

IEEE 802.3 Maintenance
IEEE 802.3ax Link Aggregation
IEEE 802.3ay Revision

Agenda and General Information

March 19th, 2008
Orlando, FL, USA
David Law
3Com

Agenda

- Appoint Recording Secretary
- Introductions
- Approve Agenda
- Administration
- Approve minutes from October and January meeting
- IEEE 802.3ax (IEEE P802.1AX) Link Aggregation
 - Review Sponsor recirculation ballot results
 - Review comment
 - Next steps
- IEEE 802.3ay (IEEE P802.3REV) Maintenance #9 (Revision)
 - Review Sponsor recirculation ballot results
 - Comment resolution
 - Next steps

Task force URLs

- IEEE 802.3 Maintenance

<http://www.ieee802.org/3/maint/index.html>

- IEEE 802.3ax and IEEE 802.3ay web site

<http://www.ieee802.org/3/axay/index.html>

- Working Group ballot comments

- IEEE P802.3ax (IEEE P802.1AX) D2.0

http://www.ieee802.org/3/axay/comments/D2.0/802.3ax_D2p0.pdf

- IEEE P802.3ay (IEEE P802.3Rev) D2.0

http://www.ieee802.org/3/axay/comments/D2.0/802.3ay_D2p0.pdf

Instructions for the WG Chair

The IEEE-SA strongly recommends that at each WG meeting the chair or a designee:

- Show slides #1 through #5 of this presentation
- Advise the WG attendees that:
 - The IEEE's patent policy is consistent with the ANSI patent policy and is described in Clause 6 of the *IEEE-SA Standards Board Bylaws*;
 - Early identification of patent claims which may be essential for the use of standards under development is encouraged;
 - There may be Essential Patent Claims of which the IEEE is not aware. Additionally, neither the IEEE, the WG, nor the WG chair can ensure the accuracy or completeness of any assurance or whether any such assurance is, in fact, of a Patent Claim that is essential for the use of the standard under development.
- Instruct the WG Secretary to record in the minutes of the relevant WG meeting:
 - That the foregoing information was provided and the five slides were shown;
 - That the chair or designee provided an opportunity for participants to identify patent claim(s)/patent application claim(s) and/or the holder of patent claim(s)/patent application claim(s) that the participant believes may be essential for the use of that standard;
 - Any responses that were given, specifically the patent claim(s)/patent application claim(s) and/or the holder of the patent claim(s)/patent application claim(s) that were identified (if any) and by whom.
 - It is recommended that the WG chair review the guidance in the *Standards Companion* on inclusion of potential Essential Patent Claims by normative reference.

Note: **WG** includes Working Groups, Task Groups, and other standards-developing committees with a PAR approved by the IEEE-SA Standards Board.



Highlights of the *IEEE-SA Standards Board* *Bylaws on Patents in Standards*

- Participants have a duty to tell the IEEE if they know (based on personal awareness) of potentially Essential Patent Claims they or their employer own
- Participants are encouraged to tell the IEEE if they know of potentially Essential Patent Claims owned by others
 - This encouragement is particularly strong as the third party may not be a participant in the standards process
- **Working Group is required to request assurance**
- **Early assurance is encouraged**
- **Terms of assurance shall be either:**
 - Reasonable and nondiscriminatory, with or without monetary compensation; or,
 - A statement of non-assertion of patent rights
- **Assurances**
 - Shall be provided on the IEEE-SA Standards Board approved LOA form
 - May optionally include not-to-exceed rates, terms, and conditions
 - Shall not be circumvented through sale or transfer of patents
 - Shall be brought to the attention of any future assignees or transferees
 - Shall apply to Affiliates unless explicitly excluded
 - Are irrevocable once submitted and accepted
 - Shall be supplemented if Submitter becomes aware of other potential Essential Patent Claims
- **A “Blanket Letter of Assurance” may be provided at the option of the patent holder**
- **A patent holder has no duty to perform a patent search**
- **Full policy available at <http://standards.ieee.org/guides/bylaws/sect6-7.html#6>**

IEEE-SA Standards Board Bylaws on Patents in Standards

6.2 Policy

IEEE standards may be drafted in terms that include the use of Essential Patent Claims. If the IEEE receives notice that a [Proposed] IEEE Standard may require the use of a potential Essential Patent Claim, the IEEE shall request licensing assurance, on the IEEE Standards Board approved Letter of Assurance form, from the patent holder or patent applicant. The IEEE shall request this assurance without coercion.

The Submitter of the Letter of Assurance may, after Reasonable and Good Faith Inquiry, indicate it is not aware of any Patent Claims that the Submitter may own, control, or have the ability to license that might be or become Essential Patent Claims. If the patent holder or patent applicant provides an assurance, it should do so as soon as reasonably feasible in the standards development process once the PAR is approved by the IEEE-SA Standards Board. This assurance shall be provided prior to the Standards Board's approval of the standard. This assurance shall be provided prior to a reaffirmation/stabilization if the IEEE receives notice of a potential Essential Patent Claim after the standard's approval or a prior reaffirmation/stabilization. An asserted potential Essential Patent Claim for which an assurance cannot be obtained (e.g., a Letter of Assurance is not provided or the Letter of Assurance indicates that assurance is not being provided) shall be referred to the Patent Committee.

A Letter of Assurance shall be either:

- a) A general disclaimer to the effect that the Submitter without conditions will not enforce any present or future Essential Patent Claims against any person or entity making, using, selling, offering to sell, importing, distributing, or implementing a compliant implementation of the standard; or
- b) A statement that a license for a compliant implementation of the standard will be made available to an unrestricted number of applicants on a worldwide basis without compensation or under reasonable rates, with reasonable terms and conditions that are demonstrably free of any unfair discrimination. At its sole option, the Submitter may provide with its assurance any of the following:
 - (i) a not-to-exceed license fee or rate commitment, (ii) a sample license agreement, or (iii) one or more material licensing terms.

IEEE-SA Standards Board Bylaws on Patents in Standards

Copies of an Accepted LOA may be provided to the working group, but shall not be discussed, at any standards working group meeting.

The Submitter and all Affiliates (other than those Affiliates excluded in a Letter of Assurance) shall not assign or otherwise transfer any rights in any Essential Patent Claims that are the subject of such Letter of Assurance that they hold, control, or have the ability to license with the intent of circumventing or negating any of the representations and commitments made in such Letter of Assurance.

The Submitter of a Letter of Assurance shall agree (a) to provide notice of a Letter of Assurance either through a Statement of Encumbrance or by binding any assignee or transferee to the terms of such Letter of Assurance; and (b) to require its assignee or transferee to (i) agree to similarly provide such notice and (ii) to bind its assignees or transferees to agree to provide such notice as described in (a) and (b).

This assurance shall apply to the Submitter and its Affiliates except those Affiliates the Submitter specifically excludes on the relevant Letter of Assurance.

If, after providing a Letter of Assurance to the IEEE, the Submitter becomes aware of additional Patent Claim(s) not already covered by an existing Letter of Assurance that are owned, controlled, or licensable by the Submitter that may be or become Essential Patent Claim(s) for the same IEEE Standard but are not the subject of an existing Letter of Assurance, then such Submitter shall submit a Letter of Assurance stating its position regarding enforcement or licensing of such Patent Claims. For the purposes of this commitment, the Submitter is deemed to be aware if any of the following individuals who are from, employed by, or otherwise represent the Submitter have personal knowledge of additional potential Essential Patent Claims, owned or controlled by the Submitter, related to a [Proposed] IEEE Standard and not already the subject of a previously submitted Letter of Assurance: (a) past or present participants in the development of the [Proposed] IEEE Standard, or (b) the individual executing the previously submitted Letter of Assurance.

IEEE-SA Standards Board Bylaws on Patents in Standards

The assurance is irrevocable once submitted and accepted and shall apply, at a minimum, from the date of the standard's approval to the date of the standard's withdrawal.

The IEEE is not responsible for identifying Essential Patent Claims for which a license may be required, for conducting inquiries into the legal validity or scope of those Patent Claims, or for determining whether any licensing terms or conditions provided in connection with submission of a Letter of Assurance, if any, or in any licensing agreements are reasonable or non-discriminatory.

Nothing in this policy shall be interpreted as giving rise to a duty to conduct a patent search. No license is implied by the submission of a Letter of Assurance.

In order for IEEE's patent policy to function efficiently, individuals participating in the standards development process: (a) shall inform the IEEE (or cause the IEEE to be informed) of the holder of any potential Essential Patent Claims of which they are personally aware and that are not already the subject of an existing Letter of Assurance, owned or controlled by the participant or the entity the participant is from, employed by, or otherwise represents; and (b) should inform the IEEE (or cause the IEEE to be informed) of any other holders of such potential Essential Patent Claims that are not already the subject of an existing Letter of Assurance.

Other Guidelines for IEEE WG Meetings

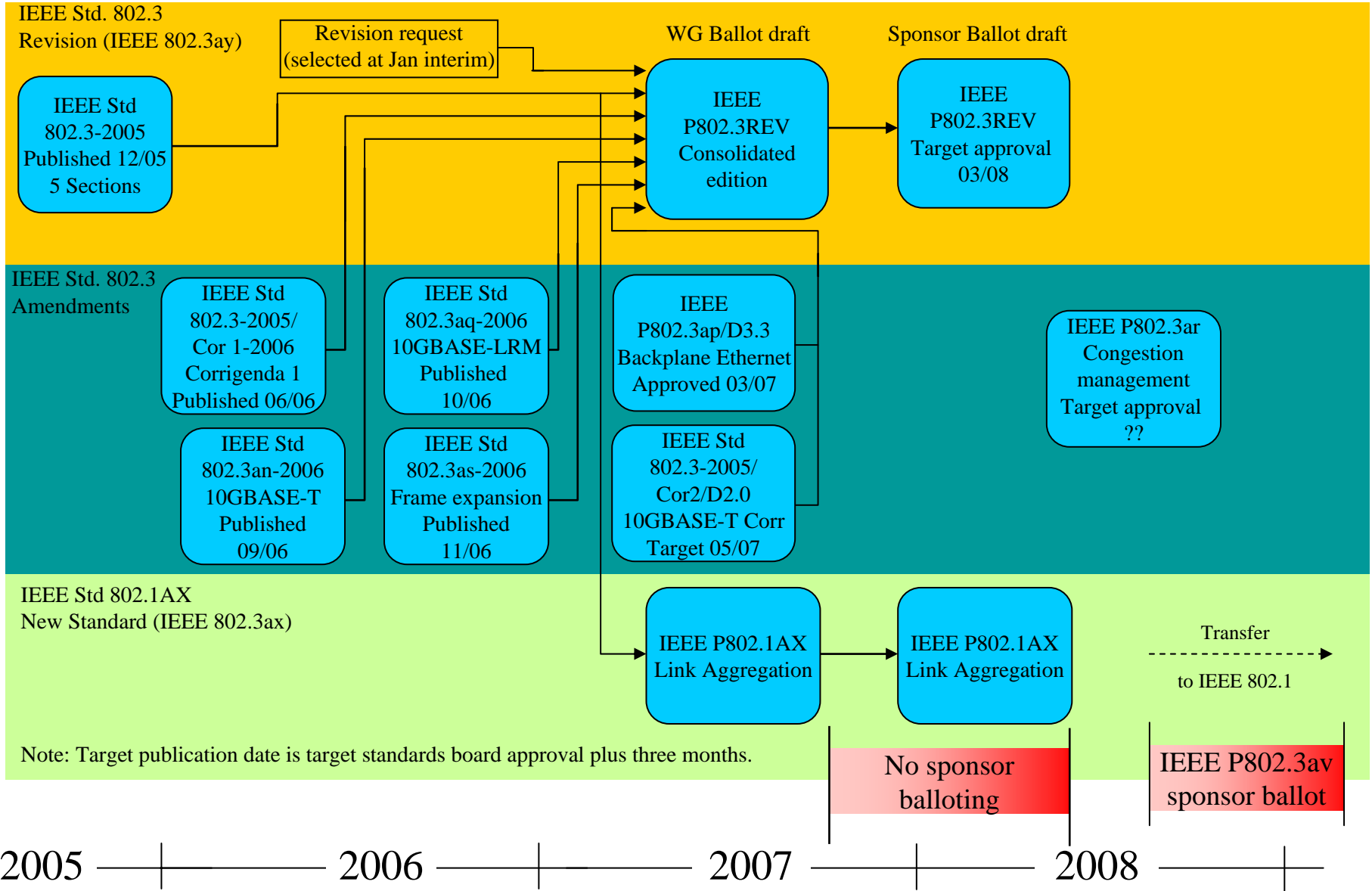
- **All IEEE-SA standards meetings shall be conducted in compliance with all applicable laws, including antitrust and competition laws.**
- **Don't discuss the interpretation, validity, or essentiality of patents/patent claims.**
- **Don't discuss specific license rates, terms, or conditions.**
 - Relative costs, including licensing costs of essential patent claims, of different technical approaches may be discussed in standards development meetings.
 - Technical considerations remain primary focus
- **Don't discuss fixing product prices, allocation of customers, or dividing sales markets.**
- **Don't discuss the status or substance of ongoing or threatened litigation.**
- **Don't be silent if inappropriate topics are discussed... do formally object.**

If you have questions, contact the IEEE-SA Standards Board Patent Committee Administrator at patcom@ieee.org or visit <http://standards.ieee.org/board/pat/index.html>

See *IEEE-SA Standards Board Operations Manual*, clause 5.3.10 and “Promoting Competition and Innovation: What You Need to Know about the IEEE Standards Association's Antitrust and Competition Policy” for more details.

This slide set is available at <http://standards.ieee.org/board/pat/pat-slideset.ppt>

IEEE Std 802.3 revision plan



Note: Target publication date is target standards board approval plus three months.

No sponsor balloting

IEEE P802.3av sponsor ballot

2005 ——— 2006 ——— 2007 ——— 2008 ———

IEEE Std 802.3 revision Timeline

Revision request selection	17th	Jan	2007
Draft D0.9 drafts precirculated	5th	Mar	2007
PARs approval #	22nd	Mar	2007
D1.0 Working Group ballot	23rd	Mar	2007
D1.0 Comment resolution	28th	May	2007
D1.1 Working Group ballot recirculation	29th	Jun	2007
D1.1 Comment resolution	18th	Jul	2007
D1.2 Working Group ballot recirculation	23rd	Aug	2007
D1.2 Comment resolution	10th	Sep	2007
D1.3 Working Group ballot recirculation	1st	Oct	2007
D1.3 Comment resolution	17th	Oct	2007
D2.0 Sponsor Ballot	2nd	Nov	2007
D2.0 Sponsor ballot close	7th	Dec	2007
D2.0 Comment resolution	21st	Jan	2008
D2.1 Sponsor ballot recirculation	25th	Feb	2008
D2.1 Comment resolution	19th	Mar	2008
RevCom submittal approval (conditional if required)	21st	Mar	2008
D2.2 Sponsor ballot recirculation*		Mar	2008
D2.2 Comment resolution (conference call)*		Apr	2008
RevCom submittal#	2nd	May	2008
Standards board approval#	12th	Jun	2008

Externally determined dates

* Recirculation if required

IEEE 802.3ax (IEEE P802.1AX)

Sponsor recirculation ballot

- 1st Sponsor recirculation ballot – draft D2.1
 - Ballot opened 25th February 2008, closed 11th March 2008

Comments received: 2

	#	%		Status
		Actual	Require	
Abstain	9	9	< 30	PASS
Disapprove with comment	1	-	-	-
Disapprove without comment	0	-	-	-
Approve	84	98	≥ 75	PASS
Ballots returned	94	81	≥ 75	PASS
Voters	115	-	-	-

IEEE 802.3ax (IEEE P802.1AX) Working Group ballot comment summary

- Total of 2 comments

E (Editorial)	0
ER (Editorial required)	0
T (Technical)	0
TR (Technical required)	0
G (General)	2
GR (General required)	0

- Comment #2 withdraws comment #1
 - No outstanding comments
- Comment review ...

IEEE 802.3ay (IEEE P802.3REV)

Working Group ballot results

- 1st Sponsor recirculation ballot – draft D2.1
 - Ballot opened 25th February 2008, closed 11th March 2008

Comments received: 46

	#	%		Status
		Actual	Require	
Abstain	9	9	< 30	PASS
Disapprove with comment	5	-	-	-
Disapprove without comment	0	-	-	-
Approve	80	94	≥ 75	PASS
Ballots returned	94	81	≥ 75	PASS
Voters	115	-	-	-

IEEE 802.3ay (IEEE P802.3REV) Working Group ballot comment summary

- Total of 46 comments

E (Editorial)	35
ER (Editorial required)	0
T (Technical)	6
TR (Technical required)	4
G (General)	0
GR (General required)	1

- Now comment resolution ...

Motion

- Request that IEEE 802.3 accepts the resolution to all comments received in the Sponsor recirculation ballots of IEEE 802.3ay/D2.1, and authorizes the editor to generate IEEE 802.3ay/D2.2.
- Request that IEEE 802.3 authorizes the Maintenance Task Force to conduct recirculation ballots and meetings as necessary to resolve comments received during IEEE 802.3ay balloting.
- Request that the IEEE 802.3 Working Group Chair request IEEE 802 EC grant conditional approval per IEEE 802 P&P Procedure 20 for IEEE 802.3ay (IEEE P802.3) revision to be submitted to RevCom.
- Request that the IEEE 802.3 Working Group Chair request IEEE 802 EC approval to submit IEEE 802.3ax (IEEE P802.1AX) D2.1 to RevCom at the same time as IEEE 802.3ay.