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NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			AUGUSTIN, EVENS J	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte XIN WANG and BIJAN TADAYON

Appeal 2009-008480
Application 10/162,212
Technology Center 3600

Decided: December 16, 2009

Before MURRIEL E. CRAWFORD, HUBERT C. LORIN, and
JOSEPH A. FISCHETTI, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Xin Wang and Bijan Tadayon (Appellants) seek our review under 35 U.S.C. § 134 of the final rejection of claims 1-19 and 29-40. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We REVERSE.¹

THE INVENTION

The invention “relates to a method and system for digital rights management and, more particularly, to a method and system for automatically offering and granting rights over a communications network or other channels.” Specification [0003].

Claim 1, reproduced below, is illustrative of the subject matter on appeal.

1. A method for transferring usage rights adapted to be associated with items within a digital rights management system, said method comprising:
 - generating, by a supplier, at least one first offer including usage rights and meta-rights for the items, said usage rights defining a manner of use for the items, said meta-rights specifying rights to derive usage rights or other meta-rights for the items;
 - presenting, by the supplier, said offer to a first consumer in said system,

¹ Our decision will make reference to the Appellants’ Appeal Brief (“Br.,” filed Jul. 7, 2006) and the Examiner’s Answer (“Answer,” mailed Feb. 13, 2007).

wherein the offer expresses what rights the consumer can acquire for the items;
receiving, by the supplier, a selection from the first consumer indicating desired usage rights and meta-rights; and
generating, by the supplier, a first license granting to the first consumer the usage rights and meta-rights for the items,
wherein the first license grants the usage rights and meta-rights that are selected by the first consumer during the receiving step.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Downs	US 6,226,618 B1	May 1, 2001
Hitson	US 2002/0010759 A1	Jan. 24, 2002

The following rejections are before us for review:

1. Claims 1-13, 15-18, and 29-40 are rejected under 35 U.S.C. §102(b) as being anticipated by Downs.
2. Claim 14 is rejected under 35 U.S.C. §103(a) as being unpatentable over Downs.
3. Claim 19 is rejected under 35 U.S.C. §103(a) as being unpatentable over Downs and Hitson.

ISSUE

The issue is whether Downs describes, expressly or inherently, “meta-rights” as claimed.

FINDINGS OF FACT

We find that the following enumerated findings of fact (FF) are supported by at least a preponderance of the evidence. *Ethicon, Inc. v.*

Quigg, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

1. All the claims call for “meta-rights.”
2. The Specification provides an express definition for “meta-rights”:

Rights can specify transfer rights, such as distribution rights, and can permit granting of rights to others or the derivation of rights. Such rights are referred to as “meta-rights”. Meta-rights are the rights that one has to manipulate, modify, or otherwise derive other meta-rights or usage rights. Meta-rights can be thought of as usage rights to usage rights. Meta-rights can include rights to offer, grant, obtain, transfer, delegate, track, surrender, exchange, and revoke usage rights to/from others. Meta-rights can include the rights to modify any of the conditions associated with other rights. For example, a meta-right may be the right to extend or reduce the scope of a particular right. A meta-right may also be the right to extend or reduce the validation period of a right.

Specification [0030] (p. 9).

3. The Examiner defines “meta-rights” to mean “Sub-rights, or additional usage conditions derived from the usage rights.” Answer 8.
4. According to the Examiner, Downs describes “meta-rights” at col. 9, lines 33-35 and col. 10, ll. 15-18. Answer 3.
5. Col. 9, ll. 33-35, of Downs discloses: “The Metadata Assimilation and Entry Tool 161 is also used to enter the Usage Conditions for the Content 113. The data in Usage Conditions can include copy restriction rules, the wholesale price, and any business rules deemed necessary.”
6. Col. 10, ll. 15-18, of Downs discloses: “The secondary usage conditions data can include retail business offers such as Content 113

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