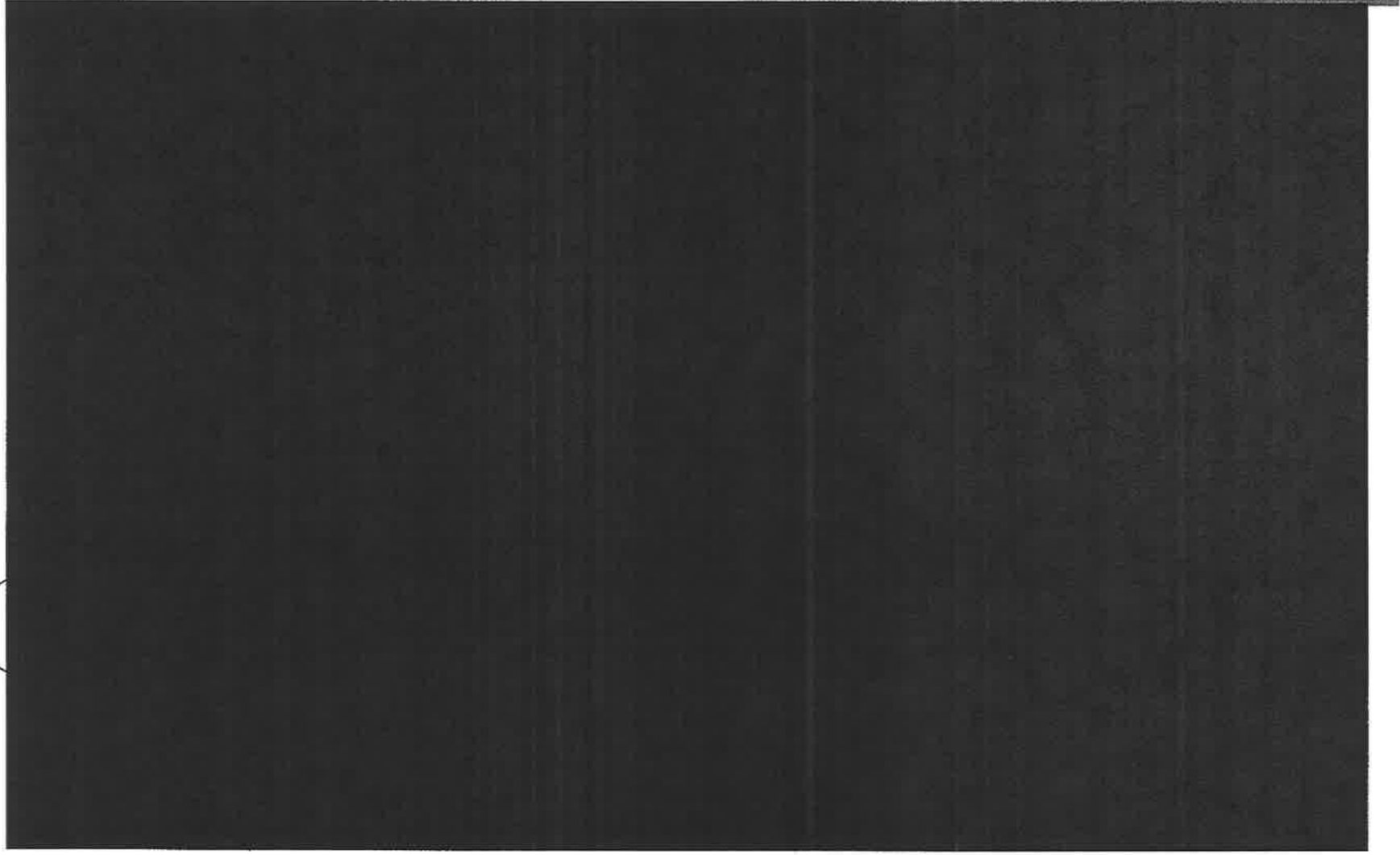
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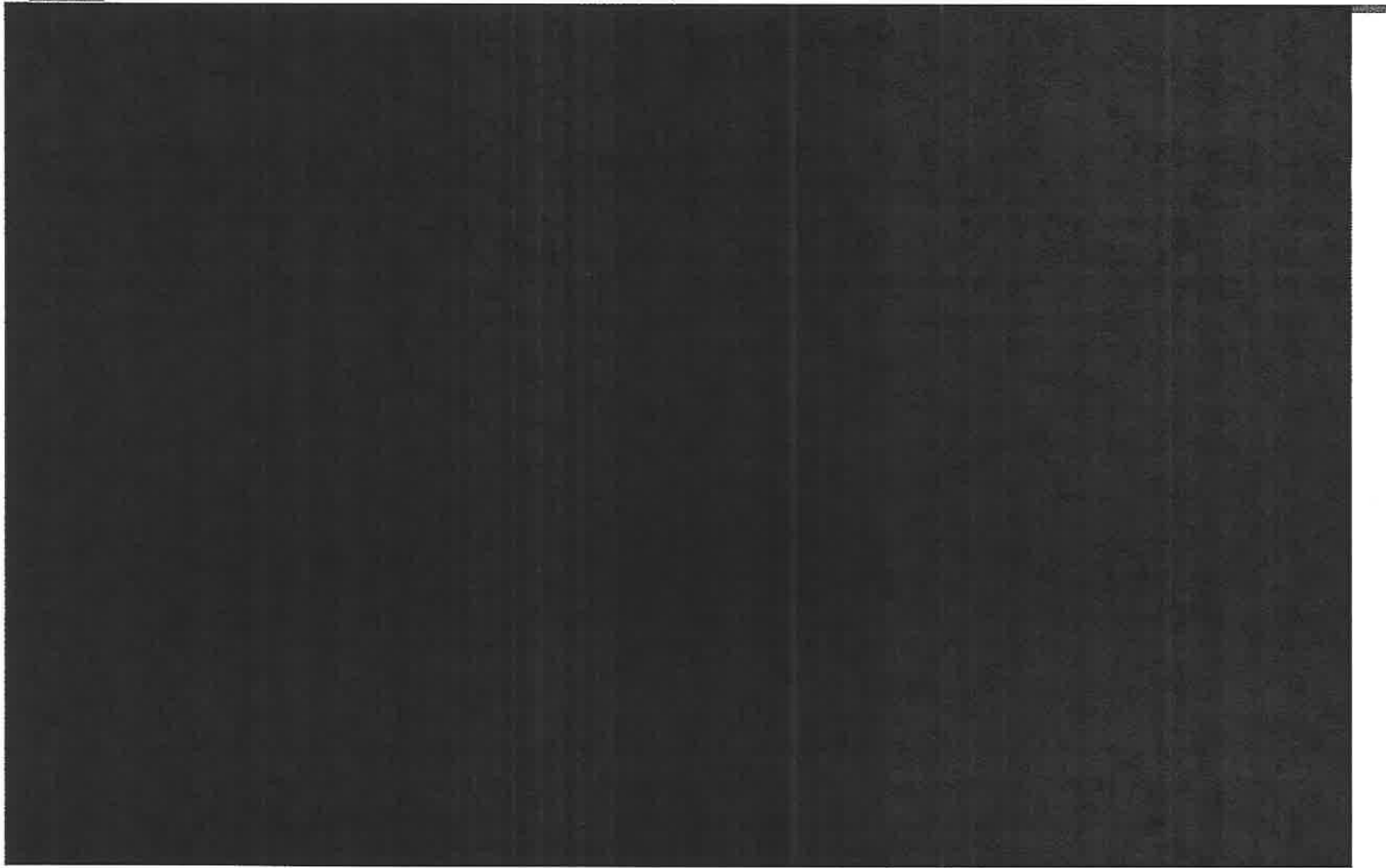
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TAKATA

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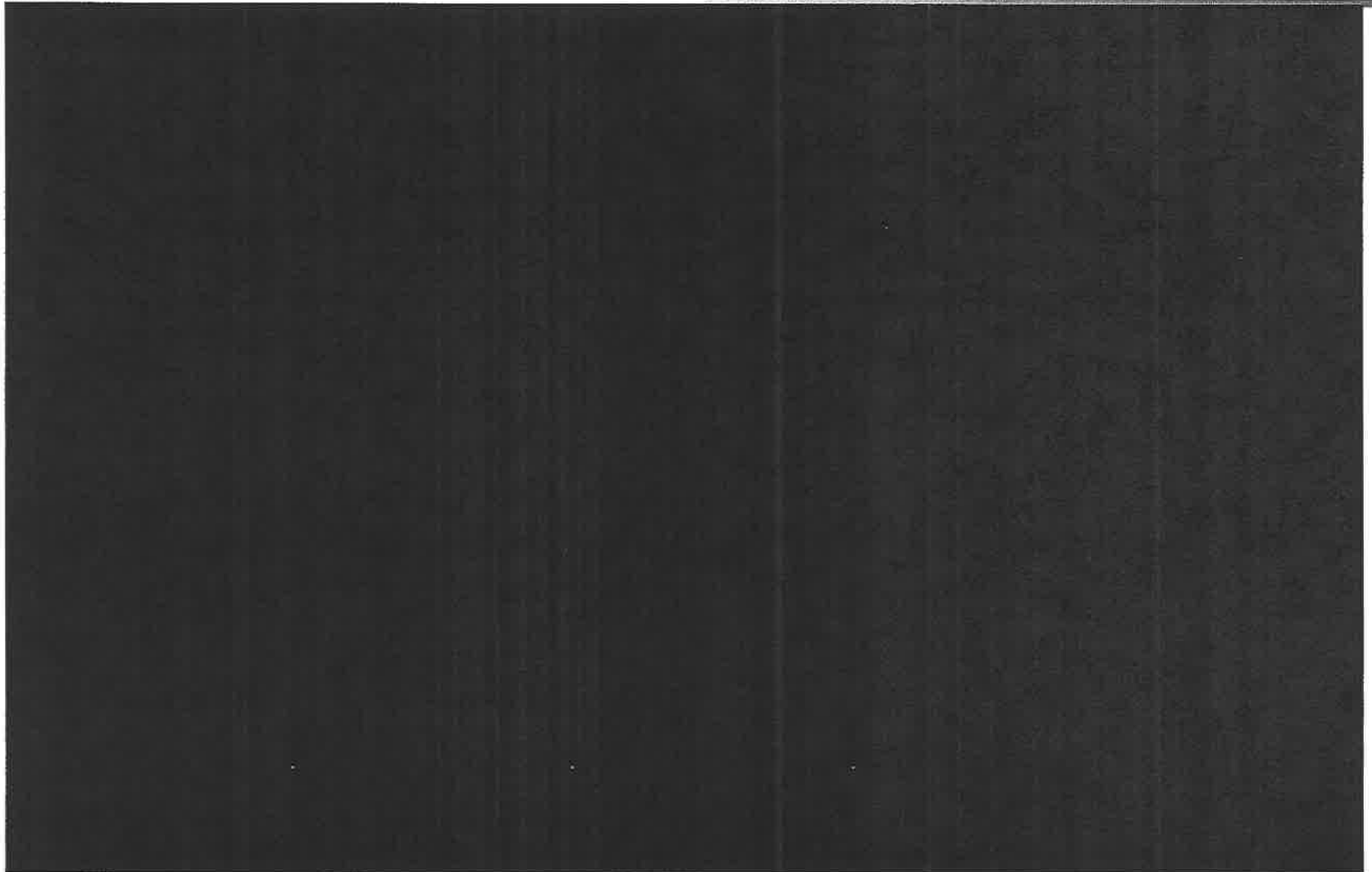
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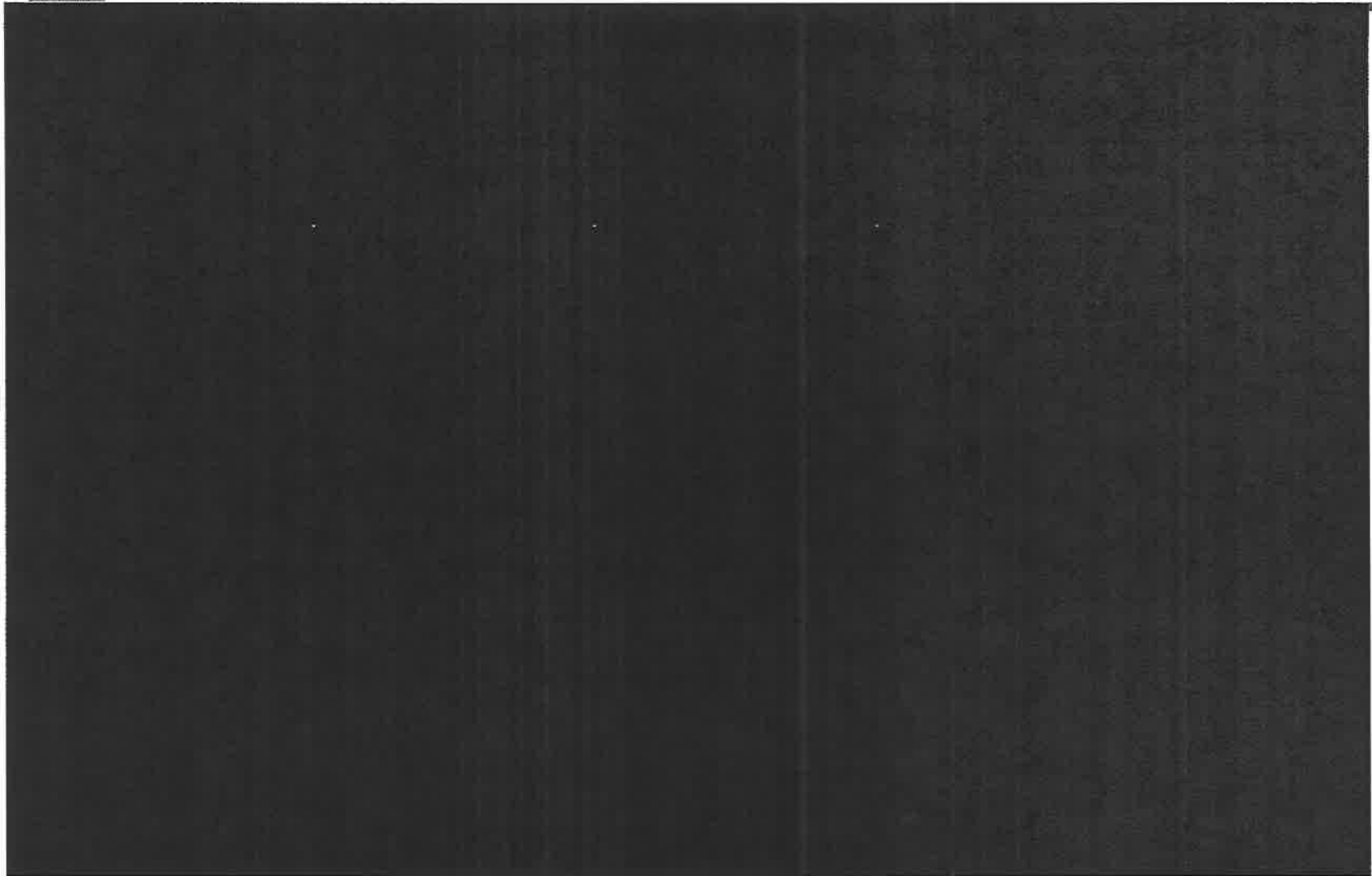


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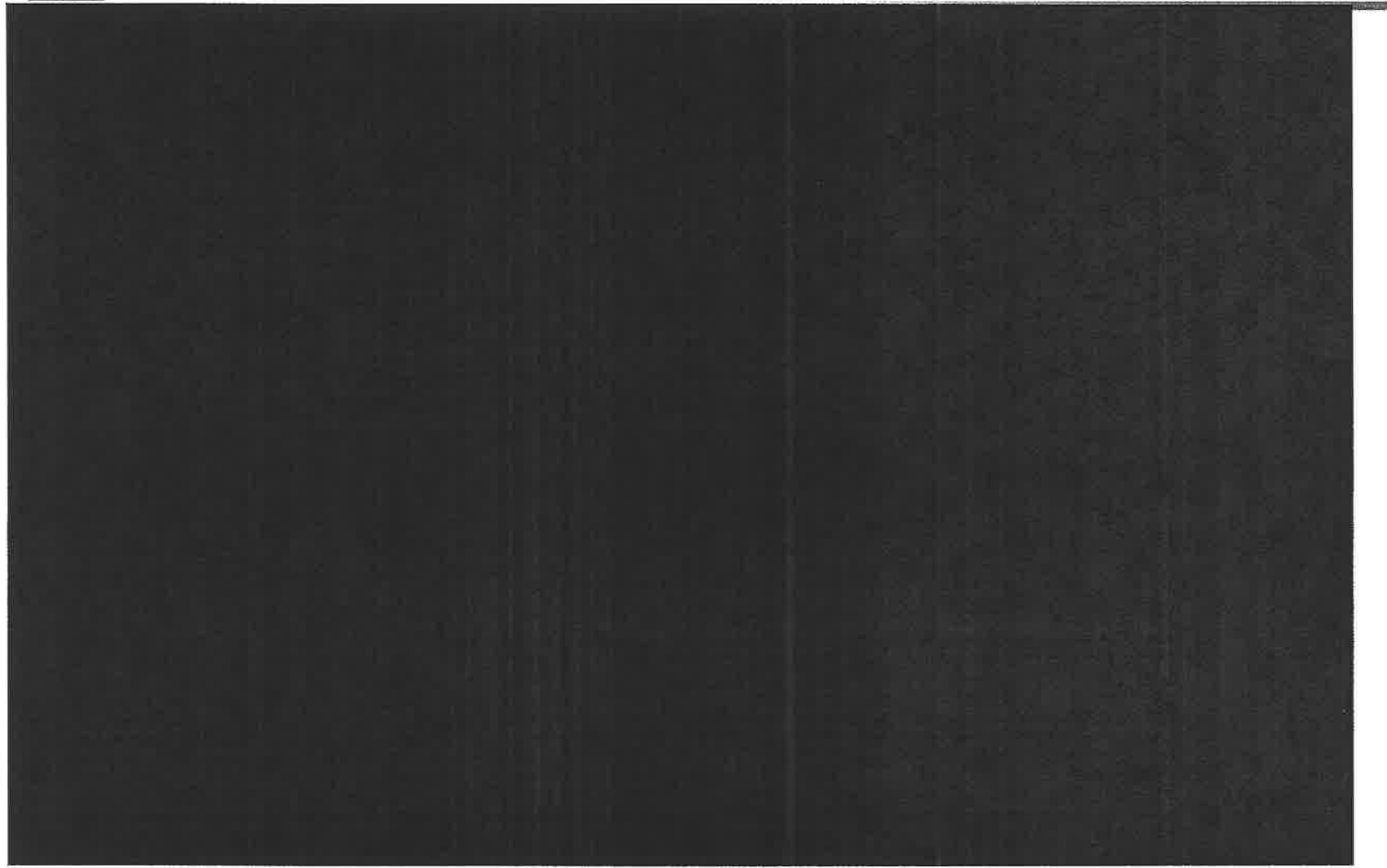
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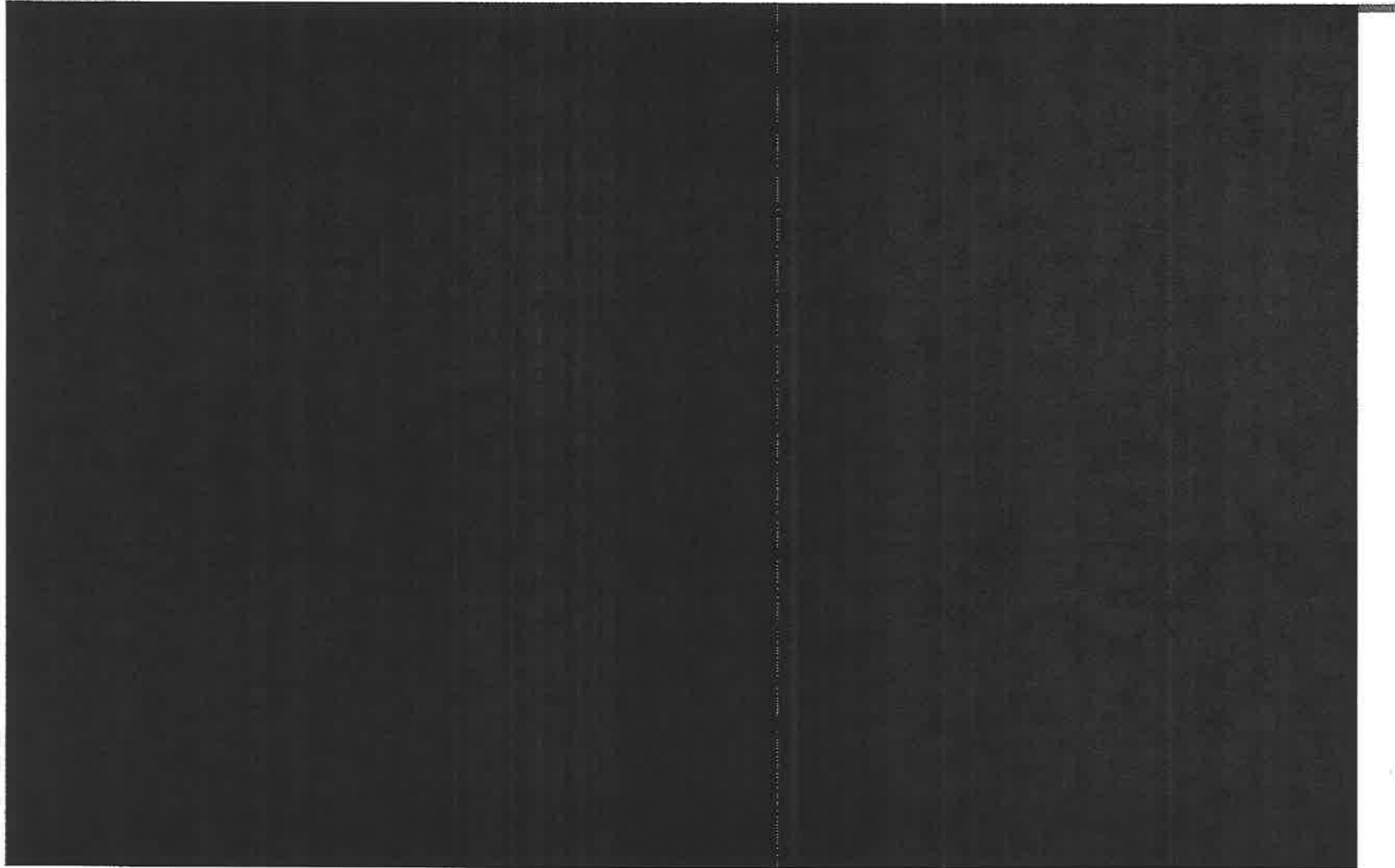
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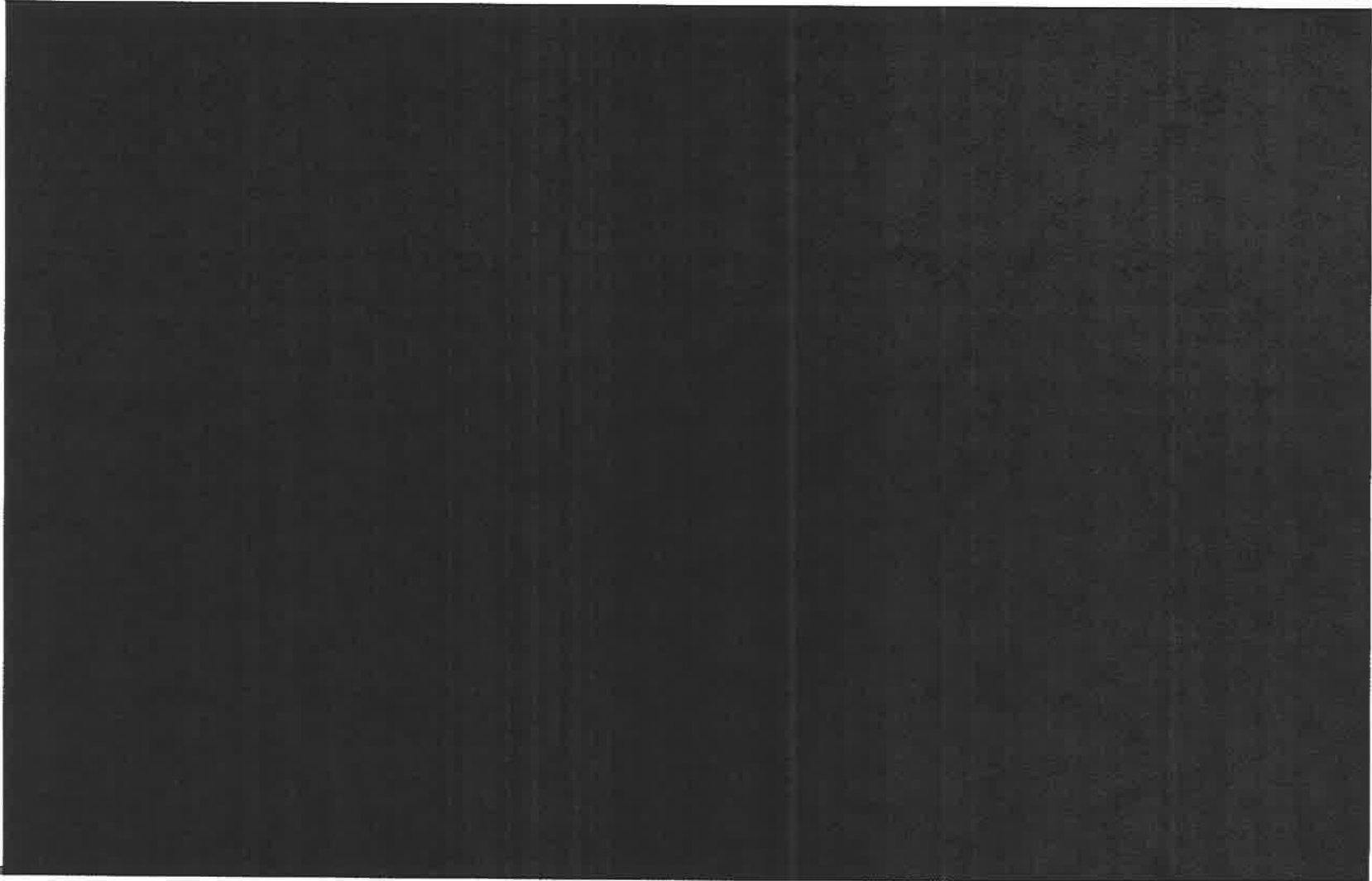
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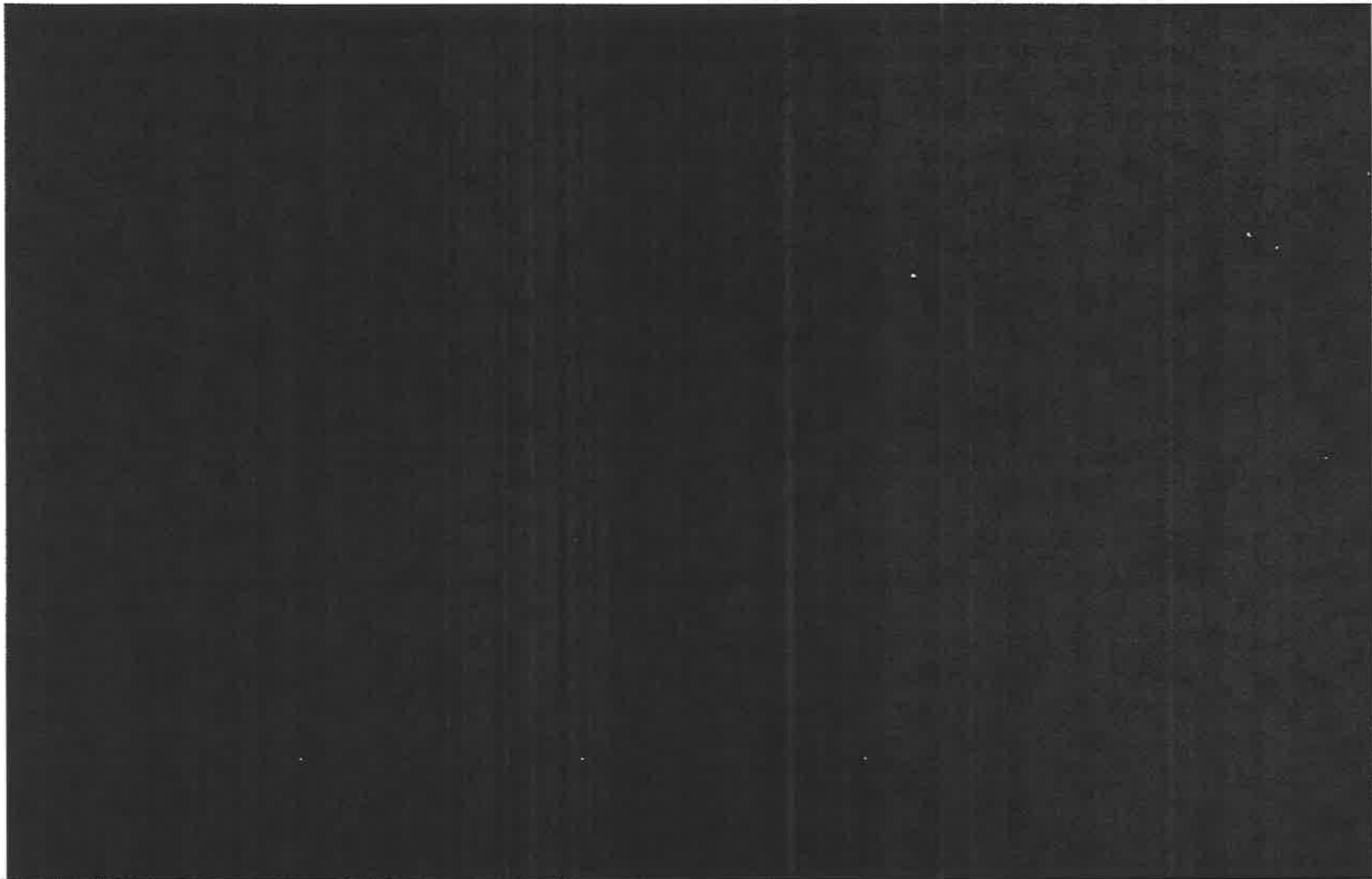


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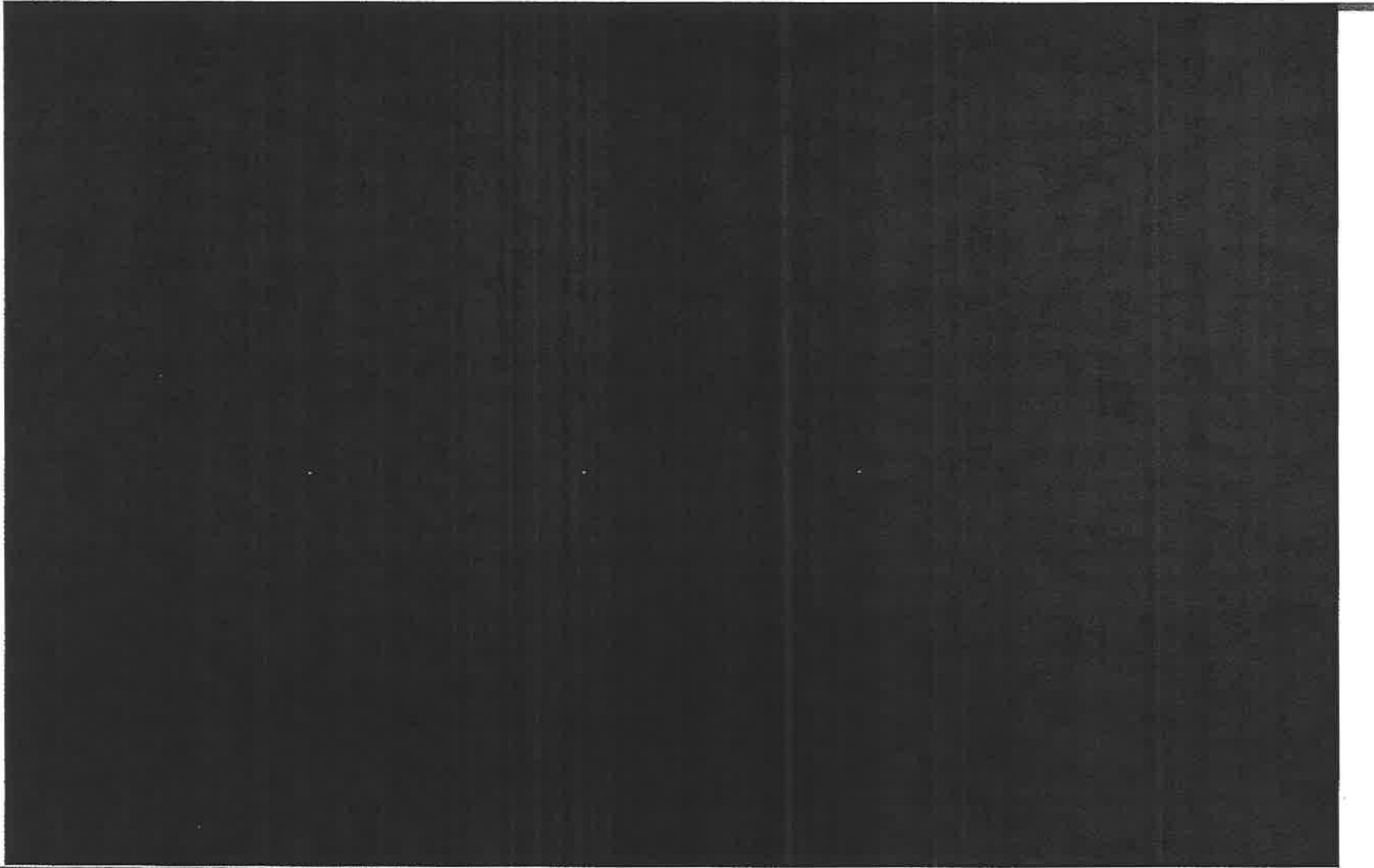


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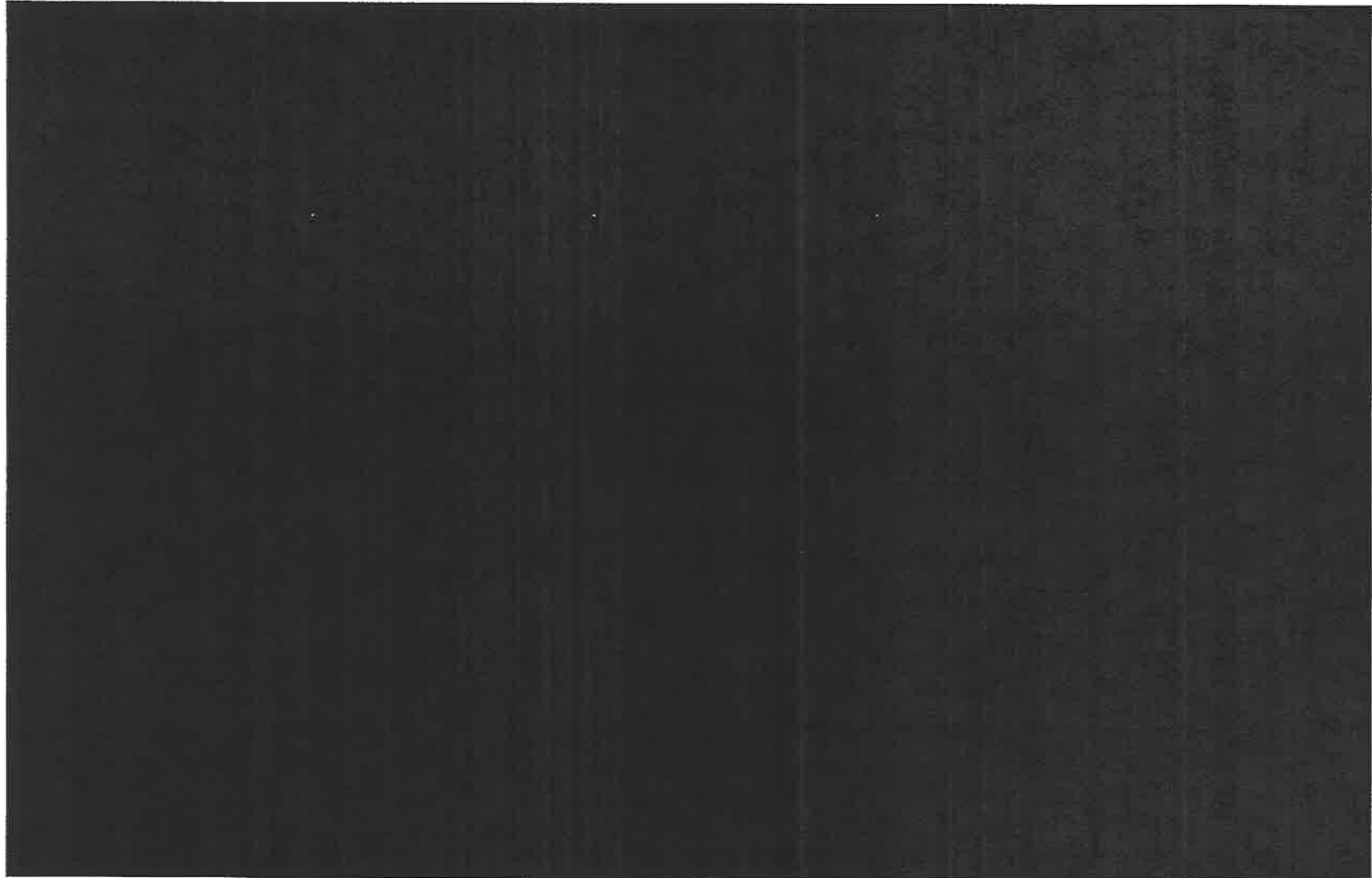


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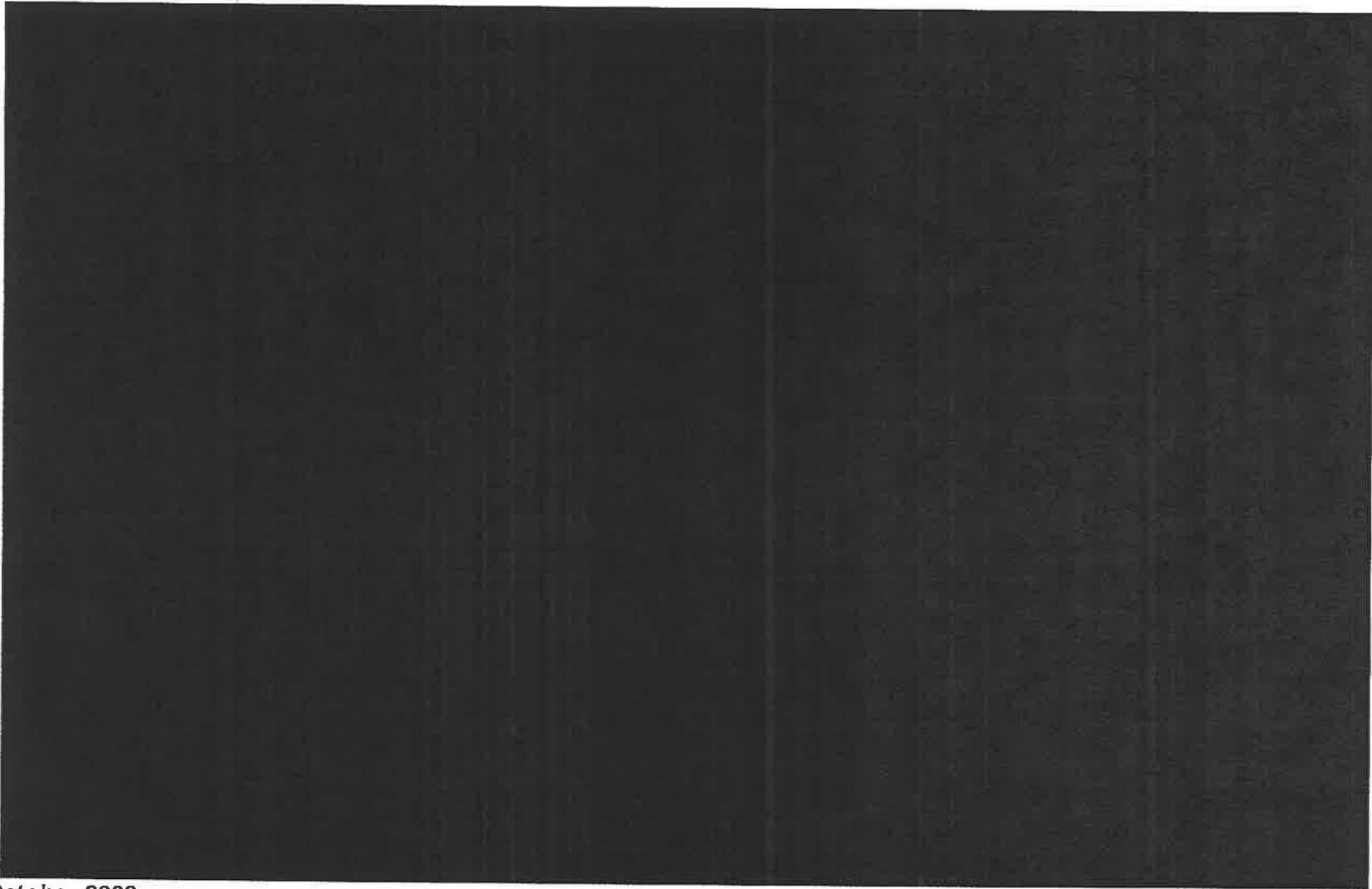
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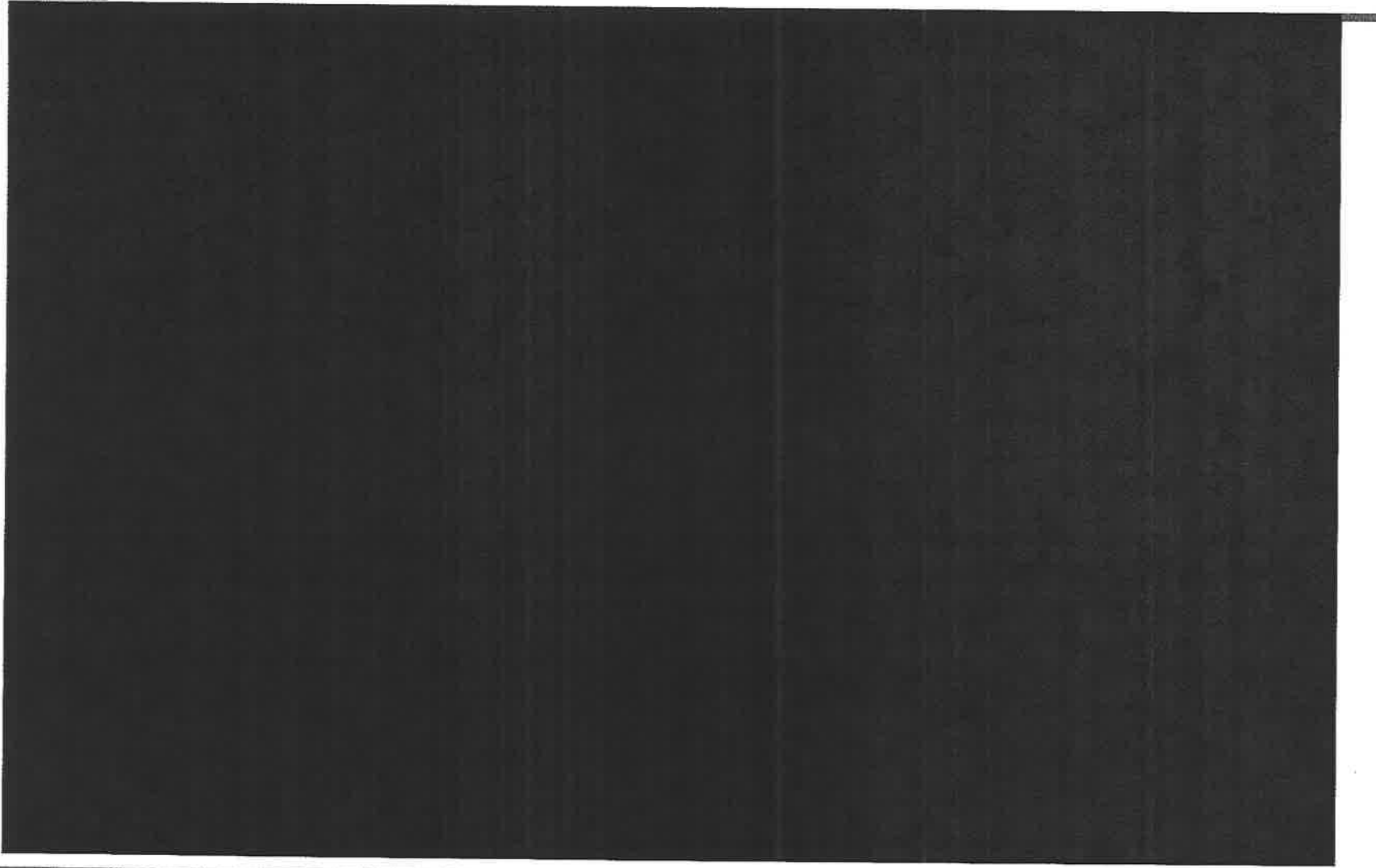


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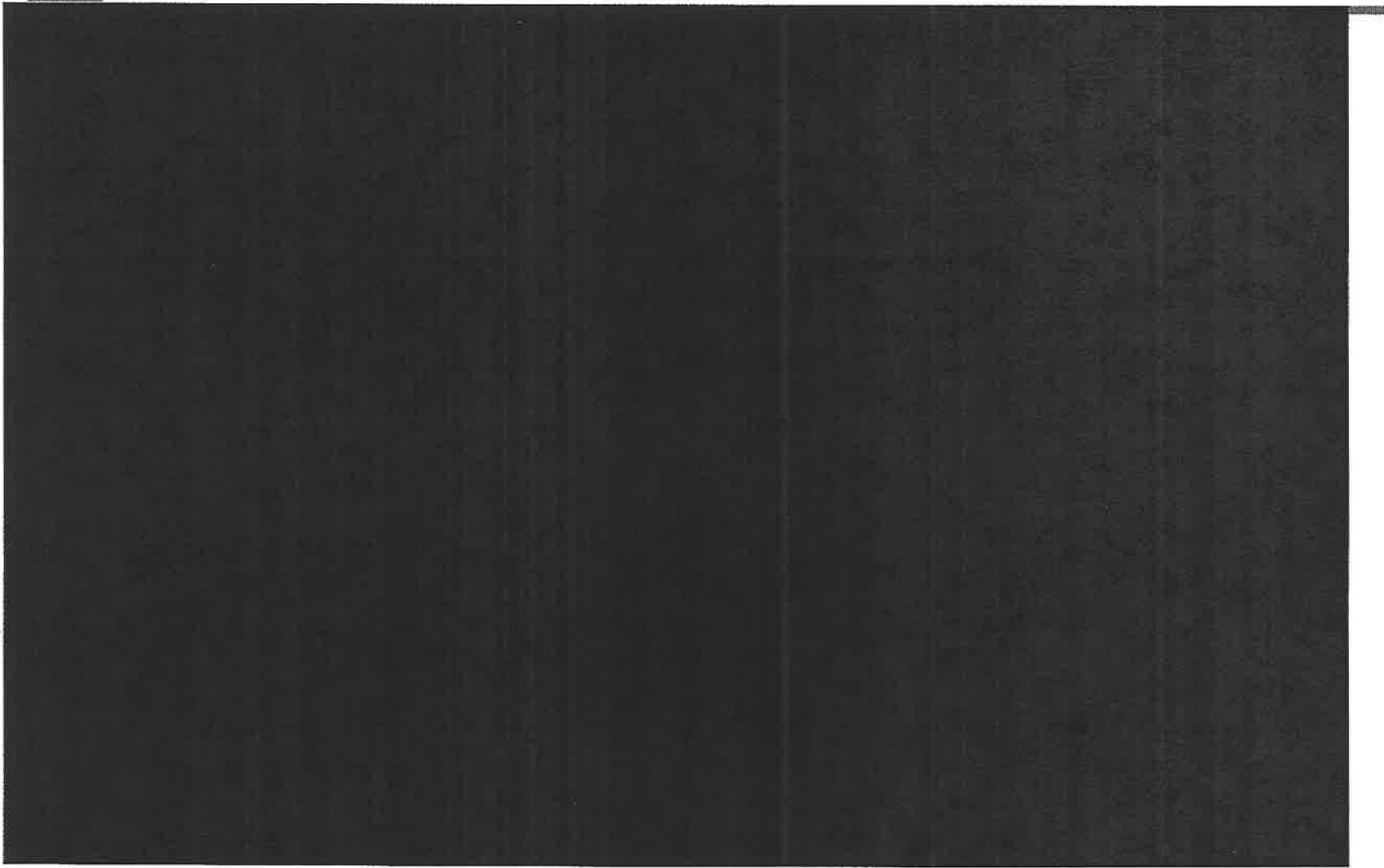
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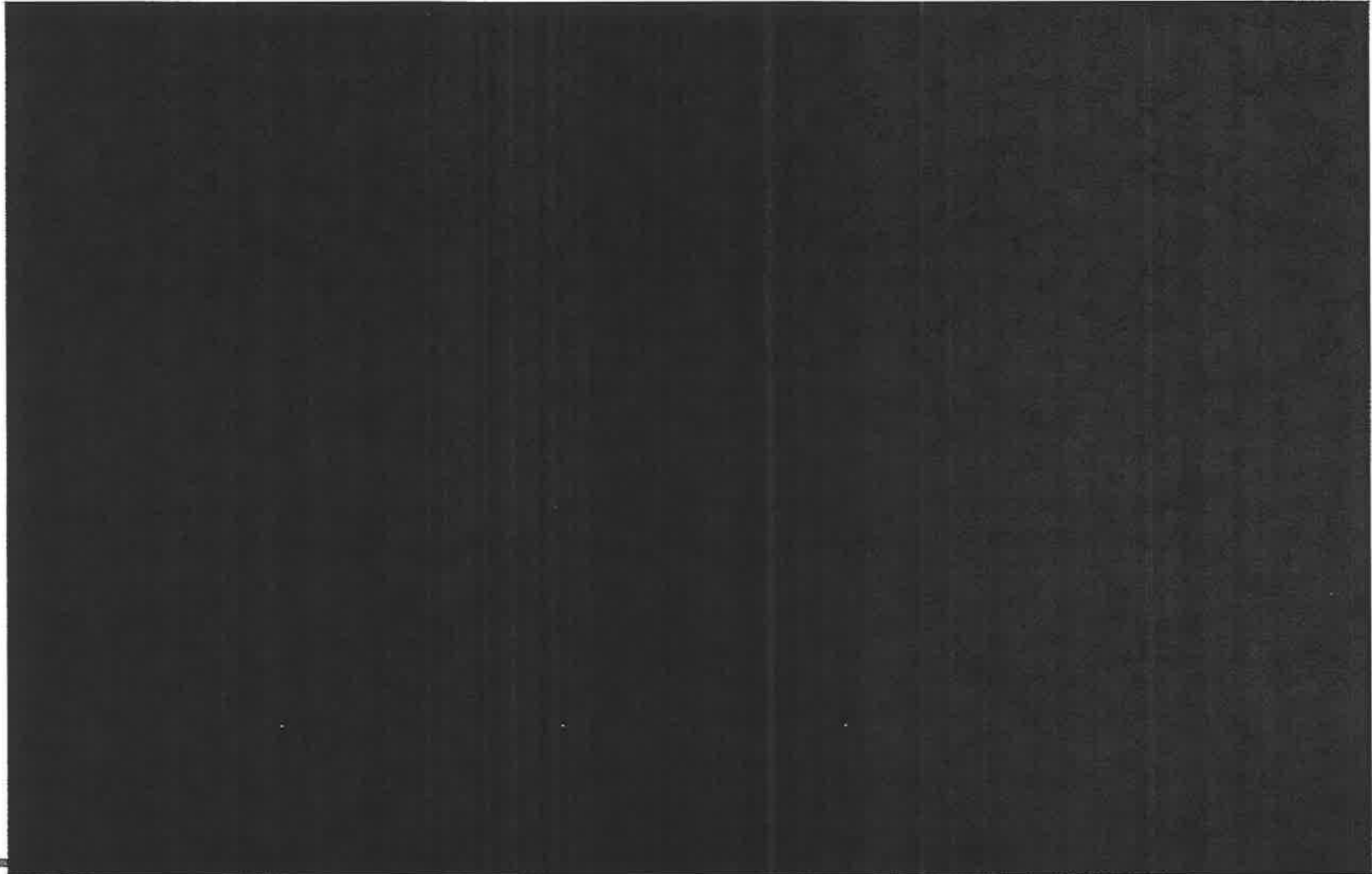


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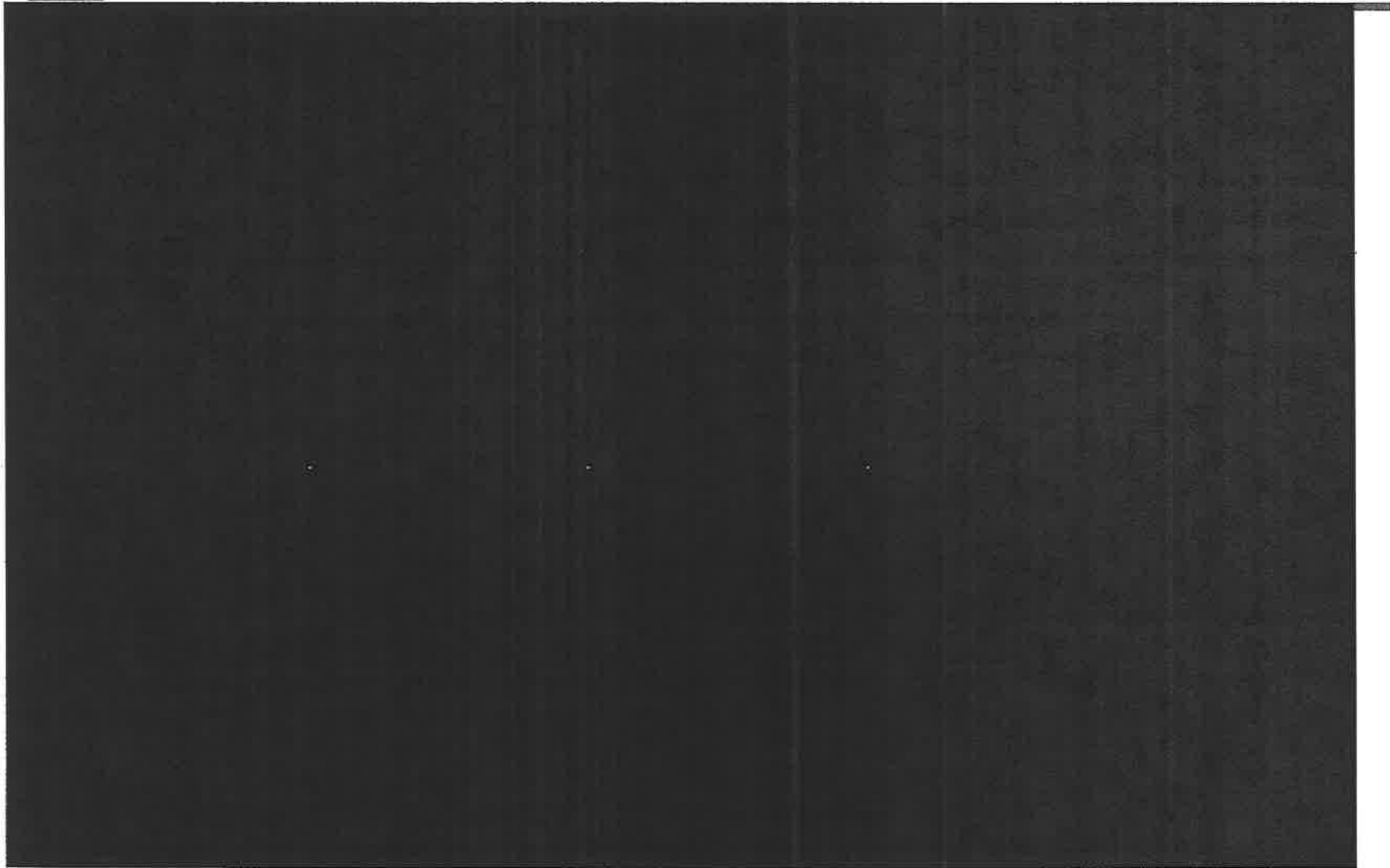


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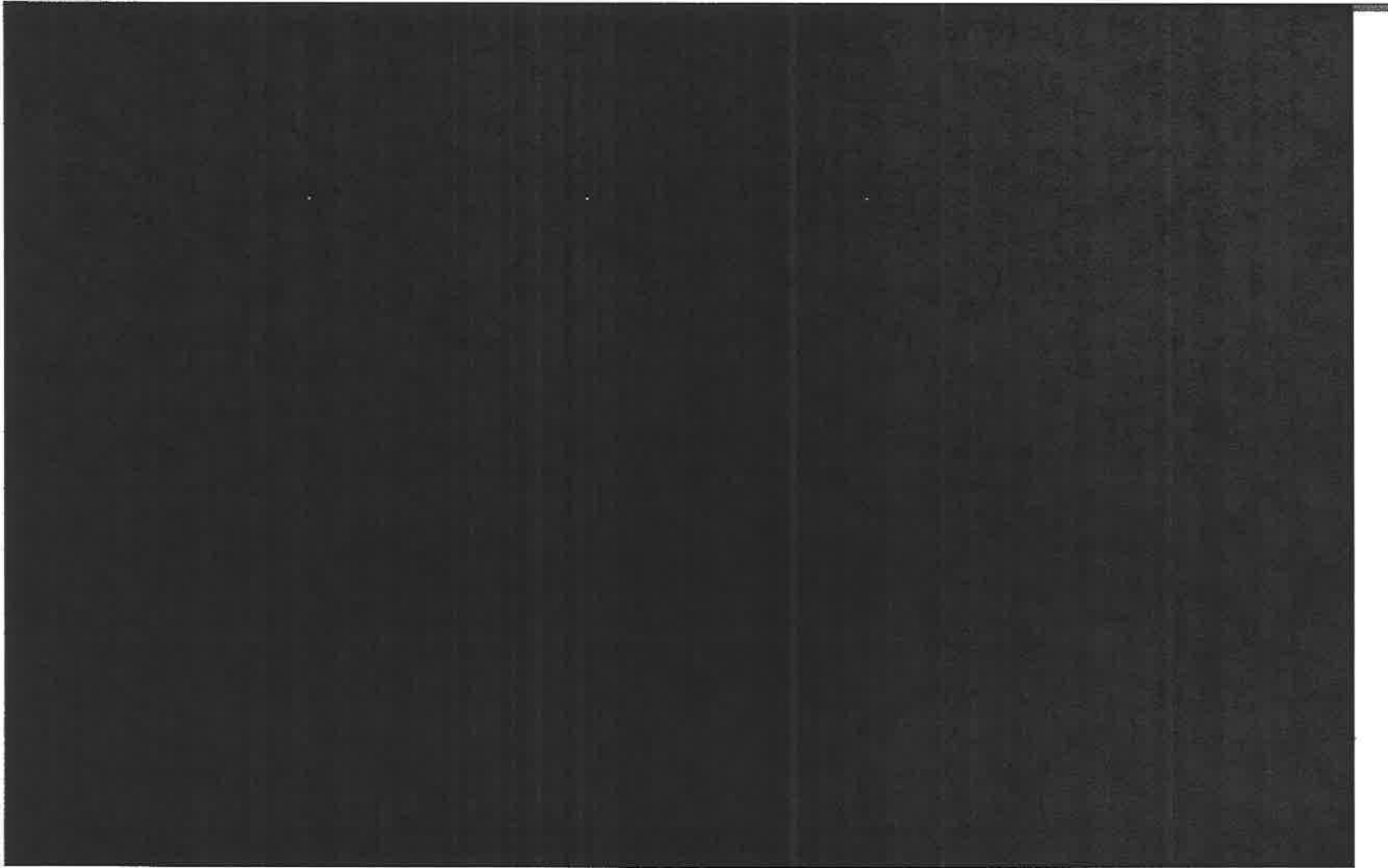
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 **TAKATA**



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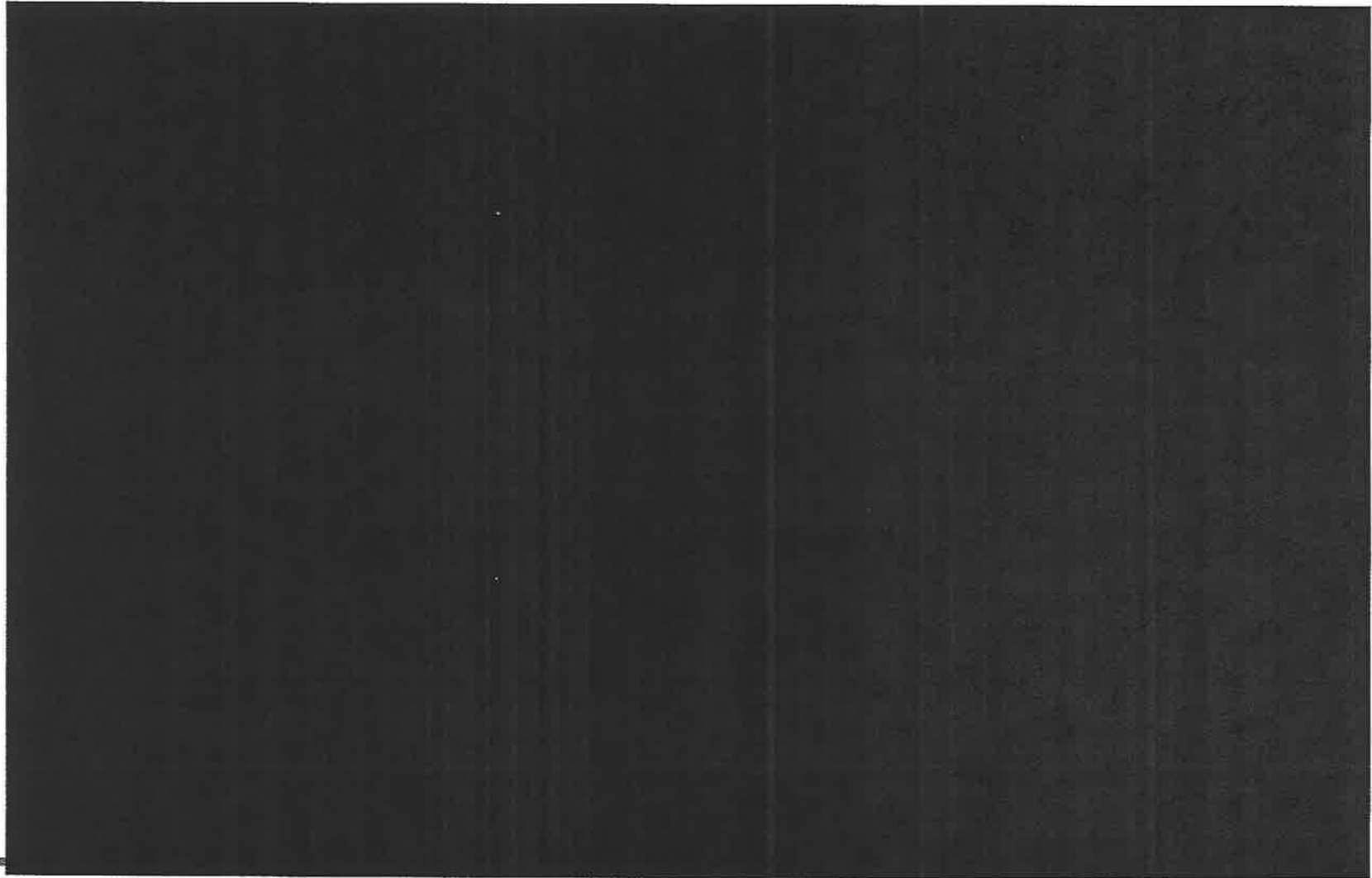
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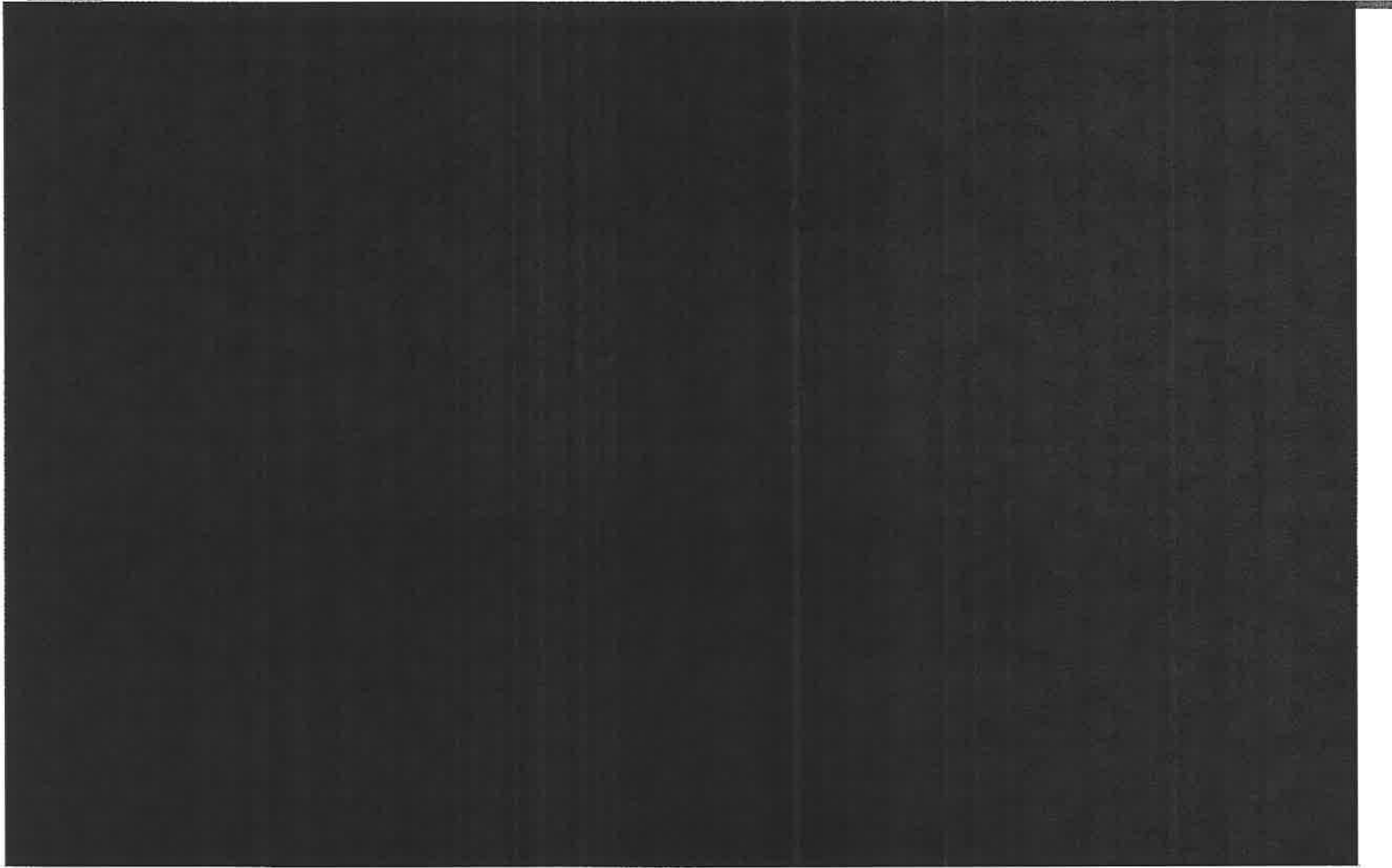
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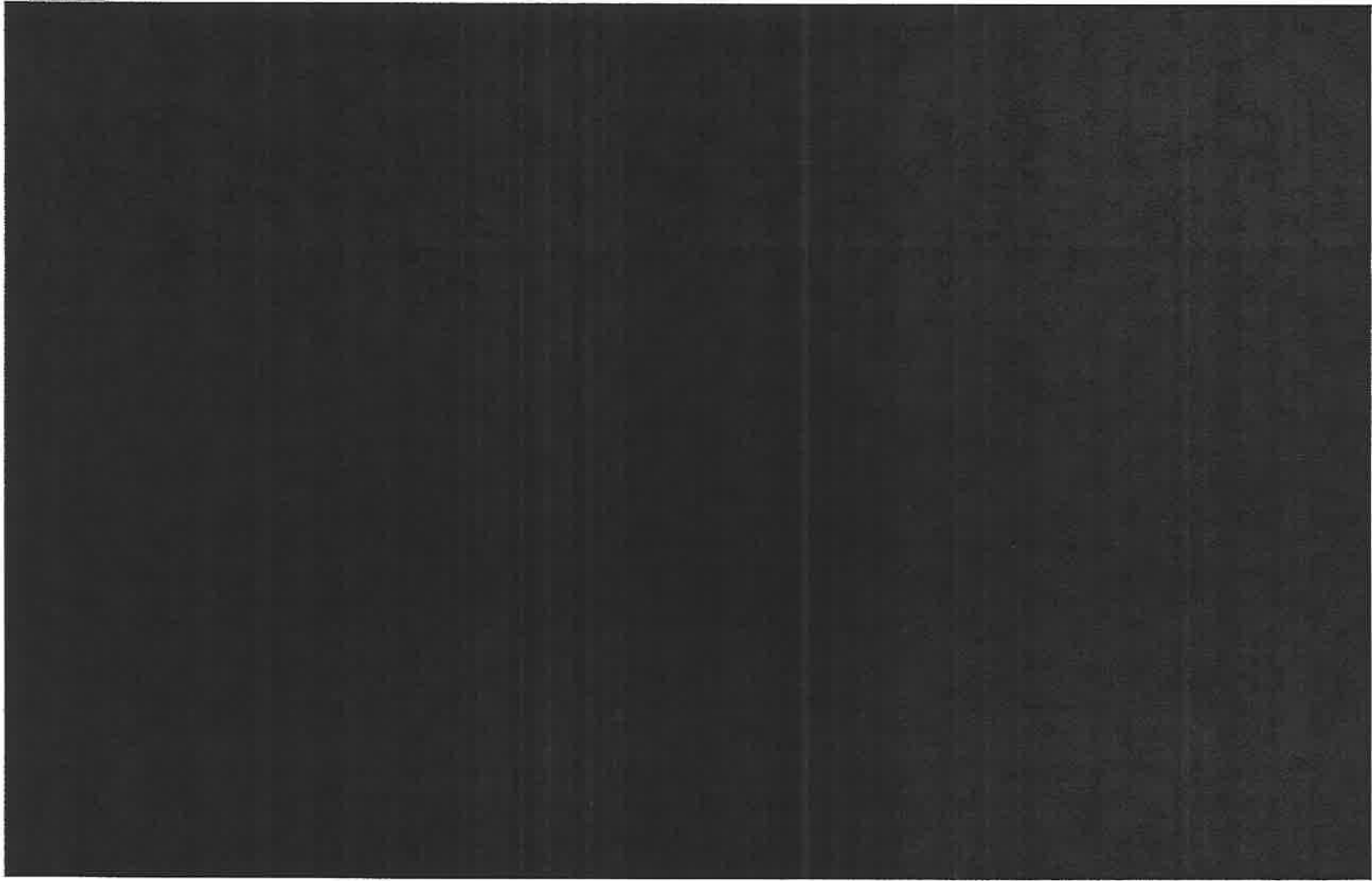


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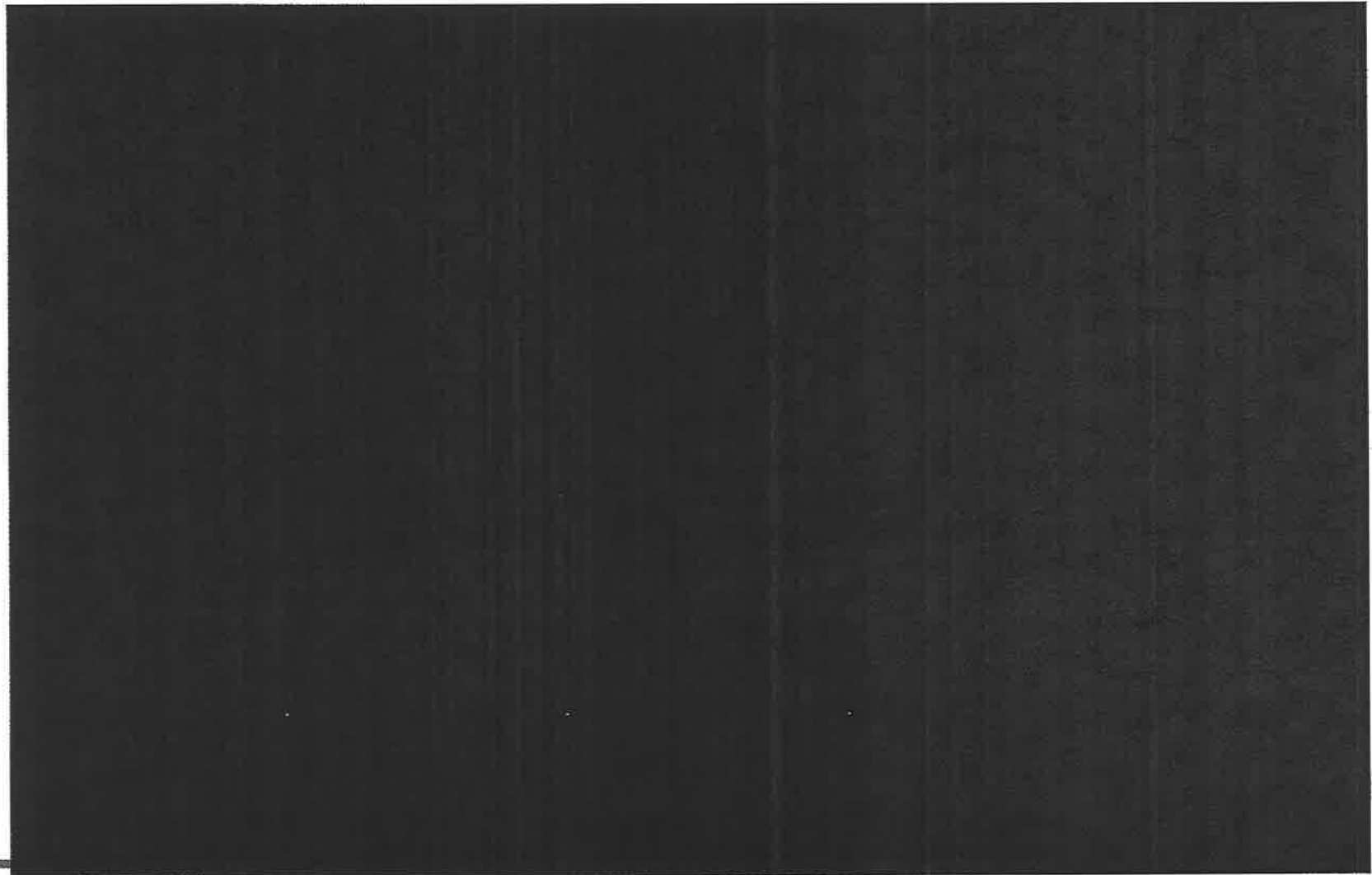


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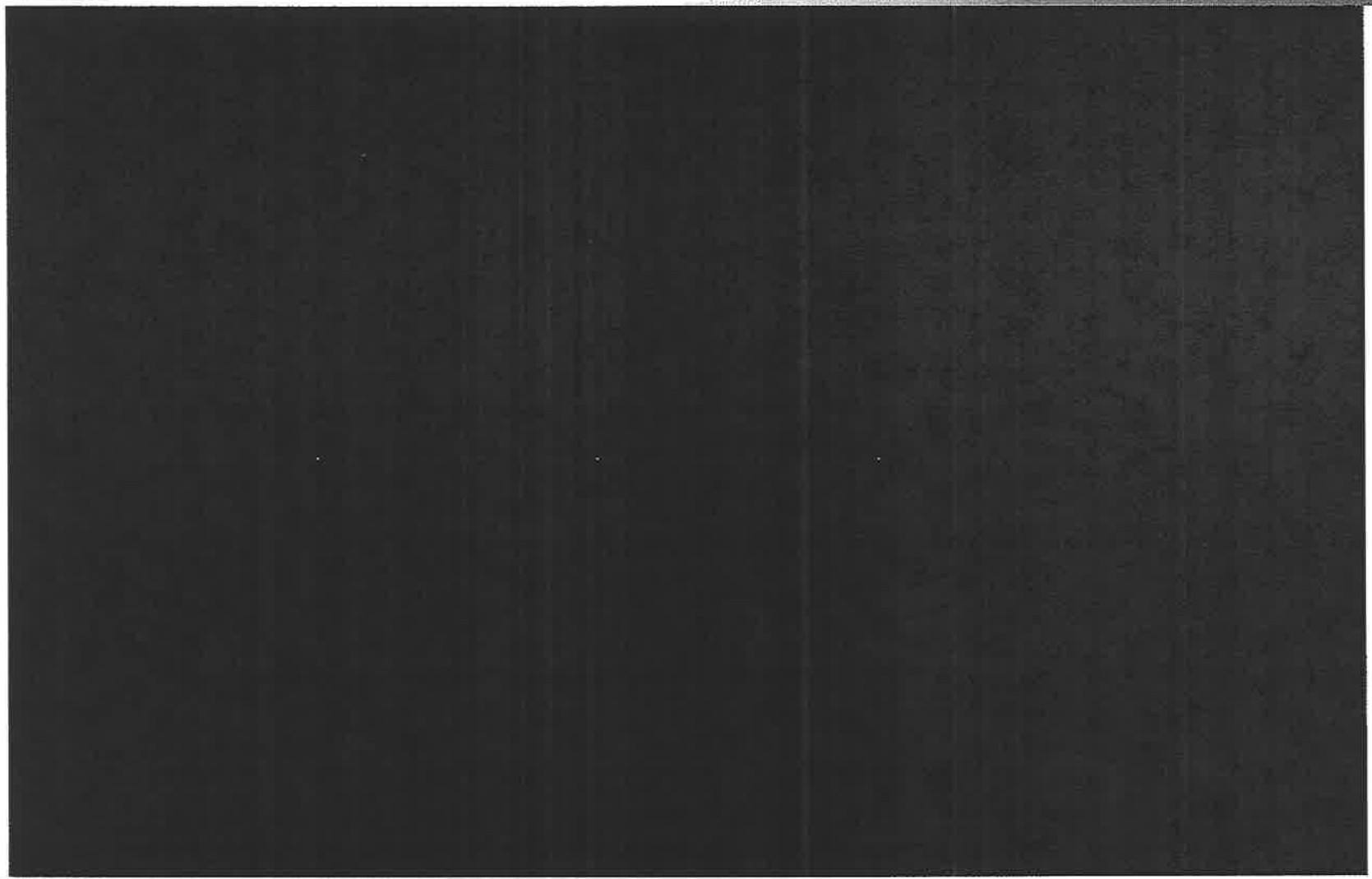
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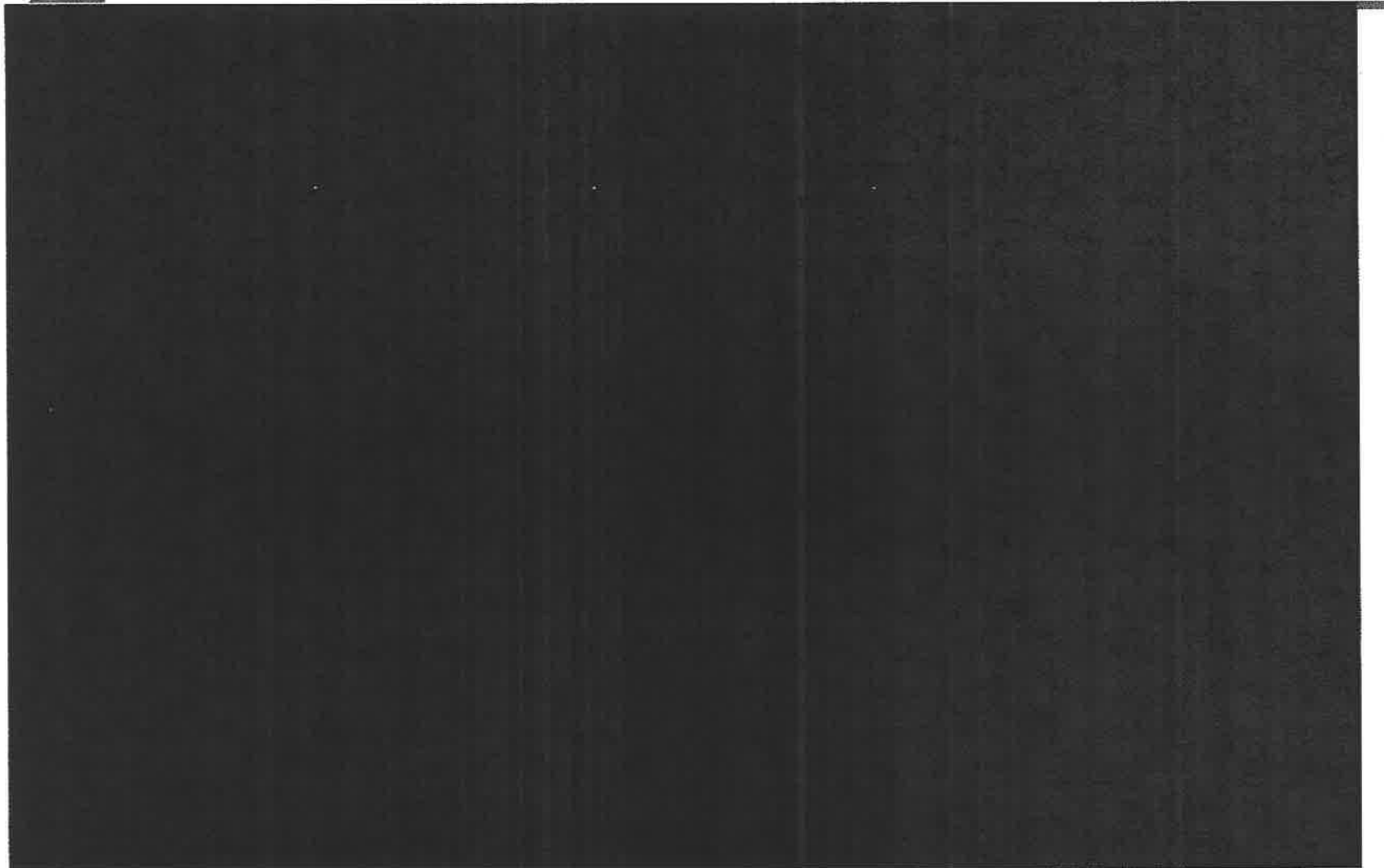


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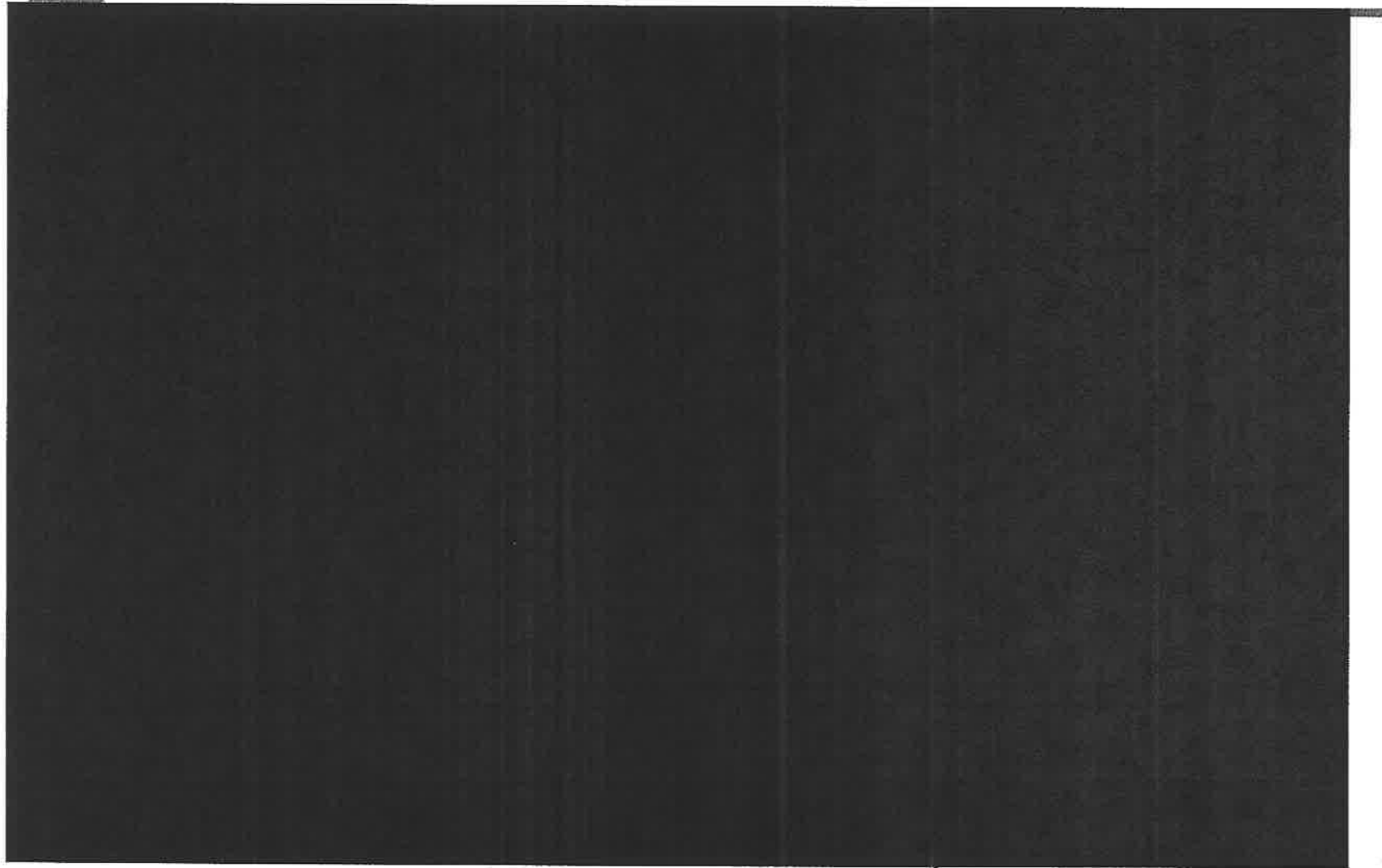
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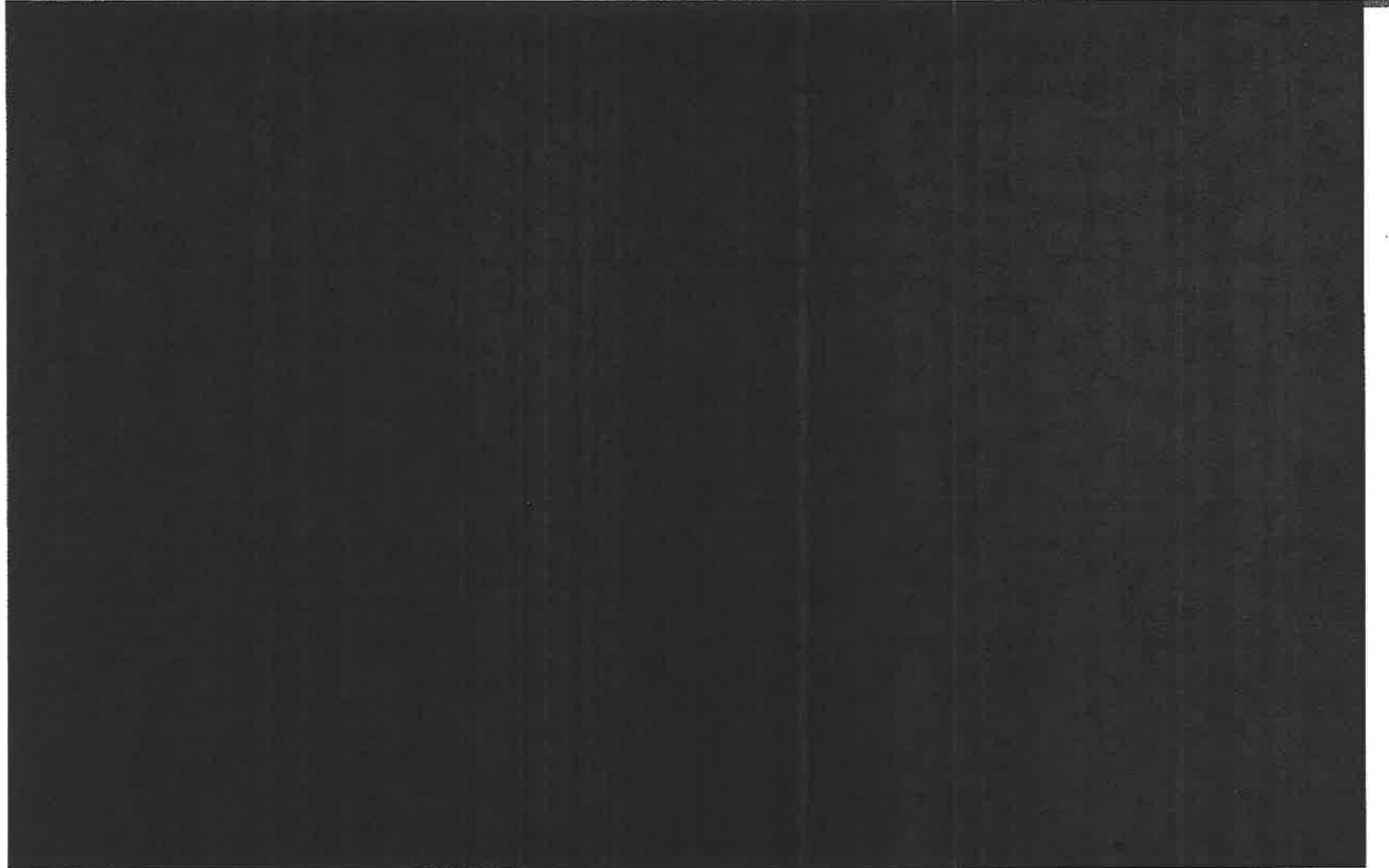
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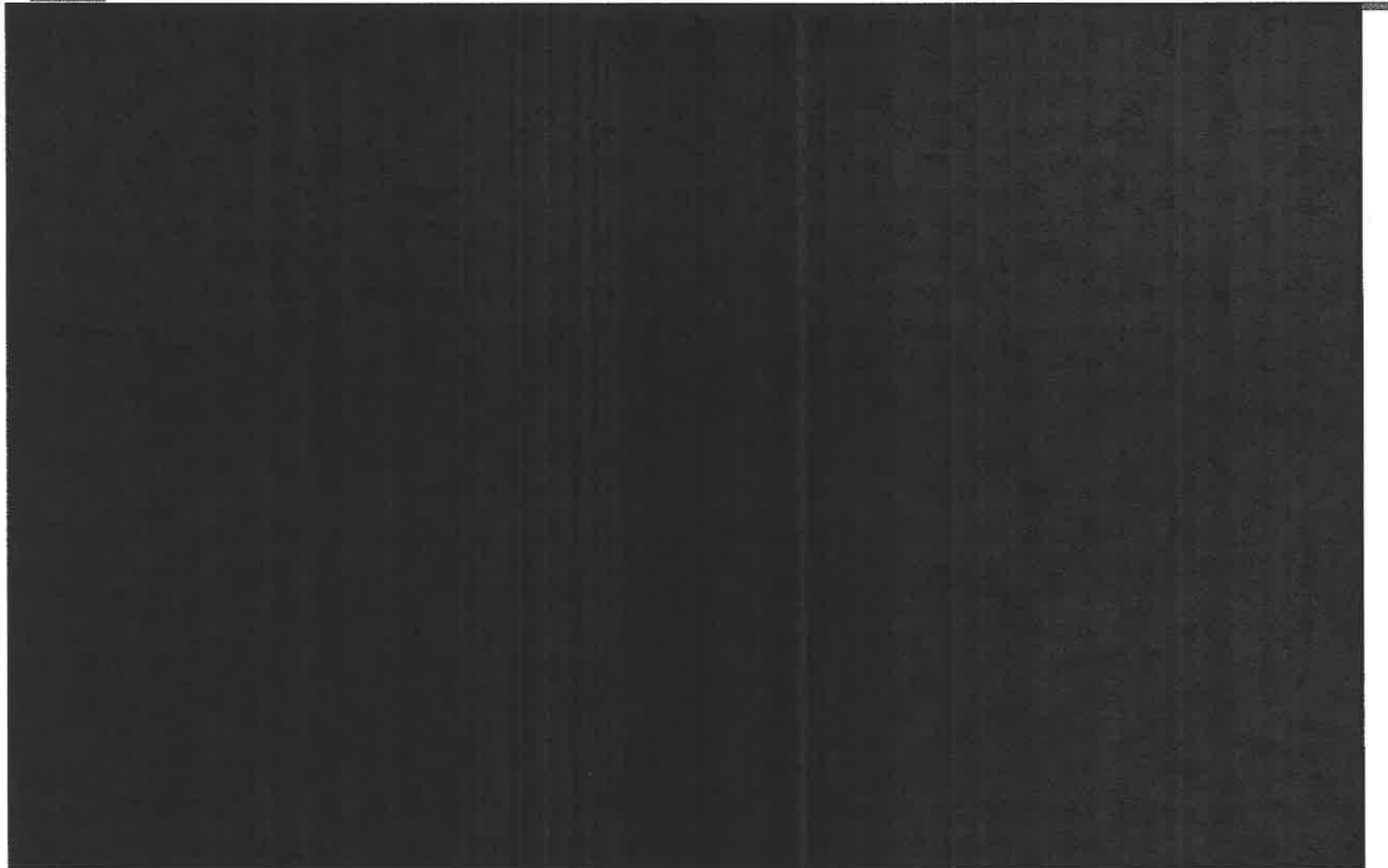
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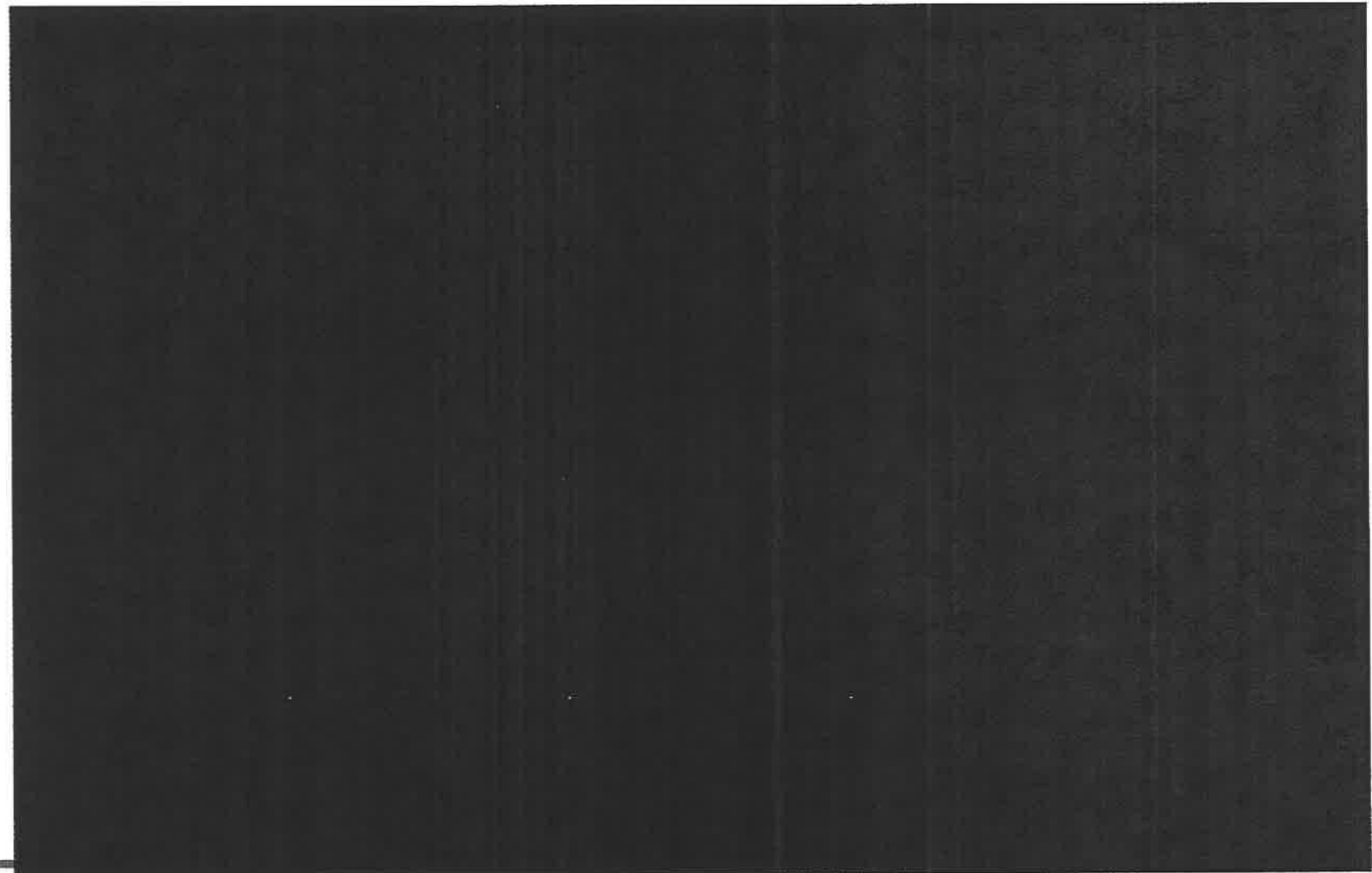
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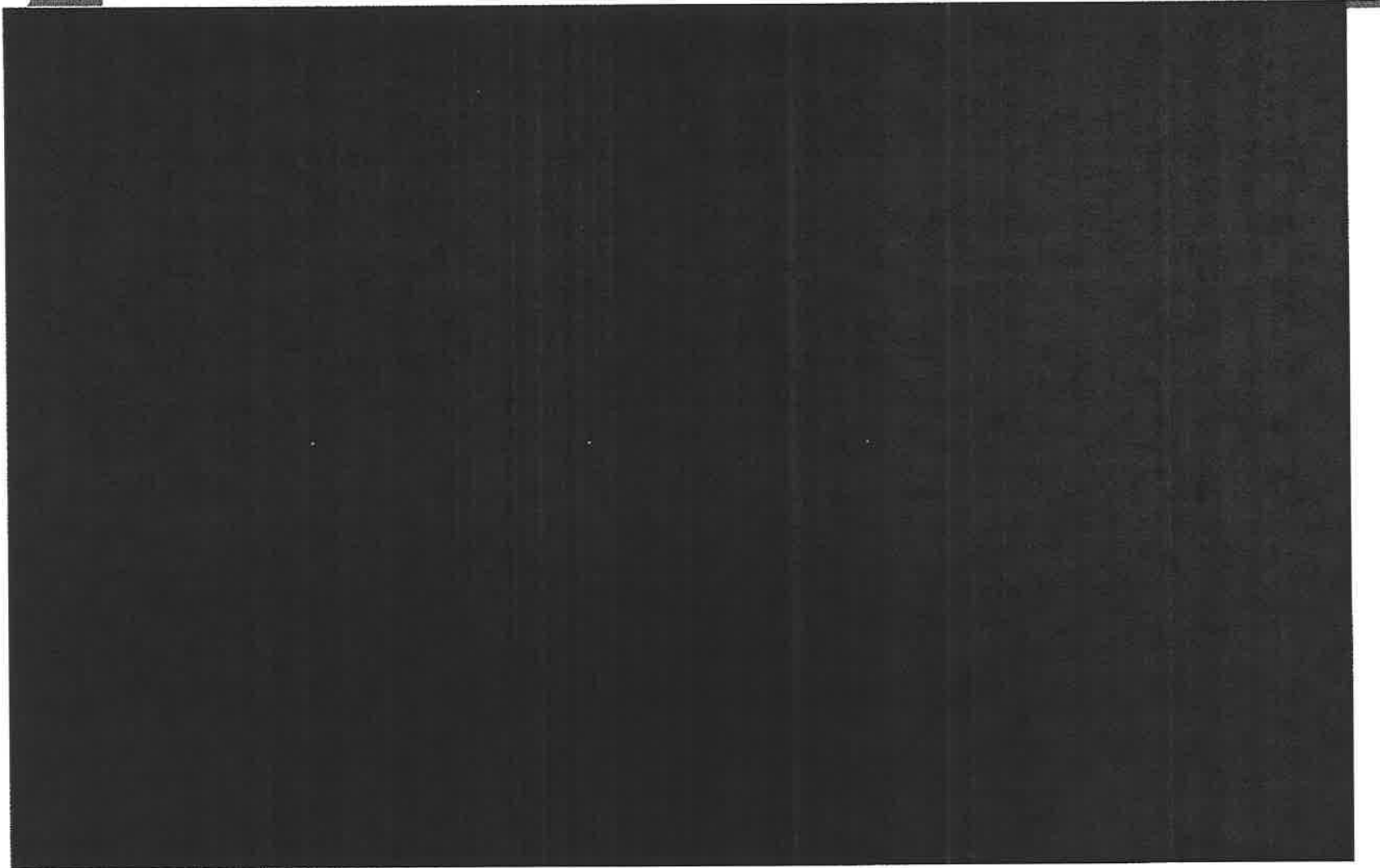
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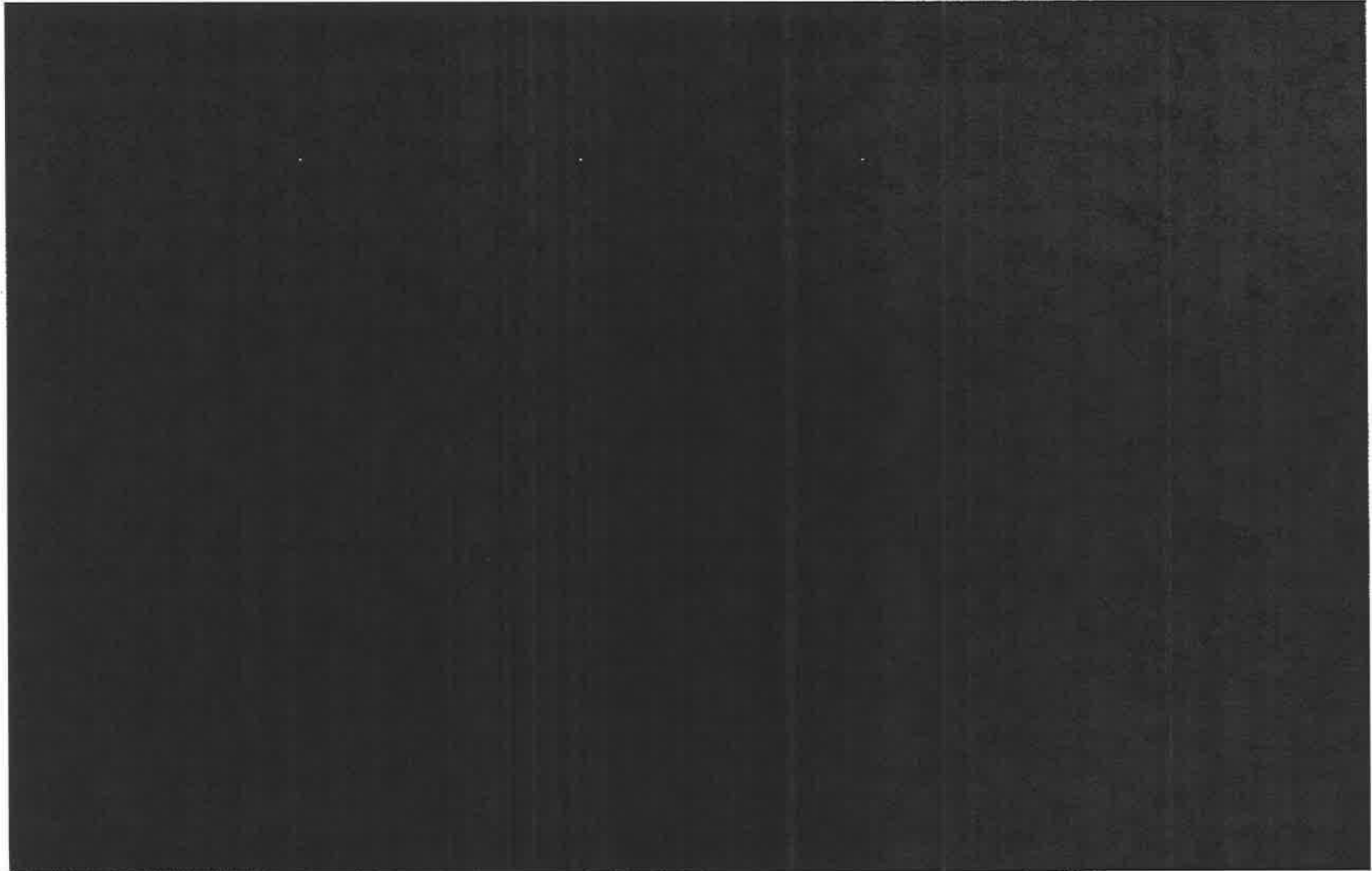


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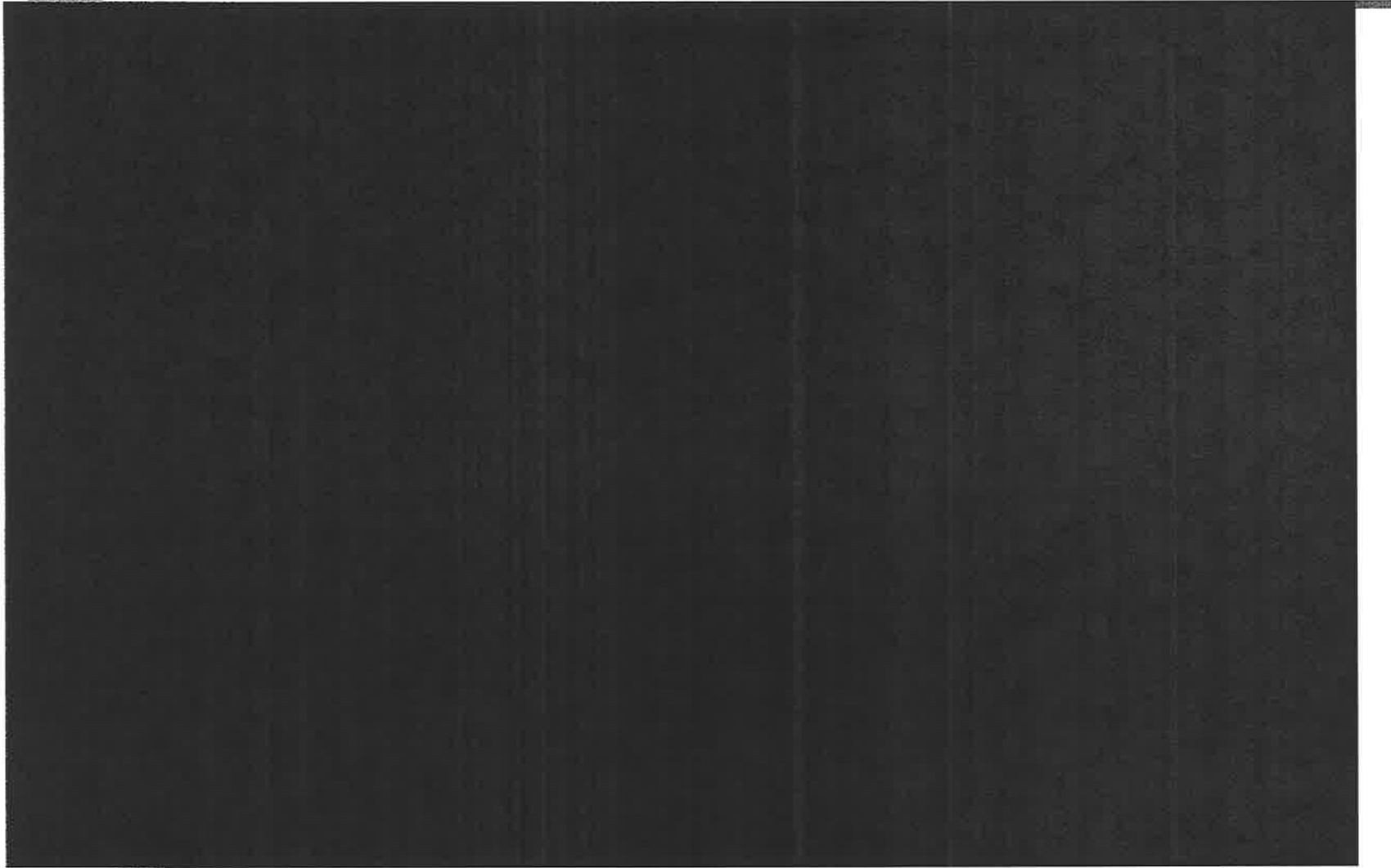


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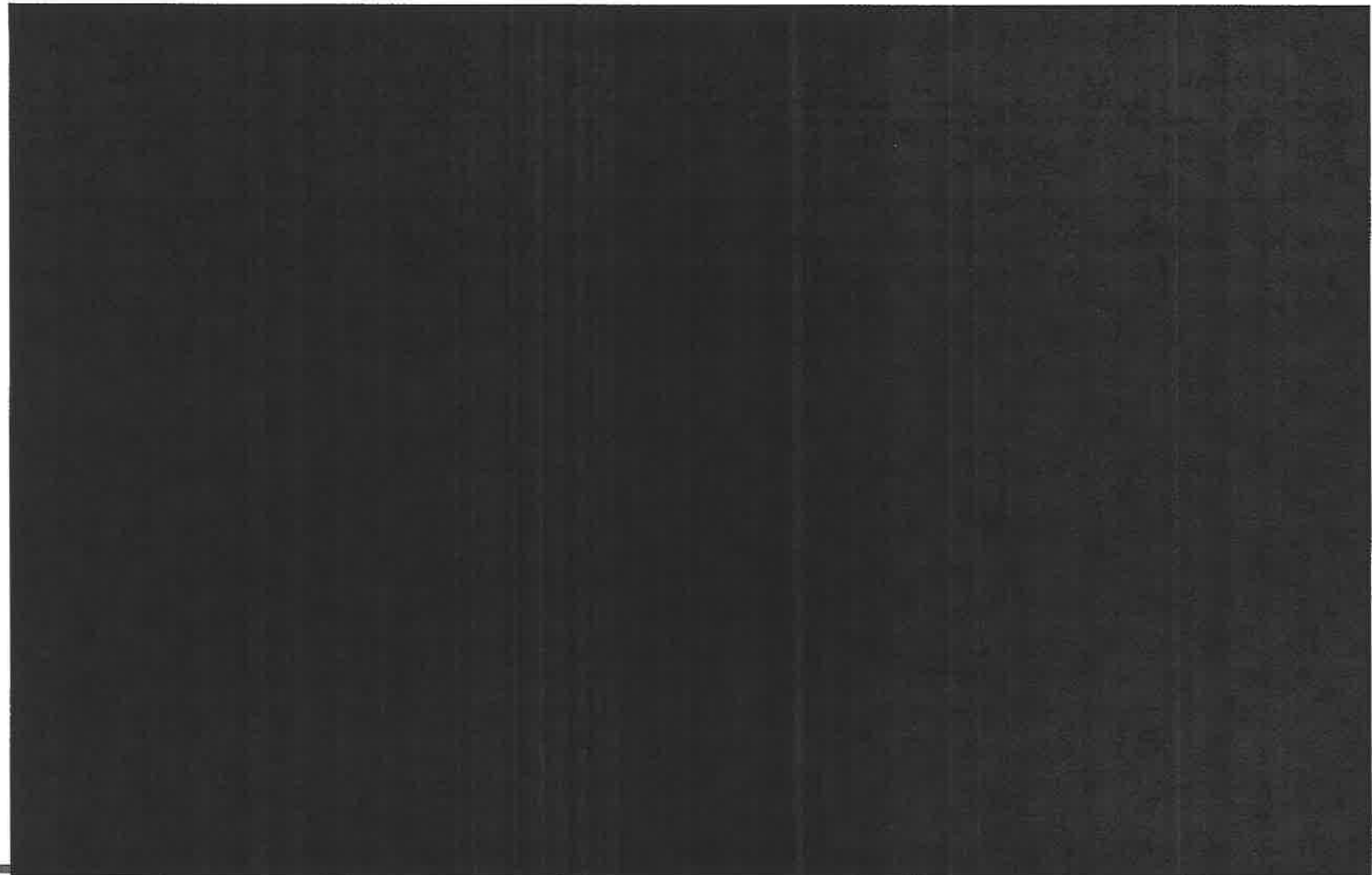
October 2008

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October 2008

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EXHIBIT 7



U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

1200 New Jersey Avenue SE.
Washington, DC 20590

NOV 20 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Kazou Higuchi
Takata, Inc.
888 16th Street, NW, Suite 800
Washington, DC 20006

NVS-215/jtt
09V-259/08V-593
RQ09-004

**Re: Information Required on Airbag Inflators Subject to
Safety Recalls 08V-593 and 09V-259**

Dear Mr. Higuchi:

This serves as a request for further information concerning the airbag inflators subject to Safety Recalls 08V-593 and 09V-259. Those recalls involve certain 2001 and 2002 model year Honda Accord, Civic, and Acura 3.2 TL vehicles which Honda Motor Co., Ltd. (Honda) decided contain a safety-related defect. As explained in Honda's defect information reports filed in this matter, the driver's airbag inflator may produce excessive internal pressure that, in the event of airbag deployment, could cause the inflator to rupture. This rupture could cause metal fragments to pass into the vehicle compartment possibly causing injury to vehicle occupants.

Safety Recall 09V-259 is an expansion of 08V-593. After receipt of the defect information report on 09V-259, the Recall Management Division (RMD) requested Honda supply additional information to understand why the company did not include the vehicles involved in that recall population in Safety Recall 08V-593, and to evaluate the timeliness of the decision-making associated with the later recall. In its response, Honda shared that TK Holdings, Inc. (Takata) was its supplier for the airbags on the affected vehicles, and that it relied upon information from Takata in ascertaining both the cause of the defect and the production history of the inflators from which the recall populations were determined. A copy of Honda's response is enclosed.

Given Honda's reliance upon Takata in understanding and evaluating the safety defect, and in ascertaining the recall populations, the RMD requests additional information from Takata as to the sources and causes of the safety defect, the steps taken to identify the



defect and when those steps were taken, and what and when pertinent information was shared with Honda. In the interest of ensuring all affected vehicle products have been identified, we are also requesting information concerning Takata's distribution of the airbag inflators and any inflators which may have been impacted by those causes or sources involved in the Honda and Acura inflators. We have opened a Recall Query (RQ) investigation, identified as RQ09-004, to gather this information.

Please answer the following, repeating before each response the question asked. Please also produce copies of any documentation supporting your answers.

1. Did Takata manufacture, distribute or sell the same or substantially similar airbag inflators, in terms of design, production, or manufacturing, as are involved in either Safety Recall 08V-593 or 09V-259, for or to anyone other than Honda? If so, please identify each such entity by name, address, and phone number and provide your contact at that entity's name, address, and phone number. Also, for each such entity, state the total number of inflators that were distributed and the beginning and ending dates of their manufacture, serial or other identifying numbers. Identify all design or production changes, or any other factors, that determine those beginning and ending dates.

Also, please explain whether or not Takata believes these inflators present the same or similar safety defect as those involved in Safety Recalls 09V-259 and 08V-593. Provide any supporting information or documentation that supports this opinion.

2. Honda informed NHTSA that based on information from Takata, it understands the cause of the defect to be related to a production process involving one of several compression presses used to form the propellant into wafers that were then installed into the inflator modules. Please identify and explain in detail what this production process was, and produce any pictures, diagrams, or other documentation necessary to help understand the process. Please state whether Takata agrees with Honda's assessment that this production process is the cause of the safety defect Honda identified and provide the reason(s) for Takata's opinion.

3. Did Takata manufacture, distribute or sell any airbag inflators that were subject to the same propellant chemistry or production process involved in the production of the Honda airbag inflators involved in Recalls 08V-593 or 09V-259, to anyone other than Honda? If so, please identify each such entity by name, address, and phone number and provide your contact at that entity's name, address, and phone number. Also, for each such entity, state the total number of inflators that were distributed and the beginning and ending dates of their manufacture, serial or other identifying numbers. Identify all design or production changes, or any other factors, that determine those beginning and ending dates.

Also, please explain whether or not Takata believes these inflators present the same or similar safety defect as those involved in Safety Recalls 09V-259 and 08V-593. Provide any supporting information or documentation that supports this opinion.

4. Honda informed NHTSA that it determined the vehicle population for Safety Recall 08V-593 was based on information from Takata concerning the causal factors and production history of the inflators. Honda reported that it understood the causal factors to be related to the airbag propellant and its handling during the inflator module's assembly. Please identify and describe in detail the sources or causes Takata believed to have contributed to the safety defect in the inflators involved in 08V-593, including in that description any pictures, diagrams, or other information helpful in understanding how Takata came to its opinion at the time. Please also state when Takata shared information with Honda concerning its opinions on the source or cause of the safety defect and produce copies of any communications, presentations, or other documentation that evidence this date.

5. Honda informed NHTSA that there is no design or other difference between the inflators involved in Safety Recalls 08V-593 and 09V-259. Please state whether or not Takata believes that this statement is correct? If not, please identify and describe in detail any differences, including in that description a copy of any pictures, diagrams, chemical composition, or other information helpful in understanding the differences.

6. Honda informed NHTSA that it and Takata now believe that any differences between the two vehicle populations in the two safety recalls, as well as any differences between the vehicles included in Safety Recall 09V-259 and those excluded from that campaign, relate to production of the airbag propellant prior to assembly of the inflators, as opposed to handling of the propellant during inflator assembly. Is this correct?

If so, how and when did Takata come to discover that the defect was due to a production process before assembly, and not handling of the propellant during assembly? State when Takata shared this information with Honda and with whom at Honda and produce copies of any communications, presentations, or other documentation that evidence this. Also, identify and describe any differences relating to production of the propellant prior to assembly between first, the inflators involved in Safety Recall 08V-593 and 09V-259, and then second, the inflators involved in 09V-259 and those excluded from that recall.

If not, explain why Takata does not agree with this assessment, include in your explanation a copy of any pictures, diagrams, or other information helpful in understanding Takata's opinion. Then state whether Takata shared its opinions with Honda, identify when it did so and with whom, and produce copies of any

communications, presentations, or other documentation that evidence this. To the extent not already explained earlier in response to this question, identify and describe any differences relating to production of the propellant prior to assembly between first, the inflators involved in Safety Recall 08V-593, and then second, the inflators involved in 09V-259 and those excluded from that recall.

7. Describe any responsibilities Takata had in identifying which inflators were affected by the safety defect in either or both Safety Recall 08V-593 and 09V-259, including in your description how Takata discriminated between an affected inflator and other inflators. State when Takata undertook its responsibilities, when it completed those responsibilities, and when it informed Honda of the identities of the affected inflators.
8. State the date and produce copies of each communication, including emails and presentations, in which Takata and Honda discussed whether there was a defect in the airbag inflators outside of those involved in Safety Recall 08V-593.
9. State the date and produce copies of each communication, including emails and presentations, in which Takata and Honda discussed whether the defect in the airbag inflators outside of those involved in Safety Recall 08V-593 was safety-related and/or the severity of the defect upon safety.
10. Separately for Safety Recall 08V-593 and 09V-259, please state the beginning and ending dates for shipments from Takata to Honda of the defective inflators.

This letter is issued pursuant to 49 U.S.C. § 30166 which authorizes the NHTSA to request any information that it deems necessary in administering and enforcing the Motor Vehicle Safety Act of 1969, as amended, 49 U.S.C. 30101, et seq. Failure to respond promptly, truthfully, and completely to this letter and the inquiries made herein could subject Takata to significant civil penalties and/or a claim for injunctive relief.

If Takata claims that any of the information or documents provided in response to this information request constitute confidential commercial material within the meaning of 5 U.S.C. § 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. § 1905, the company must submit supporting information together with the materials that are the subject of the confidentiality request, to the Office of Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Ave., SE, Washington, D.C. 20590. Please see 49 CFR Part 512 for further instructions as to what is required to properly file a request for confidential treatment.

Please provide your response to this letter within 3 weeks of its date.

5

Please direct your response to Jennifer Timian of my staff, and note conspicuously on your response the investigation number assigned to this matter (e.g., RQ09-004). Should you have any questions or concerns, please contact Ms. Timian on (202) 366-0209 or by email at jennifer.timian@dot.gov.

Sincerely,


George Person, Chief
Recall Management Division

Enclosure

EXHIBIT 8



TK Holdings Inc.

888 16th Street, NW, Suite 800

Washington, DC 20006 USA

TEL 202-729-6332

FAX 202-349-4034

December 23, 2009

Mr. George Person, Chief
Recall Management Division
Office of Defects Investigation
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: RQ09-004; NVS-215/jtt

Dear Mr. Person:

On behalf of TK Holdings Inc. (Takata), we are providing this partial response to the agency's November 20, 2009 letter seeking information concerning the airbag inflators in vehicles subject to recalls 08V-593 and 09V-259 conducted by American Honda Motor Company (Honda). As agreed upon, we shall provide additional information in response to your inquiry by the end of January, 2010.

Before responding to the specific questions set out in the information request, Takata wishes to point out that not all of the vehicles identified by Honda in its Part 573 reports for these two recalls were included within Honda's defect determinations. Rather, in accordance with Takata's recommendation, Honda agreed to request owners of additional vehicles not covered by the defect determinations to return their vehicles to a dealership to have the driver air bag inflator replaced at no charge. The purpose of this was to obtain inflators from outside of the date range covered by the defect determinations for further analysis. This is explained in greater detail below.

1. Did Takata manufacture, distribute or sell the same or substantially similar airbag inflators, in terms of design, production, or manufacturing, as are involved in either Safety Recall 08V-593 or 09V-259, for or to anyone other than Honda? If so, please identify each such entity by name, address, and phone number and provide your contact at that entity's name, address, and phone number. Also, for each such entity, state the total number of inflators that were distributed and the beginning and ending dates of their manufacture, serial or other identifying

1. ANSWER: At the present time, Takata does not believe that it provided any of the same or substantially similar air bag inflators to customers other than Honda. The physical characteristics of the inflator housing used in the Honda vehicles subject to these recalls are unique to Honda.
2. Honda informed NHTSA that based on information from Takata, it understands the cause of the defect to be related to a production process involving one of several compression presses used to form the propellant into wafers that were then installed into the inflator modules. Please identify and explain in detail what this production process was, and produce any pictures, diagrams, or other documentation necessary to help understand the process. Please state whether Takata agrees with Honda's assessment that this production process is the cause of the safety defect Honda identified and provide the reason(s) for Takata's opinion.
2. ANSWER: Takata and Honda reached this conclusion in cooperation. Specifically, the propellant wafer compression process utilized during the period when the inflators covered by Honda's defect determination were produced could permit isolated departures from intended process control boundaries. Takata will provide a detailed explanation of this process in its supplemental response to be filed in January 2010.
3. Did Takata manufacture, distribute or sell any airbag inflators that were subject to the same propellant chemistry or production process involved in the production of the Honda airbag inflators involved in Recalls 08V-593 or 09V-259, to anyone other than Honda? If so, please identify each such entity by name, address, and phone number and provide your contact at that entity's name, address, and phone number. Also, for each such entity, state the total number of inflators that were distributed and the beginning and ending dates of their manufacture, serial or other identifying numbers. Identify all design or production changes, or any other factors, that determine those beginning and ending dates.

Also, please explain whether or not Takata believes these inflators present the same or similar safety defect as those involved in Safety Recalls 09V-259 and 08V-593. Provide any supporting information or documentation

that supports this opinion.

3. ANSWER: With regard to the application of the same propellant chemistry as used in the subject inflators, yes. Takata has applied this chemistry broadly in excess of 100,000,000 inflators over the past 10 years.

With regard to the application of the same production process as used in the subject inflators, no. Takata applied this production process, which includes the manufacturing control system, only to Honda, and only for the manufacturing period covered by the defect determinations that led to Safety Recalls 08V-593 and 09V-259.

4. Honda informed NHTSA that it determined the vehicle population for Safety Recall 08V-593 based on information from Takata concerning the causal factors and production history of the inflators. Honda reported that it understood the causal factors to be related to the airbag propellant and its handling during the inflator module's assembly. Please identify and describe in detail the sources or causes Takata believed to have contributed to the safety defect in the inflators involved in 08V-593, including in that description any pictures, diagrams, or other information helpful in understanding how Takata came to its opinion at the time. Please also state when Takata shared information with Honda concerning its opinions on the source or cause of the safety defect and produce copies of any communications, presentations, or other documentation that evidence this date.

4. ANSWER: With regard to the causes that Takata believed to have contributed to the safety defect in the inflators involved in Recall 08V-593, and those involved in Recall 09V-259, the history of Takata's investigation into and analysis of those issues is beneficial.

Information provided to Takata by Honda in mid-2007 identified three events with inflator manufacturing dates within a narrow two-week window. After review of the inflator manufacturing records, this window coincided with the overlap of two unique manufacturing process changes. This suggested to Takata that there was a linkage between the inflator manufacturing changes and the incidents reported by Honda. However, Takata decided to undertake additional activities to assess the accuracy of this theory. For example, Takata procured field aged inflators from different manufacturing periods from salvage yards, which demonstrated no abnormalities.

Takata presented this theory to Honda in late 2007. In March-July 2008, sample inflators from the same manufacturing lots as the three event inflators were recovered from the field and analyzed. Analysis was directed

at evaluating the early theories related to anomalies in inflator performance. Results from this work were presented to Honda in early October 2008, which led to Recall 08V-593 in November 2008.

Notwithstanding Takata's good faith belief at the time that all of the defective inflators were covered by Recall 08V-593, Takata recommended and Honda agreed to conduct an additional survey of other inflators manufactured outside of the date range covered by that defect determination. Therefore, at the same time as it conducted Recall 08V-593, Honda requested additional owners to bring their vehicles to a dealer to have the inflator replaced at no charge. Takata then conducted additional analyses of these recovered inflators. The results of those analyses were communicated to Honda, which led to Recall 09V-259.

See the detailed chronology set out below.

- 06/07 Honda notifies Takata of two inflator field events. Takata immediately begins to conduct full failure mode analysis, quality control records review, etc.
- 08/07 Honda notifies Takata of a third inflator field event
- 09/07 Takata presents propellant exposure theory to Honda (elevated moisture and thermal cycling compromise propellant)
- 10/07 Takata presents salvage yard inflator recovery analysis to Honda (no issues observed)
- 01/08 Takata and Honda agreed to recover and analyze sample inflators from the initial, limited inflator population (objective of this program was to assess whether the theoretical failure mode and root cause was correct and to confirm the appropriate field population)
- 03/08 Takata started to receive sample inflators
- 07/08 Sample inflator recovery completed (Approximately 85 inflators were recovered and analysis continued)

10/08 Takata reports to Honda on the survey inflator analysis results

11/08 Honda initiates Safety Recall 08V-593

01/09 Takata starts to receive and analyze inflators produced outside of the date range covered by Recall 08V-593

03/09 Takata reports to Honda early results on its analysis

06/09 Takata provides a follow-up report to Honda on its analysis (i.e., that issues related to propellant production appeared to have caused improper inflator performance)

06/09 Honda initiates Safety Recall 09V-259, which covers all vehicles built with inflators that Takata believes could contain a safety defect. However, as with Recall 08V-593, Takata recommended and Honda agreed to request additional owners to return their vehicles to dealers to allow Takata to conduct additional analysis of inflators from vehicles outside of the defect population

Current – Takata continues to analyze those additional inflators

Please note that additional information and documents will be provided in Takata's supplemental response in January 2010.

5. Honda informed NHTSA that there is no design or other difference between the inflators involved in Safety Recalls 08V-593 and 09V-259. Please state whether or not Takata believes that this statement is correct? If not, please identify and describe in detail any differences, including in that description a copy of any pictures, diagrams, chemical composition, or other information helpful in understanding the differences.
5. ANSWER: There are no substantive design differences between inflators from each of the two recalls. However, there were differences in the production processes, including the production control system. Additional information and documents will be provided in Takata's supplemental response in January 2010.

6. Honda informed NHTSA that it and Takata now believe that any differences between the two vehicle populations in the two safety recalls, as well as any differences between the vehicles included in Safety Recall 09V-259 and those excluded from that campaign, relate to production of the airbag propellant prior to assembly of the inflators, as opposed to handling of the propellant during inflator assembly. Is this correct? If so, how and when did Takata come to discover that the defect was due to a production process before assembly, and not handling of the propellant during assembly? State when Takata shared this information with Honda and with whom at Honda and produce copies of any communications, presentations, or other documentation that evidence this. Also, identify and describe any differences relating to production of the propellant prior to assembly between first, the inflators involved in Safety Recall 08V-593 and 09V-259, and then second, the inflators involved in 09V-259 and those excluded from that recall. If not, explain why Takata does not agree with this assessment, include in your explanation a copy of any pictures, diagrams, or other information helpful in understanding Takata's opinion. Then state whether Takata shared its opinions with Honda, identify when it did so and with whom, and produce copies of any communications, presentations, or other documentation that evidence this. To the extent not already explained earlier in response to this question, identify and describe any differences relating to production of the propellant prior to assembly between first, the inflators involved in Safety Recall 08V-593, and then second, the inflators involved in 09V-259 and those excluded from that recall.

6. ANSWER: Yes, the issue is related to the propellant manufacturing process as opposed to the handling of the propellant during inflator assembly.

The information responsive to the portions of this question related to the chronology of Takata's investigation and analysis is set out in the Answer to Question 4. Additional details and the documents requested in this question will be provided in Takata's supplemental response.

7. Describe any responsibilities Takata had in identifying which inflators were affected by the safety defect in either or both Safety Recall 08V-593 and 09V-259, including in your description how Takata discriminated between an affected inflator and other inflators. State when Takata undertook its responsibilities, when it completed those responsibilities, and when it informed Honda of the identities of the affected inflators.
7. ANSWER: Takata is not certain what NHTSA means by the term "responsibilities" in this question. As the manufacturer of the inflators at issue, Takata took a primary role in the analysis of the issues and in the

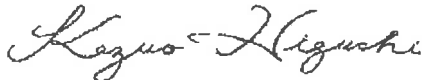
efforts to identify the root cause of the problem and the suspect inflator population boundaries. As stated above, Takata began to work on these issues in June 2007. As the work progressed, Takata provided timely and contemporaneous reports to Honda of its progress and of Takata's theories and conclusions. Once the time frames were determined, Takata identified the production lots of inflators that would be covered by each of the recalls and also identified other inflators to be recovered for additional analysis, which Honda agreed was the appropriate direction. Honda then utilized the inflator serial numbers to determine the VINs of the vehicles to be recalled and of the vehicles to be retrieved to allow further analysis.

8. State the date and produce copies of each communication, including emails and presentations, in which Takata and Honda discussed whether there was a defect in the airbag inflators outside of those involved in Safety Recall 08V-593.
8. The information and documents will be provided in Takata's supplemental response in January 2010.
9. State the date and produce copies of each communication, including emails and presentations, in which Takata and Honda discussed whether the defect in the airbag inflators outside of those involved in Safety Recall 08V-593 was safety-related and/or the severity of the defect upon safety.
9. The information and documents will be provided in Takata's supplemental response in January 2010.
10. Separately for Safety Recall 08V-593 and 09V-259, please state the beginning and ending dates for shipments from Takata to Honda of the defective inflators.
10. Although this question refers to "shipment dates," Takata's response will be based on inflator manufacturing dates, because of the way that Takata's records are kept. The inflators covered by Honda's defect determinations that led to Safety Recall 08V-593 and 09V-259, and the inflators that Honda and Takata sought to retrieve for surveillance and further analysis, were manufactured between the dates shown below:

Recall	Earliest Mfg. Date	Latest Mfg. Date
08V-593		
Defect Determination	10/29/00	12/1/00
Surveillance	10/16/00	12/14/00
09V-259		
Defect Determination	8/23/00	2/25/01
Surveillance	10/18/00	11/26/01

Please let me know if I can be of any assistance.

Sincerely yours,



Kazuo Higuchi
Senior Vice President

EXHIBIT 9



888-1801-SHAPE, NW/6012-800
Washington, DC 20006 USA
TEL 202-728-6392
FAX 202-349-4034

February 19, 2010

Mr. George Person, Chief
Recall Management Division
Office of Defects Investigation
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: RO09-004; NVS-215/itt

Dear Mr. Person:

TK Holdings, Inc. (Takata) is providing this comprehensive response to the agency's November 20, 2009 letter seeking information concerning the airbag inflators in vehicles subject to recalls 08V-593 and 09V-259 conducted by American Honda Motor Company (Honda). As you are aware, with your permission, Takata filed its initial, partial response to that letter on December 23, 2009. Rather than simply supplement that initial response, in this response Takata will provide its comprehensive response to all of the questions that you have posed. We appreciate your office's agreement to extend the response date until today.

It is important to recognize, as NHTSA was informed at the initiation of 08V-593 and 09V-259, that not all of the vehicles identified by Honda in its Part 573 defect information reports for these two recalls actually were included within Honda's defect determinations. Rather, in both recalls, in accordance with Takata's recommendation, Honda agreed to request owners of additional vehicles not covered by the defect determinations to return their vehicles to a dealership to have the driver air bag inflator replaced at no charge. The purpose of this was to obtain inflators from outside of the scope of the defect determinations for further analysis. This is explained in greater detail below.

1. Did Takata manufacture, distribute or sell the same or substantially similar airbag inflators, in terms of design, production, or manufacturing, as are involved in either Safety Recall 08V-593 or 09V-259, for or to anyone other than Honda? If so, please identify each such entity by name, address, and phone number and provide your contact at that entity's name, address, and phone number. Also, for each such entity, state the total number of inflators that were distributed and the beginning and ending dates of

their manufacture, serial or other identifying numbers. Identify all design or production changes, or any other factors, that determine those beginning and ending dates. Also, please explain whether or not Takata believes these inflators present the same or similar safety defect as those involved in Safety Recalls 09V-259 and 08V-593. Provide any supporting information or documentation that supports this opinion.

ANSWER 1:

Takata has not provided any air bag inflators that are the same or substantially similar to the inflators in vehicles covered by Recalls 08V-593 and 09V-259 to any customers other than Honda. The physical characteristics of the inflator housing used in the Honda vehicles subject to these recalls are unique to Honda.

2. Honda informed NHTSA that based on information from Takata, it understands the cause of the defect to be related to a production process involving one of several compression presses used to form the propellant into wafers that were then installed into the inflator modules. Please identify and explain in detail what this production process was, and produce any pictures, diagrams, or other documentation necessary to help understand the process. Please state whether Takata agrees with Honda's assessment that this production process is the cause of the safety defect Honda identified and provide the reason(s) for Takata's opinion.

ANSWER 2:

As explained in detail below, based on currently-available information and extensive analysis of numerous inflators, Takata and Honda reached the conclusion in cooperation that the defect identified in Recall 09V-259 is generally related to problems with one specific compression press that was used to form propellant into tablets that were subsequently used in the inflators installed in the subject vehicles. However, as explained in the answer to Question 4, Takata's initial assessment of these issues, which was performed prior to the defect determination that led to Recall 08V-593 and which was based on less data than is currently available, led it to believe that there was a different cause for the defect. Moreover, Takata notes that – as explained in the answer to Question 6 – in conformity with Takata's recommendation, Honda also included in Recall 09V-259 a relatively small number of vehicles with propellant processed on different compression presses and inflators produced with reprocessed propellant, due to an inability verify their performance at the time the scope of 09V-259 was established.

This answer will describe the process used by Takata to produce propellant tablets used in its air bag inflators. A description of the analysis used by Takata to reach its conclusions with respect to the cause of the defect is contained in the answer to Question 6.

The process that Takata used to convert chemical components into the propellant that was used in the inflators that were in the vehicles recalled by Honda in 2008 and 2009 included a number of steps that are identified in the following diagram:

REDACTED

In the case of the propellant produced for use in the inflators for the Honda vehicles in the subject period, presses from two different manufacturers were utilized, a single Stokes press and three Gladiator presses. While they operated in a similar fashion in that the presses all compressed the granulated chemical powder mixture into tablet form, there were significant differences in how they accomplished this process, and how this process was controlled.

REDACTED

REDACTED

It should also be noted that throughout the period when the propellant tablets for the Honda inflators were being produced, Takata maintained a policy of continuous review and continuous improvement of its production methods to improve quality and to increase efficiency. The changes resulting from this policy were more frequent during the early stages of production.

REDACTED

3. Did Takata manufacture, distribute or sell any airbag inflators that were subject to the same propellant chemistry or production process involved in the production of the Honda airbag inflators involved in Recalls 08V-593 or 09V-259, to anyone other than Honda? If so, please identify each such entity by name, address, and phone number and provide your contact at that entity's name, address, and phone number. Also, for each such entity, state the total number of inflators that were distributed and the beginning and ending dates of their manufacture, serial or other identifying numbers. Identify all design or production changes, or any other factors, that determine those beginning and ending dates.

Also, please explain whether or not Takata believes these inflators present the same or similar safety defect as those involved in Safety Recalls 09V-259 and 08V-593. Provide any supporting information or documentation that supports this opinion.

REDACTED

ANSWER 3:

With regard to the propellant chemistry that is used in the subject inflators, Takata has used this propellant chemistry in more than 100,000,000 air bag inflators sold to most major vehicle manufacturers over the past 10 years. However, Takata did not utilize the same process in the production of the propellant for the suspect inflators (as opposed to surveillance inflators) in the Honda vehicles involved in recalls 08V-593 or 09V-259 for inflators sold to any other vehicle manufacturer.

As ODI is aware, on February 9, 2010, Honda submitted a Part 573 Report notifying the agency that it was expanding Recall 09V-259 to cover additional vehicles. (Rather than expand the population of Recall 09V-259, ODI has designated this as a separate recall, No. 10V-041.) These additional vehicles were all manufactured with inflators that contain propellant tablets produced by the Stokes press. Although those vehicles were not addressed in this question, for the sake of completeness, Takata wishes to point out that it did manufacture approximately 2,400 inflators during early October of 2001 that contained propellant exclusively produced for with the same production process as the surveillance inflators. These inflators were sold to . . . To the best of Takata's knowledge, 448 vehicles equipped with those inflators were exported to the United States. Takata needs to emphasize that while these inflators contained the same propellant as those that were supplied to Honda, the inflators supplied were of a different design than the inflators used in the covered Honda vehicles, and there have been no reported incidents involving malfunctions of these inflators. Therefore, Takata is convinced that the inflators sold contain no safety-related defect.

4. Honda informed NHTSA that it determined the vehicle population for Safety Recall 08V-593 based on information from Takata concerning the causal factors and production history of the inflators. Honda reported that it understood the causal factors to be related to the airbag propellant and its handling during the inflator module's assembly. Please identify and describe in detail the sources or causes Takata believed to have contributed to the safety defect in the inflators involved in 08V-593, including in that description any pictures, diagrams, or other information helpful in understanding how Takata came to its opinion at the time. Please also state when Takata shared information with Honda concerning its opinions on the source or cause of the safety defect and produce copies of any communications, presentations, or other documentation that evidence this date.

ANSWER 4:

As noted in the answer to Question 2, Takata's initial assessment of the causal factors related to this defect is different from its current understanding. The following discussion describes the analysis performed by Takata that provided the basis for Recall 08V-593. A discussion of Takata's subsequent analysis, and its revised assessment of those causal factors, is set out in the answer to Question 6.

Honda initially advised Takata of three incidents of inflator malfunctions that occurred during the first half of 2007. Each of these incidents involved inflators assembled between October 31

and November 15, 2000, all of which contained propellant tablets manufactured during October and early November of that year. Takata believed that it was likely that these inflator malfunctions resulted from an over-pressure situation (i.e., overly aggressive combustion) during deployment of the air bag. Given the very narrow time period during which these three faulty inflators were produced, Takata initially focused its attention on inflators and propellant produced during that time period, and it attempted to identify any process issues in and around that time period that could have led to these malfunctions.

Takata identified two processes that, taken together, could have resulted in elevated moisture levels in the propellant. Elevated propellant moisture levels, when coupled with thermal cycling in automobiles, could cause the propellant density to decline over time, and such a decline in density could lead to overly energetic combustion during deployment of the air bag.

REDACTED

This initial hypothesis was presented to Honda at a briefing held on September 28, 2007 (see Attachment A).

To allow it to test this hypothesis and to conduct further analysis, Takata collected 42 inflators from salvage yards. In addition, Honda provided Takata with 86 inflators that contained propellant from the propellant lots used in the three malfunctioning inflators ("event lots").

REDACTED

REDACTED

Therefore, on October 2, 2008, Takata recommended that Honda recall the vehicles equipped with propellant from the four suspect propellant lots (see pages 27-28 of Attachment B), and Honda agreed to do so in order to remove vehicles from the road which Honda had any reason to suspect might not perform properly.

Further, Takata recommended and Honda agreed that Honda would also use the recall process to collect additional inflators that were manufactured around this time period for additional analysis to confirm the root cause hypothesis. Takata received 336 inflators for analysis. The analysis of the propellant from these inflators is described in the answer to Question 6.

5. Honda informed NHTSA that there is no design or other difference between the inflators involved in Safety Recalls 08V-593 and 09V-259. Please state whether or not Takata believes that this statement is correct? If not, please identify and describe in detail any differences, including in that description a copy of any pictures, diagrams, chemical composition, or other information helpful in understanding the differences.

ANSWER 5:

There are no substantive design differences between inflators from each of the two recalls. However, there were differences in the production processes, including the production control system, applicable to inflators and propellant tablets produced during the time period covered by recall 08V-593 and the inflators and propellant tablets manufactured before and after that period. Given Takata's continuous improvement policy, there were numerous process improvements during this period, many of which improved the quality of the propellant and the inflators and enhanced the consistency of inflator performance.

Notwithstanding the above, the difference in the scope of 08V-593 and 09V-259 was based on the understanding of the root cause at the time the scope for each recall was established.

6. Honda informed NHTSA that it and Takata now believe that any differences between the two vehicle populations in the two safety recalls, as well as any differences between the vehicles included in Safety Recall 09V-259 and those excluded from that campaign,

relate to production of the airbag propellant prior to assembly of the inflators, as opposed to handling of the propellant during inflator assembly. Is that correct? If so, how and when did Takata come to discover that the defect was due to a production process before assembly, and not handling of the propellant during assembly? State when Takata shared this information with Honda and with whom at Honda and produce copies of any communications, presentations, or other documentation that evidence this. Also, identify and describe any differences relating to production of the propellant prior to assembly between first, the inflators involved in Safety Recall 08V-593 and 09V-259, and then second, the inflators involved in 09V-259 and those excluded from that recall. If not, explain why Takata does not agree with this assessment, include in your explanation a copy of any pictures, diagrams, or other information helpful in understanding Takata's opinion. Then state whether Takata shared its opinions with Honda, identify when it did so and with whom, and produce copies of any communications, presentations, or other documentation that evidence this. To the extent not already explained earlier in response to this question, identify and describe any differences relating to production of the propellant prior to assembly between first, the inflators involved in Safety Recall 08V-593, and then second, the inflators involved in 09V-259 and those excluded from that recall.

ANSWER 6:

It is correct that Takata and Honda now believe that the differences between the vehicles included in Recall 09V-259 and those excluded from that campaign relate to production of the propellant prior to assembly of the inflators, as opposed to handling of the propellant during inflator assembly. Takata initially came to that conclusion primarily on the basis of its analysis of the propellant in the surveillance inflators obtained by Honda in connection with Recall 08V-593, and it was confirmed by its analysis of the surveillance inflators obtained in connection with Recall 09V-259 (i.e., inflators manufactured with propellant tablets produced through October 16, 2001).

Takata's analysis of the initial set of surveillance inflators led it to reexamine its initial theory of the cause of the problem. Specifically, Takata began to consider the possibility that the problem might have originated during propellant production rather than during inflator assembly. Takata therefore began an intensive review of its propellant production process.

REDACTED

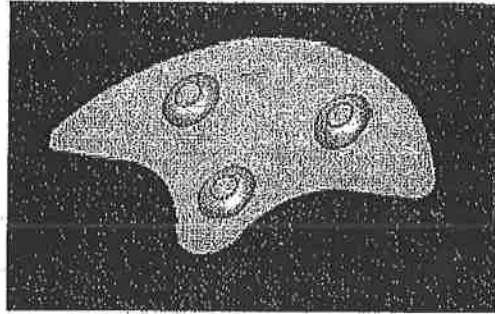
1

8

REDACTED

FIGURE 2

BATWING-SHAPED PROPELLANT TABLET



REDACTED

REDACTED

ENTIRE PAGE REDACTED AS CONFIDENTIAL BUSINESS INFORMATION

FIGURE 4

REDACTED

REDACTED

REDACTED

Based upon _____

_____, Takata recommended to Honda that it expand the scope of Recall 08V-593. Takata believed –

– that expanding the recall to include all vehicles equipped with inflators manufactured with Stokes propellant produced through and including February 28, 2001 would capture all inflators with tablets that had a risk of producing

overly energetic combustion.³ This recommendation, as well as the analysis that supported it, was presented to Honda on June 12, 2009. See Attachment D. (A preliminary status report describing Takata's initial analysis of the surveillance inflators had been presented to Honda on March 12, 2009. See Attachment C.)

As with the first recall, at Takata's request, Honda recalled approximately 10,000 additional vehicles – primarily those manufactured with propellant produced after February 28, 2001. The purpose was to allow the companies to assess whether the second recall in fact addressed all vehicles that could possibly have a problematic inflator.⁴

To date, Takata has examined over 1,000 inflators from the second set of surveillance inflators and the propellant found in those inflators. Although the agency's November 20, 2009 letter does not ask about the results of that analysis, Takata notes that :

REDACTED

REDACTED

FIGURE 5

REDACTED

There have been no reports of malfunctions of inflators manufactured with propellant produced after February 28, 2001. However, because Honda “. . . decided we cannot entirely rule out the possibility that parts in this expanded population could be out of specification and thus potentially perform improperly,” it decided to expand the scope of Recall 09V-259 to include all vehicles with propellant tablets manufactured using the Stokes press.

7. Describe any responsibilities Takata had in identifying which inflators were affected by the safety defect in either or both Safety Recall 08V-593 and 09V-259, including in your description how Takata discriminated between an affected inflator and other inflators. State when Takata undertook its responsibilities, when it completed those responsibilities, and when it informed Honda of the identities of the affected inflators.

ANSWER 7:

Takata is not certain what NHTSA means by the term “responsibilities” in this question. As the manufacturer of the inflators at issue, Takata took a primary role in the analysis of the issues, the efforts to identify the cause of the problem, and the efforts to identify the scope of the problem. Takata began to work on these issues in June 2007. As described in the answers to Question 4 and Question 6, as the work progressed, Takata provided timely and contemporaneous reports to Honda of its progress and of Takata’s theories and conclusions. See Attachments A-D.

Promptly after the scope of each of the recalls was determined (based on the identification of propellant lots that were deemed to be potentially defective), Takata identified individual air bag modules that contained the subject propellant, and it also identified other air bag modules to be collected for additional analysis. Takata provided the serial numbers of the modules to be recalled to Honda in November and December of 2008 for Recall 08V-593 and in June and July of 2009 for Recall 09V-259. Honda then utilized those serial numbers to determine the VINs of the vehicles to be covered by the two recalls.

8. State the date and produce copies of each communication, including emails and presentations, in which Takata and Honda discussed whether there was a defect in the airbag inflators outside of those involved in Safety Recall 08V-593.

ANSWER 8:

Takata has conducted a search of the files and e-mail accounts of all of the individuals within the company (both in the United States and in Japan) who would be expected to have any communications that are responsive to this question. The search was confined to communications that had been made as of November 20, 2009, the date of the agency's letter.

The communications described below reflect the results of that search to date. Although Takata believes that it has identified all responsive documents and e-mails, it is possible that others may be located, or identified as responsive in the future. If so, they will be provided to NHTSA promptly.

PowerPoint presentations describing Takata's analyses, assessments, and recommendations that were presented to Honda are enclosed as Attachments A-D. (By letter to the Office of Chief Counsel, Takata is requesting confidential treatment for most of the information in those presentations.)

In addition, Takata has identified several e-mails that are arguably responsive to this question. See Attachment E. (Takata is requesting confidential treatment for some of the information in those e-mails.)

9. State the date and produce copies of each communication, including emails and presentations, in which Takata and Honda discussed whether the defect in the airbag inflators outside of those involved in Safety Recall 08V-593 was safety-related and/or the severity of the defect upon safety.

ANSWER 9:

Takata has not identified any communications, including e-mails and presentations, in which Takata and Honda discussed whether the defect in any of the air bag inflators at issue here was safety-related and/or the severity of the defect upon safety.

10. Separately for Safety Recall 08V-593 and 09V-259, please state the beginning and ending dates for shipments from Takata to Honda of the defective inflators.

ANSWER 10:

Although this question refers to "shipment dates," Takata's response will be based on inflator manufacturing dates, because of the way that Takata's records are kept. The inflators covered by Honda's defect determinations that led to Safety Recall 08V-593 and 09V-259, and the inflators that Honda and Takata sought to retrieve for surveillance and further analysis, were manufactured between the dates shown below:

	Earliest Mfg. Date	Latest Mfg. Date
Recall 08V-593		
Defect Determination	10/29/00	12/01/00
Surveillance	10/16/00	12/14/00
Recall 09V-259		
Defect Determination	Start of Production (Approx. 06/01/00)	05/16/01
Surveillance	10/18/00	11/26/01

If you have any additional questions, please contact the undersigned.

Sincerely yours,



Kazuo Higuchi
Senior Vice President

EXHIBIT 10

RECEIVED

By Recall Management Division at 9:00 am, Apr 11, 2013

13E-017
(5 pages)



222 15th Street, NW, Suite 800
Washington, DC 20006 USA
TEL 202-729-6332
FAX 202-346-1034

April 11, 2013

Ms. Nancy L. Lewis
Associate Administrator of Enforcement
National Highway Traffic Safety Administration
Attn: Recall Management Division (NVS-215)
Room W48-302
1200 New Jersey Ave. S.E.
Washington, D.C. 20590

Re: Defect Information Report, Certain Air Bag Inflators Used as Original Equipment

Dear Ms. Lewis:

TK Holdings Inc. ("Takata") is submitting this Defect Information Report ("DIR") pursuant to 49 CFR 573.3(f) and 573.6(c). This DIR contains information about a potential defect relating to motor vehicle safety in certain air bag inflators used as original equipment in vehicles produced by several vehicle manufacturers.

If you have any questions about this DIR, please contact the undersigned at (202) 729-6332 or at kazuo.higuchi@takata.com.

Sincerely,

A handwritten signature in cursive script that reads 'Kazuo Higuchi'.

Kazuo Higuchi
Senior Vice President

Enclosure

DEFECT INFORMATION REPORT

1. **Manufacturer's name**

TK Holdings Inc.

2. **Items of Equipment Potentially Containing the Defect**

Certain air bag inflators installed in frontal passenger-side air bag modules equipped with propellant wafers manufactured at Takata's Moses Lake, Washington plant during the period from April 13, 2000 (start of production) through September 11, 2002 (an improved quality control process was confirmed to be in place no later than September 12, 2002), and certain air bag inflators manufactured at Takata's Monclova, Mexico plant during the period from October 4, 2001 (start of production) through October 31, 2002 (an improved quality control system for handling and storing of the propellant wafers was confirmed to be in place no later than November 1, 2002).

The inflators covered by this determination were installed as original equipment in vehicles manufactured by the following entities:

Toyota Motor Corporation
Contact: Bob Waltz, Group VP
Product Quality and Service Support
Toyota Motor Sales, Inc.
91001 South Western Ave.
Torrance CA 90501
(310) 468 9048

Honda Motor Co., Ltd.
Contact: Jay Joseph
American Honda Motor Co., Inc.
1919 Torrance Boulevard
Torrance, CA 90501-2746
(310) 783-2000

Nissan Motor Co., Ltd.
Contact: Dale Weiss and James Hunter
Nissan North America, Inc.
610 Enon Spring Rd. E,
Smyrna, TN 37167-4410
(615) 223-3199

Mazda Motor Corporation
Contact: Max Yamashita, Manager, Part Quality Assurance
26900 Hall Road
Woodhaven, MI 48183
(734) 692-3681

BMW
Contact: Robert Janssen
Bayerische Motoren Werke AG
Knorrstr. 147
80788 München Germany
+49 89 382-45277

General Motors
Contact: M. Carmen Benavides, Director
Product Investigations and Safety Regulations
30001 Van Dyke Rd.
Warren Mi 48090-9020

3. Total Number of Items of Equipment Potentially Involved:

Although Takata knows the number of subject air bag inflators it supplied to each vehicle manufacturer, Takata does not know how many of the subject inflators were installed in vehicles sold in the United States. That information is available from the vehicle manufacturers.

4. Approximate Percentage of Items of Equipment Estimated to Actually Contain the Defect:

Unknown. However, based on the very small number of field incidents that have occurred, it is extremely low.

5. Description of the defect:

Some propellant wafers produced at Takata's plant in Moses Lake, Washington between April 13, 2000 and September 11, 2002 may have been produced with an inadequate compaction force. (Beginning in September 2001, Takata utilized an "auto-reject" ("AR") function that can detect and reject propellant wafers with inadequate compression by monitoring the compression load that had been applied. However, for the next year, that function could be turned on and off manually by the machine operator in the plant. No later than September 12, 2002, the machine was modified by the addition of an interlock feature that precluded production of propellant wafers without the AR function in place.)

In addition, some propellant wafers used in inflators produced at Takata's plant in Monclova, Mexico between October 4, 2001 and October 31, 2002 may have been exposed to uncontrolled moisture conditions. Those wafers could have absorbed moisture beyond the allowable limits. (Production processes were revised no later than November 1, 2002 to assure proper handling and environmental protection of all in-process propellant.)

In both cases, the propellant could potentially deteriorate over time due to environmental factors, which could lead to over-aggressive combustion in the event of an air bag deployment. This could create excessive internal pressure within the inflator, and the body of the inflator could rupture.

6. Chronological summary of events leading to this determination:

October 2011 – Takata was first notified of an incident related to this issue, which involved the deployment of a passenger air bag in Japan. Takata promptly began an investigation, consisting of a fault tree analysis and an analysis of production records.

November 2011 – Takata was made aware of an incident in which an air bag inflator ruptured in a U.S vehicle (in Puerto Rico).

February - June 2012 – Takata conducted replication tests on inflators taken from vehicles in the field, but could not reproduce the problem.

September - November 2012 – Takata was informed of three additional incidents in the United States (two in Puerto Rico and one in Maryland (the Maryland vehicle had previously been operated in Florida for eight years)).

October 2012 – After considering a wide range of possible causes, Takata concluded that there was a possibility that the propellant in certain propellant wafers produced at the Moses Lake, Washington plant might not have been adequately compressed. Through replication tests, Takata confirmed that the combination of an inadequately compressed propellant wafer and exposure to certain environmental conditions for an extended period could create excessive internal pressure within the inflator during a deployment, and the body of the inflator could rupture. However, Takata also discovered at this time that, beginning in September 2001, the machine that molded the propellant into wafers was equipped with an “auto-reject” (“AR”) function that would identify and reject wafers with inadequate compression.

February - March 2013 – Takata discovered that, for approximately one year, the AR function could be turned on and off manually by the machine operator in the plant. Takata subsequently confirmed that an interlock feature was added no later than September 12, 2002, which precluded production of wafers unless the AR function was in place.

Takata also discovered that some propellant wafers that were used in inflators produced at its plant in Monclova, Mexico between October 4, 2001 and October 31, 2002 may have been exposed to uncontrolled moisture conditions, and that those wafers could have absorbed moisture beyond the allowable limits. Takata confirmed that the combination of excess moisture in a propellant wafer and exposure to certain environmental conditions for an extended period also could lead to an inflator rupture due to excessive internal pressure.

Takata is aware of only six such incidents involving the subject inflators in vehicles in the field (four in the United States and two in Japan). (In addition, there were six incidents that occurred in salvage yards in Japan.) Moreover, Takata is not aware of any injuries associated with the improper deployment of any air bags containing the suspect inflators. However, in view of the possibility that such a deployment could lead to an injury, on April 5, 2013, Takata decided that a defect related to motor vehicle safety exists.

7. Description of the Remedy Program:

Takata will work with the manufacturers of the vehicles in which the covered air bag inflators were installed to implement an appropriate field action.

EXHIBIT 11

Case: 1:11-cv-01517-DCN Doc #: 21 Filed: 09/01/11 1 of 3. PageID #: 330

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

LUANNE MILLER, on behalf of herself)	CASE NO.: 1:11 CV 1517
and all others similarly situated,)	
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	ORDER
E.I. DU PONT NEMOURS AND)	
COMPANY,)	
)	
Defendant.)	

This matter is before the Court on Plaintiff’s Motion for Entry of Discovery Orders and Expedited Discovery. (ECF #3). In this motion, Plaintiff seeks expedited discovery to determine whether a motion for injunctive relief is appropriate. Specifically, Plaintiff seeks the production of documents related to Defendant’s product at issue in this action, Imprelis. This action is likely to be consolidated with other Imprelis-related cases into an MDL court.¹ While one of the duties of the MDL court will be to supervise and organize discovery, there is certain easily compiled information that will need to be disclosed by the Defendant no matter what and strict adherence to procedural rules will unnecessarily delay the production and study of this information.

Specifically, Defendant has admitted that it has submitted documents concerning Imprelis to the U.S. Environmental Protection Agency (“EPA”) and that “in light of concerns expressed

¹

Plaintiff in this action has filed a motion to transfer all related suits to this Court. Other motions ask the JMPL to transfer the actions to the Districts of Delaware, New Jersey (in the alternative), and Minnesota. Defendant has stated that it will not oppose the creation of an MDL. The JPML has set oral argument on these motions for September 27, 2011, and should order consolidation shortly thereafter.

Case: 1:11-cv-01517-DCN Doc #: 21 Filed: 09/01/11 2 of 3. PageID #: 331

by its customers, and in cooperation with the [EPA], DuPont voluntarily removed Imprelis from the market, issuing a stop sale and return notice.” (ECF #16 at p. 3) Defendant thus seems to understand, if not agree with, the Plaintiff’s contention that the application of Imprelis has destroyed substantial property and continues to destroy property as it spreads from its initial application points. Plaintiff contends that expedited discovery is the best way to expedite the resolution of the problems allegedly caused by Imprelis.

Based upon the briefs and exhibits submitted by the parties, the Court finds that expediting certain discovery is appropriate in this instance. Accordingly, Plaintiff’s Motion for Entry of Discovery Orders and Expedited Discovery (ECF #3) is GRANTED IN PART as follows:

Defendant shall produce to Plaintiff all documents and information requested by Plaintiff regarding Defendant’s product, Imprelis, that Defendant has already produced and disclosed to the United States Environmental Protection Agency. Defendant shall make this production to Plaintiff by September 19, 2011.

Since this information has already been compiled and produced to the EPA by Defendant, its release to the Plaintiff should not be difficult. Further, after the MDL decision has been made, Plaintiff must agree to share this discovery with all of the plaintiffs in the other actions.

IT IS SO ORDERED.

/s/Donald C. Nugent
DONALD C. NUGENT
UNITED STATES DISTRICT JUDGE

DATED: September 1, 2011

Case: 1:11-cv-01517-DCN Doc #: 21 Filed: 09/01/11 3 of 3. PageID #: 332

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 14-cv-24009-JLK

CRAIG DUNN, PAM KOEHLER,
ZULMARIE RIVERA, TRU VALUE
AUTO MALLS LLC, ANNA MARIE
BRECHTELL FLATTMANN,
TASHA R. SEVERIO, KENNETH G.
DECIE, GREGORY MCCARTHY,
NICOLE PEASLEE, KAREN SWITKOWSKI,
ANTHONY D. DARK, LEMON AUTO SALES,
INC., NATHAN BORDEWICH, KATHLEEN
WILKINSON, HAYDEE MASISNI, AND
NANCY BARNETT

on Behalf of Themselves and All Those Similarly
Situated,

Plaintiff,

v.

TAKATA CORPORATION, TK HOLDINGS, INC.,
HIGHLAND INDUSTRIES, INC.,
HONDA MOTOR CO., LTD., AMERICAN
HONDA MOTOR CO., INC., BAYERISCHE
MOTOREN WERKE AG, BMW OF NORTH
AMERICA, LLC, BMW MANUFACTURING
CO., LLC, FORD MOTOR COMPANY,
TOYOTA MOTOR CORPORATION, TOYOTA
MOTOR SALES, U.S.A., INC., AND TOYOTA MOTOR
ENGINEERING & MANUFACTURING
NORTH AMERICA, INC.

Defendants.

ORDER GRANTING PLAINTIFFS' MOTION TO EXPEDITE DISCOVERY

THIS CAUSE came before the Court upon Plaintiffs' Motion to Expedite Discovery, and
the Court being fully advised in the premises, it is:

ORDERED, ADJUDGED, and DECREED that the said Motion, be, and the same is, hereby **GRANTED**.

Plaintiffs may conduct expedited discovery prior to the Fed. R. Civ. P. 26(f) conference regarding the following categories of documents:

- Any and all documents already produced in any government investigations relating to Takata airbags;
- Any and all documents that may be produced in response to any government investigation on a going-forward basis in connection with Takata airbags;
- Any and all documents concerning the specifications of Takata airbags;
- Any and all documents or reports concerning any identified issues relating to Takata airbags;
- Any and all documents concerning any testing of the Takata airbag where Defendants learned that the Takata airbag inflator had the ability to rupture and potentially injure or kill vehicle occupants;
- Any and all documents from any internal investigation conducted by or on behalf of Defendants relating to Takata airbags;
- Any and all documents and communications referring to, relating to, or concerning Defendants obligation to alert NHTSA about Takata airbags;
- Any and all customer complaints relating to Takata airbags; and
- Any and all documents discussing, referring to, or relating to any tests, including crash tests, conducted by Defendants to determine whether it is safe to drive any vehicle equipped with Takata airbags, including, but not limited to, documents that indicate the number of test drives that have been conducted; all raw data and results of these tests; the methodology underlying the tests; and all analyses of the results of these tests.

The parties shall negotiate an expedited schedule for the production of the foregoing categories of documents. In the event the parties have not agreed on dates of production for the enumerated categories of documents within one week of the entry of this Order, the parties shall file a joint notice setting forth the nature of their dispute.

DONE and **ORDERED** in Chambers at the James Lawrence King Federal Justice Building and United States Courthouse, Miami, Florida dated this __day of ____ 2014.

JAMES LAWRENCE KING
UNITED STATES DISTRICT JUDGE

Copies furnished to:
All Counsel of Record