



#1087

Focal Communications Corporation of Illinois  
200 N. LaSalle Street  
Chicago, IL 60601

312-895-8400  
312-895-8413 fax

August 5, 2004

Via Fax 408-716-2493

Office of Steven T. Kirsch  
Attn: Eileen Brennan

**Re: Subpoena requesting subscriber info for 661-338-9685**

1. We are in receipt of your subpoena requesting subscriber information on the above-mentioned number. The subscriber information for number 661-338-9685 is as follows:

Status: Assigned  
Port Status: Resident  
Type: RESELLER  
Customer: Vonage Holdings Corp.  
2147 Rt 27 South  
Edison, NJ 08817

Contact: Neil Wrightington (billing) 732-528-2682

Our back-up documentation is attached. Because our customer is a reseller you will need to contact it to obtain the subscriber information for this number. Enclosed please find a copy of the call detail records you requested for the months of May, June and July 2004.

Sincerely,

Kristin Estrada  
Legal Assistant  
Enc.

PLAINTIFF/PETITIONER: <b>Kirsch, Steven T.</b>	CASE NUMBER: <b>2-04-SC-001384</b>
DEFENDANT/RESPONDENT: <b>Heysek, Tom</b>	

**DECLARATION IN SUPPORT OF  
SMALL CLAIMS SUBPOENA FOR PERSONAL APPEARANCE  
AND PRODUCTION OF DOCUMENT AND THINGS AT TRIAL OR HEARING  
(Code Civil Procedure sections 1885, 1987.5)**

1. I, the undersigned, declare I am the  plaintiff  defendant  judgment creditor  
 other (specify): \_\_\_\_\_ in the above entitled action.
2. The witness has possession or control of the following documents or other things and shall produce them at the time and place specified on the *Small Claims Subpoena* on the first page of this form.
- a.  For trial or hearing (specify the exact documents or other things to be produced by the witness):  
Phone bills for (661) 338-9685 belonging to Tom Heysek for the months of May 2004, June 2004, and when available, July 2004. Provide this information directly to the Plaintiff as soon as possible so that Plaintiff has sufficient opportunity to analyze the data and send additional subpoenas before trial. Plaintiff's fax is: (408) 716-2493  
 Continued on Attachment 2a.
- b.  After trial to enforce a judgment (specify the exact documents or other things to be produced by the party who is the judgment debtor or other witness possessing records relating to the judgment debtor):
- (1)  Payroll receipts, stubs, and other records concerning employment of the party. Receipts, invoices, documents, and other papers or records concerning any and all accounts receivable of the party.
  - (2)  Bank account statements, canceled checks, and check registers from any and all bank accounts in which the party has an interest.
  - (3)  Savings account passbooks and statements, savings and loan account passbooks and statements, and credit union share account passbooks and statements of the party.
  - (4)  Stock certificates, bonds, money market certificates, and any other records, documents, or papers concerning all investments of the party.
  - (5)  California registration certificates and ownership certificates for all vehicles registered to the party.
  - (6)  Deeds to any and all real property owned or being purchased by the party.
  - (7)  Other (specify): \_\_\_\_\_
3. Good cause exists for the production of the documents or other things described in paragraph 2 for the following reasons:  
These documents provide evidence that Heysek is a director of winningstockpicks.net and is therefore liable under the TCPA for sending the faxes because they may show calls only to subordinates, and never to superiors. These documents may also show calls to a fax broadcaster, showing that Heysek had direct involvement in authorizing the illegal fax transmissions.  
 Continued on Attachment 3.
4. These documents are material to the issues involved in this case for the following reasons:  
The documents should establish that Heysek is a director of WSP and responsible for the sending the faxes. The time period chosen is the month prior to the faxes being sent (when presumably the promotion was being formulated and relationships with the fax broadcaster were put in place), and the months that the faxes were sent.  
 Continued on Attachment 4.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: July 19, 2004

Steven T. Kirsch  
(TYPE OR PRINT NAME)

  
(SIGNATURE OF PARTY)

(See proof of service on page three)

**SMALL CLAIMS SUBPOENA  
AND DECLARATION**

2C-107 (Rev. January 1, 2003)

Page two of three

The PRISM System (dbprod) - Adjuster CCR

Search All Accounts

Account No.	007148	Account Name	Vantage Holdings Corp/LSA-CA		
Account Type	Residential	Account Status	Active		
Account Sub-Type	None	Account Sub-Status	None		
Account Address	2147 RI 27 South Erlton NJ, US				
Account City	Los Angeles	Account State	CA	Account Zip	90015
Account Country	US	Account Currency	USD	Account Language	English
Account Billing Cycle	Monthly	Account Billing Method	Direct Debit	Account Billing Date	08/01/04
Account Billing Amount	100.00	Account Billing Status	Paid	Account Billing Description	None
Account Billing Reference	001000000	Account Billing Reference Description	None	Account Billing Reference Date	08/01/04
Account Billing Reference Amount	100.00	Account Billing Reference Status	None	Account Billing Reference Description	None
Account Billing Reference Date	08/01/04	Account Billing Reference Description	None	Account Billing Reference Amount	100.00
Account Billing Reference Status	None	Account Billing Reference Description	None	Account Billing Reference Description	None
Account Billing Reference Description	None	Account Billing Reference Description	None	Account Billing Reference Description	None
Account Billing Reference Description	None	Account Billing Reference Description	None	Account Billing Reference Description	None

The PRISM System (dbprod) - Adjuster CCR

Search All Accounts

Account No.	007148	Account Name	Vantage Holdings Corp/LSA-CA		
Account Type	Residential	Account Status	Active		
Account Sub-Type	None	Account Sub-Status	None		
Account Address	2147 RI 27 South Erlton NJ, US				
Account City	Los Angeles	Account State	CA	Account Zip	90015
Account Country	US	Account Currency	USD	Account Language	English
Account Billing Cycle	Monthly	Account Billing Method	Direct Debit	Account Billing Date	08/01/04
Account Billing Amount	100.00	Account Billing Status	Paid	Account Billing Description	None
Account Billing Reference	001000000	Account Billing Reference Description	None	Account Billing Reference Date	08/01/04
Account Billing Reference Amount	100.00	Account Billing Reference Status	None	Account Billing Reference Description	None
Account Billing Reference Date	08/01/04	Account Billing Reference Description	None	Account Billing Reference Amount	100.00
Account Billing Reference Status	None	Account Billing Reference Description	None	Account Billing Reference Description	None
Account Billing Reference Description	None	Account Billing Reference Description	None	Account Billing Reference Description	None

Northern Miami, FL  
Florida

Date: 8/6/04

<Type here to customize title>

Brian Koss  
(Montreal)

RECORD DATE	RECORD TIME	AMA Call Type Description	ORIGINATING TN	TERMINATING TN
5/1/04	10:29AM	Other	00003059140000	000006613389685
5/1/04	10:34AM	IXC Terminating LD	000005149980240	000006613389685
5/1/04	11:26AM	IXC Terminating LD	000004153052452	000006613389685
5/1/04	10:29AM	On-Net Local Originating	00003059140000	000006613389685
5/1/04	03:03PM	IXC Terminating LD	000004155962200	000006613389685
5/3/04	08:23AM	IXC Terminating LD	000005149980240	000006613389685
5/3/04	10:10AM	Other	000005149980240	000006613389685
5/3/04	10:16AM	IXC Terminating LD	000005149980240	000006613389685
5/3/04	10:10AM	On-Net Local Originating	000005149980240	000006613389685
5/3/04	10:10AM	Intranetwork Traffic	000000000000000	000006613389685
5/3/04	03:27PM	IXC Terminating LD	000008143923892	000006613389685
5/3/04	05:31PM	IXC Terminating LD	000004153052452	000006613389685
5/3/04	06:52PM	IXC Terminating LD	000004153052452	000006613389685
5/4/04	09:15AM	IXC Terminating LD	000005149980240	000006613389685
5/4/04	01:29PM	IXC Terminating LD	000000000000000	000006613389685
5/4/04	04:45PM	IXC Terminating LD	000004153052452	000006613389685
5/4/04	08:55PM	Local Originating	000006613389685	000007078260248
5/4/04	08:18PM	IXC Terminating LD	000000000000000	000006613389685
5/5/04	11:43AM	IXC Terminating LD	000005149980240	000006613389685
5/5/04	06:54PM	IXC Terminating LD	000002425350201	000006613389685
5/6/04	08:23AM	IXC Terminating LD	000000000000000	000006613389685
5/6/04	11:58AM	IXC Terminating LD	000000000000000	000006613389685
5/6/04	04:22PM	IXC Terminating LD	000006613389685	000006109890340
5/6/04	05:19PM	IXC Terminating LD	000004153052452	000006613389685
5/7/04	07:51AM	IXC Terminating LD	000004159459067	000006613389685
5/7/04	09:45AM	Other	000004159459263	000006613389685
5/7/04	09:45AM	On-Net Local Originating	000004159459263	000006613389685
5/7/04	01:54PM	IXC Terminating LD	000006613389685	000006109890340
5/7/04	10:02AM	Other	000004159459263	000006613389685
5/7/04	01:53PM	Other	000004159459263	000006613389685
5/7/04	10:02AM	On-Net Local Originating	000004159459263	000006613389685
5/7/04	01:53PM	On-Net Local Originating	000004159459263	000006613389685
5/7/04	01:38PM	Local Originating	000006613389685	000007078260248
5/7/04	05:15PM	IXC Terminating LD	000000000000000	000006613389685
5/7/04	05:48PM	IXC Terminating LD	000004153052452	000006613389685
5/8/04	03:20PM	IXC Terminating LD	000005149980240	000006613389685
5/9/04	09:52AM	IXC Terminating LD	000000000000000	000006613389685
5/10/04	05:44AM	IXC Terminating LD	000005149980240	000006613389685
5/10/04	07:40AM	IXC Terminating LD	000005149980240	000006613389685

discarded

Clavdia  
in Erie,  
PA

Bahamas  
Dial  
through

39 calls; 10 were to Kos ⇒ 25% of his calls  
from 5/1 to 5/10 were with Kos