

## Rising Star: Akin Gump's Michael Simons

By **Jessica Dye**

Law360, New York (March 30, 2011) -- Akin Gump Strauss Hauer & Feld LLP partner Michael Simons has translated the toughness he learned growing up in the Canadian hinterland into a career as a top patent litigator, making him one of Law360's top intellectual property attorneys under 40 to watch.

Simons, 37, has carved out a reputation as one of the firm's go-to trial litigators and managers since joining Akin Gump's Austin office in 2003, having secured courtroom victories for a wide array of clients, including Medtronic Inc. and Hexion Specialty Chemicals Inc.

But perhaps the most striking thing about Simons' career isn't where it has gone since he began practicing law in 1998, but where it began — in the two-room cabin in Canada's Yukon territory where he was raised.

When Simons was two years old, his parents decided to move to Yukon, where the family literally lived off the land, constructing their rustic cabin by hand, hunting moose for food and chopping wood to keep warm in winters so cold they froze the mercury in the family's thermometer.

"To get to our house, you would go from the nearest town, Whitehorse, drive 180 miles north, park your car by the road and walk for 3 1/2 miles," Simons recalled. "We lived back there, literally with no neighbors, and no one else around."

Although Simons was homeschooled throughout high school, he realized when he was 16 — after the family had taken up residence in a small Texas town called Marshall — that he wanted to be a lawyer.

"I have a great curiosity for understanding how things work," Simons said. "Not just how electronic things work, but how the system works — I wanted to be a part of that system and understand how it functions."

To get into a local college, East Texas Baptist University, Simons' mother took him to meet the dean and request admission in person, which worked. He graduated summa cum laude and, after settling on a law school — Harvard — Simons dropped his application into the mail the day before it was due, failing at the time to grasp the significance that name held in the legal world.

"I sent it in and got accepted," Simons said. "Growing up, we didn't consider the difficulty or how hard it might be to accomplish something. To get from point A to point B, you decide what you're going to do, you do whatever it takes, and you don't pay attention to the doubters or those who tell you it can't be done. You simply find the objective and find a way to get to the objective, whatever that way might be."

That can-do attitude has translated into a number of significant wins for clients defending their intellectual property and trade secrets in a diverse group of industries, including electrical wiring and industrial resins, and a case over orange juice containers appearing on store shelves across the U.S.

In March 2010, Simons represented Medtronic unit Medtronic Sofamor Danek USA Inc. against a lawsuit filed by Lenox-MacLaren Surgical Corp. alleging that Medtronic violated patents for bone mills used during surgery. Following a five-day evidentiary hearing before a formal arbitration panel in November 2009, MSD USA received a confidential award on all but one of Lenox's claims, for which Lenox recovered minimal damages.

Simons also secured a favorable settlement for Medtronic in a patent infringement suit involving the design of a specialized catheter, and continues to represent Medtronic in a patent infringement suit brought by Dr. Jan Voda accusing Medtronic of infringing its design for a line of catheters used for heart patients.

He helped steer client D.R. Horton Inc. to a de minimis settlement in an infringement suit seeking tens of millions of dollars by an inventor claiming the homebuilding company infringed his copyrighted software, and brought back more than \$150 million in damages for Hexion Specialty Chemicals Inc., one of the largest specialty chemical makers in the U.S. now named Momentive Specialty Chemicals Inc., in a trade secret case involving the manufacture of epoxy resin precursors.

"Michael is a talented trial lawyer who understands how to manage complicated cases to budget," said Steven M. Zager, global head of Akin Gump's IP practice. "Michael is tough — he was raised in the Yukon in a cabin he helped to build, he chopped wood to stay warm, he hunted to eat. He's likely the only Harvard Law School graduate to do so."

This summer, Simons will be bouncing between two Akin Gump teams headed to trial weeks apart in two very different infringement cases — Coca-Cola Co. v. PepsiCo Inc., in a battle over orange juice packaging; and Southwire Co. v. Encore Wire Corp., in a fight over electrical wire design between two of the largest domestic producers.

Unlike some critics of jury trials in complex IP litigation, Simons said he enjoys making his case to individuals from all walks of life, forcing him to explain highly technical subject matter in ways that juries not only understand, but are persuaded by.

"That's the essence to me of trying cases," he said. "Really, when you look at cases from that perspective, it makes everything else you do come into focus."

--Editing by Jonathan Jacobson.