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6 IN THE UNITED STATES DISTRICT COURT
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8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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10 GREGORY INGALLS and TONY HONG,
11 individually and on behalf of all others
12 similarly situated,

No. C 16-03533 WHA

13 Plaintiffs,

14 v.

15 SPOTIFY USA, INC., a Delaware
16 corporation, and DOES 1–10, inclusive,


**ORDER REQUIRING RESPONSE
AND SETTING EVIDENTIARY
HEARING**

17 Defendants.
18 _____/

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

23 On July 19, Spotify submitted a sworn declaration from James Whitehead, a technical
24 lead on Spotify’s payments team, in response to a July 14 order. Whitehead’s declaration states
25 that, after reviewing customer listening history, Spotify determined that named plaintiff Gregory
26 Ingalls used Spotify Premium during his paid subscription, which ran between July 8 and
27 October 7 of 2013. The declaration further states that during that time Ingalls streamed
28 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 ¶ 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).

IT IS SO ORDERED.


WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE