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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* JAGADESHWAR REDDY NOMULA

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Appeal 2017-011325  
Application 13/089,772  
Technology Center 3600

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Before DENISE M. POTHIER, JUSTIN BUSCH, and  
NORMAN H. BEAMER, *Administrative Patent Judges*.

POTHIER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant<sup>1,2</sup> appeals under 35 U.S.C. § 134(a) from the Examiner’s rejection of claims 21–32 and 39–46. Appeal Br. 2. Claims 1–20 and 33–38 have been canceled. *See* October 26, 2015 Supplemental Reply 2, 6. The instant application for this appeal relates to U.S. Application No. 13/908,992, which has been assigned Appeal No. 2017-011126.

We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

*Invention*

Appellant’s invention relates to a method and system for presenting gift recommendations for a friend through an online social networking platform. “[I]nformation corresponding to the friend is mined from the online social networking platform” and “[r]ecommend[at]ions corresponding to gifts for the friend [are] presented based on processing . . . the mined information.” Spec. ¶ 9. The invention also relates to a similar method and system that “enable[s] sharing . . . aggregated information to applications that can leverage the information to enhance the relevance of the targeted content[, including recommended goods that can be bought as gifts,] presented to the user.” *Id.* ¶ 7; *see id.* ¶ 19.

Independent claim 21 exemplifies the claims at issue and reads as follows:

21. A method, performed by a computer system, for recommending to a first user of targeted gifts for a second user

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<sup>1</sup> Throughout this opinion, we refer to the Non-Final Action (Non-Final Act.) mailed March 24, 2016, the Appeal Brief (Appeal Br.) filed April 3, 2017, the Examiner’s Answer (Ans.) mailed July 3, 2017, and the Reply Brief (Reply Br.) filed September 5, 2017.

<sup>2</sup> Appellant identifies the real party in interest as Jagadeshwar Reddy Nomula. Appeal Br. 2.

linked to the first user through a first online social networking platform, the first user operating a user terminal, the user terminal comprising a network-capable computing device having a display screen to display graphical user interfaces, the first online social networking platform having at least one server adapted to perform online social networking services for users thereof, the computer system comprising a processor, a system memory, and a network interface device (NID) adapted to enable the computer system to communicate to both the user terminal and the first online social networking platform, the method comprising the steps of:

    sending, by the computer system, a first set of instructions to the user terminal for the user terminal to display a first user interface (UI), the first UI enabling the first user to authenticate to the first online social networking platform as a way for the first user to sign-up with or authenticate into the computer system;

    receiving, by the computer system, social network information of the first user from the first online social networking platform after the first user successfully authenticates to the first online social networking platform, the received social network information including information about friends in a social network of the first user in the first online social networking platform;

    sending, by the computer system, a second set of instructions to the user terminal for the user terminal to display a second UI, the second UI enabling the first user to select one or more friends in the first user's social network for whom the first user wishes to purchase one or more gifts;

    receiving, by the computer system, giftee selection information from the user terminal, the giftee selection information indicating that the second user is among the selected one or more friends for whom the first user wishes to purchase one or more gifts;

    receiving, by the computer system, aggregated social network information of the second user aggregated from one or more online social networking platforms;

    processing and analyzing, by the computer system, the received aggregated social network information of the second

user, and recommending one or more potential gift items for the second user using the received aggregated social network information of the second user; and

sending, by the computer system, a third set of instructions to the user terminal for the user terminal to display a third UI, the third UI presenting the recommended one or more potential gift items as selectable by the first user for purchase for the second user.

*Id.* at 25–26 (Claims App’x).

The Examiner relies on the following as evidence of unpatentability:

Morgenstern	US 2008/0189188 A1	Aug. 7, 2008
Kanigsberg	US 2008/0294624 A1	Nov. 27, 2008
Ramer	US 2009/0222329 A1	Sept. 3, 2009

### *The Rejections*

Claims 21–32 and 39–46 are rejected under 35 U.S.C. § 101.

Non-Final Act. 7–11.

Claims 21–25, 27–31, 40, 41, 43, and 44<sup>3</sup> are rejected under 35 U.S.C. § 103(a) as unpatentable over Morgenstern and Kanigsberg. Non-Final Act. 13–21.

Claims 26, 39, 42, 45, and 46 are rejected under 35 U.S.C. § 103(a) as unpatentable over Morgenstern, Kanigsberg, and Ramer. Non-Final Act. 21–26.

## THE PATENT ELIGIBILITY REJECTION

The Examiner finds that the claims are directed to (1) an abstract idea of collecting, comparing, organizing, storing, and transmitting information,

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<sup>3</sup> Although omitting claim 44 in the rejection’s heading (Non-Final Act. 13), claim 44 is rejected the rejection’s body (Non-Final Act. 21).

including using rules to identify options (Non-Final Act. 8–10; *see also* Ans. 3) and (2) optimizing a marketing objective through collecting, storing, comparing, and displaying data (*see* Non-Final Act. 4; *see also* Ans. 3). The Examiner states the claimed computer components, when considered as an ordered combination, “add nothing that is not already present when the steps reconsidered [sic] separately,” do not add significantly more than applying the abstract idea using a generic computer, and do not transform the abstract idea into a patent-eligible invention. Non-Final Act. 11; Ans. 3–4. The Examiner adds the claim’s individual limitations “are some of the most basic functions of a computer” and are “well-understood, routine, conventional activities previously known to the industry.” Non-Final Act. 10; *see also* Ans. 3.

Appellant argues that the Examiner has oversimplified the claims and has failed to identify an abstract idea when considering the claim as a whole. Appeal Br. 15–16. Appellant asserts the claimed invention improves on the existing technological process by acquiring content targeting a specific user and making gift recommendations using the specific user’s ecommerce activity information. *Id.* at 17. Appellant further states the additional claim limitations are not merely routine or conventional. *Id.* at 18–19.

## LEGAL FRAMEWORK

An invention is patent-eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101. However, the Supreme Court has long interpreted 35 U.S.C. § 101 to include implicit exceptions: “[I]aws of nature, natural phenomena, and abstract

ideas” are not patentable. *See Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014).

In determining whether a claim falls within an excluded category, we are guided by the Supreme Court’s two-step framework, described in *Mayo* and *Alice*. *Id.* at 217–18 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 75–77 (2012)). Under that framework, we first determine what concept the claim is “directed to.” *See Alice*, 573 U.S. at 219; *see also Bilski v. Kappos*, 561 U.S. 593, 611 (2010). Concepts determined to be abstract ideas, and thus patent ineligible, include certain methods of organizing human activity, such as fundamental economic practices (*Alice*, 573 U.S. at 219–20; *Bilski*, 561 U.S. at 611); mathematical formulas (*Parker v. Flook*, 437 U.S. 584, 594–95 (1978)); and mental processes (*Gottschalk v. Benson*, 409 U.S. 63, 69 (1972)).

If the claim is “directed to” an abstract idea, we turn to the second step of the *Alice* and *Mayo* framework, where “we must 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). “A claim that recites an abstract idea must include ‘additional features’ to ensure ‘that the [claim] is more than a drafting effort designed to monopolize the [abstract idea].’” *Id.* (quoting *Mayo*, 566 U.S. at 77). “[M]erely requir[ing] generic computer implementation[] fail[s] to transform that abstract idea into a patent-eligible invention.” *Id.*

The PTO recently published revised guidance concerning 35 U.S.C. § 101. *2019 Revised Patent Subject Matter Eligibility Guidance* (“2019

Guidance”), 84 Fed. Reg. 50 (Jan. 7, 2019). Under this guidance, we first look to whether the claim recites:

- (1) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human interactions such as a fundamental economic practice, or mental processes) (“Revised Step 2A, Prong One”); and
  - (2) additional elements that integrate the judicial exception into a practical application (*see* the Manual of Patent Examining Procedure (MPEP) § 2106.05(a)–(c), (e)–(h)) (“Revised Step 2A, Prong Two”).
- See* 2019 Guidance, 84 Fed. Reg. 50–52, 54–55.

If a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, we further consider whether the claim:

- (3) adds a specific limitation beyond the judicial exception that is not “well-understood, routine, conventional” in the field (*see* MPEP § 2106.05(d)); or
  - (4) simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.
- See* 2019 Guidance, 84 Fed. Reg. 50, 56.

## ANALYSIS

Based on the record before us, we find error.

### *The Judicial Exception — Revised Step 2A, Prong 1*

Among other descriptions, the Examiner finds claim 21 recites optimizing a marketing objective through collecting, storing, comparing, and

displaying data. *See* Non-Final Act. 4; *see also* Ans. 3. This characterization falls into one of the three judicial exceptions in the 2019 Guidance, including a certain method of organizing human activity (e.g., commercial interaction that involves marketing and sales activities or behaviors).

Claim 21 recites “[a] method . . . for recommending to a first user of targeted gifts for a second user.” Appeal Br. 25 (Claims App’x). Claim 21’s method is implemented on a computer system. The recited method uses the computer system to: (1) send instructions to enable the first user to select a friend for which the first user wishes to purchase a gift, (2) receive giftee selection information indicating the second user is among the selected friend(s) from who the first user wishes to purchase a gift, (3) receive the second user’s aggregated social network information, (4) process and analyze the received aggregated social network information, (5) recommend a potential gift item for the second user using the received second user’s aggregated social network information, and (6) send instructions to display a user interface that presents the recommended potential gift item as selectable to the first user for purchase. *Id.* at 25–26 (Claims App’x).

Recommending gifts (e.g., a marketing objective as described by the Examiner (Non-Final Act. 4)) by targeting a specific user’s social network information, including a recipient’s information, is a commercial interaction (e.g., marketing or sales activity). Because claim 21 covers this commercial interaction, claim 21 is directed to subject matter that falls within the group of certain methods of organizing human activity. *See* 2019 Guidance, 84 Fed. Reg. 50, 52 (explaining that the grouping of certain methods of organizing human activity includes “commercial or legal interactions”).

Appellant argues that the Examiner failed to identify one abstract idea for the entire claim. Appeal Br. 15–16. We are not persuaded. “Adding one abstract idea (math) to another abstract idea (encoding and decoding) does not render the claim non-abstract.” *See RecogniCorp, LLC v. Nintendo Co.*, 855 F.3d 1322, 1327 (Fed. Cir. 2017). Also, to the extent Appellant asserts the Examiner fails to identify *any* abstract idea, we disagree for the above-stated reasons.

Appellant states “the claimed subject matter is . . . to increase the relevancy of gift recommendations specifically targeting a specific user.” Appeal Br. 15. Appellant argues the claimed invention improves on the conventional art of providing online targeting information to a specific user by making the acquired content more relevant. *Id.* at 17. According to the Specification, known approaches to present targeted content in this environment do not consider the gift recipient’s preferences, including mining the recipient’s information aggregated from multiple social networking platforms. Spec. ¶¶ 5–7, 42–43. Even so, “a claim for a *new* abstract idea is still an abstract idea.” *Synopsys, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1151 (Fed. Cir. 2016).

On this record, we are not persuaded that the Examiner erred in determining that claim 21 recites a judicial exception.

*Integration into a Practical Application — Revised Step 2A, Prong 2*

Claim 21 recites features in addition to the judicial exception of recommending gifts by targeting specific user activities. Namely, claim 21 performs its steps using (1) a computer system having a processor, memory and network interface device, (2) a database that stores information of its system users, and (3) a user terminal having a display screen to receive and

send instructions in a social networking environment. In addition, the first two steps in claim 21 (i.e., “sending . . . a first set of instructions to the user terminal for the user terminal to display a first user interface (UI), the first UI enabling the first user to authenticate to the first online social networking platform as a way for the first user to sign-up with or authenticate into the computer system” and “receiving . . . social network information of the first user from the first online social networking platform after the first user successfully authenticates to the first online social networking platform, the received social network information including information about friends in a social network of the first user in the first online social networking platform”) are separate from the above-identified judicial exception. That is, these first two steps involve authenticating a user to a social networking platform and are further features in addition to claim 21’s judicial exception.

Appellant argues the claimed invention improves on the conventional art by providing online targeting information to a specific user and by making the acquired content more relevant. Appeal Br. 17 (citing *McRO, Inc. v. Bandai Namco Games Am. Inc.*, 837 F.3d 1299 (Fed. Cir. 2016)). For the reasons stated below related to Step 2B, we do not reach whether claim 21 is integrated into a practical application. If prosecution continues, we encourage the Examiner to follow the guidance set forth in the 2019 Guidance related to Revised Step 2A, Prong 2. See 2019 Guidance, 84 Fed. Reg. at 54–55.

#### *The Inventive Concept – Step 2B*

Regarding the inventive concept, the Examiner finds “the individual limitations claimed are some of the most basic functions of a computer. All of these computer functions are well-understood, routine, conventional

activities previously known to the industry.” Non-Final Act. 10; *see also* Non-Final Act. 4 (discussing obtaining, identifying, and filtering data functions are well-understood, routine, and conventional activities); *see also* Ans. 3 (same).

Among other things, Appellant argues the first two steps in claim 21 are not routine or conventional activity in a field of recommending a gift to a specific giftee. *See* Appeal Br. 18–19. As previously stated, claim 21’s first two steps are additional elements beyond the judicial exception. Also, as noted above, claim 21 includes limitations directed to purported improvements described in the Specification.

In response to *Berkheimer v. HP Inc.*, 881 F.3d 1360 (Fed. Cir. 2018), *reh’g denied en banc*, 890 F.3d 1369 (Fed. Cir. 2018), the Office issued *Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision (Berkheimer v. HP, Inc.)* (Apr. 19, 2018) (“2018 Memorandum”).<sup>4</sup> Specifically, the 2018 Memorandum states an additional element (or combination of elements) is not well-understood, routine or conventional to one skilled in the art *unless* the Examiner finds and supports the § 101 rejection with one or more of the following: (1) a citation to an express statement in the Specification or to statement made by applicants during prosecution demonstrating the well-understood, routine, and conventional nature of the additional elements, (2) a citation to one or more court decisions in MPEP § 2106.05(d)(II) as noting the well-understood, routine and conventional nature of the additional elements, (3) a citation to a publication that demonstrates the well-

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<sup>4</sup> Available at <https://www.uspto.gov/sites/default/files/documents/memo-berkheimer-20180419.PDF>.

understood, routine, and conventional nature of the additional elements, and (4) a statement that the Examiner is taking official notice of the well-understood, routine, and conventional nature of the additional elements.

2018 Memorandum 3–4.

Upon review of the record, the Examiner has not relied upon one or more of the above-identified manners to support the findings that the certain, additional features in claim 21 are well-understood, routine, and conventional. *See* Non-Final Act. 4, 10; *see also* Ans. 3. Specifically, the Examiner has not relied upon the Specification, case law, or a publication to demonstrate the well-known, routine, and conventional nature of the first two steps in claim 21 (i.e., “sending . . . a first set of instructions to the user terminal for the user terminal to display a first user interface (UI), the first UI enabling the first user to authenticate to the first online social networking platform as a way for the first user to sign-up with or authenticate into the computer system” and “receiving . . . social network information of the first user from the first online social networking platform after the first user successfully authenticates to the first online social networking platform, the received social network information including information about friends in a social network of the first user in the first online social networking platform”). *See* Non-Final Act. 4, 10; *see also* Ans. 3.

Also, to the extent the Examiner relied upon Official Notice of the well-understood, routine, and conventional nature of the additional elements, no such explicit statement has been made in the record. *See* Non-Final Act. 4 (discussing obtaining, identifying, and filtering data functions are well-understood, routine, and conventional activities), 10; *see also* Ans. 3. In any event, the 2018 Memorandum indicates that once applicant challenges

the Examiner's position that certain elements are not well-understood, routine, and conventional activities, as is the case here, the Examiner can no longer rely on Official Notice and must provide one of the above, outlined items (1) through (3).

For the foregoing reasons, Appellant has persuaded us of error in the rejection of (1) independent claims 21 and 27 and (2) dependent claims 22–26, 28–32, and 39–46 for similar reasons.

#### THE OBVIOUSNESS REJECTION OVER MORGENSTERN AND KANIGSBURG

Regarding independent claim 21, the Examiner finds Morgenstern teaches or suggests many of its limitations. Non-Final Act. 13–15 (citing Morgenstern ¶¶ 21–22, 49, 52–57, Abstract, Figs. 1, 2, 4, 6, and 7). As for the steps of “receiving . . . aggregated social network information of the second user aggregated from one or more social networking platforms,” “processing and analyzing . . . the received aggregated social network information of the second user, and recommending one or more potential gift items for the second user using the received aggregated social network information of the second user,” the Examiner relies on Morgenstern and Kanigsberg in combination. *Id.* at 14–15 (citing Kanigsberg ¶ 3, Abstract).

Appellant argues Morgenstern is irrelevant to gift-recommending and therefore to the subject matter recited in independent claim 21. Appeal Br. 20–23. Appellant asserts Morgenstern relates to an already purchased asset and does not teach selecting a friend “for whom the first user wishes to purchase one or more gifts” or “recommending one or more potential gift items for the second user” as recited. *Id.* Also, Appellant argues

Kanigsberg does not cure the above purported deficiency because Kanigsberg is irrelevant to selecting a giftee from a user's friends and to gift recommendations using a selected giftee's aggregated social network information. *Id.* at 22.

Appellant argues claims 21 and 27 as a group. *Id.* at 20–23. We select claim 21 as representative. *See* 37 C.F.R. § 41.37(c)(1)(iv).

### MAIN ISSUE

Under § 103, has the Examiner erred in rejecting claim 21 by finding Morgenstern and Kanigsberg collectively would have taught or suggested “receiving . . . giftee selection information from the user terminal, the giftee selection information indicating that the second user is among the selected one or more friends for whom the first user wishes to purchase one or more gifts” and “recommending one or more potential gift items for the second user using the received aggregated social network information of the second user”?

### ANALYSIS

Based on the record before us, we find no error in the Examiner's obviousness rejection of independent claim 21. Appellant first argues Morgenstern is irrelevant to gift-recommending. Appeal Br. 20–21, 23. In this regard, Appellant contends the gifts in Morgenstern have already been purchased and do not involve selecting a second user as a giftee. *Id.* at 20. We are not persuaded.

Morgenstern discloses a method that recommends gifts to a first user. For instance, Morgenstern discloses a gift database 308 of available gifts

using a social network provider and a first user's (e.g., 102A) gift webpage can be used to gift to a second user (e.g., 102B). Morgenstern ¶¶ 56, 66, Figs. 1 and 3, *cited in part in* Non-Final Act. 13–14. Morgenstern describes Figure 3 as gifting an asset (e.g., an image) and gift module 306 “may recommend several rose images to” the first user (e.g., 102A) “for consideration,” which are based on the *recipient's* affinity. Morgenstern ¶ 66. Morgenstern additionally teaches and shows in Figure 6 a first user selecting a recipient for a gift (e.g., a friend which is a second user in window 610) and then displaying numerous “potential gift items” (e.g., in window 620) a first user can give to a friend. Morgenstern ¶¶ 77–78, Fig. 6, *cited in in part in* Non-Final Act. 14. Morgenstern thus teaches a process that “receiv[es] . . . giftee selection information . . . , the giftee selection information indicating that the second user is among the selected one or more friends for whom the first user wishes to purchase one or more gifts” and “recommend[s] one or more potential gift items for the second user” based on second user's information (e.g., recipient's affinity) as claim 21 recites.

Additionally, Morgenstern's process includes embodiments where a first user buys a gift for a second user in an online social network environment and the gift has *not* been purchased already. Morgenstern ¶ 28; *see also id.* ¶¶ 76–82, Figs. 5–8, *cited in part in* Non-Final Act. 13–14. Even if some features in Morgenstern address an already purchased gift (*see* Appeal Br. 20 (citing Morgenstern ¶¶ 24–26)), Morgenstern teaches other features where the gift has not been purchased already, such as that shown in cited Figures 6 and 7 discussed above (*see* Non-Final Act. 13–14) and Figure 8 (*see* Morgenstern, Fig. 8 (elements 810, 820)). *See also*

Morgenstern ¶ 26, *cited in* Appeal Br. 20. As such, contrary to Appellant’s assertions, Morgenstern teaches giftee selection from among friends in the giftor’s social network (e.g., element 610 in Figure 6) and the second user’s gift (e.g., element 620 in Figure 6) is selected for purchase. *See* Appeal Br. 20–22; *see also* Reply Br. 5.

Additionally, Appellant contends the Examiner relies on Figure 2 and in particular, element 240 to teach the giftee selection. Appeal Br. 22. Appellant argues this relates to displaying purchased gifts and “has nothing to do with a second user listed in a giftee selection user interface” as claimed. *Id.* We are not persuaded. Granted, the Examiner states element 240 “is interpreted as an area of giftee selection.” Non-Final Act. 5. But, this statement is not part of the rejection. *Id.* at 13–15. The rejection provides various citations, including Figure 6, which as previously discussed shows a field where the user can choose the recipient of a gift, including a friend. *Id.* at 14 (citing Morgenstern ¶¶ 21, 22, 52–57, Abstract, Figs. 1, 2, 4, 6, 7). We refer to the above analysis for more explanation.

Appellant separately contends Morgenstern does not relate to recommending gifts for the second user using aggregated social network information as recited. *See* Appeal Br. 21–22. We are not persuaded. Notably, claim 21 recites the “aggregated social network information” is “information of [each system] user aggregated from *one or more* online social networking platforms.” *Id.* at 26 (Claims App’x) (emphasis added). As broadly recited, the information can come from *one* social networking platform.

Turning to the merits, the Examiner relies on Morgenstern *and* Kanigsberg to teach this feature. Non-Final Act. 14–15 (citing Kanigsberg

¶ 3, Abstract). In this regard, Morgenstern discusses a user can provide information to a social network website for access to other users, the information coming from personal webpages, web logs, and other sources (e.g., a plurality of social networking platforms). Morgenstern ¶ 21. Also, as previously discussed, Morgenstern discusses making recommendations based on a recipient's affinity (Morgenstern ¶ 66), and Kanigsberg further teaches that it is known to an ordinary skilled artisan to use user information in a user's social networking profile to make recommendations in an ecommerce environment (Kanigsberg ¶ 3, Abstract). When combining Morgenstern's and Kanigsberg's teachings, we agree the combination would have yielded a predictable result to one ordinarily skilled in the art of "recommending one or more potential gift items for the second user using the received aggregated social network information of the second user" as claim 21 recites. *See* Non-Final Act. 14–15.

Regarding Kanigsberg, Appellant argues this reference merely discloses prior art subject matter (i.e., collaborative filtering). Appeal Br. 22–23; Reply Br. 5. For this reason, Appellant asserts Kanigsberg is not relevant to gift recommending or giftee selection. *Id.* This argument is unavailing. First, claim 21 does not preclude using collaborative filtering. Second, Appellant has not demonstrated how the recited "receiving . . . [a] giftee selection information from the user terminal" or "recommending" a potential gift excludes a collaborative filtering techniques. Third, although stating collaborative filtering is a commonly-used technique (Spec. ¶ 5), the Specification also indicates collaborative filtering can be used to recommend gifts in the invention (Spec. ¶¶ 39, 44).

Appellant quotes many limitations in claim 21 asserting Morgenstern does not disclose or suggests its limitations. *See* Appeal Br. 21–22. But, merely reciting claim features and asserting these features are missing from Morgenstern is not considered a separate argument for patentability. *See In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011).

For the foregoing reasons, Appellant has not persuaded us of error in the rejection of independent claim 21 and claim 27, which is not separately argued.

*Claims 22–25, 28–31, 40, 41, 43, and 44*

For the dependent claims, Appellant argues the claims are allowable due to their dependencies on claims 21 and 27. Appeal Br. 23. We are not persuaded for the above reasons. Accordingly, Appellant has not persuaded us of error in the rejection of claims 22–25, 28–31, 40, 41, 43, and 44.

THE OBVIOUSNESS REJECTION OVER MORGENSTERN,  
KANIGSBERG, AND RAMER

Claims 26, 39, 42, 45, and 46 are rejected under 35 U.S.C. § 103(a) as unpatentable over Morgenstern, Kanigsberg, and Ramer. Non-Final Act. 21–26. For these claims, Appellant argues the claims are allowable due to their dependencies on claims 21 and 27. Appeal Br. 23. Accordingly, Appellant has not persuaded us of error in the rejection of claims 26, 39, 42, 45, and 46.

DECISION

We affirm the Examiner’s rejections of claims 21–32 and 39–46 under § 103.

Appeal 2017-011325  
Application 13/089,772

We reverse the Examiner's rejection of claims 21–32 and 39–46 under § 101.

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