

OCTOBER 2022

# YTP'S TECH TIMES

A PUBLICATION OF THE ILT YOUNG TECHNOLOGY PROFESSIONALS COMMITTEE

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*This is our first issue! The YTP's Tech Times, ILT's Young Technology Professionals newsletter, will contain substantive articles on trending legal issues on emerging technology, IP, cybersecurity and data privacy, interviews, and professional development.*

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Miles Indest

## Committee Members

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*Please note: The articles and information contained in this publication should not be construed as legal advice and do not reflect the views or opinions of the editing attorneys, their law firms, or the ILT.*

## Mark Your Calendars

**November 7-8: ILT's 60th Annual Conference on Intellectual Property Law - Plano**

**November 8 - 7:30 a.m. Young Technology Professionals Kick-Off Breakfast - Plano**

## A Message from the Chair

I am truly honored to write this inaugural "Message from the Chair" for the Young Technology Professionals (YTP) group. We have quite a few leadership developments and upcoming events for YTP, so we appreciate your interest and welcome you to share this Message with your colleagues.

### Our Mission

As many of you know, the YTP is a committee of CAIL's Institute for Law and Technology (ILT). We founded the YTP as a community for attorneys, experts, and other professionals under the age of forty or with less than eight years of practice or work in their field.

In addition to supporting ILT, YTP's mission is to offer a diverse platform where emerging technology, IP, and cybersecurity professionals can connect, share expertise, host events to strengthen careers and the industry, and provide a forum for discussion of public policy issues.

### Leadership and New Members

Even though YTP has only existed for a few months, we've been off to a fast start accepting new members and establishing our Executive Committee.

- We are pleased to announce that ILT Sustaining and Supporting firms and corporations will be able to have additional advisory board members to allow them to include young professionals—without increasing their dues.
- All ILT Advisory Board members, regardless of age or practice years, may choose to be a member of the Young Technology Professionals Practice Committee.
- To see the ILT membership benefits, [click here](#).

As for our current leadership, our Executive Committee includes:

- **Summer Ayala** - Computer Forensic Services Inc. (Dallas, TX)
- **Kate Clark** - Gordon, Arata, Montgomery, Barnett, McCollam, Duplantis & Eagan, LLC (New Orleans, LA)
- **Kellie L. Constantine** - J.D. Candidate at Tulane University Law School (Metairie, LA)
- **Matthew W. Cornelia** - McGuireWoods LLP (Dallas, TX)
- **Leiza Dolghih** - Dolghih Law Group PLLC (Dallas, TX)
- **Ryan J. Frankel** - McGuireWoods LLP (Houston, TX)
- **Dylan D. Gilbert** - National Institute for Standards and Technology (NIST) (Gaithersburg, MD)
- **Casey McNeil** - Vendera Mobile (Houston, TX)
- **Shannon Montgomery** - Creedon PLLC (Frisco, TX)
- **Alex Shahrestani** - Promise Legal PLLC (Austin, TX)
- **Ashley E. Smith** - Shearman & Sterling LLP (Austin, TX)
- **Demetrius D. Sumner** - United States Attorney's Office (Baton Rouge, LA)
- **Betty X. Yang** - Gibson, Dunn & Crutcher LLP (Dallas, TX)

YTP's Executive Committee leaders have shown incredible dedication to our organization so far, and I want to expressly thank them again for their passion and support. We have also started to appoint Vice Chair positions for YTP, with two important roles available for applicants:

1. Newsletter Vice Chair: Shannon Montgomery, an attorney at Creedon PLLC, was appointed our Newsletter Vice Chair, so please feel free to submit new articles or thought leadership to her for future publications.
2. Social Vice Chair: Ryan Frankel, an attorney at McGuireWoods LLP, was appointed our Social Vice Chair. He will coordinate upcoming happy hours, events, and related marketing. And, he is happy to have someone be a co-chair, so please reach out to him if you are interested.

3. Membership Vice Chair: This Vice Chair position is currently open for applicants interested in helping YTP connect and welcome new members.
4. Programming Vice Chair: This Vice Chair position is currently open for applicants interested in coordinating CLEs, webinars, and related marketing.

### Upcoming Events: IP Law Conference & Kick-Off Breakfast

We have an upcoming event you will not want to miss. ILT's 60th Annual Intellectual Property Conference is November 7-8 in Plano, Texas, and it will be filled with incredible speakers and networking opportunities. For those interested in YTP specifically, we will have our inaugural kick-off breakfast on Tuesday, November 8th during the conference ([click here for more information](#)). I am looking forward to seeing everyone there! We will also be providing more information soon on upcoming YTP CLEs and networking events in other cities.

### Concluding Remarks

Our "Message from the Chair" updates will come quarterly, but I would love to hear from you directly about your interest in YTP. You can reach me anytime at [mindest@mcguirewoods.com](mailto:mindest@mcguirewoods.com) or (713) 353-6681. We are incredibly excited about YTP, and your feedback, support, and leadership are vital to our technology community.

Warmly,

Miles Indest



## Young Technology Professional Highlight: Kellie L. Constantine

Interview by Shannon Montgomery with Creedon PLLC in Frisco, Texas

Kellie is a current YTP Executive Committee member studying at Tulane University. She attended LSU and received her undergraduate degree in Sociology and a minor in Spanish. As you will find out, Kellie is a woman with many interests, and a heart for helping others. We cannot wait to see where her career takes her. We are so lucky to have her on our executive committee!



**Kellie L. Constantine**  
J.D. Candidate  
**Tulane University Law School**  
Metairie, LA

### THE INTERVIEW QUESTIONS

#### SM: What did you want to be when you were a child?

KC: I wanted to be a journalist because I have enjoyed writing for as long as I can remember. There was also a time where I wanted to be a heart surgeon, but I realized I was entirely too queasy at the sight of blood.

#### SM: What is your background? Growing up what were your interests, what were you involved in (sports clubs anything that gives us an idea of who you are!).

KC: I have grown up playing multiple sports – volleyball, basketball, softball, and I even played flag football in middle school. Any chance I get to play sports still, I do. Last year, some of us played on an intramural Tulane volleyball team. My background in sports reflects in my daily life today because I love exercising. Staying active and going to the gym has been a huge stress reliever during law school.

#### SM: Perhaps the most frequently asked question - What made you want to pursue a career in law?

KC: I have enjoyed writing for as long as I can remember. It has always just been one of my strengths. Since a career in law entails a lot of writing, it was a driving factor. Additionally, I am very competitive and love to win. This likely stems from my background playing sports growing up. Finally, as previously mentioned, I did want to be a doctor when I was much younger because I wanted to be fulfilled at the end of the day knowing I was helping others. I feel that a career in law ties in all three of these things together. I get to hone my writing skills daily while invoking my competitive nature to win. Additionally, I am so grateful to have the opportunity in my future career to do pro bono work. I had the opportunity to do pro bono work this summer at McGuireWoods, and it was one of the highlights of my summer.

#### SM: As a woman, are you ever marginalized having to defend a career in law?

KC: Overall, I would not say that I have been marginalized in having to defend a career in law particularly. I have fortunately been surrounded by people who support my goals and have never doubted my ability to have a successful law career. I will say, however, I have gotten the typical comments from people who are not close friends or family stating things like "Oh, I did not expect you to be as smart as you are." This likely stems

from the fact that I am a woman (with blonde hair). I do not feel marginalized by any means though because if anything, I take those comments as compliments. I love when people underestimate my capabilities.

**SM: What is a professional challenge or fear that keeps you up at night and how do you silence them?**

KC: I am not sure on this one, but I would say impostor syndrome. I know that I have worked extremely hard to get to where I am today, but especially in law school, impostor syndrome is more common than people may think. As I am now a 3L and spent the summer working at such a great firm, I would say this has helped silence the impostor syndrome thoughts. I just tell myself that I am human and will likely make mistakes in my career, but I am extremely capable of being an excellent attorney. Every day will take hard work, but hard work is something I love and thrive doing!

**SM: What are you most proud of in your career thus far?**

KC: As a current law student, I would say that I am most proud of being a published student author. Having my case note chosen for publication was a full circle moment for someone who has enjoyed writing for so long.

**SM: In the next five years where do you see yourself?**

KC: I recently accepted a job at McGuireWoods after graduation, so ideally in five years, I see myself still working for McGuireWoods in their Business and Securities group!

**SM: How did you decide to join the ILT-YTP board of execs and what do you hope to accomplish as a member?**

KC: During my summer associate program at McGuireWoods, Miles Indest quickly became a mentor for me. I assisted on numerous trade secret matters and even helped on his in-progress article regarding litigation in a technological age. I enjoyed every project I did this summer so when he told me about his involvement in ILT-YTP, I was thrilled to have the opportunity to serve on the executive board. I hope to spread the word about ILT-YTP to other interested law students through my role on the board of execs!

**SM: If you could have a conversation with three legal professionals or influencers, dead or alive, factual or fictional, who would they be and why?**

I cannot think of three, but I would say Sandra Day O'Connor and Amal Clooney. Sandra Day O'Connor for the obvious reason that she was the first woman Supreme Court Justice, but also because what she did with her career was so impressive. Having graduated both high school and law school early and graduating third in her class, yet still not being offered a job immediately, she really persisted in the face of adversity. I would love to have a conversation with someone who had such a pivotal role in carving the path for women in this career. I would also choose Amal Clooney because of

her influential work and advocacy in the area of international human rights.

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## Can Public Information Be a Trade Secret?

Trade secrets are a form of intellectual property. Their theft can lead to civil litigation against the alleged thief, as well as criminal prosecution by the government. However, whether certain information qualifies as a "trade secret" is often hotly disputed by those accused of wrongfully taking that information.

On the one hand, you have information that definitely qualifies as a trade secret, such as Coke's recipe, which the company has managed to keep secret for over a 100 years. On the other hand, you have information that is revealed to the public online or in patent applications, which clearly is not a trade secret because, well, it is not "secret."

But what about information that is public, but has been gathered by a company, curated by it, and compiled into a private database?

The [Fifth Circuit Court of Appeals](#)\* in *DHI Grp., Inc. v. Kent* recently addressed this very question, finding that a company's compilation of resumes, which were public information, nevertheless qualified as a trade secret under the [Texas Uniform Trade Secrets Act](#). 2022 U.S. App. LEXIS 24585 (5th Cir. 2022).

In this case, a company compiled resumes into a database, and its subscribers had to pay to access the database and sign a contract that prohibited the reselling of and limiting the use of information obtained from the database. A defendant accused of wrongfully misappropriating resumes from the database argued that resumes were not a trade secret because their value derived from being shared rather than being kept secret.

The [Fifth Circuit](#) rejected the defendant's argument finding that the owner of the database provided witness testimony that established that it took the owner a considerable amount of time and monetary resources to collect the resumes, that the uniqueness of the resume collection provided it a competitive advantage, and customers paid a lot of money to access the resume database.

Thus, according to the Fifth Circuit, public information can possibly qualify as a trade secret if the owner of the trade secret spent a lot of time or money gathering that information and took reasonable measures to protect the secrecy of the compilation or the collection of the public information. This decision is in line with similar findings by the Houston Court of Appeals in *Eagle Oil & Gas Co. v. Shale Exploration, LLC*, 549 S.W.3d 256 (Tex. App.—Houston [1st Dist.] 2018) where the court found that a compilation of public information that took



significant time to compile qualified as a trade secret.



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*Don't Miss the Young  
Technology Professionals  
2022 kick off breakfast!*

**7:30 a.m. - Nov 8, 2022**

*Held during ILT's 60th Annual  
Conference on Intellectual Property  
Law in Plano*



Do you know a young professional or full-time student who could benefit from being part of the ILT community? Let them know about the new membership categories and encourage them to join:

**Young Technology Professional Membership - \$50 Annual Dues**

**Full-time Students Membership (College, University, or Law Students) - \$15 Annual Dues**

Thank You to the YTP Executive Committee—you'll see more from them in future issues



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