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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KATHERINE SCOTT, et al.,
Plaintiffs,
v.
AT&T INC., et al.,
Defendants.

Case No. [19-cv-04063-SK](#)

**ORDER REQUIRING FURTHER
BRIEFING**

Upon consideration of the parties' arguments at the hearing held on Monday, the Court finds that additional submissions from the parties would assist the Court in resolving the pending motion to dismiss. Defendants submitted a declaration from Greg Hill in which he unequivocally stated that as of March 29, 2019, Defendants stopped providing their customers' geolocation data to data aggregators. (Dkt. No. 73-1, ¶ 3.) However, the declaration does not state that Defendants stopped providing that data to any other source.

In their reply brief and at the hearing, Defendants argued that, although they had entered into contracts with a few entities directly, Defendants only provided their customers' geolocation data to these entities through aggregators. Thus, by stating that Defendants stopped providing their customers' geolocation data to aggregators, Defendants also stated that they had stopped providing their customers' geolocation data to the entities with direct contracts as well. This explanation is not contained in any declaration or admissible documents.

Defendants also clarified at the hearing that, after March 29, 2019, they provided their customers' geolocation data only to governmental agencies and life alert companies with life alert pendants. However, Defendants only argued these statements, and again, this explanation is not contained in any declarations or admissible documents.

In order to clarify the record, the Court HEREBY ORDERS Defendants to provide a

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1 further declaration regarding the status of their customers' geolocation data. If Defendants
2 stopped providing their customers' geolocation data to any non-governmental agency, other than
3 life alert companies with life alert pendants or similar devices after March 29, 2019, they should
4 make this statement in a declaration under penalty of perjury or submit documents attached to a
5 declaration under penalty of perjury. Defendants shall provide this clarifying declaration by no
6 later than November 24, 2020.

7 Assuming Defendants provide a declaration supporting the arguments described above, it
8 appears as though Plaintiffs would lack standing to pursue injunctive relief. There are three areas
9 where Plaintiffs' position and/or evidence are unclear. First, Plaintiffs have not provided any
10 evidence to contradict Defendants' representations that they stopped providing their customers'
11 geolocation data to any non-governmental agency, other than life alert companies with life alert
12 pendants or similar devices, after March 29, 2019. It is not clear whether Plaintiffs have any such
13 evidence. Second, Plaintiffs appear to contend that providing geolocation data to life alert
14 companies is misconduct they allege in their complaint, but, at the hearing, they stated that none of
15 the named Plaintiffs have contracts with the life alert companies with which Defendants provide
16 geolocation data. Finally, at the hearing, Plaintiffs argued that using customers' geolocation data
17 information for internal processes and call routing functions would also support their request for
18 injunctive relief, but did not fully explain how, but they have not specifically identified in the
19 complaint where they allege that using customers' geolocation information internally or for call
20 routing functions is problematic. Plaintiffs shall file a further brief to answer all of these questions
21 by no later than December 4, 2020, in a brief no longer than 10 pages. Plaintiffs may also submit
22 declarations with exhibits.

23 **IT IS SO ORDERED.**

24 Dated: November 10, 2020

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26 _____
27 SALLIE KIM
28 United States Magistrate Judge