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6	IN THE UNITED STATES DISTRICT COURT
7	FOR THE NORTHERN DISTRICT OF CALIFORNIA
8	FOR THE NORTHERN DISTRICT OF CALIFORNIA
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10	GREGORY INGALLS and TONY HONG, No. C 16-03533 WHA
11	individually and on behalf of all others similarly situated,
12	Plaintiffs,
13	V.
14	SPOTIFY USA, INC., a Delaware ORDER REQUIRING RESPONSE AND SETTING EVIDENTIARY
15	corporation, and DOES 1–10, inclusive, HEARING
16	Defendants.

On July 14, an order directed Spotify to provide "the number of people who signed up for Spotify's free or reduced-price trial, and were later charged for the paid service even though they never used it" (Dkt. No. 91). This information would aid in identifying people who were misled by Spotify's disclosures, and would assist in the task of defining a class.

On July 19, Spotify submitted a sworn declaration from James Whitehead, a technical lead on Spotify's payments team, in response to a July 14 order. Whitehead's declaration states that, after reviewing customer listening history, Spotify determined that named plaintiff Gregory Ingalls used Spotify Premium during his paid subscription, which ran between July 8 and October 7 of 2013. The declaration further states that during that time Ingalls streamed approximately 1,024 songs through his premium account, and was active on Spotify Premium on 52 separate days of the paid subscription period (Dkt. No. 93 \P 4). This is directly contrary to Ingalls' representation that he "did not want to use [Spotify Premium] beyond the trial period, and in fact, never did" (Dkt. No. 84 at 9, Opposition to Motion for Summary Judgment).

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Ingalls shall respond under oath to Whitehead's July 19 declaration by MONDAY, JULY 24 AT NOON. Specifically, Ingalls shall state whether it is true that he continued to use Spotify Premium during his paid subscription on 52 separate days to stream approximately 1,024 songs. In the event that Ingalls disputes that he used his Spotify subscription during the paid term, both he and Mr. Whitehead SHALL APPEAR at an evidentiary hearing on AUGUST 1 AT 8:00 A.M. in Courtroom 8 on the 19th Floor of 450 Golden Gate Avenue, San Francisco.

IT IS SO ORDERED.

Dated: July 20, 2017.

UNITED STATES DISTRICT JUDGE