

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

S.I.SV.EL. SOCIETA ITALIANA PER LO  
SVILUPPO DELL'ELETTRONICA S.P.A,

Plaintiff,

v.

RAKUTEN KOBO INC.

Defendant.

Civil Action No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff S.I.SV.EL. Societa Italiana Per Lo Sviluppo Dell'electronica S.p.A. ("Sisvel" or "Plaintiff"), for its Complaint against Defendant Rakuten Kobo Inc., ("Kobo" or "Defendant") alleges the following:

**NATURE OF THE ACTION**

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

**THE PARTIES**

2. Plaintiff is a corporation organized under the laws of Italy with a place of business at Via Sestriere, 100 10060 None Torinese (TO), Italy.

3. Upon information and belief, Kobo is a corporation organized and existing under the laws of Canada, with a place of business at 135 Liberty Street, Suite 101, Toronto, ON M6K 1A7, Canada. Upon information and belief, Kobo sells and offers to sell products and services throughout the United States, including in this judicial district, and introduces products and services into the stream of commerce and that incorporate infringing technology knowing that they would be sold in this judicial district and elsewhere in the United States.

**JURISDICTION AND VENUE**

4. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

6. Venue is proper in this judicial district under 28 U.S.C. §1400(b). On information and belief, Kobo is incorporated in Canada, and it thus subject to venue in any judicial district.

7. On information and belief, Defendant is subject to this Court's general and specific personal jurisdiction because Defendant has sufficient minimum contacts within the State of Delaware and this District, pursuant to due process and/or the Delaware Long Arm Statute because Defendant purposefully availed itself of the privileges of conducting business in the State of Delaware and in this District, because Defendant regularly conducts and solicits business within the State of Delaware and within this District, and because Plaintiff's causes of action arise directly from Defendant's business contacts and other activities in the State of Delaware and this District.

**COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,734,680**

8. The allegations set forth in the foregoing paragraphs 1 through 7 are incorporated into this First Claim for Relief.

9. On June 8, 2010, U.S. Patent No. 7,734,680 ("the '680 patent"), entitled "Method or Apparatus for Realizing Personalized Information from Multiple Information Sources," was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '680 patent is attached as Exhibit 1.

10. The inventions of the '680 patent resolve technical problems related to browsing and/or searching various information sources, and more particularly to searching and/or presenting information from multiple information sources in a personalized and organized

manner. For example, the inventions include a meta-browser that presents personalized collections of information from multiple sources of different media types as different media collections in a unified browsing space, which can be easily and intuitively browsed.

11. The claims of the '680 patent do not merely recite the performance of some business practice known from the pre-Internet world along with the requirement to perform it on the Internet. Instead, the claims of the '680 patent recite one or more inventive concepts that are rooted in computerized browsing and recommendation engine technology, and overcome problems specifically arising in the realm of computerized browsing and recommendation engine technologies.

12. The claims of the '680 patent recite an invention that is not merely the routine or conventional use of searching and/or presenting information. Instead, in conjunction with its presentation capabilities, the invention enhances a user's browsing experience by utilizing personalized recommendations, which are generated based on a profile of the user's interests captured across multiple media sources. Collaborative filtering, which uses multiple user profiles to compute co-relations between the user's profile and others, is also used to make recommendations. The unified browsing space is also searchable. The '680 patent claims thus specify how large sets of electronic data are manipulated to yield a desired result.

13. The technology claimed in the '680 patent does not preempt all ways of searching and/or presenting information, nor preempt the use of all recommendation engines, nor preempt any other well-known or prior art technology.

14. Accordingly, each claim of the '680 patent recites a combination of elements sufficient to ensure that the claim in practice amounts to significantly more than a patent on an ineligible concept.

15. Plaintiff is the assignee and owner of the right, title and interest in and to the '680 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

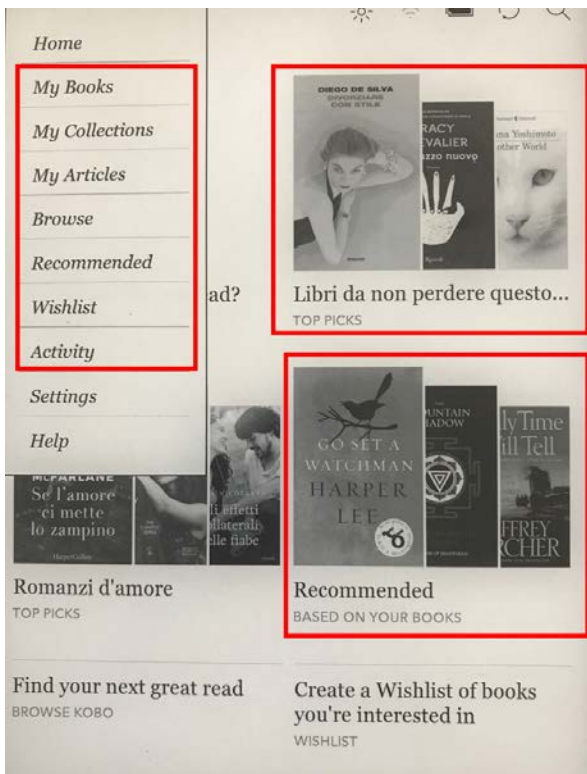
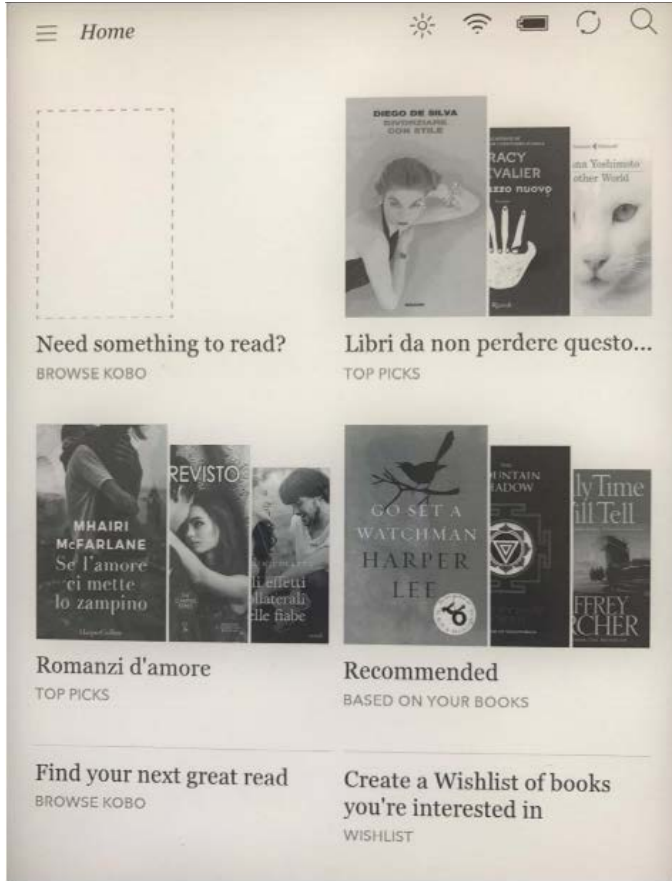
16. Upon information and belief, Defendant has and continues to directly infringe at least claim 16 of the '680 patent by making, using, selling, importing and/or providing and causing to be used Kobo Application and e-Reader software, products, and services in which the services utilize an interface that includes a meta-browser that presents personalized collections of information from multiple sources of different media types as different media collections in a unified browsing space and that provides personalized recommendations based on a profile of the user's interests captured across multiple media sources (the "Accused Instrumentalities").

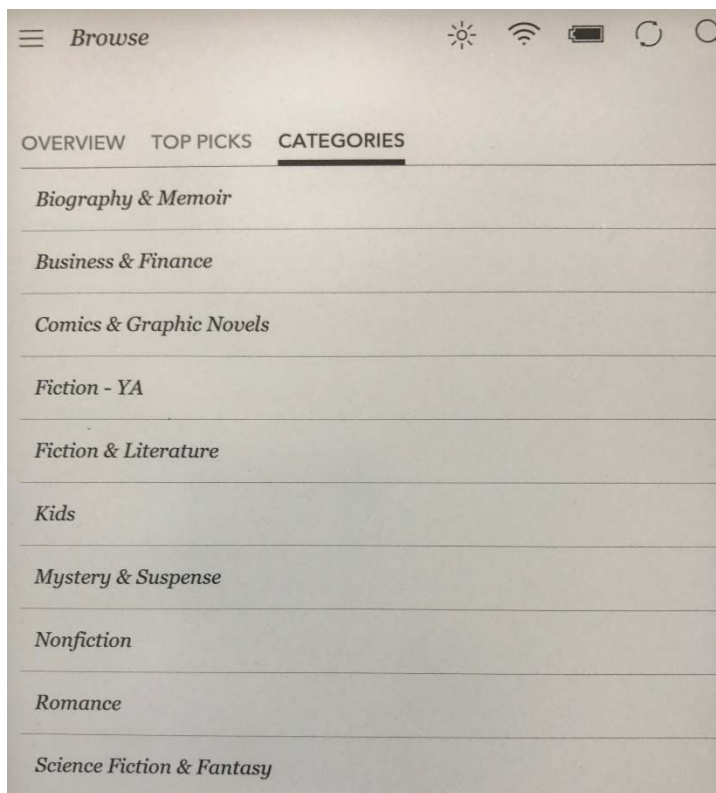
17. In particular, claim 16 of the '680 patent recites a computer program product comprising a computer readable medium having program logic recorded thereon for enabling a computer-enabled apparatus to display personalized information for a user from multiple information sources, comprising: (1) a populator for populating a virtual library with a plurality of different virtual media collections in accordance with a user profile, wherein the virtual library is populated with different types of media obtained from different media sources; (2) a browser for browsing the virtual library by moving between the plurality of different media collections under user control; (3) a search engine for searching the virtual library under user control; (4) a filter for filtering the results of the searching step in accordance with the user profile and the browsing step, wherein the filtering comprises explicit and implicit filtering, wherein the explicit filtering provides filtering of information from said plurality of different media collections and the implicit filtering draws from collaborative data among the plurality of different media collections and similar users; (5) a prioritizer for prioritizing results of the filtering step; and (6)

an updater for updating the user profile in accordance with at least one selection of the results of the filtering step, wherein the updating is reflected in a ratio in responding to a user's programming choice or specific request.

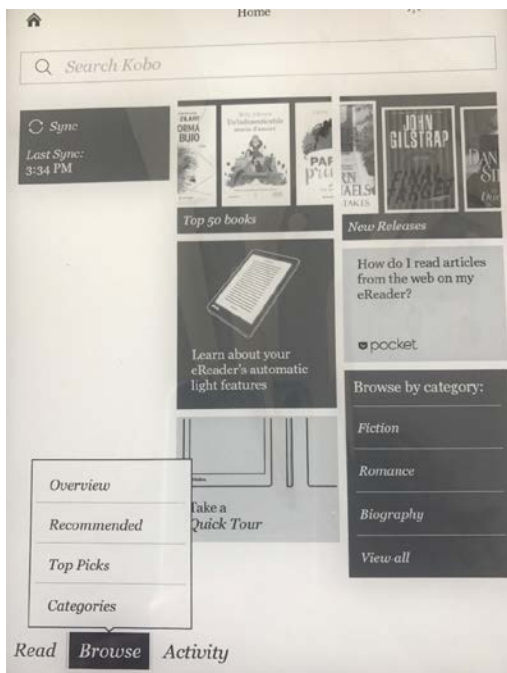
18. The Accused Instrumentalities infringe claim 16 of the '680 patent. *See, e.g.*, <https://www.kobo.com/>; <https://privacy.rakuten.co.jp/english/>; <https://www.kobo.com/publishers?style=onestore>; <https://www.kobo.com/help/en-US/article/5084/borrowing-an-ebook-from-a-public-library-using-overdrive>; U.S. Pat. No. 7,734,680 at 2:37-47, 6:61-7:2, 8:62-9:1; <https://www.kobo.com/help/en-US/article/784/file-formats-you-can-use-on-your-kobo-ereader>; Francesco Ricci, Lior Rokach, Bracha Shapira, *Recommender Systems Handbook*, 2 (Springer US 2015), available at <http://www.springer.com/it/book/9781489976369>; <https://rakuten.today/blog/kobo-big-data.html>.

19. Regarding the populator, Kobo populates a virtual library, which contains different collections that are provided to the user.

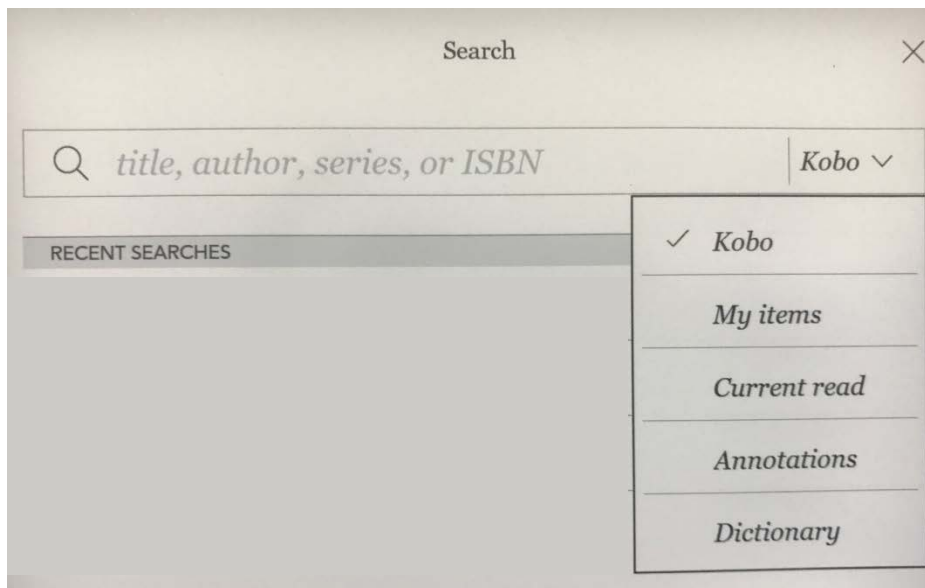
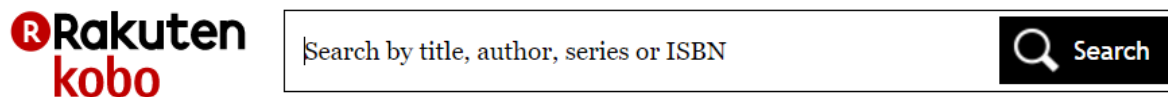




20. Regarding the browser, Kobo includes a browser that allows the user to browse the available content.



21. Regarding the search engine, Kobo includes a search engine on both its e-Readers and applications.



22. Regarding the filter, search results are filtered in accordance with the user profiles.



Search ×

Q hornby Kobo ▾

Sort: *Bestsellers*

	<b>La monaca</b> Simonetta Agnello <b>Hornby</b>	
	<b>Vento scomposto</b> UNIVERSALE ECONOMICA Simonetta Agnello <b>Hornby</b>	Buy 6,99 € ▾
	<b>Tutto per una ragazza</b> GUANDA NARRATIVA Nick <b>Hornby</b> , Silvia Piraccini	Buy 8,99 € ▾
	<b>Il pranzo di Mosè</b> SCRITTORI GIUNTI Simonetta Agnello <b>Hornby</b>	Buy 7,99 € ▾
	<b>La mia Londra</b> SCRITTORI GIUNTI Simonetta Agnello <b>Hornby</b>	Buy 1,99 € ▾

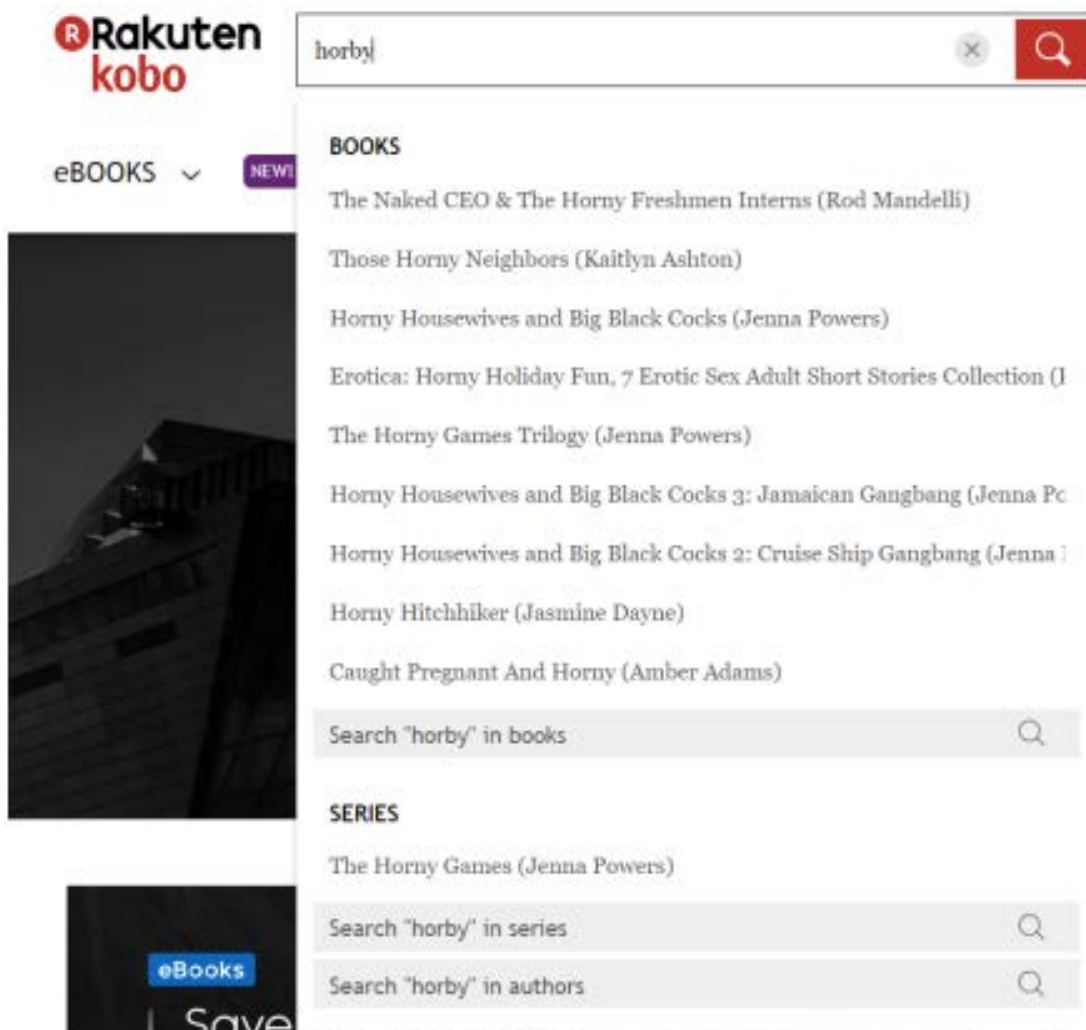
✓ Kobo

My items

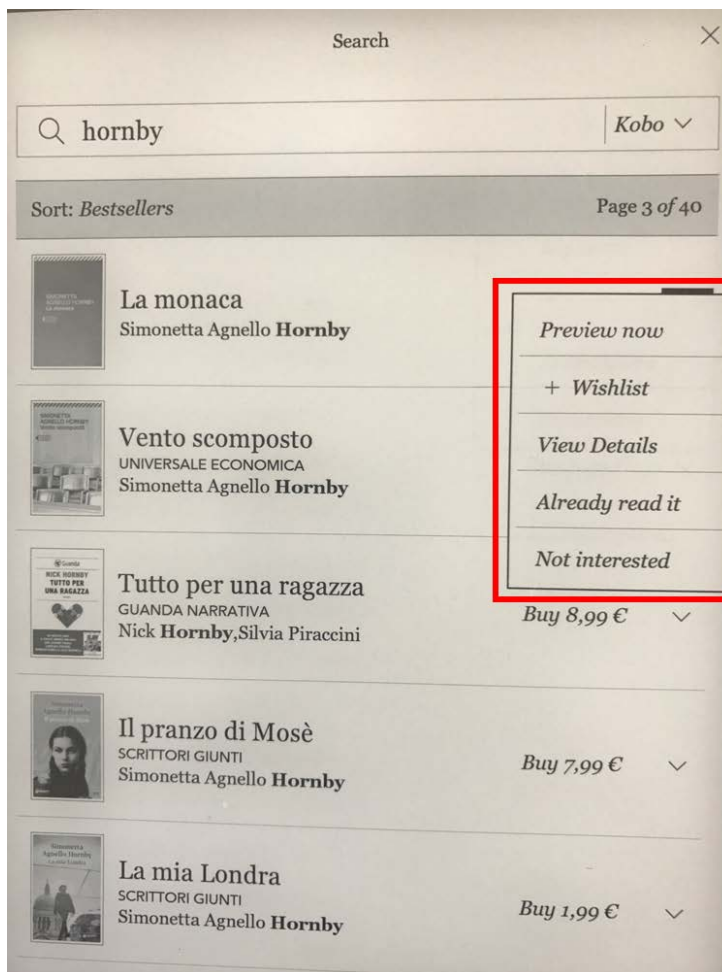
Current read

Annotations

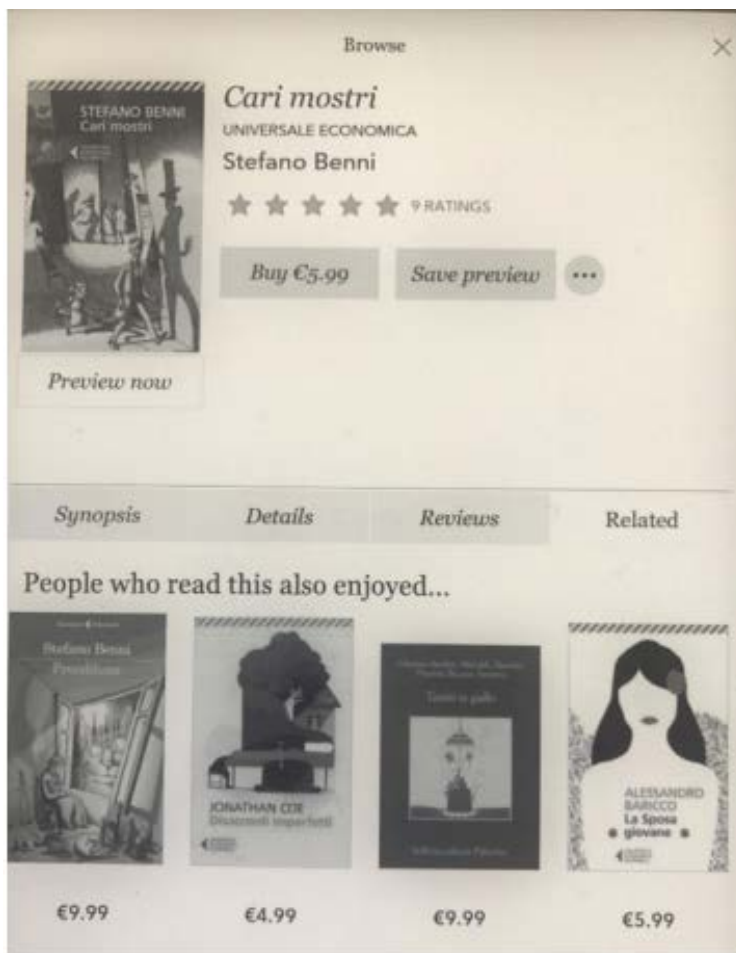
Dictionary



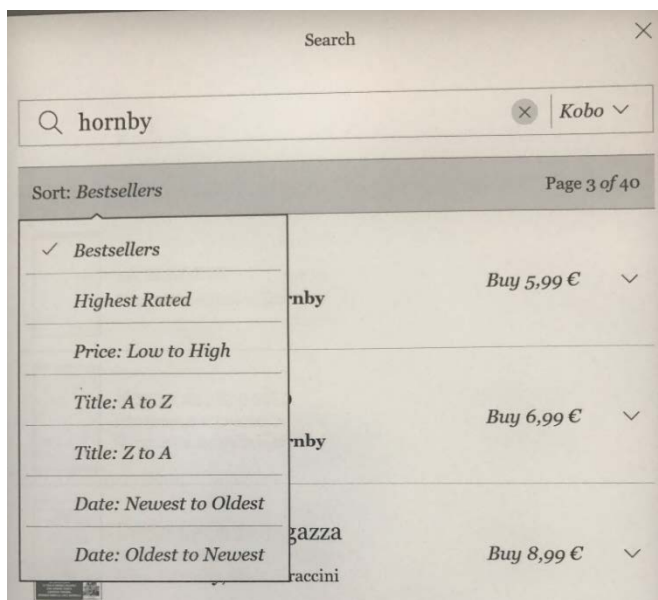
23. Regarding explicit filtering, the user explicitly specifies the result to be shown among the different media collections.



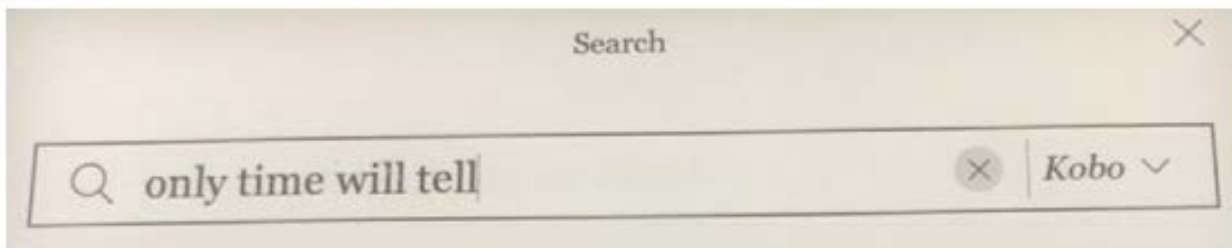
24. Regarding implicit filtering, the system recommends books based on the interests of similar users.

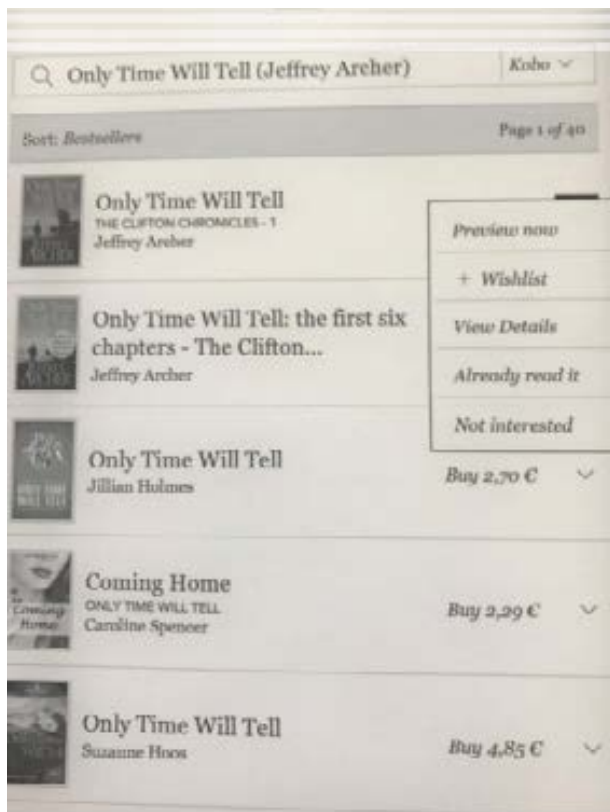


25. Kobo also includes a prioritizer as demonstrated below.



26. Kobo also includes an updater. Choices made by the user are reflected in the Kobo user profile. When selecting an eBook and selecting “Not interested”, the book is removed from the Recommended section (i.e. the user profile has been updated).





27. On information and belief, the updates in a given user's Kobo profile are reflected in a ratio that responds to that user's programming choice or specific request. Recommendation algorithms measure correlation coefficients that reflect the extent to which two variables relate with each other. A correlation measure between specific items is computed in order to measure the similarities between users, the similarities between attributes of the users, the expected preferences of a user for a specific attribute/item, etc. On information and belief, the correlation formula in the Accused Instrumentalities is expressed as a ratio. For a formal expression of a ratio, see the analytic expression for the correlation measure explained here: <http://recommender-systems.org/collaborative-filtering/>.

28. On information and belief, these Accused Instrumentalities are used, marketed, provided to, and/or used by or for Defendant's partners, clients, customers and end users across the country and in this District.

29. Defendant was made aware of the '680 patent and its infringement thereof at least as early as December 18, 2017 when Defendant received a notice letter dated December 14, 2017.

30. Upon information and belief, since at least the time Defendant received notice, Defendant has induced and continues to induce others to infringe at least one claim of the '680 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to Defendant's partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '680 patent.

31. In particular, Defendant's actions that aid and abet others such as its partners, customers, clients, and end users to infringe include advertising and distributing the Accused

Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities. On information and belief, Defendant has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because Defendant has had actual knowledge of the '680 patent and knowledge that its acts were inducing infringement of the '680 patent since at least the date Kobo received notice that such activities infringed the '680 patent.

32. Upon information and belief, Defendant is liable as a contributory infringer of the '680 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States e-Readers and Applications to be especially made or adapted for use in an infringement of the '680 patent. The Accused Instrumentalities are a material component for use in practicing the '680 patent and are specifically made and are not a staple article of commerce suitable for substantial non-infringing use.

33. Since at least December 18, 2017, Defendant's infringement has been willful.

34. Plaintiff has been harmed by Defendant's infringing activities.

**COUNT II – INFRINGEMENT OF U.S. PATENT NO. 7,035,863**

35. The allegations set forth in the foregoing paragraphs 1 through 34 are incorporated into this Second Claim for Relief.

36. On April 25, 2006, U.S. Patent No. 7,035,863 ("the '863 patent"), entitled "Method, System, and Program Product for Populating a User Profile Based on Existing User Profiles," was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '863 patent is attached as Exhibit 2.

37. The inventions of the '863 patent resolve technical problems related to computerized recommendation systems and methods. For example, the inventions designate base characteristics for a new user profile. Based on the designated characteristics, the new user



profile is associated with existing user profiles. Once associated, the new user profile is populated with defined characteristics from the existing user profiles. After the new user profile is populated, recommendations can be made.

38. The claims of the '863 patent do not merely recite the performance of some business practice known from the pre-Internet world along with the requirement to perform it on the Internet. Instead, the claims of the '863 patent recite one or more inventive concepts that are rooted in computerized technology, and overcome problems specifically arising in that realm. For example, the inventions of the '863 patent allow more efficient and beneficial access to large electronic content repositories, and improve access to such electronic content repositories through the use of computerized tools unrelated to pre-Internet business practices.

39. The claims of the '863 patent recite an invention that is not merely the routine or conventional use of recommending content. Instead, the invention includes a designation system for designating base characteristics for a new user profile; an association system for associating the new user profile with a cluster region of existing user profiles based on the base characteristics; and a population system for populating the new user profile with defined characteristics from the existing user profiles. The '863 patent claims thus specify how large electronic data sets are manipulated to yield a desired result.

40. The technology claimed in the '863 patent does not preempt all ways of recommending content, nor preempt the use of all recommendation engines, nor preempt any other well-known or prior art technology.

41. Accordingly, each claim of the '863 patent recites a combination of elements sufficient to ensure that the claim in practice amounts to significantly more than a patent on an ineligible concept.

42. Plaintiff is the assignee and owner of the right, title and interest in and to the '863 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

43. Upon information and belief, Defendant has and continues to directly infringe at least claims 11 and 12 of the '863 patent by making, using, selling, importing and/or providing and causing to be used Kobo Applications and e-Reader software, products and services in which the services utilize a recommendation engine that includes a designation system for designating base characteristics for a new user profile; an association system for associating the new user profile with a cluster region of existing user profiles based on the base characteristics; and a population system for populating the new user profile with defined characteristics from the existing user profiles (the "Accused Instrumentalities").

44. In particular, claim 11 of the '863 patent recites a computer implemented system for populating a user profile based on existing user profiles, comprising a memory containing the following: a designation system for designating base characteristics for a new user profile; an association system for associating the new user profile with a cluster region of existing user profiles based on the base characteristics; and a population system for populating the new user profile with defined characteristics from the existing user profiles.

45. The Accused Instrumentalities infringe claim 11 of the '863 patent. *See, e.g.*, <https://www.kobo.com/>;  
<https://secure.kobobooks.com/auth/Kobo/login?redirectUrl=https%3A%2F%2Fwww.kobo.com%2F&wslang=en-US>; <https://rakuten.today/blog/kobo-big-data.html>; U.S. Pat. No. 7,035,863 at 5:38-52; <https://www.mitacs.ca/en/partner/kobo-inc?language=en>.

46. Regarding the designation system, Kobo includes the ability to designate a variety of base characteristics.

**Preferences and Personalization**

FIRST NAME

LAST NAME

DATE OF BIRTH    YYYY-M-D

GENDER (OPTIONAL)

Male  Female

EMAIL UPDATES

Get info on the latest eBooks, offers, and app updates.

Yes please  No thanks

**SAVE**

### Billing Address

Used to calculate taxes on your purchases.

COUNTRY

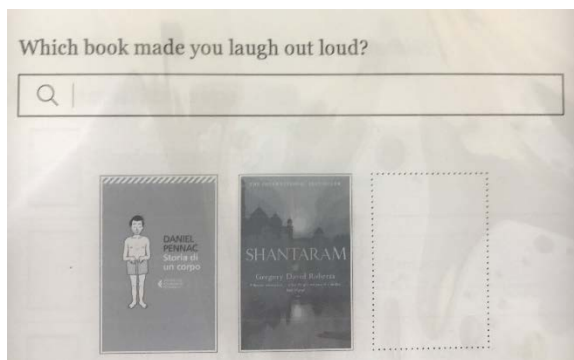
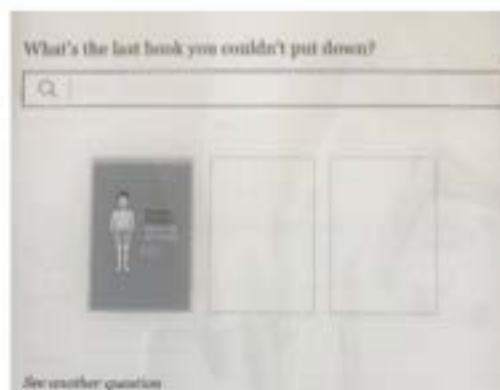
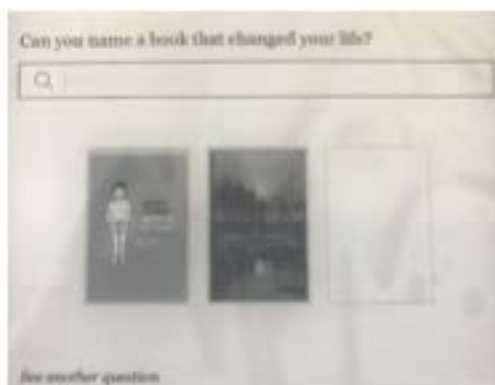
STREET ADDRESS

CITY

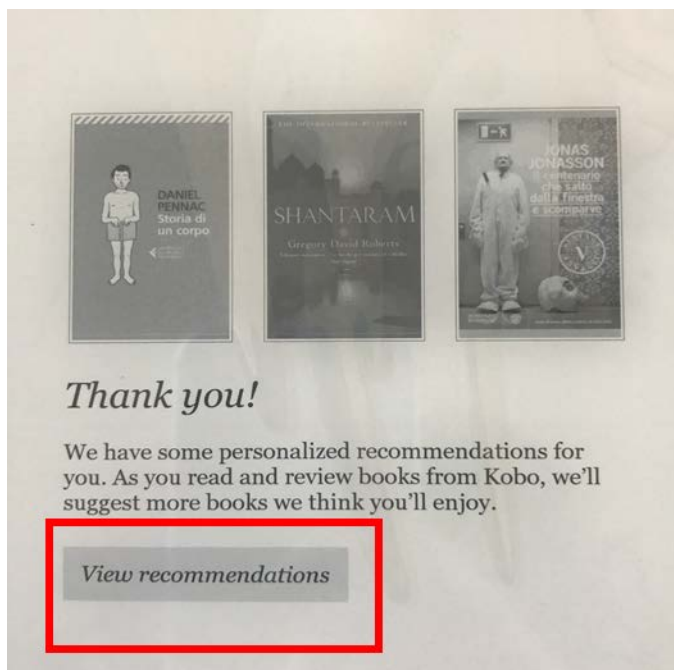
STATE

ZIP CODE

PHONE NUMBER (including area code)

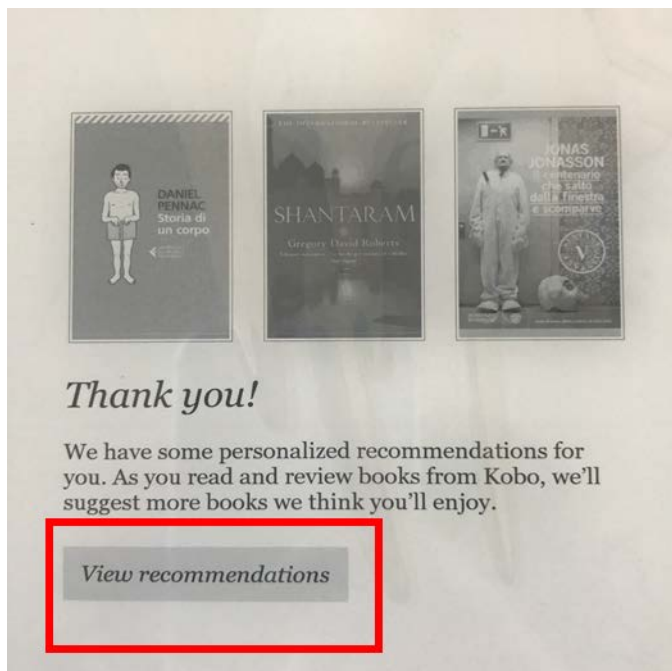


47. Regarding the population system, Kobo includes the ability to populate the new user profile with defined characteristics from the existing user profiles.



48. Claim 12 of the '863 patent recites the system of claim 11 further comprising a recommendation system for making a recommendation based on the populated new user profile.

49. The Accused Instrumentalities infringe claim 12 of the '863 patent. *See, e.g.*, <https://rakuten.today/blog/kobo-big-data.html>.



50. On information and belief, these Accused Instrumentalities are used, marketed, provided to, and/or used by or for Defendant's partners, clients, customers and end users across the country and in this District.

51. Defendant was made aware of the '863 patent and its infringement thereof at least as early as December 18, 2017 when Defendant received a notice letter dated December 14, 2017.

52. Upon information and belief, since at least the time Defendant received notice, Defendant has induced and continues to induce others to infringe at least one claim of the '863 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to

Defendant's partners, clients, customers, and end users, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '863 patent.

53. In particular, Defendant's actions that aid and abet others such as its partners, customers, clients, and end users to infringe include advertising and distributing the Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities. On information and belief, Defendant has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because Defendant has had actual knowledge of the '863 patent and knowledge that its acts were inducing infringement of the '863 patent since at least the date Kobo received notice that such activities infringed the '863 patent.

54. Upon information and belief, Defendant is liable as a contributory infringer of the '863 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States e-Readers and Applications to be especially made or adapted for use in an infringement of the '863 patent. The Accused Instrumentalities are a material component for use in practicing the '863 patent and are specifically made and are not a staple article of commerce suitable for substantial non-infringing use.

55. Since at least December 18, 2017, Defendant's infringement has been willful.

56. Plaintiff has been harmed by Defendant's infringing activities.

#### **JURY DEMAND**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues triable as such.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff demands judgment for itself and against Defendant as follows:



- A. An adjudication that Defendant has infringed the '680 and '863 patents and that the infringement has been willful;
- B. An award of damages to be paid by Defendant adequate to compensate Plaintiff for Defendant's past infringement of the '680 and '863 patents, and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff's reasonable attorneys' fees; and
- D. An award to Plaintiff of such further relief at law or in equity as the Court deems just and proper.

Dated: January 8, 2018

DEVLIN LAW FIRM LLC

*/s/ Timothy Devlin*

Timothy Devlin (#4241)

tdevlin@devlinlawfirm.com

1306 N. Broom St., 1<sup>st</sup> Floor

Wilmington, Delaware 19806

Telephone: (302) 449-9010

Facsimile: (302) 353-4251

*Attorneys for Plaintiff*

*Sisvel S.p.A.*