



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
**United States Patent and Trademark Office**  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/215,220	06/25/2008	Michael B. McCune	05220.483 (P447)	4819
14400	7590	11/21/2019	EXAMINER	
LOWENSTEIN SANDLER LLP / Red Hat Patent Docket Administrator One Lowenstein Drive Roseland, NJ 07068			GIROUX, GEORGE	
			ART UNIT	PAPER NUMBER
			2125	
			NOTIFICATION DATE	DELIVERY MODE
			11/21/2019	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@lowenstein.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* MICHAEL B. McCUNE, PETER A. VETERE,  
ROBIN L. NORWOOD, and MAUREEN E. DUFFY

---

Appeal 2019-000178  
Application 12/215,220<sup>1</sup>  
Technology Center 2100

---

Before JOSEPH L. DIXON, HUNG H. BUI, and JON M. JURGOVAN,  
*Administrative Patent Judges.*

JURGOVAN, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellant seeks review under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–15, 17–21, and 23–25, which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.<sup>2</sup>

---

<sup>1</sup> We use the word “Appellant” to refer to “applicant(s)” as defined in 37 C.F.R. § 1.42. The real party in interest is Red Hat Inc. (Appeal Br. 3.)

<sup>2</sup> Our Decision refers to the Specification (“Spec.”) filed June 25, 2008, the Final Office Action (“Final Act.”) mailed November 29, 2017, the Appeal Brief (“Appeal Br.”) filed April 27, 2018, the Examiner’s Answer (“Ans.”) mailed August 10, 2018, and the Reply Brief (“Reply Br.”) filed October 8, 2018.

## CLAIMED INVENTION

The claims are directed to a method and system for “managing entitlements [(a right/license to run a copy of an operating system)] in a networked environment” using a centralized server that distributes copies of an operating system from a software vendor to virtual guests of a virtual host running on a physical computing machine, whereby the “centralized server may interact with a hypervisor of the physical computing machine to determine what type of license of the operating system the virtual host has and a number of copies of the operating system requested by the virtual guests.” (Spec. ¶¶ 2, 15; Abstract.)

Claims 1, 8, and 17 are independent. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method comprising:

querying, by a processing device of a first server, a hypervisor of a physical computing machine, the physical computing machine executing a virtual host and a first virtual guest, wherein the querying is regarding entitlements associated with the virtual host and the first virtual guest, and wherein the virtual host provisions the first virtual guest with a copy of an operating system executing on the virtual host;

receiving, from the hypervisor, identification of a type of entitlement corresponding to the operating system of the virtual host and the operating system currently used by the first virtual guest;

distributing, by the processing device in view of the type of entitlement and a number of copies of the operating system provisioned by the virtual host, a copy of the operating system to at least a second virtual guest;

retrieving, by the processing device synchronizing with an external server of a software vendor, metadata related to the operating system provisioned by the virtual host;

retrieving, by the processing device, a specification and resource requirements of the second virtual guest received by the first server through a graphical user interface;

creating, by the processing device for the second virtual guest, a provisioning profile in view of the operating system, the metadata related to the operating system, and in view of the specification and resource requirements of the second virtual guest;

responsive to receiving updated information associated with the entitlements, updating, by the processing device, the provisioning profile for the second virtual guest to generate an updated provisioning profile; and

instructing the hypervisor of the physical computing machine, by the first server in response to a request, to provision the second virtual guest in view of the updated provisioning profile.

(Appeal Br. 37–45 (Claims App.).)

#### REJECTIONS & REFERENCES

(1) Claims 1–15, 17–21, and 23–25 stand rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. (Final Act. 3–5.)

(2) Claims 1–3, 6–10, 14, 15, 17–19, and 23–25 stand rejected under 35 U.S.C. § 103(a) based on Neil (US 2006/0004667 A1, published Jan. 5, 2006), Davis et al. (US 2008/0082811 A1, published Apr. 3, 2008) (“Davis”), Everdell et al. (US 2002/0165961 A1, published Nov. 7, 2002) (“Everdell”), and Reasons et al. (US 2004/0044895 A1, published Mar. 4, 2004) (“Reasons”). (Final Act. 6–14.)

(3) Claims 4, 11, and 20 stand rejected under 35 U.S.C. § 103(a) based on Neil, Davis, Everdell, Reasons, and Official Notice of “well-known practices in the art.” (Final Act. 15.)

(4) Claims 5, 12, 13, and 21 stand rejected under 35 U.S.C. § 103(a) based on Neil, Davis, Everdell, Reasons, and WIKIPEDIA, *Windows Update*, [http://en.wikipedia.org/w/index.php?title=Windows\\_Update&oldid=206841973](http://en.wikipedia.org/w/index.php?title=Windows_Update&oldid=206841973) (last visited “10/19/2011”) (“*Windows Update*”). (Final Act. 16–18.)

## ANALYSIS

### *Rejection under 35 U.S.C. § 101*

Patent eligibility is a question of law that is reviewable *de novo*. *Dealertrack, Inc. v. Huber*, 674 F.3d 1315, 1333 (Fed. Cir. 2012). Accordingly, we review the Examiner’s § 101 determinations concerning patent eligibility under this standard.

Patentable subject matter is defined by 35 U.S.C. § 101, as follows:

[w]hoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

In interpreting this statute, the Supreme Court emphasizes that patent protection should not preempt “the basic tools of scientific and technological work.” *Gottschalk v. Benson*, 409 U.S. 63, 67 (1972) (“*Benson*”); *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 71 (2012) (“*Mayo*”); *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014) (“*Alice*”). The rationale is that patents directed to basic building blocks of technology would not “promote the progress of science” under the U.S. Constitution, Article I, Section 8, Clause 8, but instead would impede it. Accordingly, laws of nature, natural phenomena, and abstract ideas, are not patent-eligible subject matter. *Thales Visionix Inc. v. United States*, 850 F.3d 1343, 1346 (Fed. Cir. 2017) (citing *Alice*, 573 U.S. at 216).

The Supreme Court set forth a two-part test for subject matter eligibility in *Alice* (573 U.S. at 217–18). The first step is to determine whether the claim is directed to a patent-ineligible concept. *Id.* (citing *Mayo*, 566 U.S. at 76–77). If so, then the eligibility analysis proceeds to the second step of the *Alice/Mayo* test in which we “examine the elements of the claim to determine whether it contains an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.” *Alice*, 573 U.S. at 221 (internal quotation marks omitted) (quoting *Mayo*, 566 U.S. at 72, 79). There is no need to proceed to the second step, however, if the first step of the *Alice/Mayo* test yields a determination that the claim is directed to patent-eligible subject matter.

The Patent Office has recently revised its guidance for how to apply the *Alice/Mayo* test in the *2019 Revised Patent Subject Matter Eligibility Guidance*, 84 Fed. Reg. 50–57 (Jan. 7, 2019) (“2019 Revised Guidance”). Applying Step 1 of the Revised Guidance (which is unchanged from the prior guidance) to the present case, we determine independent claim 1 recites a “method,” independent claim 8 recites a “system,” and independent claim 17 recites a “non-transitory computer-readable medium,” which are a form of “process,” “machine,” and “manufacture,” respectively, thereby falling within one of the categories enumerated under § 101 and satisfying Step 1 of the Revised Guidance.

We proceed to apply Step 2A of the Revised Guidance to determine if the claims are “directed to” a judicial exception. Step 2A of the Revised Guidance corresponds to the first step of the *Alice/Mayo* test but is in part changed from the *2014 Interim Guidance on Patent Subject Matter Eligibility*, 79 Fed. Reg. 74618–74633 (December 16, 2014).

The first Prong of Step 2A under the Revised Guidance is to determine whether the claims recite a judicial exception including (a) mathematical concepts; (b) certain methods of organizing human activity; and (c) mental processes. 2019 Revised Guidance, 84 Fed. Reg. at 51–52. Here, the Examiner determines that claims 1, 8, and 17 are directed to “managing entitlements, including determining whether correct entitlements are present” to “detect misuse of entitlements and provide ways of acquiring additional entitlements, as well as determining [] metadata and system resource requirements,” which is an abstract idea of “organizing and manipulating information through mathematical correlations,” “collecting and analyzing information to detect misuse and notifying a user when such is detected,” and “displaying . . . [the] results of the collection and analysis.” (Final Act. 3–4 (citing *FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089 (Fed. Cir. 2016); *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366 (Fed. Cir. 2011); *Elec. Power Grp., LLC, v. Alstom S.A.*, 830 F.3d 1350 (Fed. Cir. 2016); *Digitech Image Techs., LLC v. Elecs. for Imaging, Inc.*, 758 F.3d 1344 (Fed. Cir. 2014); *buySAFE, Inc. v. Google, Inc.*, 765 F.3d 1350 (Fed. Cir. 2014)); Ans. 6–7.)

We are not persuaded by the Examiner’s findings, as we are unable to agree that the Examiner has adequately found the concept of claims 1, 8, and 17 to be similar to others found to be abstract ideas by our reviewing courts. (See Appeal Br. 19–25.) Appellant’s claims 1, 8, and 17 recite a method and system for creating a virtual guest on a virtual host executed by a physical computing machine, and using a hypervisor of the physical computing machine to provision the virtual guest with an operating system. Here, we are unable to determine from the Examiner’s analysis whether such

technique for creating a virtual guest on a virtual host describes subject matter that is a mathematical concept, a method of organizing human activity, or a mental process (i.e., one of the three types of abstract ideas identified by the Revised Guidance).

Even if Appellant’s claims were considered to recite an abstract idea, we are persuaded by Appellant’s arguments that the claims *integrate* an abstract idea *into a practical application* under the second Prong of Step 2A. (2019 Revised Guidance 84 Fed. Reg. at 54–55; *see* Appeal Br. 12–15, 17–18; Reply Br. 3–4, 6.) Particularly, we agree with Appellant the claims *integrate* an abstract idea *into a practical application* of “provisioning and distributing operation systems to multiple virtual machines [on a physical computing machine] according to existing entitlements,” using a “hardware-centric, non-abstract” technique that “directly impact[s] the installation and use of an operating system by a virtual guest on a physical computing machine that includes the hypervisor.” (Appeal Br. 14, 29; Reply Br. 4.) Claim 1 recites a combination of additional elements including (i) distributing, in view of a type of entitlement and a number of copies of an operating system provisioned by a virtual host, a copy of the operating system to a second virtual guest, (ii) creating and updating a provisioning profile for the second virtual guest, and (iii) instructing the hypervisor of the physical computing machine to provision the second virtual guest in view of the updated provisioning profile. The claim’s additional elements provide a practical application of a process of building a machine (the second virtual guest) based on an entitlement (availability of an operating system’s license). (*See* Spec. ¶¶ 4, 14–15, 26, 34, 36.)

As Appellant explains, the claimed technique for creating a virtual guest on a virtual host provides “improvements in the field of provisioning and distributing operation systems to multiple virtual machines within a customer’s internal network according to existing entitlements.” (Appeal Br. 12–14, 29.) Appellant’s claim provides improved functionality for creating a new virtual guest at the direction of a server (claimed “first server”) directing an operating system’s distribution and a provisioning of the virtual guest on the physical computing machine “so that one does not have to manually install the operating system” on each new virtual guest. (Reply Br. 3, 5; Appeal Br. 14–15; *see* Spec. ¶¶ 4, 22, 26.) Thus, Appellant’s technique enables automatic provisioning and distribution of operating systems to multiple virtual machines on a physical computing machine, according to existing entitlements/licenses for operating system copies. (Appeal Br. 14–15, 17, 29.)

Thus, Appellant’s claim 1 (and similarly, claims 8 and 17) integrates the management of entitlements/licenses for networked virtual machines, into a process rooted in computer and network technologies. (*See* Spec. ¶¶ 2, 15, 26, 34; *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1257–58 (Fed. Cir. 2014) (holding patent-eligible a claim that “address[es] a business challenge (retaining website visitors)” by enabling visitors “to purchase products from the third-party merchant without actually entering that merchant’s website,” thus providing a “claimed solution . . . necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks”).)

Because claims 1, 8, and 17 integrate the judicial exception into a practical application, we find claims 1, 8, and 17, and their dependent claims

2–7, 9–15, 18–21, and 23–25, are not directed to a judicial exception (abstract idea), rather, they are directed to patent-eligible subject matter under § 101. Accordingly, we do not address Step 2B of the Revised Guidance (corresponding to step two of the *Alice/Mayo* test).

For these reasons, we do not sustain the Examiner’s rejection of claims 1–15, 17–21, and 23–25 as directed to non-statutory subject matter under 35 U.S.C. § 101.

*Rejection under 35 U.S.C. § 103(a)*

With respect to independent claims 1, 8, and 17, Appellant argues the claims together. (Appeal Br. 35.) Therefore, we select independent claim 1 as the representative claim for the group and will address Appellant’s arguments presented in the Appeal Brief and Reply Brief. *See* 37 C.F.R. § 41.37(c)(1)(iv).

With respect to independent claim 1, Appellant contends Everdell does not teach or suggest “retrieving, by the processing device synchronizing with an external server of a software vendor, metadata related to the operating system provisioned by the virtual host” as claimed. (Appeal Br. 30–31; Reply Br. 7–8.) Particularly, Appellant argues Everdell (i) does not gather “metadata . . . ***related to the operating system provisioned by the virtual host,***” (ii) does not teach or suggest “***synchronizing with an external server*** of a software vendor” to retrieve the metadata, and (iii) does not mention a virtual host, a virtual guest, or a hypervisor, and thus is unrelated to the claimed “provisioning . . . in relation to operating systems on virtual machines.” (Appeal Br. 30–31; *see also* Reply Br. 8.) With respect to Reasons, Appellant argues that (i) Reasons does not create the claimed

“provisioning profile *in view of* the operating system, *the metadata related to the operating system*, and *in view of the specification and resource requirements of the second virtual guest*,” and Reasons’ “entitlement profile . . . is not related to provisioning ‘a copy of the operating system to a virtual guest,” (ii) Reasons does not teach or suggest “instructing the hypervisor of the physical computing machine, by the first server in response to a request, to provision the second virtual guest *in view of the updated provisioning profile*,” and (iii) Reasons “fails to teach or suggest why or how . . . [its entitlement] profile would be updated, or how such an updated provisioning profile would be employed.” (Reply Br. 8; Appeal Br. 31–33.) Appellant further argues that: the Examiner “does not state any reasons why Everdell would be combinable with Reasons”; and the Examiner’s combination of Neil and Everdell is improper because Neil and Everdell are non-analogous to one another and cannot logically be combined. (Appeal Br. 32, 34–35; Reply Br. 9.) We do not agree.

We agree with and adopt the Examiner’s findings as our own with respect to the obviousness rejection. (Ans. 8–9; Final Act. 6–11.) Particularly, we agree with the Examiner that Everdell retrieves *metadata related to a provisioned operating system*, as required by claim 1. (Ans. 8; Final Act. 8–9.) For example, Everdell discloses “gather[ing] necessary information[, ]i.e., *metadata*” that allows “hot upgrades and downgrades” of, e.g., “portions of the *kernel* [that] *may be hot upgraded under certain circumstances*,” where “the *kernel* includes *operating system software*.” (See Everdell ¶¶ 111–112 (emphases added).) Thus, Everdell retrieves metadata *related to* the operating system (i.e., the operating system of the kernel being upgraded in Everdell).

Regarding the claimed “synchronizing with an external server of a software vendor” to retrieve metadata related to the operating system, the Examiner finds Everdell teaches this limitation because Everdell’s **“metadata is collected for software including the operating system which may be updated by an external server.”** (Final Act. 8–9 (citing Everdell ¶¶ 111–113, 940).) We agree with the Examiner’s findings. Everdell’s metadata (that enables upgrades for a kernel including operating system software) is distributed through a “modular software architecture” that “can be implemented on any network device (including routers) or other types of computer systems” and can include “a network computer system with a loosely coupled distributed processing system . . . or a combination of distributed and central processing.” (*See* Everdell ¶¶ 112–113; *see also* Everdell ¶ 109 (the “modular software architecture solves some of the more common scenarios seen in existing architectures when software is upgraded or new features are deployed”).) Everdell’s gathering of metadata to enable kernel upgrades in a distributed processing system is commensurate with the broad description of “synchronizing with an external server” to retrieve metadata in Appellant’s Specification.<sup>3</sup>

Appellant also argues that claim 1’s “virtual host [that provisions the operating system] is *executing on ‘the physical computing machine,’ not the first server* [whose processing device retrieves metadata related to the operating system, and has a graphical user interface],” in contrast to Everdell where the graphical user interface (GUI) and software updates “are related to

---

<sup>3</sup> Appellant’s Specification describes “synchroniz[ing] with the external server by retrieving from the external server updates to items previously retrieved from periodically or in response to user requests” to “update a copy of the item on the centralized server 110 accordingly.” (Spec. ¶¶ 23, 28.)

the machine that is going to be hot upgraded or downgraded.” (Reply Br. 8.) Appellant’s argument is not commensurate with the scope of claim 1, which does not require the “first server” (and its “processing device”) to be separate from the claimed “physical computing machine.”

Regarding the claimed term “provisioning profile,” Appellant’s Specification does not provide an explicit and exclusive definition of a “provisioning profile.” Rather, the Specification merely provides discussion of non-limiting examples of the term.<sup>4</sup> Reasons describes an “entitlement profile” including new or updated “entitlement information” regarding “entitlement rights for a user-desired operation” executed on a local computer, where the “user-desired operation is a computer-controlled operation and includes . . . the execution of an operating system function” and “obtaining access to a hardware system or operating system.” (See Reasons ¶¶ 10–12, 21, 23, 26.) Reasons further explains “the entitlement status of the user-desired operation may be checked” based on the “obtain[ed] information about the local machine.” (*Id.* ¶ 26.) We agree with the Examiner that Reasons’ *entitlement profile*, which is based on information about the local machine and is used to provision the machine with “access to computer operations, including operating systems,” is commensurate with the term *provisioning profile* as claimed and with the broad description of a *provisioning profile* in Appellant’s Specification. (See Reasons ¶¶ 9, 11–12, 23–26; Ans. 8; Final Act. 9–10.)

---

<sup>4</sup> Appellant’s Specification broadly describes “a provisioning profile” created as follows: “users of the centralized server may *input specifications and/or requirements of the virtual machines*” and “[b]ased on the user input, processing logic *creates a provisioning profile* for each type or class of system.” (Spec. ¶ 34 (emphases added).)

We further agree with the Examiner the skilled artisan would envision Reasons' provisioning profile to have been created *in view of* the operating system (that is to be accessed and executed on Reasons' local machine), *in view of* metadata related to the operating system (as taught by Everdell's metadata enabling kernel upgrades), and *in view of* a specification and resource requirements of Reasons' local machine (e.g., "information or data about the local computer" described in paragraphs 25 and 26 of Reasons).<sup>5</sup> (Ans. 8–9; Final Act. 9–10; *see* Reasons ¶¶ 25–26 ("information about the local machine [is obtained] so that the local machine may be properly identified and the entitlement status of the user-desired operation may be checked").)

Appellant also argues, unpersuasively, that Reasons "fails to teach or suggest why or how . . . [its entitlement] profile would be updated, or how such an updated provisioning profile would be employed." (Appeal Br. 33.) Reasons does explain how an updated provisioning profile is used: "a localized entitlement system for controlling access to computer operations, including operating systems . . . may be updated through a remote system such as the Internet" and contacts "an entitlement server . . . to obtain updated entitlement information or to create an entitlement profile for the user," to thereby "obtain or validate the entitlement status for a user-desired operation accessed by the local computer." (*See* Reasons ¶¶ 11–12, 19, 25–26.)

With regard to Appellant's arguments that "Everdell does not mention

---

<sup>5</sup> Claim 1 broadly recites the provisioning profile is created *in view of* the operating system, *in view of* metadata related to the operating system, and *in view of* the specification and resource requirements of the second virtual guest.

a virtual host, a virtual guest, or a hypervisor” or an “operating system provisioned by a virtual host for a virtual guest,” and Reasons does not instruct a hypervisor to provision a virtual guest (*see* Appeal Br. 31, 33), we note the Examiner cited Neil and Davis for teaching virtual hosts and guests and a hypervisor, and “provisioning operating systems and monitoring of licenses (entitlements) of the virtual hosts and guests.” (*See* Ans. 8–9; Final Act. 6–8.) The Examiner also provided reasoned rationales to use Reasons’ system for checking/provisioning entitlements and Everdell’s metadata and requirements collection and provisioning, in the provisioning of operating systems within virtual environments disclosed by Neil and Davis. (Final Act. 8–11; Ans. 8–9.)

Appellant also argues the Examiner failed to provide articulated reasoning to combine Everdell with Reasons. (Appeal Br. 32; Reply Br. 9.) We disagree, as the Examiner has provided a reasoned rationale to combine Reasons’ use and update of an entitlement profile for provisioning computer operations (including access and execution of an operating system), with Everdell’s provisioning of software upgrades using metadata for “seamless extensibility” allowing new software processes to be added and existing software processes to be upgraded. (Ans. 8–9 (citing Everdell ¶¶ 112, 182, 190, 915–918, 927, 940); Final Act. 9–10 (citing Reasons ¶¶ 11–12, 23–26).) We have reviewed the Examiner’s findings and rationale, and conclude there is sufficient support for the finding of obviousness.

We are also not persuaded by Appellant’s argument that Neil and Everdell are non-analogous to one another because Everdell’s “virtual ATM interfaces and virtual connections related to the virtual ATM interfaces . . . are not related to virtual machines for which operating systems would need

to be provisioned in Neil.” (Appeal Br. 34.) Everdell, however, is not restricted to ATM interfaces and ATM software upgrades, as Everdell is also concerned with upgrading kernels (that include operating system software) for “other applications, for example, Internet Protocol (IP) applications, Frame Relay and MultiProtocol Label Switching (MPLS) applications.” (See Everdell ¶¶ 112, 161, Abstract.) We agree with the Examiner that Everdell and Neil are analogous art in the field of software distribution and software updating. (Final Act. 9; Ans. 9.)

For these reasons, Appellant has not persuaded us of error in the Examiner’s rejection of claim 1. As such, we sustain the Examiner’s obviousness rejection of claim 1, independent claims 8 and 17 argued for the same reasons as claim 1, and dependent claims 2–7, 9–15, 18–21, and 23–25 for which no separate arguments for patentability are presented.<sup>6</sup> (Appeal Br. 35.)

#### DECISION SUMMARY

The Examiner’s rejection of claims 1–15, 17–21, and 23–25 under 35 U.S.C. § 101 is REVERSED.

The Examiner’s rejection of claims 1–15, 17–21, and 23–25 under 35 U.S.C. § 103(a) is AFFIRMED.

---

<sup>6</sup> We acknowledge Appellant’s objection to the Examiner’s taking of Official Notice in the rejection of dependent claims 4, 11, and 20. (See Appeal Br. 35.) However, Appellant has not adequately traversed the Examiner’s assertion of Official Notice. For example, Appellant did not specifically point out the supposed errors in the Examiner’s initial taking of Official Notice (in the Examiner’s earlier Office Action dated March 2, 2015), and did not state why the officially noticed fact is not considered to be common knowledge or well-known in the art. See MPEP § 2144.03.

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1–15, 17–21, 23–25	101	non-statutory		1–15, 17–21, 23–25
1–3, 6–10, 14, 15, 17–19, 23–25	103(a)	Neil, Davis, Everdell, Reasons	1–3, 6–10, 14, 15, 17–19, 23–25	
4, 11, 20	103(a)	Neil, Davis, Everdell, Reasons, Official Notice	4, 11, 20	
5, 12, 13, 21	103(a)	Neil, Davis, Everdell, Reasons, Windows Update	5, 12, 13, 21	
<b>Overall Outcome</b>			1–15, 17–21, 23–25	

Because we have affirmed at least one ground of rejection with respect to each claim on appeal, the Examiner’s decision is affirmed. *See* 37 C.F.R. § 41.50(a)(1).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

**AFFIRMED**