

MENTORING

SOME MUSINGS AND PRACTICAL EXPERIENCES

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Introduction

The topic of mentoring or coaching is crucial to the development of an IP firm. Indeed, our profession is particularly dependent on mentoring since private practice as a patent attorney is seldom fully taught in courses. Good judgment, wisdom and experience must permeate a firm over the long term. Growth and success of a firm is often linked to its ability to foster mentoring amongst its professionals.

In contrast to mentoring, some firms rely on other methods towards growth and prosperity. Whilst performance incentive programs and “may the best survive” strategies do yield results, disaster looms if a proper balance is not maintained. Mentoring in a climate of open collaboration is the best way forward.

Think of mentoring as the work of a gardener, sometimes seeding, turning over soil, weeding or pruning. The gardener creates the conditions for optimal growth. The rest is up to the plant and a bit of help from Mother Nature.

As the saying goes, experience is the sum of your mistakes. I am quite experienced at mentoring. Let me illustrate the point.

Extreme mentoring is when you get too close to your employees. No, no, it is not what you think. I am simply referring to situations where the employee more or less becomes emotionally dependent on you. I recall a situation where my colleague would systematically enter into my office at 4pm “to talk”. First we would talk about a file and then it would slide to talking about him, his dreams, plans, his old girlfriends and difficult childhood. An interesting life he had. It soon became uncomfortable. Mentor yes, therapist no I tried to explain. Soon thereafter the employee left. How to be friend, confident and yet maintain some emotional distance is the fine art of mentoring.

In another situation, it was just about the opposite, I was the designated mentor to a team of individuals with insufficient time for any of them. Mentoring was reduced to a couple minutes here and there. The result was that their progress was less than ideal. The lesson I learned is that it is not a good idea to take on too much mentoring at once. One or two mentoring roles is plenty.

Five topics will be addressed in this paper:

1. Alternatives to mentoring
2. The case for mentoring
3. How to mentor
4. Finding new ways to mentor
5. How to hire good mentors

1. Alternatives to mentoring

(i) The Darwinian approach

The first alternative to mentoring is what I will call the Darwinian approach. Junior agents, attorneys and trainees are more or less left to their own devices. The idea is that if they are smart enough, they will find ways to succeed. The model is one where attrition is expected. Aggressive hiring strategies bring in raw talent and as time goes on the weaker are left behind, leave voluntarily or not so voluntarily. The Darwinian model usually features generous performance incentive programs to stimulate performance and competition amongst employees.

The main drawback of the Darwinian approach is short-term gains followed by high turnover and employee dissatisfaction. The turnover has negative effects felt by clients who are shuttled from one professional to another. Another problem is that some employees may be challenged in their ethics by rushing through the files in an effort to perform and reach milestones.

While the Darwinian approach is geared towards self-learners and high-energy performers, it does not breed long-term loyalty. It may also overlook strong and steady performers, the “grinders and minders” that generate quality and value for clients.

In my practice, like in nearly all practices, we have to set goals and sometimes let people go when they consistently underperform. To mitigate the risk, we have strict hiring practices. That being said, we also tend to set modest performance goals to factor in learning and face-time between employees and partners. We feel that this approach provides better value for clients and breeds long-term loyalty.

(ii) The Classroom approach

Other firms have taken the approach that employees can and will be trained for all facets of the job. Instead of one-to-one mentoring and coaching, these firms provide an organized and systematic training curriculum for all employees. These firms see the training as more time-efficient. Why teach one-on-one when you can teach to five, ten or twenty people at once? Such courses usually focus on the theoretical and legal aspects followed by practical exercises based on hypothetical client and factual scenarios. The courses are also used as primers and study aides for qualification exams.

While not without merit, the classroom approach does have drawbacks. One drawback is that it is a bit like teaching all grades at once. Some trainees have already understood and mastered the skills while others are way behind and need more time. So, after all, the approach may not be that time efficient. Also, younger trainees are often shy to ask questions for fear to look foolish in front of a group. So, unless there is some form of feedback or exams, it is difficult to really know if the trainees have really mastered the skills being taught.

One interesting twist on the classroom approach is to give teaching duties to the younger trainees. It is often said that there is no better way to learn something than to teach it. This is an approach that we use in our firm. It focuses our younger teachers on learning the subjects and honing their presentation skills. We feel that these skills quickly become useful when working with clients. Indeed, we try to get our trainees in contact with clients as soon as possible. Learning to present to colleagues, to clients and partners is a challenge well worth the effort.

2. The case for mentoring

Despite the advantages of a good mix of classroom and Darwinian approaches, one-on-one mentoring is still, in the author's view, the most successful strategy to grow a firm. The benefits are numerous, both for the firm and the person being mentored.

In a nutshell, the firm benefits from better employee retention since proper mentoring is a sign of respect. It shows that the firm is willing to invest time and effort in training and mentoring. In return, successful trainees often reward the firm with long-term loyalty. I have seen this happen despite attractive employment offers being made by other organisations.

Another clear benefit of mentoring is that good mentors speed up the performance gains of trainees. Good teachers and coaches bring out the best in young professionals. The result is that the work quickly reaches a quality level that requires little supervision. All this translates to faster growth based on a solid foundation of quality. This allows a firm the flexibility of offering good quality work without charging full partner's hourly rates.

The obvious benefits to the trainee is having personalised training, having someone to "bounce ideas" with and most importantly someone to talk-to about career matters, long and short term goals.

Benefits to the mentor are also numerous. The mentor can go beyond the basics of patent and trademark practice and start coaching trainees on business aspects and personal aspects of client relationships. The stuff they don't teach in school.

Another benefit to the mentor is that once a trainee progresses to a good level of autonomy, the mentor can direct his or her attention to new matters and new business development. A good mentoring program allows partners "to have a

life”, enjoy a vacation or attend FICPI events with some confidence that work is done properly in their absence.

In all fairness, not all mentor-trainee relationships work out as intended. Sometimes, the appointed mentor is not a very good communicator, personalities can clash, romantic situations may bud. A trainee may also feel slighted if another trainee colleague “lucks out” and gets to work with the firm’s best mentor. When this happens, the firm’s management must remain open to suggestions and feedback. It is often possible to “re-assign” or change the approach as time goes on.

After seeing the best mentors at work (the author had one for about 15 years), it is worth sharing what the author has identified as a best practice on how to mentor. This is discussed in the next subtopic.

3. How to mentor

In the French language, we call this an “acrostiche”. It is a word made up of the first letter of other words of expressions. Below is the author’s “acrostiche” on the word mentor:

Mind the manners
Educate
Never stop praising improvements
Elevate not dominate
Trust is at the center of it
Open yourself to differences
Reap the rewards

Mind the manners

Mentors often go wrong by trying to be “chummy-chummy” and familiar with the trainees. It has been my experience that while being open and friendly is good, the maintenance of proper manners is event better. There must be a level of mutual respect that is evidenced by the manners of the mentors and trainees. This is a prelude to such manners with clients. So, mind the manners.

Educate

Educate when you can, not all the time. I have seen “mentors” who considered trainees as their disciples or slaves. No conversation could take place without the mentor expounding on their best moments, wisdom and vast knowledge. Mentoring was like the king holding court. Good educators are open for questions and ask questions back. When a trainee says “what do I do when such and such a situation happens”, a great mentor will say “have you thought of ways to deal with the problem? Where would you look? Do you clearly know the client’s business objectives in this project? etc.”

Never stop praising improvements

Good mentors never stop identifying and praising improvements. They take notes, hold frequent meetings with trainees and show them what progress they have made. These talks have great significance to trainees who naturally will want to continue to improve. The trainees are often more loyal and better performers. This is not to say that errors must not be pointed out to trainees. The idea is that trainees are in a learning process and are expected to make errors. What must not happen is a repetition of the same errors. So it is important to flag the mistakes. It is the view of the author that praising improvements has, overall, greater long-term effects and value that criticizing bad performance.

E levate not dominate

Elevate, not dominate. A good mentor will make the trainee “feel like a hundred bucks”, which in North America means that the trainee will feel energized and confident after having spoken to the mentor. Good mentors find ways to showcase the progress and performance of trainees. Overly dominant mentors have the opposite effect of making a trainee feel diminished and incompetent. Elevating and praising trainees can diminish stress and allow trainees to think more clearly and actually achieve their best potential.

Trust is at the centre of it

Trust is an important feature of a mentor-trainee relationship. Although the relationship must remain professional at all times in or out of the office, it is important that the mentor can act as a confidant. The trainee must trust the mentor. Sometimes, just having someone to talk-to is key to progressing out of difficult situations. The trainee must also be worthy of trust. In other words, a trainee should be reliable, available and trustworthy in their assignments. Furthermore, a trainee should never speak badly of their mentor amongst colleagues. Mutual trust is key to successful mentoring.

Open yourself to differences

Mentors and trainees should be open to differences in style, communication, ideas and so forth. Perhaps an approach works for one trainee and not the next. In a multicultural world, both trainees and mentors should strive to understand the cultural or personal subtleties of the person they are working with. Mentors and managers will increasingly have to work in a multicultural environment and sometimes across long distances in multi-office environments. Good mentors learn to spot and enjoy these differences. As the French say, *vive la difference!*

Reap the rewards

Successful mentoring will bring out the best of trainees. The rewards for the firm cannot be underestimated. Loyalty, performance, a mentorship culture, growth and superior qualities will be the rewards.

4. Finding new ways to mentor

In today's fast-paced, multi-office and work-from-home arrangements, we must never underestimate the importance of face time. This is especially important in the context of mentoring. Time must be made at regular interval to take stock and evaluate how a person is doing. This is best done in a face-to-face meeting. The sure way to do this is to plan ahead for some of these meetings. For example, mentors and trainees can plan ahead to have lunch at regular intervals.

Another good way to mentor without having to spend too much time away from client work is what the author calls "shadowing". This involves always bringing the trainees along for client meetings, doing some work planning with the trainees, involving them in day-to-day tasks that you, as mentor, think you are the only one who could do it.

Yet a new way to mentor is through social media sites or straight e-mail or text messages. Without being particularly knowledgeable on these topics, the author recognizes that younger trainees increasingly use these means. There is no reason why mentoring should not also be active on these media. A word of

warning however about professionalism and confidentiality, aspects that may be challenged by these media.

5. Hiring natural mentors for continuity and team building

The last topic is centred on hiring practices. Because of the importance of hiring not only smart people and good performers but also good teachers and mentors, a firm's hiring criteria should consider these skills. We often question people about their capacity to work in a team environment and they always say "yes, I'm a great team player". Experience shows otherwise. Interviews and skill testing exams should consider a persons ability to mentor and teach others. Recruits should also be made to understand that training and mentoring future recruits will be part of their job and evaluation criteria. Firms should be aware that consultants provide "psychometric" evaluations, that we, as a firm, have found useful in pointing out personality traits of the people we hire. In summary, a firm that can pick-out the good mentors will be one step closer to success.

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