

15 Minutes With Teva Pharmaceuticals' General Counsel

By **Sam Reisman**

Law360, New York (October 23, 2017, 2:21 PM EDT) -- David Stark was appointed acting chief legal officer of Teva Pharmaceuticals in 2014, a position he was tapped for permanently in November 2016. His appointment came after he rose up the ranks at Teva after first joining in 2002.

"One of the advantages that I had was really getting in on the ground floor of the company [when it] was not anywhere near the size and scope it is today," he said.

Law360 spoke to Stark about the unique challenges facing a legal department in the pharmaceutical sector and where he sees clients' relationship with outside counsel changing. This interview has been edited for clarity and length.

What do you find most interesting about the role?

Being in health care, and pharmaceutical in particular, the complexity and challenge of the issues that we face as a legal department would be hard to replicate in other places. So what that means is that the work is interesting and incredibly so — and you need to be on your toes, especially now, with the huge shift that we see in the industry in general and pharmaceuticals in particular. Legislative and governmental affairs sits in the legal group. We work really closely with compliance. The scope of Teva is that we have a presence in just about every major country and many not-so-major countries. And so it just makes it interesting.

What are some of the main challenges you encounter as a GC in the health sector right now?

One of the things that keeps me up at night, and it's really a bit of a core issue, is the reputation of the pharmaceutical industry just isn't where it needs to be, given the value of what we're bringing to the patients and the health care industry. And the reputational issues have a bit of a cascade effect. You see it in the litigation context. You see it in the regulatory context. Again, another corollary to that ... is trying to make policy through the courts. And given the way that some pharmaceutical companies, some health care companies are viewed in the general public, that seems to be the easy task to do things that don't always make sense.



David Stark

Currently: Chief legal officer, Teva Pharmaceuticals

Previously: Associate, Willkie Farr

Law school: New York University School of Law

When you say the reputation is not where it needs to be, what would you attribute that to?

At least in the studies I've seen, the pharmaceutical industry in general has some work to do to enhance its reputation with the general public. [There's] one issue that's hard for me to skirt, which is that there have been a couple of actions by some companies that have led to some really negative press, and it's of course infected the industry. You know what they are. There have been a couple of instances in the press of things that have gotten a lot of negative attention.

What do you enjoy most about your job?

The people that I work with, especially in the legal group, but not limited to that. I've been very fortunate, especially within the Teva legal group, to work with some really good-quality lawyers and good-quality people.

What do you look for in lawyers for your legal department?

For the most part, we look for people that have good judgment and have a good grounding in the law. Most of the lawyers we hire have some law firm experience, and we think that's important for managing law firms. I think we look for people who are the right cultural fit, which is working really hard, being creative where it matters, and also knowing how to be a good person.

At the end of the day we want to work with people who make our work environment a good place to be. We also try to strive for diversity. That's something that's important. Not just diversity from the standpoint you would normally think of it, but diversity of thought. The last thing you want to have is a group of people all thinking in the same direction.

What is one thing you value most in outside counsel?

There's a lot of good-quality lawyers out there. I think what's hard to develop is two things: trust and alignment. That really comes with time. I've been around since '02 and many of the firms we use today are firms that we've used for quite a number of years, and that really leads to very good alignment. What I mean by that is, they really understand our business needs, not just our legal needs. And that's really important. That's probably the thing I value the most.

What is one thing outside counsel does that you can't stand?

I could live without this big push within law firms, especially as they get bigger, to do cross-marketing. We may use a firm to do litigation and you know there are pressures within these firms when they have clients to do cross-marketing in other practice areas. And it's not always the case that the firms are doing cross-marketing in an area of strength. So I don't love the cross-marketing in particular, but especially when it's not an area of strength. You know, it's not a huge deal but it's something they might want to think about moving away from.

What's one way the business of law is changing, and how is it affecting your relationship with your outside counsel?

Look, the law firms are getting squeezed. Law firms are becoming more of a business and they're hiring professional people to run their businesses. That has negatives and positives associated with it. Law

firms tend to run much more efficiently from their standpoint. And from our standpoint — it's nice to have business people to deal with.

The implications for clients is, dealing with law firms that have more infrastructure can be very helpful but at the same time they're constantly focused on the bottom line and also there's more overhead associated with that. The law firms are being run more professionally, but that's a cost that they have to pass along.

They're under pressure, there's a lot of competition, they are consolidating, there's a lot of lawyers moving around — that's an obvious thing. That's maybe not a recent development — i.e. within the last year — but maybe in the last 10 years; I'm taking the longer view here. You didn't have to worry as much about lawyers hopping around 10 years ago as you do now. It's a little bit of a pain in the neck. And it creates a conflict minefield sometimes. So the conflicts, from my perspective, have gotten a little more difficult to manage, from the client perspective, with all the lawyers moving around.

Should we kill the billable hour?

Obviously we talk about that and have thought about it a lot and do a lot of reading about it. There's a place for creative billing or alternative fee arrangements. My philosophy has always been, and my team's has been, let's pay a fair rate to the lawyers that we do use. And there's a lot of press out there about the death of the billable hour. I think it's exaggerated.

And at the end of the day, I think it's not unlike a lot of other things in life where you may have people come into your home or other professionals that you hire, and people should be paid for their time in a fair way. I know what the argument is on the other side, that there's an incentive to overbill when folks are paid by the hour but it hasn't been our experience, I would say. And maybe that's because of the way that we manage outside counsel, which is very closely.

We review the bills and the work product very carefully and it's really symbiotic, and if we feel we got overbilled for something, not only will we not pay it but we don't use that firm again so that's not something that's really bothering us too much. There are instances where a creative billing arrangement or alternative billing arrangement makes sense. We've done them, but I would say the vast majority of our work is done on an hourly basis and we're very comfortable with it.

--Editing by Rebecca Flanagan and Kelly Duncan.