Appellee Reply Brief

Reply to David V. James appeal on P802.3REV

Submitted by:
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June 3, 2005

1.0 General

This reply brief is provided in accordance with *LMSC P&P,* 7.1.7.3.

1.1 Referenced normative procedural documents

The following documents were in effect when the actions under appeal were taken.
IEEE Project 802 LAN MAN Standards Committee (LMSC) Policies and Procedures, November 19, 2004 [*LMSC P&P*]
IEEE-SA Standards Board Bylaws, January 2004 [*SB Bylaws*]
IEEE-SA Standards Board Operations Manual, January 2004 [*SB OpMan*]
IEEE Standards Association Operations Manual, February 2004 [*SA OpMan*]

1.2 Other referenced documents

IEEE Style Manual, Revised April 2002 [*StyleMan*]
IEEE Standards Companion, 2003 [*Companion*]
Material for P802.3REV appeal, submitted April 14, 2005 [*Appeal*]
Appellee Reply Brief, this document, [*Reply*]

1.3 Relevant dates

13 Jan 2005	P802.3REVam initial ballot close
26 Jan 2005	P802.3REVam/D2.0 comment resolution meeting
1 Mar 2005	P802.3REVam/D2.1 recirculation announced to sponsor ballot group, D2.0 comment responses available through myBallot
2 Mar 2005	Notice of intent to appeal and response by Mr. Nikolich to request a meeting to attempt informal resolution of issues
16 Mar 2005	Meeting to attempt informal resolution of issues
24 Mar 2005	Date on appeal brief
31 Mar 2005	Deadline for appeal brief per notice of actions that are under appeal
14 April 2005	Appeal brief filed
21 Apr 2005	Notice of hearing sent to appellant and appellees.
5 Jun 2005	Deadline for reply brief
20 Jul 2005	Scheduled appeal hearing

1.4 Failure of appellant to timely file

The appeal brief was not filed within 30 days of notice to the appellant of the actions that are the subject of the appeal as required by *LMSC P&P*, 7.1.7.2. [See Attachment 1, sponsor ballot recirculation announcement establishing date of notice of action.]

The appeal was not filed within 30 days of email from appellant and response by the LMSC Chair on the actions that are the subject of the appeal [see Attachment 2].

The date on the appeal document is inconsistent with its content. The document date should not be used for consideration of the appeal. [See *Appeal* 2.0, where the appellant indicates

download of the LMSC P&P on "2005Apr13", and Attachment 3, appellant email submitting the appeal.]

The appeal could be dismissed on procedural issues alone. But, it has come to the attention of the appellees, that the appellant may have been relying on advice from the LMSC Chair that the appellant had 30 days from the 16 March informal issue resolution meeting.

Therefore, this reply brief will address the objections raised and the supporting information included in the appeal document which the appellees assert merely represent disagreement of the appellant (as an unsatisfied balloter) with the ballot group consensus, and normative procedures of IEEE-SA.

The appeal panel is requested to base its decision on facts, and ignore the irrelevant information within the *Appeal*, including the assumptions of the appellant unsupported by evidence (and refuted by evidence presented in this *Reply*), false statements and information presented in a misleading way.

1.5 Failure of appellant to cite violations of normative process

The *Appeal* does not cite specific violations of normative procedures.

The appellant cites conflicts between a draft approved by the ballot group and the *IEEE Style Manual*. Differences between the *StyleMan* and the approved draft are not proper items for appeal as the ballot group is the body responsible for determination of consensus, not a WG Chair, Vice Chair, ballot resolution committee or working group. Additional facts follow in *Reply*, 2.1 to appellant's assertions of action/inaction.

The actions of the IEEE 802.3 Chair and Vice Chair subject to appeal are consistent with normative procedures. The appellant as support for violation of process only cites the non-normative *IEEE Standards Companion*. Additional facts follow in *Reply* 2.2 to appellant's assertions of inaction/inaction.

2.0 Reply to specific objections (Appeal 2.1 and 2.3)

The essence of the appellant's objections stated in 2.1 is "inequities in the Sponsor Ballot review process as utilized by the IEEE 802.3 Chair and Vice Chair." The appellant was treated in the same manner as other balloters. The appellant isn't the only balloter that had comments rejected. The appellant wasn't the only balloter that had comments on style deferred to the IEEE publications editor. The *Appeal* does not prove, let alone cite any case where the appellant was treated inequitably in the resolution of P802.3REVam balloting by the Chair and Vice Chair of IEEE 802.3. The facts dispute the appellant's claim.

The requirement for consideration of comments is outlined in *Bylaws* 5.2.4 and the following from *SB OpMan* 4.3.2.

> "Approval or adoption of a standard requires … that the final results of the ballot and statements submitted by balloters who participated in the development of the standard indicate that consensus has been achieved and unresolved negative ballots have been properly considered, together with reasons why the comments could not be resolved."

All comments received in balloting of P802.3REVam were considered, and responses published to the ballot group through myBallot consistent with IEEE process as specified in *SB OpMan*, 5.4.3.2:

> "All substantive changes made since the last balloted draft shall be recirculated to the Sponsor balloting group. All unresolved negative votes with comments shall be recirculated to the Sponsor balloting group. The verbatim text of each comment, the name of the negative voter, and a rebuttal by the members conducting the resolution of ballots shall be included in the recirculation ballot package."

While one balloter agreed with the appellant and changed to a disapprove vote on the first recirculation ballot, the approval of the ballot group increased from 85% in the initial ballot to 91% after the first recirculation and 96% after the second recirculation.

The ballot group is the body responsible to judge the content of the proposed standard and they clearly do not agree with the appellant on issues raised in his comments as evidenced by their votes. [See Attachment 4, P802.3REVam ballot results.]

The Chair and Vice Chair maintain that they, the ballot resolution committees and working group members that acted on ballot comments during ballot of P802.3REVam acted responsibly and consistent with 5.4.3.2 of the *SB OpMan*:

> "However, once 75% approval has been achieved, the IEEE has an obligation to the majority to review and publish the standard quickly."

This is explained in the non-normative *Companion*:

> "There are several rules that help to define what final level of consensus you reach. All ballot comments have to be responded to, and in considering a response you may make a change in the draft that may turn a no vote into a yes vote. The issue is what you do to balance your obligations to the majority versus that of the minority. Once you have achieved consensus, an obligation to the majority exists to approve and publish the standard quickly. However, you are obligated to respond to the negative comments of the minority. You should attempt to resolve those negative comments, but if there is no indication that further resolution can be achieved based on that, you should move your document forward for approval, still having met the terms of consensus.

The comment responses included in the first recirculation package clearly indicate that each comment was considered, the vast majority were either accepted or accepted in principle, and an appropriate response for each class of comments was provided to the ballot group. This fulfills the procedural obligations of IEEE-SA process.

3.0 Reply to the procedures or standards at issue (*Appeal, 2.3*)

3.1 IEEE Style Manual (Appeal, 2.3.1)

While the *StyleMan* is a very important guide used in development of a draft, it is not a normative document. It is not listed in the *SA OpMan* and is listed as a related document in the *SB OpMan*. The appellant has not cited violation of any of the *SB OpMan* requirements that reference the *StyleMan*.

The appellant has not cited normative P&P that require absolute adherence to the *StyleMan* in preparation of a draft. The opening paragraph of the *StyleMan* in fact makes it clear that editorial style is not arbitrary, that slavish adherence to the *StyleMan* is not intended, and that editorial style may be adapted to the needs of a particular standard.

> "This manual establishes preferred style for the preparation of proposed IEEE standards. IEEE Standards Project Editors are available for advice and assistance throughout this process. Please note that many of the suggested guidelines can be adapted and restructured to suit the needs of a particular group; however, it is strongly recommended that working groups consult with IEEE Standards Project Editors before deviating from this style.

This statement makes it clear, that IEEE Standards Project Editors are the arbiters of style, not the WG officers and certainly not any individual ballot participant. Once approved, the publication editor may make any appropriate non-substantive changes, as indicated in *StyleMan* clause 3:

> "The sponsor or a designated representative (usually the working group technical editor or chair) shall serve as the liaison between the working group and the

> IEEE Standards Project Editor to answer questions and to review the document when it is in its final stages of production to ensure that editorial changes have not affected the technical content of the standard."

In addition, in the second paragraph, the *StyleMan* itself makes its status clear in reference to procedural issues:

> "This manual is not intended to be a guide to the procedural development of standards."

While the organized presentation of comments included in *Appeal* clause 4 would have been appropriate, even elegant, as an attachment to the appellant's first recirculation ballot comment, the D2.0 comments included in that clause are not relevant to this appeal.

What is relevant is conformance to IEEE-SA process in balloting the project and in properly recirculating negative comments to the ballot group. All of the appellant's comments were considered, a response was provided to each comment, and the unresolved comments were recirculated to the ballot group. The ballot group approved the draft, the ballot group had an opportunity to change their ballots in recirculation based on the appellant's comments and the responses provided; but as the ballot statistics emphasize, the ballot group did not agree with the appellant. The simple fact is , process was followed and there is no procedural ground for appeal on the issues of style.

To reiterate, the initial ballot on P802.3REVam comfortably exceeded the IEEE-SA requirements for consensus, with 85% approval. That approval percentage increased to 91% after the ballot group reviewed the appellant's comments and the responses to those comments in first recirculation ballot. Subsequently, in response to, and in spite of, the one pile-on first recirculation disapprove ballot in support of the appellant's comments, the approval percentage increased to 96% in the second recirculation ballot.

3.2 IEEE Standards Companion (Appeal, 2.3.2)

The *Companion* is not a normative document. Quoting from its introduction:

> "It is not a rule book in and of itself, but something a bit more expressive, that may be able to offer some background and detail that a series of rules can't. If there's any discrepancy between this and the official rules, those rules are correct and this companion is in error."

The comment resolution processes described in the *Companion* are not required, but are only a recommended practice. [See Attachment 5, email on non-normative status of the *Companion*.]

The normative procedural documents and relevant requirements (*SB Bylaws* 5.2.4 and *SB OpMan* 5.4.3.2) do not require the actions listed in *Appeal* 2.3.3.1. As highlighted in *Appeal* 2.5, this is not the first time editorial style has been raised on 802.3 project ballots with the appellant remaining unsatisfied by the response to his comments. Failure to resolve comments in the past was sufficient basis for determination that similar failure was likely with P802.3REVam.

The appellant's assertion that there was no invitation to attend a comment resolution meeting is false. [See Attachment 6, appellant's email in response to the announcement of the D2.0 comment resolution meeting. *Appeal*, 2.3.3.2 also indicates appellant's attendance at a comment resolution meeting (the D2.1 comment resolution meeting)].

The appellant's assertion in *Appeal*, 2.3.3.2 that the "BRG effectively excluded the commenter from comment discussions but [sic] deferring summary issues to the WG" is also false. Deferral to the 802.3 meeting was by mutual consent when the ballot resolution committee meeting could not approve consensus responses to specific comments [see *Appeal* 2.5, 8th paragraph]

There are further errors of fact in the assertions of *Appeal*, 2.3.3.2. [See Attachment 7, extract from the unapproved minutes of 802.3.] The appellant was given the opportunity to speak in the 802.3 WG meeting on multiple unresolved comments. The appellant advocated alternate responses to a number of unresolved comments. The P802.3REVam editor's recommended

responses were overwhelmingly adopted as the response to comments. This process took 44 minutes (based on recorded time of motions).

The minutes clearly indicate the point when, by motion of the WG, the order of business was established to consider the editor's proposed responses to all remaining comments in a "bucket" vote. Only at that point was the appellant not allowed to present the alternate response, as the order of business had been established to vote on the editor's proposed responses. However, the appellant was allowed and did speak against the bucket motion. The comment resolution process completed after 59 minutes.

At no point did the Chair or Vice Chair prevent the appellant from speaking. The Chair only ruled that discussion be consistent with the order of business of the group. It is important to note that the appellant (an 802.3 observer) did not have the right to speak, but was extended that courtesy by the WG Chair [*LMSC P&P,* 7.2.3.5]:

> "Working Group meetings are open to anyone who has complied with the registration requirements (if any) for the meeting. Only members have the right to participate in the discussions. The privilege of observers to participate in discussions may be granted by the Working Group Chair."

The minutes record that during this work, the Chair received a report that a non-member was voting against the motions adopting responses to comments. The appeal panel is advised that the Chair was told that it was the appellant that was voting though not a member, the Chair did not publicly identify the appellant as violating the rules, but rather choose to reprove without naming the offender. An examination of the vote counts indicate that the opposition to accepting the P802.3REVam editor's proposed responses then dropped by one vote.

The appellant's assertion in *Appeal*, 2.3.3.3 is also false. The Chair of the RAC was contacted to clarify the status of the appellant's comments, and contrary to the wording of the appellant (that the comments were by an IEEE/RAC reviewer), it was clarified that the comments were those of an individual and had no official status with the RAC. Subsequent to the 16 March informal appeal resolution meeting and in response to a request of the appellant, the appellant's OUI related comments were forwarded to the Chair of the RAC, without any further request for action from the RAC. [See Attachment 8, email to Chair of RAC.] The assertion that the acknowledged experts were ignored is also false. The OUI text in IEEE Std 802.3 was in fact generated in cooperation with the RAC and was reviewed by the RAC when introduced into the document. The panel should also note that the appellant is not the only ballot group member with RAC credentials.

The appellant's assertion in *Appeal,* 2.3.3.4 is false. IEEE editorial staff has been consulted during all stages of the project. The plan for phasing P802.3REVam with other amendment projects was developed with IEEE editorial staff. It was through consultation with editorial staff that the work plan for P802.3REVam was agreed. P802.3REVam/D1.0 was produced by an IEEE editor. The draft was then passed to the TF editor for WG ballot. The draft was passed back to IEEE editorial staff to merge the recently published IEEE Std 802.3ah-2004 into P802.3REVam. The TF editor only added the approved maintenance responses after that merge to create the D2.0 initial Sponsor ballot draft. It was through consultation with IEEE editorial staff that the TF received instruction that the IEEE editor would only handle comments on style during publication preparation. IEEE editorial staff in fact was even consulted on the draft response to some of the appellant's comments that are included in *Appeal*, clause 4*.*

While the appellant may not be satisfied, as indicated in *Appeal*, 2.3.3.5 that differences in style are not justified, he is at odds with the ballot group that saw the comments and responses in recirculation and approved the recommendation to defer such issues to the publication editor.

Similarly, the ballot group did not agree with the appellant on the issue of Pascal code raised in *Appeal,* 2.3.3.6.

The issue raised in *Appeal,* 2.3.3.7 is not relevant as there is no procedural violation cited. It is the appellant that in fact made issues obscure by submitting hundreds of comments on each

instance of an editorial style issue. For example, the appellant submitted 304 now admitted incorrect comments on the capitalization of the PICS table column heading "Value/Comment" as listed in *Appeal,* 4.1.1.

There is no requirement that comment responses be presented in a particular order in the recirculation package. But, the appellant has another error of fact in the *Appeal.* MyBallot did in fact display comments in comment number order. As an alternative aid for the ballot group participants, a searchable PDF of the comments and responses in document order was posted on the 802.3 web pages, but not included in the ballot package available through myBallot.

Other false assumptions of the appellant, misleading statements and false statements included in the *Appeal* are commented on in Attachment 8.

4.0 Reply to assertions of adverse effects (Appeal 2.2)

The consensus approval by the ballot group of the standard is the ultimate indication of the acceptability of a proposed standard's content, not the preferences of a single balloter. The appellant wrote, "Simply stated, this document is for anyone w/o extensive experience." (Most likely, appellant intended to write the opposite sentiment.) The appellees wouldn't agree with the appellant statement as written, but will reiterate a fact expressed in comment responses that illustrates the usefulness of the standard. The successful deployment by hundreds of implementers of hundreds of millions of interoperable Ethernet devices is factual proof that the standard can be successfully used by competent engineers.

The appellant's assertion that "editors can only be selected from those that understand the folk-lore" and that "responses has limited the number of qualified 802.3 editors" are also false and contradicted by the facts. The five amendments to IEEE Std 802.3-2002 give editor credits to 25 different individuals, the vast majority having had limited experience within 802.3 when appointed as editors. These editors were chosen for their technical expertise and ability to accurately document the complex technical material included in 802.3 projects. It is unprofessional for the appellant to belittle the qualifications of these dedicated volunteer editors in this way.

The appellant's assertion that "preferential treatment is required of IEEE Editors" is also not supported by any facts. When the statement of the appellant was provided to the IEEE Manager, Standards Publishing, the simple summary of the response was: "In short, the statement is inaccurate."

5.0 Recommendations of Appellees

While the appeal could be disallowed on procedural grounds, that might not best serve the interests of either the appellees, the members of IEEE 802.3, the IEEE Standards Association or the industry in general.

Consequently, we respectfully request that based on the evidence included in this reply brief the appeal panel rule:

1. That the appellant has not proven any violation of normative IEEE-SA process.

2. That the actions in question of the Chair and Vice Chair of IEEE 802.3 (the appellees) were consistent with IEEE-SA process.

3. That the appeal panel finds no basis on which to question the sponsor ballot process of P802.3REVam and consequently its approval by the Sponsor ballot group.

4. That no remedial action is required of the Chair and Vice Chair of IEEE 802.3.