

HARMAN INTERNATIONAL INDUSTRIES INC /DE/

Form S-8

February 27, 2003

As filed with the Securities and Exchange Commission on February 27, 2003.

Registration No. 333-

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-8

**REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

HARMAN INTERNATIONAL INDUSTRIES, INCORPORATED

(Exact name of registrant as specified in its charter)

Delaware
(State of incorporation)

11-2534306
(I.R.S. Employer Identification Number)

1101 Pennsylvania Avenue, N.W., Suite 1010
Washington, D.C. 20004
(202) 393-1101

(Address, including zip code, and telephone number,
including area code, of registrant's principal executive offices)

2002 STOCK OPTION AND INCENTIVE PLAN
(Full title of the plan)

Edwin Summers
Vice President and General Counsel
Harman International Industries, Incorporated
8500 Balboa Blvd.
Northridge, California 91329
(818) 893-8411

(Name, address, including zip code, and telephone number,
including area code, of agent for service)

With a copy to:
James E. O Bannon
Jones Day
2727 N. Harwood Street
Dallas, Texas 75201
(214) 220-3939

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered (2)	Proposed Maximum Offering Price per Share (3)	Proposed Maximum Aggregate Offering Price (3)	Amount of Registration Fee (3)
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Common Stock, par value \$0.01 per share (1)	3,000,000 shares	\$58.8150	\$176,445,000.00	\$14,274.41
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- (1) This Registration Statement also relates to rights to purchase one one-hundredth of a share of Series A Junior Participating Preferred Stock, par value \$0.01 per share, of Harman International Industries, Incorporated (Rights) pursuant to the Rights Agreement, dated as of December 13, 1999 (the Rights Agreement). As set forth in the Rights Agreement, one Right will be issued together with and attached to each share of common stock, par value \$0.01 per share, of Harman International Industries, Incorporated issued after December 27, 1999.
 - (2) Plus such indeterminate number of shares as may be issued to prevent dilution resulting from stock splits, stock dividends or similar transactions in accordance with Rule 416 under the Securities Act of 1933, as amended.
 - (3) Calculated in accordance with Rule 457(h).
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EXPLANATORY NOTE

This Registration Statement on Form S-8 (this Registration Statement) relating to the 2002 Stock Option and Incentive Plan (the Plan) is being filed to register shares of common stock (the Common Stock), par value \$0.01 per share, of Harman International Industries, Incorporated (the Company) to be issued from time to time in connection with awards granted under the Plan.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The information called for by Part I of this Registration Statement is included in the Section 10(a) prospectus to be delivered to the persons covered under the Plan and is omitted from this Registration Statement in accordance with Rule 428 under the Securities Act of 1933, as amended, and the Note to Part I of Form S-8.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The Company hereby incorporates by reference into this Registration Statement the following documents (or, as applicable, the portions thereof specified below) filed by the Company with the Securities and Exchange Commission (the Commission) pursuant to the Securities Exchange Act of 1934, as amended (the Exchange Act), in each case as of their respective dates:

- (i) the Company's Annual Report on Form 10-K for the fiscal year ended June 30, 2002;
- (ii) the Company's Quarterly Reports on Form 10-Q filed on November 14, 2002 and February 14, 2003;
- (iii) the Company's Current Report on Form 8-K filed on August 14, 2002;
- (iv) the description of the Common Stock contained in the Company's Registration Statement on Form 8-A (Commission File No. 001-09764) filed on October 28, 1987, including any amendments thereto; and
- (v) the description of the Company's Rights to purchase Series A Junior Participating Preferred Stock contained in the Company's Registration Statement on Form 8-A (Commission File No. 001-09764) filed on December 16, 1999, including any amendments thereto.

In addition, all documents hereafter filed by the Company pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all such securities then remaining unsold shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of filing of such documents.

Any statement contained herein or in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 4. Description of Securities.

Not Applicable.

Item 5. Interests of Named Experts and Counsel.

Not Applicable.

Item 6. Indemnification of Directors and Officers.

Below is a description of certain provisions of the Restated Certificate of Incorporation (as amended, the Certificate) and the Bylaws (as amended, the Bylaws) of the Company, and the Delaware General Corporation Law (the DGCL), as these provisions relate to the indemnification of directors, officers, employees and agents of the Company. This description is intended only as a summary and is qualified in its entirety by reference to the Certificate, the Bylaws and the DGCL.

Elimination of Liability in Certain Circumstances.

Article Tenth of the Certificate provides that to the fullest extent provided by law a director will not be personally liable for monetary damages to the Company or its stockholders for or with respect to any acts or omissions in the performance of his or her duties as a director. Section 102(b)(7) of the DGCL provides that, in its certificate of incorporation, a corporation may limit or eliminate a director's personal liability for monetary damages to the corporation or its stockholders, except for liability (i) for any breach of the director's duty of loyalty to such corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) for paying a dividend or approving a stock repurchase in violation of Section 174 of the DGCL or (iv) for any transaction from which the director derived an improper personal benefit. While Article Tenth of the Certificate provides directors with protection from awards for monetary damages for breaches of the duty of care, it does not eliminate the directors' duty of care. Accordingly, the Certificate will have no effect on the availability of equitable remedies such as an injunction or rescission based on a director's breach of the duty of care. The provisions of Article Tenth as described above apply to officers of the Company only if they are directors of the Company and are acting in their capacity as directors, and does not apply to officers of the Company who are not directors.

Indemnification and Insurance.

Section 145 of the DGCL provides that a corporation may indemnify directors and officers as well as other employees and agents of the corporation against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement, in connection with specified actions, suits or proceedings, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation, as a derivative action), if they acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe their conduct was unlawful. A similar standard is applicable in the case of actions by or in the right of the corporation, except that indemnification only extends to expenses (including attorneys' fees) actually and reasonably incurred in connection with the defense or settlement of such action, and no indemnification shall be made where the person seeking indemnification has been found liable to the corporation, unless and only to the extent that a court determines is fair and reasonable in view of all circumstances. Article VIII of the Bylaws provides that the Company will indemnify its directors and officers to the fullest extent provided by Delaware law, thereby affording such persons the protections available to directors, officers, employees and agents of Delaware corporations as summarized above. The Company maintains directors' and officers' liability insurance which insures against liabilities that directors or officers of the Company may incur in such capacities.

Item 7. Exemption from Registration Claimed.

Not Applicable.

Item 8. Exhibits.

- 4.1 Restated Certificate of Incorporation of Harman International Industries, Incorporated filed with the Delaware Secretary of State on October 7, 1986, as amended by the Certificates of Amendment filed with the Delaware Secretary of State on November 13, 1986, November 9, 1993 and December 14, 2000 (filed as Exhibit 3.1, 4.1 to the Annual Report on Form 10-K (Commission File No. 001-09764) for the fiscal year ended June 30, 2001, and hereby incorporated by reference).
- 4.2 By-Laws of Harman International Industries, Incorporated, as amended December 13, 1999 (filed as Exhibit 3.2, 4.5 to the Annual Report on Form 10-K (Commission File No. 001-09764) for the fiscal year ended June 30, 2000, and hereby incorporated by reference).
- 4.3 Rights Agreement (including a Form of Certificate of Designation of Series A Junior Participating Preferred Stock as Exhibit A thereto, a Form Right Certificate as Exhibit B thereto and a Summary of Rights to Purchase of Preferred Stock as Exhibit C thereto) (filed as Exhibit 4.1 to Form 8-A (Commission File No. 001-09764) on December 16, 1999, and hereby incorporated by reference).
- 4.4 Certificate of Designation of Series A Junior Participating Preferred Stock of Harman International Industries, Incorporated, dated January 11, 2000 (filed as Exhibit 4.3 to the Annual Report on Form 10-K (Commission File No. 001-09764) for the fiscal year ended June 30, 2000, and hereby incorporated by reference).
- 5.1 Opinion of Jones Day, Dallas, Texas.
- 23.1 Consent of Jones Day (included in Exhibit 5.1).
- 23.2 Consent of KPMG LLP.
- 24.1 Power of Attorney of the directors and certain officers of Harman International Industries, Incorporated.
- 99.1 2002 Stock Option and Incentive Plan (filed by Harman International Industries, Incorporated as Exhibit B to the Definitive Proxy Statement (Commission File No. 001-09764) on September 25, 2002, and hereby incorporated by reference).

Item 9. Undertakings.

- (a) The undersigned registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

- (i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

- (ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the

maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement; and

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned registrant hereby undertakes that, for the purposes of determining any liability under the Securities Act of 1933, each filing of registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registrant's registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction other question whether such indemnification by its is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Northridge, State of California, on this 27th day of February, 2003.

HARMAN INTERNATIONAL INDUSTRIES,
INCORPORATED

By: /s/ Edwin Summers

Edwin Summers
Vice President and General Counsel

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed below by the following persons in the capacities and on the date indicated.

Signature	Title	Date
_____ *		
Sidney Harman	Executive Chairman of the Board of Directors	February 27, 2003
_____ *		
Bernard A. Girod	Vice Chairman of the Board of Directors and Chief Executive Officer (Principal Executive Officer)	February 27, 2003
_____ *		
Gregory P. Stapleton	President, Chief Operating Officer and Director	February 27, 2003
_____ *		
Frank Meredith	Executive Vice President, Chief Financial Officer and Secretary (Principal Accounting and Financial Officer)	February 27, 2003
_____ *		
Shirley M. Hufstедler	Director	February 27, 2003
_____ *		
Ann McLaughlin Korologos	Director	February 27, 2003
_____ *		
Edward H. Meyer	Director	February 27, 2003
_____ *		
Stanley A. Weiss	Director	February 27, 2003

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* Edwin Summers, by signing his name hereto, does sign and execute this Registration Statement pursuant to the Power of Attorney executed by the above-named officers and directors of the registrant and contemporaneously filed herewith with the Commission.

/s/ Edwin Summers

Edwin Summers
Attorney-in-Fact

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INDEX TO EXHIBITS

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