

Squash ball in court

Part 2

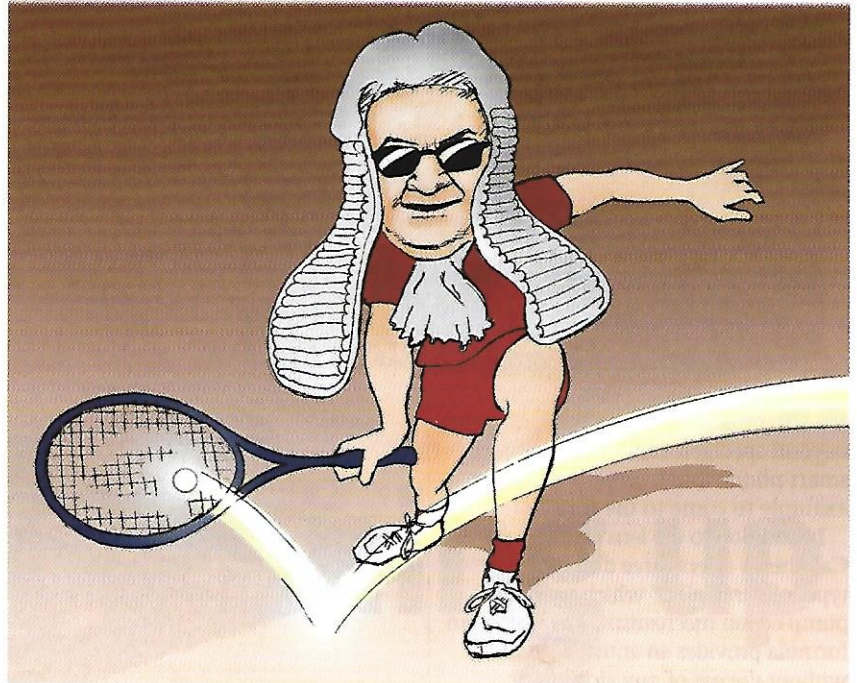
In the second of two parts, **David Baker** considers the optical connections of the small rubber ball used in the racket sport squash

The technical problems of squash ball visibility may not comprise the largest area of vision-related sports engineering science, but they have produced two cases of interest to patent lawyers that are still cited regularly, as evidence in forming legal decisions. Part 1 (09.09.11) dealt with the invention of a blue squash ball; Part 2 looks at an innovative solution to the problem of improving visibility of the ball for a television audience.

The main legal interest stems from the problems raised by an invention, the result of collaboration by two colleagues; their proportional input to the two essential elements of which it consists, and thus their relative entitlement to the property in and grant of a patent for it. Of interest too is the pre-existing patent relating to one of the elements, and whether this affected the entitlement of the colleague whose contribution could be considered effectively 'prior art'.

Before diving into the story of the invention and unpicking the legal arguments, it is worth describing the invention itself. The 'reflector ball' or 'teleball' had the features of small pieces of retroreflective material applied to recesses in the surface of the ball. These recesses, which would protect the reflective material, were similar to the one that squash balls have long had, within which is the coloured dot that denotes ball speed. The actual patent application set out several possible ways of achieving this, including the types of, and methods of applying, the reflective material; and the option of having a single reflective layer below the external surface of, possibly, a transparent ball.

The genesis of the idea was a series of discussions in the early 1980s



between two dentist friends, Messrs Christie (a keen squash player) and Godin, regarding the possibility of manufacturing a reflective squash ball to enhance televised visibility. A patent application was initially made by Godin alone, which eventually lapsed. An application was made latterly by Christie, which Godin referred to the Comptroller of the Patent Office under section 8(1)(a) of the Patents Act 1977, claiming either sole or joint entitlement to the property in and grant of a patent for the invention.

The case was heard by the superintending officer for the Comptroller. He determined that the essential elements of the invention were the use of reflective material and its positioning below the external periphery of the ball. The onus was on the referrer, Godin, to establish, on the balance of probabilities, that he had made contributions to these elements.

A complicating factor was a prior US patent for the use of reflective material on sports balls, available publicly since 1977 in the Science Reference Library (now part of the British Library), of which apparently both parties were unaware. The examiner ruled that this was not relevant in the context of which of the ex-friends was responsible for the idea, as the term 'invention' in the

Act could refer to an idea at the time of application even if it turned out to be non-patentable. But the British Library now refers to this case in its brochure of services to illustrate the importance of its date stamping system, as applied to every document it receives.

Turning to the actual matter of whether the parties were singly or jointly responsible for the invention, the examiner found that the idea of using reflective material was largely Godin's contribution: he had sourced various materials, investigated their use and made the first prototype reflective ball by himself. As for positioning the material below the surface, and in particular, in recesses, the examiner held that this had most likely come from Christie. Christie, the keen squash player, formed the idea for protecting the material from scuffing and degradation this way from his knowledge of the existing recess in squash balls housing the coloured speed identifier. Also, one of Godin's prototypes had reflectors stuck to the surface, suggesting to the examiner that, at the time, he attached no great importance to recessing them.

The examiner's decision was that all possible versions of the reflective ball as set out in the application – excepting that of the transparent