

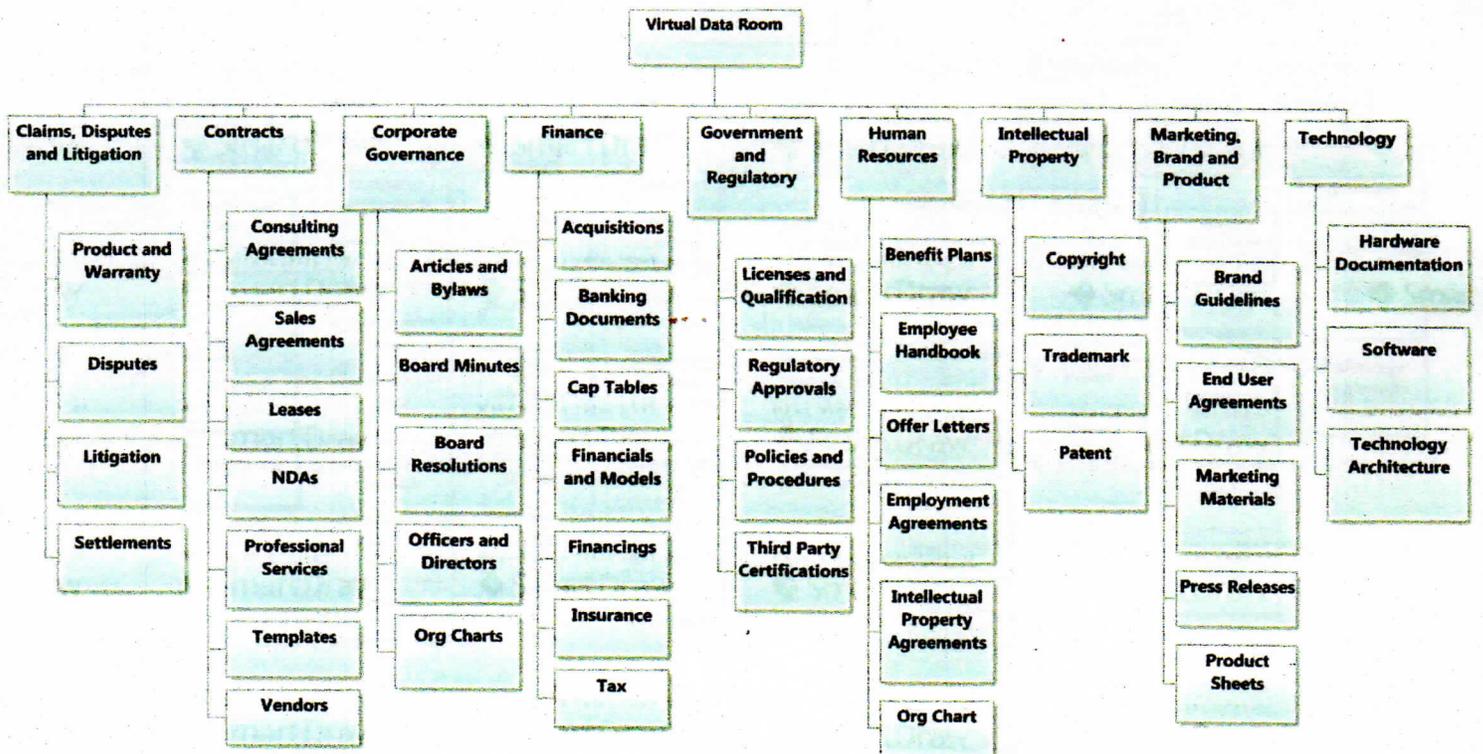
Organizing a Data Room

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Virtual data rooms are used for many purposes, but attorneys mostly encounter them in business financings and M&A deals.

“Preparing a Business for a Financing or Sale” in the July 2015 edition of *NWLawyer* discusses some reasons why in-house counsel and outside business counsel should learn how to set up a data room. The material below covers some additional thoughts on organizing a data room.

Although organizing a data room requires understanding a company’s business model, industry, structure and legal and regulatory environment, the following template is probably a good starting point for most companies:



Structure

- Like any type of filing system, a data room should be organized into tiers of folders that logically guide users to the information they need.
- Top Level Folders. The first step is to establish a company's top level folders. In the example above, they are:
 - Contracts
 - Corporate Governance
 - Claims, Disputes and Litigation
 - Finance
 - Government and Regulatory
 - Human Resources
 - Intellectual Property
 - Marketing, Brand and Product
 - Technology
- Whatever categories and terms are used, this should be a fairly small number of intuitive, general folders that together cover the entire business.
- At each tier in the data room, it's helpful to keep the number of folders limited so all folders in a tier can be viewed quickly at once, even if that means listing two or three loosely related items in one folder, like "Claims, Disputes and Litigation."

Second and Third Tier Folders - Business and industry-specific drivers play a greater role in informing a company's second, third and fourth tiers of data room folders. Here are a few specific examples and suggestions.

- For larger companies, the folders under "Governance" might be a list of entities, such as a holding company, several operating subsidiaries and a series of foreign subsidiaries. Each of these entity folders would have its own sub-folders like the tier 2 governance folders shown in the above template.
- Under "Finance," the folders under "Financings" might include specific debt and equity financings, like "Bridge Loan," "Promissory Notes," "A Round," "B Round," "C Round," and so forth.

- Depending on the circumstances, a “Notes and Borrowings” sub-folder might be necessary, either under “Financings” or as an additional second tier folder under “Finance.”
- “Under Intellectual Property,” the tier of folders under “Patent” might include “Design Patents,” “Patent Applications,” “Patent Dockets,” “Patents Granted” and “Patents Licensed.”
- Under “Technology,” the folders under “Software” might include “Proprietary Software,” “Third Party Licensed Software” and “Open Source Software.”

General Tips, Trips and Traps

- It’s important to consider confidentiality obligations before uploading sensitive contracts, employment documents and intellectual property to a data room. Some information cannot be shared with third parties without permission, even if the third party has signed an NDA.
- Always use the data room platform’s administrative privilege management features to control user access to the most sensitive documents and to timely terminate access.
- Use anonymized due diligence lists from financings and M&A deals to check a data room for completeness.
- Get subject matter expert help in designing folders and sub-folders for complex areas like patents, technology, tax, regulatory, audits and certifications.

Summary

There’s no single right way to organize a data room. Start with a template like the one above and tailor the data room’s folder system to the company’s circumstances. When the lawyers, investment bankers and others working on a deal don’t have a lot of questions about where to find things, it’s working.