

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

In the Matter of:  
Application Serial No. 75/334728  
For Mark: Miscellaneous Design  
Published: November 16, 1999



11-25-2002  
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #30

HARMAN CORPORATION,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 116,796
	)	
SINCLAIR & RUSH, INC	)	
	)	
Applicant.	)	

**MOTION UPON CONSENT TO CONSOLIDATE PROCEEDINGS**

Box TTAB NO FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

**ATTN: TRADEMARK TRIAL AND APPEAL BOARD**

Applicant Sinclair & Rush, Inc. and Opposer Harman Corporation, by and through their attorneys, hereby move to consolidate this proceeding into Opposition No. 116,797, styled Niagra Plastics Company v. Sinclair & Rush, Inc. In support of this Motion, Applicant states as follows:

1. Opposition No. 116,797 involves the same Applicant, Sinclair and Rush, Inc., and the same Serial Number, 75/334,728, as this Opposition.
2. Opposer in this opposition, Harman Corporation (“Harman”) and Opposer in Opposition No. 116,797, Niagra Plastics Company (“Niagra”) are represented by the same counsel.

3. This Opposition involves an identical challenge to Applicant's mark as that made in Opposition No. 116,797, and involves the same factual and legal issues as that Opposition.

4. Opposer's counsel also represents Opposers in two other related opposition proceedings – Opposition No. 116,787, styled MOCAP Incorporated v. Sinclair & Rush (“MOCAP”), and Opposition No. 116,795, styled Alliance Plastics v. Sinclair and Rush, (“Alliance”). Each of these Oppositions involves the same Applicant and Serial Number, and the same factual and legal challenges as presented in this Opposition. Altogether, there are four pending Opposition proceedings involving the same challenges, the same applicant and the same serial number.

5. Counsel for Applicant and Counsel for Opposers MOCAP, Niagra, Alliance and Harman have been conducting ongoing settlement negotiations regarding the issues presented in the four pending Oppositions, and believe that settlement prospects will be enhanced by consolidating the four separate Oppositions into one proceeding.

6. The Niagra Opposition, No. 116,797, has been suspended pending settlement negotiations. Opposers and Applicant believe a brief extension of that suspension, until January 1, 2003, would give the parties sufficient time to reach a settlement. Accordingly, a Consented Motion to Extend Suspension is being filed in that proceeding contemporaneous with this Motion.

WHEREFORE, Applicant Sinclair and Rush, Inc. and Opposer Harman Corporation respectfully request that this Opposition be consolidated into Opposition No. 116,797.

Dated: November 21, 2002

Respectfully submitted,

BLACKWELL SANDERS PEPER MARTIN LLP

By: 

Michael A. Kahn, Esq.

Pete W. Salsich, III, Esq.

Michael R. Annis, Esq.

Samuel Digirolamo, Esq., Reg. No. 29,915

720 Olive Street, 24<sup>th</sup> Floor

St. Louis, MO 63101

Telephone: (314) 345-6000

Facsimile: (314) 345-6060

Attorneys for Sinclair & Rush, Inc.

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and accurate copy of the foregoing was sent via First Class, U.S. Mail, postage prepaid, this the 21<sup>st</sup> day of November, 2002, to:

FRANK B. JANOSKI  
LEWIS RICE & FINGERSH, L.C.  
500 NORTH BROADWAY, SUITE 2000  
ST. LOUIS, MO 63102--2147



TTAB



**BLACKWELL SANDERS PEPPER MARTIN  
LLP**

720 OLIVE STREET SUITE 2400 ST. LOUIS, MO 63101  
TEL: (314) 345-6000 FAX: (314) 345-6060  
WEBSITE: www.blackwellsanders.com

11-25-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #30

PETE SALSICH III  
DIRECT: (314) 345-6245

FAX: (314) 345-6345  
E-MAIL: psalsich@blackwellsanders.com

November 21, 2002

Box TTAB NO FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

**Re:** Harman Corporation v. Sinclair & Rush, Inc.  
Opposition No. 116,796  
Our Ref. No.: 718126.1

Dear Sir:

We enclose herewith the following for filing with the U.S. Patent and Trademark Office:

1. Motion Upon Consent To Consolidate Proceedings
2. Return receipt postcard.

While we do not believe that a fee is necessary, please debit any required fees to our Deposit Account 11-0160.

Sincerely,

Pete Salsich, III

PWS/djj

**CERTIFICATE OF MAILING**

I, Dorion J. Johnson, do hereby certify that the foregoing documents are being deposited with the United States Postal Service, postage prepaid, in an envelope addressed to Box TTAB, Assistant Commissioner for Trademarks, U.S. patent and Trademark Office, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on this 21<sup>st</sup> day of NOVEMBER, 2002.