

TOPICAL AREA	APPELLANT	CITING / DOCKET #	YEAR	PRIMARY ISSUE / INDUSTRY	WIN - LOSE - DRAW?	RULING & RATIONALE	IMPLICATIONS: UNRESOLVED ISSUES AND OPPORTUNITIES	SIGNIFICANCE
SR&ED cases regarding "technological eligibility"								
1 TECHNOLOGICAL ADVANCEMENT (TA)	Northwest Hydraulic	97-531-IT-G	1998	"System Uncertainties" (SU) basis eligibility	Win	4 of 5 projects eligible "system uncertainties"	Landmark case with "exemplary" project	High
	Rainbow Pipeline	96-4369-IT-G	1999	Definition "technological advancement" (TA)	Win	Rejection of an hypothesis is an advance	Significant precedent definition of "TA"	High
	Airmax*	2012 TCC 376	2012	Technological Advancement (TA) HVAC	Win	System uncertainties re. heat source, pressure, ducts	Use of informal appeal procedure	High
	Les Abeilles (GE)	2014 TCC 313	2015	Processes – 4 projects little evidence	Win	Verbal evidence if "highly credible"	Credible witnesses counters weak documentation	Moderate
	6379249 Canada Inc.	2015 TCC 77	2015	Printer design problems post commercial sale	Win	Strong evidence of TU and TA example	Excellent example of eligible project	High
	Acsis EHR	2016 TCC 50	2016	Work to increase stability	Win	No existing methods	Still lacks detail on specific hypotheses	Moderate
	Formadrain	2017 TCC 42	2017	Technological Advancement (TA) Concrete	Win	Method unique in industry & cross disciplinary	Excellent example of eligible project	High
	A&D Precision	2019 TCC 48	2019	TA in precision machine projects	Win	System uncertainty but still lacks detail	Use of expert testimony favorable	Moderate
	Beton Mobile	2019 CCI 278	2019	Concrete processes - 5 criteria	Win	6 of 14 projects eligible each detailed	Questions on why some ineligible	High
	CRL Engineering	2019 TCC 65	2019	Distributed Computing & Advancement	Win	Sequentially, progressively complex options via	PhD researcher & project published scholarly	Moderate
	Andre Lamy MPC	2020 TCC 61	2020	Whether Directly Engaged	Win	Work by Dr. deemed on behalf of MPC	4 eligible project examples - 2 with sponsors	High
	LifeChoice	2017 TCC 21	2017	SI analysis formulations by PhD naturopath	Lose	No testing of hypotheses	Change in interpretation of "testing or analysis"	High
	Flavornet*	2017 TCC 179	2017	Defining Standard practice	Lose	4 of 5 criteria not met	Did TCC consider relevant evidence?	High
	Novalia (Wind turbines)	2016 TCC 81	2017	Wind turbine with patent	Lose	Lack of Qualifications? PhD in music.	Hypotheses must be based in science	Moderate
Robotx Solutions Inc.	2017 TCC 73	2017	Defining Standard practice	Lose	Process methods not benchmarked	Unclear how different that Les Abeilles?	Moderate	
2 SYSTEMATIC INVESTIGATION (SI)	Hun-Medipharma*	97-2305-IT-I	1997	eligibility analysis without "clinical trials"	Win	SR&ED can be "experimentation OR analysis"	"SI" envisions contemplation vs. experimentation	Moderate
	RIS Christie	[1996] ETC 537	1996	Lack of documentation	Lose - round 1	No evidence experimentation or analysis	Results &/or patent NOT proof of SI	Moderate
		[1999] ETC 2004	1999	Death of key witness	Win - round 2	Engineer died prior to trial - court sympathetic	Courts sympathetic in extreme circumstances	Moderate
	Murray Arlin DPC*	2012 TCC 133	2012	Lack of documentation (informal appeal)	Lose	Patient logs recorded but not explained	Bring "hypotheses" documents to court	High
	Mac & Mac Hydrodemolition	2017 TCC 256	2018	Documentation of hypotheses	Lose	Lack of detailed measurements	Generate & retain evidence	Moderate
	Indusol	2020 TCC 103	2020	Systematic Investigation (SI)	Lose + costs	No SI even though TU (Technological Uncertainty)	Need to show progressive hypotheses	Moderate
	National R&D	2020 TCC 47	2020	Systematic Investigation (SI)	Lose + costs	No SI even though TU	Need to show progressive hypotheses	Moderate
SR&ED cases regarding Financial issues								
1 WAGES	Synchrosat	2000-1378-IT-I	1995	salary to only SR&ED activities	Lose	Only SR&ED percentage claimable	Need document employee experimentation time	Low
	Ergorecherche	[1998] CTC	1998	time allocation SR&ED vs. non-SR&ED	Lose	"Reasonable" basis for allocation required	Could structure "non-SR&ED" in unpaid time	Moderate
	Alcatel	2005 TCC 149	2005	stock options - SR&ED "cost" incurred	Win - round 1	SR&ED "cost" is dilution of shareholder interest	Courts contemplate "costs" not in taxable income	High
	Jaft	2015 MBCA 77	2016	Wages only payable if SR&ED approved	Draw - round 2	Legislation to disallow > Nov. 14, 2005	Not available after 2005 taxation years	High
	Oldcastle	2016 CCI 183	2017	SR&ED wages based on sales	Lose	Salary & wages definition 248(1)	Claim unpaid wages on sch 32 line 315	High
	AG Shield	2017 TCC 68	2017	Allocation of SR&ED wages	Win	100% allowed even though 23%	Payments not considered commission	High
2 MATERIALS	Consoltex	97 DTC 724	1997	materials used in SR&ED then sold	Win - round 1	Eligible if required for SR&ED	Short-lived precedent "commercial materials"	Low
					Win - round 2	New legislation repayment of ITC's on sale	Labour eligible - materials "sold" excluded	High
3 ASSISTANCE/ GRANTS/ EXPERIMENTAL PRODUCT SALE	Com Dev Ltd.	96-4343-IT-G	1999	government fees - "assistance" or "revenue"	Win	Fixed price contract not purchase of SR&ED	Structure contracts so "taxpayer" bears "risks"	High
	Les Cultures Laflamme	89-2514(IT)	1989	sale of experimental production	Win	Sale irrelevant if SR&ED performed	SR&ED labour eligible despite subsequent sale	High
4 UNPAID AMOUNTS	Chartwell	2004 TCC 728	2002	eligibility of unpaid amounts / bad debts	Win / lose	Claim costs year incurred (then 78(4))	Opportunity to claim unpaid wages	High
5 FOREIGN EXPENSES	LGL	96-4726 (IT)G	1999	data collection outside Canada SR&ED?	Lose	Ineligible if physically outside Canada	Courts took literal interpretation of "in Canada"	Moderate
					Draw - round 2	Subsequent events: eligible if within "EEZ"	Prompted subsequent 10% for travel abroad	Low
6 FILING DEADLINE	Datacalc Research	2000-1413-IT-G	2000	extension of 18 month filing deadline	Lose	Qualified expenditures by filing due date	Object proper sections ITA - see Alex Parallel	Low
	Alex Parallel Computers	T-1512-97	1998	basis for extension of filing deadline	Win	CRA cannot restrict Minister extend deadlines	Extension reasons CRA IC (illness/disasters)	High
	6379249 Canada Inc.	2015 TCC 77	2015	Proving project filed with claim	Draw - round 2	Legislation Nov. 17, 2005 no SR&ED extension	Must file by 18 months year end - preferably 15	Moderate
	Easyway Cattle	2015 TCC 211	2016	Failed to file sch 31	Win	Verbal evidence if "highly credible"	Not relevant if e-filing claims	Moderate
	Westsource	2017 TCC 9	2017	Complete claim	Lose	All prescribed info in prescribed form	Danger filing past 15 month CRA deadline	Moderate
7 QUALIFIED CCPC STATUS	All Colour Chemicals	[1993] CTC	1993	Can CCPC partners claim 35% ITC's?	Lose	127(8) partnership "over-rides" 127(10.1) refunds	Qualified CCPC's avoid SR&ED partnerships	High
	HSC Research	CTC 2283 (TCC)	1995	Factors in evaluating defacto control	Win	Separate directors - no control evidenced	Landmark case on definition of "defacto control"	High
	Mimetex Pharmaceutical	1999-4847-IT-G	1999	If US director 50% shares has control?	Lose	US director w/o consent Canadian director(s)	Get consent from 1 of 2 Canadian directors	High
	Terra Remote	2006 TCC 279	2006	Is shareholder < 50% arm's length?	Win	ITA 256 (control) & 251 (related persons)	Specified employee (>10%) vs "Arm's Length"	Moderate
	Mindready Solutions	2015 CCI 17	2015	Was private Co. controlled by Public?	Win	Several factors determining factual control	Good list of issues	Moderate
	Aeronautic Dev Corp	2017 TCC 39	2017	Defacto Control	Lose	Undue influence	Be careful even if <50% votes	Moderate
	CO2 Solution Technologies	2019 CCI 286	2019	Control by public co.	Lose	Defacto control established	Loss with costs	Moderate
8 ITC USE	Ainsworth Lumber	98-1052-IT-G	2001	ITC use - refundable vs. non-refundable	Win	Act clarifies that taxpayer "may" deduct [credits]	Taxpayer elects order	Moderate
9 SR&ED FRAUD	Tempora	SCC	2018	level of fine	Lose	Each of 3 charged 100% for false representations	Fine is 300% of amount claimed	High
	R v. Elhami	2017 QCCQ 2684	2017	level of fine	Lose	Each of 3 parties charged 50% false dates	Fine is 150% of amount claimed	High
10 REASSESSMENT PERIOD	Rio Tinto Alcan	2017 TCC 67	2017	Can CRA reassess 5 years back?	Lose	Filed waivers for other reasons	Increased risk to all claimants	High

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11 SHAREHOLDER BENEFIT	Guy Laliberte	2018 TCC 186	2018	Space flight \$4 vs. \$42 million	Lose	Full amount taxable	Denied as marketing expense	Moderate