

Icon Of IP: Crowell & Moring's Terry Rea

By **Matthew Bultman**

Law360, New York (June 3, 2016, 5:12 PM ET) -- When Crowell & Moring LLP partner Teresa Stanek Rea became the deputy director of the U.S. Patent and Trademark Office in spring 2011, she knew Congress was considering landmark legislation that could overhaul the nation's patent system.



But like many others, Rea had doubts about whether anything would be passed. Lawmakers had been trying to change the patent rules for more than a decade, and previous efforts had fallen apart for one reason or another.

"I thought when they passed it, I would be a member of private practice, and I would offer input and criticism to the government," she said. "Lo and behold, it did surprise me when I got there that I would work with [former USPTO director] Dave Kappos and the entire team at the USPTO on what would turn out to be a tsunami of implementation."

President Barack Obama signed the America Invents Act into law in September 2011, six months into Rea's tenure at the patent office. That meant Rea, who later rose to acting director at the agency, found herself in a central role helping to implement the law.



Terry Rea

On the outside, a lot of attention was paid to the AIA changing the method for determining the priority of patent applications from a "first-to-invent" to a "first-inventor-to-file" system. But the law did much more than that.

It was densely packed with changes, and they required rules and some form of training for patent examiners and the USPTO users, according to Rea. She had a number of duties, including leading the implementation of the Patent Trial and Appeal Board, which has emerged as a popular alternative to district courts for hearing patent validity challenges.

"It was a herculean effort that far exceed my expectations," she said. "I've never worked harder in my life."

Helping shepherd one of the world's largest intellectual property offices through its biggest shake-up in decades wasn't a position Rea planned for herself, at least not early in her career. But it was one that

colleagues say she was well-equipped to handle, in part because of her background.

Rea studied pharmacy at the University of Michigan and worked as a hospital pharmacist after completing her degree. At the same time, a career in law, something she had thought about in high school, was still in the back of her mind, so she decided to pursue it, spending her nights studying law at Wayne State University in Detroit.

Her legal career started as a patent attorney for Ethyl Corp., a multinational chemical company. She made the jump to private practice when she joined Burns Doane Swecker & Mathis LLP, a boutique patent firm later acquired by Buchanan Ingersoll & Rooney PC.

Mark Supko, a partner at Crowell & Moring, was part of the team that recruited Rea to join the firm in early 2008. Supko said Rea's abilities as a lawyer stood out, but so did her background as a pharmacist and an astute business sense.

"The combination of technical skills and business sense, I think clients find that very appealing," he said. "She is able to counsel them in a way that isn't just focused on the legal issues in front of them. She puts it into the context of their business as a whole."

Those abilities also translated well to the USPTO, which she joined in 2011, according to colleagues, who said Rea's technical background and depth of experience in the field gave her a lot of gravitas in terms of being able to pull people together and give them guidance.

"Without a doubt, everyone respected Terry for her knowledge in the field," said Margaret Focarino, a senior patent adviser at Oblon McClelland Maier & Neustadt LLP and the former commissioner for patents at the USPTO.

Rea, who has also been president of the American Intellectual Property Law Association and led other IP law associations, said she was driven to join the patent office, in part, by a desire to give back. But she admits there was also a bit of curiosity about the inner workings of the agency.

As an attorney handling patent prosecutions, she had for years observed the USPTO from the outside. But she said she wanted to get behind the curtain and see how the office interacts with other agencies, the courts and Congress.

Perhaps most surprising, she said, was what she learned from an international perspective, getting a firsthand look at how the USPTO works with patent offices in other countries. This included attending IP5 meetings, where leaders from the world's five biggest intellectual property offices — Europe, the U.S., Korea, Japan and China — discuss patent rules and how to improve the system.

Although being an international advocate for U.S. intellectual property protections might have been a new experience for Rea, colleagues raved about her diplomatic skills and said she took nicely to the role.

"She was knowledgeable about the issues, and she had the kind of personality that made her a very good representative, I think, of the U.S. and the USPTO," Focarino said.

But Rea said one of her proudest moments came in 2013, when the USPTO was ranked No. 1 in the Partnership for Public Service's annual employee survey of Best Places to Work in the Federal Government. Not only did the USPTO top more than 300 federal organizations, unusual for an agency as

large as the patent office, it did so at a time when the office was transitioning through the changes required by the AIA, making the achievement all the more unlikely.

“We were ranked No. 1 by employees while the employees were inundated with huge changes, which made it amazing,” said Rea, who led the USPTO as acting director for most of 2013 after Kappos’ departure.

In November that same year, Rea returned to private practice as a partner at Crowell & Moring. She also became a director with C&M International Ltd., an international trade and investment consultant affiliated with the firm.

At that point, implementation of the AIA was mostly complete, and Rea had left a lasting imprint on the USPTO and the country’s patent system.

“Just looking at the scope of the [AIA] regulations, it’s impressive that the patent office was able to get that together as quickly and as well as they did,” Supko said. “And if you look at what has happened since those were implemented, there has been a sea change in the way patent disputes are litigated.”

Today, Rea focuses her practice on various intellectual property issues and disputes, including complex patent litigation, and works with clients in areas such as pharmaceuticals and health care.

She also continues to be vocal about issues surrounding innovation, including those dealing with Section 101 of the Patent Act, which is a hot-button topic in patent law as some believe recent court decisions have created uncertainty over what is eligible for a patent. For her part, Rea said she would like to see more areas of technology to be found patentable and, if possible, more clarity with Section 101.

“Businesses need clarity in order to do their work, and if we can’t provide clarity, I think innovation will be diminished and less robust,” she said.

--Editing by Christine Chun and Patricia K. Cole.

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