

Jason Bloom in Law360: 5th Circ. Affirms \$1M Attys' Fees In Trade Secret Row

January 10, 2017 Jason Bloom

PRACTICES Appellate

The Fifth Circuit on Thursday upheld the award of about \$1 million in attorneys' fees to BancorpSouth Bank and Argo Data Resource Corp., finding their victory on state law theft claims wasn't preempted by federal copyright law in a dispute with a marketing firm.

Argo and BancorpSouth successfully argued they were entitled to the fees after defeating a Texas Theft Liability Act claim by Spear Marketing Inc., when a Texas federal judge found Spear couldn't show that the companies had used its trade secrets without authorization. The TTLA provides that anyone who prevails in a suit is entitled to court costs and reasonable and necessary attorneys' fees...

But the Fifth Circuit found that a revised TTLA claim Spear had filed in an amended complaint against Argo and BancorpSouth omitted allegations that were equivalent to copyright, with the intention of avoiding preemption. The TTLA claim as pleaded in the amended complaint was litigated and dismissed on the merits during summary judgment, and therefore it was proper to award attorneys' fees under the TTLA because that law supplied the rule of decision, the court found.

"We are extremely pleased with the ruling," [Jason Bloom](#) of Haynes Boone LLP, who represents ARGO and argued the case for both Argo and Bancorp. "It's always nice to receive fees as a defendant."

Bloom praised the Fifth Circuit for "a great job of sifting through the procedural complexities of this case and arriving at the right result," and for issuing an opinion just a few weeks after the case was argued.

Excerpted from *Law360*. To read the full article, please [click here](#) (subscription required).