

**IEEE P802.11  
Wireless LANs**

**Appeal Panel Decision : Harkins v Chaplin**

Date: 2007-02-08

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**Abstract**

This document contains the IEEE 802.11 Appeal Panel Decision held on 17<sup>th</sup> January 2007 in the Metropole Hotel, London, UK

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In the Matter of the  
Appeal of Mr. Dan Harkins  
Concerning  
Motion Ruling by IEEE 802.11r Chair

Date: January 17, 2007  
Appellant: Dan Harkins  
Appellee: Clint Chaplin, Chair IEEE 802.11r  
Appeal hearing date: January 17, 2007  
Appeal hearing location: Metropole Hotel, London, UK

Attendees:  
Appeal Panel members:  
Chair: Stephen McCann  
Member: Richard Paine  
Member: Bruce Kraemer  
Appellant: Dan Harkins  
Appellee: Clint Chaplin, Chair IEEE 802.11r

## 1 Background information

The appeal concerns the appellant's objection to a ruling by the IEEE 802.11 Task Group "r" chairman that a motion (re-produced below) to modify the IEEE 802.11r draft was in order. The appellant maintains that this action was a "violation of Robert's Rules of Order, Chapter V §10 (10<sup>th</sup> Edition). That the motion was "substantially the same motion" as a previous one that failed. The ruling by the chairman that the motion was in order was incorrect."

Subsequently a formal written appeal "11-06-1914-00-000r-appeal-ruling-by-tgr-chairman-5-dec-06.doc" of a ruling by the chairman of IEEE 802.11r that was filed with the IEEE 802.11 Working Group chairman on 5<sup>th</sup> December 2006 by the appellant.

In a written response "11-06-1906-00-000r-response-to-ieee-802-11-appeal-december-5th-2006.doc" dated the 11<sup>th</sup> December 2006, the appellee contends the appeal, stating that "I based my ruling on §38. RENEWAL OF MOTIONS of Robert's Rules of Order; the motion at 16:19 was in order because it was a substantially different question from the motion at 09:13. The wording of the motion itself is substantially different, and the combination of the two proposals created a different proposal to bring forth to the group."

The appropriate parts of the IEEE 802.11r minutes [Ref 1] from the Dallas November 2006 meeting have been reproduced within this document to introduce the background to the appeal.

On Tuesday 14<sup>th</sup> November 2006 09:13, the following motion was moved within IEEE 802.11r:

*"MOTION: Accept the submission contained in document 11-06/1612r2, and instruct the editor to incorporate the changes into the draft.*

*By: Bill Marshall*

*Second: Kapil Sood.*

*Result: Yes – 23; No – 9; Abstain – 10. Motion fails" [Ref 1]*

Later the same day, 14<sup>th</sup> November 2006 16:19, the following motion was moved:

*“MOTION at 4:19pm: Accept the submission contained in document 11-06/1612r2, with changes given in slide #14 of document 11-06/1765r0 and instruct the editor to incorporate the changes into the draft.*

*POINT OF ORDER: The chair rules that it is a different motion because of addition of slide 14.*

*By: Bill Marshall*

*Second: Kapil Sood*

*CALL THE QUESTION.*

*Result: Yes – 8; No – 2; Abstain – 2. Motion passes” [Ref 1]*

The appeal concerns this later motion.

## **2 Appeal panel responsibility**

LMSC Policies and Procedures Clause 7.1.6 (LMSC\_P&P\_NOVEMBER\_2005\_R051204.doc Revised January 4<sup>th</sup> 2006), 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.”

The IEEE 802.11 Working Group (WG) chair stated that LMSC rules will be used at this WG level for this appeal. Correspondingly any subsequent appeal to this panel’s decision should be directly made to the WG chair.

Potential members of the appeal panel, appointed from the IEEE 802.11 Chair’s Advisory Committee (CAC), were advised by the IEEE 802.11 WG chair that they must not be conflicted by any issues raised within this appeal.

An IEEE 802.11 WG 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 convened a hearing on 17<sup>th</sup> January 2007 11:30 to hear oral arguments from both parties and consider their revised presentations [Ref 2], [Ref 3]. Equal time was allocated to the appellant and the appellee and the appeal was held in good conduct.

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 the evidence and a review of the applicable provisions of the operating documents governing the matters being appealed.

The cases provided by both parties certainly indicate that both positions have merit. Had the appeal been voiced at the time of the incident it is likely that both the documentation trail and procedural options explored would have differed and it is conceivable that a different technical outcome would have resulted.

Fundamentally the case rests on the interpretation of the phrase "substantially the same" from Robert's Rules, as mentioned by the appellant during his presentation to the appeal panel. However, the appellee decided, in his capacity as chair of the meeting, that the motion was not "substantially the same", as a prior motion earlier in the day.

The chair is responsible for a variety of duties that are intended to produce complete and correct results in a timely manner. He must use his best judgment within the LMSC rules, the WG rules, and Robert's Rules of Order.

There are five principles underlying the rules of parliamentary law which are: (1) Order. That is, there must be orderly procedure. (2) Equality. That is, all members are equal before the rule or law. (3) Justice. That is, justice for all. (4) Right of the minority to be heard on questions. (5) Right of the majority to rule the organization. The IEEE further qualifies these with its imperative principles of legal standards, namely: Due Process, Openness, Consensus, Balance and Right of Appeal [Ref 4].

The chair does have to balance the rights of both the minority and the majority and did so in this case. The key point is that even if one considers that the strict interpretation of the rules were potentially violated, the chair did make the decision that the motion content was different and hence that it was not "substantially the same" was part of a reasonable judgment call.

Therefore it appears that the chair made a plausible decision in the cited situation and that his decision should be upheld. This is a unanimous decision of the appeal panel.

#### **4 Appeal Panel Decision**

The conclusions detailed above comprise the basis for the panel's finding against the appellant.

**The appeal is hereby denied.**

It should be also noted that both the appellant and the appellee have the right to a rehearing this decision as stated in the LMSC Policies and Procedures, within 30 days of this decision on 8<sup>th</sup> February 2007. Any such appeal should be addressed to the IEEE 802.11 WG chair.

Stephen McCann: Chair, Appeal Panel (IEEE 802.11 CAC member)  
Richard Paine: Member, Appeal Panel (IEEE 802.11 CAC member)  
Bruce Kraemer: Member, Appeal Panel (IEEE 802.11 CAC member)

## 5 References

[Ref 1] 11-06-1690-01-000r-tgr-meeting-minutes-november-2006-session.doc

[Ref 2] 11-07-0127-00-000r-appeal-ruling-by-tgr-chairman.ppt

[Ref 3] 11-07-0153-00-0000-appeal-response.ppt

[Ref 4] <http://standards.ieee.org/faqs/ImperativePrinciples.ppt>

### Other Relevant Documentation

11-06-1612-02-000r-lb87-cid-1011-et-al.doc

11-06-1765-00-000r-pmk-r1-key-distribution-security-analysis.ppt

11-06-1906-00-000r-response-to-ieee-802-11-appeal-december-5th-2006.doc

11-06-1914-00-000r-appeal-ruling-by-tgr-chairman-5-dec-06.doc

LMSC Policies and Procedures (LMSC\_P&P\_NOVEMBER\_2005\_R051204.doc Revised January 4<sup>th</sup> 2006) (<http://grouper.ieee.org/groups/802/policies-and-procedures.pdf>)

**End** (8<sup>th</sup> February 2007)

## **A Informative Annex A**

This informative annex reproduces the original statements from each of the three appeal panel members. These statements were originally written in private and capture the independent thoughts of each appeal panel member.

### **Appeal Member 1**

Fundamentally the appellee decided, in his capacity as chair of the meeting, that motion was not "substantially the same" as the one earlier in the day. As the appellant mentioned in his appeal presentation, the case hinges on the interpretation of this phrase from Robert's rules.

A chair is not expected to have in-depth technical knowledge of the task group. He is there to facilitate the meeting. Since the motion refers to additionally technical information, it is not reasonable to expect the chair to realize that this motion is "substantially the same" as the earlier one. This implies that the chair should create an opinion about the technical substance of the additional technical information.

Prior to making his decision about the motion, a point of order was raised against the appellee, as recorded in the minutes and slide 5 of document 11-07-153r0 [Ref 3]. The appellee's ruling of this point of order appears to have been accepted by IEEE 802.11r at this point and no motion to re-consider was moved. The appellee did not table the motion, until another meeting of IEEE 802.11r, as he felt it was in order at that point in time.

A chair cannot be expected to make black and white decisions on all issues. He has to use his best judgment to perform his role. In case of doubt a chair can exercise this judgment to rule one way or another. The people within that meeting are at liberty to object to this ruling.

### **Appeal Member 2**

The cases provided by both parties certainly indicate that both positions have merit. Had the protest been voiced at the time of the incident it is likely that that both the documentation trail and procedural options explored would have differed and it is conceivable that a different technical outcome would have resulted.

The events took place in a regularly scheduled time slot with a previously published agenda using the typical general order. However, given that the task group meeting environment during which drafts are being edited is very dynamic and requires significant attention during the course of the meetings to ensure that errors are not made in either process or content. It also frequently the case that a technical change proposed by one person is either unclear or opposed by others in the room and hence subject to significant debate. Although a submission and instructions to the editor must be a public document which is saved on disk the sometime emotional arguments made to support or contest each proposed change are not equivalently captured. Hence the need to attend and be attentive during task group sessions.

Dan was certain that the effect of the change was indeed technical and sufficient to render two devices built to the wording of the two versions, non-interoperable. Based upon that information I would deem the change was substantial. It also appears that there was some informative text added that the appellant objected to that might have been subject to additional debate and

potentially removal as being extraneous. Had the change added only informational text it could also be argued that the change was substantial because it improved the ease with which the draft text could be read and interpreted.

It was disconcerting that during the appeal hearing the IEEE 802.11r chair was unable to interpret the change as technically substantial because it does introduce a question as to the basis of the ruling at that time but it does appear that the group supported that position.

It appears that the IEEE 802.11r chair made a plausible decision in the cited situation.

- However, the documents and minutes related to the incident are less than perfect. In retrospect it would have been far more useful to have the correct documents mentioned in the minutes and some guarantees stated that the submission document was on the server, etc.
- The options for revisiting the text could also have included a formal motion to reconsider if there was a doubt on the nature of the change. That would have insured that the group fully discussed whether or not this was an issue whose discussion was of technical merit and also whether or not the outcome might be dependent upon the membership present.

### Appeal Member 3

In the appeal, neither party presented completely compelling arguments. However, there are circumstances from the existing documents that lead to a definitive conclusion:

There is a difference between the presentations of 11-06-1765r0 and 11-06-1765r1. There is a difference in the two documents which is; “mutual authentication” vs. “initial authentication”. The 11-06-1765r1 document was not posted with that change until 11/15/06 at 1:51pm. The difference does exist, but it was not posted on the [www.802wirelessworld.com](http://www.802wirelessworld.com) until the next day. The fact that the 11-06-1765r1 contained the “substantial” change and was not posted until the next day could have been an oversight by the mover of the motion. It is common practice to post revision documents after the fact which could have been after the presentation itself.

By the evidence, minus the delayed 11-06-1765r1 document, the IEEE 802.11r body brought the same vote back, on the same day, and voted it a second time. It was the same motion and refers to the same document. The body purported to the chair that there was a substantial technical change to the document that warranted the vote to be done again. The chair’s argument was that his is not the responsibility to judge whether it is a substantial change, but that it is the technical body responsibility to judge the “substantial change” technical merit in order to bring the document back for a vote. The appellant purports that there was not sufficient technical change to warrant re-voting and that the motion should have been called out of order, especially on the same day.

The appellant stated that the body of the voters in the room in IEEE 802.11r was what made the difference and the chair should have withheld the vote until the same body was in the room. This argument is not viable. The meeting was held in official session with an announced place and time and the chair can do nothing to modify the attending members. It is the members’ responsibility to attend the sessions and make their influence known through their voting. If they choose not to attend, the consequence is that their influence is not felt nor executed through their voting rights.

Therefore I find in favor of the appellee, the chair of IEEE 802.11r. The chair does indeed have to follow the will of the body within the rules. The key point is that the rules, in this case, were potentially violated by not having substantial difference in the two votes. However, the chair does have to follow the will of the body and did so in this case. The chair has no responsibility to control or manage the number of participants in the body's activities. His is to facilitate and optimize the process. However, the chair also has a responsibility to insure that a substantial change does exist to have another vote and this responsibility could have been exercised more appropriately by reviewing and judging on the specific substantial change presented in evidence (this may in fact have been done, but is not evidenced by the facts).

**This is the end of the informative annex.**