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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matters of the Application Serial No. 78/315,569 Published in the Official Gazette on June 22, 2004
and
The Application Serial 78/319,291 Published in the Official Gazette on July 13, 2004.

V SECRET CATALOGUE, INC., and INTIMATE BEAUTY CORPORATION, d/b/a VICTORIA'S SECRET BEAUTY	:	Consolidated Opposition No.
Opposers,	:	
v.	:	[redacted]
RICK WOROBEC,	:	09-15-2004
Applicant.	:	U.S. Patent & TMOfc/TM Mail Rcpt Dt. #74
	:	

Assistant Commissioner for Trademarks
2900 Crystal Drive, Box 5
Arlington, Virginia 22202-3513

Dear Sir:

Enclosed is an original and a copy of Opposers' Consolidated Notice of Opposition to Rick Worobec's Application Serial Nos. 78/315,569 to register the designation SOSEXE in International Classes 3 and 25, and Application Serial No. 78,319,291 to register the designation OSOSEXE in International Classes 3 and 25.

Attached are our credit card authorization forms in the amount of $600.00 each to cover the fee for filing this Consolidated Notice against each application.

If for any reason the Patent and Trademark Office filing fee should exceed $1,200.00, please charge any additional sums to our firm's Deposit Account No. 20-0050.

Kindly acknowledge receipt by having your mail room date stamp the enclosed postcard and deposit it with the U.S. Postal Service.

Dated: New York, New York
September 13, 2004

COLUCCI & UMANS

By Frank J. Colucci/GR
Frank J. Colucci
Attorneys for Opposers
Manhattan Tower
101 East 52nd Street
New York, New York 10022
(212) 935-5700

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513

Gregory J. Colucci
Signature

09-13-04
Date of Signature

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V SECRET CATALOGUE, INC., and INTIMATE BEAUTY CORPORATION, d/b/a VICTORIA'S SECRET BEAUTY,	:	Consolidated Opposition No.
Opposers,	:	
v.	:	
RICK WOROBEC,	:	
Applicant.	:	

----------x

CONSOLIDATED NOTICE OF OPPOSITION

Opposers, V Secret Catalogue, Inc., a Delaware corporation located and doing business at 1105 North Market Street, Wilmington, Delaware 19801, and Intimate Beauty Corporation d/b/a Victoria's Secret Beauty, a Delaware corporation, located and doing business at 888 Seventh Avenue, New York, New York, 10106, (herein referred to collectively as "Victoria's Secret" or "opposers"), believe that they will be damaged by the registration of the designation SOSEXE, as shown in Application Serial No. 78/315,569, filed October 19, 2003, published at page TM 139 of the Official Gazette of June 22, 2004 (Vol.1283 No.4); and by the registration of the designation OSOSEXE, as shown in Application Serial No. 78/319,291, filed October 27, 2003, published at

page TM 103 of the Official Gazette of July 13, 2004 (Vol. 1284, No. 2), for the goods set forth in each application, namely, personal hygiene products, namely; soaps, cosmetics, namely, perfumery, essential oils, hand lotions, body lotions, hair lotions in International Class 3, and clothing, namely, undergarments, swimwear, footwear, namely, shoes in International Class 25, and hereby oppose the same.

As grounds of opposition, opposers aver as follows:

Opposition No. 1

(Application Serial No. 78/315,569 SO SEXE)

1. Rick Worobec (herein "applicant"), a Canadian citizen, with an address at P.O. Box 11898, Edmonton, Alberta T5J3L1, Canada, is not now and never was entitled to register as a trademark the designation SOSEXE, as shown in Application Serial No. 78/315,569, filed October 19, 2003, and published at page TM 139 of the Official Gazette of June 22, 2004 (Vol.1283, No. 4), for the goods set forth therein, namely, "personal hygiene products, namely, soaps, cosmetics, namely, perfumery, essential oils, hand lotions, body lotions, hair lotions" in International Class 3; and "clothing, namely, undergarments, swimwear, footwear, namely, shoes" in International Class 25.

2. Applicant is not entitled to use or register as a trademark the designation SOSEXE for which it seeks registration in its Application Serial No. 78/315,569, either on October 19, 2003, the filing date of the application, or on June 22, 2004, the date of publication thereof in the Official Gazette.

3. Opposer, V Secret Catalogue, Inc., is the owner, and opposer,

Intimate Beauty Corporation d/b/a Victoria's Secret Beauty, is the exclusive user of the trademark SO SEXY which has been in continuous use in interstate commerce since at least as early as April 10, 2003, on or in connection with hair care products, namely, hair conditioner, hair shampoo, hair spray, hair straightener, hair styling gel and hair styling mousse in International Class 3 (herein "the SO SEXY Mark"). Photographs depicting opposers' hair care products bearing the SO SEXY Mark are annexed hereto and made a part hereof as Opposers' Exhibits A through F, inclusive.

4. Opposers' sales of their hair care products bearing the SO SEXY Mark have been in excess of $4,000,000.00 since their introduction.

5. Opposers' SO SEXY Mark has acquired widespread public recognition and secondary meaning among the public and the trade indicating opposers as the origin or source of the hair products bearing the SO SEXY Mark.

6. Opposers' SO SEXY Mark has priority over applicant's designation SOSEXE.

7. The designation applicant seeks to register, namely, SOSEXE so resembles opposers' SO SEXY Mark, as to be likely, when applied to the goods of applicant, to cause confusion or mistake or to deceive persons by creating the erroneous impression that applicant's goods originate with or come from the same source as opposers' goods, or are endorsed by, or are sponsored by, or are connected in some way with opposers, and the registration thereof to applicant would be injurious to opposers.

Opposition No. 2

(Application Serial No. 78/319,291 OSOSEXE)

8. Applicant is not now and never was entitled to register as a trademark the designation OSOSEXE, as shown in Application Serial No. 78/319,291, filed October 27, 2003, and published at page TM 103 of the Official Gazette of July 13, 2004 (Vol.1284, No. 2), for the goods set forth therein, namely, "personal hygiene products, namely, soaps, cosmetics, namely, perfumery, essential oils, hand lotions, body lotions, hair lotions" in International Class 3; and "clothing, namely, undergarments, swimwear, footwear, namely, shoes" in International Class 25.

9. Applicant is not entitled to use or register as a trademark the designation OSOSEXE for which it seeks registration in its Application Serial No. 78/319,291, either on October 27, 2003, the filing date of the application, or on July 13, 2004, the date of publication thereof in the Official Gazette.

10. Opposers' SO SEXY Mark has priority over applicant's designation OSOSEXE.

11. Opposers repeat and reaver the averments set forth in paragraphs 3 through 5 inclusive of this notice of opposition as if more fully set forth hereinagain.

12. The designation applicant seeks to register, namely, OSOSEXE so resembles opposers' SO SEXY Mark, as to be likely, when applied to the goods of applicant, to cause confusion or mistake or to deceive persons by creating the erroneous impression that applicant's goods originate with or come from the same source as opposers' goods, or are endorsed by, or are sponsored by, or are connected in some way with opposers, and the registration thereof to applicant would be injurious to opposers.

WHEREFORE, opposers, V Secret Catalogue, Inc., and Intimate Beauty Corporation d/b/a Victoria's Secret Beauty, pray that said Application Serial Nos. 78/315,569 and 78/319,291 in International Classes 3 and 25 be rejected and registration of the designations SOSEXE and OSOSEXE as trademarks to applicant be refused and denied, and/or that opposers be granted such other and/or further relief as the Board in its discretion may deem to be appropriate.

A duplicate copy of this Notice of Opposition is filed herewith.

Dated: New York, New York
September 13, 2004

COLUCCI & UMANS

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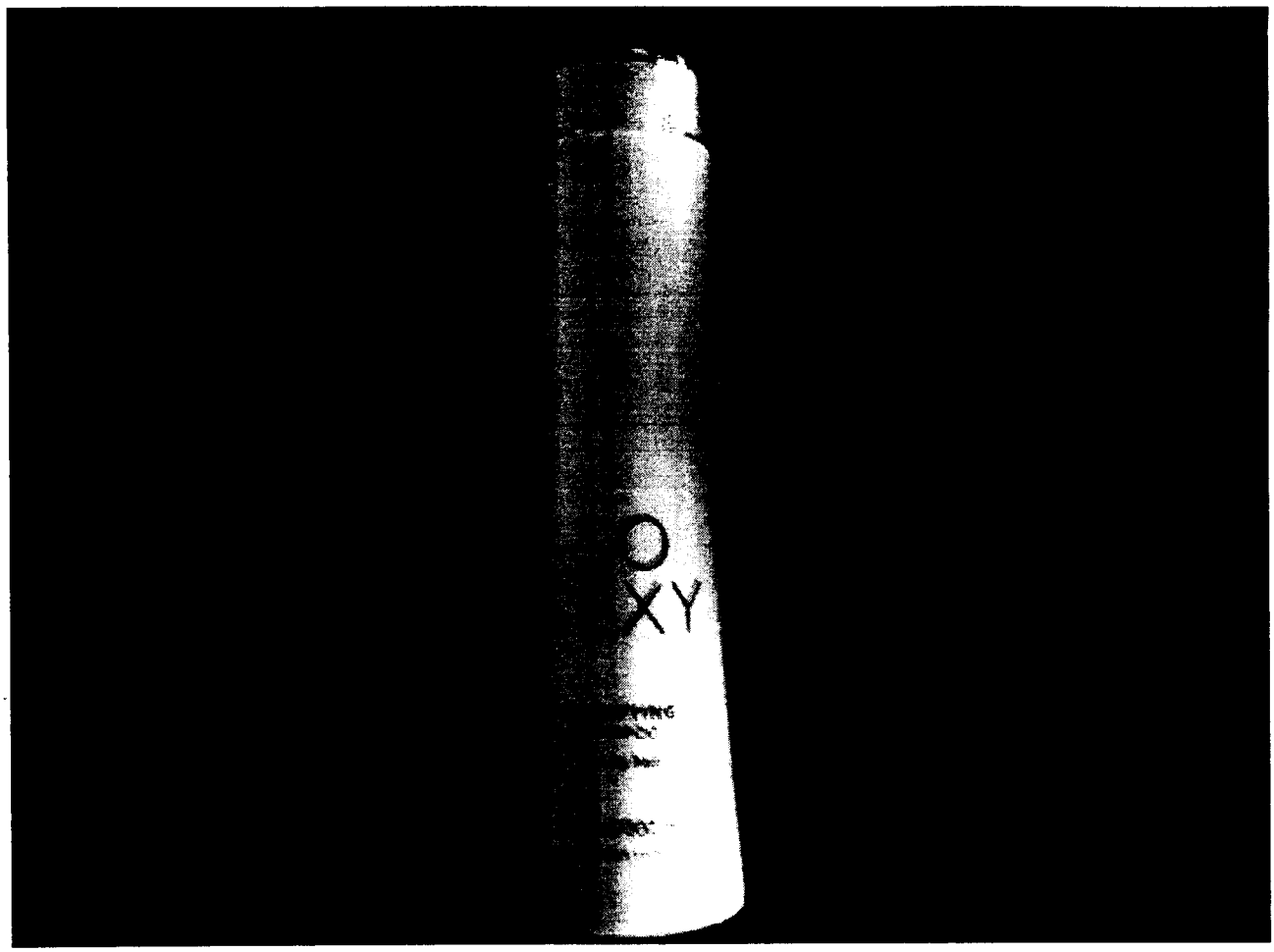

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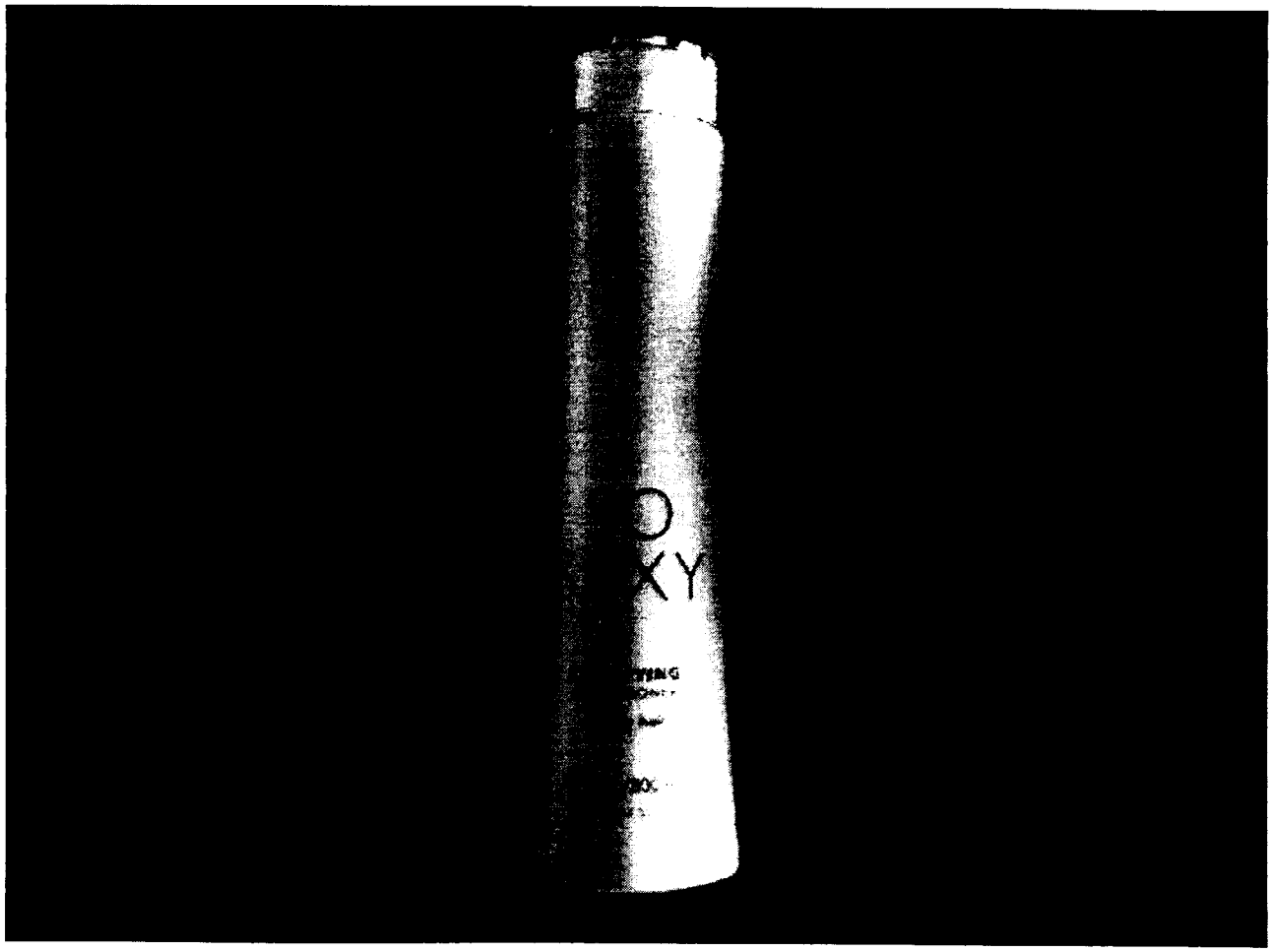

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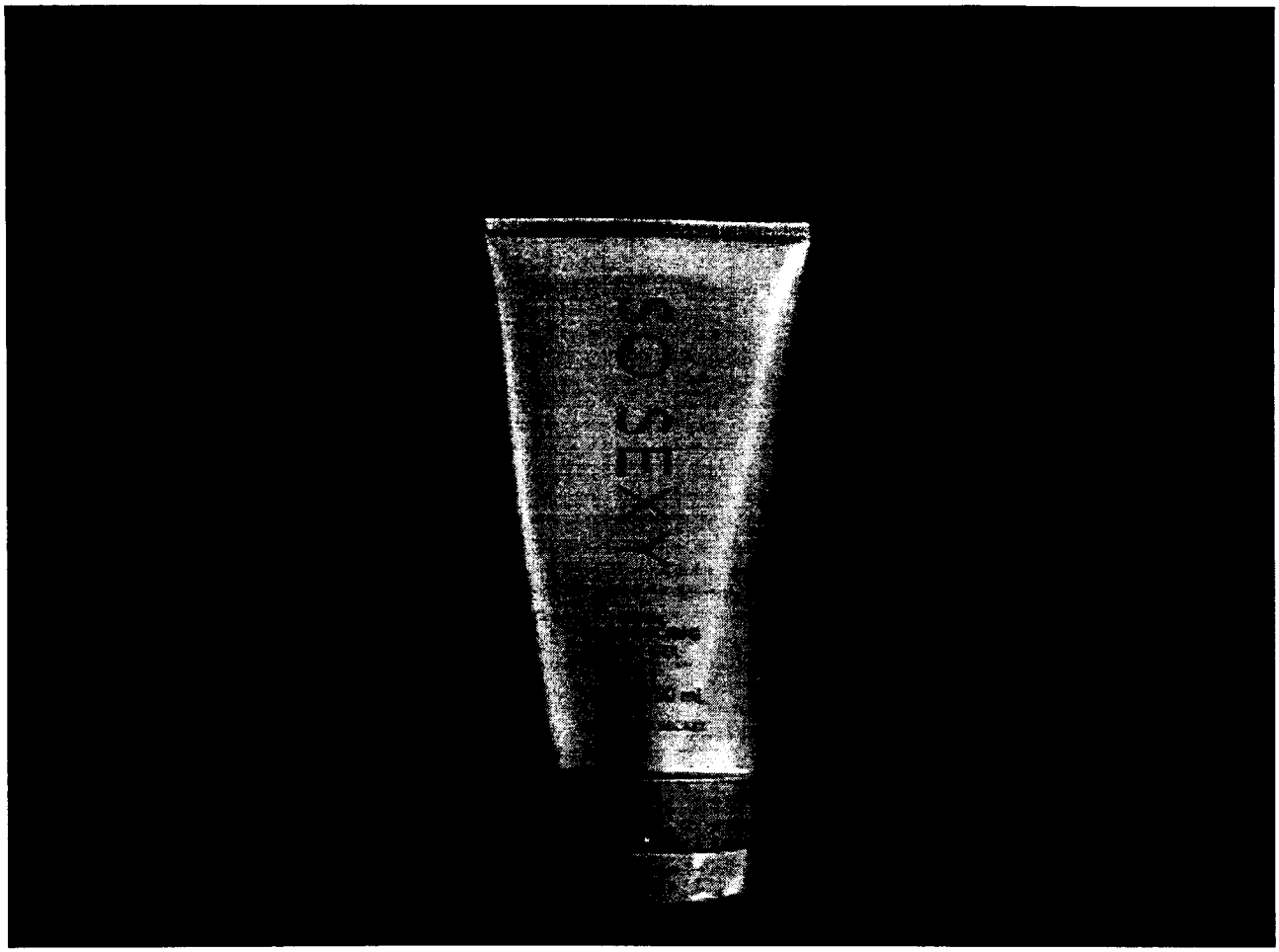

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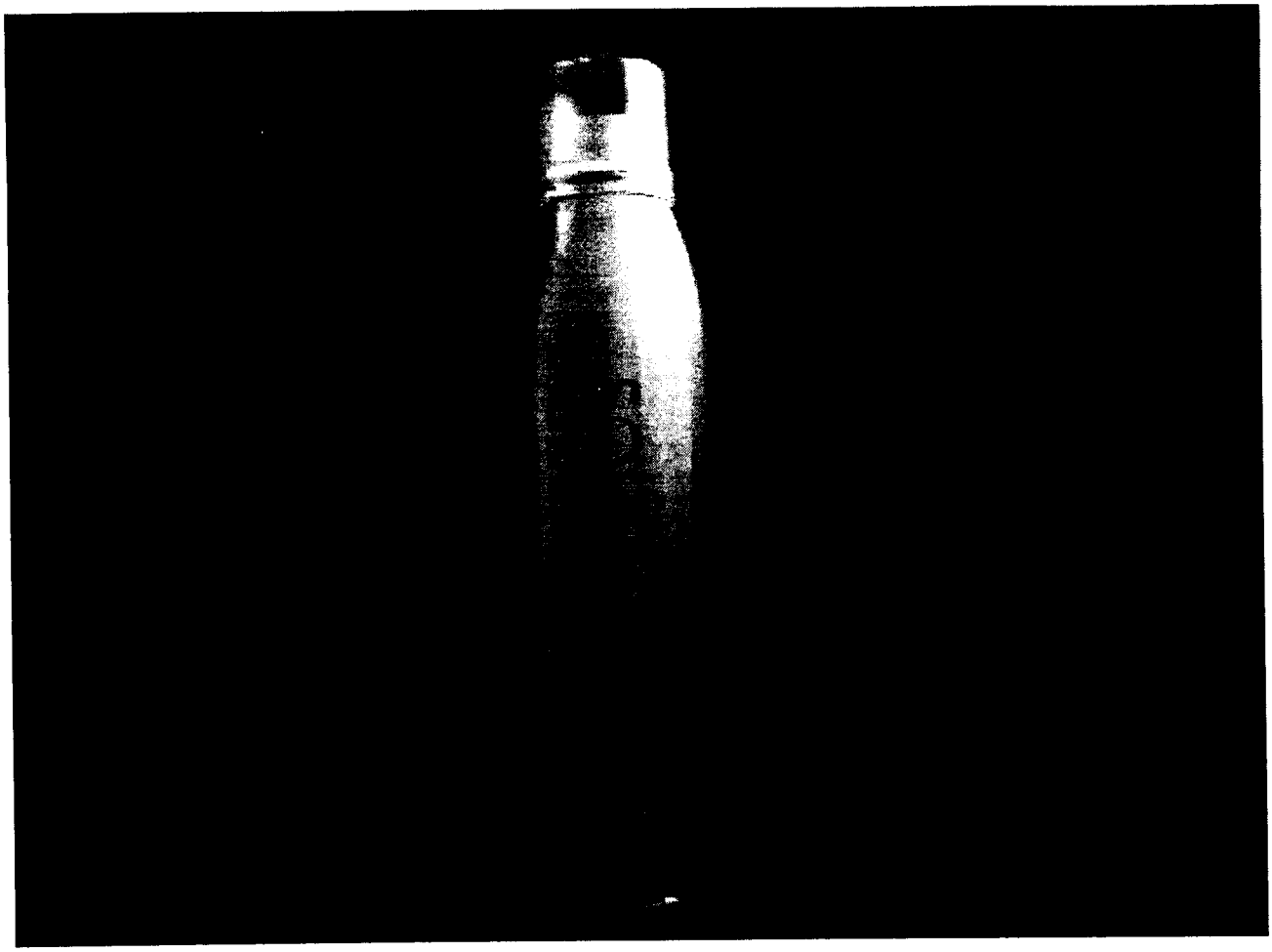

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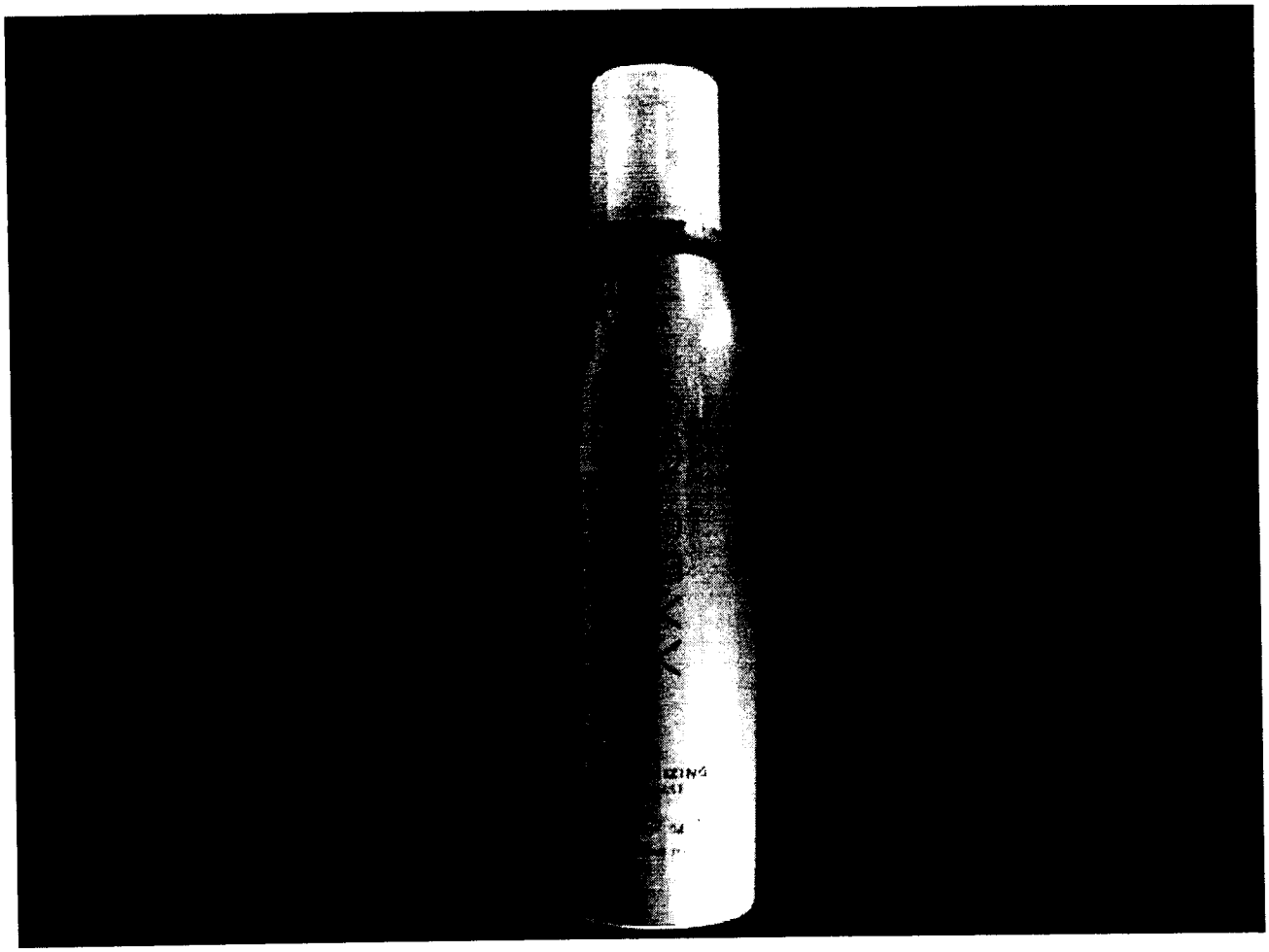

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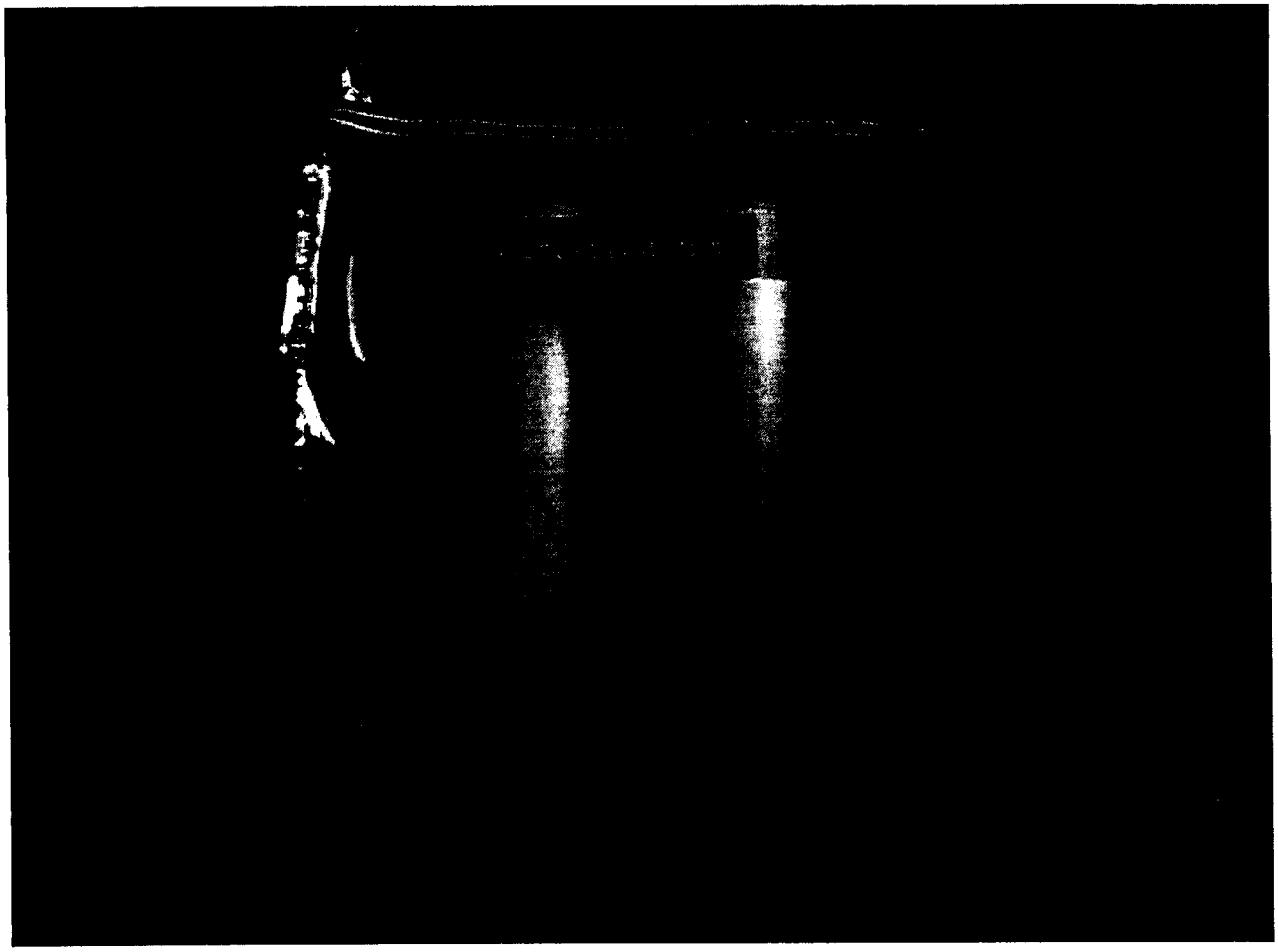

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Exhibit A

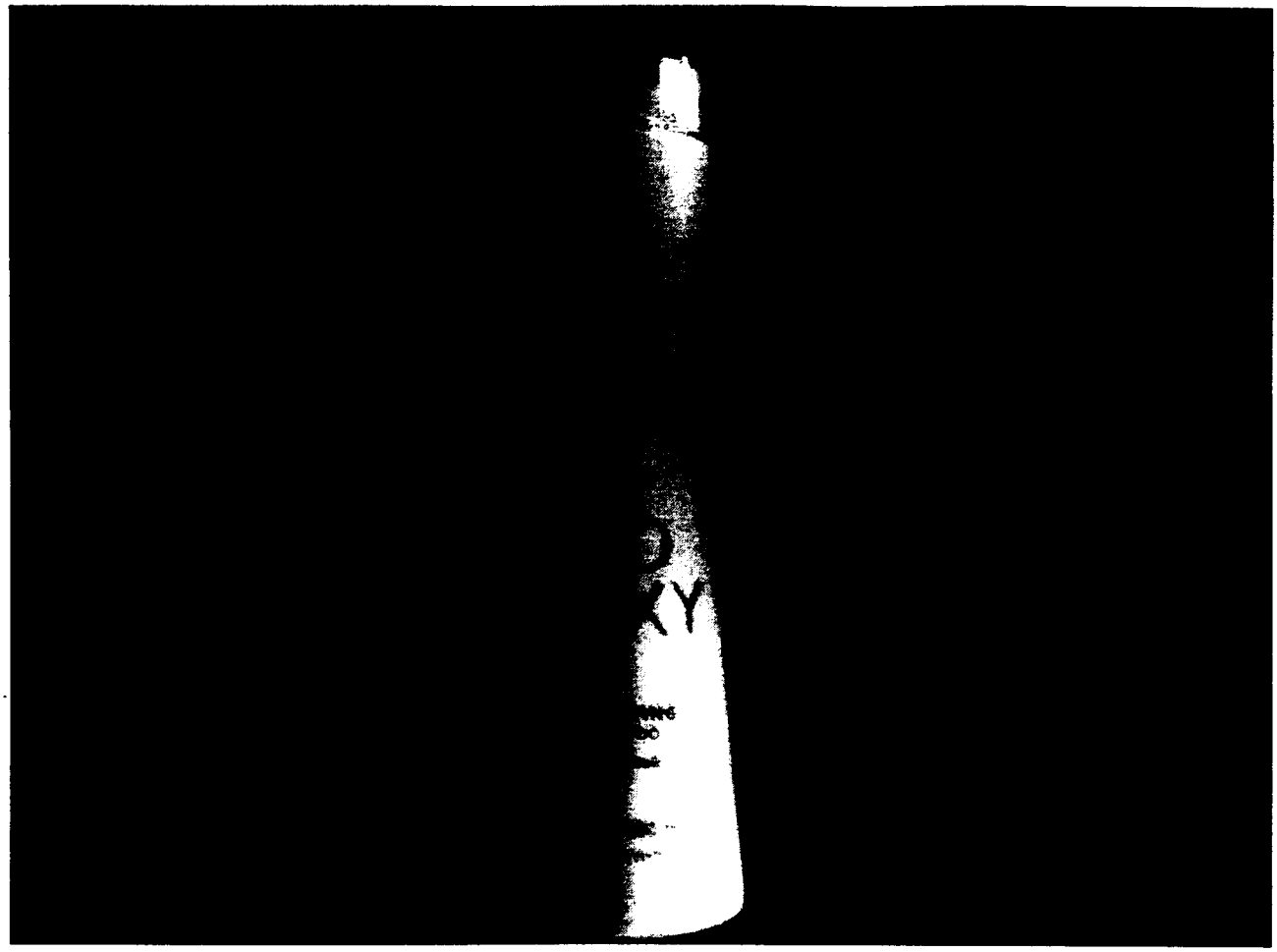
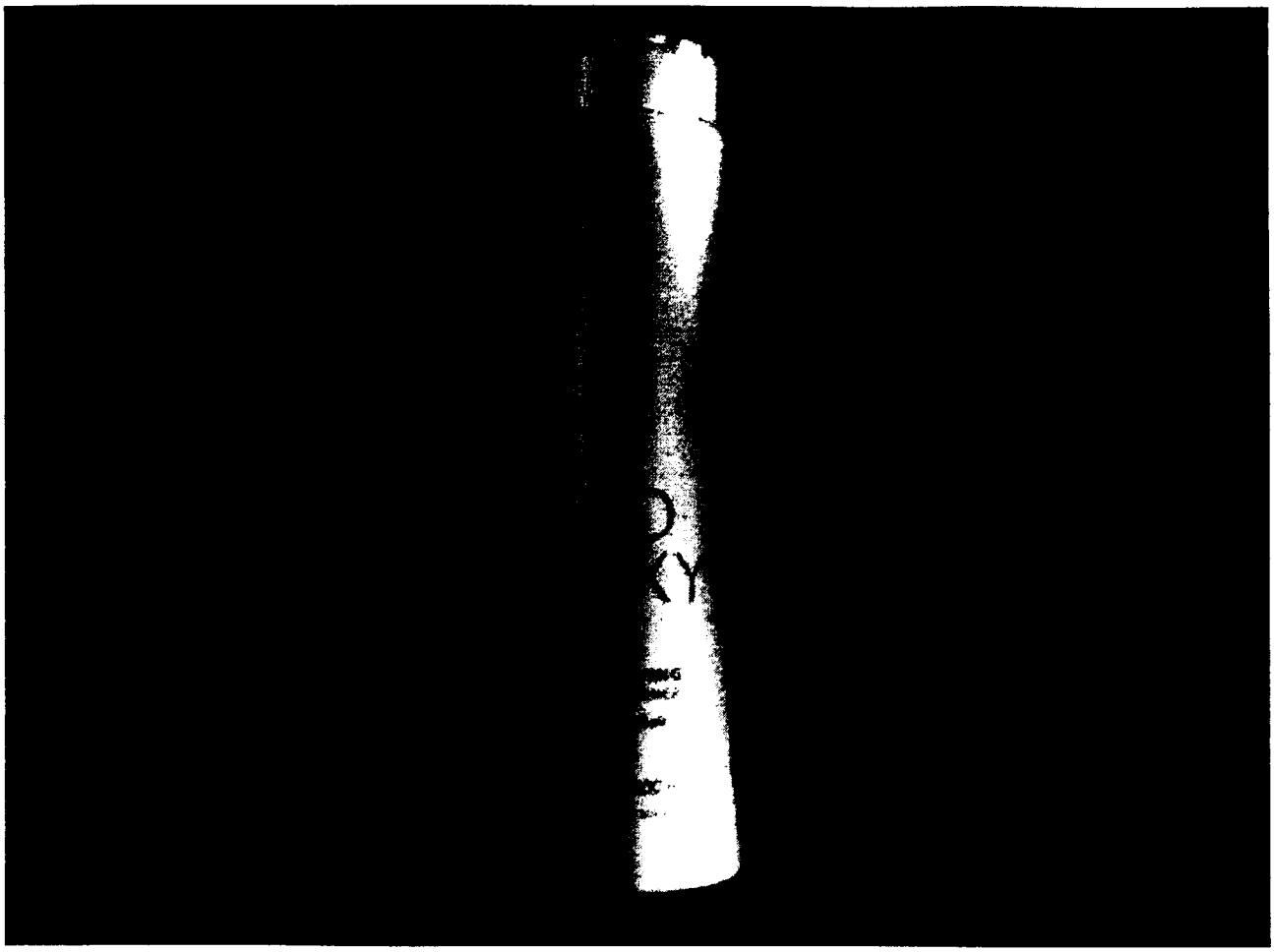


Exhibit B



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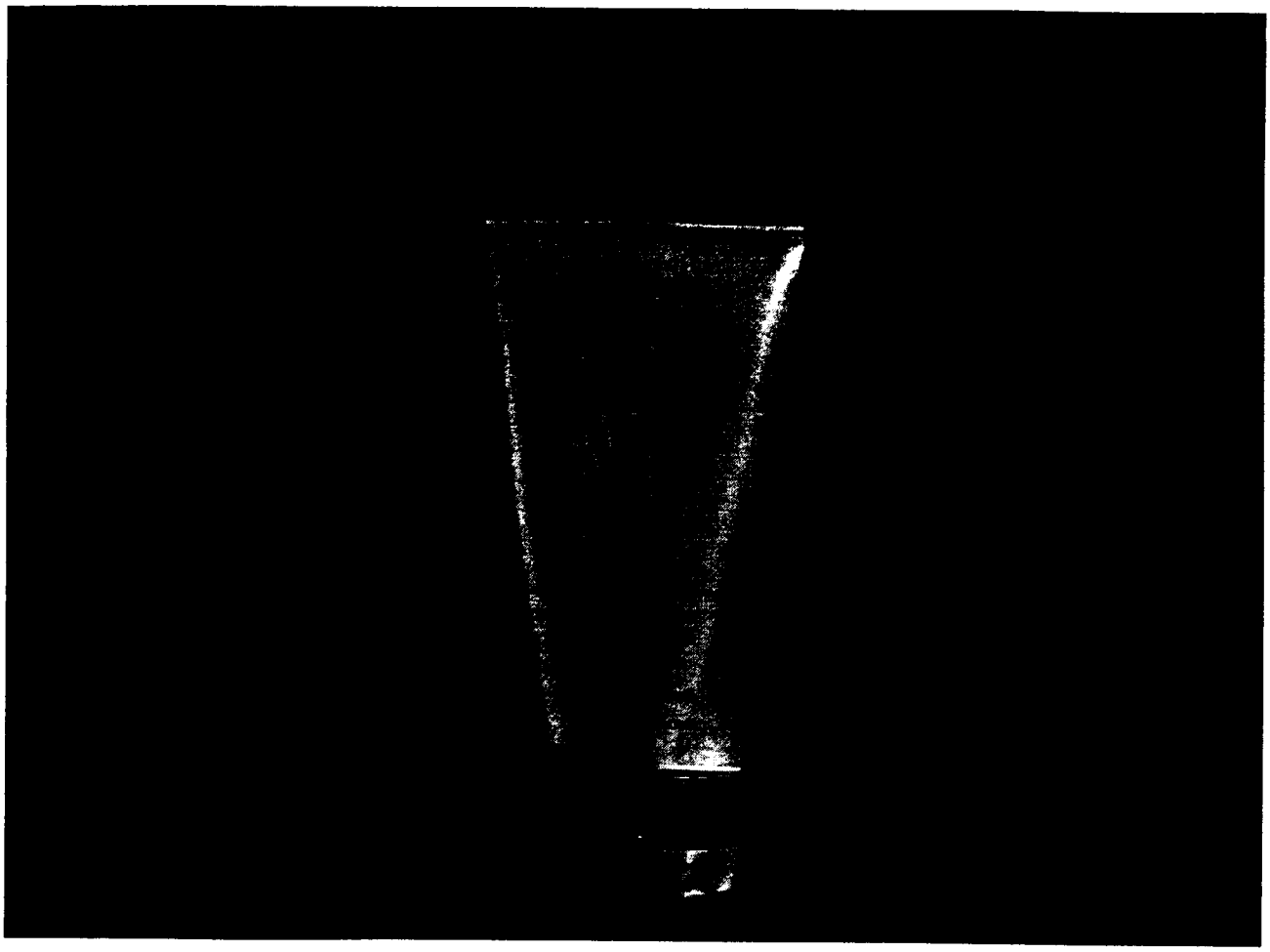

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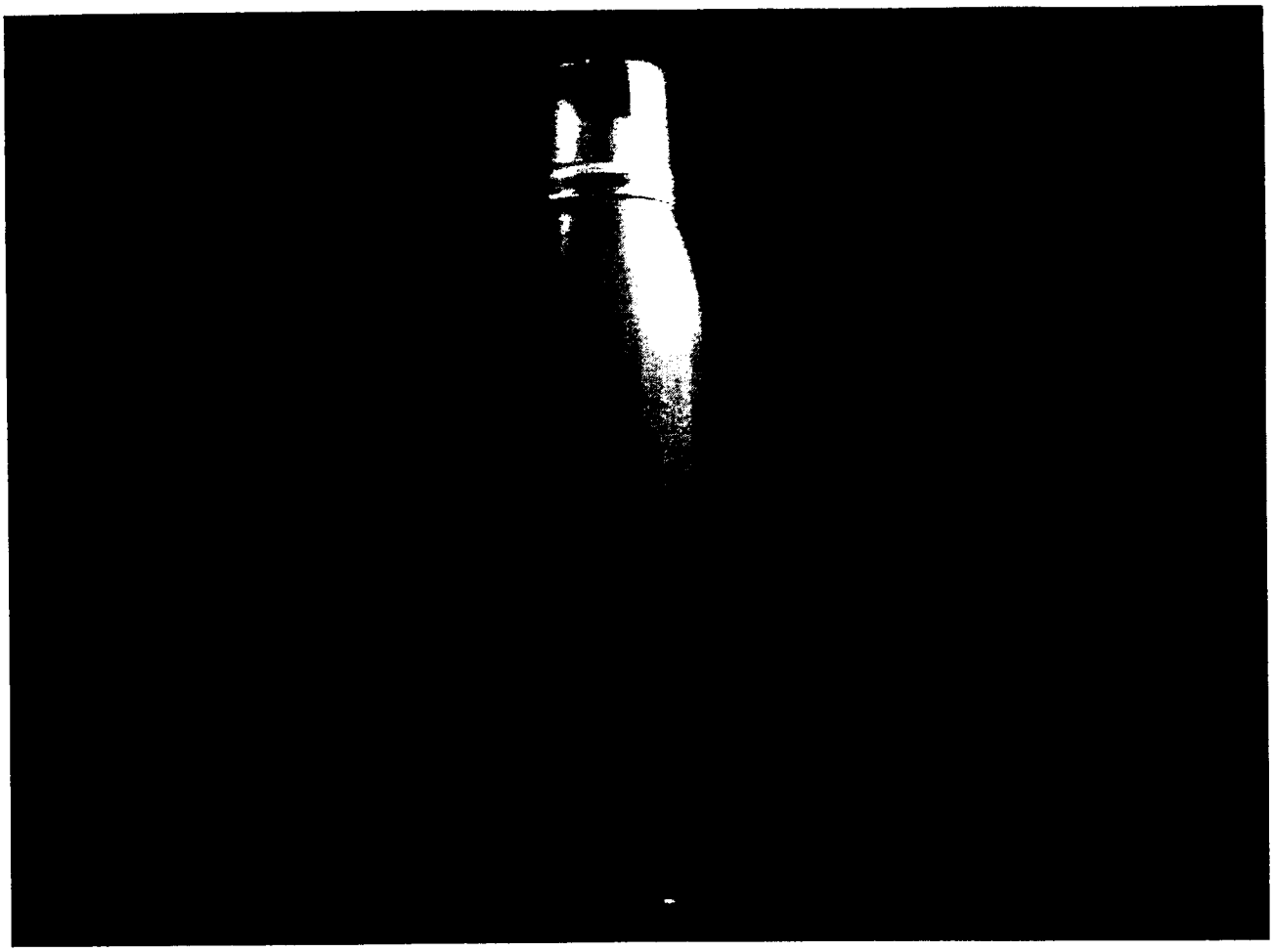

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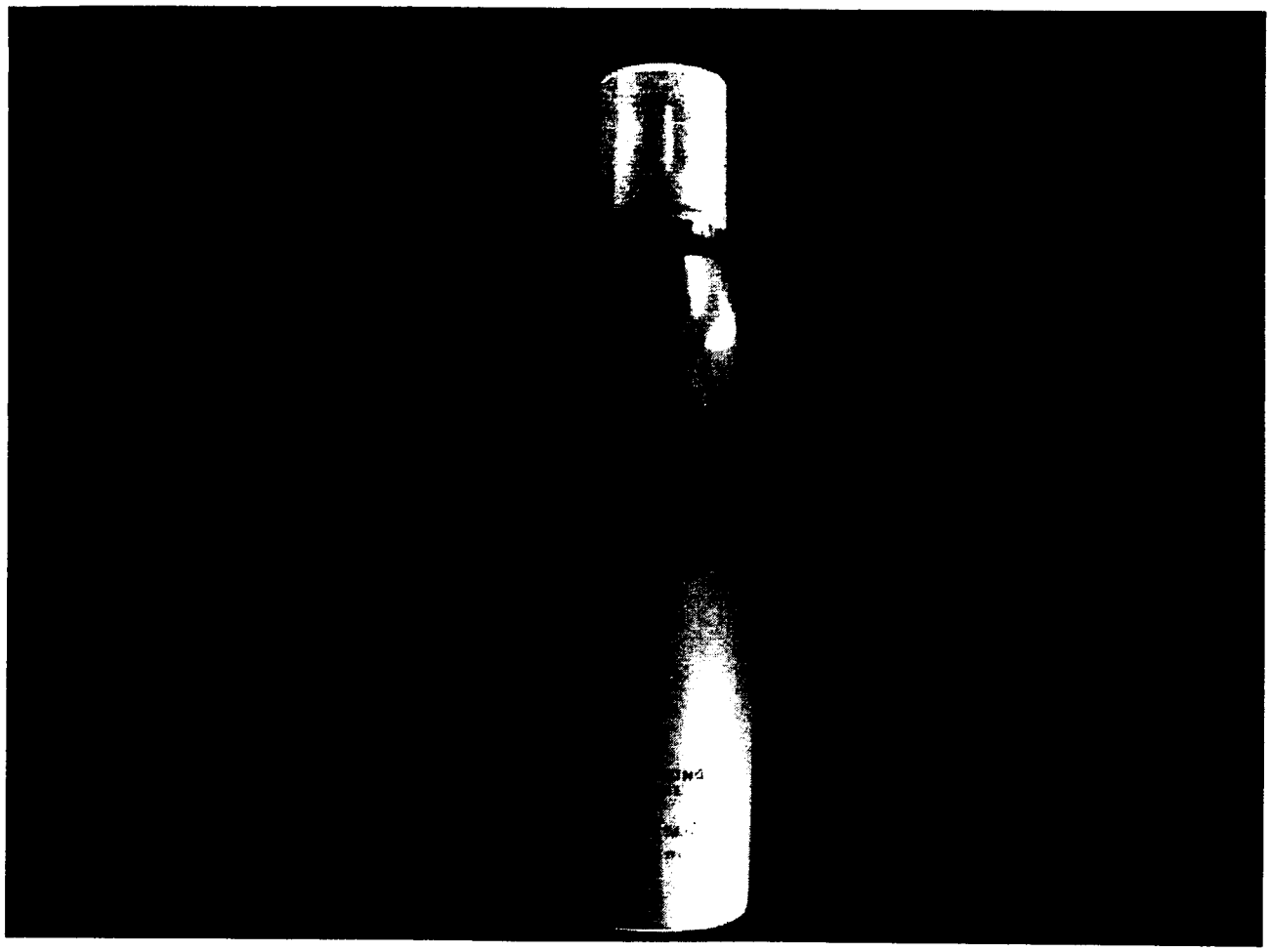
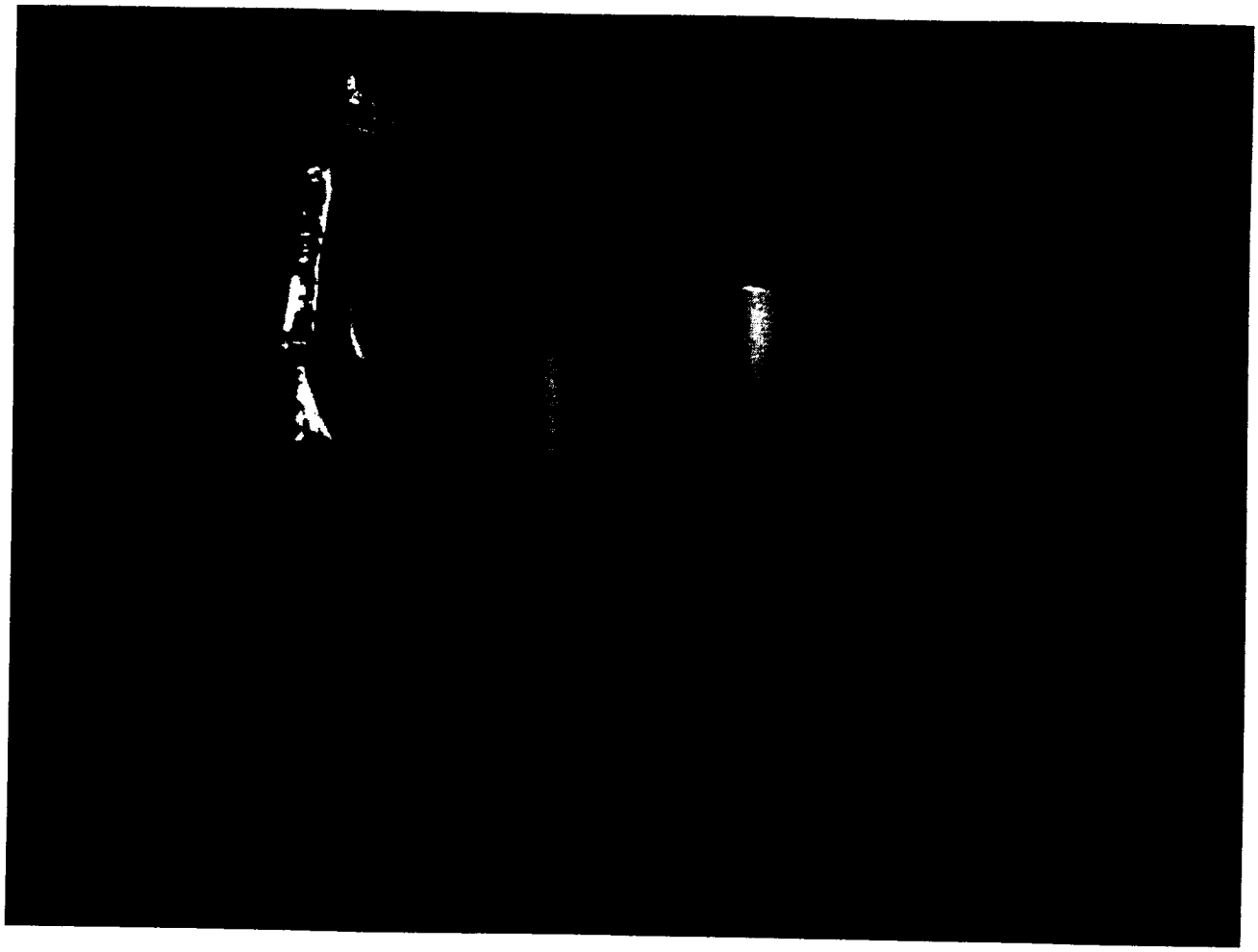
Exhibit F