

May 9, 2003

Dr. Gang Wu
DoCoMo Communications Laboratories USA, Inc.
181 Metro Drive, Suite 300
San Jose, CA 95110
Phone: 408-451-4707 Fax: 408-573-1090
E-mail: wu@docomolabs-usa.com

Dear Dr. Wu:

This letter is in response to your appeal letter to Paul Nikolich, Chair of IEEE 802 dated April 10. Geoff Thompson, 1st Vice Chair has prepared the LMSC response to your appeal. We will address your complaint on a paragraph-by-paragraph basis of your submitted text and then provide a summary statement at the end. (Your complete original text is shown in *red italic.*)

As set forth in Section 9.0 of the IEEE Computer Society, Standards Activities Board Policy and Procedures, I am writing to appeal the March 14, 2003 decision by the LMSC Executive Committee not to affirm the duly elected leadership of IEEE 802.20. I hereby request that the duly elected officers are immediately appointed as interim officers and that the duly elected officers are confirmed in the July plenary meeting.

It is accepted that Section 9.1 (Purpose) of the IEEE Computer Society, Standards Activities Board Policy and Procedures addresses appeals regarding this matter.

Per section 9.1, a number of informal attempts to resolve this issue have been made. I have had a protracted telephone discussion and considerable email exchanges with you, culminating in my proposal, made to you by email on April 6th 2003, for a fair and reasonable strategy to resolve the issue to my satisfaction. Your response was "I do not think your proposal meets that goal, but I will certainly seriously consider it". The "goal" in question being "to be as fair as possible and meet the directives of both the WG and the SEC". I consider that the options for an informal resolution to this matter are now exhausted, as indicated by this impasse.

It is accepted that appropriate informal attempts have been made to resolve the lack of confirmation.

To reiterate and clarify, a number of informal attempts to resolve this appeal have been made without success. Therefore, this document is a written complaint under Section 9.2 of the IEEE Computer Society, Standards Activities Board Policy and Procedures.;

This is accepted as the appropriate avenue of appeal.

Nature of the objection including adverse affects:

The elections for the IEEE 802.20 WG Chair and Vice-Chairs were held on March 13, 2003. The Working Group elected Jerry Upton, independent consultant and recent Vice President of Standards for Motorola, Gang Wu of NTT DoCoMo and Eshwar Pittampalli of Lucent as Chair, Procedural Vice-Chair and Liaison Vice-Chair, respectively. According to your correspondence dated March 14, 2003, the Executive Committee did not confirm the election results. Your correspondence dated March 19, 2003, further explained that in your summary view the Committee did not confirm results because "...the elected chair and vice-chairs had little substantive experience in LMSC ..." The Executive Committee did not review the past experience of either the elected Vice Chairs nor were they requested to attend and answer any questions.

The above text is quoted out of context. A more contextually complete quote, pasted below, explains that it is only the personal view of the chair and that there is no official summary of/for the basis of the decision not to confirm

"I cannot give you the reasons why the SEC members voted the way they did--only they can explain their rationale individually. I can give you my admittedly over-simplistic perspective, which is that the elected chair and vice-chairs had little substantive experience in LMSC, which put them at a disadvantage (relative to other the WG/TAG leaders that have been confirmed in the past.) I realize that 'experience' is not specifically given as a criteria and is a vague simplistic answer to a complicated situation--but it is the best I can do at this time."

The question of experience is one of several informal “reasons” and rumors given for the non- confirmation of the elected officers. Another is some impropriety in the election process (some have mentioned block voting). In the absence of official minutes, which was requested by me but is not available at the time to file this letter, it is not possible to comment on the SEC meeting but some facts can be established and these facts indicate reasons for grave concern.

Mark Klerer, who lost the chair election, was not only allowed to make a motion and vote on the confirmation, but also allowed to make a presentation on why he thought the election was incorrect. He presented unsubstantiated and incorrect allegations regarding companies aligned as “3G companies” versus “802 companies”. This raises several objections.

- Mr. Klerer should not have been given the floor to make a presentation of material which (despite Mr. Klerer’s assertions to the contrary) was a different presentation to the material presented in previous SEC meetings. The material presented to the SEC on March 14, 2003 made an explicit distinction between “Major 3G companies” and “Emerging Wireless Access Technologies (802.16, 802.20)”. This very specific distinction was not made in Mr. Klerer’s presentation to the WG and the SEC previously. The introduction of such a distinction for the SEC presentation is clearly an attempt to bias the information so as to influence the decision of the SEC members.*
- Mr. Klerer should not have been allowed to make a motion and vote on the confirmation of the election results since he was a candidate in the election. If Mr. Klerer had been elected, he would have been confirming his own election. In the event, he was not elected so it should not be any surprise that the general view is that Mr. Klerer attempted to present the results of the election in the most negative way. Further, Mr. Klerer was never confirmed by the WG members after his appointment as interim WG chair by the SEC on November 15, 2002 (see 802.20 WG minutes). In my understanding, this means that he has no standing on the SEC as this WG confirmation is a requirement for SEC membership (Operating Rules of IEEE project 802, LAN MAN Standards Committee, section 3.2). Therefore, the motion to confirm the elected officers of 802.20 WG made by Mr. Klerer at the closing SEC meeting on March 14, 2003 is invalid.*

Mr. Klerer’s position on the LMSC was proper under:

5.1.2 Chair (paragraph 2)

Initial appointments ... may be made by the Chair of the LMSC, and shall be valid until the end of the next Plenary session.

Therefore, as Chair, it was entirely proper for him to present the results of the election to the SEC and move that the ballot results be confirmed. If a Working Group does not wish their Chair to act on SEC matters according to his own discretion then they may provide the Chair with a “directed position” per 5.1.4.3e and Procedure 8

- None of the elected 802.20 officers were told that presentations were planned for the meeting or told that members of Executive Committee had issues before the meeting. These actions give an impression of prior bias by some Executive Committee members or at very least a lack of due process for the elected officers.*

There is no requirement for advance notice with respect to material to be presented at the Exec other than those put forth by the Recording Secretary to generate the agenda (nominally an agenda item heading) and the special requirements for handling PARs (Procedure 2). Exec meetings are open and due diligence with respect to the business to be conducted is the responsibility of the individual. There currently is no provision for broad distribution of material to be presented to the Exec. Members of the SEC do have folders in the office where material for discussion at the Exec may be placed.

You chaired the officer elections with assistance by other Executive Committee members. There were no stated violations of the election rules as presented, read and confirmed to 802.20 members, nor any stated violations of the election and balloting process.

It is not believed that there are any express assertions to the contrary by the SEC as a body.

Not confirming the elected 802 officers has significant adverse effects. Most importantly, the reputation of IEEE as a fair and open venue for global standards development is seriously compromised. Members of 802.20 are de-focused versus proceeding with important work. A divisive atmosphere is promoted within the work group. Confidence in 802 as an appropriate entity for the proposed 802.20 work is eroded. Just as significantly, the reputations and standing of the elected officers within the global standards community are damaged.

Procedures that are at issue:

There is no 802 or 802.20 rule requiring prior 802 experience of a Working Group officer. All the elected 802.20 officers have substantial standards experience and are supported by their respective companies. The rationale for refusing to confirm the results appears to be inappropriate and unsupportable.

In fact, as noted above, there is no official summary rationale for the basis of the decision not to confirm.

The election rules were reviewed line-by-line with the Working Group prior to the election, and there were no IEEE requirements for 802 experience. Each of the candidates had an opportunity to present to the Working Group prior to the election. There were no objections regarding the experience of the candidates. The officer elections followed all the rules within 802. Executive Committee members chaired and supervised the election and balloting. The rules were read and displayed line by line by you as the election chair. No objections were raised. A “name by name” review was conducted regarding voting and membership rights. No objections were raised.

It is not believed that there are any express assertions to the contrary by the SEC as a body.

By adding a new requirement after the election that effectively disenfranchises 802.20 members and officer candidates, the processes and procedures set forth by 802 were not followed. Based on the foregoing, the Executive Committee’s actions during the March 14, 2003 meeting appear to be arbitrary and capricious and should not stand.

There was no “new requirement” added after the election. The well established procedure specified by the 802 P&P that the election of WG Chairs and Vice Chairs is subject to confirmation was followed. There is no requirement in the 802 P&P that confirmation be granted. By its very nature, the process involves the discretion of the SEC in its decision to confirm or deny the election of officers. In this case, the SEC used its discretion in denying the slate of officers.

Allowing a defeated candidate to make an address to the SEC under the guise of proposing the motion to confirm the elected officers is clearly a violation of any credible election process. It is obvious that this action calls the credibility of the whole confirmation process into serious doubt.

Mr. Klerer was properly a member of the SEC during the meeting in question per the well established procedure 5.1.2 quoted above.

Allowing a defeated candidate to vote on the SEC motion to confirm the elected officers is clearly a violation of any credible election process. It is obvious that this action calls the credibility of the whole confirmation process into serious doubt.

We don’t accept your assertion and there is no violation of 802 P&P cited.

It appears that Mark Klerer has no standing on the SEC as this WG confirmation is a requirement for SEC membership (Operating Rules of IEEE project 802, LAN MAN Standards Committee, section 3.2). The motion made by him is invalid.

Mr. Klerer was properly a member of the SEC during the meeting in question per the well established procedure 5.1.2 quoted above.

Specific remedial actions requested:

The 802 Executive Committee is requested to confirm the elected officers of 802.20 at the earliest convenience. The 802 Executive Committee chair is requested to appoint the duly elected officers as interim officers immediately.

This particular text seems to be a request for reconsideration of the motion to confirm rather than an appeal to set aside an action of the SEC. As such, the appropriate avenue for such a request (per Robert's Rules) would be to have a voter on the prevailing side make a motion to the SEC for reconsideration.

The procedure:

=====

5.1.2 Chair

LMSC Working Group Chairs and Vice Chairs shall be elected by the Working Group and confirmed by the LMSC Executive Committee. Terms shall end at the end of the first Plenary session of the next even numbered year.

=====

... clearly requires that two conditions must be satisfied in order to satisfy the requirements for office for "Working Group Chairs and Vice Chairs".

The requirements are:

- * shall be elected by the Working Group
- * confirmed by the LMSC Executive Committee

The dual requirement provides a check and balance system.

With respect to point two, the LMSC Chair, pursuant to his authority, appointed interim officers.

Previous efforts to solve the objection and outcomes:

The second paragraph of this letter covers the previous efforts for resolution.

My company, NTT DoCoMo has a very positive view of 802.20 which it views as a compliment to 3G, not a competitor. For this reason we are very eager to support and promote work and activities in this area. The company also has high regard for the professional, open and fair conduct maintained by the IEEE as an important, international standards body. It is my fervent wish and desire to maintain that perception going forward.

I urge you to correct this matter by fulfilling the clearly expressed will of the Working Group. This means immediately appointing the duly elected officers as interim officers and confirming the duly elected leadership at the earliest possible time. Further delay of this confirmation is divisive to the Working Group, damaging to the reputation of the IEEE, and will prevent the important work of IEEE 802.20 from proceeding.

Your appeal is denied because:

The LMSC Executive Committee, by its rules, has discretion in deciding whether to confirm or deny an election of officers by the Working Group. In reviewing the process, and in the absence of any evidence that the decision was arbitrary, we have concluded that the decision will stand.

Sincerely,



Geoffrey O. Thompson
1st Vice Chair, IEEE 802
Nortel Networks, Inc. M/S: P79/06/B04
P. O. Box 58185
Santa Clara, CA 95052-8185 USA
Phone: +1 408 495 1339
E-Mail: thompson@ieee.org

Paul Nikolich
Chair, IEEE 802 LAN/MAN Stds Committee
18 Bishops Lane
Lynnfield, MA 01940
Phone: +1 781 334 6524
Cell: +1 857 205 0050
Email: p.nikolich@ieee.org