

In the Matter of the
Appeal of Mr. Hassan Yaghoobi and Mr. Jose Puthenkulam
Concerning
Decisions Taken by IEEE 802.20 Chair; Request for Cancellation of Letter Ballot 1

Date: August 3, 2006
Appellant: Appeal of Mr. Hassan Yaghoobi and Mr. Jose Puthenkulam
Appellees: Jerry Upton, Chair 802.20
Appeal hearing date: July 19, 2006
Appeal hearing location: Manchester Grand Hyatt, San Diego, CA

Attendees:

Appeal Panel members:

Chair: John Hawkins
Member: Stuart Kerry
Member: Bob Heile
Appellant: Appeal of Mr. Hassan Yaghoobi and Mr. Jose Puthenkulam
Appellees: Jerry Upton, Chair 802.20
Many others

1 Background information

On January 27th, the chairman of the 802.20 Working Group authorized the opening of a 40-day letter ballot for Draft 1 of the 802.20 standard. In their brief filed on February 16th, 2006, the appellants contend that the letter ballot authorization was improper as it did not follow the rules set forth in the 802.20 Policies and Procedures. They request cancellation of the letter ballot. In a response filed on March 30th, 2006 the Appellee contends the appeal is without merit in that all applicable rules were properly followed.

Informal attempts to resolve the issue were unsuccessful, and an appeal panel was appointed to hear the appeal and render a decision per LMSC rules.

The appeal panel reviewed the briefs filed by both parties, and held a hearing on July 19th, 2006 to hear oral arguments from both parties.

2 Appeal panel responsibility

LMSC Policies and Procedures Clause 7.1.6, describes the appeal panel responsibilities:

“The appeals panel shall render its decision in writing within 30 days of the hearing, stating findings of fact and conclusions, with reasons therefore, based on a preponderance of the evidence.”

This document comprises the decision of the appeal panel in its entirety.

3 Appeal Panel Conclusions

The appeal panel carefully considered all the evidence presented to the panel and reached its decision based on a preponderance of the evidence and a review of the applicable provisions of the operating documents governing the matters being appealed.

30-day rule

Before considering the merits of the appeal itself, the panel considered the contention of the appellee that the appeal had been filed more than 30-days after the event/action in question. Had this been the case, 802 Policies and Procedures indicate the appeal would be technically invalid. The panel disagreed with the appellee's objection based on the following facts:

1. The appeal objected to the chair's initiation of the letter ballot in question. This action took place on January 27th, 2007 via email to the voting members of the Working Group.
2. The appeal was properly filed with the EC Secretary on Feb 8th, 2006 which is within the allowable 30 days.

Therefore, the panel proceeded to consider the appeal on its merits as stated in the briefs filed by both parties.

TSP and P&P contradiction

Appellants based their appeal on a claim that certain specified rules were not followed. At the hearing, appellants expressly disclaimed any argument that they were basing their appeal on fundamental fairness of the process or any argument other than the specific rule-based argument described below.

Central to the appellants' argument is the contention that the Technology Selection Process (TSP) as captured in document IEEE P802.20-PD-10 contradicts the 802.20 Policies and Procedures (P&P) as captured in document IEEE P802.20-PD-05 and therefore, per section 4.0 of the TSP, the provisions of paragraph 2.9.2 of the 802.20 P&P document apply and should have been carried out before the draft was sent to letter ballot. In his response, the Appellee argues the requirements of section 2.9.2 apply only to Task Groups and would be redundant and illogical if applied to the Working Group itself.

The key issue, therefore, is whether section 2.9.2 of the 802.20 P&P applies to *all* drafts being sent to letter ballot (as the appellants contend) or only to drafts originating from Task Groups (as the appellee contends).

The 802.20 P&P apparently borrowed section 2.9.2 from other 802 groups whose routine practice is to employ the use of Task Groups to generate drafts. In those cases, the applicability of section 2.9.2 is clear, and rarely an issue of debate. Unfortunately, in the context of a Working Group that does *not* employ Task Groups (as is the case with 802.20) this is a gray area that will only continue to generate controversy should this section remain in its current state.

In determining the applicability of 2.9.2 of the P&P to the current case, the panel noted that Task Groups are explicitly mentioned only in the first requirement listed in 2.9.2. Six subsequent requirements make no explicit mention of Task Groups. One might interpret this to mean that only that first requirement applies to Task Groups, while requirements 2-7 apply to all drafts regardless of their origin. However, the wording of the requirements convinces us otherwise. For instance, requirement 7 states:

“The draft must be approved for submittal to WG ballot at the 802.20 WG closing plenary. This will be a technical motion requiring at least 75% approval.”

It seems illogical to require a vote by the Working Group to forward a draft to letter ballot when the Working Group itself just reached agreement on the draft (in this case via the mechanisms prescribed in the TSP, which also require similar approval). The requirements mandated in section 2.9.2 indeed seem to make sense only in the case where the draft had been generated by a Task Group. It is understandable that the Working Group would want to review a draft coming out of a Task Group and concur that it is ready for letter ballot before sending it out. Conversely, it does not make sense that a Working Group would need to approve sending a draft to ballot when the Working Group itself followed its own rules in arriving at the draft. Therefore, the panel concludes that, notwithstanding its ambiguity, section 2.9.2 applies only to Task Groups.

We therefore see no contradiction between the documents cited. Absent such contradiction, the conclusion that follows is that the procedures for forwarding a draft to letter ballot are those spelled out in the TSP. The TSP section 3.0 prescribes the following steps to forward a draft to letter ballot:

- “9. Having attained 75% support, the prevailing proposal will be adopted as the initial technical specification of IEEE 802.20 without further vote.
10. The IEEE 802.20 Editor shall prepare Draft 1.0 from this technical specification. The Draft 1.0 shall be forwarded to the working group for letter ballot.”

These steps were not contested by the appellants and we have every reason to believe, they were followed by the chair. We therefore conclude that the action of the Chair to initiate a letter ballot for Draft 1 on January 27th did not violate the rules cited by the appellants.

Appeals Panel Decision: The conclusions detailed above comprise the basis for the panel’s finding against the appellant. The appeal is hereby denied.

John Hawkins: Chair, Appeal Panel
Bob Heile: Member, Appeal Panel
Stuart Kerry: Member, Appeal Panel