



VA Supreme Court Holds Competition Not Necessary for Virginia Trade Secret Claims

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On January 13, 2012, the Supreme Court of Virginia issued an [opinion](#) in *Anthony Collelo v. Geographic Services, Inc.*, affirming in part, reversing in part, and remanding the case for a new trial on claims under the [Virginia Uniform Trade Secrets Act](#) (“Trade Secrets Act”). The opinion, authored by Justice Lemons, emphasized that one may be liable under the Trade Secrets Act for misappropriating the trade secrets of another, even if the two parties are not marketplace competitors.

The appeal related to several claims brought by Geographic Services, Inc. (“GSI”), which provides its customers with large databases containing detailed information about specific features on maps, called “geonames.” GSI accused its customer, Boeing Company, and a former employee of misappropriating GSI’s geonames trade secrets. According to the court, GSI originally hired and trained the employee to perform geonames work, and provided him with access to GSI’s confidential information, geonames technology, and other trade secrets during his employment. After leaving GSI, he was hired by Boeing, where he also performed geonames work and developed geonames technology similar to that of GSI.

GSI appealed the trial court’s decision granting the defendants’ motion to strike GSI’s entire case. Overturning the trial court’s ruling on the Trade Secrets Act claims, the Supreme Court of Virginia disagreed with the “underlying premise of the trial court’s ruling,” which was the following:

[T]he reason for the [Trade Secrets Act] is to avoid a person benefiting by doing the type of work which this trade secret enables to the detriment of the creator of the trade secret,’ and... there had been no ‘evidence whatsoever,’ that Boeing is ‘competing with

GSI,' or 'that Boeing is even doing the same work as GSI.'

Contrary to the trial court's interpretation of the statute, the Supreme Court of Virginia held that "the Trade Secrets Act does not require that one who is accused of misappropriating a trade secret use the allegedly misappropriated trade secret to compete with the holder of the trade secret."

The ruling is a reminder that Trade Secrets Act claims are not limited to marketplace competitors alone. Instead, the court emphasized that, to prove liability, a party must only show that (1) trade secrets were acquired by another, (2) the acquiring party knew or had reason to know that the trade secrets were acquired by improper means, and (3) the owner of the trade secrets suffered compensable damages or is otherwise entitled to relief.

The opinion can be found [here](#).

The text of the Virginia Uniform Trade Secrets Act can be found [here](#).

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