

BUILDING THE VIRTUAL LAW FIRM

THROUGH COLLABORATIVE WORK TEAMS



Don G. Rushing, James D. Shomper, Deborah D. Kuchler, and Christopher Barbee, "Building the Virtual Law Firm through Collaborative Work Teams," *ACCA Docket* 19, no. 9 (2001): 60-75.

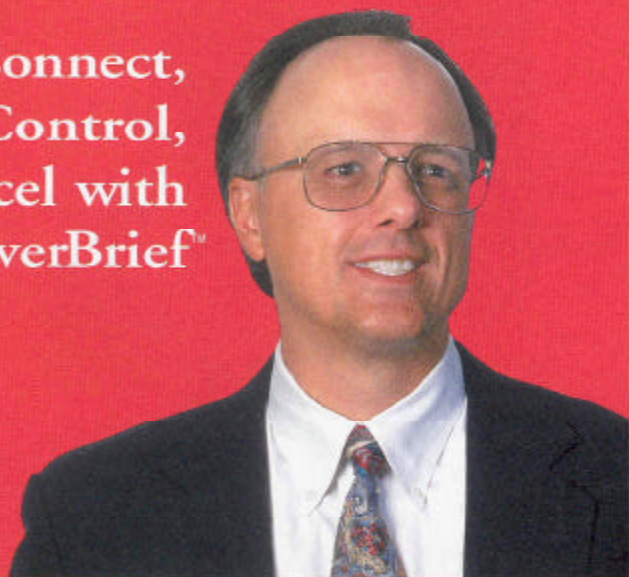
ties and bear our fair share of taxes. We must encourage civic improvements and better health and education. We must maintain in good order the property we are privileged to use, protecting the environment and natural resources.

Our final responsibility is to our stockholders. Business must make a sound profit. We must experiment with new ideas. Research must be carried on, innovative programs developed and mistakes paid for. New equipment must be purchased; new facilities provided; and new products launched. Reserves must be created to provide for adverse times. When we operate according to these principles, the stockholders should realize a fair return.

See www.jnj.com for more comprehensive information.

10. See 21 U.S.C. §§ 501 *et seq.*
11. Three websites are of particular note for staying current on enforcement in the health care area: (1) The National Medicaid Fraud and Abuse Initiative site at <http://hcfa.hhs.gov/medicaid/fraud/default.htm>, (2) the Medicaid Fraud Statutes site at <http://hcfa.hhs.gov/medicaid/fraud/mfs/default.asp>, and (3) the site of the OIG at www.hhs.gov/oig/cia/index.htm.
12. See www.hhs.gov/oig/cia/index.htm.
13. An additional point that is beyond the scope of the discussion here is providing our employees the training and tools necessary to take over more of the basic work that the traditional law department usually handles, such as some contracts and regulatory compliance. It's a matter of balancing the risk and costs against the benefits and savings. It's controversial. But with competitive pressures on all our businesses, thinking about these issues and addressing them are a necessary part of creative lawyering as corporate counsel. The cost pressures won't go away.
14. The Office of Inspector General, U.S. Department of Health and Human Services, maintains a website listing of current corporate integrity agreements with health care providers. See note 11, *supra*. These types of agreements, under other names, have also been employed in situations outside the health care products field.
15. See www.lrn.com.
16. See www.interactivedialogues.com. Space does not permit a full discussion of the capabilities of this tool. I recommend that you visit the company's website and see for yourself what it can do.
17. See www.webtrends.com.

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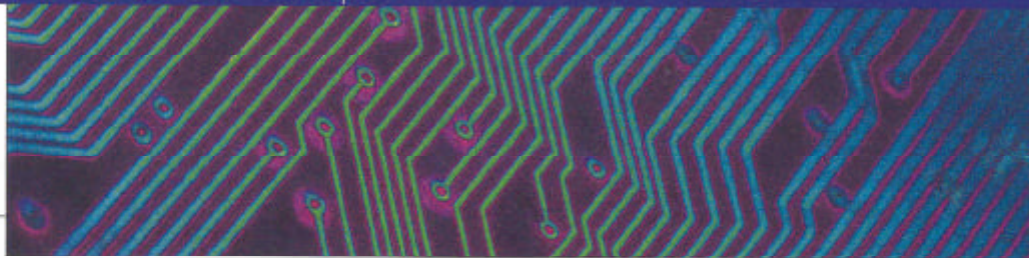
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By Don G. Rushing, James D. Shomper,
Deborah D. Kuchler, and Christopher Barbee

In the 1990s, corporate law departments took a big step forward in the management of legal services with a move to convergence programs. Convergence programs systematically reduced the number of law firms and service providers representing a company in order to better control the quality, speed, and cost of delivery of legal services.

Born of the Total Quality Management movement, convergence programs created partnering relationships between a company and an approved list of primary firms willing to make a long-term investment in learning the company's business, legal needs, and case-handling processes. The idea was that companies could improve their performance if they did business with a smaller, committed group of firms and providers. Most law departments that have pursued this strategy have produced bottom-line gains: reduced case dockets, faster average cycle times from case inception to completion, improved results, and overall cost savings.¹

Convergence programs were only a first step, however. Law departments that turn these partnering relationships into collaborative work teams can realize even greater value. The next step in the evolution of law department and law firm convergence is the integration of in-house lawyers and outside law firms into a virtual law firm capable of effective collaboration on cases and projects. Effective collaboration leverages relational capital²—a stock of mutual trust and shared culture, learning, and work processes—to attain better results for the client at lower cost.

The virtual law firm connects lawyers electronically and culturally. Through the use of applied technology, such as extranets, integrated case management software, computerized databases, electronic invoicing software, document imaging, cell phones, personal digital assistants, and trial presentation software, team members in different geographical locations can perform legal work efficiently and cost-effectively in a shared environment. But this technology still depends on the human element and on the willingness of committed participants to implement and use it constructively in furtherance of an articulated vision and clear goals. In a virtual law firm, participants must share a common culture.

This article discusses how DuPont's law department is using technology to create a virtual law firm, by fostering collaboration among its in-house staff, its outside law firms, and its service providers. Although the intricacies of technology are key to this endeavor, we will focus here on the soft—and, for the most part, unstudied and often ignored—side of technology. We will look at how companies can use technology to increase coordination, teamwork, and, ultimately, collaboration by independent firms in support of their common client. We will offer a roadmap for corporate counsel who would like to travel this path and describe the factors that in our experience have driven greater collaboration among corporate law departments and their outside firms.

Although DuPont designed its virtual law firm to meet the needs of a Fortune 500 corporation, the principles employed apply with equal force to smaller companies, and the processes we describe are highly scalable.



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THE DUPONT PRIMARY LAW FIRM NETWORK

Since the early 1990s, DuPont Legal has moved vigorously forward to create a network of law firms and service providers to assist in-house counsel in meeting the company's legal service needs. A wide-area computer network facilitates work processes among the firms and providers through instantaneous communication of information, document-sharing, and database access.

Over the years, the DuPont law firms and service providers have formed a virtual law firm from which they can build collaborative work teams to deploy on cases or legal projects. The DuPont Primary Law Firm Network ("Network") is not a partnership. Each

member of the Network is a separate entity that performs its own work independently for its clients and is solely responsible for the quality of its work. No Network member represents that it relies on any other member in performing its legal work or any other services. No Network member accepts legal responsibility for any other Network member's work.

In this article, we use the terms "partner," "partnering," "network," and "virtual law firm" to convey an attitude and approach among DuPont's law department and the members of its law firms and source providers: specifically, a desire to work together and be competitive.

The Goal: Creating a Virtual Law Firm

Why did DuPont Legal create a virtual law firm? What is the payoff? We believe that significant competitive advantages flow to a company that can build a team consisting of inside counsel and members of outside law firms and various service providers, such as accountants, jury consultants, and document management specialists, who have the skill sets required by a legal matter and who are capable of working smoothly and effectively together. Such a team would be dedicated to the company's interests and knowledgeable about the company's business and case-handling processes. Through shared technology, members of such a team could easily communicate.

The building of collaborative work teams, integral to the virtual law firm, stems from an understanding that the type of expertise required to handle complex litigation and commercial transactions often comes in several forms: (1) context expertise or knowledge of the local jurisdiction, law, and personalities of the participants, (2) substantive law expertise or knowledge of the field of law involved in the matter, and (3) technical expertise or knowledge of the particular technology or subject matter involved in the matter (see fig. 1, Dimensions of Expertise). The law department's objective in addressing complex legal problems is to build a team that places the company as far out on this three-axis system as possible.

Put another way, a team that scores high in context, substantive law, and technical expertise is more likely to gain a winning result for the company, all other things being equal.

But all other things are seldom equal. A number of significant barriers exist to building teams that consist of members from different firms. Interfirm competition can lead to sharp elbows among team members and can detract from team performance. Lack of communi-

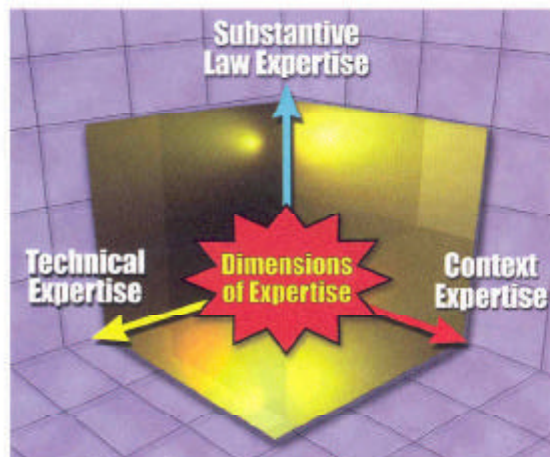


Fig. 1. Dimensions of Expertise

cation about client goals or group objectives can lead to a lack of focus and can reduce team effectiveness. Team members may resist sharing intellectual capital gathered in other cases, such as research and forms, with other team members whom they view as competitors. Incompatible technology, such as different word processing and database management software, can also pose a barrier to the sharing of work product.

And these items are just the short list. Even the most highly qualified team of experts will produce less than optimal results if the individuals do not function collaboratively.

Evolution: Winning through Collaboration

After DuPont had begun its convergence program, it rapidly built an initial network of law firms and service providers. The Network now consists of 37 U.S. law firms, three foreign law firms, and eight service providers.¹ The DuPont program placed a premium on collaboration and teamwork. The inside counsel is no longer a gatekeeper between the business client and outside counsel. Inside and outside counsel receive rewards for their collaborative efforts, and task duplication does not occur in most cases. How did DuPont get started?

Building the Network

In 1992, DuPont announced a program to cut more than \$1 billion in operating costs. For its contribution, DuPont Legal launched a campaign to achieve high-quality legal services at reduced costs. A legal department team conducted an analysis of escalating expenses and developed strategies and approaches based on established business techniques to accomplish the objectives of the program. The team made litigation the initial focus of a new DuPont Legal Model and established objectives to reduce costs, to increase productivity, and to inject business discipline into its delivery of legal services.

The team next critically examined work processes. DuPont Legal was spending time researching every legal issue, finding, analyzing, and indexing every potentially relevant document, and taking every conceivable deposition. It was conducting thorough preparation in the interest of risk avoidance, treating every lawsuit as though it were a bet-your-company case.

To address this problem, DuPont Legal instituted several initiatives designed to streamline work processes so that only appropriate and necessary work

was done. These initiatives, which included a disciplined early case assessment program, a strategic budgeting process, alternative billing under which DuPont shared risks and rewards with its outside firms, and, more recently, the implementation of Six Sigma discipline,² provided a strategic or systems approach to certain types of legal work.

The legal department team then began the task of selecting Primary Law Firms ("PLFs") and service providers. A convergence process lasting three and a half years had already significantly reduced the number of outside law firms and suppliers with which DuPont Legal did business. The DuPont Legal Model, therefore, established its new network of PLFs and service providers based on true partnering relationships, not on the old client-vendor paradigm. Each side made a long-term commitment to the relationship, sharing a common vision and goals and enjoying mutual benefits.

The team also evaluated DuPont's use of services, such as document management, photocopying, court reporting, temporary lawyers and legal assistants, financial analysis, management consulting, jury research, and demonstrative evidence. In the past, DuPont's outside law firms had directly retained many of the providers of these services, leading to a highly varied level of quality and cost-effectiveness. By centralizing the retention of key service providers and forging strategic relationships with them, the team sought to achieve the same goals of efficiency and quality that it hoped to attain with the PLFs.

In the end, the convergence process reduced the number of DuPont's outside law firms in the United States from more than 350 to 37. In addition, it selected eight service providers as strategic partners. Later, it added three foreign law firms (in the United Kingdom, Canada, and Mexico) to bring to 40 the total number of PLFs. By virtue of its design, the convergence process provided the foundation to solidify relationships among the PLFs, the suppliers, and DuPont Legal.³

Employing Technology

The potential of technology to advance the overriding goals of the DuPont Legal Model was clear from the outset. In fact, use of the latest technology became a core element of the DuPont Legal Model, along with strategic partnering, early case assessment, alternative fee arrangements, and strategic budgeting. The law



department team used these elements to create (1) a business focus on DuPont's legal issues, (2) an ongoing work-process reengineering, (3) a commitment to cutting-edge technology, and (4) a shared culture of efficiency and cost control.

Without the benefit of sophisticated technology, neither the concept of the virtual law firm nor the DuPont Legal Model could exist. Described below are the general types of technology systems used by DuPont Legal and its PLF Network to further their collaborative efforts. As you will see, these tools allow for both synchronous, such as videoconferencing, and asynchronous, such as discussion forums and email, interactions among team members. Although DuPont Legal also employs other technologies, these are the key components. Much of this technology is readily available, affordable, and easily tailored to law departments of any size or type (see sidebar for collaboration tools and services).

THE DUPONT LEGAL KNOWLEDGE BASE

DuPont Legal and its PLFs invested heavily in a proprietary system known as the Knowledge Base ("KB") to improve information sharing. Built on a Lotus Notes platform, the KB is a collection of proprietary collaborative databases that form a wide-area network linked by dedicated servers at each user's location. It facilitates access to documents and forms, discussion forums, and email. Boiled down to basics, the KB acts like a private website with areas allowing access to email, collections of documents, form files, company information, and discussion areas.

The KB enabled a high degree of connectivity among Network members, improving the speed, frequency, and ease of communication, and encouraging members to share their intellectual capital with the Network. It quickly became an integral component of the DuPont Legal Model and is today an essential vehicle for advancing DuPont Legal's goals for strategic partnering by facilitating collaboration among DuPont Legal and its PLFs and service providers. The KB gave the Network a central digital depository for case-related documents, useful pleadings and forms, helpful information about Network members and DuPont's business, and an easy means of communication with other Network members.

Subsequent to its implementation, DuPont took steps to further the KB's full potential as a driver of collaboration. The system architecture once used a

fractional T1 line backbone,⁶ but now operates on an extranet virtual private network. (See next section, "Virtual Private Network Technology.") DuPont also implemented a new case management and billing system and collaborated with Network members on solving other problems that a task force had identified.

After the KB had been in use for some time, DuPont found that team members were not using, contributing to, or frequenting some features of the system, such as form files, a discussion forum, and a bulletin board listing cost-saving ideas, as much as they should. DuPont and the PLFs addressed this shortfall by taking steps to make the KB more user friendly and content rich. PLFs should now be able to mine form files of previous work that they have performed for the company and paste them into Lotus Notes-based databases for reuse.

The DuPont Network is currently assessing technology solutions that will link and make searchable individual firm websites so that Network members can quickly and easily identify and share resources. The Network has not yet fully explored its ability to identify and access the know-how and experience of its members.

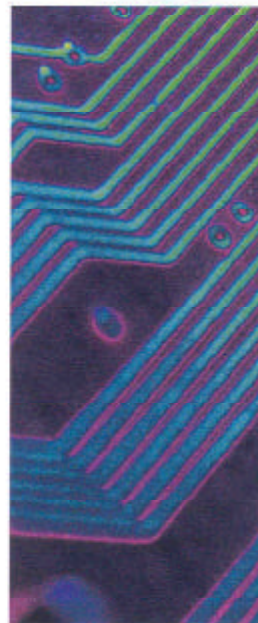
DuPont's practice groups are also in the process of developing case support materials that will be accessible over the KB. The Network can develop case templates—essentially, case outlines providing cradle-to-grave analysis, law, and forms—for recurring types of litigation, such as employment and toxic tort, and post them on the KB. In-house counsel may find that the custodian of company case templates for families of cases, such as employment termination cases, can add value by improving the quality of case handling for individual matters and reducing overall costs.

The Knowledge Base was specially designed and created in the mid-1990s to provide a mechanism for electronic communication among DuPont Legal and its PLFs and service providers. Since then, the Network has improved its use. It enables document sharing, the capture of reusable work product, the provision of up-to-date information on a range of subjects from DuPont and its businesses to the PLFs and service providers, and a forum for best practices.

VIRTUAL PRIVATE NETWORK TECHNOLOGY

At the time of the Knowledge Base's creation, law firms were not widely using the internet, and the internet did not yet promise sufficient security as a collabo-

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COLLABORATION TOOLS AND SERVICES

The DuPont Legal Knowledge Base ("KB") was developed several years ago at substantial expense to serve the specific needs of the Network. Off-the-shelf applications, however, are now available to law departments to facilitate collaborative efforts that accomplish many of the same objectives.

Collaboration tools and services fall into one of two categories: synchronous, which are "real time," and asynchronous, which are delayed because of time or transport. The following table attempts to categorize some commonly available tools and services using this distinction.

COLLABORATION SERVICES		
Type of Information	Synchronous	Asynchronous
Text	Chat	Discussion group Email
Documents	Instant messaging Document sharing	Email (attachment)
Fax	N/A	Fax email Fax machines
Video camera (bidirectional)	Video conferencing Room and desktop	Play videoback (avi's, mpeg, etc.)
Calendar/scheduling	Team calendar synchronizations with your local calendar	Internet calendar
Presentation (unidirectional)	Live video Live PowerPoint	Video playback PowerPoint playback

Described below are various applications that collaborative work teams can use to exchange information synchronously and asynchronously:

- **Content streaming.** Pushes production video/audio/data content via an "IP stream"—that is, internet protocol data stream, much like television—onto the network to be viewed by a large audience. This synchronous communication method uses a media player on a desktop and streaming media services from either an internal streaming media server or external media services from a provider, such as Yahoo.broadcast.com. Probably the most famous example is the Victoria's Secret virtual fashion show produced by Yahoo Broadcasting.

- **Internet (web) team workplaces.** Provides browser access to a single virtual workplace for people to share and store documents, discussions, and databases. This asynchronous communication method allows a number of people in different locations to work together on a project or documents. Team workplaces can be hosted internally by a company or contracted from an external application service provider ("ASP"). Examples of this service include Intraspect, eRoom, Niku, TeamCenter, and Lotus Domino.
- **Document/meeting sharing applications.** Allows people to simultaneously share and work on documents or presentations electronically through server or peer-to-peer connection of multiple workstations. In this asynchronous communication method, the server applications can be shared or demonstrated, presentations presented, or digital white board used to brainstorm solutions via an internet browser or client application. Examples of this service include NetMeeting, Groove, Lotus SameTime, Placeware, WebEx, and eRoom Real Time.
- **Desktop video conferencing.** Uses personal face-to-face video conferencing and person-to-person video calls. This synchronous communication method can also include the use of NetMeeting or other T.120 data sharing tools. Content collaboration began with this technology and ushered in the T.120 data-sharing standard. The transport for these services is either the IP network (H.323) or public switched infrastructure (H.320). This conferencing method works best with broadband connections. Some software integrates with Room systems protocols. Examples of this application include a camera attached to a personal computer and MS NetMeeting to collaborate with other staff face to face.
- **Room video conferencing.** Uses group face-to-face video conferencing, which can also include the use of T.120-based data sharing tools. This synchronous communication method is used for site-to-site group video meetings and multisite group video meetings using bridging services. Many larger companies have room systems installed in their largest offices to help managers and staff meet face to face without traveling.
 - A group collaborating on one or more matters may choose from these important technology tools to construct its own collaboration support system.

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rative client law firm tool. But with recent advances, DuPont Legal has implemented a virtual private network that uses the internet. The virtual private network, which is essentially an extranet with appropriate levels of security, has increased flexibility and reduced costs, while maintaining the same functionality previously offered on the KB. It has taken DuPont Legal and its PLFs and service providers to the next level of technological sophistication. Now, Network members directly access the KB via a secure internet link—much as one would access any other internet site—rather than via a dedicated fractional T1 line.

DOCUMENT IMAGING

DuPont Legal retained Daticon Systems, Inc., to provide document-imaging services for its PLF Network. Daticon's Virtual Partner software facilitates detailed tracking of document production history, provides online review of documents for relevance and privilege, and allows sharing of document annotations by the entire litigation team. Imaging not only costs less than manual document management, but it also reduces errors. Collaborative work teams from DuPont Legal and its PLFs use Virtual Partner daily in large-scale document products.

ELECTRONIC INVOICING, TASK-BASED CODES, AND EBILLING

In 1996, DuPont began implementing electronic invoicing using task-based codes. DuPont Legal used the four standard code sets of the Uniform Task-Based Management System, the standard phase codes, and DuPont Legal's own disbursement codes.⁷ The electronic data generated in these codes allow DuPont Legal to make in-depth comparative studies of law firm and vendor performance, to assess their relative efficiency, and to identify best practices. In addition, electronic invoicing expedites bill processing and payment.

More recently, in order to move to the latest ebilling technology, DuPont Legal retained TyMetrix, Inc., to provide an integrated web-based ebilling solution. With the TyMetrix system, law firms and legal vendors electronically submit invoices in task-based format over a secure internet connection. Because TyMetrix is a fully automated and completely paperless process, bill processing is faster, less time-intensive, as well as less labor-intensive, and possible from remote locations. In addition, an in-house lawyer or legal assistant

can generate detailed performance metrics reports at desktop computers, showing staffing assignments, workload allocation, and work by tasks. These reports are relevant to budgeting, strategic case management, and use of alternative billing. The TyMetrix system furthers collaborative budgeting and risk assessment.

Driving Greater Collaboration in the Network

Not content with the status quo, in February 2000, Thomas L. Sager, vice president and assistant general counsel of DuPont Legal, commissioned a collaboration task force that consisted of members from DuPont Legal, the PLFs, and the service providers. Its task was to find ways of driving greater collaboration within the Network and, thus, to move to a new, higher level of performance. Over a six-month period, the task force perused the professional literature on collaboration, evaluated the state of collaborative activity within the Network, and studied cases of successful collaboration. The task force then prepared a white paper to share its findings with the Network.

Two central conclusions of that study bear repeating here:

- First, the collaboration process is a science, not an art, in the sense that there are reasonably well understood principles that law department managers can learn and apply on behalf of their companies in building work teams.
- Second, the effective use of technology as a tool to tie work team members together is crucial to the ability of the in-house legal department, one or more outside law firms, and one or more service providers to work seamlessly on the company's legal matters.

We have looked at the specific technological tools that the Network implemented. Let's examine now the basic principles of collaboration and the role technology plays in facilitating it.

THE COLLABORATION PROCESS

For collaboration to be most effective, the participants in the team effort must have incentives to work together that are powerful enough to overcome existing barriers. Team members can achieve "win-win" outcomes if they recognize the benefits of collaboration. It is as simple as that. Participants in a team effort are more likely to work together when they find



collaboration to be in their own enlightened, long-term self-interest.

Collaboration is the process of working jointly with others, especially in an intellectual endeavor.⁸ Businesses create collaborative work groups (both intracompany and intercompany) to increase creativity, productivity, and efficiency. Collaborative relationships come about through the shared investment of time, effort, and capital in common work cultures, systems, and processes.

To achieve the benefits of a collaborative relationship, a team must create an environment in which collaboration can succeed. To do this, it is important to understand the elements of effective collaboration, the steps by which collaborative teams are built, the drivers of collaboration, and the benefits to collaboration.

Elements of Collaboration

The essential elements of collaboration—that is, the conditions required to foster a chemistry of cooperation—are easy to state, but difficult to attain. In the practice of law, effective collaboration flows from the following:

- *Calling:* A sense of calling inspired through participation in a group legal practice aimed at service to a particular client or group of clients.
- *Caring:* A caring attitude developed through concern for the professional development of other group members and pride in the group's results.
- *Commitment:* A creative energy born of enthusiastic commitment of time and effort to the accomplishment of the group's goals.
- *Shared vision:* A coherent intent derived from a shared vision of what the group is about and intends to accomplish.
- *Shared capital:* A shared intellectual and relational capital created from group skills, knowledge bases, and interpersonal relationships.
- *Shared systems:* A congruence of systems brought about through alignment of work processes and communication methods to achieve efficiency.⁹

Steps in Building Collaborative Work Teams

We create collaborative work teams in careful steps, each building upon the previous ones. The formula is simple: pick team players, build trust among them, define the team's goals, encourage communication among members, and design

reward systems that drive positive behavior. (See fig. 2, Collaboration Roadmap.) We will explain these components by reference to DuPont's experience with the Network.

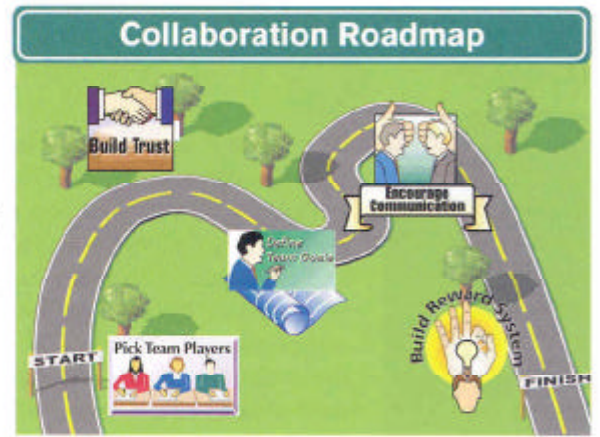


Fig. 2. Collaboration Roadmap

1 Pick Team Players

Team players are people who can control territorial instincts and "play well with others." Lone rangers do not make good team members. Team players also bring different skill sets and personality traits to the collaboration. We believe that the legal department must take the following steps:

- *Choose people who are good tool users.* Professional competence is crucial, but is an assumed attribute. The team members must also be facile with the adoption and use of new technology and work processes.
- *Choose good communicators.* People who are effective networkers generally make better team members. People who seek to control access to information as a means of acquiring power rather than sharing it for mutual advantage generally make poor collaborators.
- *Choose smart risk takers.* Team members who are willing to intelligently assess and take risks and who are willing to share in the rewards and penalties associated with those risks are preferred team members.
- *Choose trustworthy team members.* Participants who are honest, loyal, reliable, and open are more effective in collaborative work groups than those who lack one or more of these attributes.

DuPont's initial effort in building the Network was to identify lawyers and service providers with these qualities. It recognized that some combinations of people simply have an intangible "chemistry" that breeds collaboration. These people—because of personal affinity, shared professional experiences, or mutual goals—are able to work together in a way that is satisfying and productive. An assembly of the right team of people for the right project with financial, professional, and personal incentives for success



should lead to mutual satisfaction, lucrative business opportunities, and, yes, even fun!

DuPont Network members actively feed their chemistry by finding ways of helping one another. DuPont Legal, for example, has consistently gone the extra mile for its law firms and service providers by advertising and promoting the program (and member firms) to other potential users of its services. In turn, the law firms have committed substantial nonchargeable hours to the building and maintenance of the Network and the support of various initiatives to improve performance under the DuPont Legal Model. The law firms and service providers also cross-refer work to one another and look for ways to cooperate on projects.

Chemistry does not come merely from assembling people of like backgrounds. Diversity in the alliance promotes creative thinking and shared learning. A rotation of positions, where appropriate, can provide opportunities for a broader cross-section of professionals from member firms and infuse fresh ideas into existing initiatives. The Network has carried forward DuPont's long-standing commitment to a diverse workforce as a key element of the collaborative process.

2 Build Trust

In collaborative work teams, trust is the shared belief that you can depend on your teammates to achieve a common purpose. Trust grows when expectations are fulfilled. It evolves over time through words and actions that demonstrate genuine care and instill confidence that another person will do no harm. The role of trust in collaborative relationships is to promote long-term stability, reduce transaction costs, increase risk tolerance, and improve the quality of the shared service.

According to one expert on human behavior, there are five dimensions of trust, defined as follows:

- Integrity (honesty and truthfulness).
- Competence (technical and interpersonal skill).
- Loyalty (benevolent motives toward another).
- Consistency (reliability, predictability, and good judgment).
- Openness (willingness to share information and mental accessibility).¹⁰

Trust does not happen immediately. As personal relationships grow, social distance decreases.¹¹ People must get to know one another on a social basis, gain-

ing an appreciation for one another's attitudes, values, and beliefs, before they can be comfortable working in a collaborative way. They must share information about mutual expectations of the relationship, reduce distrust through a candid exchange of aspirations and concerns about the relationship, and define power relationships upfront.

For effective collaboration to exist, team members must respect the interests of one another. They must deal with conflicts directly and fairly. Disputes about direction, money, and hurt feelings are inevitable in a collaborative relationship. Confronting issues when they occur in an open manner and working toward mutually beneficial solutions strengthens trust relationships.¹²

DuPont's experience with its Network has demonstrated that a relationship is more likely to be defined as winning if it provides lasting benefits to its participants. "One-off" engagements, such as "beauty contests" to choose a firm for a single engagement, detract from relationship building. By getting to know one another personally and professionally, collaborators become comfortable with one another—comfortable enough to risk sharing work, client contacts, and opportunities. The heart of the convergence process is the elimination of one-off engagements and the development of long-term relationships of trust that allow the participants to build relational capital. In the language of the economist: "By committing to a small number of suppliers, the buyer firm can guarantee them greater ex post bargaining power and therefore greater ex ante incentives to make noncontractible investments—the buyer ends up being better off by keeping a smaller piece of a bigger pie."¹¹

DuPont Legal has expended great effort since the formation of the Network to bring together lawyers and other service providers working on DuPont matters. Frequent face-to-face meetings of alliance members are essential to developing relationships of trust. Annual and mid-year meetings of the Network have successfully woven the fabric of these relationships, as have additional opportunities for a wider group of interested lawyers to get to know one another through practice group or special interest group meetings. The result is that members of the Network now know one another well. They have developed good professional relationships and, in many instances, strong personal friendships as a result of this association.

3 Define Team Goals

An alliance must establish mutually agreed upon goals (and shared beliefs) to guide its performance. This goal-setting requires an alignment of the objectives and interests of the team members. One way to establish effective mutual objectives is to develop them from each firm's objectives. For example, DuPont wanted to reduce the number of firms it dealt with, and the PLFs wanted a greater share of DuPont's work; therefore, the concept of convergence was a good objective for both. In order to succeed, it is also important for all members to understand that things inevitably change, that the group will adapt to change, and that the goals of the group will evolve over time to meet the requirements of the new operating environment.

Strong leadership in setting clear goals helps collaborative efforts succeed. On several occasions, DuPont Legal has surveyed the capabilities within the Network and chosen team members to staff the project at hand from a number of different law firms and service providers. In successful collaborations, the lead DuPont in-house lawyer or designated coordinating counsel has clearly defined, at the outset, the roles of each team member. Thus, the unequivocal message from DuPont has been: "This project is a group effort. Employ the best resources available. Work well together."

DuPont's experience with its Network has shown that teamwork springs up naturally when people share a compelling interest in common issues and goals. The desire to address those issues or to meet those goals provides a strong incentive for people to join forces.

An example of this phenomenon is the success of the Women Lawyers' Network, a group of women lawyers representing DuPont who have bonded together to promote legal excellence through professional development and advancement of women. The group has been quite successful in efforts to create leadership opportunities for women lawyers, to foster business development skills, and to generate a positive and bias-free working environment.

4 Encourage Communication

Effective collaborative work teams typically have strong communications based upon the following:

- Culture and climate of connectivity, which includes the belief that their status as a virtual law firm furthers creativity.

- Use of technology, such as cell phones, computers, and networks of computers, to connect members of the group.
- Frequent face-to-face meetings among group or subgroup members, such as Network annual meetings, practice group meetings, and interest group meetings, to socialize, reaffirm shared goals and beliefs, discuss plans and performance, celebrate and reward group successes, and air both good and bad news so that learning occurs and trust continues.
- Creation and maintenance of a shared knowledge management system, such as the KB, to collect the group's intellectual capital, such as forms, briefs, and other information, and to make the collection accessible to all group members.

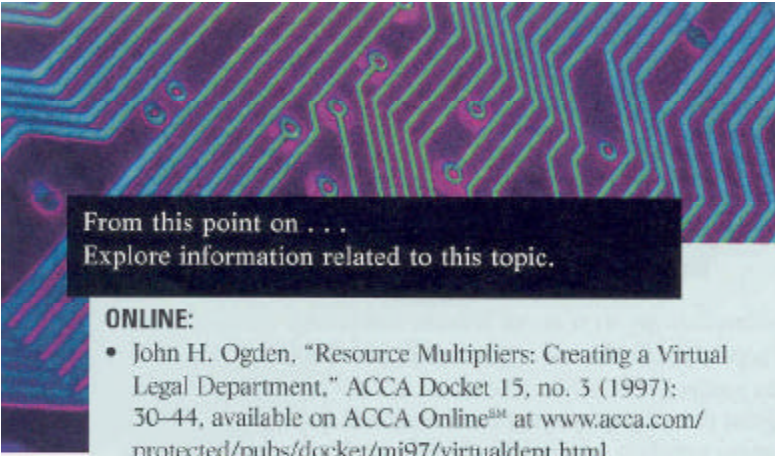
Although Network members initially were somewhat reticent to share work product unrelated to the case on which they were working or to participate in discussion forums or professional interchanges that might facilitate sharing valuable information and learning with competing firms, they have substantially overcome this reticence. Network members now routinely share their firm's know-how and information with other members with the tacit understanding that other members will reciprocate to the mutual advantage of all. Such information sharing is, of course, at the heart of the collaboration process.

5 Build Reward Systems

Development of an effective collaborative work team depends in part upon the structuring of incentives that reward the conduct sought. This structuring involves the following steps:

- Designing reward systems, including recognition devices, compensation agreements, and profit sharing, to compensate for the behavior that most effectively advances group goals. Bonus pools, special awards for exceptional performance, and recognition for team "wins" drive positive behavior and result in increased productivity.
- Measuring behavior in a systematic way, through management by objective and metrics, so that objective assessment of performance is possible and group participants can benchmark their performance against group and individual goals.
- Structuring compensation arrangements to make teams and their individual members behave like

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From this point on . . .

Explore information related to this topic.

ONLINE:

- John H. Ogden, "Resource Multipliers: Creating a Virtual Legal Department," *ACCA Docket* 15, no. 3 (1997): 30-44, available on ACCA OnlineSM at www.acca.com/protected/pubs/docket/mj97/virtualdept.html.
- Document, case, and billing management information at www.daticon.com and www.tymetrix.com.
- DuPont Legal Model further reading at www.dupontlegalmodel.com.
- Todd M. Keebaugh, "The Virtual Office: Practical Considerations in Establishing and Implementing a Telecommuting Program," *ACCA Docket* 16, no. 5 (1998): 16-38, available on ACCA OnlineSM at www.acca.com/protected/pubs/docket/so98/virtual.html.
- "Lawyers Worry Too Much about Transmitting Client Confidences by Internet E-mail" available on ACCA OnlineSM at www.acca.com/protected/legres/email/worry.html.

ON PAPER:

- Mariette L. Baba, *Dangerous Liaisons: Trust, Distrust, and Information Technology in American Work Organizations*, 58 *HUM. ORG.* 331 (Fall 1999).
- J.Y. Bakos and E. Brynjolfsson, *Information Technology, Incentives, and the Optimal Number of Suppliers*, 10 *J. MGMT. INFO. SYS.* 37 (1993).
- Paul M. Barrett, *Tiny Firm Prospers Paring Fees DuPont's Way*, *WALL ST. J.*, Dec. 31, 1997, at B1.
- Susan Beck, *Sisters in Law*, *AM. LAW.*, Mar. 1999, at 62.
- Jeff Bell, *World Wide Sharing—Local Law Firm Helps Create Online Knowledge Base*, *BUS. FIRST* (Columbus) Tech Now Article, July 28, 2000.
- Janet Y. Bivins & Michael Brown, *DuPont Plays a Leadership Role: Janet Y. Bivins and Michael J. Brown Provide Inside and Outside Counsel Perspectives*, *METROPOLITAN CORP. COUN.*, June 1996, at 53.

- Michael Burger, *DuPont and the Cult of the Six Sigma Samurai*, *CORP. COUN. MAG.*, Aug. 2000, at 42.
- Jeffrey Dyer & Harbir Singh, *The Relational View: Cooperative Strategy and Sources of Interorganizational Competitive Advantage*, *ACAD. MGT. REV.*, Oct. 1998, at 660.
- Margaret Cronin Fisk, *Who Owns the Earth?*, *CORP. COUN. MAG.* Aug. 2001, at 60.
- Mark E. Haskins et al., *Beyond Teams: Toward an Ethic of Collaboration*, *ORC. DYNAMICS*, Spring 1998, at 54.
- Rosabeth Moss Kanter, *Collaborative Advantage: Successful Partnerships Manage the Relationships, Not Just the Deal*, *HARV. BUS. REV.*, July/Aug. 1994, at 96.
- James K. Leader, *DuPont's Virtual Law Firm*, *METROPOLITAN CORP. COUN.*, Mar. 1997, at 61.
- JORDAN D. LEWIS, *THE CONNECTED CORPORATION: HOW LEADING COMPANIES WIN THROUGH CUSTOMER-SUPPLIER ALLIANCES* (1995).
- JORDAN D. LEWIS, *TRUSTED PARTNERS: HOW COMPANIES BUILD MUTUAL TRUST AND WIN TOGETHER* (1999).
- Dana G. Mayer, "Five Years into the Experiment: An Evaluation of DuPont's Legal Model Revisited," *ACCA Docket* 16, no. 4 (1998): 24-34.
- Robert Rice, *Partnerships Made to Measure Up: Business and the Law—The DuPont Legal Model*, *LONDON FIN. TIMES*, Oct. 20, 1998, at 17.
- Thomas L. Sager, *Technology Helps Shift from Autonomy to Interdependence*, *CORP. LEGAL TIMES*, vol. 7, no. 68, July 1997, at 14.
- THOMAS L. SAGER & JAMES D. SHOMPER, EDs., *LEAPS AND BOUNDS: MOVING AHEAD WITH THE DUPONT LEGAL MODEL*, a DuPont legal function publication (2001).
- Ian Stuart et al., *Case Study: A Leveraged Learning Network*, *SLOAN MGT. REV.*, Summer 1998, at 81.

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entrepreneurs rather than employees. Such packages provide better incentives and more fairly apportion risks and rewards in collaborative environments.

- Giving bonus pools and special awards for exceptional performance of legal and other services to the collaborating group. Such bonuses drive positive behavior and result in increased productivity. DuPont has taken steps to give Network members clear economic and noneconomic incentives to collaborate effectively. These incentives take several forms:
 - DuPont's alternative fee arrangements, which build in a mechanism for rewarding collaboration, are a powerful tool to encourage a group effort. Law firms and service providers participating in collaborative work teams can thereby reap financial benefits for doing top-quality legal work. As groups of people work together, they become accustomed to teamwork styles and processes. This familiarity breeds greater efficiency. Over time, institutional knowledge in the form of sample motions and briefs produces further cost savings because work product can be reused, instead of recreated.
 - For several years, DuPont has used "The Challenge Award" to acknowledge and monetarily reward members of the Network for exceptional performance. In return, DuPont has benefited by bottom-line results delivered through a reduced litigation docket, shorter case cycle times, and lower legal expenses.
 - The DuPont Network has been quite active in giving its members cross-referrals and valuable exposure to cutting-edge legal solutions. The ability to network in a professional context with others capable of referring additional work is an important benefit of alliances. Access to the intellectual capital and expertise of other professionals provides an important avenue of professional growth, allowing team members not only to resume-build through their experience, but also to share learning.

CONCLUSION

Applying new technological tools and well-understood principles of collaboration, a corporate law department can build a virtual law firm of private law firms and service providers, unrestricted by geog-

A LAW DEPARTMENT MUST PICK TEAM PLAYERS, BUILD TRUST AMONG THEM, DEFINE THE TEAM'S GOALS, ENCOURAGE COMMUNICATION, AND DESIGN REWARDS THAT DRIVE POSITIVE BEHAVIOR.

raphy, to work together efficiently on the company's legal matters. Such a firm should combine best in class substantive law, technical, and context expertise. To ensure its success, a law department must pick team players, build trust among them, define the team's goals, encourage communication, and design rewards that drive positive behavior.

The DuPont Primary Law Firm Network is a group of law firms and service providers who collaborate freely on cases and projects as the needs of DuPont dictate. DuPont Legal intends to leverage the hard work invested in building the strong relationships among Network members and in-house counsel to improve the quality of representation it receives while reducing total expenses.

As the DuPont experience illustrates, a law department builds a virtual law firm with substantial effort, one step at a time. Smart use of technology to foster communication and capture and make useful the intellectual capital of the group is a critical ingredient of successful collaboration. Corporate legal managers who can organize and lead teams of lawyers and other professionals, assembled from multiple firms, in addressing complex litigation and transactional matters will reap considerable savings. They will also realize an important side benefit: the professional satisfaction that comes from participating on a winning team. ☐

NOTES

1. See Thomas L. Sager, "Toward a Common Goal," *ACCA Docket* 15, no. 4 (1997): 12-24; see also Dana G. Mayer, "Five Years into the Experiment: An Evaluation of DuPont's Legal Model Revisited," *ACCA Docket* 16, no. 4 (1998): 24-34.
2. See David B. Wilking and G. Mitu Gilati, *Reconceiving the Tournament of Lawyers: Tracking, Seeding, and Information Control in the International Labor Markets of Elite Law Firms*, 84 *Va. L. Rev.* 1581, 1590 (1998); Nick Bontis, *There's a Price on Your Head: Managing Intellectual Capital Strategically*, *Bus. Q.*, Summer 1996, at 40-47.

3. See Thomas L. Sager & Gerard G. Boccuti, "Achieving a Common Goal: DuPont's Performance Metrics," *ACCA Docket* 15, no. 5 (1997): 12-26.
4. See Thomas L. Sager and Scott L. Winkelman, "Six Sigma: Positioning for Competitive Advantage," *ACCA Docket* 19, no. 1 (2001): 18-27.
5. See Thomas L. Sager & James D. Shomper, *Moving Ahead with the DuPont Legal Model, Leaps & Bounds*, 5 (DuPont 2001).
6. Use of fractional T1 lines, a data circuit leased from a telephone company that carries network traffic or telephone conversations in digital form, as the backbone of the information-sharing system was cumbersome, expensive, and limiting because these lines prevent "anywhere access." DuPont resolved this problem by moving to a secure web-based access system.
7. The American Bar Association's Litigation Section, ACCA, and a group of 50 major corporate law departments and law firms developed the standard code sets of the Uniform Task-Based Management System in 1994.
8. WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 445 (1986).
9. See Mark E. Haskins et al., *Beyond Teams: Toward an Ethic of Collaboration*, 26 *ORG. DYNAMICS* 34 (Spring 1998).
10. See Marietta L. Baba, *Dangerous Liaisons: Trust, Distrust, and Information Technology in American Work Organizations*, 58 *HUM. ORG.* 531-45 (Fall 1999). See also JORDAN D. LEWIS, TRUSTED PARTNERS: HOW COMPANIES BUILD MUTUAL TRUST AND WIN TOGETHER 7-14 (1999).
11. "Deep Trust—the essential ingredient for creating the most value and solving the toughest problems—grows as interpersonal relationships strengthen." See JORDAN D. LEWIS, TRUSTED PARTNERS: HOW COMPANIES BUILD MUTUAL TRUST AND WIN TOGETHER 9 (1999).
12. JORDAN D. LEWIS, TRUSTED PARTNERS: HOW COMPANIES BUILD MUTUAL TRUST AND WIN TOGETHER 121-135 (1999).
13. See generally J.Y. Bakos & E. Brynjolfsson, *Information Technology, and the Optimal Number of Suppliers*, 10 *J. MGMT. INFO. SYS.* 37-53 (1993); Jeffrey Dyer & Harbir Singh, *The Relational View: Cooperative Strategy and Sources of Interorganizational Competitive Advantage*, *ACAD. MGT. REV.*, Oct. 1998, at 660.

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