Q&A with the EiC: Managing Global Risks with Amazon GC David Zapolsky

Interviews and Profiles

Law Department Management

“When you have high-judgment, strategic people working directly alongside the business, outcomes tend to be a lot better.”

As general counsel of one of the world's most recognized brands, David Zapolsky knows a thing or two about working alongside some pretty strategic minds. Joining Amazon back in 1999, he left a partner position at a large firm to become one of the company's earliest litigation counsel — and he hasn't looked back.

Here, David talks about what's changed — and what hasn't — during his almost 20 years with the online retailer, how the in-house profession and role of the legal department has evolved, the biggest challenges (and opportunities) facing corporate counsel today, and more.

Background and career

ACC: I read that you were once torn between a career in the law and music?

David: I went to college in New York at Columbia and then ended up going to law school at Berkeley. I was a music major in college and thought seriously about going into music or law. It wasn't a performance major, it was more of an academic course of study, although I did and do still sing. Deciding between those two careers was hard. But the job market for PhDs in music at that time was pretty dismal — I don't imagine there's ever a great time for it. I also had an interest in going into public service and government — I was sort of a history buff. And so, when I took the LSAT, I did well enough to think about getting into a school like Berkeley, and when that happened, it was pretty easy decision in the end.

ACC: What was your first legal job?

David: After Berkeley, I went to the Brooklyn District Attorney's Office, where I prosecuted sex crimes, child abuse, and domestic violence cases for most of my time there. Then, I went to Wachtell, Lipton, Rosen & Katz in New York, where I saw the other side of law practice. Both were incredible learning experiences. In '94, just after having a son, my wife and I decided to move across the country, opt out of the New York lifestyle, and go west to Seattle.

ACC: What sparked your interest in in-house practice, and what led you to Amazon?

David: When I moved to Seattle, it was actually the same winter that Jeff Bezos moved here. He went off to start Amazon, and I joined a large litigation-focused law firm, Bogle & Gates. I had a great time there: I was a general litigator and did all kinds of different things, everything from securities law to some white collar and complex commercial litigation.

Bogle dissolved in early ’99; I went briefly to Dorsey & Whitney, who were very generous to me, bringing me in as a partner. Six months later, I got a call from Michelle Wilson, who was the wife of a former litigation colleague at Bogle. She had recently moved from a rival Seattle law firm to be Amazon’s general counsel. She asked me if I would be interested in coming to Amazon to do litigation. I asked, “Well, how big is the litigation group?” And she said, “Well, you would be it.” I had been thinking about going in-house at that point in my career. I was interested in getting closer to the mission of my clients, and closer to the business. When the Amazon opportunity arose, I recognized it for the opportunity of a lifetime and didn’t hesitate.

> "The secret of being an effective general counsel of a very large company is to have a team of great deputies that you can rely on completely. If you have that, and I’m incredibly lucky that I do, the job is a lot easier than it looks."

ACC: In that vein, what is the biggest difference between working as a partner in a big firm and being a one-person litigation team at Amazon?

David: I loved the firm environment; I loved the fact that there were litigation colleagues all around me who I could talk to about cases and compare strategy with. But coming into Amazon, I walked into my office and there was a pile of case files on the floor, and I realized: I’m the only person in the organization whose responsibility it is to do something about these. That was incredibly empowering. I got to figure out what the cases were about, talk to people internally to investigate them, hire outside counsel, and get them up and running so that we could defend the company and move forward. I felt very comfortable from my first day and really enjoyed that role.

ACC: You’ve held several positions at Amazon since then. What has changed and what has remained consistent in your roles?

David: My résumé is a little bit deceptive because I joined Amazon as a one-person department. I was brought on to cover litigation, regulatory, privacy, copyright, labor, and employment issues, and essentially that job description didn’t really change much over the next 12 years. It mostly just got bigger. After a very painful eight months, I was able to hire a labor and employment attorney who knew what they were doing, and the group grew organically over time. But basically, the function didn’t change until 2012, about five years ago, when the general counsel who hired me told me she was going to retire and wanted me to take over for her. I hadn’t been that interested her job because I really loved litigation, but she basically said, “You'll be fine. Don't worry about it.” And so here I am, five years later.

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ACC: In your current role as SVP, general counsel and secretary, what does your typical day look

like?

David: It's a very different role. Fortunately, I had a fantastic successor for my old litigation and regulatory role, who was able to step into the position seamlessly. But now I get to work with all of my colleagues, all over the department, in a much more regular and programmatic way than I did as a litigator, where you just kind of go where the fires are. And in doing that, I've learned a ton about the other work people in the department are doing, and all of the different leadership styles we have in the group. The secret of being an effective general counsel of a very large company is to have a team of great deputies that you can rely on completely. If you have that, and I'm incredibly lucky that I do, the job is a lot easier than it looks.

So, my typical day is never predictable. It can range from diving deep into a problem or issue that one team is facing and they want my input. It can be sitting with the senior management of the company and looking at new business opportunities, or areas we're already in, and analyzing strategy and long-term planning. It can involve crisis management, if there are issues around the world where we're being contacted by regulators or by government officials. I do a fair amount of external engagement with regulators and government officials, not just on individual matters but also to educate people more generally about what we're doing and why. It really varies, and I get to work with a huge variety of incredibly smart and well-qualified colleagues who make it easy for me to do that.

ACC: How big is the global legal team at Amazon?

David: When I started at Amazon, this whole legal department was about 15 people. But now we're many hundreds of attorneys, contract managers, and paralegals. We've got a presence in 15 different countries, and we're hiring, so it's kind of a moving target.

ACC: What best practices do you have in place for managing such a large global team?

David: I really rely heavily on the leaders of each of the groups within the legal department to manage their group and I'm lucky that I have the help.

Transitions, growth, and change

ACC: During your 18-plus years with the company, you've likely witnessed a lot of change within the growing organization as a whole, but also within the legal department. How has the function of the legal department changed over the years?

David: In a lot of ways, it doesn't feel that different. A lot of the people who were here when I started are still here. Two people from my interview loop are still here; so I see a lot of the same faces. But, there's obviously a ton of other new people as well. Fundamentally, I think the philosophy that we use to practice law hasn't changed at all. We really are trying to empower every one of our attorneys and legal professionals to work as closely as they can with the business; to be autonomous in the sense that they can give advice off the cuff; that they can make judgments for the business and can move quickly without a lot of bureaucracy or a need for a lot of internal box checking, or going through different levels to get to decisions.

The surface area of the company has changed a lot too. We're many times larger than we used to be, because with so many different businesses, you need a lot more people to cover the various types of risks we face. But our philosophy has always been to stay close to the business, to co-own

the business with our business clients. And fortunately, Amazon has a culture that values the input of its lawyers, not just for legal questions but on business questions too. As a result, very few lawyers leave legal to go work for the business, although they're frequently invited to do so, because at Amazon you get to do both in the legal department.

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ACC: What's the biggest challenge associated with having such a large department?

David: One of our biggest challenges is making sure that as new people join and our footprint expands, all of the people who are joining us learn and understand our culture, our leadership principles, and the way we practice law. That's one of our biggest challenges — dealing with that growth.

ACC: Your long legal career, including both firm and in-house practice, has given you a unique view at how the profession has evolved over the years. In your opinion, what has led to the "evolution of in-house counsel?"

David: I'm sure there are a lot of causes of that evolution. When I was in firms, I felt distant from my clients. There was a role to play, but you're never really in the room when business decisions are made. I think as the world has moved faster and some of these businesses have grown larger, the profession has evolved, our business clients appreciate the input we can bring when business decisions are being made, as well as legal ones. So, I think part of the culture change is that businesses in general welcome that closer relationship that they can have with lawyers who are in-house versus outside. In my current role, when I think about the relationship we have with outside counsel, if we're getting really strategic, important business advice from an outside counsel, I'm going to want to bring that person in-house. If they're that good and they're providing that much value, I would rather they be in-house working directly with our clients than through the legal department.

Amazon headquarters in downtown Seattle

ACC: What advice do you have for in-house counsel who aspire to the role of general counsel?

David: I'm proof as a recovering litigator that anybody can end up being general counsel. Therefore, two pieces of advice: 1) When you have a choice of things to do, when you have options, always choose the one you're most interested in; that you think is cooler and you'll have the most passion for. Don't make the less interesting choice because you think it's expected, has better "résumé value," or gives you some sort of advantage in your career. If you aren't going to where you have the most passion, where you're going to do your best work, you're hampering your future choices. 2) If over the course of your career in-house, you have opportunities to do different things, take those opportunities. If you can transfer overseas for a few years, do that. If you can get out of your comfort zone and take a position in a different part of the business, by all means try to move around, because that gives you a more holistic sense of the business, and the direction it's going, as well as exposure to different managers and senior executives. It's never a negative to do that.

Challenges and opportunities

ACC: According to ACC's *Chief Legal Officers 2017 Survey*, 70 percent of those surveyed rate ethics and compliance as the top issue keeping them up at night. In your view, what is the top concern or challenge facing corporations today and what role does the general counsel play in addressing it?

David: I always have a sort of running list of what are the biggest risks for companies. I think security; information security is near the top. Privacy as well, which is a very distinct issue from security. I don't think the lawyers per se can do that much about security other than observing good hygiene in helping the company have the right processes in place to review what's being done. Privacy is very different. Lawyers are intimately involved in decisions about how we use information and create customer expectations about how to do that. A mistake in the privacy sphere can be very costly.

Ethics and compliance are critical as well, particularly for companies that are active in the M&A world, and those expanding globally, including doing business in business cultures that don't resemble what you find in the United States or Western Europe. Those are some of the biggest risks that we have to worry about as general counsel for a public company. And we have to invest in making sure we're doing everything we can to control those risks — and understand how we're complying — and design compliance mechanisms to make sure we're preventing and detecting compliance issues when they arise.

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ACC: Amazon has grown tremendously over the years — some would say it's "taking over" the retail market. As the person tasked with overseeing a lot of this growth — from acquisitions like the recent one of Whole Foods, Inc., to managing a growing legal team and more — what are the most challenging aspects of your job, and on the flip side, the most rewarding?

David: First, I would take issue with the premise of the question: Although Amazon has a really strong brand, all of e-commerce is only 9.1 percent of the entire US retail market, and we represent just a portion of that. Everywhere we compete, we're surrounded by well-armed, innovative

competition. Because our brand is so strong, people often make sweeping assumptions, but let's not forget that Wal-Mart is many times the size of Amazon.

ACC: Fair enough.

David: In terms of what's challenging about that, it's really keeping close to the business and reinventing our jobs in a way that, as we get larger and can tolerate more economic risk, that we're pushing ourselves to reinvent our jobs to do the most high-value, strategic work. We have to figure out ways to simplify or automate some of the more routine things that we used to do when we were smaller. Those are the biggest challenges with an organization that's growing as fast as we are.

Being close to the business is the rewarding part. When you get to be in the meetings where we're innovating new products and services for customers, and you have a culture as we do that rewards and expects input from the lawyers in the room about what the best customer experience is regardless of whether there's a legal issue, that's incredibly fun and makes for a much more consuming, interesting experience practicing law. And when you see the results of that innovation — when you're there on the ground floor and see something launched that you were a part of shaping — it's incredibly rewarding.

ACC: What's one thing you learned following such a large acquisition that can be shared with other in-house counsel going through a similar process?

David: I think the biggest thing was communication — open and high-quality communication between the two deal teams on both sides. The execution by our M&A team and Whole Foods' legal team was just astounding, and I think a part of that was really good lines of communication and very productive working relationships, which allowed us to close that deal [for its size] in record time.

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ACC: Amazon is one of the companies leading the way to what I call a "new normal." Consumer behaviors have changed, people in general have changed and in order to be effective, lawyers need to recognize those changes and advise accordingly. That said, what are some other trends, specific to your industry and beyond, that general counsel need to be aware of?

David: I think the focus on information security is critical. General counsel need to understand that, and they need to work with boards to help educate them on how a company organizes to control for that risk. There's no other single trend that I can think of that is common to all companies. For us, it's international expansion and trying to control for the risks of that. I also worry long-term about the ability to continue growing our staff. Law school admissions have reached historic lows in the last decade, except maybe for the last year. Therefore one longer-term worry is whether we have the pool of talent needed to help us continue growing, and to replace current senior staff when they retire. That's another trend I watch closely.

ACC: What's one thing you learned during your first job that you still apply today?

David: In my first two jobs, both at the Brooklyn DA's office and then at Wachtell Lipton, the biggest lesson I learned was that your personal credibility as a lawyer is incredibly important to your ability to be effective. No matter what client you're representing or what side of a lawsuit you're on, it's critically important to maintain your personal credibility. This is particularly true in regulatory and criminal engagements, because if you lose that, you can't effectively represent clients. I had great role models at the DA's office and Wachtell, working with people who never allowed themselves to be put in situations where their credibility could be questioned: whatever they told you, you could rely on. Preserving that credibility not only makes for a more fulfilling practice, it also gives you great ability to work within a legal or regulatory system on behalf of clients.

Getting to know… David Zapolsky

Name one person, living or dead, you'd love to have a cup of coffee with?
One of the reasons I went to law school was because I admired Robert Kennedy. I'd read a lot about him, and thought that I would try to emulate his career. It was only after I got into law school and started learning about the law that I realized, you can't just walk out of law school and get a job as chief counsel to the Senate Judiciary Committee — unless your name is Kennedy! But he's the reason I started my career in public service, and so he would be my choice.

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