1. Opening

The meeting was opened at 8:00pm EDT by Ms. Cheryl Blum, TIA Head of Delegation, at the invitation and request of ARIB/TTC whose prerogative it was to chair the meeting, having chaired the most recent face-to-face meeting of the Organizational Partners (OPs).

2. Attendance

The roll-call of OP Delegates was taken. The Secretary noted that the list of Delegates would be combined into contribution OP-20050516-002 to be posted on the 3GPP2 ftp site.

3. Approval of the Agenda

The agenda was approved as presented in contribution OP-20050516-001.

4. Contribution Assignments and Status

The Chair presented contribution OP-20050516-000 providing the list of contributions for the meeting. No further contributions were presented.

5. Old Business

5.1 Open Mobile Alliance IPR Policy and Impact on 2005 ITU-R M.1457 CDMA Multi-carrier submissions

The Chair presented contribution OP-20050516-003, consisting of correspondence from TSG-C to the Organizational Partners noting the impact of the 3GPP2 policy to suspend the publication of documents containing normative references to OMA documents on the 2005 update to...
the CDMA Multi-carrier submission to ITU-R M.1457, specifically the
fact that three documents – the transposed OP versions C.S0015, C.S0040
and C.S0045, that would otherwise be contained in the submission, may
not be included because of suspension by 3GPP2 and subsequent
suspension by the Project’s Organizational Partners of their transposed
standards.

TSG-C’s correspondence went on to recommend a series of steps on how
to move forward with the May submission in light of this fact, and
requested OP input and endorsement accordingly.

Before considering the recommendations noted in contribution OP-
20050516-003, the Chair invited Dan Bart (TIA) to introduce
contributions OP-20050516-004 and 004a, noting ongoing
communications between TIA and the OMA staff and OMA legal counsel
regarding the remaining concerns.

Mr. Bart acknowledged that the OMA has done much to satisfy 3GPP2’s
and its OP’s concerns, particularly changing OMA’s IPR policy to have IP
holders provide a licensing commitment to all users of OMA documents
on reasonable and non-discriminatory terms in connection with documents
dated January 1, 2005 or later, and subsequently reissuing all documents
after January 1, 2005 so that this amended policy applies to the entire
OMA library of documents.

However, TIA reiterated the still remaining concern, namely that the
amended OMA IPR policy binds only those holding essential intellectual
property contained within OMA documents that are members of the OMA
as of January 1, 2005 or later, but the revised policy does not apply to
those IP holders that either have not been OMA members (or members of
any of its predecessor organizations), or entities which dropped their
OMA membership prior to January 1, 2005. It was noted that, by viewing
public information available on the OMA web site, there are 23 IP holders
that would need to be OMA members to have all OMA documents
covered under the new policy. (See Contribution 004A) The OMA web
site also discloses OMA members, and all 23 of these entities are not
listed. The concern is with essential IP from non-OMA members (as of
January 1, 2005) who, under the revised OMA IPR policy, have evidenced
no commitment to license all users of OMA documents on terms that are
at least RAND.

Mr. Bart further noted that the worst-case repercussion that TIA must
avoid is a situation where use of a 3GPP2 specification, or transposed
SDO standard, that contains normative referencing to OMA documents
with essential OMA intellectual property, leads to detrimental
consequences to the SDO and users of the standards. These include
claims of users of unreasonable licensing provisions or unwillingness to
license at all. He added that the provision of commitments for licensing
essential patents on reasonable and non-discriminatory terms is a key
principle of TIA’s standards development process and an ANSI accreditation requirement and, thus, is the reason that TIA and other SDOs with similar policies continue to not reference OMA documents in their standards until this remaining issue is resolved. To this end, he has been in contact with the Open Mobile Alliance to ask that either the OMA address this issue directly with those remaining IP holders, or provide TIA with the contact information for the non-OMA member IP-holders so that TIA can contact them directly and seek commitments to license all users on reasonable and non-discriminatory terms, either for TIA’s own needs or on behalf of all 3GPP2 Organizational Partners. These discussions with the OMA are ongoing and thus far OMA has not provided any contact information or other information that would resolve the issue.

It was noted that TIA’s IPR policy is not dissimilar to the IPR policies of other standards developing bodies including the ITU. Consequently, it is expected that other standards bodies should have the same issues and be voicing the same concerns based on the same information currently known by TIA and 3GPP2 from the OMA web site.

No OP voiced concern over TIA’s continuing to pursue resolution of this matter with the OMA.

The Organizational Partners then resumed their consideration of TSG-C’s proposal on how to move forward with the 2005 CDMA Multi-Carrier submission into the 2005 ITU-R M.1457-5, contained in contribution OP-20050516-003.

1. - Submit the final references and certification of references and transposition by May 31, 2005 as required by the ITU-R. In the submitted references, add a footnote to the 3 listed specifications noting that they are temporarily unavailable and their status is to be confirmed before the final update is sent for final approval to the ITU-R.

2. The ITU-R will not be verifying the references until July 2005. If the IPR issue has been resolved by then, the ITU-R will remove the footnote and give final approval to the submission. If the IPR issue has not been resolved by July 2005 then the ITU-R Counselor will contact each of the 3GPP2 SDOs and ask them which of the 2 following actions they would like to take:
   a. Remove the 3 listed specifications from the reference tables and GCS
   b. Withdraw the CDMA Multi-carrier update to M.1457 entirely.

3. If 2 a. or 2 b. are needed then the 3GPP2 SDOs may include the 3 listed specifications in the next scheduled M.1457 update after the IPR issue has been resolved.

In his role as legal advisor for 3GPP2, Dan Bart noted that the footnote approach presented by TSG-C seemed reasonable and may allow a certain
degree of breathing room during which time the independent process of
seeking licensing commitments for non-OMA-members’ essential IP can
continue. However, he needed to verify that tentative conclusion with
TIA’s outside legal counsel.

There were no other comments from the Organizational Partners. There
was no objection to approval of TSG-C’s approach to handling the 2005
CDMA-Multi-Carrier ITU-R M.1457 submission into ITU-R up to the
point of handoff of the material from the TSGs to the OPs. The OPs
however are to internally review with their own legal counsel, having the
OPs’ submissions to the ITU-R contain the footnote.

**DECISION 2005/05-01**
The Organizational Partners approve the approach for moving forward
with the 2005 CDMA Multi-Carrier submission into ITU-R as proposed
by TSG-C in contribution OP-20050516-003 to the point of providing the
information to the OPs with the footnote.

**ACTION 2005/05-01**
Each OP to review internally and report to the Secretariat and other OPs,
whether use of the footnote in the OP’s submission to the ITU-R will be
used.

The Chair noted that further OP teleconference meetings would be needed
to continue discussions on TIA’s ongoing efforts to secure essential IP-
holder statements. It was decided that a follow-up teleconference meeting
would take place on Monday, May 23, 2005 for OPs to advise each other
of the outcome of their internal legal reviews re use of the footnote
approach. However, if all OPs indicate the footnote is a satisfactory
approach for their submission to the ITU-R and a mechanism for
providing some more time until July to resolve the remaining IPR issues,
then the scheduled call may be cancelled.

Related to this issue, the Secretary noted recent communication between
TSG-X and the OMA related to the transfer of MMS-related work. The
OMA has provided correspondence laying the groundwork for the transfer
of the work by requesting copyright permission to reproduce 3GPP2/OP
materials and details on where to look for IPR statements for each of the
3GPP2 OPs.

Organizational Partners noted the decision of the Steering Committee to
transfer MMS-related work to the OMA pending successful completion of
issues related to OP concerns (DECISION 2004/10-04). Nonetheless, it
was noted that TSG-X might work through its individual members in each
of the Organizational Partner countries to point the OMA to relevant IPR-
related information on each SDO’s web site.
6. Any Other Business

6.1 3GPP2 Brazil Workshop 2006

The Secretary noted the OP discussions to hold a workshop in Brazil, similar to the workshop held in New Delhi. He further noted that some discussion will be needed if this workshop is to be held in conjunction with an SC and OP meeting, and provided an outline of the discussion needed via e-mail to the Organizational Partners, reproduced in contribution OP-20050516-005. The Secretary urged the Organizational Partners to discuss the logistical issues concerned in preparation for a decision to be made at the June 2005 SC/OP meetings about the Workshop and which OP will be the host of the related SC/OP meeting.

7. Assignments for Next Meeting

ACTION 2005/05-01

Each OP to review internally and report to the Secretariat and other OPs, whether use of the footnote in the OP’s submission to the ITU-R will be used.

8. Adjournment

There being no further business, the meeting was adjourned at 9:45 pm US EDT.

[Secretary’s Note: The section below covers conclusions reached at the May 23 2005 OP teleconference meeting where four OPs were present. The conclusions were then socialized to the entire OP body via e-mail for approval. The e-mail exchange below summarizes the conclusions.]

From: Henry Cuschieri <henrycuschieri@yahoo.com>
To: op@3gpp2.org
CC: Henry Cuschieri
Date: Wednesday - May 25, 2005 6:08 PM

Dear 3GPP2 Organizational Partners,

BACKGROUND:

At the 3GPP2 OP teleconference meeting that took place on Monday, May 23 2005 at 8:00pm US-EDT, the Organizational Partners present on the call (ARIB, TIA, TTA, TTC) considered the proposal presented by TSG-C (contained in contribution OP-20050516-003) regarding how to handle this year's ITU-R M.1457 CDMA MultiCarrier submission in the context of not being able to provide those documents suspended by 3GPP2 and its Partner SDO's because of normative references to OMA documents, and the outstanding issues surrounding the OMA IPR policy.

The Organizational Partners present on the call agreed to TSG-C's proposal to include a footnote in this year's submission. The proposal by TSG-C recommended that this
footnote would show that the documents in question are temporarily unavailable and that
their status is to be confirmed before being sent for approval. Dan Bart, in his role as
legal advisor to 3GPP2, recommended that the term "unavailable" be replaced by the
term "suspended" given that "unavailable" does not necessarily convey that the
document(s) in question should not be used, but denotes instead a temporary condition
wherein an item might be "out of stock" and otherwise be available from an alternative
source.

The Organizational Partners present on the call supported the amendment. Consequently,
the recommended course of action is as follows:

- 1. Submit the final references and certification of references and transposition by May
   31, 2005 as required by the ITU-R. In the submitted references add a footnote to the 3
   listed specifications noting that they are temporarily suspended and status to be
   confirmed before being sent for approval.

- 2. The ITU-R will not be verifying the references until July 2005. If the IPR issue has
   been resolved by then the ITU-R will remove the footnote and give final approval to the
   submission. If the IPR issue has not been resolved by July 2005 then the ITU-R
   Counselor will contact each of the 3GPP2 SDO’s and ask them which of the 2 following
   actions they would like to take:
   -- a. Remove the 3 listed specifications from the reference tables and GCS.
   -- b. Withdraw the CDMA Multi-carrier update to M.1457 entirely.

- 3. If 2 a. or 2 b. are needed then the 3GPP2 SDOs may include the 3 listed
   specifications in the next scheduled M.1457 update after the IPR issue has been resolved.

ACTION REQUIRED:

Since not all 3GPP2 Organizational Partners were present on the call, the
recommendation noted above is being circulated for 24-hour review by all OP. If you
support the recommendation noted above, then THERE IS NO NEED TO RESPOND TO
THIS MESSAGE. If you have any comments, however, you are asked to submit them by
close of business May 26 2005, after which, absent any indication to the contrary, the
recommendation will be considered an OP decision to be acted upon by OPs accordingly.

Best regards,
Henry

From:  "Henry Cuschieri" <hcuschieri@tiaonline.org>
To:   op@3gpp2.org
Date:  Friday - May 27, 2005 1:13 PM
Subject:  [op] CLOSED: 2005 CDMA MC Submission to ITU-R

Dear 3GPP2 Organizational Partners,
The comment deadline regarding the proposed method for moving forward with this year's ITU-R M.1457-5 submission has passed. No comments were submitted, so the recommended course of action outlined in my e-mail of May 25 2005 is now considered approved by the Organizational Partners. For your reference, a copy of the e-mail dated May 25 2005 is copied below.

You will be copied on the e-mail response I provide back to TSG-C communicating the approved course of action.

Best regards,

Henry